



KATHERINE A. KLAUSMEIER
County Executive

C. PETE GUTWALD, AICP
*Director, Department of Permits,
Approvals and Inspections*

July 29, 2025

Jason Vettori
Smith Gildea & Schmidt, LLC
600 Washington Avenue
Suite 300
Baltimore, Maryland 21204

RE: Spirit and Intent Request
2013-0171-SPHXA &
1971-0269-SPH
Zaxby's
2027 York Road
8th Election District, 3rd Council District

Mr. Vettori,

This refers to your letter to Mr. Jeff Perlow, Chief of Zoning. Your letter stated that your client would like to confirm that the relief granted in Zoning Cases 2013-0171-SPHXA and 1971-0269-SPH is still applicable in relation to the opening of a new Zaxby's fast-food restaurant, and that Zaxby's use will fall within the original spirit & intent of the previous zoning cases.

Based upon the Final Orders of cases 2013-0171-SPHXA and 1971-0269-SPH, the provided preliminary red-lined plan of the property and the current zoning of the property, the Zoning Office has determined that the use of the property as a fast-food restaurant with drive-thru is a permitted use by right in the BL zone. As such, the previous Special Exception relief for a drive-in restaurant is no longer necessary. The Zoning Office has further determined that RTA concerns will not need to be re-addressed, and that the modified parking plan granted via Use Permit in case 1971-0269-SPH is still valid. Overall, the Zoning Office agrees that your proposed use of the property falls within the spirit & intent of the previous orders.

Please be advised that this letter does not constitute approval of the submitted red-lined plan. The Zoning Office will perform a full review of the plan during the permitting process.

This letter is strictly limited to the application of the BCZR as applied to the Spirit & Intent request presented in your letter, and does not represent verification or approvals for any other Local, State or other Regulations that may apply to this property.

Sincerely,

Jason Seidelman
Zoning Review

A handwritten signature in black ink, appearing to read 'Jason Seidelman', written over the printed name.

(JSS25-0788)

11/21/13

IN THE MATTER OF
MICHAEL R. MARDINEY, JR. MD/LO
ENTOURAGE DEVELOPMENT LLC
(CONTRACT PURCHASER/LESSEE)

* BEFORE THE
* BOARD OF APPEALS

2027 YORK ROAD
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* OF
* BALTIMORE COUNTY

RE: SPH to allow:

1)a use permit for use of land in residential * Case No : 13-171-SPHXA
zone for parking to meet requirements of
BCZR or in alt for confirmation that proposed
parking is authorized under use permit *
approved in 71-269-SPH
2)modified parking plan;
Petition for Special Exception to approve use *
of property for drive-in restaurant;
Petition for Variance for 0' buffer and 0'
setback ilo required 50' buffer and 75' *
setback in RTA.

* * * * *

OPINION

This case came before the County Board of Appeals as a de novo appeal. On March 22, 2013 the Administrative Law Judge for Baltimore County issued a decision denying all requested relief. Petitioners filed a Motion for Reconsideration and Order on March 28, 2013. A Motion for Reconsideration was also filed by People's Counsel for Baltimore County on March 28, 2013 and a supplement to Motion for Reconsideration was filed by People's Counsel for Baltimore County on April 1, 2013. On April 16, 2013 an Order on Motions for Reconsideration was issued by the Administrative Law Judge, granting Petitioner's Motion for Reconsideration and denying People's Counsel's Motion for Reconsideration. The Petition for Special Exception was granted, the Variance was dismissed as unnecessary, the Petition for Special Hearing to confirm

that business parking in a residential zone was permitted in 71-269-SPH was granted, and the Petition for Special Hearing for a modified parking plan was granted. A timely appeal was filed by the Protestants. A hearing before this Board was scheduled for June 20, 2013. Petitioner/Legal Owners were represented by Jason Vettori, Esquire, of Smith, Gildea, and Schmidt, LLC, and the Protestants/Appellants appeared Pro Se. The parties submitted briefs to the Board in lieu of final argument on July 22, 2013. A public deliberation was held on August 20, 2013.

FACTS AND BACKGROUND

This matter comes before the Board as a de novo appeal of Administrative Law Judge John Beverungen's decision dated April 16, 2013 granting the Petition for Special Exception, dismissing the Variance request as unnecessary, granting the Petition for Special Hearing to confirm that business parking in a residential zone was permitted in 71-269-SPH, and granting the Petition for Special Hearing for a modified parking plan.

Petitioners had originally requested special hearing relief in accordance with Section 500.7 of the Baltimore County Zoning Regulations (BCZR) seeking a use permit to use the land in a residential zone for parking facilities to meet the requirements of Section 409.6 pursuant to Section 409.8.B of the BCZR, or, in the alternative, for confirmation that the proposed parking facility is authorized under the use permit approved in Case Number 1971-0269-SPH, and for a modified parking plan pursuant to Section 409.12.B of the BCZR. A Petition for Special Exception was filed pursuant to Section 230 of the BCZR to permit a drive-in restaurant. A Petition for Variance was filed pursuant to the BCZR Section 1B01.1.B.1.e(5) to permit a 0 foot buffer and a 0 foot setback in lieu of the required 50 foot buffer and 75 foot setback in a Residential Transition Area (RTA).

The site in question has been vacant for over fifteen (15) years and was last used as a fast food restaurant. This use is permitted as of right in the BL zone per BCZR Section 230.1. Petitioner sought a special exception in case Sonic was to be considered a “drive-in” restaurant as defined by the BCZR section 230.3. The BCZR defines a drive-in restaurant as one where food and drink is sold to a “substantial” extent to customers in parked cars.

The matter first came before Judge Beverungen for a hearing on March 18, 2013. In his March 22, 2013 Opinion, Judge Beverungen found that Sonic was not a drive-in restaurant as he did not find that the main portion of their business would be derived from the drive-in portion of the business. Accordingly, he found that Sonic’s use of the property was permitted as of right and that a special exception relief was not necessary.

Judge Beverungen also found that the RTA regulations were not applicable. If they were applicable, he did not find that the Petitioners presented a sufficient case for variance relief from those regulations. The property is not unique as many sites in the area are split zoned commercial and residential and, even if it met the criteria of *Cromwell v Ward*, the BCZR provides a specific provision for “Variance of RTA”. The BCZR state that the RTA may only be modified in a development plan, which was not the case in the instant matter, or by the hearing officer upon recommendation of a county agency, suggesting that a variance of RTA may not be granted in a zoning case. Judge Beverungen found that the RTA did not apply in the instant case because the Petitioners were not seeking to develop the D.R. zoned portion of the property. Regardless of this however, the site plan showed that the drive through facility and two commercial dumpsters were to be located within the D.R. zone resulting in using residential property for commercial purposes which is not permitted under the BCZR. The regulations allow for commercial parking within a residential zone, however, Judge Beverungen found that

Petitioners' request for relief went far beyond that and for that reason he denied same.

Thereafter, on March 28, 2013, Petitioners filed a Motion for Reconsideration of Order and Opinion. Submitted along with their Motion was a redline site plan removing the drive through facility and two commercial dumpsters from the D.R. zoned property and moving the drive through facility and one dumpster to the B.L. zoned property. They proposed that once the changes were in place, the only use for the D.R. zoned property would be that of parking. The proposal to eliminate one of the dumpsters and move the other would also result in an additional two (2) parking spaces. Additionally, the relocation of the remaining dumpster and drive through lane would result in a drive aisle of twenty-two (22) feet, as opposed to their previously proposed drive through of twenty (20) feet, eliminating the need for the modified parking plan.

They also proposed additional landscaping between the restaurant and the adjoining neighbors as a result of the proposed changes. They made changes to the preview and menu boards, relocating them further west so as to diminish the noise from the order board upon the adjoining neighbors.

People's Counsel for Baltimore County also submitted a Motion for Reconsideration of the Order and Opinion on March 28, 2013. They agreed with the decision reached by Judge Beverugen, that the encroachment of the restaurant's drive through and use into the D.R. zone, along with the dumpsters, were not permitted uses in the zone per BCZR Section 1B01. However, they had some concerns regarding the identification of the use and the RTA law.

People's Counsel argued that as the drive-in stalls, regardless of how many, are to be prominently placed adjacent to York Road, they play a significant marketing role for Sonic. The sit-down portion of the restaurant appeared to be modest in comparison to the drive-in and drive through components. As the Petitioners can also add more drive-in stalls at a later date should

the business necessitate it, they argued that Sonic should qualify as a drive-in restaurant and special exception review should be applicable under BCZR Section 230.3.

Regarding the RTA, although the stated purpose is to prevent dissimilar housing types, BCZR Section 1B01.B.1.d.3 addresses the issue of parking within the RTA. People's Counsel argues that business parking in a residential zone, per BCZR Section 409.8.B, is usually to the rear of businesses which front a busy road such as York Road, subject to the RTA requirements which includes the setbacks and buffer requirements. The legislative intent in split business/residential zones is to provide transition and protection for the adjacent residential areas. In other words, the protection extends beyond dissimilar housing types to include protection from business parking.

People's Counsel supplemented their Motion by letter dated April 1, 2013. They produced the results of a Google search for "Sonics Drive-in" to show that the drive-in feature is a major part of their profile. They argued that the proposed use is for a drive-in restaurant. The previous restaurants at the location, Roy Rogers and Boston Market, were not drive-ins. The petition filed by the Petitioners was for a drive-in restaurant. The correct request should be for a special exception and the matter should be classified and reviewed as such.

A second hearing was held on April 8, 2013 and Judge Beverungen issued an Order on Motions for Reconsideration on April 16, 2013. He reviewed the Petitioners' new site plan which showed that the drive through lane for the restaurant and the remaining commercial dumpster were relocated from the D.R. zoned portion of the property to the B.L. zoned portion which fronts York Road. This revised site plan addresses and remedies the deficiencies from the March 22, 2013 Order and so the drive through lane and dumpster are no longer obstacles to approval of their site plan.

Judge Beverungen also considered the issues raised by People's Counsel. He first responded to their assertion that the use proposed by the Petitioners is for a drive-in restaurant in which case special exception relief is required. He reaffirmed his ruling from the original Order that for a restaurant to be a "drive-in" restaurant, as defined by the BCZR, requires that the restaurant serve food and beverage, to a substantial extent, to diners in their cars. The testimony of Mr. Behrle, that the drive-in portion would only account for approximately twenty (20%) percent of their business, does not, in Judge Beverungen's opinion, meet the definition of substantial as defined by the Webster's Third New International Dictionary. The Baltimore County Code does not provide a definition for the term. The fact that Petitioners filed for special exception relief and that Sonic identified itself as a "drive-in" restaurant is not sufficient. Judge Beverungen construed the language of the BCZR and focused on the word "substantial". Twenty (20%) percent does not qualify as a substantial portion of a business.

Judge Beverungen granted the Petitioners' request for the special exception. A use permitted by special exception is presumed to be in the public interest and the burden is on the Protestants to establish that the inherent adverse effects associated with the use would be greater at the proposed location than at similar zones throughout the County. Several of the Protestants expressed concerns with traffic safety, congestion, noise, trash, and quality of life issues. However, Judge Beverungen found that they were inherent adverse effects presumed to have been anticipated when allowing the restaurant in the first place. In spite of the concern of the Protestants over increase traffic, there was no expert testimony from the State Highway Administration or Baltimore County expressing concerns with the proposal. The Department of Planning recommended approval of the project on March 13, 2013 and the intersection about which the Protestants expressed concerns, York Road and Timonium Road, has not been deemed

a failing intersection by State or County officials. Any drive in fast food restaurant will generate a large volume of traffic and noise and therefore those impacts are inherent in the use of the property. Sonic would generate the same volume of traffic and noise at any B.L. zones property as it would at the proposed site.

In addressing the RTA issue and whether the RTA regulations are applicable, after listening and considering the arguments and submissions along with the BCZR, Judge Beverungen found that the regulations were not applicable in the instant case. The purpose for the RTA as stated in the BCZR Section 1B01.1.B.1.a.(2) was to assure that similar housing types are built adjacent to each other and when they are not that is adequate buffers and screening provided. No housing is proposed to be constructed and therefore the RTA regulations are not applicable. Further, the RTA is triggered when property is developed in the D.R. zone. In the instant case, under the new site plan, only parking will be on the D.R. zone property as it has been for the last forty (40) years. If any property is being developed, it is being done in the B.L. zoned portion. Dismantling the dumpster and repaving the surface is not development as defined in the Baltimore County Code, Section 32-4-101(p). The County's landscaping manual provides for the buffer and screening requirements when commercial use adjoins a residential zone and so he found that the RTA provisions did not apply. The Petitioner satisfied the landscaping requirements as indicated by the County's approval of its Final Landscaping Plan on April 4, 2013.

The next issue addressed by Judge Beverungen concerned the use of the D.R. zoned property for parking. He considered the 1971 special hearing case involving the property wherein the zoning commissioner granted approval for business parking in the D.R. zoned portion of the property and found that the right to continue to use that portion of the property

vested regardless of whether the property had been vacant for a number of years. A lawfully issued use permit can give rise to vested rights. A use permit is a protected property right, perpetual in nature and runs with the land. In support of this proposition, he cites *O'Donnell v Bassler*, 289 Md. 501 (1981) and *Upper Minnetonka Yacht Club v City of Shorewood*, 770N.W.2d 184 (Minn 2009). A use permit for commercial parking in a residential zone is akin to the grant of special exception relief and the Maryland Courts have held that a special exception is a vested constitutionally protected right. *Powell v Calvert County*, 368 Md. 400 (2002).

The final issue addressed by Judge Beverungen was regarding the special hearing request for the modified parking plan. This request is governed by BCZR Section 409.12 which requires a showing of undue hardship. Petitioner was not seeking a use variance which would require adherence to a stricter standard. Here, the Petitioner would experience an undue hardship if the parking regulations as set forth in BCZR Section 409 were strictly enforced. Petitioner's deficiencies are minor and if they were to stop him from completing his project it would cause an undue hardship.

Accordingly, in his April 16, 2013 Opinion, Judge Beverungen, granted the Motion for Reconsideration filed by the Petitioners and denied the Motion for Reconsideration filed by People's Counsel. He granted the Petition for Special Exception to operate a drive through restaurant in a B.L. zone, dismissed as unnecessary Petitioner's Petition for Variance relief from the RTA buffer and setback requirements, granted the Petitioner's Petition for Special Hearing to confirm that parking in a residential zone is permitted under the relief granted in Case No. 1971-0269-SPH, and granted the Petitioner's Petition for Special Hearing to approve a modified parking plan. It was from this decision that Protestants filed a timely appeal.

TESTIMONY

At the hearing before this Board, Petitioners first called Tom Berhle, from Entourage Development. He has been a franchiser for Sonic since 2009. He is the contract purchaser to buy the property from Michael R. Mardiney, Jr., MD. He testified that the lot in question has been vacant for about fourteen (14) years. The lot is located at the corner of York Road and Belfast Road (Various site plans were submitted as Petitioners' Exhibits #1, 2, 5, and 17). It is close to a Burger King and Maria Dee's Sandwich Shop and across the street from Smyth's Jewelers.

They are proposing to leave the lot the same except to add additional parking spaces. There will be two entrance/exits, one on the York Road side and one on the Belfast Road side. It is their intention to fit into the footprint of the existing building so that it sits back from York Road. For any new building they have to do, they will use limestone to match the existing architecture. The Sonic will create one hundred new jobs in the area. They have hired a manager from Cockeysville.

Sonic has been around since the 1950's. Historically, fifty-five (55%) percent of their business comes from the drive-through, twenty-five (25%) percent of their costumers come into the restaurant to eat, and the remaining twenty (20%) percent use the drive-in. As for personal knowledge, at his Pulaski Road restaurant, fifty (50%) percent of the business comes from the drive through. They will need forty-five (45) parking spaces for the restaurant.

The neighborhood is residential on the east side, behind the business. The traffic will be coming from York Road. The Greater Timonium Community Council and the Yorkshire Community Board expressed concerns over the trash and dumpsters. There will be a privacy

fence surrounding the property which has been approved by the County. They also intend to landscape the property as there had been no prior landscaping(Petitioners' Exhibit #9). This business will be different from the other businesses in the area as they will have less customers. For example, the Dunkin Donuts next door does twice as much business as they project they will do (Petitioners' Exhibit #8).

Mr. Berhle testified that he does not believe he should need a special exception for a drive-in restaurant. He has submitted a modified parking plan because of the drive through lane. The original handicapped parking spaces are no good because of grading. He does not believe that the Sonic will have any impact on traffic. The people who come into his restaurant will already be on York Road looking for a place to stop and eat. He testified that there are approximately 22,000 cars that travel on York Road every day, although he does not know the exact traffic counting point. Regardless, there is a difference between convenience eating and destination eating and Sonic falls into the category of convenience eating.

As to Belfast Road, seven of the stalls will have it easier if they exit onto Belfast Road. This also includes two (2) handicapped spaces. The York Road exit will be easier for all other spaces. There will be painted arrows directing traffic towards York Road. There will be a sign which says "Right Turn Only". If those cars did not want to use that exit or want to make a left onto York Road, they would have to go around the building to the Belfast Road exit. Mr. Berhle assumes that it will be a little crazy for the first couple of weeks and people will probably try and exit onto Belfast Road in order to make the left onto York Road but he will have employees who will direct traffic. There will be signs and cones.

There will be fourteen drive-in stalls. Music from the "Sonic Channel" will be played at the stalls. There is volume control. The music will be played at a manageable level. You will

not be able to hear the music outside of the stalls. There was some concern because the houses nearby do not have air conditioning and would have their windows open in the summertime. Mr. Berhle testified that the traffic riding by on York Road will be louder than the music.

Mr. Berhle looked at hundreds of sites in Baltimore County. He had three sites under contract before settling on this one. He testified that this is good for the community (Petitioners' Exhibits #6 and 7). He uses local contractors and local businesses and he hires local kids to work there. The property has been vacant for approximately fifteen (15) years. It has become an eyesore (Petitioners' Exhibits #3A and 3B). Maria Dee's dumpster is a problem (Petitioners' Exhibit #3C). It needs to be sealed up. It is offensive and a safety hazard. He would never let that happen to his dumpster (Petitioners' Exhibit #3D). Mr. Berhle presented large photographs depicting what the business will look like once it is completed (Petitioners' Exhibits #3E and #F). As for traffic, he looked at the traffic studies on the Baltimore County website and there does not appear to be a problem. The County does not think it is necessary to widen Belfast Road. All County agencies have signed off on this project (Petitioners' Exhibit #10).

Next to testify for the Petitioners was John Demos. Mr. Demos was accepted as an expert in engineering, surveying, zoning, and development issues (Petitioners' Exhibit #11). He was the project manager. The lot in question is split zoned. It is zoned DR 5.5, residential and commercial. He reviewed Note 28 on the site plan (Petitioner's Exhibit #5). In 1971, special hearing relief was granted for business parking in the residential zone (Petitioners' Exhibit #12). When the original site plan submitted by the Petitioners had questionable items in the residential zone, such as the dumpsters, they revised the site plan and moved them to the business zone. He also reviewed the Zoning Advisory Committee's comments. Various agencies also reviewed the plans and made comments. They have tried to take everything into consideration.

Mr. Demos testified that Sonic's drive-in component does not make a drive-in restaurant as identified in the 1967 regulations. It is not exclusively a drive-in restaurant. The 1967 Zoning regulations use the word "substantially". Fourteen (14) out of forty-seven (47) spaces will be used for the drive-in. That is not a substantial portion of the business.

Section 502.1 sets forth the requirements for special exceptions. You must first look at the inherent adverse effects of the drive-in restaurant. That would be issues such as noise and traffic on York Road. There would be no additional impact from Sonic beyond the inherent adverse effects of any business at that location. They have made adequate provisions to meet the inherent adverse effects.

Section 307 addresses variance relief from the RTA regulations. The original purpose of the RTA was to protect against development. They are not proposing any development as development is defined by the Baltimore County Code. If variance relief from the RTA is necessary, this project does meet the criteria of *Cromwell v Ward*. The site is unique. There are two entrance/exits. The topography is different from the other lots because it slopes up from York Road towards the residential properties. The shape of the property is also different from others in the area. There is also a practical difficulty in that they cannot use the property for its stated purpose if the RTA standards are applied. The set back and buffer requests are necessary for parking. The fifty (50) foot buffer and seventy-five (75) foot setback would eliminate all rear parking and therefore they could not meet the parking requirements.

Mr. Demos supports the argument of the existing use permit. You cannot abandon a use permit. Under Special Exception Relief, Section 500.6 and 500.7, they can request a new use permit or they can request an amendment for change in use if Sonic is a drive-in restaurant. The modified parking plan fits into the existing site plan.

The menu board and speakers have been moved. They also moved the teller window. One dumpster has been removed and the other has been moved to the B.L. portion. Parking in the D.R. portion will not be detrimental to the health, safety or general welfare of the surrounding community. Section 437 limits the hours of operation. The surrounding fencing will be six (6) feet high. They would need special permission for anything higher. The fence will serve as a visual screen.

Mr. Demos believes that what the Petitioners are proposing to do is not considered development because they are using what is already there (Petitioners' Exhibits #14, 15, and 16). Demolition does not equal construction. Replacing or redesigning curbs and resurfacing is not development. The State Highway Administration rebuilt the entry way. Twenty-four (24) feet is the standard entry. The Country requires that there be sufficient room for seven (7) cars in line and two (2) cars between the order board and pickup window. The only thing they are really adding is the additional exit because, as with any commercial building, you want multiple exits. If necessary, they could operate without the exit onto Belfast Road but it would not be ideal. Commercial vehicles could make the turn from York Road but it might be easier for them to turn in from Belfast Road.

The property is zoned DR 5.5. That means five and one-half (5 ½) dwellings per acre. The purpose of the RTA in this area is to have conforming structures of a variety, such as all single family homes or townhouses. Its purpose is to insure conforming residential uses. The RTA does not apply between residential and commercial properties.

The first Protestant to testify was Maria Markham Thompson. Ms. Thompson has a bachelor's of science degree in business, specifically in public administration and economics. She has a master's degree in urban planning. She is a CPA and a charter financial analyst. She

last worked as a planner in 1983 (Protestants' Exhibit #1).

Ms. Thompson testified that a six (6) foot fence will not screen the site from the neighborhood. The topography is such that there is a grading increase (Protestants' Exhibits #2 and 3). Her other concern was that Belfast Road is very narrow (Protestants' Exhibits #4, 5, and 6). It is twenty-two (22) feet wide and when cars are parked on the street it becomes even more narrow. She cannot get her car out of her driveway if a car is parked across from her driveway. The street was never widened as it was supposed to be after the 1971 variance. Because of the narrowness of the street and the existing traffic problems, the neighbors have asked the County to consider calming measures (Protestants' Exhibit #7). She anticipates that the Sonic will bring more traffic problems as they are already having problems with people speeding (Protestants' Exhibit #8).

Ms. Thompson raised the question of what qualifies as "substantial" use. Petitioners claim that Sonic is not a drive-in restaurant. In support of her position, that Sonic is a drive-in restaurant, Ms. Thompson produced a copy of People's Council's letter to Judge Beverungen arguing why Sonic should qualify as a drive-in restaurant (Protestant's Exhibit #10). Sonic refers to themselves as a drive-in restaurant. They describe their carhops, which make them different from other fast food restaurants. The drive-in concept is an integral part of what they are. It makes their business different. What does substantial mean? The definition from Webster's Dictionary is that it must be material. In the accounting world, Ms. Thompson testified that if something is more than three (3%) percent, then it is material. If the drive-in portion of the business is substantial, they need a special exception.

The biggest problem which Ms. Thompson sees from the Sonic is from engines idling (Protestants' Exhibit #11). Fourteen drive-in spots will have a significant impact on the air

quality. Ms. Thompson testified that she suffers from asthma. Ozone alert days are made worse because of car exhausts.

As to other issues, Ms. Thompson believes that the fence they propose to build will not serve as a screen or barrier because six (6) feet will not block the neighborhood. Section 409 addresses off-site parking. She also testified that a drive-in must have twenty (20) parking spaces per one thousand customers. Therefore, to be in compliance, Sonic needs fifty-two (52) parking spaces.

Next to testify for the Protestants was Craig Hutton. His primary concern is safety (Protestant's Exhibits #12A-C) Traffic backs upon York Road during rush hour and cars use the side streets, like Belfast Road, to avoid the traffic. Cars will have to exit onto Belfast Road if they want to make a left onto York Road, which will cause an additional backup on Belfast Road. There is a high risk of an accident occurring on Belfast Road. People walk in the street on Belfast Road as there are no sidewalks.

The lot is directly adjacent to his property (Protestant's Exhibit #13). He is also concerned about the noise (Protestants' Exhibit #19). There are fourteen (14) speakers for the drive-in stalls plus the music. Under the Quiet Act, in 2012, Maryland enacted noise legislation. In a residential neighborhood, sound cannot be more than Fifty-Seven (57) decibels and in a commercial area it cannot be more than Sixty-Seven (67) decibels.

Melanie Hutten testified next. Her concerns are noise, lighting and safety. She presented a letter and signatures of people who share in her concerns (Protestants' Exhibit #14). There are no sidewalks on Belfast Road and, besides people walking, children play in the streets. She would also like to see a higher fence (Protestants' Exhibits #16A-C).

John Wilhelm III also testified for the Protestants. He is employed as a sound engineer

and is also concerned about the noise. If the noise coming from Sonic is too loud, people will not be able to sit on the porches. This Sonic will be different from other Sonics because of its proximity to homes (Protestants' Exhibits #20A-20D). It is also different from other fast food restaurants in the area because the others are drive through or dine in only. The noise is contained because the windows in those restaurants do not open. He visited other Sonic restaurants and they were very noisy. The noise from the Sonic coupled with the exhaust from the cars equals pollution. The sound of passing traffic is less annoying than the sound of static traffic. He questioned whether there was a way to implement a plan which would stop the noise bleed.

As for traffic concerns, there is no traffic light at the intersection to control speed. The Petitioners' Route 40 Sonic also has a "Right Turn Only" onto the major highway but there is an island so that people exiting the Sonic cannot make a left hand turn. This is a public safety issue.

The Protestants next called Michael Henry whose main concerns were also sound and traffic. He testified that there were backups on York Road when the property was a Hardees and a Roy Rogers. He believes that when cars are stopped on York Road, they will turn onto Belfast Road. The extra exit onto Belfast Road will only make things worse.

The last witness to testify for the Protestants was Jeffrey Ball. He too is concerned about safety. He grew up in the neighborhood. He saw the problems when Roy Rogers was at the location. Most people will use Belfast Road because the turn onto York Road is too tight. As bad as the problems were, they will be worse now because traffic has increased quite a lot over the years. Most people use Belfast Road and other back roads to avoid York Road. The intersection of York Road and Belfast Road is a very dangerous intersection. There are a lot of

accidents at that intersection.

In addition to their live testimony, Protestants introduced letters from people who objected to the Sonic (Protestants' Exhibits #18A-18G). They also introduced a photograph of cars pulling into McDonalds and backing up onto York Road (Petitioners' Exhibit #17). In support of their position that Sonic is a drive-in restaurant, they produced an article from the Timonium Patch (Petitioners' Exhibit #15).

In rebuttal, Petitioners' recalled John Demos. He testified that the parking plan submitted by the Petitioners has been approved by Baltimore County. The modified parking plan could adjust the number of spaces if necessary. The twenty-four (24) foot entranceway is standard. Some businesses have a thirty (30) foot entrance but you need special permission for that. The fence in the back meets the screening requirements. The development plan's review determines the fence requirements. They would need the County's permission to build a higher fence. There are issues regarding air-flow and the upkeep of a higher fence.

Thomas Berhle also testified in rebuttal. Regarding the fence issue, he spoke with neighbors regarding their concerns then he met with the County and his Contractor. The problems with a higher fence also include the footings, wind flow and light. He has agreed to move the bushes and trees if they are a safety issue. He has no obligation to landscape the property but he has done it anyway to make it look better.

ISSUES PRESENTED

The issues before the Board center around Petitioners' request for certain zoning relief which will allow them to use the site for a Sonic Restaurant. The first issue which needs to be addressed is whether the Sonic Restaurant is a drive-in as defined by the Baltimore County

Zoning Regulations. If so, then Petitioners need to be granted special exception relief.

The subject property was granted a use permit in 1971. The second issue is whether that permit is still applicable to the subject property. If the existing use permit is not a vested property right, the Petitioners have requested special hearing relief for a use permit to use the existing parking lot in the residential zone. They have also requested special hearing relief for a modified parking plan.

The third issue centers around the question of the RTA. The issue is whether those regulations are applicable, and, if so, is the Petitioner entitled to a variance from same.

BOARD'S DECISION

We first must address the issue of whether Sonic meets the definition of a drive-in restaurant. We believe that it does. BCZR Section 101.1 defines a drive-in restaurant as a "retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles". There is no definition in the BCZR or in the Baltimore County Code for the word "substantial" so we must look at the ordinary meaning of the word as defined by the Webster Dictionary. In its definition, the dictionary uses words like "material", "important" and "essential". It defines something as being substantial if it relates to main part of something. The drive-in component is an essential part of Sonic's identity even if it is not the source of the majority of its business. They market themselves as "America's Drive-In". They have carhops and stalls and their own music. It is how they identify themselves and what sets them apart from other fast food restaurants. Looking at Sonic in its entirety, Sonic meets the definition of a drive-in restaurant and a special exception is necessary to approve the use of the property for a drive-in restaurant.

Section 502.1 sets forth the requirements for special exceptions. We have considered the inherent adverse effects of the drive-in restaurant. That would include the issues raised by the Protestants such as noise and traffic on York Road. There would be no additional impact from Sonic beyond the inherent adverse effects of any business at that location. After reviewing the prior uses for the property and looking at the zoning issues, we have determined that the Petitioner's request for a special exception should be granted.

We have considered the Protestants concerns regarding increased traffic and noise. The property has been used in the past for fast food restaurants such as Boston Market and Roy Rogers. The traffic might increase due to the change from an empty building into a restaurant but that is to be expected of any fast food business at that location. The modified parking plan proposed by the Petitioners should eliminate some of the traffic concerns. As to the concerns regarding light and noise, the Petitioners are well aware of the community's concerns. There are sections of the Baltimore County Code which address the issues of noise and light and if the Petitioners violate the County's ordinances, they can be issued a Citation by a Code Enforcement Officer. We cannot deny the Petitioners the relief they have requested because a violation might occur.

As to the Petition for a Special Hearing, we do not believe that is necessary to grant the Petitioners a new use permit. The parking plan which the Petitioners propose is authorized under the use permit approved in 71-269-SPH. The lawfully issued use permit gives rise to vested rights. A use permit is a protected property right, perpetual in nature and runs with the land. As for the modified parking plan, the BCZR require the Petitioners to show an undue hardship if the BCZR were to be applied. We agree that the Petitioners would experience an undue hardship if the parking regulations as set forth in BCZR Section 409 were strictly enforced. Petitioner's

deficiencies are minor and if they were to stop him from completing his project it would cause an undue hardship. We therefore approve the modified parking plan request.

Lastly we address the issue of the RTA. We do not believe that the regulations are applicable in the instant case. The purpose for the RTA as stated in the BCZR is to assure that similar hosing types are built adjacent to each other and when they are not, that is adequate buffers and screening provided. No housing is proposed to be constructed and therefore the RTA regulations are not applicable. The RTA can also apply when property is developed in the D.R. zone. In the instant case, under the final site plan, only parking will be on the D.R. zone property which is allowable for the reasons stated herein. If any property is being developed, it is being done in the B.L. zoned portion. The County's landscaping manual provides for the buffer and screening requirements when commercial use adjoins a residential zone. The Petitioner satisfied the landscaping requirements as indicated by the County's approval of its Final Landscaping Plan on April 4, 2013.

The Board, after reviewing all of the evidence presented in this case, believes that the relief requested in the Petitioner's request for Special Exception to approve the use of the property for a drive-in restaurant is appropriate, their request for a Special Hearing for a use permit to allow parking in a residential zone is not necessary based upon the use permit approved in 71-269-SPH, the modified parking plan is approved, and the Petition for Variance is not necessary as the RTA does not apply.

ORDER

IT IS THEREFORE THIS 21st day of November, 2013,

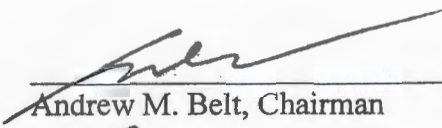
by the Board of Appeals of Baltimore County

ORDERED that the Petition for Special Exception to approve the use of property for a

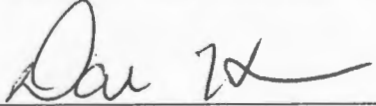
drive-in restaurant is GRANTED, the Petition for Special Hearing for the Modified parking plan is GRANTED, the Petition for Special Hearing to use land in a residential zone for commercial parking is DISMISSED AS UNNECESSARY, and the Petition for Variance from the RTA requirements is DISMISSED AS UNNECESSARY.

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

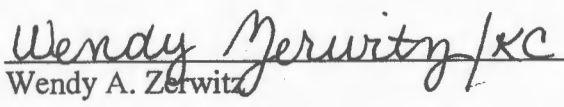
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Andrew M. Belt, Chairman



David L. Thurston



Wendy A. Zerwitz



Board of Appeals of Baltimore County

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SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
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November 21, 2013

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

John B. Wilhelm, III
8 Belfast Road
Timonium, MD 21093

Karlheinz Mueck
9 Belfast Road
Timonium, MD 21093

Maria Markham Thompson
10 Belfast Road
Timonium, MD 21093

Michael Henry
12 Belfast Road
Timonium, MD 21093

Sandra Barger
22 Belfast Road
Timonium, MD 21093

RE: *In the Matter of: Michael R. Mardiney, Jr., M.D. – Legal Owner*
Entourage Development, LLC - Lessee
Case No.: 13-171-SPHXA

Dear Mses. Thompson, Barger and Messrs. Vettori, Wilhelm, Mueck, and Henry:

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

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

Very truly yours,

Sunny Cannington

Krysundra "Sunny" Cannington
Administrator

Enclosure
Multiple Original Cover Letter
See attached Distribution List

Distribution List
November 21, 2013
Page 2

c: Michael R. Mardiney, Jr., MD
Entourage Development, LLC/Tom Berhle, Authorized Representative
John Demos, P.E., L.S.
Eric Rockel
Billy Hicks
Steve Miller
Scott White (Eliot)
Gail Baity
Craig Hutton
Deborah Henninger, President/Yorkshire-Haverford Community Association
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
John E. Beverungen, Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

7/23/13

IN RE: PETITION FOR SPECIAL
HEARING. SPECIAL EXCEPTION AND
VARIANCE

2027 York Road

8th Election District
3rd Councilmanic District

Michael R. Mardiney, Jr. MD
Legal Owner
Entourage Development LLC
Contract Purchaser/Lessee

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
*
*

Case No.: 2013-0171-SPHXA

* * * * *

PETITIONERS' POST HEARING MEMORANDUM

The property owner, Michael R. Mardiney, Jr., MD, and contract purchaser, Entourage Development, LLC, ("Petitioners"), by Jason T. Vettori, Esquire, their attorney, submit this Post Hearing Memorandum in support of the petition for zoning relief for the above referenced matter.

I. Procedural History

This matter comes before the Board as a *de novo* appeal of Administrative Law Judge ("ALJ") John Beverungen's final decision granting certain relief and dismissing as moot other relief requested.

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BOARD OF APPEALS

The original Petition for Zoning Relief sought special hearing and special exception relief only.¹ Subsequently, a Revised Petition for Zoning Relief was filed seeking special hearing, special exception and variance relief.²

A public hearing before the ALJ was held on March 18, 2013. In a decision dated March 22, 2013, the ALJ denied the request for relief as provided in the Revised Petition for Zoning Relief. People's Counsel and Petitioners filed Motions for Reconsideration in compliance with Rule K of the Rules of Practice and Procedure Before the Zoning Commissioner/Hearing Officer for Baltimore County. ALJ Beverungen granted the Petitioners' Motion for Reconsideration and denied People's Counsel's Motion for Reconsideration in an Order on Motions for Reconsideration dated April 16, 2013. Rule K provides, in pertinent part, that "[a] ruling by the [ALJ] on the motion for

¹ The Petitioner sought Special Hearing relief to approve the request for confirmation that the existing parking facility was authorized under Case No. 1971-0269-SPH; and a modified parking plan pursuant to Section 409.12.B of the Baltimore County Zoning Regulations ("BCZR") and such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County. The Petitioner sought Special Exception relief to use the property for a drive-in restaurant in accordance with Section 230.3 of the BCZR and such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

² The Petitioner sought Special Hearing relief to approve a use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6 pursuant to Section 409.8.B of the BCZR, or in the alternative for confirmation that the proposed parking facility is authorized under the use permit approved in Case No. 1971-0269-SPH, a modified parking plan pursuant to Section 409.12.B of the BCZR and for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County. The Petitioner sought Special Exception relief to use the property for a drive-in restaurant in accordance with Section 230.3 of the BCZR and for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County. The Petitioner sought Variance relief from Section(s) 1B01.1.B.1.e(5) of the BCZR to permit a 0' buffer and 0' setback in lieu of the required 50' buffer and 75' setback in a Residential Transition Area and for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

reconsideration shall be considered the final decision in accordance with Section 26-209 or 26-132 of the Baltimore County Code.”³

On May 15, 2013, John B. Wilhelm, III, Karlheinz Mueck, Maria Markham Thompson, Michael Henry and Sandra Barger (“Appellants”) filed an appeal of the Order on Motions for Reconsideration. An evidentiary hearing before the Board was held on Thursday, June 20, 2013.

II. Question Presented

This matter comes before the Board as a request for certain zoning relief which will allow a Sonic to occupy a site which previously housed a Roy Rogers and Boston Market but has been vacant approximately 15 years. Depending upon how the Board interprets the regulations, some or all of the relief requested will have to be granted to allow the proposed Sonic on York Road. For the foregoing reasons, the necessary zoning relief must be granted.

III. Argument

A. Special Exception: Drive-in Restaurant or Fast-Food Restaurant/Use Issue

Petitioners requested special exception relief to use the property, 2027 York Road, for a drive-in restaurant in accordance with Section 230.3 of the BCZR. As explained at the hearing, special exception relief was requested out of an abundance of caution. The Board should find that special exception relief is not necessary, but if it

³ The 1988 Code sections of BCC §§ 26-209 and 26-132 have parallel references to the current or 2003 Code sections, BCC §§ 32-1-101, 32-4-281 and 32-1-101, 32-3-401, 32-3-517, respectively.

were the testimony and evidence support a finding that the BCZR § 502.1 criteria have been satisfied. Petitioners maintain that it was the intent of the County Council that the instant use be categorized as a fast food restaurant rather than a drive-in restaurant.

As further elaborated upon below, provided the use is deemed to be a fast-food restaurant and not a drive-in restaurant, the only relief needed will be special hearing relief to amend the prior use permit for business parking in a residential zone which was approved in Case No. 1971-0269-SPH so that the parking layout is authorized and a modified parking plan (to approve the existing drive aisle width which is noncompliant under the current regulations). The Appellants want the Board to determine that the instant use is a drive-in restaurant because they feel the use will not only require approval of a special exception, but will trigger a multitude of relief which must be granted. Appellants will argue that the existing use permit approval was to serve the old use, a fast-food restaurant, a use permitted by right, not a drive-in restaurant, a use permitted by special exception. Therefore, it is anticipated that the Appellants will argue that a change in the use will render the prior use permit inapplicable. It is anticipated that the Appellants will further contend that in addition to having to obtain a new use permit, under the current regulations for same, the use of the portion of the parking lot located in the residentially zoned portion of the site will be subject to the Residential Transition Area ("RTA") regulations as promulgated in BCZR § 1B01.1.B. If the use of the residential parking lot is subject to the RTA regulations, variance relief will be needed to use it as proposed.

In regards to the determination of whether the use is a "drive-in restaurant" or a "restaurant, fast-food", the Board is required to construe the BCZR. The Court of Appeals observed recently in *Koste v. Town of Oxford*, 431 Md. 14, 25-26(2013) (quoting *Whitley v. Maryland State Board of Elections*, 429 Md. 132, 149, 55 A.3d 37, 47-48 (2012)):

The primary goal of statutory construction is "to discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by a particular provision[.]" *Barbre v. Pope*, 402 Md. 157, 172, 935 A.2d 699, 708 (2007). In so doing, we look first to the "normal, plain meaning of the language of the statute," read as a whole so that "no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory[.]" *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 712, 962 A.2d 342, 351, 2008 (quoting *Barbre*, 402 Md. at 172, 935 A.2d at 708). If the language of a statute is clear and unambiguous, we "need not look beyond the statute's provisions and our analysis ends." *Barbre*, 402 Md. at 173, 935 A.2d at 709. Where the language of the statute is ambiguous and may be subject to more than one interpretation, however, we look to the statute's legislative history, case law, purpose, structure, and overarching statutory scheme in aid of searching for the intention of the Legislature. *Doe*, 406 Md. at 712, 962 A.2d at 351.

Analysis of the legislative intent begins by looking to the plain meaning of the statutory language in question. Whether the proposed use is a drive-in restaurant or a fast-food restaurant is discerned by reviewing the respective definitions.

BCZR § 101.1 defines both "drive-in restaurant" and "restaurant, fast-food." A drive-in restaurant is defined as "[a] retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles." A restaurant, fast-food is defined as:

[a]n establishment whose principal business is to sell ready-to-consume food and beverages in disposable containers and which is not a drive-in

restaurant. A fast-food restaurant has some or all of the following characteristics:

A. Prepackaged frozen, chilled or sealed food and meals are cooked in advance for immediate sale.

B. Food and beverages are ordered over the counter or by motorists from within their vehicles.

C. Food and beverages are consumed on the premises of the restaurant or within a motor vehicle on or off the premises.

We begin our analysis with an examination of the definition of drive-in restaurant. The proposed use is a retail establishment. However, said establishment is further required to sell food or beverages "to a *substantial* extent" to patrons in their parked cars in order to be categorized as a drive-in restaurant. The term "substantial" is not defined in the BCZR. However, the zoning regulations address instances where terms are not defined. BCZR § 101.1 provides that "[a]ny word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged." Substantial is defined (in pertinent part) in Webster's Third New International Dictionary as "being that specified to a large degree or in the main." Mr. Behrle testified that the sale of food and beverages for consumption by customers in parked motor vehicles is not a substantial part of the instant Sonic. Through industry data, he demonstrated how the drive-in component of the restaurant will generate only 20% of the revenue. He further testified that of the 45 spaces provided on the site only 14 of them will serve food and beverage to diners in their cars. 14 spaces is approximately 31.1% of the spaces provided. Therefore, the sale of food or beverages

for consumption in parked vehicles cannot be considered a *substantial* part of the restaurant.

The proposed use clearly prescribes more closely to the definition of a "restaurant, fast-food." At the instant Sonic, meals will be cooked in advance for immediate sale, food and beverages can be ordered over the counter or by motorists within their vehicles and are consumed on the premises or within a motor vehicle on or off the premises. The County Council has expressly stated that a characteristic of fast-food restaurant is that food and beverages can be ordered by motorists from within their vehicles and still be considered a fast-food restaurant. It does not assign a percentage to that component. Therefore, comparing the definitions of the drive-in restaurant to the fast-food restaurant, the legislative intent becomes more clear.

While legislative intent begins by looking at the plain meaning of the statutory language, in *Bd. of County Comm'rs v. Marcas, L.L.C.*, 415 Md. 676, 685, 4 A.3d 946, 951 (2010) (quoting *Lockshin v. Semsker*, 412 Md. 257, 275-76, 987 A.2d 18, 29 (2010)), the Court of Appeals indicated that the process by which the plain meaning of a statute is ascertained is guided by the following precepts:

We, however, do not read statutory language in a vacuum, nor do we confine strictly our interpretation of a statute's plain language to the isolated section alone. Rather, the plain language must be viewed within the context of the statutory scheme to which it belongs, considering the purpose, aim, or policy of the Legislature in enacting the statute. We presume that the Legislature intends its enactments to operate together as a consistent and harmonious body of law, and, thus, we seek to reconcile and harmonize the parts of a statute, to the extent possible consistent with the statute's object and scope.

The definition for restaurant, fast-food was created by Bill No. 110-1993, after the definition of drive-in restaurant (Bill No. 40-1967). As a result, the Council is presumed to have known that the definition for a fast-food restaurants allowed for certain characteristics from the drive-in restaurant use. Therefore, the 14 of 45 spaces dedicated to the drive-in characteristic of the fast-food restaurant and the empirical data regarding the small percentage of income to be derived from said characteristic overwhelmingly support a determination that the proposed use is a fast-food restaurant, not a drive-in restaurant.

The fact that Sonic, a national franchise, calls itself "America's Drive-In" has nothing to do with the legislative intent of the Baltimore County Council. Sonic did not look to Baltimore County's zoning regulations when it called itself "America's Drive-In" and Baltimore County did not base its definition of a drive-in restaurant on Sonic's operation. If food and beverages are served "to a substantial extent" to customers in their cars at a given Sonic that particular restaurant would constitute a drive-in restaurant. In fact, Sonic has filed prior zoning cases in the County seeking relief from the Administrative Law Judge to permit the proposed use as a "drive-in restaurant". Those prior cases are in no way dispositive on the issue of what type of use is being proposed. The facts and circumstances of those cases are distinct and as a result inapplicable to the instant matter. For starters, the subject site is split zoned and only the commercial portion can be used for a drive-in restaurant use. In both the Liberty Road (Case No. 2010-116-SPHXA) and Pulaski Highway (Case No. 2011-149-X) cases,

the properties are zoned entirely commercial. As such, food and beverages can be served to customers in their cars on the entire property for both of those sites. Therefore, it made perfect sense that the petitioners in those cases sought special exception approval. It is clear that the sale of food or beverages for consumption in parked vehicles, as authorized in those cases, would constitute "substantial" if the petitioners were seeking authorization to use the entire site as a drive-in restaurant. The same facts don't exist in the instant matter. Only 14 of the 45 spaces will serve food and beverages to customers in their cars. The focus must be upon the meaning of "substantial" and the fact that a fast-food restaurant assumes a non-substantial component of a fast-food restaurant can be "dedicated to motorists ordering food from within their vehicles." For the foregoing reasons, the 14 drive-in spaces being proposed do not constitute a "substantial extent."

In the event the Board disagrees with Petitioners argument that the proposed use is a fast-food restaurant and deems the proposed use to be a drive-in restaurant, special exception relief should be granted. A use permitted by special exception is presumed under the law to be in the public interest, and to defeat such a petition, the Protestants must establish that the inherent adverse effects associated with the use would be greater at the proposed location than at other similar zones throughout the County. *People's Counsel for Baltimore County v. Loyola College in Md.*, 406 Md. 54 (2008). The court in *Schultz v. Pritts*, 291 Md. 1, 22-23 (1981) stated the applicable test in this fashion:

We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect

and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.

Several residents expressed concern with traffic, safety, congestion, noise, trash and similar quality of life issues. However, these are exactly the types of inherent adverse effects that the legislature was presumed to have anticipated when it allowed the drive-in restaurant use by special exception. Most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion " *Montgomery County v. Butler*, 417 Md. 271, 297 (2010). Any drive-in restaurant will generate a large volume of traffic and noise, and thus those impacts are "inherent" in the use. It is true that a Sonic fast food franchise would generate traffic and noise. However, these are inherent adverse effects. The inherent adverse effects associated with the use would not be greater at the proposed location than at other similar zones throughout the County.

B. Variance: Applicability of the RTA Regulations

As previously indicated, the original petition did not contain a request for variance relief. However, at the request of People's Counsel, the original petition for zoning relief was amended to include a request for variance relief from the RTA regulations. For the reasons which follow, the Board should resolve the instant request for variance relief in Petitioners favor in one of three different ways.

First, the Board can find that variance relief from the RTA regulations is not necessary as the residentially zoned portion has already been granted a use permit for business parking in a residential zone and that approval has vested. Next, the Board can find that the RTA regulations do not apply to the proposed alteration of the site irrespective of the applicability of the vested use permit. Finally, out of an abundance of caution, Petitioners have offered testimony and evidence which support a finding that variance relief, under BCZR § 307, is appropriate in the instant matter.

The residentially zoned portion of the property is permitted to be used for commercial parking as proposed by Sonic because the use permit has obtained vested rights. *City of Bowie v. Prince George's County*, 384 Md. 413 (2004); *Powell v. Calvert County*, 368 Md. 400 (2002). In Case No. 1971-0269-SPH, the Zoning Commissioner granted a use permit for business parking in a residential zone on the subject site. That approval has never been abandoned or otherwise relinquished and is therefore still permitted. Use permits are considered special exceptions. *Montgomery County v. Butler*, 417 Md. 271 (2010) ("The terms 'special exception,' 'conditional use,' and 'special use permit' are understood in modern Maryland land use law to be interchangeable."); *Hofmeister v. Frank Realty Co.*, 35 Md. App. 691 (1977). As a result, use permits can obtain vested rights status. BCZR § 502 has no provision for abandonment of a vested special exception. It is uncontroverted that this use permit vested and while the site has been vacant for sometime the vested right has not been expressly abandoned. The mere

fact that the site has been vacant does not extinguish that vested right under the zoning regulations and common law. The vested right must be voluntarily abandoned.

The Petitioner further contends that the RTA regulations would not apply to the proposed alterations to the site. In the instant matter, the RTA regulations do not apply to the residentially zoned portion as this was not the intent of the County Council and the alterations proposed do not constitute "development."

It is well established that legislative intent may be discerned by examining a statute's title or preamble as well as its terms. *Hofmeister*, 35 Md.App. at 707. The stated purpose of the RTA regulations is to "assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types." BCZR § 1B01.1.B.1.a(2). We are proposing a restaurant, not housing. In further support of this proposition, the Council enacted the Landscape Manual in 2000, which provides buffer and screening requirements for scenarios where commercial uses adjoin residential areas. Having obtained landscape plan approval we've satisfied these requirements. Additionally, the Zoning Commissioner's Policy Manual ("ZCPM") and the Comprehensive Manual of Development Policies ("CMDP") (p. 23) only discuss RTA in the context of residential development. As such, the Petitioners contend that the RTA regulations do not apply.

Irrespective of whether the Council intended for the RTA regulations to apply to the business parking in a residential zone, Petitioners contend that the RTA regulations

are not even generated as no "development" is being proposed, only alterations. Under 1B01.1.B.1.b, an RTA is generated as follows:

An RTA is generated if the property to be *developed* is zoned D.R. and lies adjacent to land zoned D.R.1, D.R.2, D.R.3.5, D.R.5.5 or R.C. which:

- (1) Contains a single-family detached, semi-detached or duplex dwelling within 150 feet of the tract boundary; or
- (2) Is vacant, less than two acres in size, and contains a buildable area at least 20 feet by 30 feet on which a dwelling meeting all required setbacks can be erected."

(emphasis added)

The existing structure and parking lot is being adaptively reused under a valid alteration permit. Repaving does not constitute development as that term is defined in Webster's (pursuant to BCZR) or the Baltimore County Code ("BCC").

Finally, the Petitioners have satisfied the variance standards in BCZR § 307. The testimony and evidence supports a finding that the site is unique and unusual in a manner different from the nature of the surrounding properties. The site is unique in that it is split zoned BL/DR 5.5, it has a unique shape that limits circulation, unlike any vicinal properties, it has 2 access points (one on York Rd. and one on Belfast Rd.), its topography is unique from similarly situated commercial properties and the DR 5.5 portion which is arguably impacted by the RTA previously received a use permit to be used for business parking in a residential zone (and that use permit/special exception approval has vested and shall continue in perpetuity). The Petitioners would suffer a practical difficulty or unreasonable hardship because there would be inadequate

parking to support the proposed use and there would similarly be issues with the existing access off of Belfast Road. Furthermore, the previously vested use permit for the rear of the property to be used for business parking in a residential zone will be lost rendering this historically commercially zoned property from being used as provided in the underlying zoning. The granting of the variance request would create an overall plan which better meets the spirit and intent of the Baltimore County Zoning Regulations as it supports the continued use of vested rights. The proposed relief requested can be granted without any adverse impact on the health, safety or general welfare of the general public as the property has been used as a restaurant in the past.

C. Special Hearing: Confirmation of Vested Rights/Modified Parking Plan

Petitioners requested special hearing relief to approve the use of the existing parking lot in accordance with the vested use permit for business parking in a residential zone and for a modified parking plan in accordance with the provisions of BCZR § 409.12.

Special Hearing relief was requested by the Petitioner for a use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6 pursuant to Section 409.8.B of the BCZR, or in the alternative for confirmation that the proposed parking facility is authorized under the use permit approved in Case No. 1971-0269-SPH.

As previously discussed, the use permit approved in 1971 is a vested property right and should permit the business parking proposed herein. The request for special hearing relief affords the administrative agency (i.e. the ALJ or Board of Appeals) to modify prior approvals or conform that the proposed alteration are permissible. In the instant matter, most of the minor changes to the parking lot (relocation of the drive-through lane and dumpster) were brought about by community complaints. Having moved the drive-through lane and dumpster further away from the residential community to the rear of the property, the changes to the vested use permit should be approved as proposed.

Of course, if the Board feels as if a new use permit is needed to make the existing parking lot conform with the current zoning regulations the appropriate relief has been requested. Correspondingly, the proper procedure has been followed.

Use permits can be granted without going to a public hearing as provided in BCZR § 409.8.B, assuming nobody requests a public hearing. While the zoning regulations do not expressly stated that a petitioner who is already going to a public hearing can request special hearing relief to obtain a use permit, this has been the administrative practice followed in the county for many years. In the instant matter, certain zoning relief was already being requested so it made sense to seek a use permit by way of a petition for special hearing relief.

Provided a new use permit is required to authorize the business parking in a residential zone, it should be approved as proposed. The Board of Appeals may grant

or deny a use permit as provided in BCZR § 409.6.B.1.e. Approval is appropriate as the site is already built out and has been used in a similar capacity for many years, despite the recent vacancy. The use permit is a kind of special exception/conditional approval. *Hofmeister v. The Frank Realty Co.*, 35 Md.App. 691 (1977). The community's complaints about the proposed use permit for business parking are exactly the types of inherent adverse impacts one would associate with such a use (business parking in a residential zone). As such, the use permit should be granted under *People's Counsel for Baltimore County v. Loyola College in Md.*, 406 Md. 54 (2008).

With respect to the modified parking plan request, as provided in the hearing, the Petitioners are using the existing layout of the site. Protestants have made some arguments already against the granting of any relief for the proposed use.

Protestants will in all likelihood argue that any nonconforming use, including the previously configured parking lot, has been abandoned and needs to comply with the current regulations. In instances where previously developed properties are utilized, the ALJ and Board have granted a modified parking plan under BCZR § 409.12 if the regulations create an "undue hardship." The ALJ has authority to grant the aforementioned special hearing relief under BCZR § 500.7. The regulations have changed over time and the Petitioners (and property owner for that matter) would not be able to utilize the property with its present parking facility if the current regulations apply. Under the circumstances, this constitutes an undue hardship. It is appropriate to grant the requested relief.

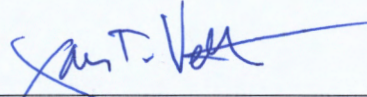
Protestants have already indicated that insufficient parking has been provided. According to the Plan to Accompany the Petition for Zoning Relief, Petitioners calculated the parking required based upon the requirement for a fast-food restaurant, 16 spaces per 1,000 square feet of gross floor area. BCZR§ 409.6.A.2. It is true that BCZR § 409.6.A.2 requires 20 spaces per 1,000 square feet for a drive-in restaurant. Assuming the Board determines that the use is a drive-in restaurant, then the Board can grant a modified parking plan which would require less spaces than required under the 20 per 1,000 s.f. ratio applicable to a drive-in restaurant. The basis for granting the requested modified parking plan request for relief in this instance is that only 14 of the 45 spaces are dedicated to the drive-in characteristic. Therefore, imposition of this more onerous parking requirement constitutes an undue hardship.

III. Conclusion

In summary, the use should be deemed a "restaurant, fast-food", a use permitted by right and the prior use permit for business parking in a residential zone should be deemed a vested right which has not been abandoned. As such, no further zoning relief is needed with, perhaps, the exception of the modified parking plan relief which was requested to address the drive aisle width on the BL zoned portion of the site.

To adopt Protestant's position would be tantamount to a determination that the Council's intent was that any restaurant which served food and beverages to diners in their cars would constitute a drive-in restaurant. This would render the term "substantial extent" nugatory.

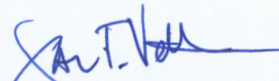
Respectfully Submitted,



JASON T. VETTORI
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 22ND day of July, 2013, a copy of the foregoing Memorandum was mailed, postage pre-paid, to John B. Wilhelm, III, Karlheinz Mueck, Maria Markham Thompson, Michael Henry and Sandra Barger; and to Peter Max Zimmerman, Esquire of People's Counsel for Baltimore County, The Jefferson Building, 105 W. Chesapeake Avenue, Room 204, Towson, Maryland 21204.



Jason T. Vettori

7/22/13

IN THE MATTER OF
MICHAEL R. MARDINEY, JR., MD/LO
ENTOURAGE DEVELOPMENT, LLC
(CONTRACT PURCHASER/LESSEE)
PETITIONER(S)
2027 YORK ROAD
8TH ELECTION DISTRICT; 3RD COUNCILMANIC
DISTRICT

* BEFORE THE
* BOARD OF
* APPEALS FOR
* BALTIMORE COUNTY
*
* 2013-171-SPHXA

* * * * *

MEMORANDUM OF PROTESTANT, MARIA MARKHAM THOMPSON

Introduction.

This Protestant, Maria Markham Thompson, is one of five (5) individuals who are appealing the Order on Motions for Reconsideration on Petitions for Special Hearing, Special Exception, and Variance of the Administrative Law Judge dated April 16, 2013 (2013-171-SPHXA). The positions presented herein are her own, and may not be consistent with or present the views of the other Protestants, some of whom also may file memorandums in this case.

The decision in this case begins with the interpretation and application of several sections of the Baltimore County Zoning Regulations (BCZR):

1. Is the proposed Sonic Drive-In Restaurant at 2027 York Road a "drive-in restaurant" as defined in BCZR Section 101.1 requiring a special exception?
2. Does the proposed drive-in restaurant at 2027 York Road meet the tests stated in the BCZR 502.1 required to receive a special exception?
3. If the proposed development is a drive-in restaurant requiring a special exception, and, therefore, not the same as the prior as of right uses, the Roy Rogers and

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BALTIMORE COUNTY
BOARD OF APPEALS

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2027 York Road

8th Election District; 3rd Councilmanic District

Boston Market drive-through restaurants, must the proposed development comply with the Residential Transition Area provisions of the BCZR Section 1B01.1.B.1?

4. Is the zero buffer variance contained in the Landscape Plan permissible in an RTA when a special exception is required for a drive-in with commercial parking in a DR zone under BCZR 409.8?
5. May the proposed development use the Variance granted in 1971 for commercial parking in a residential zone as requested in the Special Hearing or the Modified Parking Plan?

I. Is the proposed Sonic Drive-In Restaurant at 2027 York Road a “drive-in restaurant” as defined in BCZR Section 101.1 requiring a special exception?

The evidence and testimony of the Petitioner, Mr. Thomas Behrle, acting for ENTOURAGE, LLC only supports the conclusion that the proposed development is a drive-in within both the common usage of the term and the definition in the Baltimore County Zoning Regulation.

In the Petitioner’s application for another Sonic Drive-In Restaurant, *TD Bank (Owner) Entourage Ventures, LLC, (Contract Purchasers) Case No. 2011-0149-X*, “The petitioner requested a special exception to approve a drive-in restaurant, pursuant to Section 236.2 of the Baltimore County Zoning Regulations (B.C.Z.R.).” In his opinion, the ALJ noted that,

“As the development is classified as a “drive-in restaurant,” it requires a special exception. It should be noted that this special exception would not be necessary if the Sonic was predominantly a “drive-through” restaurant (per B.C.Z.R. Sections 230.1.A.4 and 236.1.A).

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"B.C.Z.R. Section 101.1 defines "drive-in restaurant" as "[a] retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles." The codification of the definition of "drive-in restaurant" and the inclusion of this use is one necessitating special exception approval first and occurred in Bill No. 40-1967 – Petitioners' Exhibit 5. The drive-in restaurant use again appeared in Bill No. 85-1967 – Petitioners' Exhibit 6."

During the hearing, the Petitioner argued that "substantial," as used in connection with drive-in restaurants in the BCZR, is based on a percentage of sales that is greater than the twenty-five percent (25%)¹ the Petitioner estimates he will derive from that part of the business. The definition for "substantial" in the case record was provided by the memorandum dated April 8, 2013 from the Peoples Counsel and taken from Webster Third New International Dictionary:

¹ The Petitioner testified that he expected 55% of customers to use the drive-through and 20% to come inside the restaurant. This leaves the remainder of 25% as drive-in customers referred to in this memorandum.

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“sub-stan-tial \səbz'tanchəl, -b'st-, -taan-\ *adj* [ME *sub-*
stancial, fr. LL *substantialis*, fr. L *substantia* substance + *-alis*
-al — more at SUBSTANCE] 1 *a* : consisting of, relating to, shar-
ing the nature of, or constituting substance : existing as or in
substance : MATERIAL (~ life) (the ~ realities) (most ponder-
ous and ~ things — Shak.) *b* : not seeming or imaginary : not
illusory : REAL, TRUE (the ~ world) (a mere dream neither ~
nor practical) *c* : being of moment : IMPORTANT, ESSENTIAL
2 *a* : adequately or generously nourishing : ABUNDANT, PLENTI-
FUL (set a ~ table) (after that too ~ dinner) *b* : possessed of
goods or an estate : moderately wealthy : WELL-TO-DO (a ~
man); *often* : having a good and well-maintained income
producing property (a ~ farmer) (the more ~ tradesmen)
c : considerable in amount, value, or worth (made a ~ gain on
the transaction) 3 *a* : having good substance : firmly or
stoutly constructed : STURDY, SOLID, FIRM (a ~ house) (~
cloth) *b* : having a solid or firm foundation : soundly based
: carrying weight (a ~ argument) (~ evidence) 4 *a* : being
that specified to a large degree or in the main (a ~ victory) (a
~ lie) *b* : of or relating to the main part of something *syn* see
MASSIVE
2substantial \ˈsʌb-ˈstɪ-əl, -ˈstɪ-əl-\ *n* -s [ME *substantial*, fr. *substantial*, *adj.*]
: something that is substantial: *a* : something having sub-
stance or actual existence *b* : something having good sub-
stance or actual value *c* : something of moment : an im-
portant or material matter, thing, or part
substantial damages *n* pl : damages which bring about actual

The definition does not state a numeric measurement for “substantial.” It does not say that it is a majority, i.e., more than 50%.. The terms in 2c: “considerable amount,” and 4a: “large degree” do not give a lower limit by which to measure “substantial.” This Protestant testified that working in her profession as a Certified Public Accountant, the term “material” used in 1a of

² Webster Third New International Dictionary, Merriam-Webster, Springfield, MA. 2002. p. 2032.

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the definition, and therefore being the most common use of the term, refers to a threshold of three percent (3%), well below the 25% of customers estimated by the Petitioner.

This Protestant also noted that in her professional life she had encountered many legal terms including the word “substantial,” such as “substantial completion” and “substantial default,” and, therefore, understood that the word “substantial” is “a term of art,” which may have varying meanings depending on its usage and a specific area of law.

In the instant case, it appears that the Council used the first definition in Webster’s that does not have a direct measurement of “substantial,” but tells us that the thing described is 1a: “consisting of, relating to, sharing the nature of or constituting substance: existing as in substance: MATERIAL “existing;” 1b: “not seeming or imaginary;” or 1c: “being of moment, IMPORTANT, ESSENTIAL.”

Drive-in Restaurant Business Characteristics

The Petitioner testified during the hearing before the Board that the proposed establishment is not like the drive-ins of “American Graffiti” and in *TD Bank*, the ALJ, referred to “Grease,” in describing the Petitioner’s Sonic Drive-In at 8733 Pulaski Highway. It is not necessary to go back to the 1950s or even the 1967 Bills to find legislative recognition by the County Council of the character of drive-in restaurants that sets them apart from other from other

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eateries.³ The County Council considered the different needs of drive-in restaurants when it enacted the parking requirements in BCZR Section 409.6 in Bill Nos. 137-1990 and 110-1993, which we will discuss at length later in this Memorandum. In those Bills, parking requirements for drive-in restaurants are grouped under the Section "*Night club, tavern, striptease business, catering hall or drive-in restaurant,*" which are all places sharing the common element of offering entertainment as part of their basic operations. In 1993, the County Council discerned some modern difference in drive-in restaurants and did not combine the parking requirements for drive-ins with any other establishments providing food that were covered in Bill 110-1993:

Carry-out restaurant,
Fast-food and standard restaurants: general rule,
Standard restaurants in revitalization districts, or
Fast food, drive-through only.⁴

The Petitioner stated that the proposed development's customer will have the novelty of being served in their vehicles, which matches the definition of "drive in" in BCZR Section 101.1, while watching servers on roller skates and hearing music played inside and outside of the building, obvious elements of entertainment. On cross examination of Mr. Behrle, it was made clear that the entertainment element is intrinsic to the Sonic operation.

³ The County Council enacted two pieces of legislation during the 2013 Session addressing B.L. zoning, Bills 4-13 and 31-13. The latter repealed and reenacted the section covering restaurant use permitted as of right in business zones and did not change the language to include drive-ins restaurants.

⁴ We note that in BCZR Section 229.C covering BLR zones, some of the same business uses, "after-hours clubs, bail bondsman (as defined by state law), nightclubs, pawnshops, striptease businesses, and taverns" are again grouped together for purposes of addressing their different needs. Drive-in restaurants are not mentioned in this section.

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THOMPSON: Can you operate the proposed project without the drive-in stalls?

BEHRLE: No. Without the drive-in stalls, it would not be a Sonic.

Clearly, having the elements of providing stalls in which patrons can park a vehicle and remain in it while ordering, paying for, receiving, and consuming the food, watching skating servers, and listening to music on what the Petitioner described as the "Sonic channel," are substantial parts of a Sonic Drive-In, since without them a food serving establishment cannot operate as a Sonic Drive-In franchise.

The entertainment elements are important (*substantial*) parts of a Sonic Drive-In: It is operates with drive-in stalls, and skating servers that the corporate literature, refers to as "carhops." This Protestant testified that she researched the Sonic Corp, the franchisor that the Petitioner repeatedly cited during his testimony before the Board, although no Sonic Corp documents were introduced as exhibits by the Petitioner in the hearing or in the lower case record to support his testimony.

This Protestant found extensive use of the term "drive in" to describe Sonic Corp.'s operations. She read into the record the following from page one paragraph three of the Sonic Corp. Form 10-K, for the period ending August 31, 2012, filed with the Securities and Exchange Commission (SEC) under oath on October 26, 2012.

THOMPSON: "At a standard Sonic Drive-In restaurant, a customer drives into one of the 16 – 24 covered drive-in spaces, orders through an intercom speaker system and has the food delivered by a *carhop*

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(emphasis added). Most Sonic Drive-Ins have patio seating and more than half of all Sonic Drive-Ins have drive-thru lanes.”⁵

Since the drive-in operations are such a substantial part of the business that a restaurant cannot be a Sonic Drive-In without them, one must conclude that having 25% sales to drive-in customers provides the substance of the operation that the Petitioner needs to satisfy the requirements of Sonic Corp. to be one of its franchise Sonic Drive-In restaurants.

Based on the definition of “substantial,” the defined operations of what is required to be a Sonic Drive-In, and the fact that without them a restaurant cannot operate as one, it is clear that the Sonic Drive-In proposed for 2027 York Road is indeed a “drive-in restaurant” that meets the definition of BCZR Section 101.1.

II. Does proposed drive-in restaurant at 2027 York Road meet the tests stated in the BCZR required to receive a special exception?

Having met the definition in the BCZR 101.1 for a “drive-in restaurant,” it is clear under Section BCZR 230.3 that the Petitioner needs a special exception to operate such an establishment at 2027 York Road on the portion of the site zoned BL.

⁵ Sonic Corp. Form 10-K as of August 31, 2012. Filed with the Securities and Exchange Commission on October 26, 2012, p.1. <http://www.sec.gov/Archives/edgar/data/868611/000119312512437801/d426526d10k.htm>. April 7, 2013.

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BCZR 502.1 clearly states a series of nine (9) considerations that must be satisfied in order for the Petitioner to receive a special exception:

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air; **[Bill No. 45-1982]**
- G. Be inconsistent with the purposes of the property zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; **[Bill No. 45-1982]**
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor **[Bill No. 45-1982]**
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone. **[Bill No. 74-2000]**

In both 406 Md. 54 Peoples Counsel for Baltimore County, et al. v. Loyola College in Maryland, No. 137, September Term 2007 (157) and Peoples Counsel for Baltimore County v. Mangione, 85 Md. App. 738, 584 A.2d 1318 (Md.Sp.App.02/01/1991), the Court of Appeals affirmed that the burden of demonstrating that a project meets the standards in BCZR 502.1 is on the petitioner.

The attorney for the Petitioner, Jason V. Vettori, Esq., of Smith, Gildea, & Schmidt LLC, lead the Petitioner's expert witness, Mr. John P. Demos, P.E., L.S., through a litany of responses

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in which Mr. Vettori stated each of the conditions as question and Mr. Demos provided a negative response without further explanation or support.

The special exception requires a case-by-case evaluation by an administrative zoning body or officer according to legislatively-defined standards. That case-by-case evaluation is what enables special exception uses to achieve some flexibility in an otherwise semi-rigid comprehensive legislative zoning scheme. 406 Md. 54 Peoples Counsel for Baltimore County, et al. v. Loyola College in Maryland, No. 137, September Term 2007 (157).

The Protestants presented extensive testimony and evidence contradicting the assertions of Messrs. Behrle and Demos for Conditions A, B, F, G, and I, and challenging the bases of their knowledge in making them.

- 1) On cross examination, Mr. Behrle and Mr. Demos stated that the operations of a Sonic Drive-In and other fast food drive-through restaurants are the same, but could not provide any quantitative facts to support their statements:

1. Neither Mr. Demos nor Mr. Behrle could state the extent to which visitors eat in their vehicles at drive-through restaurants leaving only an assertion that it is the same as at a Sonic Drive-In. No data to support this assertion was provided, although the Sonic Corp. materials in the case record provided by this Petitioner and the Peoples Counsel in a memorandum dated April 1, 2013 state that the "drive-in" feature is what differentiates the Sonic Drive-In restaurants.

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2. Neither Mr. Demos nor Mr. Behrle provided any data to support the assertion that the amount of time that vehicle engines will be in operation, engine idling, is the same for both drive-in and drive-through restaurants, although both stated affirmatively that it is the same.
3. Neither Mr. Demos nor Mr. Behrle provided any data to support the sound assertion that levels from a drive-through restaurant and a drive-in restaurant are the same, particularly in the areas of engine idling, playing music outside the building or in operating multiple speakers serving the drive-in stalls, as opposed to one or two at a drive-through restaurant.
4. Neither Mr. Demos nor Mr. Behrle provided any data to support their assertions that traffic traveling to or from 2027 York Road via Belfast Road would not have an adverse impact on the traffic on that street and on the residents living near the site. Mr. Demos stated that he had not measured the width of Belfast Road and not prepared or reviewed any traffic studies of Belfast Road. Mr. Demos and Mr. Behrle did not have any studies to support their assertions that traffic would not flow into Belfast Road and create congestion in that street.

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5. Petitioner Exhibit 10 from the State Highway Administration
clearly addressed traffic conditions on York Road (State Road 45),
and Mr. Demos conceded on cross examination it did not cover
Belfast Road, which is a local road, not a State Road.

Traffic

Protestants Thompson, Wilhelm, Hutton, and Henry all testified about current traffic problems on Belfast Road. This Protestant entered into evidence Protestant Exhibit 7, an application to the Baltimore County Bureau of Traffic Engineering and Transportation Planning requesting a traffic calming study for Belfast Road. A request dated June 14, 2013 to delay the hearing before the Board of Appeals until the results of the study was available was denied by letter dated June 17, 2013. Problems with weather interfered with and delayed obtaining the data for the traffic study. (Protestant Exhibit 6 – showing torn traffic counter on June 18, 2013). The results of the study were not available for presentation to the Board at the June 20, 2013 hearing.⁶

Another reason for the congestion on Belfast Road is the location of the parking spaces for the Maria Plaza Shopping Center (Protestant Exhibit 8) that are separated from the exit from 2027 York Road by 22' wide Belfast Road, the same width as the requirement for a parking aisle

⁶ By letter dated July 16, 2013 from Mr. W. William Korpman, III, P.E., Chief of the Bureau of Traffic Engineering and Transportation Planning, this Protestant was advised that Belfast Rd. meets "the required traffic volume and speed requirements" for speed calming measures. A copy is attached to this memorandum.

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with 90° parking (BCZR 409.4.C). In Protestant Exhibits 18 A-G, the difficulties the writers have with existing York Road traffic and the tasks of making turns left or right from it into Belfast Road, as well as the more difficult tasks of making turns from Belfast Road into York Road in any direction. These problems were also presented in the written comments of this Protestant dated March 18, 2013 that are part of the case record.

The Landscaping Plan, (Petitioner Exhibit 9) does not take into consideration the existing traffic problems on Belfast Road and retains the large maple tree at the southeast corner of 2027 York Road that partially obstructs the view of its Belfast Road exit for west bound drivers on Belfast is shown in Protestant Exhibit 8, and was part of this Protestant's testimony before the Board. Ms. Melanie Hutton testified to witnessing an accident on June 18, 2013 between a car exiting 2027 York Road into Belfast Road and a west bound driver on Belfast Road and presented photographic evidence from the accident. (Protestant Exhibits 12 A – C).

Air Pollution

The Protestants presented eye witness testimony of Mr. Michael Henry (12 Belfast Road) and Mr. Jeff Ball (30 Belfast Road), who both stated that they have long time residencies in the area and direct experience with how traffic generated by prior drive-through restaurants at 2027 York Road, Roy Rogers and Boston Market, affected the neighborhood. Mr. Henry and Mr. Ball, also testified about the amount of noise generated by the prior restaurants that had operated at 2027 York Road and that it could be heard at Mr. Henry's residence at 12 Belfast Road, which is the last house in the first block at the corner of Sweetbriar Road. (Protestant Exhibit 4.)

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The Petitioner entered into evidence Protestant Exhibit 11 "Extended Vehicle Idling," from the US Environmental Protection Agency webpage "EPA Home/Transportation and Air Quality/State and Local Transportation Resources."

http://www.epa.gov/otaq/stateresources/policy/transp/tcms/extended_idling.pdf. The document begins by stating that

"Item (xi) of Section 108 (f)⁷ of the 1990 amended Clean Air Act defines "programs to control extended idling of vehicles" as a candidate transportation control measure. The idea is that vehicular emissions can be reduced by eliminating vehicle idling, either by turning the engine off while the vehicle is stopped or by limiting the periods of time in which a vehicle must be stopped and idling." p.1.

Why this important becomes clear on page 1 in paragraph 5 of Protestant Exhibit 11:

"An emissions analysis of drive-through facilities was done by comparing the emissions from idling with those from a hot start/hot soak cycle, which would represent a person parking, carrying out a business transaction within an hour, restarting the car, and leaving. The results are summarized in Table 1.

"According to this analysis, for CO⁸ a car could idle for 6 minutes before it would generate the same emissions as when it was restarted...

⁷ [Title 42 Chapter 85](#) > [Subchapter 1](#) > [Part A](#) > § 7408.f.1a(ix).

⁸ CO- Carbon monoxide. Noted added by Protestant.

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Table 1. Vehicle Idle vs. Hot Start/Soak Emissions

Year	Pollutant	Hot Start Emissions (gm/start)	Hot Soak Emissions (gm/soak)	Idling Emissions (gm/min)	Idling Time Equivalent to Start/Stop Cycle Emissions
1987	THC ⁹	4.16	1.67	.2217	26
	NOx ¹⁰	.71		.0551	13
	CO	13.18		2.3541	6
2000	THC	4.06	.67	.1743	27
	NOx	.41		.0386	11
	CO	10.93		1.8164	6

Source: (3) "Information Document H: Control of Extensive Idling", California Air Resources Board, n.d. "

An in store customer for a 20 minute visit would produce only one set of hot start emissions of NOx and CO, both regulated air pollutants. In a twenty minute drive-in visit to the proposed Sonic Drive-In, engine idling would put out as much carbon monoxide (CO) pollution as over three (3) engine hot start/hot soak cycles (20/6 minutes = 3.33x), and nitrous oxide (NOx) of almost two (2) hot start/hot soak cycles (20/11 minutes = 1.82x).

On cross examination, Protestant Hutton asked this Protestant if a person with a high school education would know about ground ozone. This Protestant stated that she did not know what a high school graduate would or should know, but that it was her observation that Ozone Alert Days are regularly reported as part of weather forecasts in newspapers and radio and television broadcasts on days in which the measurements of air pollutants by the Maryland Department of the Environment are high and that people with pulmonary diseases, children and

⁹ THC - Total hydro carbons. Note added by Protestant.

¹⁰ NOx - Nitrous oxides. Note added by Protestant.

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the elderly are advised to remain indoors.¹¹ The Protestant noted that part of her concern about air pollution from the proposed Sonic Drive-In is because she has asthma.

This Protestant also presented information provided by the Baltimore County Department of Economic Development webpage that the prevailing wind direction in Baltimore County is from the west. The proposed Sonic Drive-In Site at 2027 York Road is at the west end of Belfast Road between York Road and Sweetbriar Road. The Petitioner showed through zoning and topographic maps, Protestant Exhibits 2 and 3 from the Baltimore County "Our Neighborhood" website that Belfast Road rises 30 feet from York Road to Sweetbriar Road. In photographs of the street taken from the corner of Sweetbriar Road and Belfast Road the houses at 6, 8, 10, and 12 Belfast Road are all visible, as is the roof of the building on the site of 2027 York Road on the east side of York Road, and the Smyth Jewelers store on the west side of York Road. The prevailing winds from the west will carry regulated air pollutants from 2027 York Road into the neighborhood without any barrier or impediment. In *Peoples Counsel v. Mangione*, for another site in the Timonium-Lutherville area, the Court of Appeals accepted that the prevailing winds are from the west. (*Peoples Counsel v. Mangione*, 85 MdApp Page 752)

¹¹ On objection of the Petitioner, this Protestant was not permitted to enter into the record any additional information gained as a result of her current research on air pollution, learned as part of earning a Master of Urban Planning, or work experience at the Maryland Department of the Environment.

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Odors

Another form of air pollution, odors from solid waste in the dumpster, was raised as a concern in Protestant Exhibits 18 A – G. During direct testimony and cross examination, Mr. Behrle described the positioning of the dumpster for the Sonic Drive-In and how the revised Plan (Petitioner Exhibits 5 and 17). It was noted that the space allotted to the relocated dumpster in Exhibit 17 is half the size of the dumpster in Petitioner Exhibit 5.

Noise

Mr. John B. Wilhelm, III, a Protestant and owner of 8 Belfast Road, also is a graduate of the Sheffield Institute for the Recording Arts and an experienced audio engineer. Mr. Wilhelm testified on the dangers to human hearing of various levels of ambient noise. Mr. Wilhelm is the owner of 8 Belfast Road. He included with his testimony Protestant Exhibit 9 from the US Environmental Protection Agency which notes that

Noise pollution adversely affects the lives of millions of people. Studies have shown that there are direct links between noise and health. Problems related to noise include stress related illnesses, high blood pressure, speech interference, hearing loss, sleep disruption, and lost productivity. Noise Induced Hearing Loss (NIHL) is the most common and often discussed health effect, but research has shown that exposure to constant or high levels of noise can cause countless adverse health effects.¹²

This is consistent with Baltimore County Code § 17-3-102

¹² <http://www.epa.gov/air/noise.html>

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The County Council intends to prohibit excessive domestic noise for the purpose of securing and promoting public health, comfort, convenience, safety, welfare, peace, and quiet in the county.
(1988 Code, § 20-46) (Bill No. 123-93, 1993, § 2; Bill No. 114-99, § 3, 7-1-2004)

The Petitioner stated a general intent to be aware of noise and to keep it "low enough to hear customer orders," but did not state a plan for protecting the adjacent neighborhood from noise from vehicles or other activities of his operations and customers.

The evidence presented by the individual Protestants in their testimony, and written and photographic evidence is that development of a Sonic Drive-In restaurant 2027 York Road would materially disturb the surrounding neighborhood through increases in traffic congestion, particularly on Belfast Road, releases of regulated ambient air pollutants that are known precursors to ground ozone, another regulated pollutant, odors, and detrimental increases in local noise levels. The application by the Petitioners must be denied based on the facts presented and the standards set in *Peoples Counsel v. Mangione*, 85 MdApp Page 749:

"The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal. *Turner v. Hammond*, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); *Rockville Fuel & Feed Co. v. Board of Appeals of Gaithersburg*, 257 Md. 183, 187-88, 262 A.2d 499, 502 (1970); *Montgomery County v. Merlands Club, Inc.*, 202 Md. 279, 287, 96 A.2d 261, 264 (1953); *Anderson v. Sawyer*, 23 Md. App. 612, 617, 329 A.2d 716, 720 (1974). These standards dictate that if a requested special exception use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied. *Holbrook*, 314 Md. at 217, 550

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A.2d 664. (Emphasis in original.) quoted in Peoples Counsel v Mangione -- Ct of Special Appeals 85 MD App. 750 (1991)"

Uniqueness of Site

The detrimental effects related to a use are not, by themselves, enough to warrant denial of a special exception. It must be shown that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. The Court of Special Appeals stated quoting from Schultz, 291 Md. at 15, 432 A.2d 1319, the requisite adverse impact required to warrant a denial of special exception:

"[A] special exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the requested special exception use would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result from the development of such a special exception use located anywhere within the zone. Thus, these cases establish that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." Holbrook, 314 Md. at 217, 550 A.2d 664. (Emphasis in original.) quoted in Peoples Counsel v Mangione -- Ct of Special Appeals 85 MD App. 750 (1991)"

The uniqueness of the 2027 York Road lies in its position at the bottom of a steep vertical rise due east of 2027 York Road along Belfast Road (Protestant Exhibit 3). Within the commercial zone where business properties are adjacent to residential property along York Road

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beginning at the north side of Northwood Dr, the topography is flatter within the portioned zoned for business uses and the initial parts of the residential streets extending away from York Road to the east. Similarly, the business zoned properties on the west side of York Road have lesser inclines, and that part of the zone is not adjacent to residential properties.

The proposed use of the Sonic Drive-In is unique in its impacts in this area because of the higher intensity of residential land use surrounding the site. As shown in Protestant Exhibit 2 – Yorkshire Zoning map, the DR 5.5 development surrounding the 2027 York Road and extending east are small lots dating back to the late 1920s, when they were developed in sets of two. This Protestant testified that her home, 10 Belfast Road, was constructed in 1930. This pattern of development is outlined in blue on Protestant Exhibit 2 and extends from Aylesbury Road on the south to Cinder Road on the north and from York Road eastward until it ends approximately 250 feet from the intersection of the local streets with Vista Lane. At the time a variance was granted for commercial parking in the DR portion of the site at 2027 York Road in 1971 (“1971 Variance”), the area was zoned DR 6. (Petitioner Exhibit 12, pp. 7 – 9) Placement of a Sonic Drive-In along a portion of York Road adjacent to an area with lower density DR zoning or actual residential development with less density would affect fewer people than placing a drive-in at 2027 York Road. Such areas can be seen in Protestant Exhibit 2 north of Cinder Road and south of Aylesbury Road.

As shown in Protestant Exhibit 2 – Yorkshire Zoning map, the other properties with business zoning along York Road in the immediate area along the east side of York Road, north and south of the 2027 York Road adjacent to residential property are zoned for Residential

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Offices or are the Maria Plaza Shopping Center, zoned BL. These uses have with lower off street parking requirements under BCZR Section 409.6, generally 3.3 – 5 spaces per 1000 square feet, reflecting far less intense traffic volumes than the one for a drive-in resulting in the need for 20 spaces per 1000 square feet in the same Section.

As seen in Protestant Exhibit 2, all of the property along the west side of York Road opposite 2027 York Road the subject area is zoned for business uses and does not abut properties with DR zoning. Development of a Sonic Drive-In along the west side of York Road, which has a drive-through Burger King restaurant that is clearly visible from the proposed Sonic Drive-In site. The Burger King has been referenced repeatedly in testimony of the Petitioner and the Protestant and in Petitioner Exhibit 8. It does not have the unique impacts foreseeable in placing a drive-in at 2027 York Road.

It also should be noted that in the cases where special exceptions have been granted for Sonic Drive-Ins in Baltimore County (Protestant Exhibits 20 A – D) and TD Bank (*Owner*) Entourage Ventures, LLC, (*Contract Purchasers*) Case No. 2011-0149-X, operated by the Petitioner, and Anna B. Beaty et al (*Owner*) Macro Holdings, LLC (*Contract Lessee*) Case No. 2010-0116-SPHXA), that residential properties are approximately 2100 feet and 700 feet, respectively, from the Sonic Drive-In operations. A zero foot buffer between a Sonic Drive-In and residential property requested by the Petitioner would be a unique occurrence in Baltimore County.

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- III. If the proposed development is a drive-in restaurant requiring a special exception, and, therefore, not the same as the prior as of right uses, the Roy Rogers and Boston Market drive-through restaurants, must the proposed development comply with the Residential Transition Area provisions of the BCZR Section 1B01.1.B.1?

The case record sent from the Office of Administrative Hearings contains the Order on Motions for Reconsideration of the Administrative Law Judge dated April 16, 2013, in which the ALJ stated:

I do not believe the RTA regulations apply in this case. At the outset, the Council's stated purpose (not often included in codified legislation) in adopting such regulations was to "assure that similar types of housing are adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types." BCZR Section 1B01.1.B.1.a.(2). There is no housing to be constructed in this case, and thus I do not believe that the RTA regulations are in any way applicable.

Limiting the application of the section to adjacent residential development requires ignoring the preceding paragraph, BCZR Section 1B01.1.B.1.a.(1).

The residential transition area (RTA) is a one-hundred-foot area, including any public road or public right-of-way, *extending from a D.R. zoned tract boundary into the site to be developed* (emphasis added)

The RTA dates back to a least as early as Bill 124-1981 the date of the first paragraph of BCZR Section 1B01.1.B.1. The next paragraph, BCZR Section 1B01.1.B.1.a.(1), was adopted in the Bill 2-1992 with the one following it that was cited by the ALJ and does not limit the RTA by type of development or zoning. It clearly states that the RTA is created when a DR zoned tract meets the boundary of another site. The third paragraph, BCZR Section

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1B01.1.B.1.a.(2), quoted by the ALJ provides further explanation that when the other side of a DR zoned tract boundary is another DR zoned site, the RTA requirement applies.

To start with a broad statement including all types of zones that may have a boundary with a DR zone and then conclude that only DR zones adjacent to other DR zones are intended for protection defeats the initial concept of the Section and the one of the oldest concepts of zoning: protecting residential uses from harm by adjacent development of incompatible uses.

Looking again at the language in BCZR Section 1B01.1.B.1.a.(2)

Generation of residential transition area. An RTA is generated if the *property to be developed (emphasis added)* is zoned D.R. and lies adjacent to land zoned D.R.1, D.R.2, D.R.3.5, D.R.5.5 or R.C. which: [Bill Nos. 2-1992; 8-2004]

The Petitioner argued that the RTA does not apply to 2027 York Road since the site is not being “developed,” which he construed in the manner of the ALJ as constructing a house on the site.

The definition in BCZR Section 101.1 for the noun “development” differs from the meaning of the verb built from the common root that is used in the BCZR Section 1B01.1.B.1.a.(2) .

Petitioner Exhibits 15 and 16 from Webster’s underscore these differences and make it clear that they are not the same thing. On cross examination, Mr. Demos was not able to answer how the differences between the noun and the verb applied to the RTA. Placing a structure to provide housing is not a requirement of the RTA.

Further, the language in Section 1B01.1.B.1.a.(2) regarding housing types adopted in Bill No. 2-1992 is predated by BCZR Section 502.6 [Bill No. 124-1981] by eleven years, in which the Council created the RTA and did not limit its application to adjacent DR developments:

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In addition to the other requirements of this section, the Zoning Commissioner and the Board of Appeals, upon appeal, when considering a special exception for a use in a residential transition area, shall conform with the requirements of Section 1B01.1.B.1, where applicable. [Bill No. 124-1981]

We see further that the RTA contemplates protection of properties with DR zoning from uses that are not "housing" in the statement of the permitted uses in an RTA in BCZR Section 1B01.B.1.d.

A residential transition use is any use:

- (1) Permitted as of right under Section 1B01.1.A; or
- (2) Any use permitted by special exception under Section 1B01.1.C, except an accessory use permitted only by special exception; or
- (3) Any parking area permitted under Section 409.8.B, subject to the approval of a specific landscape plan for the buffer area which must meet the requirements for a Class A plan. *(emphasis added)* [Bill No. 2-1992]

In addition to the housing types listed in Section 1B01.1.A.1. a - d, a wide range of uses are permitted as of right in DR zones by Sections 1B01.1.A.2 – 19, many of which were added after the original RTA legislation in 1981. *(Emphasis is added for uses approved after the Bill 2-1992):*

2. Trailers (Section 415).
3. Churches, other buildings for religious worship or other religious institutions.
4. Aboveground electrical-power, telephone, telegraph lines, except aboveground electrical power lines having a capacity of 35 kilovolts or more; pole-mounted transformers or transformer banks.
5. Other cables; conduits; gas, water or sewer mains; or storm-drain systems, all underground.
6. Excavations, uncontrolled (as defined in Section 101).
7. Farms, produce stand in association with a farm, or limited-acreage wholesale flower farms (see Section 404). [Bill No. 41-1992]
8. Garages, community.
9. Hospitals. [Bill No. 37-1988]

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- 10. Local open space tracts or other common amenity open space.
- 11. Privately sponsored day care and nursery programs, as an ancillary use, within housing for the elderly projects, as defined in Section 101 of these regulations.

Bill No. 47-1982]

- 12. Class A group child care centers and Class B group child care centers providing for up to 40 children, if not located in a residential transition area, subject to the requirements of Section 424, and family child care homes, group child care centers and nursery schools. **[Bill No. 200-1990]**

- 13. Research institutes or laboratories in existence at the time of the adoption of Bill No. 122-1984, subject to the zoning regulations in effect at the time of the approval by Baltimore County of the institute or laboratory. **[Bill No. 122-1984]**

- 14. Schools, except business or trade schools or such schools as are permitted by special exception (Subsection C, below), but including schools for agricultural training. **[Bill Nos. 63-1980; 47-1982; 47-1985]**

- 15. Signs, nonaccessory, to the extent permitted under Section 413.

- 16. *Antennas used by CATV systems operated by companies franchised under Article 25 of the Baltimore County Code, if situated on property owned by the county, state or federal government or by a governmental agency.* **[Bill Nos. 220-1981; 137-2004]**

- 17. Transit facilities. **[Bill No. 91-1990]**

- 18. Accessory uses or buildings other than those permitted only by special exception, including, but not limited to:

- a. Accessory radio or television receiving antennas.
- b. Wireless transmitting and receiving structures, provided that any such structure: is a radio antenna in conjunction with transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator license issued by the Federal Communications Commission; if it is an independent structure, shall be subject to the same requirements as are applied to buildings under Section 400; if it is a rigid-structure antenna, shall be no higher than 50 feet above grade level and with no supporting structure thereof closer than 10 feet to any property line; and does not extend closer to the street on which the lot fronts than the front building line.
- c. Home occupations, as defined in Section 101.
- d. Parking spaces, including accessory garage spaces.
- e. Offices for the conduct of business incidental to the rental, operation, service or maintenance of apartment buildings.
- f. Signs, subject to Section 450. **[Bill No. 89-1997]**
- g. Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes (subject to Section 429) or other accessory structures or uses (all such accessory structures or uses subject to the height and area provisions for buildings as set forth in Section 400). **[Bill No. 71-1987]**

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19. Commercial film production, subject to Section 435. [Bill No. 57-1990]

Moreover, the Council has explicitly included provisions for RTAs in cases of residential development not included in Section 1B01.1.A.1. a - d, such as office buildings in BCZR Section 205.4 Performance Standards in OR-1 Zones: :

- A. Uses permitted under Subsections 205.3.A.1 or 205.3.B.1 and new structures accessory to Class A office buildings are governed by the bulk regulations of D.R.5.5 Zones. *Such uses are also subject to Section 1B01.1.B.1, Residential transition area restrictions (emphasis added),* except in cases where a project is vested by law; has received a CRG, a development plan or reclamation plan approval; or for which a development plan has been accepted for filing by the Department of Permits, Approvals and Inspections before July 5, 1994. [Bill Nos. 186-1994; 122-2010]

Similarly, some uses that occur as of right in DR zones, child care centers (BCZR Section 424.5) and churches (BCZR Section, BCZR 1B01.1B.g.(6), that have additional conditions placed on them in addressing the RTA. Again, the application of the RTA is not limited to housing.

A letter to the ALJ from the Peoples Counsel dated March 28, 2013, included in the case record, discussed the history and precedents in managing the RTA and demonstrates that the RTA is applicable in this case:

“As for the residential transition area, notwithstanding the more general statement of purpose to prevent dissimilar housing types, the more specific applicable provision is BCZR Section 1B01.B.1.d.3, which enumerates that, among other uses, a “residential transition use is any use: ...

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“(3) Any parking area permitted under Section 409.8B, subject to the approval of a specific landscape plan for the buffer area which meet the requirements for a Class plan.”

“There can be no doubt, and never has been before, that business parking in a residential zone, per BCZR Section 409.8.B, usually to the rear of business uses fronting on busy streets like York Road, is subject to the RTA requirements, including the setbacks and buffer requirements.

“There also can be no doubt that the zoning situation here involves a residential transition area, with the split BL/DR 5.5 Zone on the subject property, along with several immediately adjacent DR 5.5 Zone single-family detached homes. BCZR Section 1B01.1.B.1.B. The RTA area here is the area extending 100 feet into the site from the D.R. 5.5 Zone tract boundary. BCZR Section 1B01.1.B.1.a.

“There have been numerous similar split-zone business/residential split zone cases involving adjacent single-family homes where the RTA setbacks and variances have come into play. It often occurs in restaurant cases along the main arterial roads when the business seeks additional parking in the residential zone, usually to the rear. For example, we have had a case involving Michael Restaurant in Timonium and many such cases involving McDonald redevelopments. Other business uses often present like situations.

“As your opinion notes, in addition to the basic BCZR Section 307.1 variance standard, there is also the BCZR Section 1B01.1.C provision for variances of the RTA tract itself relating to a Hearing Officer hearing on a development plan. We cannot recall any case where this provision has been applied to “trump” or preempt the usual zoning setback variance review. Whether or not this provision preempts the setback variance and buffer sections, we see no basis to eliminate or truncate the RTA tract in this case even if it were applied in this way. It would subvert the essential statutory purpose of the RTA.”

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On re-direct, Mr. Behrle testified that any application of the RTA would render 2027 York Road useless by taking up too great a portion of the site. This argument ignores the existence of the DR portion of the site for which a variance to permit commercial parking in a DR zone is being sought and that such a use is explicitly available as an RTA use. The appropriate solution is the one initially sought by the Petitioner in requesting a variance to accommodate these difficulties, not to dispose of the RTA because of any perceived logical difficulty in applying it.

Notwithstanding any practical or logical difficulties in applying the RTA, its purpose, to protect adjacent DR zoned properties from dissimilar development, is still critical in this case because the Sonic Drive-In only can exist at 2027 York Road with a special exception. As such, we must look to the direction of BCZR Section 502.2: Protection of surrounding properties; agreement governing special exception:

In granting any special exception, the Zoning Commissioner or the Board of Appeals, upon appeal, shall impose such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owners, lessees or tenants of the property for which a special exception is granted, if required by the Zoning Commissioner, or Board of Appeals, upon appeal, shall enter into an agreement in writing with said Zoning Commissioner and/or the County Commissioners of Baltimore County, stipulating the conditions, restrictions or regulations governing such special exception, the same to be recorded among the land records of Baltimore County.

If it is not feasible to meet the requirements of the RTA or to negotiate terms for similar protections for the neighboring properties, then it is not possible to grant a special exception for a

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drive-in restaurant at this site and some other use may be established. BCZR Section 230.1 lists over 80 distinct businesses, and combinations thereof, available as of right to the Petitioner in the BL zoned site. Not permitting a use available only by special exception does not create an unreasonable hardship or deprive the Petitioner of productive use of the property; it only prevents him from gaining a use, in the instant case, a drive-in, that he cannot have because it fails to meet the tests of BCZR 502.1 based on the testimony and evidence provided by this and other Protestants showing that the proposed Sonic Drive-In:

- Will be detrimental to the health, safety or general welfare of the locality involved;
- Will tend to create congestion in roads, streets or alleys therein;
- Will interfere with adequate light and air;
- Will be inconsistent with the purposes of the property zoning classification and in other ways be inconsistent with the spirit and intent of the Zoning Regulations; and
- Will be detrimental to the environmental and natural resources in an R.C.5 Zone.

IV. Is the zero buffer variance contained in the Landscape Plan permissible in an RTA when a special exception is required under for a drive-in with commercial parking in a DR zone under BCZR 409.8?

Petitioner Exhibit 1, Revised Petition for Zoning Hearing, requested a variance from the RTA "to permit a 0' (zero foot) buffer and 0' (zero foot) setback in lieu of the required 50'

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buffer and 75' setback in a Residential Transition Area. While Petitioner Exhibit 1 also includes a prayer under variances, "For such other and further relief as may be deemed necessary by the Administrative Law Judge," the petition does not specifically address the waiver of the 10' buffer in the Landscaping Plan, (Petitioner Exhibit 9).

The Petitioner has proposed a six foot high fence to screen the neighborhood from the site. Ms. Melanie Hutton testified that from her home at 4 Belfast Road, she has a clear and unimpeded view into the entire site at 2027 York. Road. Her testimony is supported by the photograph in Protestant Exhibit 13. The picture contains a clear image illustrating that the topography shown in Protestant Exhibit 3 of the neighborhood makes a six-foot fence useless in providing any screening or protection because it does not rise as high as the first floor kitchen of Ms. Hutton home, the point from which the picture was taken.

On cross examination, Mr. Demos testified that one purpose of the fence at the property line is to screen the adjacent property from the proposed Sonic Drive-In. During re-direct, the testimony of Mr. Behrle was that placing a fence with a height greater than six feet, would require wider footings to support the fence and that doing so would take additional land in the D.R. 5.5 part of the site away from parking along the property lines on the east and north sides of the site. (Petitioner Exhibit 9- Landscape Plan and Petitioner Exhibit 17 –Site Plan –redline revision).

The ineffectiveness of the existing six foot fence is also evident in Protestant Exhibit 8 that shows the eastern end of 2027 York Road, the existing fence, and the northwest side of 4 Belfast Road. Clearly, a six foot high fence is not enough to provide any protection for this

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neighborhood from air pollution, odors, or noise. Similar problems arise from the elevated light poles, clearly visible from Sweetbriar and Belfast, or any sound equipment that is elevated higher than six feet. (Protestant Exhibit 4)

In Ms. Hutton's testimony, she stated that alternatives for screening, such as a higher fence, were discussed with her and Mr. Hutton by the Petitioner. It was the testimony of the Petitioner that higher fencing was not considered. It also was the testimony of Mr. Demos that a higher fence had not been considered. Ms. Hutton provided photographs, Protestant Exhibits 16 A - C of a Wendy's drive-through restaurant at 9817 York Rd where a ten foot fence separates the business from adjacent residential property.

Another concern raised by Ms. Hutton is that the proposed zero buffer leaves little space for plantings to grow without leaning against, and potentially damaging or displacing, any fence placed between 2027 York Road, Belfast Road and 3/5 Northwood Drive.

The proposed Sonic Landscape Plan, (Petitioner Exhibit 9) includes a waiver for the required ten foot buffer and thus fails to meet the requirement that it must meet the requirements for a Class A. plan contained in BCZR Section 1B01.B.1.d.3. "Must" is understood to mean the same as "shall," and be mandatory, i.e., performed without a variance. As stated in BCZR Section 101.1, "Words used in the present tense include the future; words in the singular number include the plural number; the word shall is mandatory."

The Landscape Plan in Petitioner Exhibit 9 does not meet the requirements of BCZR Section 1B01.B.1.d.3 because of the zero foot buffer. In addition, it fails to meet the

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basic screening requirements of BCZR Section 409.8. Since this does not meet the mandatory requirements in BCZR Section 1B01.B.1.d.3, a special exception cannot be granted.

V. May the proposed development use the Variance granted in 1971 to a prior as-of-right use for commercial parking in a residential zone as requested in the Special Hearing or the Modified Parking Plan?

The proposed Sonic Drive-In restaurant is a new use, not the continuation of existing nonconforming uses, the Roy Rogers and Boston Market drive-through restaurants. As such, an application for a new variance is required based on present conditions and BCZR requirements.

The 1971 Variance (1971-0269-SPH), Petitioner Exhibit 12, predates the RTA legislation in Bill 124-1981 that identified business parking in a DR zone as a permitted RTA use as stated in BCZR 409.8. Consequently, the commercial parking in the DR portion of 2027 York Road became a nonconforming use because it does not comply with or address the buffers required for such a use in an RTA. The use lapsed sometime before November 2003 when this Protestant purchased 10 Belfast Road. The testimonies of Mr. Behrle, Mr. Henry, and Mr. Ball all agreed that the prior use of a Boston Market had ended more than a decade ago. Since the DR portion of the site has not been used for commercial parking in over 10 years, it is clear that this nonconforming use has lapsed in accordance with BCZR 104.1:

A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a

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period of one year or more, the right to continue or resume such nonconforming use shall terminate. [Bill Nos. 18-1976; 124-1991]

Even if the 1971 Variance had not lapsed, a careful review of the document, (Petitioner Exhibit 12) shows that it differs materially from the planned use of the site based on the testimony of Messrs. Behrle and Demos, and that the Modified Parking Plan is not acceptable because it omits essential safety requirements:

- 1) The 1971 Variance was predicated on a widening of Belfast Road to a width of 40 feet in accordance with Public Works Agreement 86901, as clearly stated in the comments of the Baltimore County Zoning Advisory Committee dated April 26, 1971 on page 4 of Petitioner Exhibit 12. The road has not been widened in the intervening 42 years. Belfast Road remains 22 feet wide for its length from York Road to Sweetbriar Road. (Protestant Exhibits 5, 6 and 7). It is not known what traffic projections were made to establish the road widening requirement, but the testimony of Mr. Henry and Mr. Ball provides evidence that the observed traffic volumes at the time the 1971 Variance was granted to the Roy Rogers were much lower than present conditions. The narrow width of Belfast Road is a material problem in serving traffic reaching the site from the densely populated area to the immediate east, north and south of the site as shown in Protestant Exhibit 2, Yorkshire Zoning, as well as for traffic leaving the site to turn right, and especially left, onto York Road from Belfast, as discussed above under "Traffic."

CASE #: 13-171-SPHXA

IN THE MATTER OF:

Michael R. Mardiney, Jr., MD/LO

Entourage Development, LLC (Contract Purchaser/Lessee)

2027 York Road

8th Election District; 3rd Councilmanic District

- 2) The 1971 Variance and the Modified Parking Plan are not compliant with BCZR

Section 409.6. Page 7 of the 1971 Variance shows that the requirement at that time was for 61 parking spaces and that 62 spaces were provided. It also states that the hours of operation were 10:00 AM to 11:00 PM. The Modified Parking Plan is based on 16 spaces per 1000 square feet resulting in a requirement for 42 spaces and a plan to provide 45 spaces, including two for the use of handicapped patrons that double as drive-in stalls.¹³ The requirement in BCZR 409.6 for drive-in restaurants is 20 spaces per 1000 square feet. As such, the new use of a drive-in requires 52 parking spaces ($2600/1000 * 20$), not the 45 spaces provided in the Modified Parking Plan, which would meet the requirements of a drive-through restaurant.

- 3) Mr. Behrle's testimony before the Board and in the case file is that he intends to operate the proposed Sonic Drive-In from 8 AM to 10 PM Sunday to Thursday and until 11 PM on Friday and Saturday. Nothing in the testimony or written materials supports this deviation from the terms of the 1971 Variance. This fact provides additional support for the contention that the proposed Sonic Drive-In is a new use that cannot benefit from the 1971 Variance.

¹³ Presumably, these spaces are available to drivers with valid handicap parking stickers who prefer to eat inside the restaurant rather than be served in their cars, otherwise, requiring such drivers to use drive-in services gives rise to a variety of civil rights concerns, not the least of which is the question of having "separate, but equal" accommodations.

CASE #: 13-171-SPHXA

IN THE MATTER OF:

Michael R. Mardiney, Jr., MD/LO

Entourage Development, LLC (Contract Purchaser/Lessee)

2027 York Road

8th Election District; 3rd Councilmanic District

- 4) As pointed out in the testimony of Protestant Hutton, the drive aisles for 90-degree parking must be 22 feet in width. In the area of the handicapped parking and drive-in stalls on the southern side of the site, the drive aisle width is only 20 feet and parked cars in that area back into traffic coming around the building from the York Road entrance.
- 5) The Modified Parking Plan does not comply with the pedestrian safety requirements of BCZR Section 409.10.B – Requirements for Drive-Through Facilities, which states that

“The drive-through lane may not cross the principal pedestrian access to the facility, except that, in the case of a drive-through only restaurant with two drive-through lanes, the drive-through lanes are permitted to cross the pedestrian access if a painted crosswalk in association with warning signs for pedestrians and motorists is provided. The crosswalk may not be located between vehicle stacking spaces. [Bill No. 110-1993]”

The only marked walk aisle that reaches an entrance is on the southern side of the building and crosses the beginning of the drive-through aisle behind the handicapped parking. Further, access to the sidewalk along the southern side of the building from the eastern portion of the parking area requires walking through the stacking spaces, unless the pedestrian walks along the length of the stacking lane in the drive aisle to reach the cross walk at the point it intersects with the beginning of the drive-through aisle.

CASE #: 13-171-SPHXA

IN THE MATTER OF:
Michael R. Mardiney, Jr., MD/LO
Entourage Development, LLC (Contract Purchaser/Lessee)
2027 York Road
8th Election District; 3rd Councilmanic District

VI. SUMMARY

The project proposed for 2027 York Road is a drive-in restaurant and a new use at that location. A special exception is required for a drive-in on this site. A special exception cannot be granted because the Petitioner did not provide evidence that the business meets the requirements of BCZR 502.2 while the Protestants provided ample evidence that the proposed Sonic Drive-In:

- Will be detrimental to the health, safety or general welfare of the locality involved;
- Will tend to create congestion in roads, streets or alleys therein;
- Will interfere with adequate light and air;
- Will be inconsistent with the purposes of the property zoning classification and in other ways be inconsistent with the spirit and intent of the Zoning Regulations;
and
- Will be detrimental to the environmental and natural resources in an R.C.5 Zone.

The RTA regulations do apply to 2027 York Road; however, because the Sonic Drive-In does not meet the requirements for a special exception, under BCZR 502.6, it cannot receive the special exception because it does not meet the RTA requirements. It also fails to meet the RTA requirements for business parking in a residential area by providing an adequate landscaping plan with the mandatory buffer.

CASE #: 13-171-SPHXA

IN THE MATTER OF:

Michael R. Mardiney, Jr., MD/LO

Entourage Development, LLC (Contract Purchaser/Lessee)

2027 York Road

8th Election District; 3rd Councilmanic District

The variance for business parking in a residential area lapsed at least ten` years ago and was for a very different set of conditions and terms than currently proposed. The Modified Parking Plan contains numerous flaws that violate important safety considerations for all patrons of the facility, particularly the need of pedestrians to approach the building without crossing traffic.

For these reasons and others enumerated, the special hearing and variance petitions must be denied.



MARIA MARKHAM THOMPSON

PROTESTANT

10 BELFAST ROAD

TIMONIUM, MD 21093

PHONE: 443-478-8802

CASE #: 13-171-SPHXA

IN THE MATTER OF:
Michael R. Mardiney, Jr., MD/LO
Entourage Development, LLC (Contract Purchaser/Lessee)
2027 York Road
8th Election District; 3rd Councilmanic District



KEVIN KAMENETZ
County Executive

EDWARD C. ADAMS, JR., Director
Department of Public Works

July 16, 2013

Ms. Maria Markham Thompson
10 Belfast Road
Baltimore, Maryland 21093

Belfast Road

Dear Ms. Thompson:

Thank you for your request to have a street in your community considered for the Neighborhood Traffic Management Program. We performed the necessary studies which revealed that Belfast Rd. met the required traffic volume and speed requirements.

Enclosed are plans that we feel will best address the traffic calming need on the requested street. The next step is for the community to gather the signatures of homeowners on the street. Seventy-five percent (75%) support will be needed before the project can be approved for construction. In addition, anyone who has a traffic-calming device being installed in front of their home must sign on the plans that they approve. These required signatures are shown on the plan. Once we have received the required signatures, you will be contacted with the schedule for construction.

If you have any questions or require additional information, please contact Keith Link of our traffic management section at 410-887-3554.

Sincerely,

A handwritten signature in red ink, reading "William Korman", is written over a faint, larger signature.

W. William Korman III, PE, Chief
Bureau of Traffic Engineering
and Transportation Planning

WWL/
Enclosures

C: The Honorable Todd Huff, Third District Councilman w/enclosure
School Board Transportation w/enclosure
Jim Lathe, Chief Bureau of Highways w/enclosure
Captain Mike Acosta Golden Ring Fire Station w/enclosure
Captain Dennis Delt, Precinct 7 w/enclosure
Steve Weber w/enclosure
Bureau of Traffic Engineering and Transportation Planning
111 West Chesapeake Avenue Room 326 | Towson, Maryland 21204 | Phone 410-887-3554 | Fax 410-887-5784
www.baltimorecountymd.gov

CASE #: 13-171-SPHXA

IN THE MATTER OF:
Michael R. Mardiney, Jr., MD/LO
Entourage Development, LLC (Contract Purchaser/Lessee)
2027 York Road
8th Election District; 3rd Councilmanic District

CERTIFICATE OF SERVICE

I hereby certify that on this 22 day of July, 2013, a copy of this
MEMORANDUM OF PROTESTANT, MARIA MARKHAM THOMPSON was delivered
by hand and/or mailed, postage prepaid, to Jason V. Vettori, Esq. Smith, Gildea, & Schmidt
LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204 and all parties listed on the
attached page 40.

22 July 2013
Date

[Signature]
Signature

MARIA MARKHAM THOMPSON
PROTESTANT
10 BELFAST ROAD
TIMONIUM, MD 21093
PHONE: 443-478-8802

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Office of Administrative Hearings
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HAND DELIVERY
Craig Hutton
Melanie Hitch
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HAND DELIVERY
Steve Miller
11 Northwood
Timonium, MD 21093

HAND DELIVERY
Gail Baity
19 Belfast Road
Timonium, MD 21093

4/16/13

IN RE: PETITIONS FOR SPECIAL HEARING, *
SPECIAL EXCEPTION & VARIANCE *
(2027 York Road) *
8th Election District *
3rd Councilmanic District *
Michael R. Mardiney, Jr., M.D., *
Legal Owner *
Tom Berhle, Entourage Development LLC, *
Contract Purchaser/Lessee *
Petitioner

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
Case No. 2013-0171-SPHXA

* * * * *

ORDER ON MOTIONS FOR RECONSIDERATION

The Petitioner filed a motion for reconsideration, along with a revised site plan, on or about March 28, 2013. The revised plan reflects the drive through lane for the restaurant, and the commercial dumpster, were relocated from the DR-zoned portion of the property to the BL zone fronting on York Road. As such, as Petitioner correctly noted in its motion, the sole deficiencies identified in the March 22, 2013 Order have been resolved, and those issues no longer stand as obstacles to plan approval.

The Office of People's Counsel, however, also filed a motion for reconsideration, raising several legal issues that merit consideration. The first such issue is whether the proposed use is for a "drive-in" restaurant, in which case special exception relief is required. As noted in the original Order, in defining "drive-in restaurant" the Baltimore County Zoning Regulations (BCZR) requires that food and beverage be served, to a substantial extent, to diners in their cars. BCZR § 101.1. Mr. Behrle testified that the drive-in aspect of the business will generate 20% of the revenue, and based on that testimony I believe that this aspect of the operation is not "substantial." The term is not defined in the BCZR, but is defined (in pertinent part) in Webster's Third New International Dictionary as "being that specified to a large degree or in the

main."

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Date 4-16-13

By aw

It is true that the Petitioner filed this case seeking special exception relief for the operation of a "drive-in" restaurant, though I suspect that was done at the behest of County zoning officials. And it is also the case, as noted by Mr. Zimmerman, that the Sonic franchise calls itself "America's Drive-In," and prior zoning cases filed by Sonic have identified the use as a "drive-in" restaurant. But I do not think either of those points is dispositive; here, I am required to construe the language used in the BCZR, and I believe that the focus must be upon the meaning of "substantial." In the end, a linguistic debate is not in the best interests of the citizens or the Petitioner. As such, I will consider the petition as filed.

Special Exception

In that regard, I believe I am obliged to grant the special exception, based upon controlling Maryland case law. A use permitted by special exception (here, a drive-in restaurant) is presumed under the law to be in the public interest, and to defeat such a petition, the protestants must establish that the inherent adverse effects associated with the use would be greater at the proposed location than at other similar zones throughout the County. People's Counsel for Baltimore County v. Loyola College in Md., 406 Md. 54 (2008). The court in Schultz stated the applicable test in this fashion:

We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Schultz v. Pritts, 291 Md. 1, 22-23 (1981).

In this regard, several residents expressed concern with traffic safety and congestion, noise, trash and similar quality of life issues. But these are exactly the types of inherent adverse effects that the legislature was presumed to have anticipated when it allowed the drive-in

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Date 4-16-13

By [Signature]

restaurant use by special exception. While I have no reason to doubt the testimony concerning the heavy volume of traffic at present at this location, it is worth noting that neither the State Highway Administration (which is responsible for motorists' safety along York Road) nor Baltimore County expressed any concern with this proposal. In fact, the Department of Planning "recommended approval" in a comment dated March 13, 2013. Also, the signalized intersection at York and Timonium Roads (about which several residents remarked concerning the heavy volume of traffic) is not deemed a "failing intersection" by State or County authorities.

In other words, most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion" Montgomery County v. Butler, 417 Md. 271, 297 (2010). Any drive-in fast food restaurant will generate a large volume of traffic and noise, and thus those impacts are "inherent" in the use. A Sonic fast food franchise would generate the exact same volume of traffic and noise at any BL-zoned property as it would at the present site.

RTA Regulations

The next issue concerns whether or not the Residential Transition Area (RTA) regulations are applicable in this case. Counsel at the hearing on the motions for reconsideration presented arguments pro and con. Having considered the submissions, argument and the BCZR, I do not believe the RTA regulations are applicable in this case. At the outset, the Council's stated purpose (not often included in codified legislation) in adopting such regulations was to "assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types." BCZR § 1B01.1.B.1.a.(2). There is no housing proposed to be constructed in this case, and thus I do not believe the RTA regulations are in any way applicable. As Maryland's highest court has noted, the overarching rule in

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Date 4-16-13

By [signature]

construing statutes is to "discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by a particular provision." Babre v. Pope, 402 Md. 157, 172 (2007). Applying the RTA regulations in this case would simply not further the Council's stated purpose.

In addition, the RTA regulations provide that an RTA is generated when the "property to be developed is zoned D.R." BCZR § 1B01.1.B.1.b. In this case, the only property being "developed" is the BL zoned portion. The DR zoned portion will remain a parking area, as has been the case for at least 40 years. While it is true the dumpster enclosure currently on the DR property will be dismantled, and the blacktop may be resurfaced, these activities would not constitute "development" as that term is defined in the Baltimore County Code (BCC). That statute provides as follows:

(p) *Development*. "Development" means:

- (1) The improvement of property for any purpose involving building;
- (2) The subdivision of property;
- (3) The combination of any two or more lots, tracts, or parcels of property for any purpose;
- (4) Subjecting property to the provisions of the Maryland Condominium Act;
or
- (5) The preparation of land for any of the purposes listed in this subsection.

BCC § 32-4-101(p).

The only remotely applicable aspect of that definition would be subsection (1), although the Petitioner will not be "building" anything on the DR zoned portion of the property. In this regard, the Code defines "building" as "a structure that is enclosed within exterior walls or firewalls for the shelter, support, or enclosure of persons, animals, or property of any kind."

BCC § 32-4-101(g).

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Date 4-16-13

By DW

Mr. Zimmerman points out that the RTA law has been amended many times since it was first enacted in 1971, and that its scope has broadened. While that may be the case, the Council has never amended the provisions concerning the statute's scope and purpose, and I do not believe the RTA law was designed to buffer dwellings situated immediately adjacent to commercial zones. Instead, and as I noted at the hearing, the County landscape manual provides buffer and screening requirements for scenarios where a commercial use adjoins a residential zone, and it is these regulations, and not the RTA provisions, that are applicable here. The landscape manual (adopted by the County Council in Resolution 66-2000) expressly provides that its provisions are designed to "screen parking lots ... from adjacent residential uses or zones." Landscape Manual, p. 17. The manual also includes a photograph with a caption stating that "fences screen parking lots from adjacent residential areas." Id. at 19. The Petitioner has satisfied these landscaping and screening requirements, as indicated by the County's approval of its Final Landscape Plan on April 4, 2013. Petitioner's Exhibit 15.

I am also aware that on prior occasions zoning commissioners, county staff and litigants may have considered the RTA regulations to be applicable in such settings. Even so, the only reported Maryland cases to discuss these regulations do so in the setting of residential (not commercial) development, and I have not been directed to any administrative decisions wherein the scope and applicability of the RTA, as a threshold matter, was considered at length. In addition, both the Zoning Commissioner's Policy Manual (ZCPM) and the Comprehensive Manual of Development Policies (CMDP) discuss the RTA regulations only in the context of residential development. In fact, the CMDP (revised as of September 20, 2006) states that RTAs are "designed to buffer low density single-family, semi-detached and duplex dwellings from higher density housing types...." CMDP, p. 23. This was the Council's stated purpose in

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Date 4-16-13

By pas

enacting the law many years ago, and as recently as 2006 the Baltimore County Planning Board has confirmed this purpose, by its adoption of the revised CMDP. As such, based on the plain language of the statute (as quoted above) I do not believe the RTA regulations are applicable in this case.

Business Parking in Residential Zone

The next issue concerns the use of the DR-zoned property for business parking. Petitioner submitted (Exhibit No. 13) a 1971 special hearing case involving this property, wherein the zoning commissioner granted approval for business parking in the DR zoned portion of the property. According to the notes included with the file, 61 parking spaces were required for the fast food use, while 62 spaces were provided. Counsel for Petitioner argues that the use permit granted in the 1971 case is a "vested" right, such that it continues in perpetuity, regardless of whether the site has been vacant for many years. Mr. Zimmerman contends that over 40 years has elapsed since that decision was rendered, and that the use proposed is different from what it was in 1971, which should trigger review under current BCZR § 409.8, which contains the conditions and requirements for business parking in residential zones.

Having reviewed Petitioner's Exhibit 13, including the additional materials submitted by Mr. Zimmerman at the April 8 hearing, I am inclined to agree with Petitioner that it enjoys a vested right to continue business parking in the DR portion of the property. While the use here is somewhat different than the use in 1971, it is nonetheless business parking in a residential zone that is at issue in both instances. The plat in the Exhibit shows that the DR zoned portion of the property was configured in 1971 as it is at present, and though the parking spaces may have been laid out or configured differently, a smaller number of spaces is being proposed now than was the case in 1971.

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Date 4-16-13

By [signature]

In O'Donnell v. Bassler, 289 Md. 501 (1981), the court of appeals recognized that a lawfully issued use permit (no one contends the permit issued in 1971 was unlawful in any respect) can give rise to vested rights. And it is the generally applicable rule that a "use permit is a protected property right that is perpetual in nature and runs with the land." Upper Minnetonka Yacht Club v. City of Shorewood, 770 N.W.2d 184 (Minn. 2009). A use permit for commercial parking in a residential zone is akin to the grant of special exception relief; indeed, the regulations specifically incorporate special exception standards (BCZR § 502.1) in processing such an application. BCZR § 409.8B.1.e.(4). And Maryland courts have held that the grant of a special exception is a vested, constitutionally protected, right. See, e.g., Powell v. Calvert County, 368 Md. 400 (2002).

Here, nothing in the BCZR or in the 1971 Order and Opinion restricted the duration of the permit, and as such I believe the Petitioner—assuming it purchases the property—will be the beneficiary of the use permit for commercial parking in a residential zone at the subject property. "In Maryland, when title is transferred, it takes with it all the encumbrances and burdens that attach to title; but it also takes with it all the benefits and rights inherent in ownership." Richard Roeser v. Anne Arundel Co., 368 Md. 294, 319 (2002).

Modified Parking Plan

The final issue concerns the special hearing request for a "modified parking plan." As noted by Mr. Zimmerman, this request is governed by BCZR § 409.12, which requires a showing of "undue hardship." According to Maryland case law, this is the standard applicable in "use variance" cases. Montgomery County v. Rotwein, 169 Md App. 716, 729 (2006). A use variance would allow, for example, a commercial use in a residential zone. Id. Here, the Petitioner is not seeking a use variance, and I do not believe the strict standard set forth in

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Date A-16-73

By DW

Anderson v. Town of Chesapeake Beach, 22 Md. App. 28, 38 (1974) and similar cases is applicable here. Instead, I believe the term is used in a more generic sense, similar to its use in BCZR § 415A.3, which permits a modified plan for storage of recreational vehicles if "undue hardship" would result from application of the regulations.

In the context of this case, the Petitioner would experience an "undue hardship" if the parking regulations set forth in BCZR § 409 were strictly enforced. The deficiencies identified (i.e., a 5' wide walk aisle through the drive-in lane, 20' drive aisle instead of the required 22' at the origination point of the drive through lane) are, in the scheme of things, relatively minor. And if those deficiencies prevented the Petitioner from completing the project and revitalizing a long vacant and moribund lot along a prominent and busy commercial corridor, it would experience an undue hardship.

THEREFORE, IT IS ORDERED this 16th day of April, by the Administrative Law Judge that the Motion for Reconsideration filed by Petitioner, be and is hereby GRANTED, and that the Motion for Reconsideration filed by the Office of People's Counsel, be and is hereby DENIED;

IT IS FURTHER ORDERED that the Petition for Special Exception to operate a drive-through restaurant in a BL zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED that Petitioner for Variance relief from RTA buffer and setback requirements, be and is hereby DISMISSED as unnecessary.

IT IS FURTHER ORDERED that the Petition for Special Hearing to confirm that business parking in a residential zone is permitted under the relief granted in Case No. 1971-0269-SPH, be and is hereby GRANTED.

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Date A-16-13

By 192

IT IS FURTHER ORDERED that the Petition for Special Hearing to approve a modified parking plan, be and is hereby GRANTED.

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:dlw

ORDER RECEIVED FOR FILING

Date 4-16-13

By kw



KEVIN KAMENETZ
County Executive

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

April 16, 2013

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

Peter Max Zimmerman, People's Counsel
Office of People's Counsel
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

RE: **ORDER ON MOTIONS FOR RECONSIDERATION -**
Petitions for Special Hearing and Special Exception
Property: 2027 York Road
Case No.: 2013-0171-SPHX

Dear Counsel:

Enclosed please find a copy of the Order on Motions for Reconsideration 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:dlw
Enclosure

c: Eric Rockel, 1610 Riderwood Drive, Timonium, MD 21093
Mike Henry, 12 Belfast Road, Timonium, MD 21093
Billy Hicks, 6 Belfast Road, Timonium, MD 21093
John & Janice Wilhelm, 8 Belfast Road, Timonium, MD 21093
Steve Miller, 11 Northwood Drive, Timonium, MD 21093
Scott White, 1002 Winsford Road, Towson, MD 21204
Karlheinz Mueck, 9 Belfast Road, Timonium, MD 21093
Margaret Reid, 713 Milldam Road, Towson, MD 21286
Gail Baity, 19 Belfast Road, Timonium, MD 21093
Mike & Maria Thompson, 10 Belfast Road, Towson, MD 21093
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Baltimore County, Maryland

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PETER MAX ZIMMERMAN
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CAROLE S. DEMILIO
Deputy People's Counsel

April 8, 2013

HAND DELIVERED

John Beverungen, Administrative Law Judge/Hearing Officer
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Towson, Maryland 21204

RECEIVED

APR 08 2013

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Michael R. Mardiney, Jr., M.D. - Legal Owner
Entourage Development, LLC - Contract Purchaser
2027 York Road
Case No. : 2013-171-SPHXA
Webster's Dictionary, "Substantial" and "Insubstantial"

Dear Judge Beverungen,

To assure that the entire Webster's Third New International Dictionary definitions of "substantial" and the antonym "insubstantial" are in the record, we enclose same and suggest simply, without further detailed argument the following proposition: in their entirety and in context, they support our point of view that the proposed restaurant meets the "substantial" criterion of the BCZR Section 101.1 definition of drive-in restaurant.

Thank you for attention and patience in reviewing all of the issues.

Sincerely,

A handwritten signature in blue ink that reads "Peter Max Zimmerman".

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw
Enclosure

cc: Jason Vettori, Esquire
Eric Rockel
John Wilhelm
Maria Markham Thompson
Carl Richards, Zoning Supervisor

**Webster's
Third
New International
Dictionary**

**OF THE ENGLISH LANGUAGE
UNABRIDGED**

living space, safety facilities, or maintenance) in respect to a standard set by legal or other authoritative sources **b**: conforming to a pattern of linguistic usage existing within a speech community but not that of the prestige group in that community in choice of word (as *set*, for *sit*), form of word (as *bring*, for *brought*), pronunciation (as *twice*, for *twice*), grammatical construction (as the boys is growing fast), or idiom (as *all to once*, for *all at once*) — compare **NONSTANDARD** **c**: constituting a greater than normal chance of loss to an insurer due to some inherent and determinable cause (as poor health or unusual fire hazard) (*a* ~ life) (*a* ~ risk); also: covering a substandard risk usu. in return for an extra premium (~ insurance) **d** of motion-picture film: narrower than 35 millimeters

substandard \səb'stændəd/ **n** [in sense 1, fr. *sub-* + *standard*, *n*; in sense 2, fr. *substandard*] **1**: a secondary standard used in measurement and esp. to check the accuracy of commercial measuring devices (as scales) **2**: something (as a way of living) that is substandard

sub-stan-ti-ae \səb'stanch(ē), -b'st- / **n**, pl. **sub-stanti-ae** \-chē-ā/ [NL, fr. *L.* substance]: anatomical material, substance, or tissue

sub-stan-ti-ble \-ch(ē)əbəl/ **adj** [substantive + -able]: capable of being substantiated

sub-stan-tial \səb'stanchəl, -b'st-, -tan- / **adj** [ME *substantial*, fr. LL *substantialis*, fr. *L. substantia* substance + *-alis* -al — more at **SUBSTANCE**] **1**: consisting of, relating to, sharing the nature of, or constituting substance: existing as or in substance: MATERIAL (~ life) (the ~ realities) (most ponderous and ~ things — Shak.) **b**: not seeming or imaginary; not illusive: REAL, TRUE (the ~ world) (a mere dream neither ~ nor practical) **c**: being of moment: IMPORTANT, ESSENTIAL **2**: adequately or generously nourishing: ABUNDANT, PLENTIFUL (set a ~ table) (after that too ~ dinner) **b**: possessed of goods or an estate: moderately wealthy: WELL-TO-DO (a ~ man); often: having a good and well-maintained income-producing property (a ~ farmer) (the more ~ tradesmen) **c**: considerable in amount, value, or worth (made a ~ gain on the transaction) **3**: having good substance: firmly or stoutly constructed: STURDY, SOLID, FIRM (a ~ house) (~ cloth) **b**: having a solid or firm foundation: soundly based: carrying weight (a ~ argument) (~ evidence) **4**: being that specified to a large degree or in the main (a ~ victory) (a ~ lie) **b**: of or relating to the main part of something **syn** see **MASSIVE**

substantial \səb'stanchəl, -b'st-, -tan- / **adj** [ME *substantial*, fr. *L. substantialis*, fr. *L. substantia* substance + *-alis* -al — more at **SUBSTANCE**] **1**: something having substance or actual existence **b**: something having good substance or actual value **c**: something of moment: an important matter or material thing; or part **substantial damages** **n** pl: damages which bring about actual economic loss or for which compensation in a substantial amount is awarded as distinguished from nominal damages awarded only to vindicate a legal right

substantial form **n** [ME *forma substantialis*, trans. of ML *forma substantialis*, trans. of *Gk* *ousides eldos*]: the form or nature that according to the scholastics gives to an individual substance its specific or generic character

sub-stan-ti-a-lia \səb'stanch(ē), -b'st- / **n** pl [NL, fr. neut. pl. of *L. substantialis* substantial] *Scots law*: the formally essential parts of a deed

sub-stan-ti-al-ism \səb'stanch(ē), -b'st- / **n**: either of two doctrines in philosophy: **a**: one holding that constant realities or substances underlie phenomena **b**: one holding that matter is a real substance rather than an aggregation of centers of force

sub-stan-ti-al-ist \-lāst/ **n**: a proponent of a doctrine of substantialism

sub-stan-ti-al-ity \səb'stanch(ē), -b'st- / **n** [LL *substantialitas*, fr. *substantialis* substantial + *-itas* -ity]: the quality or state of being substantial: CORPOREITY, MATERIALITY **sub-stan-ti-al-ly** \səb'stanch(ē), -b'st- / **adv** [ME *substantialiter*, fr. *substantial* + *-ly*]: in a substantial manner: so as to be substantial

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(in "I spent the night at my brother's" *brother's* is a substantive adjective trying to replace on "residence")

sub-stan-ti-ly \səb'stanch(ē), -b'st- / **adv** **1**: in a substantive manner: in substance; ESSENTIALLY **2**: as a substantive (the phrase is here used ~)

sub-stan-ti-ness \səb'stanch(ē), -b'st- / **n**: the quality or state of being substantive

substantive right **n**: a right (as of life, liberty, property, or reputation) held to exist for its own sake and to constitute part of the normal legal order of society — compare **REMEDIAL RIGHT**

sub-stan-ti-ty \səb'stanch(ē), -b'st- / **n** [NL *substantivum*, fr. *substantivus* + *-ity*]: the attraction between a substance (as dye) and solution and a fiber — compare **AFFINITY** **2b**

sub-stan-ti-va-tion \səb'stanch(ē), -b'st- / **n**: an act or instance of substantivizing

sub-stan-ti-va-tion \səb'stanch(ē), -b'st- / **n**: an act or instance of substantivizing

sub-stan-ti-va-tion \səb'stanch(ē), -b'st- / **n**: an act or instance of substantivizing

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of a foot other than the prevailing foot of the series or of a syllable that replaces expected sound and occupies the time of a foot or syllable — compare **INVERSION**, **IONIC DISPLACEMENT**

(1): the deceptive replacing of one material or product by another of less worth **(2)**: the natural economic tendency to the less costly of two or more operations or agencies to replace the more costly **(1)**: the turning from an obstructed desire to another desire whose gratification is socially acceptable

(2): the turning from an obstructed form of behavior to a different and often more primitive expression of the same tendency (*a* ~ neurosis) **(3)**: the reacting to each of a set of stimuli by a response prescribed in a key (*a* ~ test for speed of learning new responses) **2**: something that functions as a substitute or exists in a particular relation as a result of an act of substituting: as **a**: material substituted (the ~ from the quantity of labor necessary — Jeremy Bentham)

sub-sti-tu-tion \səb'stitch(ē), -b'st- / **n**: the replacement or apparent replacement of one vowel or consonant by another **c**: an instance of linguistic substitution **d**: a cipher or method of ciphering that replaces message letters or polygraphs with substitutes

sub-sti-tu-tion-al \səb'stitch(ē), -b'st- / **adj**: of, relating to, or constituting substitution — **sub-sti-tu-tion-al-ly** \-lī, -lī / **adv**

sub-sti-tu-tion-ary \səb'stitch(ē), -b'st- / **adj**: of or relating to substitution: serving by way of a substitute: **SUBSTITUTIONAL**

substitution instance **n**: a statement in logic derived from a statement form by substitution of constants for variables

substitution rule **n**: a principle in logic specifying what expressions may be substituted for one another (a *substitution rule* specifying that the definiendum may replace the definiens)

substitution tables **n** pl: tables of sentences in which equivalents may be substituted for their elements and which are used esp. in grammar drill

substitution vein or **substitution deposit** **n**: a metalliferous vein formed by the partial or complete substitution of the vein material for the original rock or mineral — called also *replacement vein*

sub-sti-tu-tive \səb'stitch(ē), -b'st- / **adj**: tending to affirm or furnish a substitute: suitable as a replacement — **sub-sti-tu-tive-ly** \-lī, -lī / **adv**

sub-story \səb + \n [sub + story]: a lower story; spec: a layer of forest growth that does not reach to the canopy (as of shrubby growth and young replacement)

sub-tract \səb'trakt, -b'st- / **v** **ED**-ING-**s** [LL *subtrahere* past part. of *subtrahere* to draw from beneath, withdraw alter. (influenced by *L. sub-*, var. of *sub-*) of *L. subtrahere* — more at **SUBTRACT**] **1**: to subtract (to subtract from, to subtract from) **2**: to subtract (to subtract from, to subtract from) **3**: to subtract (to subtract from, to subtract from)

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also: such use of public institutions (with declining solidarity ~ become increasingly important in the case of the sick, the unwanted, the aged) b: the characteristics (as regimentation, standardization, and impersonality) that are associated with institutional life (there was no ~ about this happy home) 3 a: the doctrines and teachings of institutional economics b: a theory that regards the establishment and maintenance of institutions (as for education, charity, and social activities) as an essential function of a church

in-sti-tu-tion-al-ist \-l'ast, -al-ə- n s 1: a writer on or of institutions esp. of the law 2: an adherent to, teacher of, or believer in any form of institutionalism: a defender of traditional institutions

in-sti-tu-tion-al-iza-tion \-l'iz-ə-shən, -l'iz-ə- n s 1: the quality or state of being or becoming institutionalized (a pleasant custom always has a tendency toward ~) 2: the action or a result of institutionalizing (the ~ of the insane)

in-sti-tu-tion-al-ize \-l'iz-, -ə- l'iz- vt -ED/-ING/-s see -ize in *Explan Notes* [institution + -ize] 1: to give the character of an institution to: make into or treat like an institution (modern society tends to ~ its burdens) 2: to incorporate into a system of organized and often highly formalized belief, practice, or acceptance (the Japanese institutionalized suicide) (institutionalized graft) 2: to place in or commit to the care of a specialized institution (as for the insane, alcoholics, epileptics, delinquent youth, or the aged) 3: to accustom (a person) so firmly to the care and supervised routine of an institution as to make incapable of managing a life outside

in-sti-tu-tion-ary \-l'iz-ə-ri, -l'iz-ə-ri- n s 1: of or relating to institution in office (an ~ banquet) **in-sti-tu-tion-ize** \-l'iz-ə-ri, -l'iz-ə-ri- vt -ED/-ING/-s [institution + -ize] vt -ED/-ING/-s: INSTITUTIONALIZE 1: institutions pl of institution

in-sti-tu-tive \-l'iz-ə-tiv, -l'iz-ə-tiv- adj [L *institutivus* (past part. of *instituere* to institute) + E -ive - more at INSTITUTE] 1: tending to institute: concerned with or leading to the institution of something (~ factors) (an ~ meeting) 2: characterized by: formed by institution: conventional

in-sti-tu-tor \-l'iz-ə-tər, -l'iz-ə-tər- n s [L fr. *institutō* (past part.) + -or] 1: one that institutes: as a: FOUNDER, ORDAINER, ESTABLISHER (the ~ of this pleasant custom) b: archaic: TEACHER, INSTRUCTOR. c: a Protestant Episcopal bishop or a priest delegated by him who institutes a rector or assistant minister into a parish or church

in-sti-tu-tress \-l'iz-ə-tres, -l'iz-ə-tres- also **in-sti-tu-trix** \-l'iz-ə-triks, -l'iz-ə-triks- n s [L fr. *institutrix* (past part.) + -ess] 1: one that institutes: as a: FOUNDER, ORDAINER, ESTABLISHER (the ~ of this pleasant custom) b: archaic: TEACHER, INSTRUCTOR. c: a Protestant Episcopal bishop or a priest delegated by him who institutes a rector or assistant minister into a parish or church

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mentum-ment 1 a: a means whereby something is achieved, performed, or furthered (the modern university is the ~ preserving, enlarging, and disseminating our ever-increasing body of knowledge — Harlan Hatcher) b: a person or group made use of by another as a means or aid: DUPE, TOOL (suspecting... that I only wished to make an ~ of him — W.H. Hudson [1922]) 2: UTENSIL, IMPLEMENT (surgical ~) (a ~ of torture) 3: an implement used to produce music esp. as distinguished from the human voice — see PERCUSSION INSTRUMENT, STRINGED INSTRUMENT, WIND INSTRUMENT 4 obs: an organ of the body 5 a: a legal document (as a deed, will, bond, lease, agreement, mortgage, note, power of attorney, ticket on carrier, bill of lading, insurance policy, warrant, writ) evidencing legal rights or duties esp. of one party to another b: something capable of being presented as evidence to a court for inspection c: an act recorded in writing by a notary: a notarial act 6 a: a measuring device for determining the present value of a quantity under observation; broadly: a device (as for controlling, recording, regulating, computing) that functions on data obtained by such a measuring device b: an electrical or mechanical device used in navigating an airplane; specif: such a device used as the sole means of navigating when there is limited or no visibility **syn** see IMPLEMENT, MEAN — on instruments: by means of airplane instruments (flying on instruments)

in-stru-ment \-ment, -mant — see 2-MENT- vt -ED/-ING/-s 1: to address a legal instrument (as a petition) 2: to prepare or add to one or more musical instruments (~ a sonata for orchestra; ORCHESTRATE) 3: to equip (as a process, machine, or vehicle) with instruments (the whole factory is well ~ed — Farm Chemicals) (an ~ed satellite)

in-stru-men-tal \-ment-əl- adj [ME, fr. ML *instrumentalis*, fr. L *instrumentum* + -alis -al] 1: serving as a means or intermediary determining or leading to a particular result: being an instrument that functions in the promotion of some end or purpose (this novel was ~ in bringing on open conflict) (an ~ act leading to a reward) 2: relating to, composed for, or performed on a musical instrument (~ music) (~ ensemble) compare vocal 3: relating to, or done with an instrument (~ design) (~ navigation) 4 a: of, relating to, or being a case in grammar expressing means or agency (English shows a surviving trace of the ~ case in the of "the more the merrier") b: being a suffixal element that denotes means or agency 5: based on or in accordance with instrumentalism — **in-stru-men-tal-ly** \-l'ē-əl- adv

instrumental \-n-əl n s 1 obs: INSTRUMENT, MEANS 2: the instrumental case or a word in that case 3: a composition played on or for playing on a musical instrument — compare VOCAL

instrumental goods n pl: PRODUCER GOODS **in-stru-men-tal-ism** \-ment-ə-l'iz-əm, -n s [Instrument + -ism] a conception that the significant factor of a thing is its value as an instrument; specif: the doctrine that ideas are instruments of action and that their usefulness determines their truth

in-stru-men-tal-ist \-l'ist- n s [Instrument + -ist] 1 a: a player of a musical instrument b: a composer of instrumental music 2: a proponent of instrumentalism

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tion (the bankers of Antwerp placed no limit on their enterprise: economic activity was not subordinate; it had become, from the medieval point of view, ~ — Stringfellow Barr)

SYN REBELLIOUS, MUTINOUS, SEDITIOUS, FACTIOUS, CONTUMACIOUS: INSUBORDINATE applies to disobedience of orders, infraction of rules, or a generally disaffected attitude toward authority, often in military or other organization similarly constituted (*insubordinate* deckhands confined to the brig) (*insubordinate* native troops feeling that they were being discriminated against) REBELLIOUS may suggest forceful resistance to or insurgence against authority in addition to insubordination and temperamental opposition (*rebellious* mountaineers proposing to set up their own independent republic) (temporarily *rebellious* insubordinate) FACTIOUS suggests external imposed authority — Francis Biddle) MUTINOUS suggests either opposing authority by destroying discipline and order or the forceful overthrow of authority (for more than a year Cortes stayed in the new land, a desolate sandy waste, while the *mutinous* soldiers cursed him — Amer. Guide Series: Calif.) (the guards might be overpowered, the palace forced, the king a prisoner in the hands of his *mutinous* subjects — T.B. Macaulay) SEDITIOUS suggests treasonable activities, esp. those designed to weaken or overthrow a government or foster separatist tendencies (*seditious* factionalism went on a rampage and began to wreck our foreign policy — Max Ascoli) (revolutions that were not made in Boston, by Boston gentlemen, were guaranteed to be wicked and *seditious* — V.L. Parrington)

FACTIOUS suggests an addition to factions with contentions, perversity and irreconcilability threatening central constituted authority (Florence... wearing out her soul by *factious* struggles — Margaret Oliphant) (the opposition will be vigilant but not *factious*). We shall not oppose merely for the sake of opposition — Clement Attlee) CONTUMACIOUS indicates persistent, willful, or overt defiance of authority and disobedience, sometimes contemptuous, of authority (a fine was appointed for every failure to obey the bishop's summons; he was empowered to excommunicate *contumacious* persons — F.M. Stenton) (magistrates and populace were incensed at a refusal of customary marks of courtesy and respect for the laws, which in their eyes were purely *contumacious* — W.R. Inge)

insubordinate \-n-əd- n s 1: an insubordinate person **in-sub-or-di-nate** \-n-əd- adv 2: in an insubordinate manner: with insubordination

in-sub-or-di-nate \-n-əd- n s [Prob. fr. F, fr. *in-* + *sub-or-di-nation*] 1: the quality or state of being insubordinate: defiance of authority: MUTINY

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Baltimore County, Maryland

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People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 1, 2013

HAND DELIVERED

John Beverungen, Administrative Law Judge/Hearing Officer
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RECEIVED

APR 01 2013

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Michael R. Mardiney, Jr., M.D. - Legal Owner
Entourage Development, LLC - Contract Purchaser
2027 York Road
Case No. : 2013-171-SPHXA
Motion for Reconsideration, Supplement

Dear Judge Beverungen,

To supplement our office's motion for reconsideration, please find enclosed the results of a google search for "sonics drive in," including:

1. Items, among others, "Sonic America's Drive-In/This is How You Sonic" "Places for Sonic drive in near Towson, MD," and "Sonic Drive-In Wikipedia, the free encyclopedia."
2. An excerpt from the Sonic website: "Sonic, America's Drive-In, This is How Your Sonic," showing the way to use the drive-in facility.
3. The Wikipedia entry for "Sonic Drive-In." showing the company profile, menu items and venue, history, and advertising.

It is apparent that Sonic restaurants feature drive-in facilities in a big way. Whether or not this particular franchisee's number or ratio of drive-in stalls differs from the usual venue (albeit uncertain, in the absence of national statistics), the proposed use still is significantly a drive-in. The same goes for the estimate of drive-through business. It does not matter. Sonic is a drive-in. The petition came in as a drive-in. The original Roy Rogers restaurant was not a drive-in. Neither was Boston Market. The zoning office

John Beverungen, Administrative Law Judge/Hearing Officer

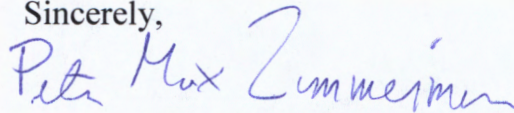
April 1, 2013

Page 2

was correct to instruct petitioner to file for a special exception. Respectfully, in our opinion, this is how it should be classified and reviewed.

Meanwhile, we are working with the various parties to find an agreeable date to schedule a hearing, consistent with your office's schedule, hopefully next week, with April 8 as a possibility.

Sincerely,



Peter Max Zimmerman

People's Counsel for Baltimore County

cc: Jason Vettori, Esquire
Eric Rockel
John Wilhelm
Maria Markham Thompson
Carl Richards, Zoning Supervisor

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sonics drive in

Web Images Maps Shopping More Search tools

About 456,000 results (0.37 seconds)

Showing results for [sonic's drive in](#)

Search instead for [sonics drive](#)

[Sonic. America's Drive-In | This Is How You Sonic](#)

www.sonicdrivein.com/

Stop into one of our 3500 locations & enjoy our entire menu, made-to-order, all day long! Sign up for the **Sonic Cruisers Club** & receive exclusive perks.

[Store Locator](#)

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Limited Time Offers. Available for a short time only. Fudge Brownie ...

[Menu](#)

Frozen Zone - Breakfast - Burgers - Limited Time Offers - Chicken

[Frozen Zone](#)

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Careers at SONIC. For more than 50 years, SONIC Corp. has built ...

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Burgers. Prepare to be delighted with 100% pure beef, melty ...

[More results from sonicdrivein.com »](#)

[Places for sonic's drive in near Towson, MD](#)

[Sonic](#)

www.sonicdrivein.com

Score: **18** / 30 · 33 Google reviews

8212 Liberty Rd
Windsor Mill
(410) 922-2190

[SONIC Drive-In](#)

www.sonicdrivein.com

2 Google reviews

2205 W Patapsco Ave
Baltimore
(410) 368-3923

[Sonic Drive-In](#)

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1 Google review

1921 Emmorton Rd
Bel Air South
(410) 588-5638

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[Sonic Drive-In - Wikipedia, the free encyclopedia](#)

en.wikipedia.org/wiki/Sonic_Drive-In

Sonic Drive-In is an American drive-in fast-food restaurant chain based in Oklahoma City, Oklahoma. As of August 31, 2011, there were 3,561 restaurants in 43 ...

[Sonic Drive-In - YouTube](#)

www.youtube.com/user/sonicdrivein

Sonic Drive-In · <http://facebook.com/sonicdrivein> · <http://plus.google.com/sonicdrivein> · http://twitter.com/sonicdrive_in · <http://pinterest.com/sonicdrivein> ...

► 0:18 Spanish Spicy Popcorn Chicken - Duet :15 Mar 8, 2013

► 0:32 Spanish Spicy Popcorn Chicken - Duet Mar 8, 2013

[Sonic Drive-In \(sonicdrive_in\) on Twitter](#)

https://twitter.com/sonicdrive_in

The latest from **Sonic Drive-In (@sonicdrive_in)**. Official Twitter page for Sonic America's Drive-In. Oklahoma City.

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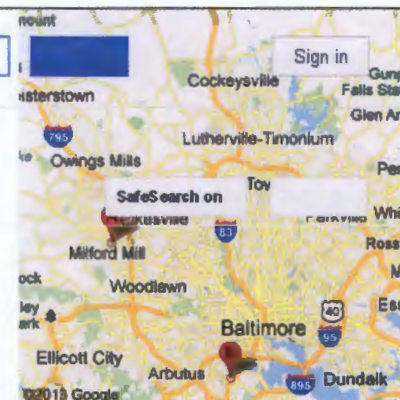
<https://www.sonicdriveinstore.com/>

The My **SONIC®** card is a handy, reloadable way to buy food at **SONIC®** and earn rewards. Buy one for yourself or give one as a gift.

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Map for sonic's drive in

[Sonic Drive-In - Gilroy, CA](#)

[www.yelp.com](#) › Restaurants › Fast Food

Rating: 3.5 - 326 reviews - Price range: \$

326 Reviews of **Sonic Drive In** "This place was totally awesome and is the first time in years I have been to a **Sonic Drive In** as well as the first time in California.

sonic's drive in

sonic's drive in menu

sonics drive in hours

sonics drive in locations

1 2 3 4 5 6 7 8 9 10

[Next](#)

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Sonic Drive-In

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Cruisers Club

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cruisers
club

OUR MENU

COMMUNITY INVOLVEMENT

WACKY PACK® KID'S MEAL

SONIC DRIVE-IN

SONIC DRIVE-IN

SONIC DRIVE-IN

SONIC DRIVE-IN

SONIC DRIVE-IN

SONIC DRIVE-IN



BURGERS



CONEYS & HOT DOGS



CHICKEN



SNACKS & SIDES



KID'S MEALS



BREAKFAST



ULTIMATE DRINK STOP®



FROZEN ZONE™



Email Address
Password

2 BROWSE OUR MENU

Enjoy Birthday Treats
Manage your email subscriptions to get cool stuff, like a surprise for your birthday.

3 PRESS THE RED BUTTON

We'll take your order. You take your time.

4 DON'T MOVE A MUSCLE

Carhops deliver all of your made-to-order desires.

5 GET MORE TO GO

Push the red button again for drinks and desserts like an OREO® Blast.

Believe it—Ripley's® books are here.

Your Wacky Pack® is about to get even wackier. Introducing Ripley's® pop-up books. They are filled with in-your-face, jaw-dropping facts you'll have to read to believe. Collect all three books including: Spectacular Sports, Extreme Earth and Animal Antics. Stop in now. Ripley's® pop-up books are available in your Wacky Pack® Kid's Meal for a limited time, only at participating SONIC® Drive-Ins.



Sonic Drive-In

From Wikipedia, the free encyclopedia

Sonic Drive-In is an American drive-in fast-food restaurant chain based in Oklahoma City, Oklahoma. As of August 31, 2011, there were 3,561 restaurants in 43 U.S. states, serving approximately 3 million customers per day.^{[2][3]} In 2011, it was ranked 10th in *QSR Magazine*'s rankings of the top 50 quick-service and fast-casual restaurant brands in the nation.^[4] Known for its use of carhops on roller skates, the company annually hosts a competition to determine the top skating carhop in its system.^[5] It also hosts, with Dr Pepper, an internal competition between drive-in employees.^[6] The company's slogan is "America's Drive-In."^[7]

Contents

- 1 Company profile
- 2 Menu items and venue
- 3 History
 - 3.1 1950s
 - 3.2 1960s and 1970s
 - 3.3 1980s and 1990s
 - 3.4 2000s
 - 3.5 2010s
- 4 Sonic Beach
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- 6 References
- 7 External links

Company profile

Although Sonic has operated since the early 1950s, Sonic Corp. was incorporated in the State of Delaware in 1990. It has its corporate headquarters in Oklahoma City, Oklahoma. Its stock trades on NASDAQ with the symbol SONC.^[8] Company restaurants are owned and operated by Sonic Restaurants, Inc., a wholly owned subsidiary. Total 2011 revenues were approximately \$546 million with net income of \$19 million.^[9]

Sonic Corporation



Type	Public
Traded as	NASDAQ: SONC (http://www.nasdaq.com/symbol/sonc)
Industry	Restaurants
Founded	Shawnee, Oklahoma (1953)
Founder(s)	Troy Smith
Headquarters	Oklahoma City, Oklahoma, United States
Number of locations	3,561
Key people	J. Clifford Hudson, Chairman and CEO W. Scott McLain, president Sonic Industries (Resigned from his current post, effective 3/31/13)(franchising subsidiary) Omar Janjua, president Sonic Restaurants, Inc. Stephen C. Vaughan, CFO
Products	Fast food
Revenue	\$545.9 million US\$(2011) ^[1]
Operating income	US\$84.2 million (2011) ^[1]
Net income	US\$19.2 million (2011) ^[1]
Employees	321 corporate employees ^[1]
Website	SonicDriveIn.com (http://www.sonicdrivein.com/)

Menu items and venue

Sonic is a member of the hamburger segment of fast food restaurants, so the menu consists of some classic fast food items, such as hamburgers, and french fries as well as other "carnival-like" fare such as onion rings, corndogs, and hotdogs. Other items that are special to Sonic's menu include Breakfast Toaster sandwiches (made with Texas toast instead of the typical bun), Cheddar Peppers, and new Flatmelts. Drink options include soft drinks, slushes and milkshake. Customers can combine various drinks and flavors to create thousands of possible drink combinations.^{[10][11]} Ice cream desserts include sundaes and banana splits. The company publishes nutritional information on its products on its corporate website.^[12]

At a standard Sonic Drive-In, a customer drives into a covered drive-in stall, orders through an intercom speaker system, and has the food delivered by a carhop. Most drive-ins also have patio seating, and many have drive-thru lanes.

History

1950s

Following World War II, Troy N. Smith Sr., Sonic's founder, returned to his hometown of Seminole, Oklahoma, where he became employed as a milkman. He decided to work delivering bread because bread was not as heavy as milk. Soon afterwards, Smith purchased the Cottage Cafe, a little diner in Shawnee, Oklahoma. Before long he sold it and opened a fast food restaurant, Troy's Pan Full of Chicken, on the edge of town. In 1953, Smith went in with a business partner to purchase a five-acre parcel of land that had a log house and a walk-up root beer stand, already named the Top Hat. The two men continued with the operation of the root beer stand and converted the log house into a steak restaurant. After realizing that the stand was averaging \$700 a week in the sale of root beer, hamburgers and hot dogs, Smith decided to focus on the more-profitable root beer stand. He also bought out his business partner.^[13]

Originally, Top Hat customers would park their automobiles anywhere on the gravel parking lot and walk up to place their orders. However, on a trip to Louisiana, Smith saw a drive-in that used speakers for ordering. He suspected that he could increase his sales by controlling the parking and having the customers order from speakers at their cars, with carhops delivering the food to the cars. Smith borrowed several automobiles from a friend who owned a used-car lot to establish a layout for controlled parking. He also had some so-called "jukebox boys" come in and wire an intercom system in the parking lot. Sales immediately tripled. Charles Woodrow Pappe, an entrepreneur, chanced upon the Shawnee drive-in and was very impressed. He and Smith negotiated the first franchise location in Woodward, Oklahoma, in 1956, based on nothing more than a handshake. By 1958, two more drive-ins were built, in Enid and Stillwater.^[13]



The Jr. Deluxe Burger, a value menu item.



A Sonic Drive-in at night in 2007.

Upon learning that the Top Hat name was already trademarked, Smith and Pappe changed the name to **Sonic** in 1959. The new name worked with their existing slogan, "Service with the Speed of Sound". After the name change, the first Sonic sign was installed at the Stillwater Top-Hat Drive-In, which is why the Stillwater location is officially considered the first Sonic Drive-In; the original sign still can be seen there. Although Smith and Pappe were being asked to help open new franchise locations, there was no real royalty plan in place. The pair decided to have their paper company charge an extra penny for each Sonic-label hamburger bag it sold. The proceeds would then be split between Smith and Pappe. The first franchise contracts under this plan were drawn up, but there was still no joint marketing plan, standardized menu, or detailed operating requirements.^[13]

1960s and 1970s

Sonic's founders formed Sonic Supply as a supply and distribution division in the 1960s. Under Smith, longtime franchise holders Marvin Jirous and Matt Kinslow were hired to run the division. In 1973, Sonic Supply was restructured as a franchise company that was briefly named Sonic Systems of America, which provided franchisees with equipment, building plans, and basic operational instructions. As the company grew into a regionally known operation during the 1960s and 1970s, the drive-ins were located mainly in small towns in Oklahoma, Texas, Kansas, New Mexico, Missouri and Arkansas. In 1967, the year Pappe died, there were 41 drive-in locations. By 1972, this number had risen to 165, and by 1978, 1,000.

In 1977, the Sonic School for manager training was established under Winterringer's guidance. Most of the drive-ins were operated by franchisees who often made the store manager a business partner, which is still often the case today.^{[14][15]}

1980s and 1990s

In 1983, Smith and Sonic's board of directors saw the need for change. C. Stephen Lynn was hired as president, and, in 1984, Lynn hired J. Clifford Hudson, an attorney, to head the legal department. Under Lynn, Sonic and its major franchisees began to encourage the development of local-advertising cooperatives, and developed a field structure to work with the franchisees. New franchises began to expand the company into new areas and redevelop markets that had been unsuccessful in the past. These developments, combined with a major advertising campaign featuring singer and actor Frankie Avalon, led to significant growth and a new image that would make Sonic a nationally recognized name. In 1986, Lynn, with a group of investors,



Sonic Drive-In neon sign at the Oklahoma History Center.



An old Sonic Drive-In menu at the Oklahoma History Center in Oklahoma City.



Sonic's Bricktown headquarters in Oklahoma City, Oklahoma (2007).

completed a \$10-million leveraged buyout and took the company private. The next year, Sonic moved its offices to leased space at 120 Robert S. Kerr Avenue in downtown Oklahoma City and began to assume a higher profile in the community.^[16]

In 1991, Sonic became a publicly traded company again. By 1994, the corporation had renegotiated the franchise agreements with all of its franchisees.^[17] In 1995, Hudson became president and chief executive officer, and Sonic Industries became Sonic Corp.^[18]

During the mid-1990s, Sonic opened 100–150 new restaurants a year. Beginning in 1998, Sonic began a retrofit program, called "Sonic 2000", to redesign and update all 1,750 stores in its chain to what was called a "retro-future" look.^[15]

2000s

Hudson was named chairman of Sonic Corp. in January 2000.^[18]

Celebrating its 50th birthday in 2003, Sonic briefly added the Birthday Cake Shake to the menu.^{[19][20][21]} Development milestones celebrated in the 2000s include the opening of the 3,000th Sonic Drive-In in Shawnee, Oklahoma, and the 3,500th Sonic Drive-In in the Chicago market (Algonquin, Illinois).^[22] In 2007, the company opened its first restaurants in the Northeastern U.S., in New Jersey.^[23]

In 2009, Sonic partnered with DonorsChoose.org on a collaborative effort, Limeades for Learning, the chain's first systemwide cause marketing initiative. Public school teachers request needed supplies and materials and Sonic customers vote on how to allocate more than half a million dollars each fall. In the first three years of the program, Sonic and its franchisees have donated more than \$2 million and impacted learning for more than 111,000 students nationwide.^[24]

In September 2009, Omar Janjua joined the company as president of its restaurant operating subsidiary, Sonic Restaurants, Inc. ("SRI")^{[25][26]} and more recently was appointed as executive vice president of operations for Sonic Industries.

2010s

Despite growth into new markets outside the brand's traditional footprint, the company was hit hard by the recession of 2008–2009. In 2009, the brand saw multiple quarters of declines in same-store sales for the first time in recent memory. Alaska has yet to have a Sonic location, but attempts to acquire one have been made in the past.^[27]

Sonic reformulated its popular soft-serve ice cream to meet the FDA guidelines that define what constitutes real ice cream and introduced Real Ice Cream on May 17, 2010.^{[28][29]} Several new hot dog items were also introduced in June 2010 and February 2011.^{[30][31][32][33]}

Craig Miller was hired as chief information officer for Sonic in January 2010.^{[34][35][36]} In June 2010, Danielle Vona was hired as chief marketing officer.^[37]

In late 2010, Sonic announced it was ending its 17-year relationship with advertising agency Barkley. A group of specialized agencies were selected to represent the company and in early 2011, the San Francisco-based Goodby Silverstein & Partners was named as the new creative agency for the company.^{[38][39]}

Sonic Beach

In June 2011, the first location under the name Sonic Beach was opened in Homestead, Florida. A second location, opened in Ft. Lauderdale, Florida, in November 2011, lacks the stereotypical drive-in stalls due to its beach-side location. Both locations also include outdoor seating and flatscreen televisions.^[40]

Along with the traditional menu items, Sonic Beach also offers several new items including popcorn shrimp, Philly cheesesteaks, and pulled pork sandwiches. Sonic Beach also serves beer and wine.^[41]



Sonic Beach logo

Advertising

Sonic ran its first television advertisement in 1977.^[42] During the early 1980s, actor Tom Bosley was featured in the company's commercials.^[43] One of the company's most memorable advertising campaigns, which ran from 1987 to 1993, featured Frankie Avalon.^[44] In May 1999, the company began a new campaign featuring the character Katie the Carhop.^[45]

Sonic was also involved with NASCAR. The company contracted with Richard Childress Racing in late 2000 to be an associate sponsor for Dale Earnhardt, Sr. during the 2001 NASCAR race season. After Earnhardt was killed in the first race of the 2001 season, the company continued its sponsorship with the new driver of Earnhardt's car, Kevin Harvick, through the end of the 2003 season.^[46]

In 2004, the company became more widely known nationally by advertising in television markets hundreds of miles from its nearest franchise.^[13] Improvisational actors T. J. Jagodowski and Peter Grosz have become known to American television viewers from their "Two Guys" series of commercials. Similar series of ads for the company have featured other duos of improvisational performers, including Molly Erdman and Brian Huskey, Katie Rich and Sayjal Joshi, and Emily Wilson and Tim Baltz.^[47] In 2010, national auditions were held and a new series of commercials began airing, some of which featured carhops from Wisconsin and Austin, Texas.

Slogans used by Sonic over the years include:

- "Service With the Speed of Sound" (1958)^[13]
- "Happy Eating" (1980s: on signs at many of the company's drive-ins)
- "America's Drive-In" (1987)^[13]
- "Summer's Funner" (1993)^[48]
- "It's Sonic Good" (2003)^[13]
- "Sonic's Got It, Others Don't" (2007)^[49]

- "Even Sweeter After Dark" (2009)^[50]
- "This is How You Sonic" (2011)^[51]
- "It's not just good. It's Sonic good."

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External links

- Official website (<http://www.sonicdrivein.com/>)

Retrieved from "http://en.wikipedia.org/w/index.php?title=Sonic_Drive-In&oldid=546477581"

Categories: Companies based in Oklahoma City, Oklahoma | Restaurants established in 1953

| Drive-in restaurants | Fast-food chains of the United States | Fast-food franchises

| Fast-food hamburger restaurants | Hot dog restaurants | Multinational food companies

| Restaurants in Oklahoma | Companies listed on NASDAQ

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3/28/13

IN RE: PETITION FOR SPECIAL HEARING
SPECIAL EXCEPTION & VARIANCE
(2027 York Road)
8th Election District
3rd Councilmanic District
Micheal R. Mardiney, Jr., M.D.
Legal Owner
Tom Behrle, Entourage Development, LLC
Contract Purchaser/Petitioner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* Case No. 2013-0171-SPHXA

* * * * *

PETITIONER'S MOTION FOR RECONSIDERATION OF
OPINION AND ORDER

Entourage Development, LLC, Contract Purchaser/Petitioner, by and through its attorneys, Jason T. Vettori and Smith, Gildea & Schmidt, LLC, files this Motion for Reconsideration of ALJ Beverungen's Opinion and Order dated March 22, 2013 pursuant to Rule K of the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County, and respectfully states the following:

1. This matter came before ALJ Beverungen for a public hearing on Monday, March 18, 2013 to consider Petitioner's Petition for Zoning Relief requesting the following:

A. Special Hearing relief to approve: a use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6 pursuant to Section 409.8.B of the BCZR, or in the alternative for confirmation that the proposed parking facility is authorized under the use permit approved in Case No. 1971-0269-SPH; and a modified parking plan pursuant to Section 409.12.B of the BCZR; and for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

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B. Special Exception relief to use the property for: a drive-in restaurant in accordance with Section 230.3 of the BCZR; and for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

C. Variance from Section(s): 1B01.1.B.1.e(5) of the BCZR to permit a 0' buffer and 0' setback in lieu of the required 50' buffer and 75' setback in a Residential Transition Area; and for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

2. The Petitioner requested the aforementioned relief in order to operate a Sonic fast-food restaurant in the footprint of a former Roy Rogers fast-food restaurant. However, the Petition for Zoning Relief was denied via ALJ Beverungen's written Opinion and Order dated March 22, 2013.

3. ALJ Beverungen found, among other things, that "upon a closer review of the plan, exhibits, and the BCZR, I do not believe that special exception or variance relief is required." Op. 2.

4. He further found that the special hearing relief requested could not be granted because "a portion of the drive through facility and two commercial dumpsters within an enclosure will be located within the D.R. zone. In my opinion, this is using residential property for commercial purposes, which is not permitted under the BCZR. While the regulations allow for commercial parking in a residential zone, and the Petitioner has sought such relief, much

more than parking is proposed here. As such, I believe the Petition and plan must be denied.”

Op. 4.

5. The Petitioner submits herein a redlined plan wherein the drive through facility and two commercial dumpsters within an enclosure have been moved from the portion of the property zoned D.R. to the portion zoned B.L. Motion for Reconsideration Ex. 1. According to the Opinion and Order, these are the only two elements which led to the Petition and plan being denied. As further elaborated upon below, several other minor changes were made to accommodate the relocation of these two uses from the D.R. zone. As a result of the proposed changes to the plan the only use in the D.R. zone now is parking. Therefore, the Petitioner respectfully requests that ALJ Beverungen find that the redlined plan is approved in accordance with the aforementioned relief requested.

6. First and foremost, please keep in mind that the changes made to the plan to accompany the petition for zoning relief are engineering changes. Obviously, the redlined plan shows that the drive through lane was moved closer to the building. The drive through lane is still 10 feet wide and has retained a 20 foot radius. The engineer, John Demos, has assured me that the apron of the 10 foot wide drive through lane does not cross the zoning division line between the B.L. zone and the D.R. zone.

7. In order to make this possible, the 6 foot sidewalk on the eastern boundary of the existing 1-story masonry building was removed and the 1,000 gallon grease trap was relocated. Similarly, the preview board and the menu board were relocated further west of their prior location. It is anticipated that any alleged impact upon the adjoining residents from the noise from the order board will be diminished as it will now be located on the northern side of the

building as opposed to its previously proposed location on the western side of the building. These changes have also resulted in the pickup window having to be moved further west as well. This will allow for an additional stacking space for the drive through facility while retaining a queuing space between the pickup window and the menu board. *See* Motion for Reconsideration Ex. 2.

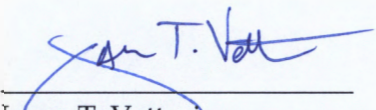
8. The relocation of the dumpsters out of the D.R. zone and into the B.L. zone and elimination of one dumpster has had a similar impact. As indicated in Note #18 additional parking spaces have been created (an increase from 43 provided to 45 provided). The increase in spaces provided is on account of additional parking spaces being proposed where the dumpsters were previously located. As illustrated on the redlined plan, three (3) additional spaces are being added in the northeast corner of the site. Conversely, the addition of a dumpster in the northern portion of the site which is zoned B.L. has resulted in the loss of one (1) space. Therefore, there is a net gain of two (2) spaces.

9. The combination of the dumpsters and drive through facility being completely removed from the D.R. zone have had other impacts. Please note how the relocation of the dumpster from its prior location and the relocation of the drive through lane allows for a drive aisle of 22 feet, as opposed to the previously existing 20 feet, thereby eliminating the need for modified parking plan relief in that instance. In addition, the aforementioned changes allow for an additional landscaping strip that previously did not exist between the fast food restaurant and the adjoining residential properties.

10. In summary, the redlined plan addresses the only zoning issues noted in the March 22, 2013 Opinion and Order which would prevent approval of the proposed Sonic fast food restaurant.

Wherefore, the Petitioner respectfully requests that the ALJ amend/revise the Opinion and Order dated March 22, 2013 to approve the redlined plan based upon the above referenced changes as well as the testimony and argument in support thereof.

Respectfully submitted,



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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of **March, 2013**, a copy of the foregoing Motion for Reconsideration was mailed first-class, postage prepaid to:

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

Eric Rockel
1610 Riderwood Drive
Timonium, MD 21093

Mike Boyd
12 Belfast Road
Timonium, MD 21093

Billy Hicks
6 Belfast Road
Timonium, MD 21093

John Wilhelm
8 Belfast Road
Timonium, MD 21093

Steve Miller
11 Northwood Drive
Timonium, MD 21093

Scott White
1002 Winsford Road
Towson, MD 21204

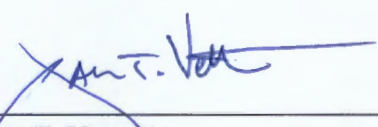
Karlheinz Mueck
9 Belfast Road
Timonium, MD 21093

Margaret Reid
713 Milldam Road
Towson, MD 21286

Gail Baity
19 Belfast Road
Timonium, MD 21093

Maria Thompson
10 Belfast Road
Timonium, MD 21093

Craig Hutton
4 Belfast Road
Timonium, MD 21093



Jason T. Vettori



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 28, 2013

HAND DELIVERED

John Beverungen, Administrative Law Judge/Hearing Officer
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RECEIVED

MAR 28 2013

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Michael R. Mardiney, Jr., M.D. - Legal Owner
Entourage Development, LLC - Contract Purchaser
2027 York Road
Case No. : 2013-171-SPHXA

Dear Judge Beverungen,

Please accept this letter as a Motion for Reconsideration of the Order and Opinion dated March 22, 2013, and Request for Hearing, in the above case. Rule 4K. To be sure, this motion is unusual because we agree with the ultimate conclusion that the encroachment of the restaurant drive-thru spaces and use into the D.R. 5.5 residential zone, along with the dumpster, are not permitted uses in the zone. BCZR Section 1B01.

Petitioners have filed their own motion for reconsideration, amending their plan to eliminate the encroachment. Our office is nevertheless concerned with other aspects of the decision. We bring to your attention these concerns, first of all, concerning the identification of the use, and secondly, concerning residential transition area law.

As for the use, it is our view that the 14 drive-in stalls in the original plan are substantial enough to qualify the use as, at least in combination, as a fast-food restaurant. The amended plan is not exact as to the number of stalls, but it appears that there are up to 17 parking spaces available in the front drive-in area. Whatever the number (13 to 17), albeit a fraction of the total number of spaces, the drive-in stalls have a prominent location adjacent to York Road, and play a significant marketing role in the Sonic niche. There are only 8 stacking spaces for the drive-thru line, yet this is also an important part of the restaurant. In this context, the sit-down portion of the restaurant is relatively modest. Under these circumstances, with a significant drive-in element, we do not think

that this use can be avoided or minimized based on the relative number of spaces or the supposed estimates that the drive-thru will play a majority role. Moreover, it is plausible that petitioner might add to the number of drive-in stalls depending on business conditions. Because the use is, in part, a drive-in restaurant, it is our view that special exception review is applicable. BCZR Section 230.3.

As for the residential transition area, notwithstanding the more general statement of purpose to prevent dissimilar housing types, the more specific applicable provision is BCZR Section 1B01.B.1.d.3, which enumerates that, among other uses, a "residential transition use is any use: ...

"(3) Any parking area permitted under Section 409.8B, subject to the approval of a specific landscape plan for the buffer are which meet the requirements for a Class plan."

There can be no doubt, and never has been before, that business parking in a residential zone, per BCZR Section 409.8.B, usually to the rear of business uses fronting on busy streets like York Road, is subject to the RTA requirements, including the setbacks and buffer requirements.

There also can be no doubt that the zoning situation here involves a residential transition area, with the split BL/DR 5.5 Zone on the subject property, along with several immediately adjacent DR 5.5 Zone single-family detached homes.. BCZR Section 1B01.1.B.1.B. The RTA area here is the area extending 100 feet into the site from the D.R. 5.5 Zone tract boundary. BCZR Section 1B01.1.B.1.a.

There have been numerous similar split-zone business/residential split zone cases involving adjacent single-family homes where the RTA setbacks and variances have come into play. It often occurs in restaurant cases along the main arterial roads when the business seeks additional parking in the residential zone, usually to the rear. For example, we have had a case involving Michael's Restaurant in Timonium and many such cases involving McDonald's redevelopments. Other business uses often present like situations.

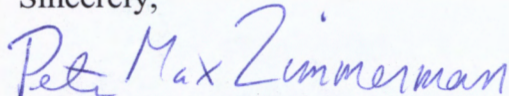
As your opinion notes, in addition to the basic BCZR Section 307.1 variance standard, there is also the BCZR Section 1B01.1.C provision for variances of the RTA tract itself relating to a Hearing Officer's hearing on a development plan. We cannot recall any case where this provision has been applied to "trump" or preempt the usual zoning setback variance review. Whether or not this provision preempts the setback variance and buffer sections, we see no basis to eliminate or truncate the RTA tract in this case even if it were applied in this way. It would subvert the essential statutory purpose of the RTA.

The evident legislative intent of split business/residential zones along arterial roads is to provide some transition and protection for adjacent residential areas. This includes protection from business parking, as well as dissimilar residential uses. Here, the variance is for zero feet, or at most a few feet, instead of the required 50 feet buffer and 75 feet setbacks.

Because of the public interest in these issues as well as the interest expressed by area citizens, we respectfully suggest that a further hearing be held on the motions.

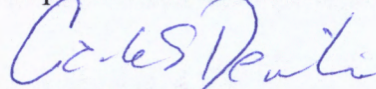
We appreciate your careful consideration of this case.

Sincerely,



Peter Max Zimmerman

People's Counsel for Baltimore County



Carole S. Demilio,
Deputy People's Counsel

cc: Jason Vettori, Esquire
Eric Rockel
John Wilhelm
Maria Markham Thompson
Carl Richards, Zoning Supervisor

3/22/13

IN RE: PETITIONS FOR SPECIAL HEARING, *
SPECIAL EXCEPTION & VARIANCE *
(2027 York Road) *
8th Election District *
3rd Councilmanic District *
Michael R. Mardiney, Jr., M.D. *
Legal Owner *
Tom Berhle, Entourage Development LLC *
Contract Purchaser/Lessee *

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
Case No. 2013-0171-SPHXA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of Petitions for Special Hearing, Special Exception and Variance filed by Jason T. Vettori, Esquire, on behalf of the legal owner, Michael R. Mardiney, Jr., M.D. and contract purchaser Entourage Development, LLC. The Petition for Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), seeking: (1) a use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6 pursuant to Section 409.8.B of the BCZR, or in the alternative for confirmation that the proposed parking facility is authorized under the use permit approved in Case No. 1971-0269-SPH, and; (2) A modified parking plan pursuant to Section 409.12.B of the BCZR.

A Petition for Special Exception was filed pursuant to §230.3 of the B.C.Z.R., to permit: a drive-in restaurant.

Finally, a Petition for Variance was filed pursuant to the B.C.Z.R. as follows: (1) Section 1B01.1.B.1.e.(5) of the BCZR to permit a 0 ft. buffer and 0 ft. setback in lieu of the required 50 ft. buffer and 75 ft. setback in a Residential Transition Area

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 2.

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Date 3-22-13

By Aln

Appearing at the public hearing in support of the requests was John Demos and Tom Berhle. Jason T. Vettori, Esquire, appeared as counsel and represented the Petitioner. Several members of the community attended the hearing and opposed the Petitions. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case.

SPECIAL HEARING

This is an unusual case. The Petition seeks several varieties of zoning relief, but upon a closer review of the plan, exhibits, and the BCZR, I do not believe that special exception or variance relief is required in the first instance. It is undisputed that the site has been vacant for 15+ years, and was last used as a Roy Rogers fast food restaurant. Such a use is permitted as of right in the BL zone, per BCZR §230.1. But the Petitioner, apparently at the urging of county staff, sought a special exception for a "drive in" restaurant, under BCZR §230.3. It appears that provision was added to the BCZR in 1967, and it is not at all clear that what is being proposed here would fall within the strictures of a "drive in," a use category that is all but extinct in the modern era.

In addition, the BCZR defines a drive-in restaurant as one where food and drink is sold to a "substantial" extent to customers in parked cars. BCZR §101.1. Though the term is not defined in the BCZR, "substantial" is defined (for present purposes) in the Webster's Third New International Dictionary as "to a large degree or in the main." Here, Mr. Behrle testified that 58% of his patrons will use the drive through facility. Inside dining is also proposed. The petitioner testified the facility will have 14 drive-in stalls, a number that is much lower than at other Sonic

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Date 3-22-13

By Dea

locations throughout the country. In these circumstances, I do not believe that the "drive in" portion of the restaurant would constitute a "large degree" or "main" portion of the enterprise, either in terms of square footage, customers served, or revenue generated. As such, I believe the use can be permitted as of right, and that special exception relief is not required.

Likewise, I do not believe that the RTA regulations are applicable in this case. Assuming for a moment they were, I do not believe the Petitioner presented a sufficient case for variance relief from those regulations. Indeed, Mr. Demos testified that the site was in fact not unique, but was similar to the other commercial zoned parcels in that vicinity of York Road. Upon further questioning by counsel, Mr. Demos grudgingly accepted that the split zoning might make the site unique, but upon cross examination by Mr. Zimmerman, the witness agreed that many sites in the area were also split zoned commercial and residential. So I do not think the testimony in this case would suffice to satisfy the rigorous burden set forth in Cromwell v. Ward and similar cases.

Further confusing matters, the BCZR provides a specific provision for "Variance of RTA," which apparently "trumps" Section 307 of the Regulations and the cases (like Cromwell) which have interpreted that provision. BCZR §1B01.1.B.1.c. Under that specific provision, the RTA may be modified in a development plan hearing (not applicable here) or by the "hearing officer" upon the recommendation of a county agency, which also seems to suggest that the issue will arise in the context of a development plan or HOH, as opposed to a zoning case. In addition, section 307 itself provides that the Zoning Commissioner may grant variances from height, area, sign and parking regulations, but may not "grant any other variances." These, and other, inconsistencies are what caused me in a recent case to describe the RTA regulations as "hard to decipher," and I think describing them as cryptic might be charitable.

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Date 3-22-13

By den

In any event, RTA regulations are designed to "assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types." BCZR §1B01.1.B.1.a. "An RTA is generated if the property to be developed is zoned D.R. and lies adjacent to land zoned [D.R.]." BCZR §1B01.1.B.1.b. (emphasis added). Here, the Petitioner does not propose to "develop" the D.R. zoned portion of the property. In fact, it is forbidden from doing so, given the residential zoning classification, a point discussed at greater length below. In light of the above, I do not believe that an RTA is generated in this case.

But in the end, none of this inures to the Petitioner's benefit. According to the site plan, a portion of the drive through facility and two commercial dumpsters within an enclosure will be located within the D.R. zone. In my opinion, this is using residential property for commercial purposes, which is not permitted under the BCZR. While the regulations allow for commercial parking in a residential zone, and the Petitioner has sought such relief, much more than parking is proposed here. As such, I believe the Petition and plan must be denied.

In Leimbach Constr. Co. v. City of Baltimore, 257 Md. 635 (1970), the plaintiff owned two parcels of land, zoned commercial, on which it hoped to construct new facilities for its general contracting business. The parcels were essentially landlocked, since a bridge that formerly accessed the parcels had fallen down many years prior. Id. at 636. The plaintiff therefore sought to acquire a third parcel of land, zoned residential, on which would be constructed a driveway and culvert to access the aforementioned commercial parcels. Id. at 637. The court of appeals (affirming the trial court) held that "the use [plaintiff] proposes to make of the driveway would be a 'business' use of land in a residential use district." Id. at 640. Likewise, in this case, the use Petitioner proposes to make of the D.R. zoned parcel would constitute a business use of the land. As Mr. Behrle testified, the drive through portion of the restaurant

ORDER RECEIVED FOR FILING

Date

3-22-13

By

den

accounts for 58% of the customers, and the dumpsters will be emptied on a daily basis. These are not trivial matters, but are in fact vital and integral portions of the proposed operations, which are prohibited in the D.R. zone.

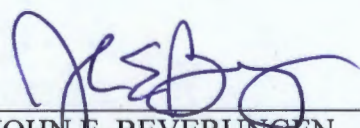
THEREFORE, IT IS ORDERED this 22nd day of March, 2013, by this Administrative Law Judge, that Petitioner's request for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), seeking: (1) a use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6 pursuant to Section 409.8.B of the BCZR, or in the alternative for confirmation that the proposed parking facility is authorized under the use permit approved in Case No. 1971-0269-SPH, and; (2) A modified parking plan pursuant to Section 409.12.B of the BCZR, be and is hereby DENIED.

IT IS FURTHER ORDERED that Petitioner's request for Special Exception filed pursuant to §230.3 of the B.C.Z.R., to permit a drive-in restaurant, be and is hereby DENIED.

IT IS FURTHER ORDERED that Petitioner's request for Variance relief: (1) 1B01.1.B.1.e.(5) of the BCZR to permit a 0 ft. buffer and 0 ft. setback in lieu of the required 50 ft. and 75 ft. setback in a Residential Transition Area, be and is hereby DENIED.

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

JEB/sln



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

ORDER RECEIVED FOR FILING

Date 3-22-13

By sln

3/22/13



KEVIN KAMENETZ
County Executive

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

March 22, 2013

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

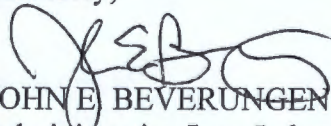
RE: Petitions for Special Hearing and Special Exception
Case No.: 2013-0171-SPHX
Property: 2027 York Road

Dear Mr. Vettori:

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

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

Sincerely,


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: Eric Rockel, 1610 Riderwood Drive, Timonium, Maryland 21093
Mike Boyd, 12 Belfast Road, Timonium, Maryland 21093
Billy Hicks, 6 Belfast Road, Timonium, Maryland 21093
John Wilhelm, 8 Belfast Road, Timonium, Maryland 21093
Steve Miller, 11 Northwood Drive, Timonium, Maryland 21093
Scott White, 1002 Winsford Road, Towson, Maryland 21204
Karlheinz Mueck, 9 Belfast Road, Timonium, Maryland 21093
Margaret Reid, 713 Milldam Road, Towson, Maryland 21286
Gail Baity, 19 Belfast Road, Timonium, Maryland 21093
Maria Thompson, 10 Belfast Road, Towson, Maryland 21093
Craig Hutton, 4 Belfast Road, Timonium, Maryland 21093

Office of Administrative Hearings

105 West Chesapeake Avenue, Suite 103 | Towson, Maryland 21204 | Phone 410-887-3868 | Fax 410-887-3468

www.baltimorecountymd.gov



REVISED 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 2027 York Road

which is presently zoned BL & D.R. 5.5

Deed Reference 15376/00310

10 Digit Tax Account # 2 2 0 0 0 2 8 6 1 9

Property Owner(s) Printed Name(s) Michael R. Mardiney, Jr.

CASE NUMBER 2013-0171-SPHX Filing Date 1/17/13 Estimated Posting Date / / Reviewer EDJ

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

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

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

Please see attached.

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

Please see attached.

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:

Tom Berhle, Authorized Representative of Entourage Development, LLC

Name- Type or Print

Tom Berhle

Signature

39 Brett Manor Court Hunt Valley MD

Mailing Address City State

21030 (443) 756-2623 sonicbaltimore@gmail.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

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

Name- Type or Print

Jason T. Vettori

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:

Michael R. Mardiney, Jr., M.D.

Name #1 - Type or Print

Michael R. Mardiney, Jr.

Signature #1

7212 Bellona Avenue Baltimore MD

Mailing Address City State

21212 (443) 722-6821 michaelmardineyjrmd@mardiney.com

Zip Code Telephone # Email Address

Representative to be contacted:

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

Name - Type or Print

Jason T. Vettori

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

Date 3-22-13

By EDJ

REVISED

ATTACHMENT TO PETITION FOR ZONING HEARING

2027 York Road

Case No.: 2013-0171-SPHXA

Special Hearing relief to approve:

1. A use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6 pursuant to Section 409.8.B of the BCZR, or in the alternative for confirmation that the proposed parking facility is authorized under the use permit approved in Case No. 1971-0269-SPH; and
2. A modified parking plan pursuant to Section 409.12.B of the BCZR; and
3. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Special Exception relief to use the property for:

1. A drive-in restaurant in accordance with Section 230.3 of the BCZR; and
2. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Variance from Section(s):

1B01.1.B.1.e.(5)

1. 1B01.1.B.1.e of the BCZR to permit a 0' buffer and 0' setback in lieu of the required 50' buffer and 75' setback in a Residential Transition Area; and
2. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

SMITH, GILDEA & SCHMIDT LLC

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

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

February 21, 2013

W. Carl Richards, Jr.
Department of Permits, Approvals, and Inspections
Zoning Review Supervisor
111 W. Chesapeake Avenue
Towson, MD 21204

**Re: Entourage Ventures, LLC - 2027 York Road
Case No. 2013-171-SPHX (to be revised as Case No. 2013-171-SPHXA)
Revised Petition for Zoning Relief**

Dear Mr. Richards,

Enclosed please find three copies of a Revised Petition for Zoning Hearing (and corresponding attachment stating the specific relief requested) and the requisite amount of Plans to Accompany the Petition for Zoning Hearing.

In follow up to our discussion earlier today, People's Counsel contacted me regarding the relief requested in our original submission. Following a meeting with both Carole DeMilio and Peter Max Zimmerman I am voluntarily revising my Petition for Zoning Relief. As you can see, we modified the language in Item 1 of the request for special hearing relief and added a request for variance relief.

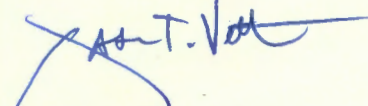
I have also asked Ms. Kristen Lewis to refrain from scheduling a hearing date for the original submission in anticipation of a revised petition being filed. Please change the case number (by adding an A to the end so it now reads Case No. 2013-171-SPHXA) and set it in as soon as possible.

Finally, I have also enclosed a check to cover the additional filing fee associated with the addition of a request for variance relief. The check has been made out in the amount of \$115. This amount constitutes the difference between the fee paid for the previously requested special hearing and special exception relief (\$835) and the maximum fee (\$950).

W. Carl Richards, Jr.
Revised Petition for Zoning Relief
Case No. 2013-0171-SPHXA
February 21, 2013
Page 2

As always, please feel free to contact the undersigned with any comments, questions or concerns.

Very truly yours,



Jason T. Vettori

JTV/amf

Enclosures

cc: Tom Behrle
John Demos
David K. Gildea, Esquire



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 2027 York Road

which is presently zoned BL & D.R. 5.5

Deed Reference 15376/00310

10 Digit Tax Account # 2 2 0 0 0 2 8 6 1 9

Property Owner(s) Printed Name(s) Michael R. Mardiney, Jr.

CASE NUMBER 2013-0171-SPHX Filing Date 1/17/13 Estimated Posting Date Reviewer RD

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

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

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

Please see attached.

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

Please see attached.

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:

Tom Berhle, Authorized Representative of Entourage Development, LLC

Name- Type or Print

Signature

39 Brett Manor Court Hunt Valley MD

Mailing Address City State

21030 / (443) 756-2623 / sonicbaltimore@gmail.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

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

Name- Type or Print

Signature

600 Washington Avenue, Suite 200, Towson, MD

Mailing Address City State

21204 / (410) 821-0070 / jvettori@sgs-law.com

Zip Code Telephone # Email Address

Legal Owners:

Michael R. Mardiney, Jr., M.D.

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

7212 Bellona Avenue Baltimore MD

Mailing Address City State

21212 / (443) 722-6821 / michaelmardineyjrmd@mardiney.com

Zip Code Telephone # Email Address

Representative to be contacted:

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

Name - Type or Print

Signature

600 Washington Avenue, Suite 200, Towson, MD

Mailing Address City State

21204 / (410) 821-0070 / jvettori@sgs-law.com

Zip Code Telephone # Email Address

OLD

ATTACHMENT TO PETITION FOR ZONING HEARING

2027 York Road

Special Hearing relief to approve:

1. The request for confirmation that the existing parking facility was authorized under Case No. 1971-0269-SPH; and
2. A modified parking plan pursuant to Section 409.12.B of the BCZR; and
3. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Special Exception relief to use the property for:

1. A drive-in restaurant in accordance with Section 230.3 of the BCZR; and
2. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

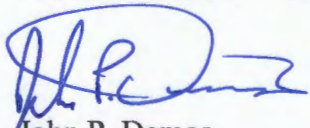
Item #0171

**ZONING PROPERTY DESCRIPTION
2027 YORK ROAD**

BEGINNING FOR THE SAME at a pipe on the east side of York Road (Maryland Route 45), 82 feet wide, as shown on State of Maryland State Roads Commission Plats No. 41989 and 41990, said point being on the sixth line of that parcel of land firstly described in a Deed from Marriott Corporation to MRO Mid-Atlantic Corp., dated February 28, 1990 and recorded among the Land Records of Baltimore County in Liber S.M. No. 8418, folio 645 running thence and binding reversely on a part of said sixth line, with meridian reference to the Baltimore County Meridian District.

1. North 70 degrees 10 minutes 25 seconds East 128.00 feet to the beginning of said sixth line and to the southernmost end of an alley, 12 feet wide, thence binding reversely on the fifth line of said parcel, and binding on the southernmost end of said alley, with the use thereof in common with others entitled thereto,
2. North 70 degrees 10 minutes 25 seconds East 12.00 feet, thence binding reversely on the fourth line of said parcel,
3. South 19 degrees 42 minutes 55 seconds East 18.18 feet, thence binding reversely on the third line of said parcel, and continuing the same course and binding on the second line of that parcel of land secondly described in said Deed to MRO Mid-Atlantic Corp.,
4. North 86 degrees 13 minutes 55 seconds East, in all, 107.64 feet to a pipe found, thence binding on the third line of said secondly described parcel,
5. South 03 degrees 46 minutes 05 seconds East 150.00 feet to a pipe found on the north side of Belfast Road, 40 feet wide, thence binding on the north side of Belfast Road, 40 feet wide, and on the last line of said secondly described parcel,
6. South 86 degrees 13 minutes 55 seconds West 50.00 feet to a pin found, thence binding on a part of the first line of said secondly described parcel and on the easternmost line of that parcel designated "Highway Widening" and shown on Baltimore County Bureau of Land Acquisition Drawing No. RW 71-144-1,
7. North 03 degrees 46 minutes 05 seconds West 10.00 feet, thence binding on the north side of said "Highway Widening" parcel,
8. South 86 degrees 13 minutes 55 seconds West 148.11 feet to intersect the cutoff line connecting the east side of York Road, 82 feet wide, and the north side of Belfast Road as shown on said State Roads Commission Plat No. 41989, thence binding on a part of said cutoff line,
9. North 59 degrees 38 minutes 08 seconds West 22.58 feet, thence binding on the east side of York Road, 82 feet wide, as shown on said State Roads Commission Plats Nos. 41989 and 41990, the two following courses and distances,
10. Northerly by a curve to the right with a radius of 20983.62 feet, the distance of 49.55 feet, said curve being subtended by a chord bearing North 19 degrees 47 minutes 03 seconds West 49.55 feet, and
11. North 19 degrees 42 minutes 55 seconds West 60.80 feet to the place of beginning.

Containing 0.753 acres more or less and located in the 8th Election District and 3rd Councilmanic District.


John P. Demos
Reg. No. 21548
Professional Land Surveyor



Item #0171

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

No.

94032

Date:

1/17/13

PAID RECEIPT

BUSINESS ACTUAL TIME MM

1/17/2013 1/17/2013 11:10:57 2

REG NO:05 WALSH JOHN DDD

RECEIPT # 45136 1/17/2013 013

5' 528 ZONING AFFIDAVIT

CR NO. 054032

Receipt Tot 1035.00

PAID 01 1.00 00

Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/	Sub Rev/	Obj	Sub Obj	Dept	Obj	BS Acct	Amount
001	806	0000				6150					8835.00

Total: **8835.00**

Rec

From:

For:

Zoning hearing - case # 2013-0171-SPHX

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

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

No. 94838

Date: 2/22/13

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept	Obj	BS Acct	Amount
001	806	0000		650					\$115.00

Total: \$115.00

Rec From: JASON Vettori

For: 2027 YORK ROAD

2013-0171 SPHXA Petition
 RDD

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**

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

No.

94607

Date:

5-15-13

PAID RECEIPT

BUSINESS ACTUAL TIME SHG
 5/15/2013 5/15/2013 12:13:44 B
 REC 4004 WALKIN SHL SHL
 RECEIPT R 565745 5/15/2013 OFLN
 5 528 ZIRING VERIFICATION
 NO. 094607
 Receipt Tot 9915.00
 4915.00 CH 3.00 CH
 Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	800	000		6150				915.00

Total: 915.00

Rec

From:

Marina Markham Thompson, et al

For:

Appeal (2027 York Rd.)

2013-071-SP11XA

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**

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: 2013-0171-SPHX
Petitioner: ENTOURAGE DEVELOPMENT, LLC
Address or Location: 2027 YORK ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: JASON T. VETTORI (SGS)
Address: 600 WASHINGTON AVE.
SUITE 200
TOWSON, MD 21204
Telephone Number: (410) 821-0070

CERTIFICATE OF POSTING

2013-0171-SPHXA

RE: Case No.: _____

Petitioner/Developer: _____
Entourage Development, LLC,
Tom Berhle

March 18, 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: _____

2027 York Rd

February 26, 2013
The sign(s) were posted on _____
(Month, Day, Year)

Sincerely,

 February 26, 2013

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

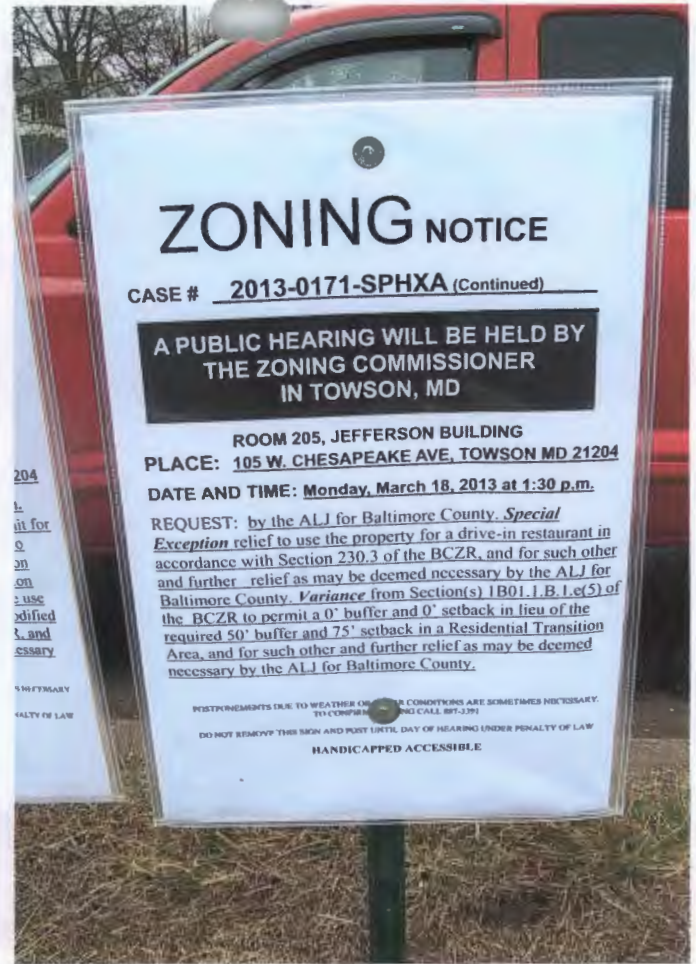
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



NOTICE OF ZONING HEARING

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

Case: #2013-0171-SPHXA

2027 York Road

N/east corner of York Road and Belfast Road

8th Election District - 3rd Councilmanic District

Legal Owner(s): Michael Mardiney, Jr., M.D.

Contract Purchaser: Entourage Development, LLC,

Tom Berhle

Special Hearing to approve a use permit for the use of land in a residential zone for parking facilities to meet the requirements for Sec. 409.6 pursuant to Sec. 409.8.B of the BCZR, or in the alternative for confirmation that the proposed parking facility is authorized under the use permit approved in Case 1971-0269-SPH. For such other and further relief as may be deemed necessary by the ALJ. **Special Exception** relief to use property for a drive-in restaurant in accordance with Section 230.3 of the BCZR, and for such other and further relief as may be deemed necessary by the ALJ. **Variance** to permit a 0' buffer and 0' setback in lieu of the required 50' buffer and 75' setback in a Residential Transition Area.

Hearing: Monday, March 18, 2013 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3848.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
JT 02/714 February 26 906709



501 N. Calvert Street, Baltimore, MD 21278

February 28, 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 February 26, 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

TO: PATUXENT PUBLISHING COMPANY
Tuesday, February 26, 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: 2013-0171-SPHX

2027 York Road

N/east corner of York Road and Belfast Road

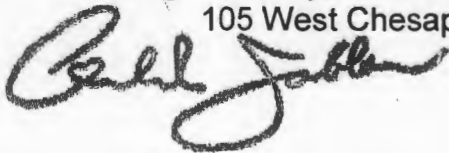
8th Election District – 3rd Councilmanic District

Legal Owners: Michael Mardiney, Jr., M.D.

Contract Purchaser: Entourage Development, LLC, Tom Berhle

Special Hearing to approve the request for confirmation that the existing parking facility was authorized under Case No. 1971-0269-SPH and a modified parking plan pursuant to Section 409.12.B of the BCZR and for such other and further relief as may be deemed necessary by the Administrative Law Judge. **Special Exception** relief to use property for a drive-in restaurant in accordance with Section 230.3 of the BCZR, and for such other and further relief as may be deemed necessary by the ALJ.

Hearing: Monday, March 18, 2013 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

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



KEVIN KAMENETZ
County Executive

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

February 20, 2013

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2013-0171-SPHX

2027 York Road

N/east corner of York Road and Belfast Road

8th Election District – 3rd Councilmanic District

Legal Owners: Michael Mardiney, Jr., M.D.

Contract Purchaser: Entourage Development, LLC, Tom Berhle

Special Hearing to approve the request for confirmation that the existing parking facility was authorized under Case No. 1971-0269-SPH and a modified parking plan pursuant to Section 409.12.B of the BCZR and for such other and further relief as may be deemed necessary by the Administrative Law Judge. **Special Exception** relief to use property for a drive-in restaurant in accordance with Section 230.3 of the BCZR, and for such other and further relief as may be deemed necessary by the ALJ.

Hearing: Monday, March 18, 2013 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Arnold Jablon", is written over the printed name and title.

Arnold Jablon
Director

AJ:kl

C: Jason Vettori, 600 Washington Avenue, Ste. 200, Towson 21204
Tom Berhle, 39 Brett Manor Ct., Hunt Valley 21030
Michael Mardiney, Jr., M.D., 7212 Bellona Avenue, Baltimore 21212

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, FEBRUARY 26, 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.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, February 26, 2013 Issue - Jeffersonian

Please forward billing to:

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

410-821-0070

CORRECTED NOTICE OF ZONING HEARING

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

CASE NUMBER: 2013-0171-SPHX

2027 York Road

N/east corner of York Road and Belfast Road

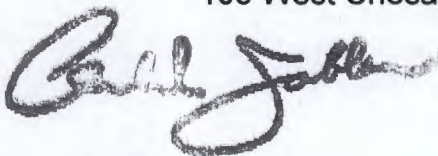
8th Election District – 3rd Councilmanic District

Legal Owners: Michael Mardiney, Jr., M.D.

Contract Purchaser: Entourage Development, LLC, Tom Berhle

Special Hearing to approve a use permit for the use of land in a residential zone for parking facilities to meet the requirements for Sec. 409.6 pursuant to Sec. 409.8.B of the BCZR, or in the alternative for confirmation that the proposed parking facility is authorized under the use permit approved in Case 1971-0269-SPH. For such other and further relief as may be deemed necessary by the ALJ. **Special Exception** relief to use property for a drive-in restaurant in accordance with Section 230.3 of the BCZR, and for such other and further relief as may be deemed necessary by the ALJ. **Variance** to permit a 0' buffer and 0' setback in lieu of the required 50' buffer and 75' setback in a Residential Transition Area.

Hearing: Monday, March 18, 2013 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

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



KEVIN KAMENETZ
County Executive

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

February 22, 2013

NEW NOTICE OF ZONING HEARING

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

CASE NUMBER: 2013-0171-SPHX

2027 York Road

N/east corner of York Road and Belfast Road

8th Election District – 3rd Councilmanic District

Legal Owners: Michael Mardiney, Jr., M.D.

Contract Purchaser: Entourage Development, LLC, Tom Berhle

Special Hearing to approve a use permit for the use of land in a residential zone for parking facilities to meet the requirements for Sec. 409.6 pursuant to Sec. 409.8.B of the BCZR, or in the alternative for confirmation that the proposed parking facility is authorized under the use permit approved in Case 1971-0269-SPH. For such other and further relief as may be deemed necessary by the ALJ. **Special Exception** relief to use property for a drive-in restaurant in accordance with Section 230.3 of the BCZR, and for such other and further relief as may be deemed necessary by the ALJ. **Variance** to permit a 0' buffer and 0' setback in lieu of the required 50' buffer and 75' setback in a Residential Transition Area.

Hearing: Monday, March 18, 2013 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon", is written over the hearing information.

Arnold Jablon
Director

AJ:kl

C: Jason Vettori, 600 Washington Avenue, Ste. 200, Towson 21204
Tom Berhle, 39 Brett Manor Ct., Hunt Valley 21030
Michael Mardiney, Jr., M.D., 7212 Bellona Avenue, Baltimore 21212

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, FEBRUARY 26, 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.**



Board of Appeals of Baltimore County

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

FAX: 410-887-3182

May 28, 2013

NOTICE OF ASSIGNMENT

CASE #: 13-171-SPHXA IN THE MATTER OF: Michael R. Mardiney, Jr., MD / LO
Entourage Development LLC (Contract Purchaser/Lessee)
2027 York Road / 8th Election District; 3rd Councilmanic District

Re: Petition for Special Hearing to allow

1) a use permit for use of land in residential zone for parking to meet requirements of BCZR or in alt for confirmation that proposed parking is authorized under the use permit approved in 71-269-SPH

2) modified parking plan

Petition for Special Exception to approve use of property for drive-in restaurant;
Petition for Variance for 0' buffer and 0' setback ilo req'd 50' buffer and 75' setback in RTA

- 3/22/13 Opinion and Order of Administrative Law Judge wherein all relief was DENIED.
- 3/28/13 Petitioner's Motion for Reconsideration of Opinion and Order filed by Jason Vettori, Esquire on behalf of Petitioners.
- 3/28/13 Motion for Reconsideration filed by People's Counsel for Baltimore County.
- 4/1/13 Supplement to Motion for Reconsideration filed by People's Counsel for Baltimore County.
- 4/16/13 Order of Motions for Reconsideration issued by the Administrative Law Judge. The Petitioner's Motion for Reconsideration was GRANTED; People's Counsel's Motion for Reconsideration was DENIED; The Petition for Special Exception was GRANTED; the Variance was DISMISSED AS UNNECESSARY; the Petition for Special Hearing to confirm business parking in a residential zone was permitted in 71-269-SPH was GRANTED; and the petition for Special Hearing for a modified parking plan was GRANTED.

ASSIGNED FOR: THURSDAY, JUNE 20, 2013, AT 10:00 A.M.

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

CONTINUED ON PAGE 2

PAGE 2

CASE #: 13-171-SPHXA **IN THE MATTER OF: Michael R. Mardiney, Jr., MD / LO**
Entourage Development LLC (Contract Purchaser/Lessee)
2027 York Road / 8th Election District; 3rd Councilmanic District

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

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

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

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

Theresa R. Shelton, Administrator

c: Counsel for Petitioner/LO

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

Petitioner/LO
CP/Lessee

: Michael R. Mardiney, Jr., MD
: Entourage Development, LLC
Tom Berhle, Authorized Representative

Appellants/Protestants

: John B. Wilhelm, III
Karlheinz Mueck
Maria Markham Thompson
Michael Henry
Sandra Barger

Eric Rockel
Steve Miller
Margaret Reid
Craig Hutton

Billy Hicks
Scott White (Eliot)
Gail Baity

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
John E. Beverungen, Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

MARIA MARKHAM THOMPSON, CPA, CFA

10 BELFAST ROAD, TIMONIUM, MD 21093

443-478-8802

MARIATHOMPSON@WRITERCPA.COM

June 14, 2013

RECEIVED
JUN 14 2013

BALTIMORE COUNTY
BOARD OF APPEALS

The Honorable Andrew M. Belt, Chairman

Board of Appeals

Jefferson Building, Suite 203

105 W. Chesapeake Avenue

Towson, MD 21204

CASE #: 13-171-SPHXA

IN THE MATTER OF:

Michael R. Mardiney, Jr., MD/LO

Entourage Development, LLC (Contract Purchaser/Lessee)

2027 York Road/8th Election District; 3rd Councilmanic District

REQUEST FOR POSTPONEMENT OF HEARING

Dear Chairman Belt:

I, MARIA MARKHAM THOMPSON, an APPELLANT in the above titled case, representing myself, respectfully request a POSTPONEMENT of the hearing scheduled for Thursday, June 20, 2013 at 10:00 AM. The request for this POSTPONEMENT is in compliance with Rule 2 (b) and Rule 2 (c) because the circumstances described below are good and sufficient reasons for the requested postponement and these reasons requiring the postponement are of an unusual and ordinary nature:

First, I have not been able to secure representation by an attorney who will have time to properly prepare a case within the next seven days to represent me. This process was delayed because since receiving notice of the hearing date I had to travel out of state to provide care to an elderly relative following a hospitalization. I believe permitting me time to complete the process of acquiring counsel and giving him the time required to familiarize himself with the case is essential in the interests of insuring a just and efficient proceeding.

Second, the Baltimore County Bureau of Traffic Engineering, Traffic Calming Division has begun a study of traffic on Belfast Road. Traffic counting equipment was placed on Belfast Road on

CONTINUED ON PAGE 2

PAGE 2

CASE #: 13-171-SPHXA

IN THE MATTER OF:

Michael R. Mardiney, Jr., MD/LO

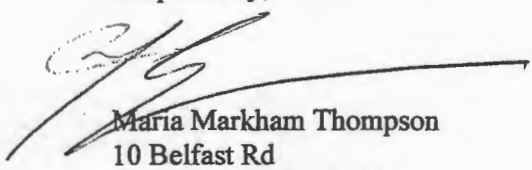
Entourage Development, LLC (Contract Purchaser/Lessee)
2027 York Road/8th Election District; 3rd Councilmanic District

Monday, June 10, 2013, but subsequently displaced that evening by severe storms. The status of the study may be obtained from Mr. Maurice White in the Traffic Calming Division at 410-877-3554.

The results of the Belfast Road traffic study, when all data is gathered and analyzed, will provide information that is material in considering this case. Granting a POSTPONEMENT will permit the County Traffic Calming Division and this Appellant the time required to complete the required analyses and present this vital evidence.

FOR THESE REASONS, I ask that the Board of Appeals GRANT a POSTPONEMENT of the hearing scheduled for THURSDAY, JUNE 20, 2013 AT 10:00 AM for a period of NOT LESS THAT THIRTY (30) days, and GRANT any other appropriate relief.

Respectfully,



Maria Markham Thompson
10 Belfast Rd
Timonium, MD 21093
443-478-8802

C:

Counsel for the Petitioner/LO

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

Petitioner/LO

: Michael R. Mardiney, Jr., MD
: Entourage Development, LLC
Tom Berhle, Authorized Representative

Appellants/Protestants

: John B. Wilhelm, III
Karlheinz Mueck
Michael Henry
Sandra Barger

CONTINUED ON PAGE 3

PAGE 3

CASE #: 13-171-SPHXA

IN THE MATTER OF:

Michael R. Mardiney, Jr., MD/LO

Entourage Development, LLC (Contract Purchaser/Lessee)

2027 York Road/8th Election District; 3rd Councilmanic District

Eric Rockel
Steve Miller
Margaret Reid
Craig Hutton

Billy Hicks
Scott White (Eliot)
Gail Baity

Peter Max Zimmerman, Esq Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/Permits, Approvals, and Inspection
Andrea Van Arsdale, Director/Department of Planning
John E. Beverungen, Administrative Law Judge
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

CERTIFICATE OF SERVICE

I hereby certify that on this 14 day of June 2013, a copy of this REQUEST FOR POSTPONEMENT was delivered by hand and/or mailed, postage prepaid, to Jason V. Vettori, Esq. Smith, Gildea, & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204 and all parties listed on the attached PAGE 4.

Date

Signature

CONTINUED ON PAGE 4

PAGE 4

CASE #: 13-171-SPHXA

IN THE MATTER OF:

Michael R. Mardiney, Jr., MD/LO

Entourage Development, LLC (Contract Purchaser/Lessee)
2027 York Road/8th Election District; 3rd Councilmanic District

HAND DELIVERY

Andrew M. Belt, Chairman
Board of Appeals
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204

HAND DELIVERY

Jason V. Vettori, Esq.
Smith, Gildea, & Schmidt LLC
600 Washington Avenue, Suite 200,
Towson, MD 21204

HAND DELIVERY

John E. Beverungen,
Administrative Law Judge,
Office of Administrative Hearings
The Jefferson Building
105 West Chesapeake Avenue, Suite 103,
Towson, Maryland 21204

HAND DELIVERY

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

BY FIRST CLASS MAIL

Arnold Jablon, Director
Permits, Approvals and Inspections
County Office Building
111 West Chesapeake Avenue,
Suite 105
Towson, Maryland, 21204

HAND DELIVERY

Andrea Van Arsdale, Director
Dept. of Planning
Baltimore County
Jefferson Building, Suite 101
105 W. Chesapeake Ave.
Towson, MD 21204

BY FIRST CLASS MAIL

Nancy C. West, Esq.
Assistant County Attorney
Baltimore County Law Office
Historic Court House
400 Washington Ave. Mail Stop 2209
Towson, Maryland, 21204

BY FIRST CLASS MAIL

Michael E. Field, Esq.
County Attorney
County Law Office
Historic Court House
400 Washington Ave. Mail Stop 2209
Towson, Maryland, 21204

HAND DELIVERY

Michael Henry
12 Belfast Rd
Timonium, MD 21093

HAND DELIVERY

Karlheinz Mueck
9 Belfast Rd
Timonium, MD 21093

HAND DELIVERY

Sandra Barger
22 Belfast Road
Timonium, MD 21093

HAND DELIVERY

Maria Markham Thompson
10 Belfast Road
Timonium, MD 21093

HAND DELIVERY

John B. Wilhelm, III
8 Belfast Road
Timonium, MD 21093

HAND DELIVERY

Craig Hutton
Melanie Hitch
4 Belfast Road
Timonium, MD 21093

BY FIRST CLASS MAIL

Eric Rockel
1610 Riderwood Drive
Timonium, MD 21093

HAND DELIVERY

Billy Hicks
6 Belfast Road
Timonium, MD 21093

HAND DELIVERY

Steve Miller
11 Northwood
Timonium, MD 21093

BY FIRST CLASS MAIL

Scott White (Eliot)
1002 Winford Road
Towson, MD 21204

BY FIRST CLASS MAIL

Margaret Reid
713 Milldam Road
Towson, MD 21286

HAND DELIVERY

Gail Baity
19 Belfast Road
Timonium, MD 21093



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204

410-887-3180

FAX: 410-887-3182

June 24, 2013

NOTICE OF DELIBERATION

CASE #: 13-171-SPHXA IN THE MATTER OF: Michael R. Mardiney, Jr., MD / LO
Entourage Development LLC (Contract Purchaser/Lessee)
2027 York Road / 8th Election District; 3rd Councilmanic District

Re: Petition for Special Hearing to allow

1) a use permit for use of land in residential zone for parking to meet requirements of BCZR or in alt for confirmation that proposed parking is authorized under the use permit approved in 71-269-SPH

2) modified parking plan

Petition for Special Exception to approve use of property for drive-in restaurant;
Petition for Variance for 0' buffer and 0' setback ilo req'd 50' buffer and 75' setback in RTA

- 3/22/13 Opinion and Order of Administrative Law Judge wherein all relief was DENIED.
- 3/28/13 Petitioner's Motion for Reconsideration of Opinion and Order filed by Jason Vettori, Esquire on behalf of Petitioners.
- 3/28/13 Motion for Reconsideration filed by People's Counsel for Baltimore County.
- 4/1/13 Supplement to Motion for Reconsideration filed by People's Counsel for Baltimore County.
- 4/16/13 Order of Motions for Reconsideration issued by the Administrative Law Judge. The Petitioner's Motion for Reconsideration was GRANTED; People's Counsel's Motion for Reconsideration was DENIED; The Petition for Special Exception was GRANTED; the Variance was DISMISSED AS UNNECESSARY; the Petition for Special Hearing to confirm business parking in a residential zone was permitted in 71-269-SPH was GRANTED; and the petition for Special Hearing for a modified parking plan was GRANTED.

Having concluded this matter on 6/20/13 a public deliberation has been scheduled for the following:

DATE AND TIME : TUESDAY, AUGUST 20, 2013 at 9:15 a.m.

LOCATION : Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

NOTE: Closing briefs are due on Monday, July 22, 2013 by 4:00 p.m.

(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Theresa R. Shelton
Administrator

c: Counsel for Petitioner/LO	: Jason T. Vettori, Esquire Smith, Gildea & Schmidt, LLC
Petitioner/LO CP/Lessee	: Michael R. Mardiney, Jr., MD : Entourage Development, LLC Tom Berhle, Authorized Representative
Appellants/Protestants	: John B. Wilhelm, III Karlheinz Mueck Maria Markham Thompson Michael Henry Sandra Barger

Eric Rockel
Steve Miller
Margaret Reid
Craig Hutton

Billy Hicks
Scott White (Eliot)
Gail Baity

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
John E. Beverungen, Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law



KEVIN KAMENETZ
County Executive

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

March 13, 2013

Michael R. Mardiney, Jr. M.D.
7212 Bellona Avenue
Baltimore MD 21212

RE: Case Number: 2013-0171 SPHXA, Address: 2027 York Road

Dear Dr. Mardiney:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on January 17, 2013. 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.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel
Jason T. Vettori, Esquire, 600 Washington Avenue, Suite 200, Towson MD 21204
Tom Berhle, 39 Brett Manor Court, Hunt Valley MD 21030

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 13, 2013

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 2027 York Road

INFORMATION:

Item Number: 13-171

Petitioner: Michael R. Mardiney, Jr.

Zoning: BL & DR 5.5

Requested Action: Special Hearing, Special Exception, Variance

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan and recommends approval subject to the following comments:

1. Provide architectural elevations that conform to the Hunt Valley – Timonium guidelines.
2. Provide lighting and a landscape plan.
3. Show the dumpster enclosure. Materials should be masonry to match the building.
4. Provide elevations of any proposed sign.

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

Prepared by: _____

Division Chief: _____

AVA/LL: CM

Attachment

RECEIVED

MAR 13 2013

OFFICE OF ADMINISTRATIVE HEARINGS

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: March 11, 2013

SUBJECT: DEPS Comment for Zoning Item # 2013-0171-SPHX
Address 2027 York Road
(Mardiney Property)

Zoning Advisory Committee Meeting of Jan 21, 2012.

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

Reviewer: *Jeff Livingston – Development Coordination*

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MAR 15 2013
OFFICE OF ADMINISTRATIVE HEARINGS



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

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 2-26-13

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

RE: Baltimore County

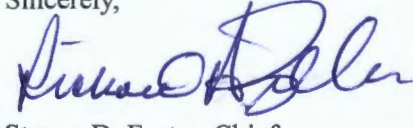
Item No. 2013-0171 - SPHX
Special Hearing Special Exception
Variance
Michael R. Mardiney, M.D.
2027 York Road
MD45

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 225B. A field inspection and internal review reveals that an entrance onto MD45 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Variance. Case Number 2013-0171 SPHX.

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

Sincerely,


Steven D. Foster, Chief
Access Management Division

SDF/raz

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For January 28, 2013
Item No. 2013-0171

DATE: January 30, 2013

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

A landscape plan must be received and approved prior to the issuance of a use and occupancy permit.

DAK:CEN
cc: file
ZAC-ITEM NO 13-0171-01282013.doc

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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 1-25-13

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

RE: Baltimore County
Item No. 2013-0171-SP46
Special Hearing Special Exception
Michael R. Mardiney Jr. M.D.
2027 York Road
19D45

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 1-23-13. A field inspection and internal review reveals that an entrance onto 19D45 consistent with current State Highway Administration guidelines is required. As a condition of approval for Special Hearing Special Exception Case Number 2013-0171-SP46 the applicant must contact the State Highway Administration to obtain an entrance permit.

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

Sincerely,

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

Steven D. Foster, Chief
Access Management Division

SDF/raz

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

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
AND SPECIAL EXCEPTION
2027 York Rd; NE Corner of York & Belfast Rd* OF ADMINISTRATIVE
8th Election & 3rd Councilmanic Districts
Legal Owner(s): Michael R Mardiney, Jr. M.D.* HEARINGS FOR
Contract Purchaser(s): Tom Berhle
Petitioner(s) * BALTIMORE COUNTY
* 2013-171-SPHX

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

RECEIVED

JAN 24 2013

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of January, 2013, a copy of the foregoing Entry of Appearance was mailed to Jason Vettori, Esquire, Smith, Gildea & Schmidt, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Date: May 15, 2013

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

RECEIVED

MAY 15 2013

OFFICE OF ADMINISTRATIVE HEARINGS

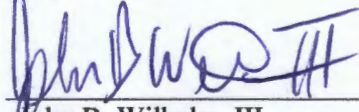
Re: PETITION FOR APPEAL OF
Order on Motions for Reconsideration on Petitions for Special Hearing, Special
Exception, and Variance
Property Address: 2027 York Road
8th Election District
3rd Councilmanic District
Petitioners' Names: Michael R. Mardiney, Jr. MD (*Legal Owner*)
Tom Behrle, Entourage Development LLC (*Contract Purchaser/Lessee*)
Case No.: 2013-0171-SPHXA

Dear Mr. Stahl:

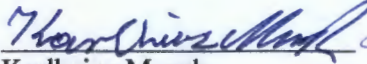
Please enter an Appeal by the following Individuals, John B. Wilhelm, III, Karlheinz Mueck, Maria Markham Thompson, Michael Henry and Sandra Barger, to the County Board of Appeals from the Order on Motions for Reconsideration of the Administrative Law Judge dated April 16, 2013 in the above-entitled case.

Enclosed are our checks totaling \$915.00 for the filing fees. Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

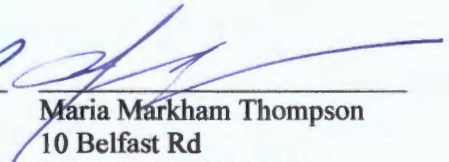
Very truly yours,



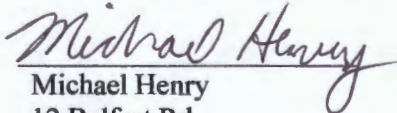
John B. Wilhelm, III
8 Belfast Road
Timonium, MD 21093
410-252-9747



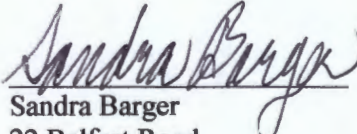
Karlheinz Mueck
9 Belfast Rd
Timonium, MD 21093
410-252-9241



Maria Markham Thompson
10 Belfast Rd
Timonium, MD 21093
443-478-8802



Michael Henry
12 Belfast Rd
Timonium, MD 21093
410-252-9447



Sandra Barger
22 Belfast Road
Timonium, MD 21093
410-252-5506

cc: Jason V. Vettori, Esq., Smith, Gildea, & Schmidt LLC
600 Washington Avenue, Suite 200, Towson, MD 21204
John E. Beverungen, Administrative Law Judge, Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103, Towson, Maryland 21204
Peter Max Zimmerman, Esq. People's Counsel for Baltimore County, The Jefferson Building,
105 W. Chesapeake Avenue, Suite 204, Towson, MD 21204.



KEVIN KAMENETZ
County Executive

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

May 21, 2013

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

RE: APPEAL TO BOARD OF APPEALS
Case No. 2013-0171-SPHXA
Location: 2027 York Road



Dear Mr. Vettori:

Please be advised that an appeal of the above-referenced case was filed in this Office on May 15, 2013. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

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

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

Sincerely,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:sln

c: ☒ Baltimore County Board of Appeals
People's Counsel for Baltimore County
Eric Rockel, 1610 Riderwood Drive, Timonium, MD 21093
Mike Henry, 12 Belfast Road, Timonium, MD 21093
Billy Hicks, 6 Belfast Road, Timonium, MD 21093
John & Janice Wilhelm, 8 Belfast Road, Timonium, MD 21093
Steve Miller, 11 Northwood Drive, Timonium, MD 21093
Scott White, 1002 Winsford Road, Towson, MD 21204
Karlheinz Mueck, 9 Belfast Road, Timonium, MD 21093
Margaret Reid, 713 Milldam Road, Towson, MD 21286
Gail Baity, 19 Belfast Road, Timonium, MD 21093
Mike & Maria Thompson, 10 Belfast Road, Towson, MD 21093
Craig Hutton, 4 Belfast Road, Timonium, MD 21093
Roger & Dessie Hutton, 17 Madison Avenue, Cockeysville, MD 21030
Deborah A. Henninger, President, Yorkshire – Haverford Community Association,
100 Greenmeadow Drive, Timonium, MD 21093
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103 | Towson, Maryland 21204 | Phone 410-887-3868 | Fax 410-887-3468
www.baltimorecountymd.gov

APPEAL

**Petitions for Special Hearing, Special Exception and Variance
(2027 York Road)
8th Election District – 3rd Councilmanic District
Legal Owners: Michael R. Mardiney, Jr., M.D.
Case No. 2013-0171-SPHXA**

Petitions for Special Hearing, Special Exception and Variance (Revised)

Petitions for Special Hearing, and Special Exception (Old)

Zoning Description of Property

New Notice of Zoning Hearing (February 22, 2013)

Notice of Zoning Hearing (February 20, 2013)

Certificate of Publication (The Jeffersonian – February 28, 2013)

Certificate of Posting (February 26, 2013) by Robert Black

Entry of Appearance by People's Counsel (January 24, 2013)

Petitioner(s) Sign-in Sheet – 1 Sheet (March 18, 2013)

Citizen(s) Sign-in Sheet – 1 Sheet (March 18, 2013)

Zoning Advisory Committee Comments

Petitioner(s) Exhibits

1. Revised Petition
2. Site Plan
3. Notice of Hearing
4. Revised Hearing Notice
5. ZAC Comments
6. Certificate of Posting
7. Certificate of Publication
8. Demos Resume
9. 9A-9D Photo Renderings
10. Hunt Valley Master Plan
11. Existing Conditions Plan
12. People's Council E-mail
13. 1971 Zoning Order
14. Landscape Plan
15. Final Landscape Plan

Protestant(s) Exhibits

1. 14 Page Petition with signatures
2. Written statement of Maria Markham Thompson

People's Counsel Exhibits

1. My Neighborhood
2. My Neighborhood
3. My Neighborhood

Miscellaneous (Not Marked as Exhibits) – Correspondence

Administrative Law Judge Order (DENIED – March 22, 2013)

Requests for Motion for Reconsideration from: (1) Jason Vettori, Esquire (2) People's Counsel, (March 28, 2013, and, (3) People's Counsel, Supplement (April 1, 2013)

Petitioner(s) Sign-in Sheet – 1 Sheet (April 8, 2013)

Citizen(s) Sign-in Sheet – 1 Sheet (April 8, 2013)

Administrative Law Judge Order on Motions (GRANTED – April 16, 2013)

Notice of Appeal on Motion – [Appealing Special Hearing, Special Exception, and Variance] -
May 15, 2013 from Maria Markham Thompson, et al

APPEAL

Petitions for Special Hearing, Special Exception and Variance
(2027 York Road)
8th Election District – 3rd Councilmanic District
Legal Owners: Michael R. Mardiney, Jr., M.D.
Case No. 2013-0171-SPHXA

- ✓ Petitions for Special Hearing, Special Exception and Variance (Revised)
- ✓ Petitions for Special Hearing, and Special Exception (Old)
- ✓ Zoning Description of Property
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- ✓ Notice of Zoning Hearing (February 20, 2013)
- ✓ Certificate of Publication (The Jeffersonian – February 28, 2013)
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- ✓ Entry of Appearance by People's Counsel (January 24, 2013)
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- ✓ Citizen(s) Sign-in Sheet – 1 Sheet (March 18, 2013)
- ✓ Zoning Advisory Committee Comments

Petitioner(s) Exhibits

- ✓ 1. Revised Petition
- ✓ 2. Site Plan
- ✓ 3. Notice of Hearing
- ✓ 4. Revised Hearing Notice
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- ✓ 6. Certificate of Posting
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- ✓ 8. Demos Resume
- ✓ 9. 9A-9D Photo Renderings
- ✓ 10. Hunt Valley Master Plan
- ✓ 11. Existing Conditions Plan
- ✓ 12. People's Council E-mail
- ✓ 13. 1971 Zoning Order
- ✓ 14. Landscape Plan
- ✓ 15. Final Landscape Plan

RECEIVED

MAY 21 2013

BALTIMORE COUNTY
BOARD OF APPEALS

Protestant(s) Exhibits

- ✓ 1. 14 Page Petition with signatures
- ✓ 2. Written statement of Maria Markham Thompson

People's Counsel Exhibits

- ✓ 1. My Neighborhood - *Aerial Map*
- ✓ 2. My Neighborhood
- ✓ 3. My Neighborhood

- ✓ Miscellaneous (Not Marked as Exhibits) – Correspondence
- ✓ Administrative Law Judge Order (DENIED – March 22, 2013)
- ✓ Requests for Motion for Reconsideration from: (1) Jason Vettori, Esquire (2) People's Counsel, (March 28, 2013, and, (3) People's Counsel, Supplement (April 1, 2013)✓
- ✓ Petitioner(s) Sign-in Sheet – 1 Sheet (April 8, 2013)
- ✓ Citizen(s) Sign-in Sheet – 1 Sheet (April 8, 2013)
- ✓ Administrative Law Judge Order on Motions (GRANTED – April 16, 2013)
- ✓ Notice of Appeal on Motion – [Appealing Special Hearing, Special Exception, and Variance] - May 15, 2013 from Maria Markham Thompson, et al

Address List

Petitioners:

Jason T. Vettori, Esquire
Smith, Gildean & Schmidt, LLC
600 Washington Ave, Ste 200
Towson, MD 21204

Michael R. Mardiney, Jr., MD
7212 Bellona Avenue
Baltimore, MD 21212
(Legal Owner)

Entourage Development, LLC
Tom Berhle, Authorized Representative
39 Brett Manor Court
Hunt Valley, MD 21030
(CP/Lessee)

John Demos, P.E., L.S.
4901 Picker Drive
Pylesville, MD 21132

Protestants:

John B. Wilhelm, III
8 Belfast Road
Timonium, MD 21093

Karlheinz Mueck
9 Belfast Road
Timonium, MD 21093

Maria Markham Thompson
10 Belfast Road
Timonium, MD 21093

Interoffice:

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
John E. Beverungen, Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

Michael Henry
12 Belfast Road
Timonium, MD 21093

Sandra Barger
22 Belfast Road
Timonium, MD 21093

Interested Persons:

Eric Rockel
1610 Riderwood Drive
Timonium, MD 21093

Billy Hicks
6 Belfast Road
Timonium, MD 21093

Steve Miller
11 Northwood
Timonium, MD 21093

Scott White (Eliot)
1002 Winsford Road
Towson, MD 21204

Margaret Reid
713 Milldam Road
Towson, MD 21093

Gail Baity
19 Belfast Road
Timonium, MD 21093

Craig Hutton
4 Belfast Road
Timonium, MD 21093



Board of Appeals of Baltimore County

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

June 17, 2013

VIA EMAIL AND U.S. MAIL

Maria Markham Thompson
10 Belfast Road
Timonium, MD 21093

Re: **IN THE MATTER OF:** Michael R. Mardiney, Jr., MD / LO
Entourage Development LLC (Contract Purchaser/Lessee)
Case No.: 13-171-SPHXA

Dear Ms. Thompson:

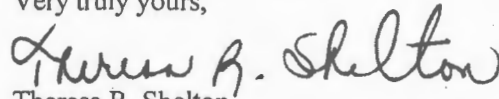
I am writing in response to your hand delivered letter of June 14, 2013, in which you request a postponement of the hearing in the subject matter scheduled for Thursday, June 20, 2013 at 10:00 a.m. The Board also received on that date a telephone call from Jason T. Vettori, Esquire, in opposition to your request.

Your request for postponement is herewith denied, and the Board will convene as scheduled on June 20, 2013 at 10:00 a.m. to begin hearing this case. Any issues you may have regarding this matter will be addressed by the Board when it convenes for the hearing.

The hearing will proceed as scheduled on Thursday, June 20, 2013 at 10:00 a.m.

Should you have any questions, please call me at 410-887-3180.

Very truly yours,


Theresa R. Shelton
Administrator

c: Jason T. Vettori, Esquire
Michael R. Mardiney, Jr., MD
Tom Berhle, Authorized Representative
Maria Markham Thompson
Eric Rockel
Scott White (Eliot)
Craig Hutton

John B. Wilhelm, III
Michael Henry
Billy Hicks
Margaret Reid

Karlheinz Mueck
Sandra Barger
Steve Miller
Gail Baity

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
John E. Beverungen, Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Michael R. Mardiney, Jr., M.D. 13-171-SPHXA

DATE: August 20, 2013

BOARD/PANEL: Andrew M. Belt, Chairman
Wendy A. Zerwitz
David L. Thurston

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Special Hearing to allow:
 - A) a use permit for use of land in residential zone for parking to meet requirements of BCZR or in alt for confirmation that proposed parking is authorized under the use permit approved in 71-269-SPH
 - B) modified parking plan
2. Petition for Special Exception to approve use of property for drive-in restaurant;
3. Petition for Variance for 0' buffer and 0' setback ilo req'd 50' buffer and 75' setback in RTA

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board reviewed the history of this matter.
- The Board discussed that the community had some concerns with the proposed use and the impacts on traffic and noise levels.
- The Board discussed that the proposed use as a Sonic restaurant meets the definition of "drive-in" restaurant. The Board reviewed the previous uses of the property as well as the zoning and determined that the proposed Special Exception is appropriate. The Board determined that the property has been used as a Boston Market and other restaurants including fast food. The Board determined that traffic will increase from the current amount due to the change from an empty building to a new restaurant. The Board discussed that the traffic will be worse at the beginning due to a new place opening but over time, the traffic levels will balance out. The Board discussed that the modified parking plan seeks to eliminate some of the traffic concerns.
- The Board discussed the community's concerns about the lights and noise. The Board determined that Sonic is required to follow the laws. The owner and community are aware of possible issues. The Board determined that they cannot assume a Code Enforcement issue will arise.

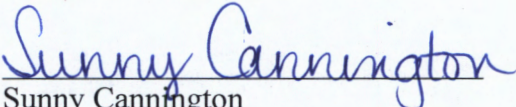
DECISION BY BOARD MEMBERS:

The Board determined that the proposed use of the property is appropriate. The Board understands the community's concerns but cannot deny the proposal based on the possibility of a code enforcement violation. The Board feels there will be some growing pains but hope everyone can be good neighbors.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the requested relief.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington

BALTIMORE COUNTY, MARYLAND

Board of Appeals of Baltimore County

Interoffice Correspondence

Phone: 410-887-3180

Fax: 410-887-3182

To: Andy
Wendy
David

From: Sunny

Date: July 23, 2013

Re: The matter of: Michael R. Mardiney, Jr., MD – Legal Owner
Entourage Development, LLC – Contract Purchaser/Lessee
Case No: 13-171-SPHXA

Attached are the closing memos as submitted by the parties on July 22, 2013

The Public Deliberation is scheduled for August 20, 2013.

Attached: Closing memos

Debra Wiley - Fwd: RE: Case No. 2013-171-SPHXA, 2027 York Road, Michael Mardiney and Entourage Development, Inc., Petitioners

From: Peter Zimmerman
To: Wiley, Debra
Date: 4/1/2013 10:02 AM
Subject: Fwd: RE: Case No. 2013-171-SPHXA, 2027 York Road, Michael Mardiney and Entourage Development, Inc., Petitioners

Debbie,

This email contains both John's email (at the bottom) and Jason's response. I need to email the citizens involved. Please get a few dates for me that work with Jason and John's schedule.

Rebecca

>>> Jason Vettori <jvettori@sgs-law.com> 4/1/2013 9:19 AM >>>

Assuming I get People's Counsel's motion today, I am willing to have a hearing on the motion(s) this Thursday or Friday. As far as next week is concerned, I can shuffle my schedule to make myself available every day besides Thursday, April 11th from 1:30 to 4:00 p.m. The following week I am available every day except Friday, April 19th. Thanks for your prompt attention to this most important matter.

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

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From: John Beverungen [mailto:jbeverungen@baltimorecountymd.gov]
Sent: Thursday, March 28, 2013 11:48 AM
To: Peter Zimmerman
Cc: Jason Vettori
Subject: Re: Case No. 2013-171-SPHXA, 2027 York Road, Michael Mardiney and Entourage Development, Inc., Petitioners

Mr. Zimmerman,

Thanks for your e-mail, and I have not yet received a copy of the motion. I am happy to hold a hearing on the motion, and would suggest that you and Mr. Vettori try to pick some available dates in the next 2 or 3 week time frame.

John Beverungen

>>> Peter Zimmerman 03/28/13 11:44 AM >>>

March 28, 2013

Dear Judge Beverungen,

Jason Vettori, attorney for Petitioners, has promptly provided us with a copy of Petitioners' Motion for Reconsideration.

Separately, our office will file its own motion for reconsideration with respect to aspects of the opinion. In view of the Rule K thirty-day time period for decision, we anticipate filing our motion as soon as possible, probably by April 3. We hope that is acceptable.

Also, in light of the many issues of concern, we will suggest a further hearing and opportunity for various parties to comment.

Respectfully, Peter Max Zimmerman, People's Counsel

Debra Wiley - Fwd: Re: Case No. 2013-171-SPHXA, 2027 York Road, Michael Mardiney and Entourage Development, Inc., Petitioners

From: John Beverungen
To: Debra Wiley
Date: 4/1/2013 10:03 AM
Subject: Fwd: Re: Case No. 2013-171-SPHXA, 2027 York Road, Michael Mardiney and Entourage Development, Inc., Petitioners

>>> John Beverungen 03/28/13 11:48 AM >>>
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John Beverungen

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Also, in light of the many issues of concern, we will suggest a further hearing and opportunity for various parties to comment.

Respectfully, Peter Max Zimmerman, People's Counsel

Debra Wiley - Fwd: RE: Case No. 2013-171-SPHXA, 2027 York Road, Michael Mardiney and Entourage Development, Inc., Petitioners

From: John Beverungen
To: Debra Wiley
Date: 4/1/2013 10:04 AM
Subject: Fwd: RE: Case No. 2013-171-SPHXA, 2027 York Road, Michael Mardiney and Entourage Development, Inc., Petitioners

>>> Jason Vettori <jvettori@sgs-law.com> 04/01/13 9:19 AM >>>

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

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Sent: Thursday, March 28, 2013 11:48 AM
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Cc: Jason Vettori
Subject: Re: Case No. 2013-171-SPHXA, 2027 York Road, Michael Mardiney and Entourage Development, Inc., Petitioners

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March 28, 2013

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Also, in light of the many issues of concern, we will suggest a further hearing and opportunity for various parties to comment.

Respectfully, Peter Max Zimmerman, People's Counsel

Debra Wiley - Sonic @ Belfast & York Case No.: 2013-171-SPHX

From: People's Counsel
To: erockel@earthlink.net; john.wilhelm@verizon.net; mariathompson@writerc...
Date: 4/1/2013 10:41 AM
Subject: Sonic @ Belfast & York Case No.: 2013-171-SPHX
CC: Beverungen, John; Jason Vettori; Wiley, Debra

Per Rebecca, Jason 4/1

Ms. Thompson, Mr. Rockel & Mr. Wilhelm,

Our office is coordinating the scheduling of a hearing on the Motions for Reconsideration filed in this case. Per my conversation with the Administrative Law Judge's office today, the reconsideration hearing is tentatively scheduled for April 8, 2013 @ 10:00 a.m. in Room 205 on the 2nd floor of the Jefferson Building. Please advise our office if you are able to attend. In addition, please notify any additional interested citizens about the hearing.

Please let us know promptly if you plan to attend. Our phone number is 410-887-2188. Thank you for your consideration.

Rebecca M. Wheatley
Legal Secretary
Office of the People's Counsel for Baltimore County
410-887-2188 Phone
410-823-4236 Fax

Debra Wiley - Re: Sonic @ Belfast & York Case No.: 2013-171-SPHX

From: MARIA THOMPSON <mariathompson@writercpa.com>
To: People's Counsel <peoplescounsel@baltimorecountymd.gov>, "erockel@earthl...
Date: 4/1/2013 10:52 AM
Subject: Re: Sonic @ Belfast & York Case No.: 2013-171-SPHX
CC: Debra Wiley <dwiley@baltimorecountymd.gov>, John Beverungen <jbeverungen...

Yes, I will attend.

Regards,

Maria Markham Thompson, CPA, CFA
Seeking new full-time work in or related to
Government or Not-for-Profit Sectors

Available for
Short-term Business Accounting Assignments
in Peachtree/Sage 50 or QuickBooks
Freelance Financial Research and Writing Assignments

IRS regulations require me to advise you that any federal tax advice in this communication was not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of avoiding penalties; furthermore, this communication was not intended or written to support the promotion or marketing of any of the transactions or matters it addresses.

From: People's Counsel <peoplescounsel@baltimorecountymd.gov>
To: erockel@earthlink.net; john.wilhelm@verizon.net; mariathompson@writercpa.com
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; John Beverungen <jbeverungen@baltimorecountymd.gov>; jvettori@sgs-law.com
Sent: Monday, April 1, 2013 10:41 AM
Subject: Sonic @ Belfast & York Case No.: 2013-171-SPHX

Ms. Thompson, Mr. Rockel & Mr. Wilhelm,

not for Reconsil.

4/8

10 Am

205

Debra Wiley - Fwd: Sonic @ Belfast & York Case No.: 2013-171-SPHX - 4/8

From: Debra Wiley
To: Lewis, Kristen
Date: 4/1/2013 11:14 AM
Subject: Fwd: Sonic @ Belfast & York Case No.: 2013-171-SPHX - 4/8
CC: Nuffer, Kurt *Sherry*
Attachments: Sonic @ Belfast & York Case No.: 2013-171-SPHX

Hi Kristen,

I understand that you're out today but OAH/People's Counsel tentatively added the attached to the April calendar. I spoke to June Fisher today to see if the date was good and it appeared so; this information was then passed to Rebecca in People's Counsel.

Please advise ASAP if this is not the case. Thanks in advance.

Debbie Wiley
Legal Administrative Secretary
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

Debra Wiley - Dear Judge Beverungen,

From: People's Counsel
To: Beverungen, John
Date: 4/2/2013 1:20 PM
Subject: Dear Judge Beverungen,
CC: Wiley, Debra; erockel@earthlink.net; john.wilhelm@verizon.net; jvetto...
Attachments: Sonic - Anna Beaty- Macro Holdings LLC 2010-116-SPHXA ALJ Opinion.pdf; Sonic - TD Bank - Entourage Ventures 2011-149-X ALJ Opinion.pdf

Dear Judge Beverungen,

It is our understanding that the hearing on motions for reconsideration will be held on April 8, 2013, Monday, at 10 AM in hearing room 205, the same place as the initial hearing, and that your office will issue a notice to the interested persons who attended.

Meanwhile, our further research, amplifying our view that the proposed use is a drive-in, reflects that the two previous Sonics cases, at 8733 Pulaski Highway (Case No. 2010-116-SPHXA, decided January 5, 2010, Wiseman, ZC) and 8212 Liberty Road (Case No.2011-149-X, decided December 15, 2010, Wiseman, ZC), came in and received approval as drive-in special exception uses.

It is noteworthy that in both those cases, petitioners either minimized the role of the drive-in fraction or posited that the adverse effects would be no greater than fast food restaurants permitted by right. However, the Court of Appeals has clarified that a special exception use may not be justified or granted based on a comparative impact analysis with uses permitted by right. They must be evaluated on their own under the special exception standards. This was the main holding in *Schultz v. Pritts* 291 Md. 1 (1981) and is still the law.

There were no protestants in either the Pulaski Highway or Liberty Road cases. Indeed there was a chorus and groundswell of unconditional area support in the Liberty Road case. These contrast with the present case, where various citizens have expressed concerns and opposition.

Again, as to the present case, it is immaterial whether or not the number of stalls differs, or the marketing estimate suggests a majority of drive-through customers. (Indeed, the speed of drive-through would suggest that an ability to accommodate more customers than the sit-down drive-in). These factors do not erase the significant drive-in use, which is corroborated by how Sonic sees, names, and markets itself as America's drive-in.

We respectfully believe the drive-in use is substantial and so warrants special exception review, and that such review must not be based on a comparison with the permitted use by right of fast-food restaurants..

Sincerely, Peter Max Zimmerman, People's Counsel

Debra Wiley - Re: Dear Judge Beverungen,

From: John Beverungen
To: People's Counsel
Date: 4/2/2013 3:49 PM
Subject: Re: Dear Judge Beverungen,
CC: Debra Wiley; erockel@earthlink.net; john.wilhelm@verizon.net; jvettor...
Attachments: 20130402153643065.pdf

Mr. Zimmerman,

I wanted to write in response to your email regarding this Office notifying the others who attended the initial hearing. I see that you have notified Messrs. Rockel and Wilhelm, and Ms. Thompson as well. They of course were the citizens that played the most active role at the hearing. I will forward by separate email to you and Mr. Vettori the sign-in sheet from the hearing, and would instead ask that either your office or Mr. Vettori's notify the citizens of the new date. Several of the residents did not include an email address, so I am not sure that mail would reach them in sufficient time in advance of the hearing.

John Beverungen

>>> People's Counsel 04/02/13 1:19 PM >>>
Dear Judge Beverungen,

It is our understanding that the hearing on motions for reconsideration will be held on April 8, 2013, Monday, at 10 AM in hearing room 205, the same place as the initial hearing, and that your office will issue a notice to the interested persons who attended.

Meanwhile, our further research, amplifying our view that the proposed use is a drive-in, reflects that the two previous Sonics cases, at 8733 Pulaski Highway (Case No. 2010-116-SPHXA, decided January 5, 2010, Wiseman, ZC)) and 8212 Liberty Road (Case No.2011-149-X, decided December 15, 2010, Wiseman, ZC), came in and received approval as drive-in special exception uses.

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We respectfully believe the drive-in use is substantial and so warrants special exception review, and that such review must not be based on a comparison with the permitted use by right of fast-food restaurants..

Sincerely, Peter Max Zimmerman, People's Counsel

CASE NAME *Savien Yeak & Belfast*
CASE NUMBER *2013-0171-SPHX*
DATE *March 18, 2013*

CITIZEN'S SIGN - IN SHEET

[illegible]

NR 4/8
10 AM, 205**Debra Wiley - Motion for Reconsideration Hearing - 2013-0171-SPHXA**

From: Debra Wiley
To: erockel@earthlink.net; john.wilhelm@verizon.net; jvettori@sgs-law.com;...
Date: 4/3/2013 8:45 AM
Subject: Motion for Reconsideration Hearing - 2013-0171-SPHXA
CC: Lewis, Kristen

Good Morning,

This is to confirm that Judge Beverungen will hear the Motion(s) for Reconsideration on Monday, April 8, 2013, at 10 AM in Room 205, Jefferson Building, 105 W. Chesapeake Avenue, Towson, MD.

It is my understanding that the sign-in sheet from the March 18th hearing has been forwarded (via email) to both Peter Zimmerman and Jason Vettori to notify the remaining citizens not included in this email of the April 8th hearing. I believe several of the residents did not include an email address and Judge Beverungen was concerned that the mail would not reach them in sufficient time in advance of the hearing.

Thanks in advance for your cooperation in this matter.

Debbie Wiley
Legal Administrative Secretary
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

Debra Wiley - Re: Motion for Reconsideration Hearing - 2013-0171-SPHXA

From: <erockel@earthlink.net>
To: "Debra Wiley" <dwiley@baltimorecountymd.gov>
Date: 4/3/2013 8:46 AM
Subject: Re: Motion for Reconsideration Hearing - 2013-0171-SPHXA

I apologize for this automatic reply to your email.

To control spam, I now allow incoming messages only from senders I have approved beforehand.

If you would like to be added to my list of approved senders, please fill out the short request form (see link below). Once I approve you, I will receive your original message in my inbox. You do not need to resend your message. I apologize for this one-time inconvenience.

Click the link below to fill out the request:

<https://webmail.pas.earthlink.net/wam/addme?a=erockel@earthlink.net&id=11e2-9c5c-819fd7b6-ae39-0021281420d2>

Debra Wiley - Fwd: Re: Motion for Reconsideration Hearing - 2013-0171-SPHXA

From: Debra Wiley
To: Wheatley, Rebecca
Date: 4/3/2013 8:49 AM
Subject: Fwd: Re: Motion for Reconsideration Hearing - 2013-0171-SPHXA
Attachments: Re: Motion for Reconsideration Hearing - 2013-0171-SPHXA

Hi Rebecca,

Can you please notify Eric Rockel to accept this email or simply just forward to him since you've been corresponding with him. Thanks in advance.

Debbie Wiley
Legal Administrative Secretary
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

Debra Wiley - Addition to April Calendar

From: Debra Wiley
To: OAH Staff
Date: 4/3/2013 8:53 AM
Subject: Addition to April Calendar
CC: Lewis, Kristen

Good Morning,

The following has been added to the April calendar:

Monday, April 8th @ 10 AM, Room 205
Motion(s) for Reconsideration - 2013-0171-SPHXA

Please mark your calendars accordingly. Thanks.

Debbie Wiley
Legal Administrative Secretary
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

Subject: Addition to April Calendar
Created By: dwiley@baltimorecountymd.gov
Scheduled Date:
Creation Date: 4/3/2013 8:53 AM
From: Debra Wiley

Recipient	Action	Date & Time	Comment
To: John Beverungen (jbeverungen@baltimorecountymd.gov)	Delivered	4/3/2013 8:52 AM	
CC: Kristen Lewis (klewis@baltimorecountymd.gov)	Delivered	4/3/2013 8:53 AM	
To: Lawrence Stahl (lstahl@baltimorecountymd.gov)	Delivered	4/3/2013 8:53 AM	
To: Sherry Nuffer (snuffer@baltimorecountymd.gov)	Delivered	4/3/2013 8:53 AM	

From: Jason Vettori <jvettori@sgs-law.com>
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Date: 5/16/2013 2:30 PM
Subject: Entourage Ventures/2027 York Road
Attachments: Petition for Appeal - Order on Motion for Reconsideration.PDF

Sunny,

I just got the attached Petition for Appeal. Any guesstimate as to when it might be scheduled for a hearing.

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

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Administrative Hearings for Baltimore County

Petition for Special Hearing on (2027 York Rd) Case No. 2013-0171-SPHXA

April 8, 2013

Honorable Judge Beverungen

Due to the fact I received the Hearing Notice on Friday afternoon April 6, 2013. I will not be able to attend due to a medical appointment and the short notification of 65hours over a non-business weekend.

I still feel that 2027 York Rd location for Sonic's has problems in that it will impact the residence of Belfast Rd, Sweetbrier and Northwood Drive with traffic problems an excessive noise, due to the small lot size of 33,000 sq ft of the property and close residential location around the property at 2027 York Rd.

Respectfully Yours,



Steve Miller
11 Northwood Dr.
Timonium, Md
21093

April 7, 2013

To Whom It May Concern,

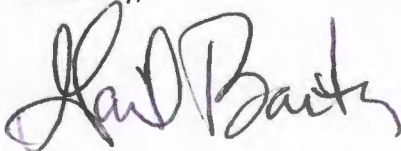
I am writing this letter to voice my opposition to the proposed Sonic in the York Road corridor, just south of Timonium Road. I am not able to be at the meeting because there was not enough advance notice for me to plan to attend.

I actually like Sonic Restaurants very much but the location proposed at Belfast and York Roads is absolutely a danger and hazard for our neighborhood. The section of Belast Road closest to York is already dangerous for those of us with young children as we have no sidewalks, and cars are constantly driving above the speed limit up and down our street. If a Sonic were placed there, Belfast would become a cut-through for cars coming from the east side and would most likely increase our traffic dangerously.

I personally do not feel that this site should even be zoned anymore to permit a restaurant given the build up of the Timonium area within a 3 block section going north and side on York Road. Traffic is already congested and cars turning left and right from the middle lane are always in jeopardy of being hit from cars exiting the already busy side streets.

I don't believe there is any restaurant along York Road from the Towson circle up to Hunt Valley that backs up directly to a residential neighborhood with no buffer. There are so many problems with this plan and I would urge you to consider our neighborhood and the safety of our families when you make your decision in this case.

Sincerely,

A handwritten signature in purple ink that reads "Gail Baity". The signature is stylized with a large, looped "G" and a cursive "Baity".

Gail Baity
19 Belfast Road
Timonium, MD 21093
gbaity@verizon.net

MARGARET AYD REID
713 MILLDAM ROAD
TOWSON, MD 21286
(410) 825-2000

April 7, 2013

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

Dear Judge Beverungen:

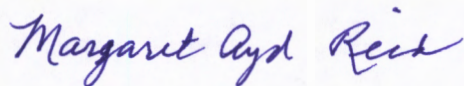
I arrived home from out of town today to find a handwritten envelope addressed to me in my mailbox with no stamp. It is the attached notice of Hearing on Motions for Reconsideration for the property at the corner of Belfast Road and York Road.

I am very distressed to see that the hearing is tomorrow morning. I left town on Thursday and this notice was not in my mailbox. I think it totally unfair that everyone was not given proper notice of this hearing so that they could plan to attend. A few days does not constitute ample time notification.

I will not be able to attend because I have a funeral to attend.

I think this hearing should be postponed until proper notification can be given to all interested parties.

Sincerely,



Margaret Ayd Reid

April 6, 2013
8 Belfast Rd
Timonium, MD 21093

To Whom it May Concern,

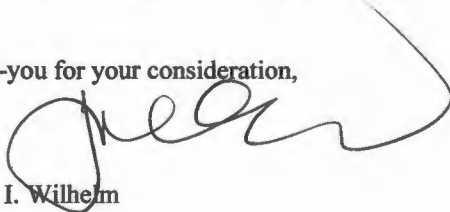
As a resident of 8 Belfast Road I am very concerned about the proposed Sonic on the corner of York and Belfast Roads. Traffic is already bad on our street with people using it as a 'cut-through' to York Road. I have 2 young children (age 5 and 7 years) and am concerned for their safety, and the safety of their friends as they play and /or walk to school.

It is already difficult to turn onto York Road from Belfast (and from York onto Belfast) during lunch and dinner hours. My neighbor has been hit twice already while doing so. The Sonic will multiply the traffic issues exponentially.

As a "Drive- In" (not "Drive-through", see their website), my family will be exposed to car exhaust and radio noise from people parking and eating at the Sonic. People will NOT turn their vehicles off in the heat of summer or cold of winter to save gas, as proposed.

I was not given enough notice of this court date in order to attend. I am sending this letter as a member of the Yorkshire community against the proposed Sonic.

Thank-you for your consideration,



Janice I. Wilhelm

John Beverungen - Sonic, Timonium, MD 21093 (Yorkshire-Haverford Community)

From: Debbie Henninger <dah7262@gmail.com>
To: <jbeverungen@baltimorecountymd.gov>
Date: 04/05/13 1:08 PM
Subject: Sonic, Timonium, MD 21093 (Yorkshire-Haverford Community)
Attachments: doc00109920130405125758.pdf

Honorable John E. Beverungen -

I am the President of the Yorkshire-Haverford Community Association and would like to present a letter, attached hereto, for your review and consideration in regard to the proposed Sonic within the community of YHCA.

Should you have any questions, please feel free to contact me, directly.

--

To inspire or motivate someone onto their own greatness is one of the greatest gifts you can give. Each and every person has latent skills, talents, and ideas for which they have hopes and dreams. If we can be just a small part of helping someone else, or ourselves, to see the possibilities and to move forward and break the barriers that will give these dreams life, we have caused the world to be a better place.

Debbie Henninger
410.982.3476



Please consider the environment before printing this email.

Yorkshire - Haverford Community Association

April 5, 2013

The Honorable John E. Beverungen
Administrative Law Judge for Baltimore County
The Jefferson Bldg.
105 W. Chesapeake Avenue, Suite 103
Towson, MD 21204

Dear Judge Beverungen:

I am the President of the Yorkshire - Haverford Community Association.

There has been some community concern about the proposal for the Sonic restaurant to be located on the northeast corner of York Road and Belfast Road in Timonium, MD 21093. In an effort to understand these concerns, pro and con, I offer the following timeline of my efforts.

1. Late last year, Mr. Behrle, owner of the existing Sonic on Pulaski Highway, approached me about his plan to locate a new Sonic on the corner of York and Belfast. He requested the opportunity to present his proposal to the YHCA Board of Directors first and later to the YH Community. Mr. Behrle presented his plans to the YHCA Board on 1/8/13.
2. During the 3rd week in January, the YHCA, via our "Newsletter" notified all the households in the YH community of the upcoming proposal. We also notified all attendees at our 1/24/13 community meeting of this proposal.
3. Mr. Behrle also contacted the Board of the GTCC and requested the opportunity to present his proposal to the entire Greater Timonium Community. This presentation was planned to occur during the 2/13/13 GTCC meeting.
4. Using the YHCA Facebook page, we requested that all residents attend, if possible, the GTCC meeting to hear the presentation and voice any concerns they may have.
5. Mr. Behrle gave a thorough presentation to the GTCC community attendees at that meeting. Surprisingly, even though the weather was fine, attendance was far lower than we expected or hoped.
6. We scheduled Mr. Behrle to address the YH community at our meeting on 3/28/13. Again, notification and encouragement was distributed to all households in the YH community via our "Newsletter."
7. In the interim, a Baltimore County zoning hearing took place, and the project was denied by the Administrative Law Judge, who felt that certain elements of the site plan were not allowed by County zoning law.

8. Prior to our scheduled meeting on 3/28/13, I personally knocked on the doors of approximately 200 households in our Yorkshire-Haverford community in an attempt to maximize attendance at the upcoming meeting.
9. Although Mr. Behrle could not attend our general meeting on 3/28/13, he did provide us with a modified plan that he believes addresses the Administrative Law Judge's concerns. Mr. Behrle also provided us with an artist rendering of the proposed building design.
10. Attendance at our meeting was excellent. We explained his proposal, to the best of our ability, along with the changes that were made to comply with the Administrative Law Judge's concerns.
11. We then opened the meeting for discussion.
12. A gentleman from the YH neighborhood addressed the attendees with his argument against the proposal. Although he mentioned several items of personal concern to one neighbor in particular, it seemed that his major objections were the potential noise that might be incurred by that immediate neighbor, as well as the possible depreciation of property value for that neighbor. Another attendee was not swayed by the depreciating property value argument because the owners of the property should have known of that potential before they bought their property.
13. During the discussion, there were many questions about traffic, noise, garbage, rodents and everything else one could think of. We attempted to answer all of these with what Mr. Behrle had told us at our (YHCA) Board meeting and again at the GTCC meeting. It seemed that the majority of concerns involved the perceived increase in traffic through our neighborhood.
14. At the end of a longer than normal meeting, we requested by show of hands how the attendees felt about the Sonic. With the exception of a few attendees, the vast majority were in favor of the Sonic.

Here is a list of what Mr. Behrle stated regarding how he intends to address the neighborhood's concerns, and how he hopes to contribute to the community:

1. He will plant sound absorbing and vision blocking trees on his side of the fence bordering the next door neighbor and is willing to plant the same on the other side of the fence if the neighbor wishes and permits.
2. His dumpster will be emptied early every morning. It will also be covered and totally enclosed to reduce any attraction to rodents.
3. He will speak to the owners of the stores in the next strip (where Maria's is and help them to control their garbage and its attraction for rodents.
4. He will speak to the Royal Farms Store owners about how he can assist in eliminating attractions to rodents.
5. He will hire local YH residents first, then GTCC residents. If more are needed, he will then go outside the Timonium area for employees.
6. His employees will "police" his area continually and pick up any trash that is discarded improperly.

7. There will be many trash cans available for customers to use.
8. Trash will be emptied into their dumpsters as soon as possible after they are filled.
9. He will advertise how to contact him if anyone has a concern about the property or how it is being maintained.
10. He will have cameras located around the property and have immediate access to what they see.
11. He will utilize various rodent traps within his property and monitor them regularly.
12. He will adjust all sound levels under his control to not be a disturbance to the neighbors.
13. He will offer discounts to Police Officers in an attempt to keep their presence in our neighborhood.
14. He will install "Right Turn Only" signs at both exits to discourage customers from turning east on Belfast or south on York.
15. He will provide traffic control as needed so that customers do not form a line on either York or Belfast. If the "Drive-Thru" or the restaurant is full people will be waived off.
16. He stated that he is willing to assist our community efforts in any way he can (of course, within limits).

Sincerely,

Deborah A. Henninger
President, Yorkshire - Haverford Community Association
100 Greenmeadow Drive
Timonium, MD 21093
410.982.3476
dah7262@gmail.com

From: Appeals Board
To: tshelton@baltimorecountymd.gov
Date: 6/19/2013 2:28 PM
Subject: Fwd: 2027 York Road (New Mail)
Attachments: YORKSHIRE.6.19.13.doc

>>> Debbie Henninger <dah7262@gmail.com> 06/19/13 14:27
>>>

Life is Good!
Deb Henninger, KWR-Balto

Begin forwarded message:

> From: Debbie Henninger <dah7262@gmail.com>
> Date: June 19, 2013, 1:23:25 PM EDT
> To: Administrativehearings@baltimorecountymd.gov
> Subject: Fwd: 2027 York Road
>
>
> Dear Judge Stahl -
>
> Attached hereto, please find a letter that I would ask you review
prior to making your decision.
>
>
>
> --
> To inspire or motivate someone onto their own greatness is one
of the greatest gifts you can give. Each and every person has
latent skills, talents, and ideas for which they have hopes and

dreams. If we can be just a small part of helping someone else, or ourselves, to see the possibilities and to move forward and break the barriers that will give these dreams life, we have caused the world to be a better place.

>

> Real Estate \$en\$e working for you...

>

>

> Debbie Henninger, REALTOR®

>

> Keller Williams Realty - Baltimore

> 2006 GBBR Leadership Graduate, 2009 MAR Leadership Graduate

> CDPE (Certified Distressed Properties Expert) * GRI (Graduate Realtor Institute)

> CRS (Certified Residential Specialist) * ABR - (Accredited Buyers Representative)

> CLHMS (Certified Luxury Home Marketing Specialist)

> WATERFRONT Specialist

>

> Yorkshire - Haverford Community Association - President

> Marine Trade Association - Baltimore County - Board Member

> "BAAC " Boating Act Advisory Committee - Committee Member

> National Association Realtors (NAR)

>

> 410.982.3476/410.342.4444(o)

> What is Your Home Worth? www.DebbieSellsBaltimore.com

>

> *Please note - I check email at fixed times during the day only - as a result I may not respond to your message right away. Thank you for your patience. In case of an emergency - please call my office at: 410-342-4444.

>

> P Please consider the environment before printing this email.

>

YORKSHIRE – HAVERFORD COMMUNITY ASSOCIATION

* * * * *

Lawrence M. Stahl,
Managing Administrative Law Judge
For Baltimore County
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Appeal to Board of Appeals
Case No. 2013-0171-SPHXA
Location: 2027 York Road

Dear Judge Stahl:

I want to thank you for taking the time to listen to some the residents concerns in the Yorkshire-Haverford Community.

Although, I want to let you know that the YHCA has bi-monthly meetings and we distinctly requested a meeting, prior to the last hearing, to discuss the SONIC, as to who was in favor and who was not. Only 1 resident attended that meeting and he was brought to the front to voice his concerns. No other resident came to the meeting who was opposed the Sonic location.

Therefore, we took a vote and the room elected that they want the Sonic at that site, that the Owner has reached out to the community, has been more then willing to help our community, and that Sonic being built there is better then a vacant lot as we have seen for years. We also acknowledged that there could be other things put in that same location that would hinder the community.

I did speak with an adjacent owner a few months ago and she is not opposed either and would love to see a new fence up, removing the chain link that has been destroyed.

I appreciate your time and should you have any questions, please feel free to call.

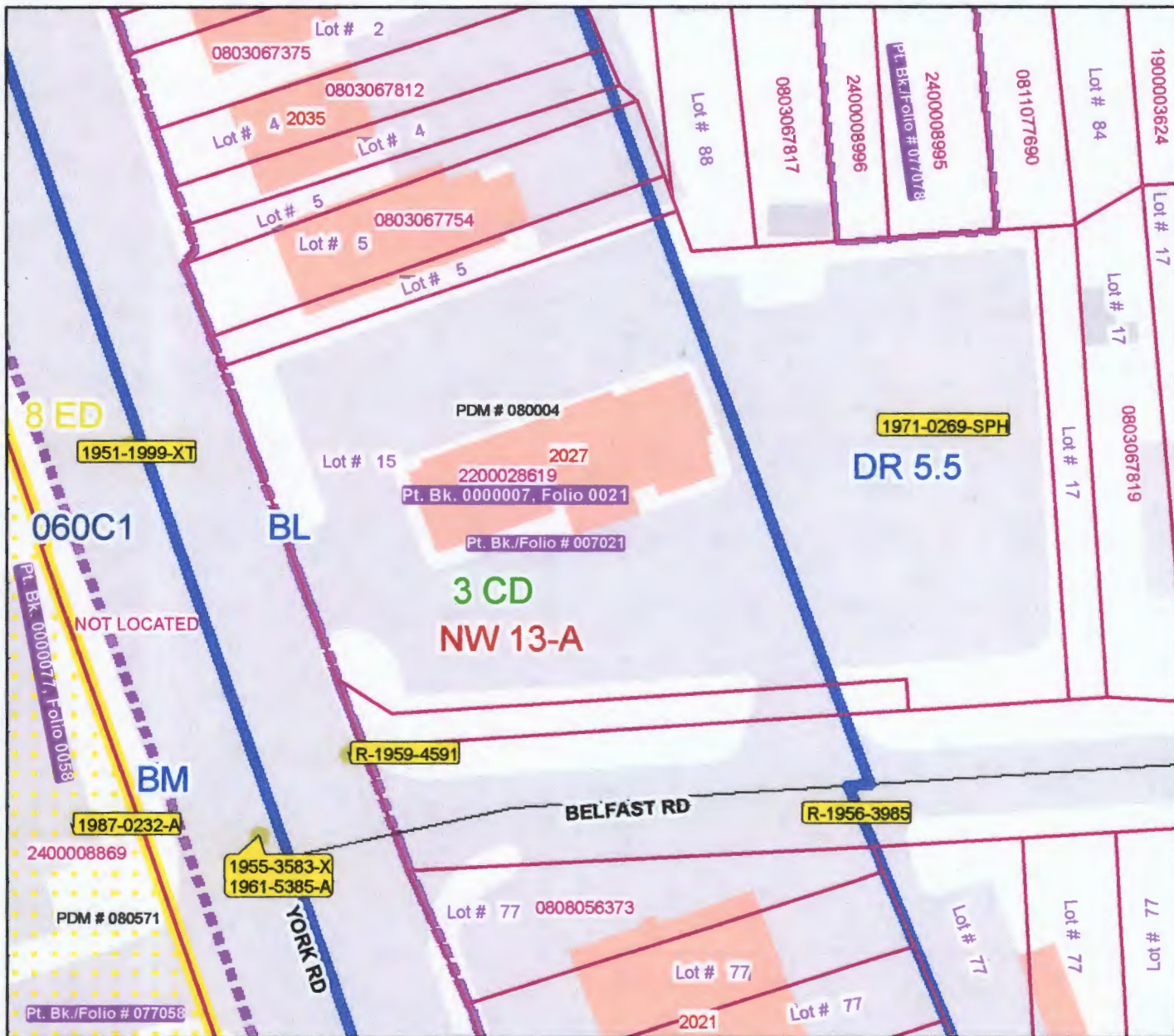
Sincerely,

Debbie Henninger, President
Yorkshire – Haverford Community Association

cc: Tom Burhle

Officers and Board Members of Yorkshire-Haverford community Assoc.

2027 York Road



Publication Date: January 16, 2013
Publication Agency: Permits, Approvals and Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



A horizontal scale bar with markings at 0, 50, and 100 feet. The bar is divided into alternating black and white segments. The word "Feet" is written at the right end.

1 inch = 50 feet

Item #0171

Maryland Department of Assessments and Taxation
Real Property Data Search (vw5.1A)
BALTIMORE COUNTY

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

Account Identifier:

District - 08 Account Number - 2200028619

Owner Information

Owner Name:	MARDINEY MICHAEL R JR	Use:	COMMERCIAL
Mailing Address:	7212 BELLONA AVE BALTIMORE MD 21212-1007	Principal Residence:	NO
		Deed Reference:	1) /15376/ 00310 2)

Location & Structure Information

Premises Address	Legal Description
2027 YORK RD 0-0000	.7526AC PL7-14,16L15 2027 YORK RD ES YORKSHIRE

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
0060	0012	0579		0000	F		15	2	
									Plat Ref: 0007/ 0021

Town NONE
Ad Valorem
Tax Class

Special Tax Areas

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1969	2602	32,783 SF	24

Stories	Basement	Type	Exterior
		FAST FOOD	

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2011	07/01/2012	07/01/2013
Land	823,300	823,300		
Improvements:	119,100	120,600		
Total:	942,400	943,900	943,400	943,900
Preferential Land:	0			0

Transfer Information

Seller:	CNL INCOME FUND XVIII,LTD	Date:	07/10/2001	Price:	\$885,000
Type:	ARMS LENGTH IMPROVED	Deed1:	/15376/ 00310	Deed2:	
Seller:	MCDONALDS CORPORATION	Date:	05/12/1997	Price:	\$673,637
Type:	NON-ARMS LENGTH OTHER	Deed1:	/12172/ 00667	Deed2:	
Seller:	MRO MID-ATLANTIC CORP	Date:	03/05/1997	Price:	\$90,000
Type:	NON-ARMS LENGTH OTHER	Deed1:	/12065/ 00111	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
--------------------------------------	----------------

PLEASE PRINT CLEARLY

CASE NAME 2013-0171-SPHXA

CASE NUMBER

DATE 3/18/13

Petitioner's

~~CITIZEN'S~~ SIGN - IN SHEET

NAME	ADDRESS	CITY STATE ZIP	E - MAIL
-------------	----------------	-----------------------	-----------------

[illegible]

CASE NAME Savin York & Belfast
CASE NUMBER 2013-0171-SPHX
DATE March 18, 2013

CITIZEN'S SIGN - IN SHEET

[illegible]

SONIC TIMOTHY

CASE NAME 2027 YORK ROAD
CASE NUMBER 2013-0171-SPHXA
DATE 04-08-2013

Proteins for Recon. Hearing

CITIZEN'S SIGN - IN SHEET

[illegible]

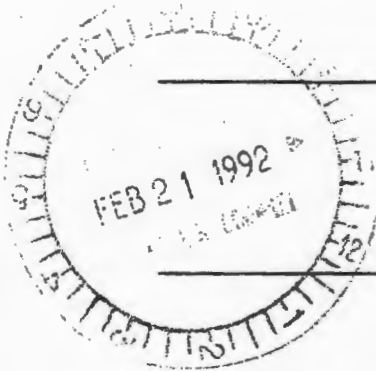
PLEASE PRINT CLEARLY

CASE NAME 2027 York Rd.
CASE NUMBER 2013-0171-SPHXA
DATE 4-8-2013

PETITIONER'S SIGN-IN SHEET *Motions for Reconsideration Hearing*

[illegible]

BILL NO. 2-92



MR. DOUGLAS B. RILEY, COUNCILMAN

BY REQUEST OF THE COUNTY EXECUTIVE

*Passed by Council
2-3-92
Effective
3-2-92*

BY THE COUNTY COUNCIL, JANUARY 6, 1992

A BILL ENTITLED

AN ACT concerning

Baltimore County Zoning Regulations

FOR the purpose of modifying the Baltimore County Zoning Regulations in accordance with the Master Plan; authorizing certain types of residential dwellings in certain zones as a matter of right; permitting density transfers in limited cases; altering the residential transition area provisions; providing definitions, bulk regulations; changing the circumstances under which a variance may be granted; requiring Council approval of the Comprehensive Manual of Development Policies; and generally relating to the regulation of residential subdivision development in Baltimore County.

BY repealing

Section 101 - Definitions

the definition of "Apartment Building", "Apartment, Group-house", "Window Facing a Property Line", and "Window, Facing"

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

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.



OFFICE COPY - DO NOT REMOVE

County Council of Baltimore County
Maryland

File
copy

Legislative Session 1970, Legislative Day No. 11

BILL NO. 100

Introduced by Mr. Bartenfelder, Councilman
(Request of County Executive)

By the County Council, July 6, 1970.

A BILL

Entitled

AN ACT to amend the Baltimore County Zoning Regulations to provide certain new regulations and to revise certain existing regulations for establishment of zoning classifications, conversion and redesignation of "Residence" zoning classifications; to provide for the deletion and addition of terms and definitions; to provide for the application of light manufacturing zoning regulations to areas covered by previously submitted subdivision plans; to establish Rural and Rural-Suburban zoning classifications, "Density" Residential (D.R.) zoning classifications and Elevator-Apartment-Residence Zoning Classifications; to amend the special regulations for Community-Core Commercial (C.C.C.) Districts; to revise the use regulations in Light Manufacturing (M.L.) Zones; to revise the regulations governing automotive service stations in permitted parking garages; to establish regulations for Unit Developments and the classifications and authorizations thereof; to provide for the continuing validity of special exceptions granted for elevator apartment buildings or office buildings under R.A. Zoning Classifications; to provide that the Planning Board may adopt and implement certain policies and procedures in furtherance of the Zoning Regulations; by repealing and re-enacting with amendments Subparagraph 100. 1. A. 2; by adding new Subsection 100.3A; by deleting and adding certain definitions to Section 101, entitled "Definitions"; by amending Subsection 103.1; by adding new Articles 1A and 1B; by repealing designation and title, "Article 2-Zones and Districts: Use, Height and Area Regulations" and the subtitle, "R.40 Zone-Residence, One-Family" and enacting in lieu thereof a new designation and title as follows:

Section 1B01—REGULATIONS WITH RESPECT TO D.R. ZONES IN GENERAL.
[Bill No. 100, 1970.]

1B01.1—General Use Regulations in D.R. Zones. [Bill No. 100, 1970.]

A.¹ Uses Permitted as of Right. The following uses, only, are permitted as of right in D.R. zones of all classifications, subject to the restrictions hereinafter prescribed:

1. Dwellings, including, but not limited to, one-family detached houses, one-family semi-detached houses, one-family group houses, patio houses, side-and-back-attached houses, two-family houses, town-house apartment buildings (including group-house apartment buildings), garden apartment buildings, and other apartment buildings
2. Trailers (see Section 415)
3. Churches, other buildings for religious worship, or other religious institutions.
4. Above-ground electrical-power, telephone, or telegraph lines, except above-ground electrical-power lines having a capacity of 35 kilovolts or more; pole-mounted transformers or transformer banks
5. Other cables; conduits; gas, water, or sewer mains; or storm-drain systems: all underground
6. Excavations, uncontrolled (as defined in Section 101)
7. Farms or limited-acreage wholesale flower farms (see Section 404)
8. Garages, community
9. Hospitals (see Section 407)
10. Local open space tracts or other common amenity open space
11. Research institutes, provided that no such use permitted hereunder (as of right) shall be established on any site less than 15 acres in net area, and that any such use shall be established in accordance with the provisions of Subsection 418.2
12. Schools, except business or trade schools or such schools as are permitted by special exception (see Paragraph C, below), but including schools for agricultural training
13. Signs, non-accessory, to the extent permitted under Section 413
14. Accessory uses or buildings other than those permitted only by special exception, including, but not limited to:
 - a. Accessory radio or television receiving antennas
 - b. Wireless transmitting and receiving structures, provided that any such structure: is a radio antenna in conjunction with transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission; if it is an independent structure, shall be subject to the same requirements as are applied to buildings under Section 400; if it is a rigid-structure antenna, shall be no higher than 50 feet above grade level and with no supporting structure

¹. All provisions of this paragraph from Bill No. 100, 1970.

County Council of Baltimore County Maryland

Legislative Session 1981, Legislative Day No. 14

BILL NO. 124-81

Mr. Hickernell, Councilman

By the County Council, July 6, 1981

A BILL ENTITLED

AN ACT concerning

Residential Transition Areas

FOR the purpose of repealing certain zoning regulations relating to residential transition areas and uses permitted therein; re-defining a residential transition area and a residential transition use; authorizing certain uses within a residential transition area and providing certain exceptions; providing certain standards and restrictions for such uses; providing procedures for the review and approval of a residential transition use; requiring that certain notification be given prior to such review and approval; and generally relating to uses in residential transition areas.

BY repealing and re-enacting, with amendments,

Subsection 1B01.1

Subparagraph B.1

Baltimore County Zoning Regulations, as amended

BY repealing

Subsection 1B01.2

Subparagraph C.4

Baltimore County Zoning Regulations, as amended

MR. WILLIAM R. EVANS, COUNCILMAN

BY THE COUNTY COUNCIL, MARCH 7, 1988

A BILL ENTITLED

AN ACT concerning

Parking

FOR the purpose of generally revising the Baltimore County Zoning Regulations in order to adopt new provisions governing all off-street parking and loading of vehicles in Baltimore County.

BY repealing

Sections 200.4.B., 201.4, 232A.5, 232B.6, 235A.5, 235B.6, 238A.5, 238B.6, 402.3.b., 406.2, 406A.4, 407.2.c., and 409

Baltimore County Zoning Regulations, as amended

BY adding

Section 409 - Off-Street Parking and Loading

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments

Sections 101, 1B01.1.B.1.a.2., 1B02.2.A., 1B02.2.B., 230.13, 233.2, 256.1, 410.3.B.7, 410.A.3.B.6, and 424.1.B.

Baltimore County Zoning Regulations, as amended

WHEREAS, the Baltimore County Council has received a final report from the Planning Board concerning the subject legislation and has held a public hearing thereon, now, therefore

1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY,
2. MARYLAND that Sections 200.4.B., 201.4, 232A.5, 232B.6, 235A.5, 235B.6, 238A.5,
3. 238B.6, 402.3.b., 406.2, 406A.4, 407.2.c., and 409 of the Baltimore County
4. Zoning Regulations, as amended, be and they are hereby repealed.

5. SECTION 2. AND BE IT FURTHER ENACTED, that Section 409 be and it is
6. hereby added to the Baltimore County Zoning Regulations, as amended, to read as
7. follows:

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.

IN RE: PETITIONS FOR SPECIAL HEARING, *	BEFORE THE
SPECIAL EXCEPTION AND VARIANCE *	ZONING COMMISSIONER
N/Side Liberty Road (Md. Rte. 26), NW *	
Corner of Liberty and Rolling Roads *	FOR
(8212 Liberty Road) *	
2 nd Election District *	BALTIMORE COUNTY
4 th Council District *	
Anna B. Beaty, et al, <i>Legal Owners</i> *	
Macro Holdings, LLC, <i>Contract Lessee</i> *	Case No. 2010-0116-SPHXA
<i>Petitioners</i>	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the property owners¹ and the contract lessee, Macro Holdings, LLC. Petitioners request special hearing relief in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a modified parking plan pursuant to Section 409.12.B of the B.C.Z.R. In addition, Petitioners request special exception relief to approve a drive-in restaurant pursuant to Section 230.3 of the B.C.Z.R. Finally, Petitioners request a variance, in the alternative in the event the modified parking plan is not approved as part of the special hearing request, to permit 394 parking spaces in lieu of the required 500 pursuant to B.C.Z.R. Section 409.6.A.2, and to permit the drive-through lane to cross the principal pedestrian access to the facility pursuant to B.C.Z.R. Section 409.10.B. The subject property and requested relief are more fully described on the two-page site plan, which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the requested relief were Sean

¹ The shopping center at 8212 Liberty Road is held in trust by Raymond H. Beaty, Anna B. Beaty, and Jacqueline Anne Mickiewicz.

IN RE: PETITION FOR SPECIAL EXCEPTION *

SE/S of Pulaski Highway, 150' SW of the

C/line of Rossville Boulevard *

(8733 Pulaski Highway) *

15th Election District *

7th Council District *

TD Bank, NA, *Legal Owners* *

Entourage Ventures, LLC, *

Contract Purchasers *

Petitioners *

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 2011-0149-X

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by Petitioner/Contract Purchaser, Entourage Ventures, LLC, through its attorney, Gildea and Schmidt, LLC. The Petition was also executed by the property owner, TD Bank, NA. Petitioner requested a special exception to approve a drive-in restaurant, pursuant to Section 236.2 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more fully described on the site plan and colored plan, which were marked and accepted into evidence as Petitioners' Exhibits 1 and 2.

Appearing at the requisite public hearing in support of the request was Thom Behrle, authorized representative for Entourage Ventures, LLC. The Petitioner was represented by Jason T. Vettori, Esquire, with Gildea & Schmidt, LLC. Also present at the hearing was Joseph J. Ucciferro, P.E., with Bohler Engineering, Inc., the civil engineers/land development consultants who prepared the plan. David K. Gildea, Esquire and Sara Behrle were also present. The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. Melissa R. Sadowski, Business Development Representative, from the Baltimore County

Case No: 13-171-SP4XACase Name: In The Matter of Michael Marduey, Jr MD/LO
Entourage Development LLC 2027 Vnk Rd
Exhibit ListParty: PetitionerDate: 6/20/13

Exhibit No:	Description:
✓ 1	revised petition for zoning hearing
✓ 2	existing site plan for SONIC
✓ 3A	photo front of Amy Rogers
✓ 3B	photo rear of Amy Rogers
✓ 3C	photo Maria D's dumpster
✓ 3D	photo - dumpster at other location
✓ 3E	photo depiction of proposed SONIC - lg photo
✓ 3F	photo depiction of proposed SONIC lg photo
✓ 4	Menu
✓ 5	Site plan
✓ 6	Letter from GTCC president
✓ 7	Letter Yorkshire-Haverford Community Assoc president
✓ 8	Birchwood Report showing surrounding businesses
✓ 9	landscape plan
VERIFIED BY <u>SC</u> DATE: <u>6/20/13</u>	

Case No: 13-71-SP4YA

Case Name: In The Matter of Michael Mardinez, Jr MD/LO
EntreVue Development LLC / 205 York Rd

Party: Pittman

Date: 6/20/13

[illegible]



REVISED 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 2027 York Road.

which is presently zoned BL & D.R. 5.5

Deed Reference 15376/00310

10 Digit Tax Account # 2 2 0 0 0 2 8 6 1 9

Property Owner(s) Printed Name(s) Michael R. Mardiney, Jr.

CASE NUMBER _____ Filing Date ____/____/____ Estimated Posting Date ____/____/____ Reviewer _____

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

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

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

Please see attached.

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

Please see attached.

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:

Tom Berhle, Authorized Representative of Entourage Development, LLC

Name- Type or Print

Signature

39 Brett Manor Court Hunt Valley MD

Mailing Address City State

21030 (443) 756-2623 sonicbaltimore@gmail.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

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

Name- Type or Print

Signature

600 Washington Avenue, Suite 200, Towson, MD

Mailing Address City State

21204 (410) 821-0070 jvettori@sgs-law.com

Zip Code Telephone # Email Address

Legal Owners:

Michael R. Mardiney, Jr., M.D.

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

7212 Bellona Avenue Baltimore MD

Mailing Address City State

21212 (443) 722-6821 michaelmardineyjrmd@mardiney.com

Zip Code Telephone # Email Address

Representative to be contacted:

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

Name - Type or Print

Signature

600 Washington Avenue, Suite 200, Towson, MD

Mailing Address City State

21204 (410) 821-0070 jvettori@sgs-law.com

Zip Code Telephone # Email Address

Petitioner's
1

Pektiwae's
3A Exhibit





Activeness Exhibit
3C

Abbot's Exhibit
3D



ULTIMATE DRINK STOP

SIGNATURE LIMEADES

With Fresh Limes
 Cherry / Strawberry / Lime / Creamery
 Low-Cal Diet Cherry / Low-Cal Diet Lime

SLUSHES

Passion Slush
 Strawberry / Orange / Lemon / Lime
 Real Fruit Slushes

ULTIMATE ICED TEA STOP

See Our Flavor Add-Ins
 Also Available in Caramel Ice

SOFT DRINKS

Ocean Water
 A Tangy Sea Water with a Hint of Citrus

Orange Juice or Creamery Juice Cocktail

Minute Made®
 100% Apple Juice Box

SONIC Wave® Bottled Water

Premium Real Coffee
 A Bold & Smooth Coffee with a Hint of Citrus

HAPPY HOUR

FLAVOR ADD-INS

REAL FRUIT FLAVOR ADD-INS

LIGHTEN UP

Lighten up your drink with a hint of citrus or a splash of real fruit flavor.

COMBOS

MEDIUM * Entree + Med. Topp. or Fries + Med. Soft Drink
LARGE * Entree + Lg. Topp. or Fries + Lg. Soft Drink

SONIC Favorites

MAKE IT YOURS

Crispy Bacon Hot Dog

American Cheese Sassy Jalapenos

Hickory BBQ Sauce Light Ranch Dressing

Ster Green Onions

1 **SONIC® Cheeseburger**

To & Pine Seed, Mayo, Mustard or Ketchup

Med. Onion

2 **SuperSONIC® Double Cheeseburger**

To & Pine Seed, Mayo, Mustard or Ketchup

Med. Onion

3 **SuperSONIC® Bacon Double Cheeseburger**

To & Pine Seed, Mayo, Mustard or Ketchup

Med. Onion

4 **SONIC® Bacon Cheeseburger**

To & Pine Seed, Mayo, Mustard or Ketchup

Med. Onion

5 **Chicken Wrap**

Chili Sauce or Light Mayo

Med. Onion

6 **Premium Beef Hot Dogs**

Mustard, Ketchup, Pine Seed

Cherry Top Bun

7 **SuperSONIC® Bacon Double Cheeseburger**

To & Pine Seed, Mayo, Mustard or Ketchup

Med. Onion

8 **Jumbo Popcorn Chicken***

Mustard, Ketchup, Pine Seed

Cherry Top Bun

9 **Classic Chicken Sandwiches**

Cherry Top Bun

10 **Chicken Strips**

Mustard, Ketchup, Pine Seed

Cherry Top Bun

11 **Breakfast Burrito**

Scrambled Eggs, Sausage, Cheese, Hash Browns

Med. Onion

12 **SuperSONIC® Breakfast Burrito**

Scrambled Eggs, Sausage, Cheese, Hash Browns

Med. Onion

13 **Premium Breakfast Burrito**

Scrambled Eggs, Sausage, Cheese, Hash Browns

Med. Onion

14 **Breakfast Tostitos***

Scrambled Eggs, Sausage, Cheese, Hash Browns

Med. Onion

15 **French Toast Sticks**

Scrambled Eggs, Sausage, Cheese, Hash Browns

Med. Onion

PLUS UP A COMBO

Mozzarella Sticks

With Marinara

Handmade Onion Rings

Crispy & Hot

Ched 'R' Peppers*

With Sauce

Chili Cheese Tots or Fries

With Sauce

Tots or Fries

Apple Slices

With Ice Cream

Chili Pie

With Ice Cream

Chili Pie

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FROZEN ZONE

SONIC BLAST®

With Real Ice Cream, Whipped Topping & Candy Sprinkles

Hand-Mixed Shakes & Malts

Vanilla / Chocolate / Strawberry / Fresh Sausage

Caramel / Pineapple / Hot Fudge

CreamBlitz® Treats

A Fluffy Blend of Shells & Real Ice Cream with Whipped Topping

Vanilla / Chocolate / Strawberry / Fresh Sausage

Caramel / Pineapple / Hot Fudge

Java Chillers

A Blend of Soft Shells & Real Ice Cream with Whipped Topping

Vanilla / Chocolate / Strawberry / Fresh Sausage

Caramel / Pineapple / Hot Fudge

Old School Fudge

With Real Ice Cream & Real Chocolate Shavings

Vanilla / Chocolate / Strawberry / Fresh Sausage

Caramel / Pineapple / Hot Fudge

Real Ice Cream Sundae

With Real Ice Cream & Real Chocolate Shavings

Vanilla / Chocolate / Strawberry / Fresh Sausage

Caramel / Pineapple / Hot Fudge

Molten Cake Sundaes

A Warm Molten Cake with Real Ice Cream & Real Chocolate Shavings

Vanilla / Chocolate / Strawberry / Fresh Sausage

Caramel / Pineapple / Hot Fudge

Real Ice Cream Sundae

With Real Ice Cream & Real Chocolate Shavings

Vanilla / Chocolate / Strawberry / Fresh Sausage

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Caramel / Pineapple / Hot Fudge

Molten Cake Sundaes

A Warm Molten Cake with Real Ice Cream & Real Chocolate Shavings

Vanilla / Chocolate / Strawberry / Fresh Sausage

Caramel / Pineapple / Hot Fudge

BREAKFAST

MEDIUM COMBO

Entree + Med. Topp. or Fries + Med. Soft Drink

11 **Breakfast Burrito**

Scrambled Eggs, Sausage, Cheese, Hash Browns

Med. Onion

12 **SuperSONIC® Breakfast Burrito**

Scrambled Eggs, Sausage, Cheese, Hash Browns

Med. Onion

13 **Premium Breakfast Burrito**

Scrambled Eggs, Sausage, Cheese, Hash Browns

Med. Onion

14 **Breakfast Tostitos***

Scrambled Eggs, Sausage, Cheese, Hash Browns

Med. Onion

15 **French Toast Sticks**

Scrambled Eggs, Sausage, Cheese, Hash Browns

Med. Onion

FULL MENU SERVED ALL DAY

REAL ZONE

With Real Ice Cream, Whipped Topping & Candy Sprinkles

Hand-Mixed Shakes & Malts

Vanilla / Chocolate / Strawberry / Fresh Sausage

Caramel / Pineapple / Hot Fudge

CreamBlitz® Treats

A Fluffy Blend of Shells & Real Ice Cream with Whipped Topping

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Caramel / Pineapple / Hot Fudge

Molten Cake Sundaes

A Warm Molten Cake with Real Ice Cream & Real Chocolate Shavings

Vanilla / Chocolate / Strawberry / Fresh Sausage



Petitme's 3E

WELCOME

BSUNNIN





The Greater Timonium Community Council

9b Ridgely Rd., Box 276, Timonium, Maryland 21093
<http://www.gtccinc.org>

June 18, 2013

Mr. Tom Berhle Lane
c/o Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Towson, MD 21204

Re: Case #: 13-171-SPHX-A

Dear Mr. Berhle:

This letter is in response to your request for me to characterize the reaction to your presentation about the proposed Sonic Restaurant you hope to build at the corner of York and Belfast Roads in Timonium. At our March 13, 2013 Greater Timonium Community Council meeting you presented a verbal and multi-media presentation to familiarize the audience with the Sonic franchise and your existing restaurant on Pulaski Highway.

Our audience consisted of twenty two residents who signed the "meeting sign-in sheet", and I would suspect that a few other persons who did not sign in. Of the group that did, in fact, sign in, nine distinct community associations were represented. Overall, I would characterize the reception to your presentation to be a positive one, but your presentation did meet with some criticism. Those who objected to your proposal consisted of seven or eight residents who live on Belfast Road, Evans Avenue or Vista Lane, in close proximity to the site. However, the majority of those in attendance did not object or in fact saw your proposal in a positive light because it would improve the appearance of a long vacant property.

Let me conclude by saying that our organization did not take a "formal" position on your development because of the disagreement between the immediate neighbors, who oppose the project, and the Yorkshire-Haverford Community Association, who support the project. But I would venture to say that the majority of our membership that has expressed an opinion has been supportive.

Sincerely,

A handwritten signature in black ink that reads "Eric Rockel". The signature is written in a cursive, flowing style.

Eric Rockel
President

Petitioner's Exhibit
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YORKSHIRE – HAVERFORD COMMUNITY ASSOCIATION

* * * * *

Lawrence M. Stahl,
Managing Administrative Law Judge
For Baltimore County
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Appeal to Board of Appeals
Case No. 2013-0171-SPHXA
Location: 2027 York Road

Dear Judge Stahl:

I want to thank you for taking the time to listen to some the residents concerns in the Yorkshire-Haverford Community.

Although, I want to let you know that the YHCA has bi-monthly meetings and we distinctly requested a meeting, prior to the last hearing, to discuss the SONIC, as to who was in favor and who was not. Only 1 resident attended that meeting and he was brought to the front to voice his concerns. No other resident came to the meeting who was opposed the Sonic location.

Therefore, we took a vote and the room elected that they want the Sonic at that site, that the Owner has reached out to the community, has been more then willing to help our community, and that Sonic being built there is better then a vacant lot as we have seen for years. We also acknowledged that there could be other things put in that same location that would hinder the community.

I did speak with an adjacent owner a few months ago and she is not opposed either and would love to see a new fence up, removing the chain link that has been destroyed.

I appreciate your time and should you have any questions, please feel free to call.

Sincerely,

Debbie Henninger, President
Yorkshire – Haverford Community Association

cc: Tom Burhle
Officers and Board Members of Yorkshire-Haverford community Assoc.

Not time is Exh
7

#1.	Burger King-TR LUTHERVILLE TIMONIUM MD, 21093 BALTIMORE CurrentAnnualSales PastAnnualSales GEOADDRESS PMG_PAST_MKT_GRADE_ PNG_PAST_NATL_GRADE_ CNG_CURR_NATL_GRADE_ CMG_CURR_MKT_GRADE_	Distance 0.1 mi Direction South 2089000 1995000 2000 YORK RD A- A+ A+ A
#2.	Dunkin' Donuts LUTHERVILLE TIMONIUM MD, 21093 BALTIMORE CurrentAnnualSales PastAnnualSales GEOADDRESS PMG_PAST_MKT_GRADE_ PNG_PAST_NATL_GRADE_ CNG_CURR_NATL_GRADE_ CMG_CURR_MKT_GRADE_	Distance 0.1 mi Direction South 1110000 858000 2001 YORK RD C+ C B+ A-
#3.	Subway Sandwich and Salad LUTHERVILLE TIMONIUM MD, 21093 BALTIMORE CurrentAnnualSales PastAnnualSales GEOADDRESS PMG_PAST_MKT_GRADE_ PNG_PAST_NATL_GRADE_ CNG_CURR_NATL_GRADE_ CMG_CURR_MKT_GRADE_	Distance 0.3 mi Direction South NULL NULL 1830 YORK RD NULL NULL NULL NULL
#4.	McDonald's-TR LUTHERVILLE TIMONIUM MD, 21093 BALTIMORE CurrentAnnualSales PastAnnualSales GEOADDRESS PMG_PAST_MKT_GRADE_ PNG_PAST_NATL_GRADE_ CNG_CURR_NATL_GRADE_ CMG_CURR_MKT_GRADE_	Distance 0.4 mi Direction North-West 3254000 2779000 2116 YORK RD B+ B+ B B-

\$ 1,110,000 @ 3.00 CHECK Avg = 1013 Customers / DAY
SONIC ROSEDALE Avg 500 CUST / DAY

Petitioner's Exhibit
8



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

State Highway
Administration

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

MARYLAND DEPARTMENT OF TRANSPORTATION

EXHIBIT

5

Date: 2-26-13

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

RE: Baltimore County

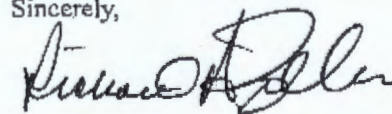
Item No. 2013-0171-SPHX
Special Hearing Special Exception
Variance
Michael R. Mardiney, M.D.
2027 York Road
MD45

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 2-25-13. A field inspection and internal review reveals that an entrance onto MD45 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Variance. Case Number 2013-0171SPHX.

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

Sincerely,


Steven D. Foster, Chief
Access Management Division

SDF/raz

My telephone number/toll-free number is _____

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

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

Petitioner's Exhibit
10

JOHN P. DEMOS, P.E., L.S.
4901 Picker Drive
Pylesville, MD 21132
Phone: 443-324-1641

Education:

- West Virginia Institute of Technology
Associate in Science, Civil Engineering Technology, 1994
- West Virginia Institute of Technology
Bachelor of Science, Engineering Technology / Surveying, 1995

Licenses and Registrations:

- Professional Engineer License No. 056089 – Pennsylvania - 2001
- Professional Engineer License No. 27189 – Maryland - 2001
- Professional Engineer License No. 037254 – Virginia – 2001
- Professional Engineer License No. 13283 – Delaware – 2003
- Professional Land Surveyor License No. 21327 – Maryland - 2009

Experience Summary:

State Line Engineering, LLC (March 2007 to Present) concurrent with Ground Tek, Inc

- President
Responsibilities include the planning, design and preparation of plans associated with residential and commercial development. Aspects of design include; site plans, stormwater management plans, grading / sediment and erosion control plans, road and storm drain plans, water and sewer plans, residential and commercial entrance plans, landscape plans, performed extensive hydrology and hydraulic calculations for storm drainage, stormwater management and flood studies. The design of house plans, minor additions, and performance of limited structural analyses. Performed boundary survey work, topographic surveys, and survey computations as they relate to construction and utility stakeout. Have worked with clients directly to identify and implement their objectives in a timely manner, while meeting budgetary goals.

As the executive in the company I have also been responsible for marketing, procurement, and accounting, which has given me a valuable understanding of the managerial aspects of running a company.

Ground Tek, Inc. (March 2004 to December 2004 / March 2007 to Present)

- Project Engineer
Responsibilities include the design of structures, assessment of existing structures, Inspection of footings, foundations and slabs for residential and commercial structures. Provide recommendations for structural repairs. Design of residential and minor commercial structures.

71-269 SPH

Pursuant to the advertisement, posting of property, and public hearing on the above petition, and it appearing that by reason of the following finding of facts that the public health, safety and general welfare of the locality involved not being adversely affected.

the above Special Hearing for Off-Street Parking in a Residential Zone in accordance with the plat dated March 23, 1970, revised May 6, 1971, and approved by ~~George H. Pryor, Jr., Assistant Chief of the Processing Section of Project Planning, Office of Planning and Zoning for Baltimore County, said plat having been filed as Exhibit "A" in this proceeding, and which is incorporated by reference hereto as a part of this Order, should be granted.~~

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 2 day of June, 1971, that the herein Petition for

Special Hearing should be and the same is Granted, from and after the date of this Order, to permit Off-Street Parking in a Residential Zone, subject to the approval of the site plan by the State Roads Commission, the Bureau of Public Services and the Office of Planning and Zoning.

Edward D. Hides
Zoning Commissioner of Baltimore County

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

the above Special Hearing should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 196__, that the above Special Hearing be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING

DATE 6/3/71 BY JC Harris

ADMINISTRATIVE ASSISTANT

ESTATE OF SAMUEL T. CROWTHER #71-269
North side of Belfast Rd.
221 ft. East of York Rd.
8th

Petitioner's Exhibit
12



KEVIN KAMENETZ
County Executive

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

February 20, 2013

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2013-0171-SPHX

2027 York Road

N/east corner of York Road and Belfast Road

8th Election District – 3rd Councilmanic District

Legal Owners: Michael Mardiney, Jr., M.D.

Contract Purchaser: Entourage Development, LLC, Tom Berhle

Special Hearing to approve the request for confirmation that the existing parking facility was authorized under Case No. 1971-0269-SPH and a modified parking plan pursuant to Section 409.12.B of the BCZR and for such other and further relief as may be deemed necessary by the Administrative Law Judge. **Special Exception** relief to use property for a drive-in restaurant in accordance with Section 230.3 of the BCZR, and for such other and further relief as may be deemed necessary by the ALJ.

Hearing: Monday, March 18, 2013 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Arnold Jablon", is written over the hearing information.

Arnold Jablon
Director

AJ:kl

C: Jason Vettori, 600 Washington Avenue, Ste. 200, Towson 21204
Tom Berhle, 39 Brett Manor Ct., Hunt Valley 21030
Michael Mardiney, Jr., M.D., 7212 Bellona Avenue, Baltimore 21212

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, FEBRUARY 26, 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.**

(m) *Concept plan.* "Concept plan" means a schematic plan that:

- (1) Is generally in compliance with county standards and drawn to an appropriate scale;
- (2) Outlines the major features of a proposed development; and
- (3) Is to be used as the basis for a community input meeting.

(n) *Cul-de-sac.* "Cul-de-sac" means a local street that has only one outlet and an appropriate terminal for the safe and convenient reversal of traffic movement.

(o) *Delinquent account.* "Delinquent account" means fees or costs certified by the Director of Budget and Finance as due and owing to the county by a person for any development.

(p) *Development.* "Development" means:

- (1) The improvement of property for any purpose involving building;
- (2) The subdivision of property;
- (3) The combination of any two or more lots, tracts, or parcels of property for any purpose;
- (4) Subjecting property to the provisions of the Maryland Condominium Act; or
- (5) The preparation of land for any of the purposes listed in this subsection.

(q) *Development Plan.* "Development Plan" means a written and graphic representation of a proposed development prepared in compliance with Subtitle 2 of this title.

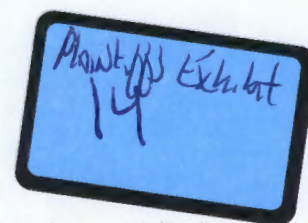
(r) *Enhancement.* "Enhancement" means the improvement or development of resource values resulting in a net increase of resource over existing conditions.

(s) *Environmental agreement.* "Environmental agreement" means an agreement concerning an applicant's obligations required by the county, including:

- (1) Chesapeake Bay Critical Area Management;
- (2) Forest buffer protection;
- (3) Forest conservation;
- (4) Grading or sediment control;
- (5) Stormwater management; and
- (6) Wetland mitigation.

(t) *Final action.* "Final action" on a Development Plan means:

- (1) The approval of a Development Plan as submitted;
- (2) The approval of a Development Plan with conditions; or



alley by deed.

(e) *Applicant*. "Applicant" means a person who is an owner, contract purchaser, or the legally authorized representative of an owner or contract purchaser requesting approval of development under this title.

(f) *Arterial street*.

(1) "Arterial street" means a motorway or portion of a motorway that:

- (i) Is intended for travel to or from major activity centers, such as town centers; and
- (ii) Is designed to give priority to traffic movement as opposed to providing direct access to land.

(2) "Arterial street" does not include a freeway or an expressway.

(g) *Building*. "Building" means a structure that is enclosed within exterior walls or firewalls for the shelter, support, or enclosure of persons, animals, or property of any kind.

(h) *Circulation*.

(1) "Circulation" means provision for the movement of people, goods, water, sewage, or power by means of streets, highways, railways, waterways, airways, pipes, conduit cables, or other means.

(2) "Circulation" includes provision of facilities for transit, transportation, and communication.

(i) *Cluster subdivision*.

(1) "Cluster subdivision" means a residential development of land in a D.R. 5.5 zone involving the building of residential housing.

(2) "Cluster subdivision" does not include a residential development with single-family detached, semi-detached, and two-family dwellings.

(j) *Collector street*. "Collector street" means a street that:

- (1) Functions to conduct traffic between major arterial streets or activity centers;
- (2) Is a principal traffic artery within residential areas; and
- (3) May carry a relatively high volume of traffic.

(k) *Commercial development*. "Commercial development" means the development of land for any purpose or use allowed as of right or by special exception in commercial zones in accordance with the Baltimore County Zoning Regulations.

(l) *Community input meeting*. "Community input meeting" means an open meeting among representatives of the county, the applicant, owners of adjacent property, and representatives of local community associations or umbrella groups for the purpose of presenting and discussing concept plans and proposals.

Case No: 13-171-SP17XACase Name: In The Matter of Michael Marchese Jr MD/LS
ENTOUAGE Development LLC / 2017 York Rd
Exhibit ListParty: protestantsDate: 6/20/13

Exhibit No:	Description:
✓ 1	resumé of W- MARIA Markham Thompson
✓ 2	Yorkshire Zoning map
✓ 3	York Rd Topographic map
✓ 4	photo- belfast rd at Subethinec lane
✓ 5	photo - belfast rd with
✓ 6	photo - belfast rd
✓ 7	request for traffic mgmt program
✓ 8	photo parking spaces Maria's
✓ 9	photo - York Rd at Elm - driveway onto York Rd
✓ 10	memo for Peter Zimmerman - part of fire from below
✓ 11	extended vehicle idling study
✓ 12A-C	photo of auto accident
✓ 13	photo from 4 Belfast Rd
✓ 14	signatures of people objecting to Permit
VERIFIED BY <u>SC</u> DATE: <u>6/20/13</u>	

Case No: 13-171-SP HXA

Case Name: In The Matter of Michael Maidney Jr MD/LLC
Entourage Development LLC / 2027 York Rd
Exhibit List

Party: Protestants

Date: 6/20/13

Exhibit No:	Description:
✓ 15	book Article re: Sonic
✓ 16 A-C	photos Wendy's fence
✓ 17	photo McDonalds traffic
✓ 18 A-G	Letters objecting to Sonic
✓ 19	Article Noise pollution
✓ 20 A-D	comparisons Balto County Sonics
	VERIFIED BY <u>SA</u> DATE: <u>6/20/13</u>

CORE COMPETENCIES

Detail oriented Financial Analyst with strong research, management, and communication skills.

- Advanced computer skills: Microsoft 2007/2010: Word, Excel (PIVOT Tables, VLOOKUP, audit trace, statistical functions, linked workbooks), PowerPoint, Visio.
- Team leadership in multi-discipline/multi-cultural settings.
- Treasury management functions: cash flow forecasting, bond issuance, banking relationships.
- Budget preparation, variance analysis, and reporting.
- Strong GAAP knowledge with hands-on G/L, A/R, A/P, payroll, MD&A, monthly close, and audits.

EXPERIENCE

Division Chief – Contract Administration.

City of Baltimore. Department of Public Works. August 2011 – March 2013.

- ***Directed 16 person division.***
- Managed over \$300 million annually of water/wastewater engineering and construction contracts.
- Reorganized and automated processes to eliminate 90 day back log in \$5 million/month Invoice Unit.
- Streamlined construction change order process reducing total time by 30%.

Energy Analyst (Grant Funded Contract)

Maryland Public Service Commission. Baltimore, MD. August 2010 – June 2011.

- Authored segments on generation trends from fossil and alternative energy in 10 Year Energy Plan
- Modeled legislative proposals for off-shore wind projects demonstrating impacts based on seasonal hourly peak and off-peak PJM Locational Marginal Prices and transmission constraints.
- Prepared agency white paper on successful legislation reclassifying solid waste as a Tier 1 fuel.
- Contributed quantitative support for testimony in cases involving electric vehicle charging stations, smart meters, and independent electric supplier compliance.

Public Accounting Practice. Maria Markham Thompson, CPA. Full-time October 2008 – June 2010.

Part-time October 1996 – present.

- Accounting and tax services for small businesses, not-for-profits, and individuals.

Vice President – Institutional Investment Marketing and Sales.

MTB Investment Advisors, Inc. (M&T Bank). Baltimore, MD. June 2000 – September 2008.

Registered Investment Adviser with \$15 billion in assets.

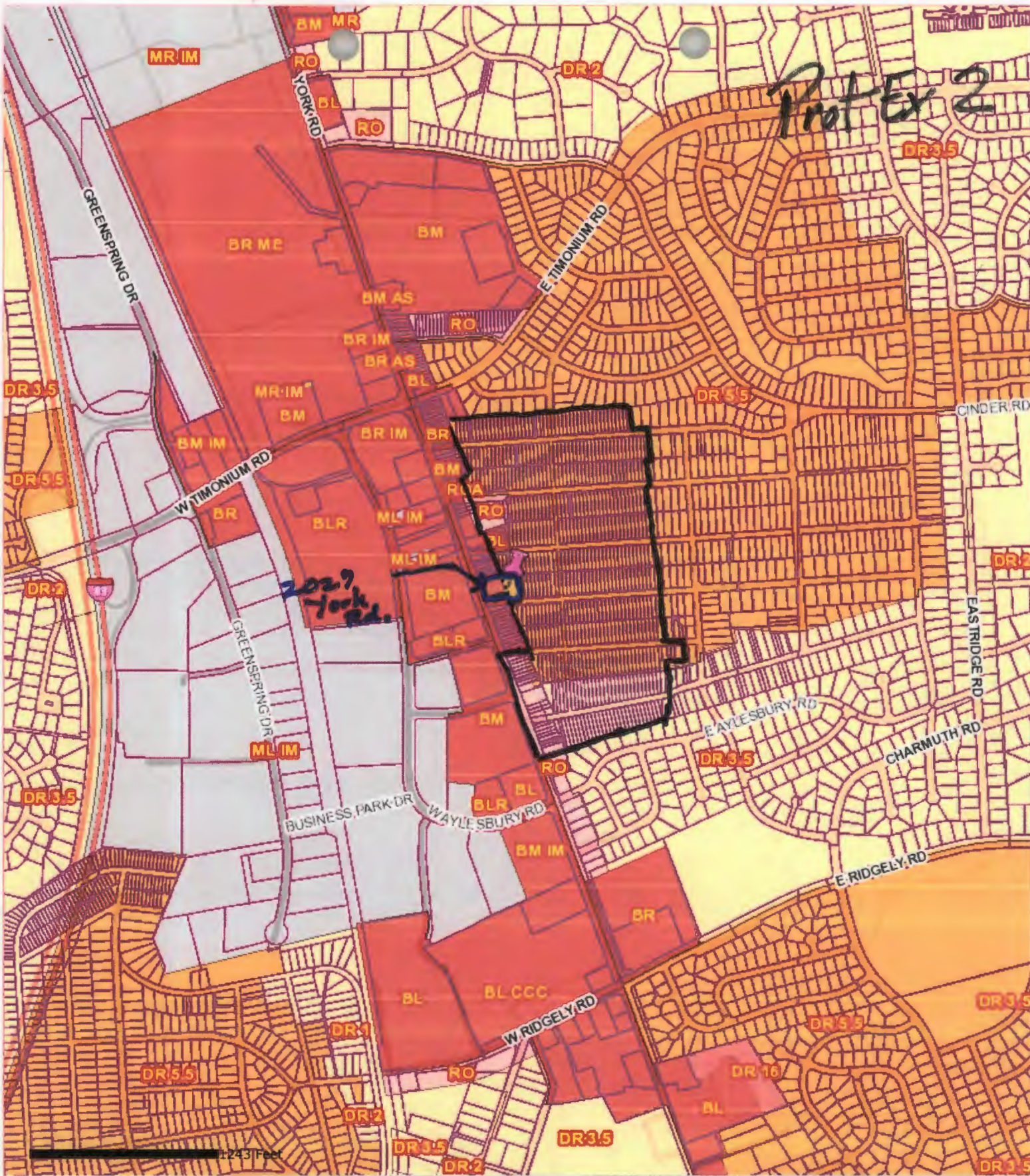
- Produced over \$2 billion in successful proposals. Lead responsibility for analytic and editorial content prepared in answer to complex RFPs from institutional investors.
- Coordinated with SMEs to write accessible client letters and proposals describing investment strategies, quantitative portfolio characteristics, and performance relative to benchmarks.
- Major contributor to team implementing Global Investment Performance Standards (GIPS).
- Conceived, researched, and wrote white papers on investment and economic topics including socially responsible investing, portfolio risk management, and energy sector trends.

Chief Financial Officer and Portfolio Administrator.

Chapman Capital Management, Inc. Baltimore, MD. January 1997 – May 2000.

Registered Investment Adviser with \$750 million in assets.

- Evaluated performance trends and performed due diligence in manager-of-manager ERISA product.
- Instituted AIMR-PPS (now GIPS) compliance for 3 equity and 2 fixed income composites.
- Prepared financial statements, MD&A, and GAAP disclosures for 10K, 10Q, IPO, and annual proxies.
- Extensive coordination with attorneys, external auditors, and bankers.
- Filed Federal and multiple state income tax returns and Maryland personal property tax returns.



Prot Ex 2



Yorkshire zoning

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Baltimore County
My Neighborhood



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Printed 6/13/2013

Protestants
Exhibit #3 2



N →
Belfast Rd @ Sweetbrier Lane

12 Belfast

protestants
Exhibit 4



→ N

Belfast Rd .. 22' Paved Surface

North curb to South Pavement Edge

protestant
whit #5

#6



→ N

06-18-2013

Broken line on traffic counter @ 4 Belfast Rd.
Second attempt following 06-10-13 failure

Protestants
Exhibit # 6

#7

MARIA MARKHAM THOMPSON, CPA, CFA
10 BELFAST ROAD, TIMONIUM, MD 21093
PHONE: 443-478-8802 CELL PHONE: 443-742-4674
MARIATHOMPSON@WRITERCPA.COM

May 11, 2013

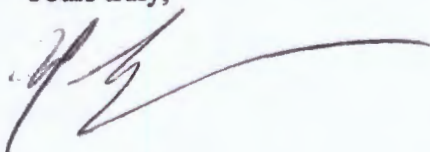
Mr. W. William Korpman, III
Bureau Chief
Bureau of Traffic Engineering
and Transportation Planning
Baltimore County
111 W. Chesapeake Avenue, Room 326
Towson, MD 21204

Dear Mr. Korpman:

The enclosed application for the Neighborhood Traffic Management Program comes with additional urgency because of the imminent addition of a Sonic Drive-In Restaurant on York Road at Belfast Road. Belfast Road is a very narrow local street, only 22 feet wide in front of my home, that is already plagued with speeders and significant cut through traffic.

Thank you for your consideration in this matter. I look forward to working with you and your staff to find an appropriate solution to this problem. Please call me at 443-478-8802 or send e-mail to mariathompson@writercpa.com to obtain any additional information that you need.

Yours truly,



Cc: The Honorable Todd Hoff, Councilman, 3rd Councilmanic District
Baltimore County Council, 400 Washington Ave., Towson, MD 21204
John B. Wilhelm, III, 8 Belfast Road, Timonium, MD 21093
Karlheinz Mueck, 9 Belfast Rd, Timonium, MD 21093
Michael Henry, 12 Belfast Rd, Timonium, MD 21093
Sandra Barger, 22 Belfast Road, Timonium, MD 21093

protestants
exhibit #7

#8



06-18-2013

Exit from 2027 York Rd into Belfast Rd
opposite parking spaces for Maria's Plaza

Protestants
Exhibit #8 7



x = entrance into York Rd

York Road @ Evans

#10



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 1, 2013

HAND DELIVERED

John Beverungen, Administrative Law Judge/Hearing Officer
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Michael R. Mardiney, Jr., M.D. - Legal Owner
Entourage Development, LLC - Contract Purchaser
2027 York Road
Case No. : 2013-171-SPHXA
Motion for Reconsideration, Supplement

Dear Judge Beverungen,

To supplement our office's motion for reconsideration, please find enclosed the results of a google search for "sonics drive in," including:

1. Items, among others, "Sonic America's Drive-In/This is How You Sonic" "Places for Sonic drive in near Towson, MD," and "Sonic Drive-In Wikipedia, the free encyclopedia."
2. An excerpt from the Sonic website: "Sonic, America's Drive-In, This is How Your Sonic," showing the way to use the drive-in facility.
3. The Wikipedia entry for "Sonic Drive-In." showing the company profile, menu items and venue, history, and advertising.

It is apparent that Sonic restaurants feature drive-in facilities in a big way. Whether or not this particular franchisee's number or ratio of drive-in stalls differs from the usual venue (albeit uncertain, in the absence of national statistics), the proposed use still is significantly a drive-in. The same goes for the estimate of drive-through business. It does not matter. Sonic is a drive-in. The petition came in as a drive-in. The original Roy Rogers restaurant was not a drive-in. Neither was Boston Market. The zoning office

Extended Vehicle Idling

www.epa.gov/otaq/stateresources/policy/

transp/tcms/extended idling.pdf
downloaded March 18, 2013.

Peterson
Exhibit #11









Photo from 412 West Road Kittermen, Alaska

Dear The Maryland State House, The Maryland State Senate, and Governor Martin O'Malley,

We are pleased to present you with this petition affirming this statement:

"The last thing needed at the intersection of York Road and Belfast Road is another fast food restaurant .This is a residential community and safety should be our first priority. The traffic on York Road is already a safety concern, with all the current Fast Food Chains, Smyth's and Timonium Fair Grounds. Adding another fast food chain will cause more traffic delays and possible vehicle accidents. Currently Sonic American Fast Food is fighting to change zoning from residential to commercial. This property has been vacated for years and the community would benefit more from a family friendly dwelling."

Attached is a list of individuals who have added their names to this petition; as well as additional comments written by the petition signers themselves.

Sincerely,
Melanie

*Protestants
Exhibit #14*

Lutherville-Timonium

Nearby

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[Events](#)
[Businesses](#)

Search

News | Business

Sonic, America's Drive-In Coming to Timonium?

There is a proposal on the table to bring the fast food restaurant to York Road, although a zoning hurdle must first be cleared.

Posted by Nick DiMarco (Editor), February 16, 2013 at 06:36 pm

109 Comment

Recommend

Tweet 0



There is a proposal on the table to bring Sonic, America's Drive-In, to York Road in Lutherville-Timonium.

Community leaders are planning to meet with the franchisee to address concerns over possible traffic issues. Community association representatives pointed to the popularity of the fast food chain's Rosedale location on Pulaski Highway.

Popular Stories

- YOUR PHOTOS: Storm Strikes Maryland
- Time Lapse Shows Sudden Power of Storm
- Weird News: Robbers Steal Meat, Teens Take Photos of Their...

UPDATED (by popular demand)—The address of the property is 2027 York Road, in Lutherville-Timonium.

"The last thing York Road needs is a line of three or four cars waiting to get in," Eric Rockel, president of the Greater Timonium Community Council, said.

Sonic locations are famous for reinvigorating the classic American drive-in design. Some locations, however, do feature indoor seating.

The drive-in burger and hot dog restaurant has been proposed for the currently vacant land parcel at York and Belfast roads. The

*Pettinances
Exhibit # 15*



Fence
... a car nearby behind Wendie's







June 18, 2013 1347 hours

Testimony Requesting Denial of Variances

Case number: 2013-0171-SPHXA

June 20, 2013

Michael Piccolo
11 BELFAST ROAD
TIMONUM, MD. 21093
410-252-5268

Good Morning Your Honors, and members
of my community.

This is the first hearing I have
attended. I want to be clear that the
Board understands the difficulty in
ability to make a right turn off
of BELFAST RD / on vicinity ON TO
YORK RD. AT ANY TIME OF DAY. IT IS
TYPICAL TO HAVE TO WAIT 5-15 minutes
TO EXIT FOR 1 CAR AT A TIME.

EXITING CARS FROM SONIC WILL BE
VIRTUALLY FORCED TO USE BELFAST RD
going EAST AWAY FROM YORK RD, and
HAVE TO LOOP AROUND TO EVANS AVE ON
NORTHWOOD DR. OR OAKWAY RD. USING
SWEET BRIAR LANE, THE CROSS ST, WHICH
IS NARROWER THAN BELFAST.

Protestants
Exhibit
18A

Jeff Bell 30 Belfast 410 916 2753

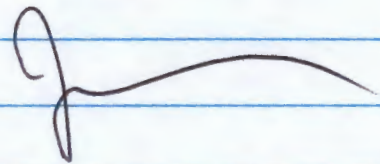
main entrance was barely used

Belfast entrance was used at most

overflow traffic went out Belfast Rd exit + turned left onto Belfast and turned at Sweetbriar in order to use Northwood or Evans Rd's as exit.

Traffic would easily back up on Belfast Rd to get onto York rd. Dealing with exiting traffic from strip center would prove hinderous.

- Dunkin Donuts exit is easier due to no commercial building to the right.
- Traffic did become heavier on Belfast Rd due to the York Rd exit being long and dangerous.
Witness to many accidents there when Roy Rodgers was there.



June 18, 2013

To Whom It May Concern,

I am writing this letter to voice my opposition to the proposed Sonic in the York Road corridor, just south of Timonium Road.

I actually like Sonic drive in Restaurant but the location proposed at Belfast and York Roads is absolutely a danger and hazard for our neighborhood. The section of Belast Road closest to York is already dangerous for those of us with young children as we have no sidewalks, and cars are constantly driving above the speed limit up and down our street. If a Sonic were placed there, Belfast would become a cut-through for cars coming from the east side and would most likely increase our traffic dangerously.

I personally do not feel that this site should even be zoned anymore to permit a restaurant given the build up of the Timonium area within a 3 block section going north and side on York Road. Traffic is already congested and cars turning left and right from the middle lane are always in jeopardy of being hit from cars exiting the already busy side streets.

There are so many problems with this plan and I would urge you to consider our neighborhood and the safety of our families when you make your decision in this case.

Sincerely,



KarlHeinc Mueck
9 Belfast Rd
Timonium, MD 21093
410-252-9241



Protestants
Exhibit
18c



Air and Radiation

You are here: [EPA Home](#) » [Air and Radiation](#) » Noise Pollution

<http://www.epa.gov/air/noise.html>
Last updated on Monday, July 16, 2012

Part Ex 19

Noise Pollution

Announcements

On this page:

- [What is Noise Pollution?](#)
- [Health Effects](#)
- [Protection from Noise](#)
- [The Role of EPA](#)
- [Noise Sources Regulated by EPA](#)
- [Current Activities](#)
- [Frequently Asked Questions](#)
- [Resource Center](#)

August 5, 2009 - Revised Regulation for the Labeling of Hearing Protection Devices (HPD) Proposed
[See Current Activities](#)

You will need Adobe Acrobat Reader to view the Adobe PDF files on this page.
See [EPA's PDF page](#) for more information about getting and using the free Acrobat Reader.

What is Noise Pollution?

The traditional definition of noise is "unwanted or disturbing sound". Sound becomes unwanted when it either interferes with normal activities such as sleeping, conversation, or disrupts or diminishes one's quality of life. The fact that you can't see, taste or smell it may help explain why it has not received as much attention as other types of pollution, such as air pollution, or water pollution. The air around us is constantly filled with sounds, yet most of us would probably not say we are surrounded by noise. Though for some, the persistent and escalating sources of sound can often be considered an annoyance. This "annoyance" can have major consequences, primarily to one's overall health.

Health Effects

Noise pollution adversely affects the lives of millions of people. Studies have shown that there are direct links between noise and health. Problems related to noise include stress related illnesses, high blood pressure, speech interference, hearing loss, sleep disruption, and lost productivity. Noise Induced Hearing Loss (NIHL) is the most common and often discussed health effect, but research has shown that exposure to constant or high levels of noise can cause countless adverse health affects.

Learn more about the health effects:

<http://www.nonoise.org/library/handbook/handbook.htm>

<http://www.nonoise.org/library/suter/suter.htm>

Protection from Noise

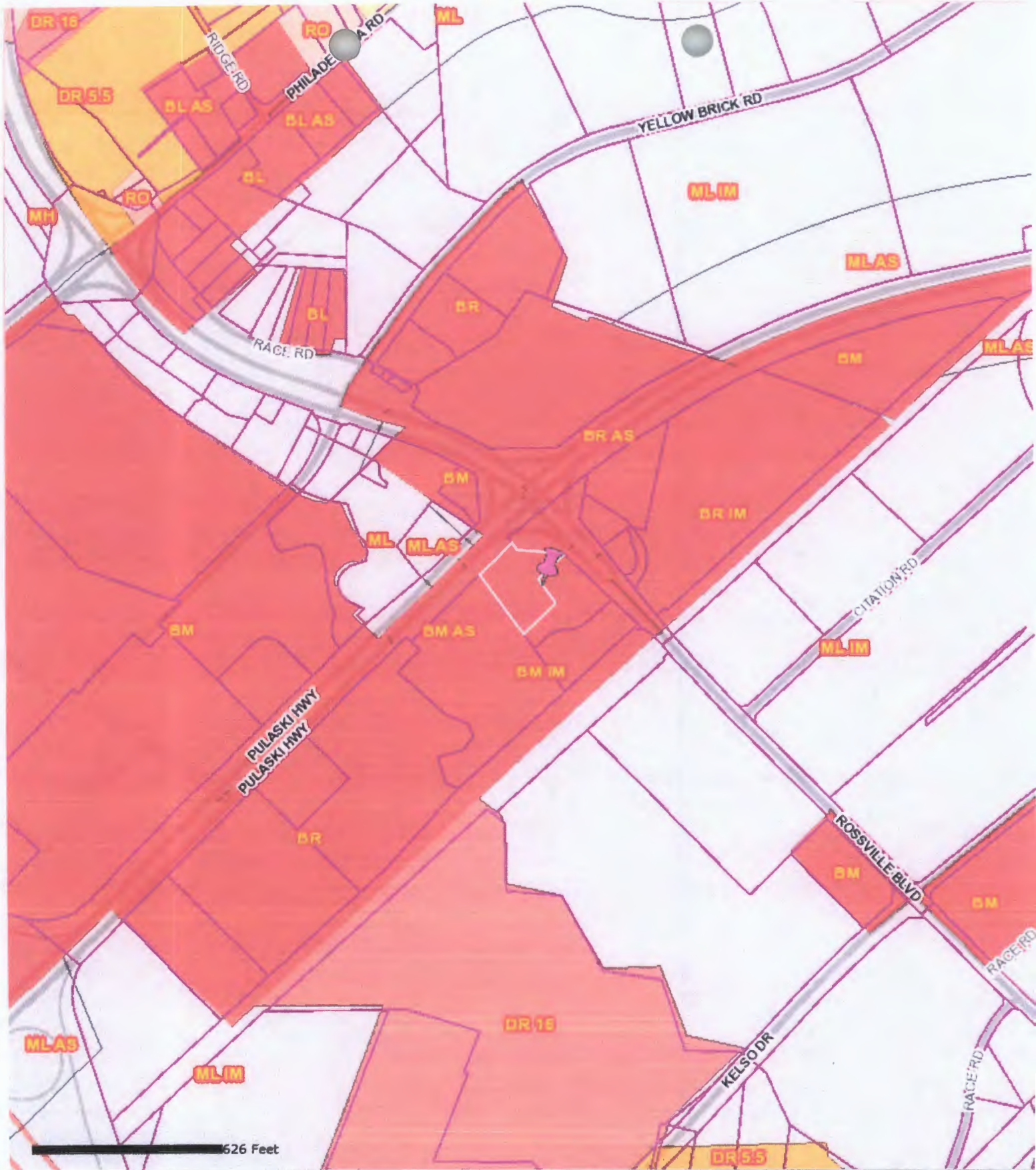
Individuals can take many steps to protect themselves from the harmful effects of noise pollution. If people must be around loud sounds, they can protect their ears with hearing

COMPARISON OF BALTIMORE COUNTY SONIC DRIVE-IN LOCATIONS

Michael R. Mardiney, Jr. MD, *(Legal Owner)*
Tom Behrle, Entourage Development LLC *(Contract Purchaser/Lessee)*
Case No. 2013-0171-SPHXA

Protestants
Exhibit 201A

Sonic Location	PROPOSED SITE 2027 York Road			8212 Liberty Road			8733 Pulaski Highway		
Acreage	32,783 SF/ 0.75 acre			6.6 acres 1,645 SF/0.038 acre			44,300.52 SF/1.017 acre		
Zoning	BL/DR 5.5			BL-AS/BL			BR-AS/BM-IM		
Adjacent Zoning	BL/DR 5.5			BL			BR-AS/BM-IM		
Frontage Street	State Road MD 45			State Road MD 26			US 40E		
Building Area	2602 SF			1645 SF			1728 SF		
	Street	Street	Type	Control	Type	Control	Street	Type	Control
Southern Cross Street	Belfast	Marriotts Lane	Local Collector	Stop Sign	Local	Stop Sign	Kelso Drive		
Northern Cross Street	Northwood Drive	N. Rolling Road	Arterial	Traffic Signal	Local	Stop Sign	Pulaski Drive	Arterial	Traffic Signal
Other Intersection							Rossville Blvd	Arterial	Traffic Signal
Distance to Residential Property	Zero feet			Approx. 700 ft			Approx. 2100 ft.		
Special Exception	?			Yes			Yes		
Variance	1970 – Business Parking			Reduce parking from 500 to 394 parking spaces			Flood Plain		
Parties/ Case	Michael R. Mardiney, Jr. MD <i>(Legal Owner)</i> Tom Behrle, Entourage Development LLC <i>(Contract Purchaser/Lessee)</i> Case No. 2013-0171-SPHXA			Anna B. Beaty et al <i>(Owner)</i> Macro Holdings, LLC <i>(Contract Lessee)</i> Case No. 2010-0116-SPHXA			TD Bank <i>(Owner)</i> Entourage Ventures, LLC, <i>(Contract Purchasers)</i> Case No. 2011-0149-X		



Sonic - Pulaski Hwy

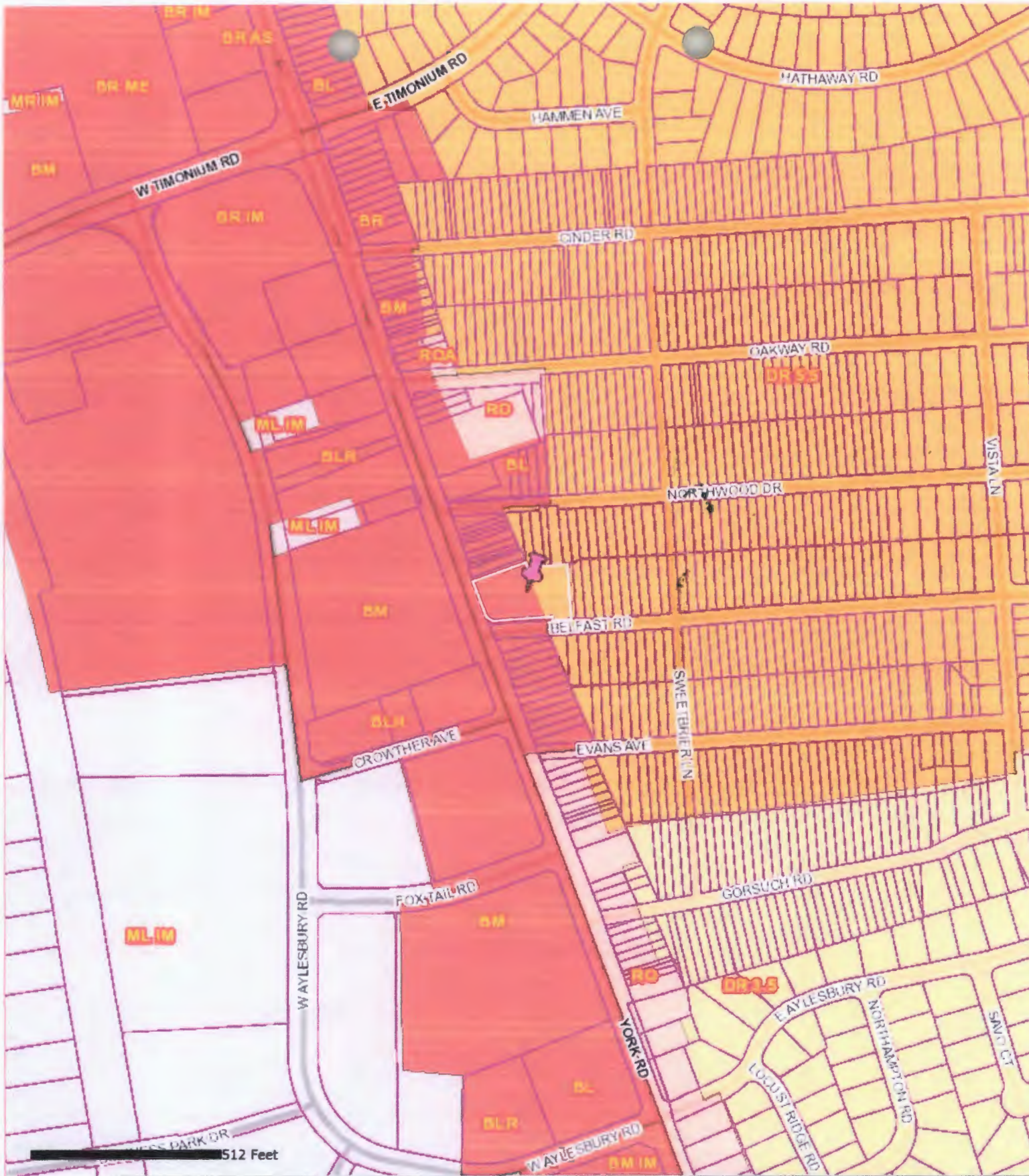
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Printed 6/13/2013

*Notes from
Exhibit 20B*



Sonic - York Road

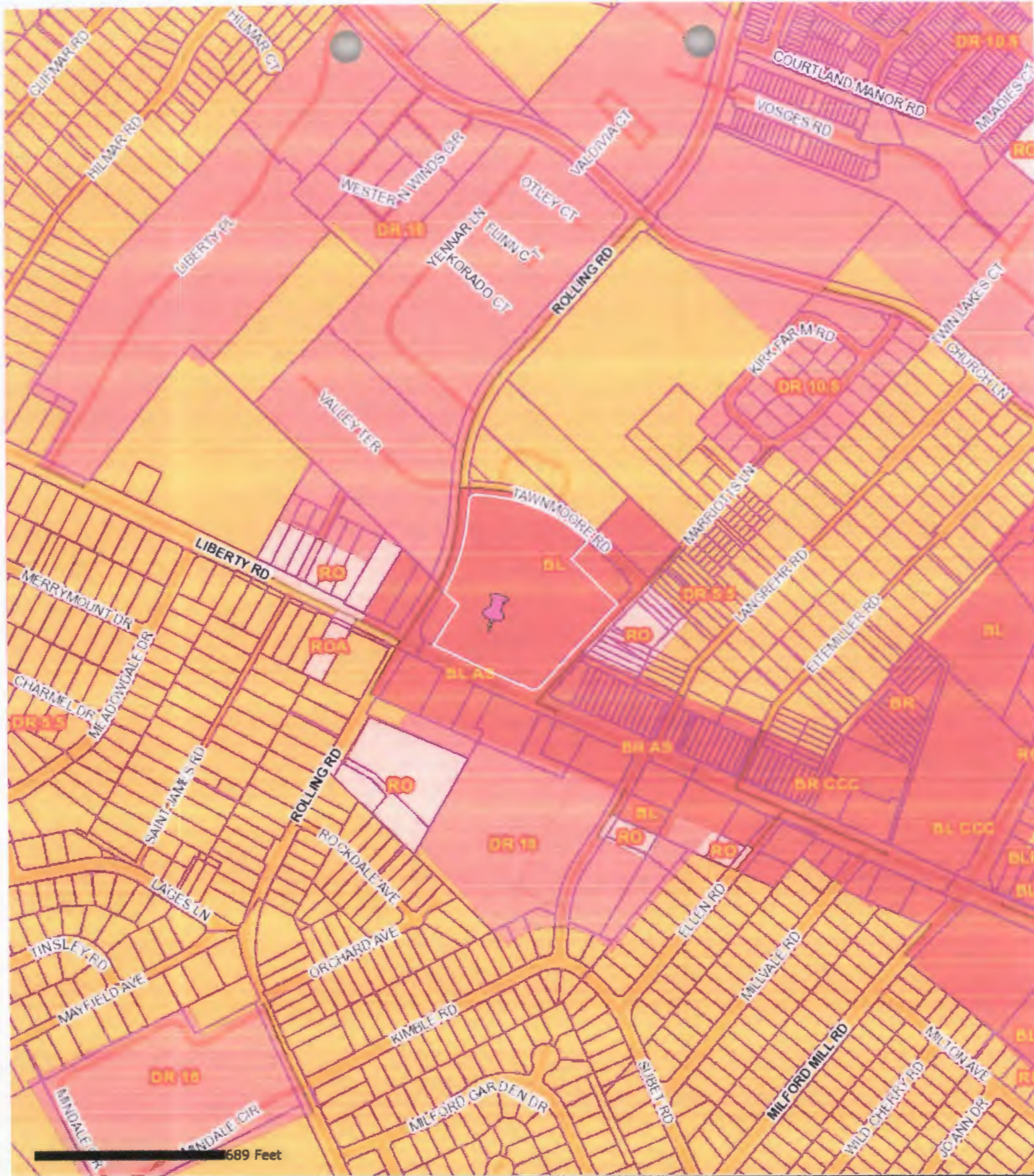
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Protestants Exhibit
20c



Sonic - Liberty Road

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Printed 6/13/2013

Protesting Exhibit
200

JB 3/18

1:30 PM

Case No.: 2013-0171-SPHXA

Exhibit Sheet

SLN
3-22-13

Petitioner/Developer

Protestants

Peoples
COUNSEL

No. 1	Revised Petition	14 Page Petition w/ Signatures	My Neighborhood
No. 2	Site Plan	Written Statement of Maria Markham Thompson	My Neighborhood
No. 3	Notice of Hrg.		My Neighborhood
No. 4	Revised Hrg. Notice		
No. 5	ZAC comments		
No. 6	Certificate of Posting		
No. 7	Cert. of Publication		
No. 8	Demos Resume		
No. 9	9A-9D Photo renderings		
No. 10	Hunt Valley master (n/a skipped) Plan		
No. 11	Existing Conditions plan		
No. 12	People's Counsel email		

13

1971 zoning order

14

Landscape plan

Final landscape plan

DEB

Entourage Ventures - 2027 York Road
Case No.: 2013-0171-SPHXA

EXHIBIT LIST

1. Executed Petition and Attachment (final)
2. Plan to Accompany Petition for Zoning Hearing (N/A)
3. Notice of Zoning Hearing
4. Revised Notice of Zoning Hearing
5. ZAC Comments
6. Certificate of Posting
7. Certificate of Publication
8. Resume - John Demos
9. Rendering (N/A) *9A-9D Photo renderings.*
- ~~10. Vinyl Fence (N/A)~~
11. Existing Conditions (N/A)
12. People's Counsel's emails (and attachment)
13. 1971 Zoning Decision
- 14. Landscape Plan*
- 15. Existing Conditions*



REVISED 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 2027 York Road

which is presently zoned BL & D.R. 5.5

Deed Reference 15376/00310

10 Digit Tax Account # 2 2 0 0 0 2 8 6 1 9

Property Owner(s) Printed Name(s) Michael R. Mardiney, Jr.

CASE NUMBER _____ Filing Date ____/____/____ Estimated Posting Date ____/____/____ Reviewer _____

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

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

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

Please see attached.

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

Please see attached.

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:

Tom Berhle, Authorized Representative of Entourage Development, LLC

Name- Type or Print

Signature

39 Brett Manor Court Hunt Valley MD

Mailing Address City State

21030 (443) 756-2623 sonicbaltimore@gmail.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

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

Name- Type or Print

Signature

600 Washington Avenue, Suite 200, Towson, MD

Mailing Address City State

21204 (410) 821-0070 jvettori@sgs-law.com

Zip Code Telephone # Email Address

Legal Owners:

Michael R. Mardiney, Jr., M.D.

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

7212 Bellona Avenue Baltimore MD

Mailing Address City State

21212 (443) 722-6821 michaelmardineyjrmd@mardiney.com

Zip Code Telephone # Email Address

Representative to be contacted:

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

Name - Type or Print

Signature

600 Washington Avenue, Suite 200, Towson, MD

Mailing Address City State

21204 (410) 821-0070 jvettori@sgs-law.com

Zip Code Telephone # Email Address



KEVIN KAMENETZ
County Executive

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

February 22, 2013

NEW NOTICE OF ZONING HEARING

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

CASE NUMBER: 2013-0171-SPHX

2027 York Road

N/east corner of York Road and Belfast Road

8th Election District – 3rd Councilmanic District

Legal Owners: Michael Mardiney, Jr., M.D.

Contract Purchaser: Entourage Development, LLC, Tom Berhle

Special Hearing to approve a use permit for the use of land in a residential zone for parking facilities to meet the requirements for Sec. 409.6 pursuant to Sec. 409.8.B of the BCZR, or in the alternative for confirmation that the proposed parking facility is authorized under the use permit approved in Case 1971-0269-SPH. For such other and further relief as may be deemed necessary by the ALJ. **Special Exception** relief to use property for a drive-in restaurant in accordance with Section 230.3 of the BCZR, and for such other and further relief as may be deemed necessary by the ALJ. **Variance** to permit a 0' buffer and 0' setback in lieu of the required 50' buffer and 75' setback in a Residential Transition Area.

Hearing: Monday, March 18, 2013 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon", is written over the hearing information.

Arnold Jablon
Director

AJ:kl

C: Jason Vettori, 600 Washington Avenue, Ste. 200, Towson 21204
Tom Berhle, 39 Brett Manor Ct., Hunt Valley 21030
Michael Mardiney, Jr., M.D., 7212 Bellona Avenue, Baltimore 21212

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, FEBRUARY 26, 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.**



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

State Highway
Administration

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

MARYLAND DEPARTMENT OF TRANSPORTATION

EXHIBIT

5

Date: 2-26-13

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

RE: Baltimore County

Item No. 2013-0171 - SPH &
Special Hearing Special Exception
Variance
Michael R. Mardiney, M.D.
2027 York Road
MD45

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 2-25-13. A field inspection and internal review reveals that an entrance onto MD45 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Variance.
Case Number 2013-0171 SPH & V.

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

Sincerely,

Steven D. Foster, Chief
Access Management Division

SDF/raz

My telephone number/toll-free number is _____

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

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

EXHIBIT

6

CERTIFICATE OF POSTING

2013-0171-SPHEXA

RE: Case No.: _____

Petitioner/Developer: _____
Entourage Development, LLC,
Tom BerhleDate of Hearing/Closing: March 18, 2013Baltimore 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:

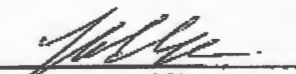
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

2027 York Rd

February 26, 2013

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

Sincerely,



(Signature of Sign Poster) February 26, 2013
(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

NOTICE OF ZONING HEARING

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

Case: #2013-0171-SPHXA

2027 York Road

N/east corner of York Road and Belfast Road

8th Election District - 3rd Councilmanic District

Legal Owner(s): Michael Mardiney, Jr., M.D.

Contract Purchaser: Entourage Development, LLC,

Tom Berhle

Special Hearing to approve a use permit for the use of land in a residential zone for parking facilities to meet the requirements for Sec. 409.6 pursuant to Sec. 409.8.B of the BCZR, or in the alternative for confirmation that the proposed parking facility is authorized under the use permit approved in Case 1971-0269-SPH. For such other and further relief as may be deemed necessary by the ALJ. **Special Exception** relief to use property for a drive-in restaurant in accordance with Section 230.3 of the BCZR, and for such other and further relief as may be deemed necessary by the ALJ. **Variance** to permit a 0' buffer and 0' setback in lieu of the required 50' buffer and 75' setback in a Residential Transition Area.

Hearing: Monday, March 18, 2013 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

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

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
JT 02/714 February 26 906709



501 N. Calvert Street, Baltimore, MD 21278

February 28, 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 February 26, 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

JOHN P. DEMOS, P.E., L.S.

4901 Picker Drive
Pylesville, MD 21132
Phone: 443-324-1641

Education:

- West Virginia Institute of Technology
Associate in Science, Civil Engineering Technology, 1994
- West Virginia Institute of Technology
Bachelor of Science, Engineering Technology / Surveying, 1995

Licenses and Registrations:

- Professional Engineer License No. 056089 – Pennsylvania - 2001
- Professional Engineer License No. 27189 – Maryland - 2001
- Professional Engineer License No. 037254 – Virginia – 2001
- Professional Engineer License No. 13283 – Delaware – 2003
- Professional Land Surveyor License No. 21327 – Maryland - 2009

Experience Summary:

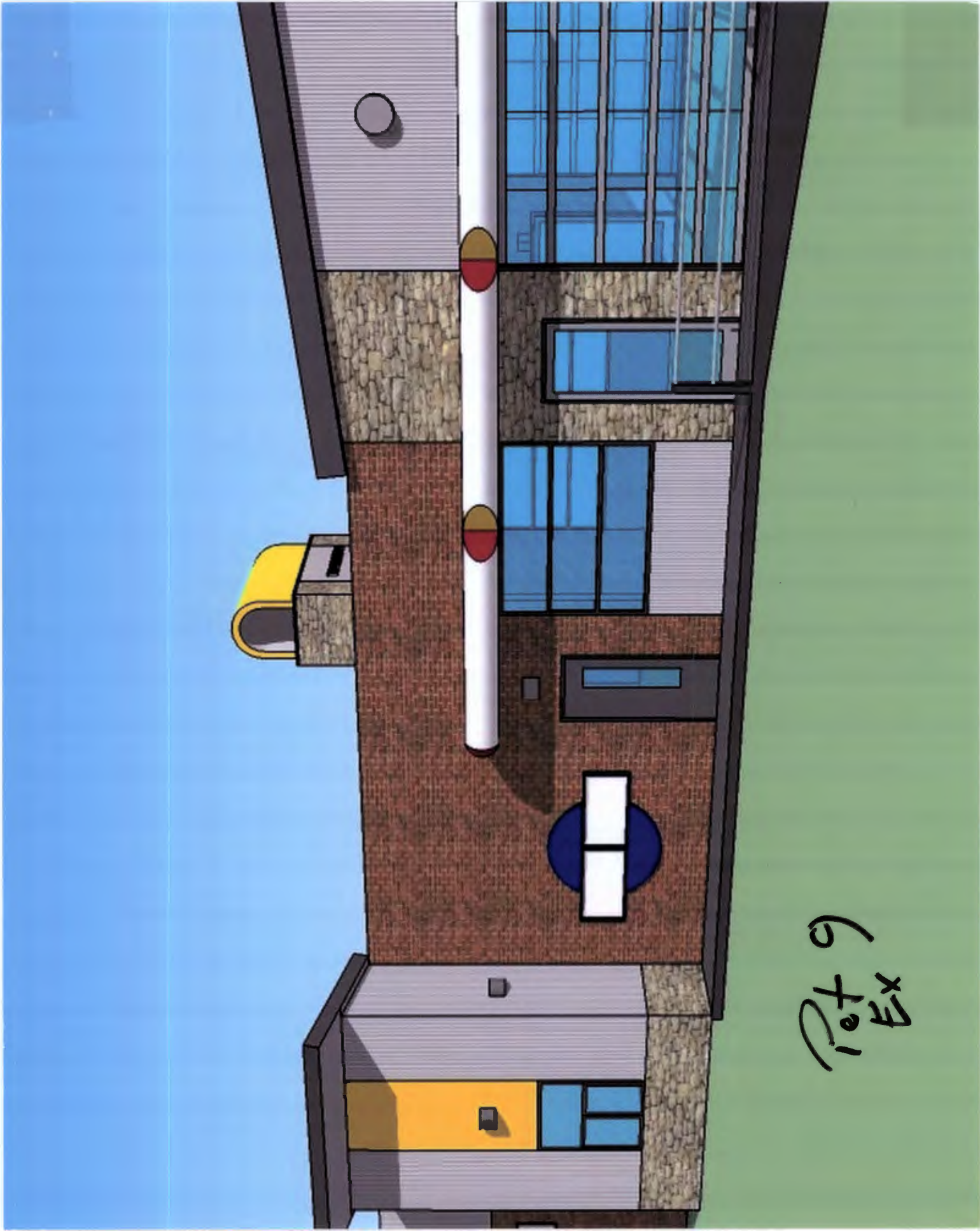
State Line Engineering, LLC (March 2007 to Present) concurrent with Ground Tek, Inc

- President
Responsibilities include the planning, design and preparation of plans associated with residential and commercial development. Aspects of design include; site plans, stormwater management plans, grading / sediment and erosion control plans, road and storm drain plans, water and sewer plans, residential and commercial entrance plans, landscape plans, performed extensive hydrology and hydraulic calculations for storm drainage, stormwater management and flood studies. The design of house plans, minor additions, and performance of limited structural analyses. Performed boundary survey work, topographic surveys, and survey computations as they relate to construction and utility stakeout. Have worked with clients directly to identify and implement their objectives in a timely manner, while meeting budgetary goals.

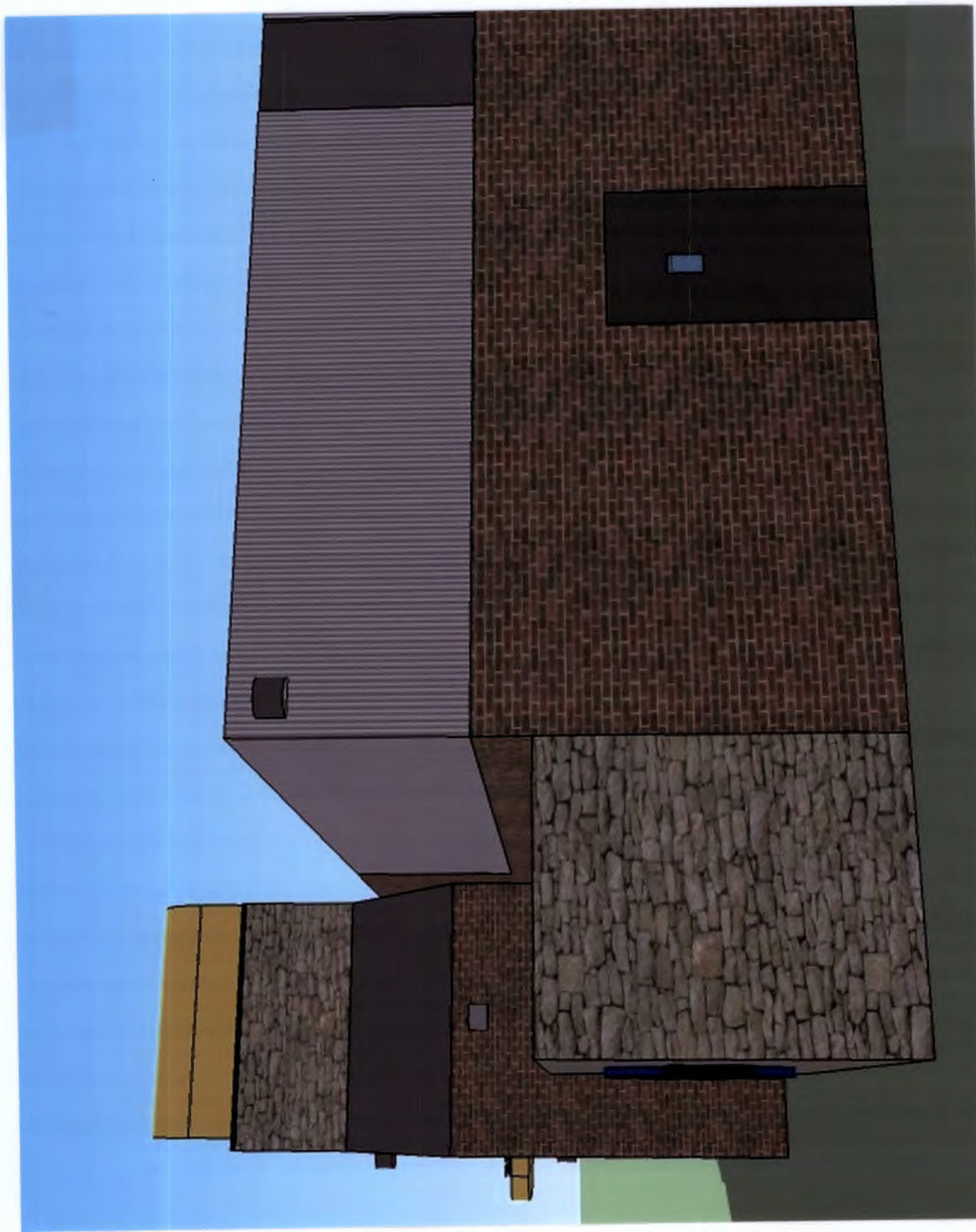
As the executive in the company I have also been responsible for marketing, procurement, and accounting, which has given me a valuable understanding of the managerial aspects of running a company.

Ground Tek, Inc. (March 2004 to December 2004 / March 2007 to Present)

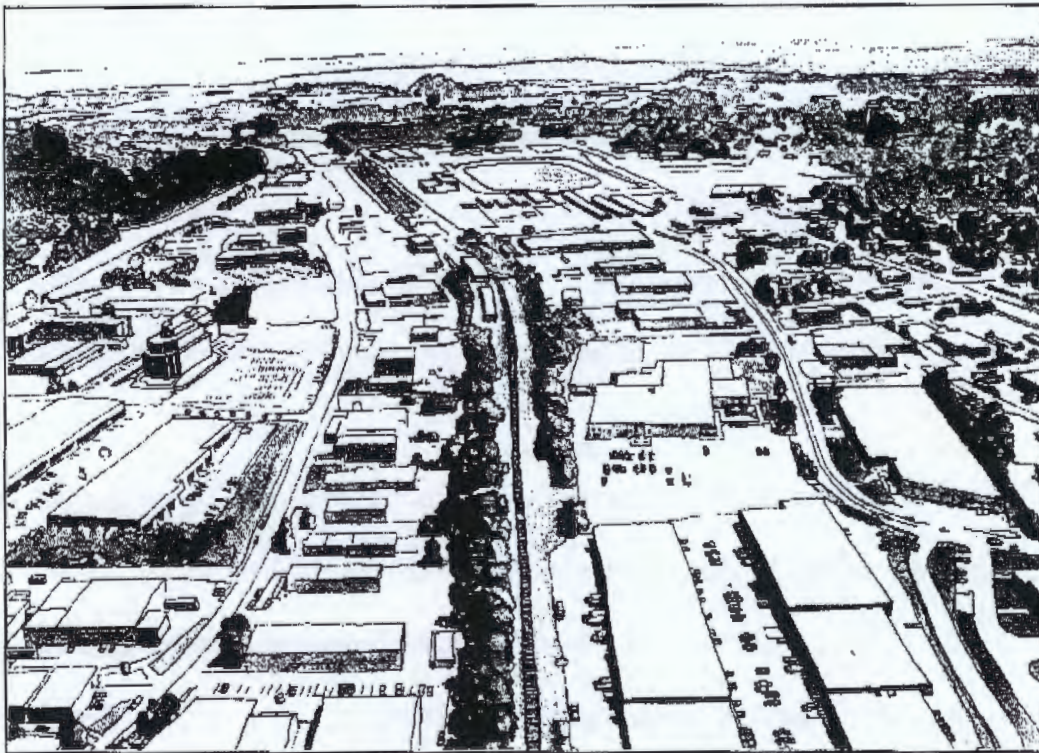
- Project Engineer
Responsibilities include the design of structures, assessment of existing structures, Inspection of footings, foundations and slabs for residential and commercial structures. Provide recommendations for structural repairs. Design of residential and minor commercial structures.



Ref 9 Ex



Hunt Valley / Timonium Master Plan



PETITIONER' S

EXHIBIT NO. 10

As Adopted by the Baltimore County Council
October 19, 1998

Jason Vettori

From: People's Counsel <peoplescounsel@baltimorecountymd.gov>
Sent: Friday, February 01, 2013 12:15 PM
To: Jason Vettori
Subject: RE: 2013-171-SPHX, Sonic's, York and Belfast Roads
Attachments: McDonalds Liberty Road 2013-113-SPH ALJ Opinion.pdf

EXHIBIT

12

Jason,

I note among other things that Sonic is adding a new use, a special exception for a drive-in restaurant with various canopies, so the use is actually different; that the parking configuration is generally different and actually somewhat more intense next to the rear residential zone boundary; and that there are other design differences.

The parking regulations have changed since 1971. Upon a preliminary scan, the RTA law came in later, Bill 124-81, subject to further checking, with amendments since then.

Under all these circumstances, it appears to me that the entire case should be treated as a new use, with a new special hearing for business parking in a residential zone, RTA variances (because there is a nearby residence, and the DR 5.5 zone brings the RTA into play), and compliance with BCZR Section 409.8, or variances where the proposal is not comply, relating to landscaping, lighting, loading areas, etc..

For your information, attached is the ALJ decision in the McDonald's case on Liberty Road dated January 9, 2013. Case 13-1113. This involved razing an old outdated McDonald's and building a new one with a different design. The use, however, was the same. There was no new special exception, for example. Our office took the position that the original petition (13-6) was irregular because it attempted to grandfather and perpetuate a 1972 approval for the original McDonald's, rather than treating the use as a new use and requesting a new use permit for business parking in a residential zone, RTA variances, and other applicable variances. McDonald's filed a new petition, rather than litigate the issue.

Jason, this follows our conversation this morning. The above outlines my opinion at this time. We could meet and/or discuss it further if you feel it would be helpful.

Peter Max Zimmerman

>>> Jason Vettori <jvettori@sgs-law.com> 1/31/2013 4:09 PM >>>

Rebecca,

As requested, here are the documents you requested. These are the only documents we felt were relevant from the Zoning Review Bureau's file.

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

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient,

71-269
#149



KEVIN KAMENETZ
County Executive

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

February 20, 2013

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2013-0171-SPHX

2027 York Road

N/east corner of York Road and Belfast Road

8th Election District – 3rd Councilmanic District

Legal Owners: Michael Mardiney, Jr., M.D.

Contract Purchaser: Entourage Development, LLC, Tom Berhle

Special Hearing to approve the request for confirmation that the existing parking facility was authorized under Case No. 1971-0269-SPH and a modified parking plan pursuant to Section 409.12.B of the BCZR and for such other and further relief as may be deemed necessary by the Administrative Law Judge. **Special Exception** relief to use property for a drive-in restaurant in accordance with Section 230.3 of the BCZR, and for such other and further relief as may be deemed necessary by the ALJ.

Hearing: Monday, March 18, 2013 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Arnold Jablon", is written over the printed name and title.

Arnold Jablon
Director

AJ:kl

C: Jason Vettori, 600 Washington Avenue, Ste. 200, Towson 21204
Tom Berhle, 39 Brett Manor Ct., Hunt Valley 21030
Michael Mardiney, Jr., M.D., 7212 Bellona Avenue, Baltimore 21212

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, FEBRUARY 26, 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.

Case No.:

2013-0171-SPHXA

Exhibit Sheet

Petitioner/Developer

Protestants

No. 1	Revised Petition	14 Page Petition w/ Signatures	My Neighbor
No. 2	Site Plan	Written Statement of Maria Markham Thompson	My Neighbor
No. 3	Notice of Hrg.		My Neighbor
No. 4	Revised Hrg. Notice		
No. 5	ZAC comments		
No. 6	Certificate of Posting		
No. 7	Cert. of Publication		
No. 8	Demos Resume		
No. 9	9A-9D Photo renderings		
No. 10	Hunt Valley master (N/A Skipped) Plan		
No. 11	Existing Conditions plan		
No. 12	People's Counsel email		
13	1971 zoning order		
14	Landscape plan		
15	Final landscape plan		
16	Existing conditions		

People's
CounselMy
NeighborMy
NeighborMy
Neighbor

Dear The Maryland State House, The Maryland State Senate, and Governor Martin O'Malley,

We are pleased to present you with this petition affirming one simple statement:

"The last thing needed at the intersection of York Road and Belfast Road is another fast food restaurant. This is a residential community and safety should be our first priority. The traffic on York Road is already a safety concern, with all the current Fast Food Chains, Smyth's and Timonium Fair Grounds. Adding another fast food chain will cause more traffic delays and possible vehicle accidents. Currently Sonic American Fast Food is fighting to change zoning from residential to commercial. This property has been vacated for years and the community would benefit more from a family friendly dwelling."

Attached is a list of individuals who have added their names to this petition, as well as additional comments written by the petition signers themselves.

Sincerely,
Melanie

Protestants' No. 1

Xuesong Jiang
Lutherville, MD 21093
Mar 15, 2013

Weirong Yuan
Lutherville, MD 21093
Mar 15, 2013

Please leave us alone, Sonic Food.

Honggang Cui
Lutherville, MD 21093
Mar 14, 2013

Le Zhang
Lutherville, MD 21093
Mar 14, 2013

Long
timonium, MD 21093
Mar 14, 2013

We DO NOT need Sonic Food in Lutherville, Maryland

Jianzhong
Timonium, MD 21093
Mar 14, 2013

Sam Maiocco
Abingdon, MD 21009
Mar 14, 2013

They're already so many fast food places around us and I would rather see something more useful to the surrounding community's have a chance of getting established or opened.

David Hare
Lutherville Timonium, MD 21093
Mar 12, 2013

Jessica Lambright
Timonium, MD 21093
Mar 11, 2013

NO Sonic What about the special needs child who is picked up on Belfast next to the property, Balto.Co. zoning should set on that lot at 4:45pm til 5:30pm and watch Belfast at York...

Debra
Timonium, MD 21093
Mar 11, 2013

ray
Timonium, MD 21093
Mar 11, 2013

Property is to small for a Sonic's...! Traffic at 4:30pm is jammed up Mon thru Fri at Belfast at York.... What about the rat problem we currently are dealing with at that location....? BG&E also has a service problem that has effected that area for the past 4 years.....! The county needs to fix this area.. trash, rats, traffic, Trailer Park an the road at Belfast at York. Currently the other business parking problems at that location spill over to the property in question .. No to Sonics at that location.....!

Steve Miller
Timonium, MD 21093
Mar 11, 2013

Brett Baier
York, PA 17408
Mar 11, 2013

Michelle Vance
Parkton, MD 21120
Mar 11, 2013

Tammy petrides
Timonium, MD 21093
Mar 11, 2013

If zoning is granted for this Sonic location, it should be with guarantees from the owner/franchisee with significant penalties. This location is tiny and drive-thru traffic lines will be disruptive and cause significant loss of property value to those residents within a block or two on Belfast Road. Also, there is potential for customers to impede the flow of traffic on York Road.

John Stout
Timonium, MD 21093
Mar 10, 2013

Jennifer
Timonium, MD 21093
Mar 10, 2013

Laura Blama
Phoenix, MD 21131

TESTIMONY IN OPPOSITION TO A VARIANCE
TO PERMIT A SONIC RESTAURANT AT THE INTERSECTION OF
YORK ROAD AND BELFAST ROAD
Baltimore County Zoning Hearing
March 18, 2013

CASE: 2013-0171-SPHX

Maria Markham Thompson
10 Belfast Road
Timonium, MD 21093
443-478-8802

Summary:

I am a resident who lives half a block from the proposed site.

Credentials *CPA + CFA*

BS Public Administration, New York University, Stern School of Business
Master of Urban Planning, New York University, Wager Graduate School of Public Service
Management and policy positions with the Maryland Department of the Environment, Maryland Public Service Commission, and Baltimore City Department of Public Works
Three years experience writing Environmental Impact Reports

Basis of Objections:

- A: Air Pollution** *Rising number of red days in Maryland.*
1) Sonic business model has greater impacts on air and noise pollution than other drive-through restaurants. It is not a drive through:

You're in your own line and on your own time.

We take your order to you. You take your time.

Carhops deliver all of your made-to-order desires.

Press the red button again for drinks and desserts...

Source: <http://www.sonicdrivein.com/> March 18, 2013

- 2) Instead of short visits of 3 – 5 minutes. Visits to Sonic are more likely to be on the order of 20 minutes to order and eat meals.
- 3) This results in a much greater impact of air pollution from engine idling than other drive throughs. The EPA website shows that 6 minutes of idling has a carbon monoxide equal to starting an engine. Twenty minutes of idling is 300x that impact. This is significant because auto exhaust components of CO, Ozone and THC are known respiratory irritants with severe adverse impacts on people with asthma, particularly children, and other vulnerable populations, such as the elderly.

Wind blows west toward the residences on Belfast.

- Recommend lighting to limit light pollution*
500 x .42 x 368
B: Noise

- 1) The observed operations of Sonic Restaurants and the contribution to noise pollution were cited as reasons for rejection these operations adjacent to residential areas in Hempstead, NY and Smithtown, NY in 2012. *There is one in Town of Babylon.*
- 2) "Town [of Smithtown, NY] assistant planning director David Flynn... said noise caused by the loudspeakers was a "significant concern." ~~He added that the proposal did not provide enough parking, and cars lined up for a drive-through window would block vehicles parked in stalls.~~

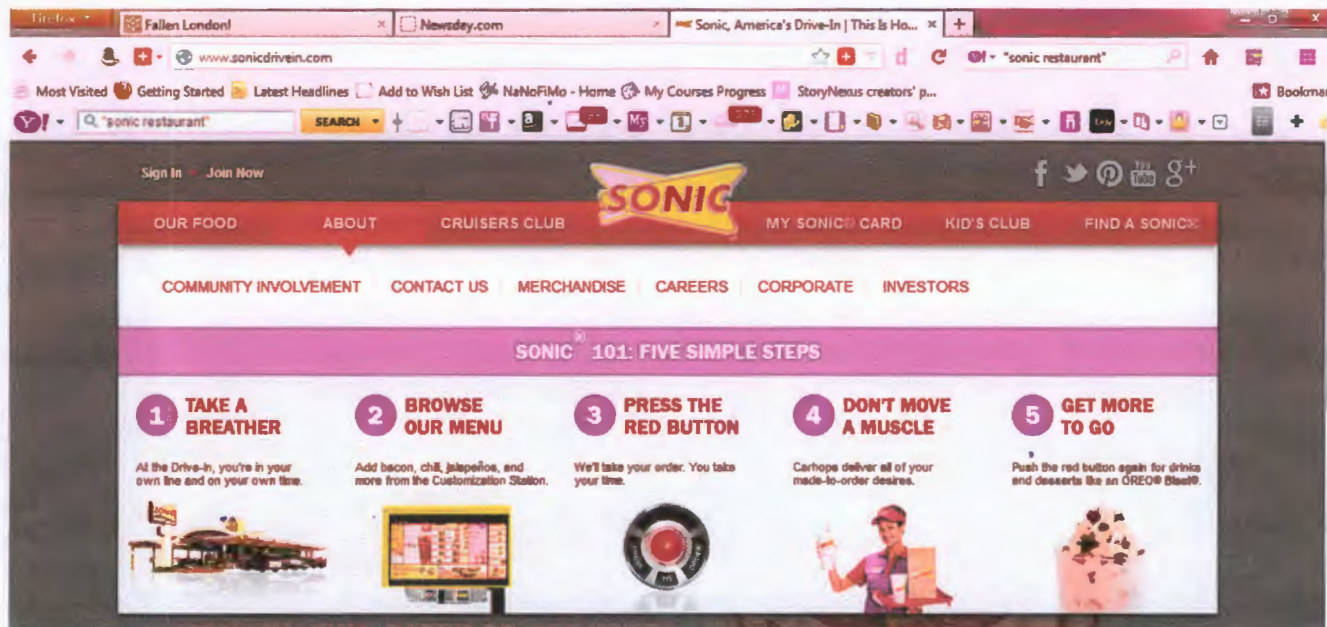
Recommend night decibel limits

C: Traffic Safety

- 1) There are ^{20 23 12} active driveways within a block of the proposed Sonic site serving ¹⁷ retail establishments.
- 2) During most of the day it is difficult to make a right turn from Belfast Road into York Road because of high traffic volumes and vehicles exiting the retail establishments.
- 3) Making left turn to go south on York Road is only accomplished by turning into the turn lane. Additional danger comes from vehicles entering that lane to make left turns into and out of the retail driveways.
- 4) Vehicle sight lines also are limited at Belfast and York because of a topographic drop off of York Road south of Evans St. This limits the view of the driver at the best of times to only one block, which is inadequate because many vehicles exceed the speed limit and enter this traffic area at highway speeds.
- 5) Finally, there are two bus stops, one at SE Belfast and York and the other diagonally across at SE Crowther and York. Traffic from Sonic will increase the peril of people who must cross York Road to reach these bus stops. Stopped buses will add to the difficulties of drivers entering and exiting Sonic, as well as the ability of other drivers to see them.

Recommend traffic study & report of mitigations. Object to variance of driving aisle for hand drive spec.
 For these reasons of environmental impacts on air quality, noise and traffic safety, I am opposed to granting a variance to permit a Sonic Restaurant at the NE corner of York Road and Belfast Road.

Additional supporting documents and references are attached to my testimony.



***You're in your own line and on your own time.
 We take your order to you. You take your time.
 Carhops deliver all of your made-to-order desires.
 Press the red button again for drinks and desserts...***

Source: <http://www.sonicdrivein.com/> March 18, 2013

Air Pollution

Recent studies have shown a direct link between many respiratory diseases and the pollutants found in vehicle exhaust. Children are especially at risk, because they breathe faster (50 percent more air per pound of body weight) than adults. Vehicle exhaust worsens many children's asthma symptoms.

Source: "Focus on Engine Idling." State of Washington, Department of Ecology. Publication Number: 04-02-011 (rev. 8/2009). <https://fortress.wa.gov/ecy/publications/publications/0402011.pdf>. March 18, 2013.

Automobile emissions are the major cause of air pollution which comes in a number of forms, but those we're most concerned about in this region are ozone, carbon monoxide, and particulate matter.

- * Vehicle Exhaust is the leading source of hazardous air pollution in the state
- Ozone is the principal component of smog. It causes breathing problems, reduced lung function, asthma, eye and nose irritation, and reduced resistance to colds and other infections.
- Carbon monoxide reduces the ability of blood to bring oxygen to body cells and tissues. It may be particularly hazardous to people who have heart or circulatory problems and people who have damaged lungs or breathing passages.
- Particulate matter, a pollutant that causes nose and throat irritation, lung damage and bronchitis, is caused in large part by diesel vehicles and by road dust suspended in the air by moving vehicles.
- These forms of air pollution also decrease visibility and damage plants and trees. They can eat away stone, damaging historic buildings, monuments and statues.

Source: "The Link Between Driving and Air Pollution". National Transportation Library.

Research and Innovative Technology Administration (RITA) • U.S. Department of Transportation (US DOT). <http://ntl.bts.gov/DOCS/taq2.html>. March 18, 2013

**TESTIMONY REQUESTING DENIAL OF VARIANCES OR
A SPECIAL EXCEPTION FOR A SONIC RESTAURANT AT THE
INTERSECTION OF YORK ROAD AND BELFAST ROAD**

Case No. 2013-0171-SPHXA

Baltimore County Zoning Re-hearing

April 8, 2013

Maria Markham Thompson, CPA, CFA

10 Belfast Road

Timonium, MD 21093

Phone: 443-478-8802

Good morning, Judge Beverungen, Mr. Zimmerman, Mr. Vettori, Mr. Behrle, and members of my community.

As I stated in my testimony on March 18, 2013. I am interested in this proceeding because I own a home at 10 Belfast Road, a mere half block away from the proposed site for a Sonic drive-in restaurant.

Permit me to briefly recap the credentials I presented at the previous hearing. I have a BS in Public Administration from New York University, Stern School of Business, and a Master of Urban Planning from the New York University, Wagner Graduate School of Public Service. I have held management and policy positions with the Maryland Department of the Environment, Maryland Public Service Commission, and Baltimore City Department of Public Works. In addition, my experience includes three years experience of writing environmental impact reports.

Protestant's No. 2 (submitted at 4-8-2013)
addendum

Finally, I hold an active license as a Certified Public Accountant from the State of Maryland and the designation of Chartered Financial Analyst.

I. Notice of Hearing

With the members of my community, I share regret that we had less than a week to prepare for the proceedings this morning. Several people who would like to have attended were not able to take time off from work on short notice or change other appointments. We attempted to reach out to other interested parties by providing copies of the revised plan and notice of this meeting to the businesses that are accessed from York Road between Evans Street, one block south of the Belfast Road and Northwood Drive, one block north. We also made appeals via social media and continued to gain signatures on the online position.

We appreciate this opportunity to be heard in opposition to a proposed development that, if approved, would be **inconsistent with the spirit and intent of the Zoning Regulations, impair the health, safety, and general welfare** of our neighborhood, and **create additional congestion its roads and streets.**

II. Special Exception

In the original ruling in this case dated March 22, 2013, it was held that the requested use was permitted as of right as a "fast food restaurant." I strongly disagree with this finding. As noted in my testimony on March 18, 2013, the Sonic markets itself as a drive-in restaurant, and it is disingenuous for the company, and its franchisee, to call itself a drive-in restaurant for every purpose except gaining zoning approval for the site at the corner of York Road and Belfast Road.

- The corporate Internet domain name is "Sonicdrivein.com."

*Substantial is not the same as majority.
The Drive-In use is not incidental or nominal
at
in this
case.
It is
not
illusory
use*

- The company introduces itself in its corporate Fact Sheet as

SONIC®, America's Drive-In® (NASDAQ: SONC) is the nation's largest chain of drive-in restaurants.”

The company claiming copyright on the Fact Sheet is America's Drive-In Brand Properties LLC.¹

- The Sonic Corp. earnings release dated March 25, 2013 begins,

“Sonic Corp. (NASDAQ: SONC), the nation's largest chain of drive-in restaurants, today announced results...”² (Attachment B)

In the same press release, the company uses the term “drive-in” 46 times. From over 20 years in the investment industry, and my time as the former Chief Financial Officer of a public company, I can tell you that securities lawyers scrub every word of a press release, which must be filed under oath as an 8-K with the Securities and Exchange Commission. If the company claims in its SEC filing that its restaurants are drive-ins, I am very sure that they are exactly that.

Similarly, the online marketing page directed to prospective franchisees stresses the drive in aspects of the franchise (Attachment C)

“What makes SONIC different from other franchise opportunities...

Of course, the SONIC Drive-In itself makes a huge difference. Here are just a few ways:

Drive-In Concept

Customers can park their cars and order without waiting in a busy drive-thru line.

Convenience

¹ Fact Sheet. America's Drive-In Brand Properties LLC. <http://corporate.sonicdrivein.com/Profile/FactSheet>. April 7, 2013

² “Sonic Doubles Earnings Per Share for Second Fiscal Quarter 2013.” Press Release. Sonic Corp. March, 25, 2013. <http://ir.sonicdrivein.com/releasedetail.cfm?ReleaseID=750740>. April 7, 2013.

Case No.:

2013-0171-SP HXA

01

2110

1:30 PM

Exhibit Sheet

ALN
3-22-13

Petitioner/Developer

Protestants

No. 1	Revised Petition	14 Page Petition w/ Signatures	People's Counsel My Neighbors
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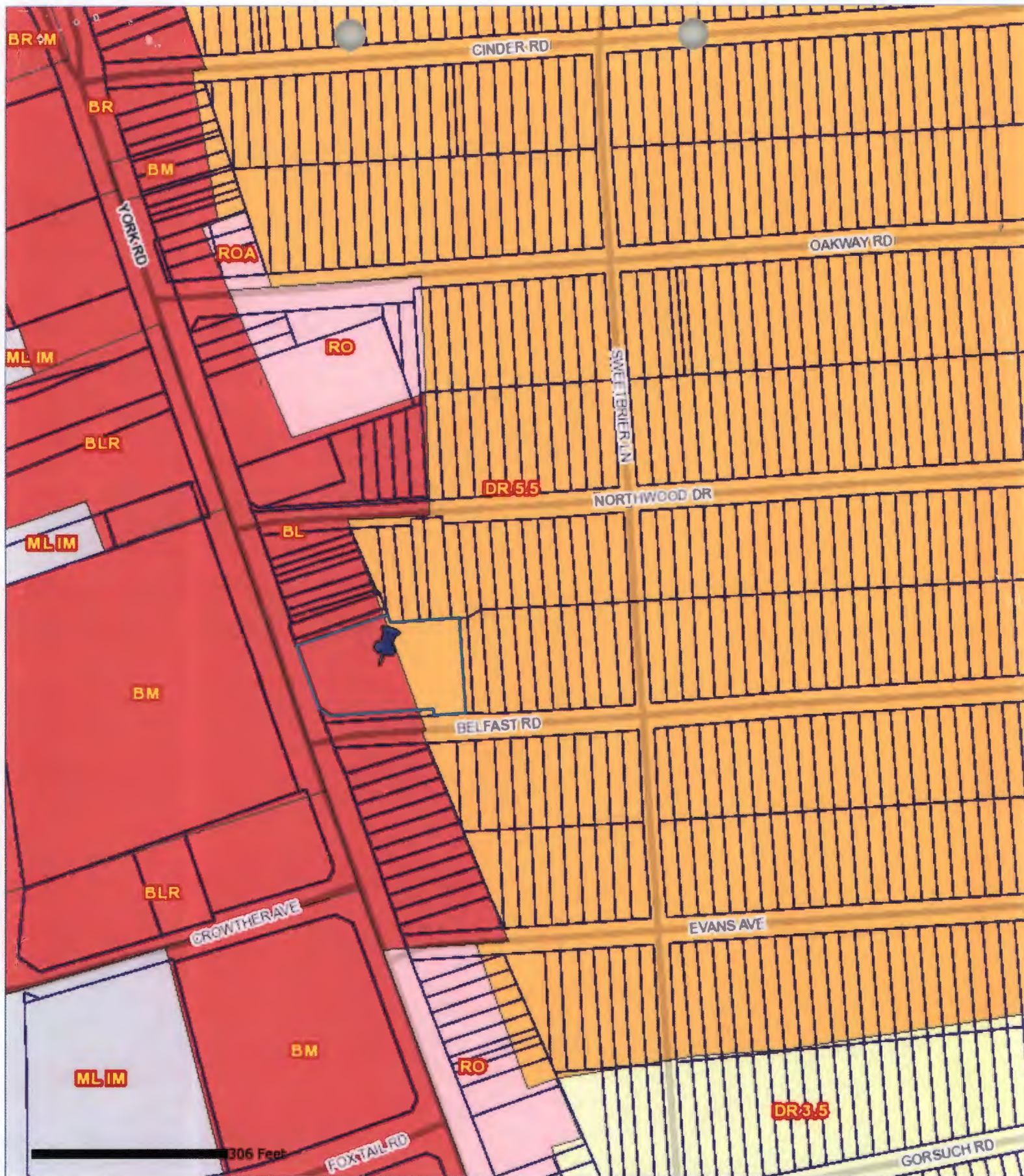
My Neighborhood Map

Created By
Baltimore County
My Neighborhood



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Printed 1/30/2013

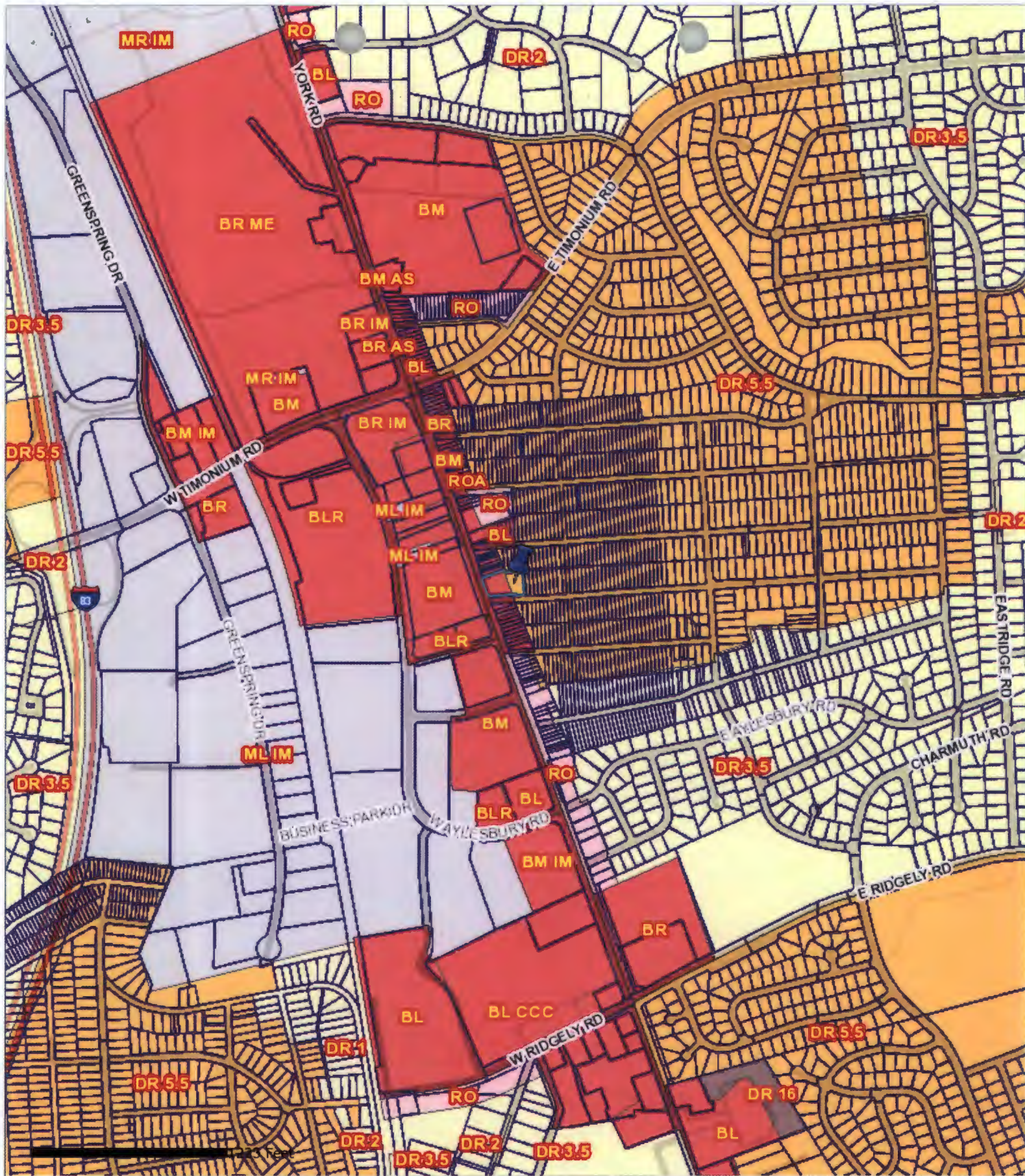


My Neighborhood Map

Created By
Baltimore County
My Neighborhood



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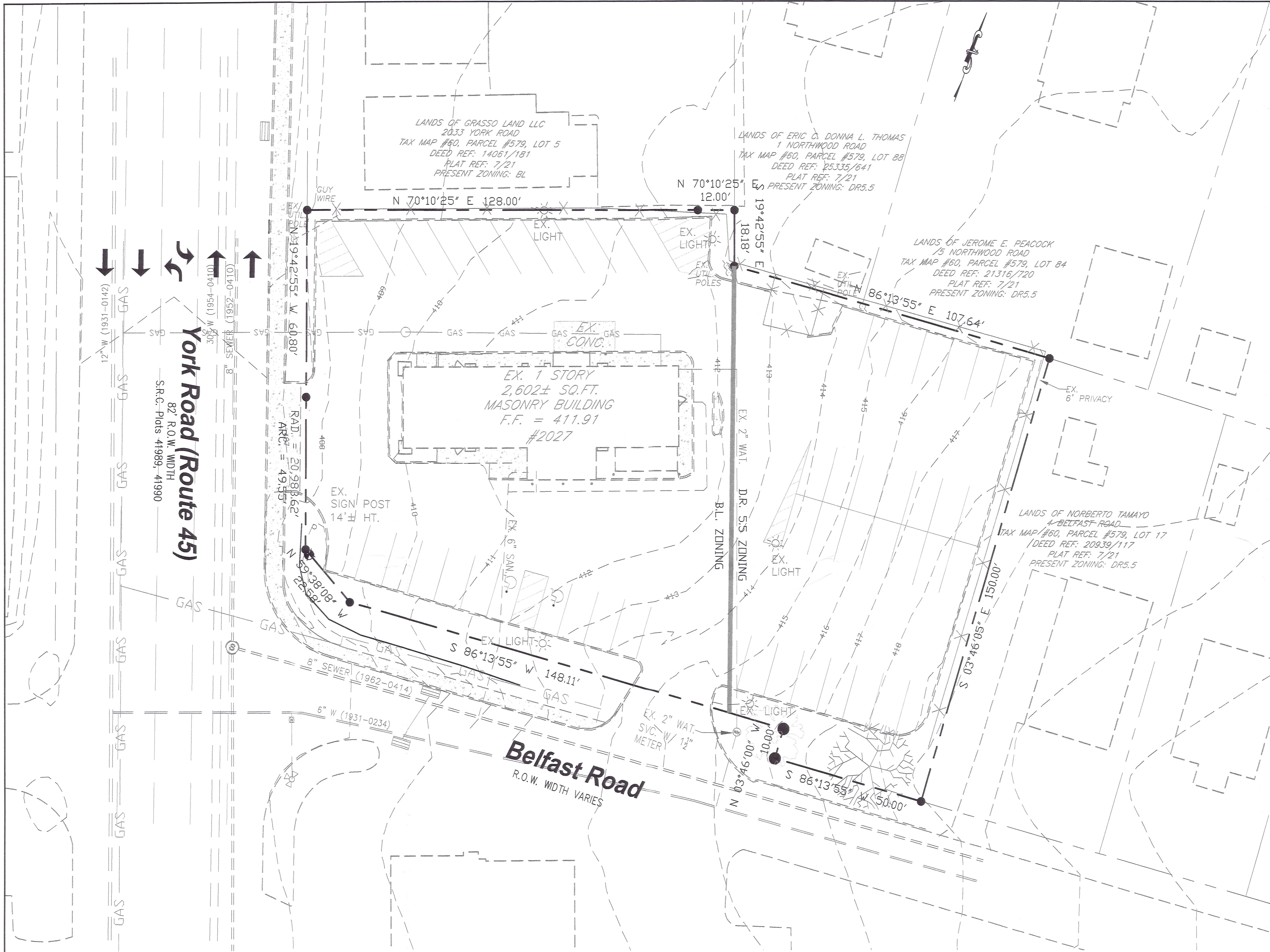


My Neighborhood Map

Created By
Baltimore County
My Neighborhood



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NOTES:

1. THE EXISTING PHYSICAL FEATURES DEPICTED ON THIS PLAN WERE GENERATED FROM BOTH FIELD RUN TOPOGRAPHIC SURVEY AND BALTIMORE COUNTY GIS.
2. THE BOUNDARY INFORMATION SHOWN HEREON WAS DERIVED FROM THE PLAT REFERENCED BY THE PROPERTY DATA AS WELL AS RIGHT-OF-WAY PLATS. THE EXACT LOCATION SHOULD NOT BE RELIED UPON FOR ESTABLISHMENT OF THE PROPERTY LINES. A BOUNDARY SURVEY SHOULD BE PERFORMED TO IDENTIFY THE EXACT BOUNDARY LOCATION.

EXISTING PLAN

SCALE: 1" = 32'



BENCHMARK

1. BCD #791 - A SPIKE SET IN THE SIDEWALK ALONG THE WEST SIDE OF AYLESBURY ROAD AT THE INTERSECTION WITH GROWTH AVENUE.
(NAD83) N: 644,600.57; E: 1,417,825.83
(NAVD88) ELEV. = 381.41
2. ON-SITE BENCHMARK:
IRON PIN & CAP LOCATED AT THE SOUTHWESTERLY CORNER OF SUBJECT PROPERTY.
N: 645,033.58
E: 1,416,370.98
ELEV. = 409.37
3. DESIGN AND DRAWINGS ARE BASED ON MARYLAND COORDINATE SYSTEM (MCS). HORIZONTAL - NAD 83/91.

SITE DATA

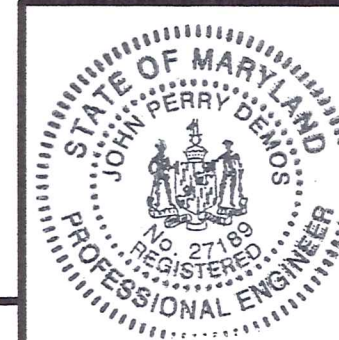
1. OWNER:
MICHAEL R. MARDINEY, JR.
7212 BELLONA AVENUE
BALTIMORE, MARYLAND 21212
212-529-5727
2. CONTRACT PURCHASER / APPLICANT:
ENTOURAGE DEVELOPMENT, LLC
39 BRETT MANOR COURT
HUNT VALLEY, MARYLAND 21030
CONTACT: TOM BEHRLE
443-756-2623
3. ADDRESS OF SITE: 2027 YORK ROAD
4. TAX MAP #60, GRID #12, PARCEL #579, LOT 15
5. DEED REFERENCE: 15376/310
6. PLAT REFERENCE: 7/21
7. ELECTION DISTRICT: 8TH
8. COUNCILMANIC DISTRICT: 3RD
9. TAX ACCOUNT #2200028619
10. CENSUS TRACT: 408601
11. SITE AREA: 0.753 Ac. or 32,783 Sq.Ft.
12. ZONING MAP #60C1
13. EXISTING ZONING: SPLIT ZONED
BL (BUSINESS, LOCAL)
DR5.5 (RESIDENTIAL)
SETBACKS: FRONT = 10'
SIDE = INTERIOR 0', STREET SIDE = 10'
REAR = 20'
14. PROPOSED ZONING: NO CHANGE
15. EXISTING USE: VACANT (FAST FOOD RESTAURANT PREVIOUSLY)
16. PROPOSED USE: FAST FOOD RESTAURANT
1-STORY RESTAURANT W/DRIVE THRU
17. F.A.R. = 2,602/32,783 = 0.08
18. PARKING:
REQUIRED: 16 PER 1,000 S.F. = 42 SPACES
PROVIDED: 43 SPACES, 41 STD. AND 2 HANDICAP
19. DELIVERIES FOR THE USE WILL BE DURING OFF HOURS.
20. THERE ARE NO CRITICAL AREAS IN THE SITE BOUNDARY.
21. THERE ARE NO WETLANDS LOCATED IN THE SITE BOUNDARY.
22. ANY SIGNS SHALL CONFORM TO BCZR REQUIREMENTS.
23. ANY FIXTURE USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.
24. ALL DRIVEWAYS AND PARKING AISLES WILL HAVE A MACADAM SURFACE & SHALL COMPLY WITH SECTION 409 OF THE BCZR. ALL PARKING AREAS WILL BE PERMANENTLY STRIPED.
25. UTILITIES: PUBLIC WATER & PUBLIC SEWER.
26. THE SITE IS NOT LOCATED IN ANY FAILED BASIC SERVICES MAP AREA.
27. PREVIOUS BUILDING PERMITS: UNKNOWN
28. PREVIOUS ZONING CASES: 1971-0269-SPH, R-1959-4591
29. WATERSHED: JONES FALLS
30. SUBSEWERSHED: 8
31. SITE IS NOT LOCATED WITHIN THE 100-YR RIVERINE FLOODPLAIN.

MISS UTILITY

THE CONTRACTOR IS TO CONTACT MISS UTILITY AT LEAST 72 HOURS PRIOR TO THE START OF CONSTRUCTION AT 1-800-757-7777.

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. 22189 EXPIRATION DATE: MARCH 28, 2014.



MCS

State Line Engineering, LLC

4901 Picker Drive
Pylesville, Maryland 21132
Phone: 443-524-1641
Fax: 410-452-0111

EXISTING PLAN
FOR



TIMONIUM

DEED REF: 15386 FOLIO 310;
TAX ACCOUNT NO.:2200028619;

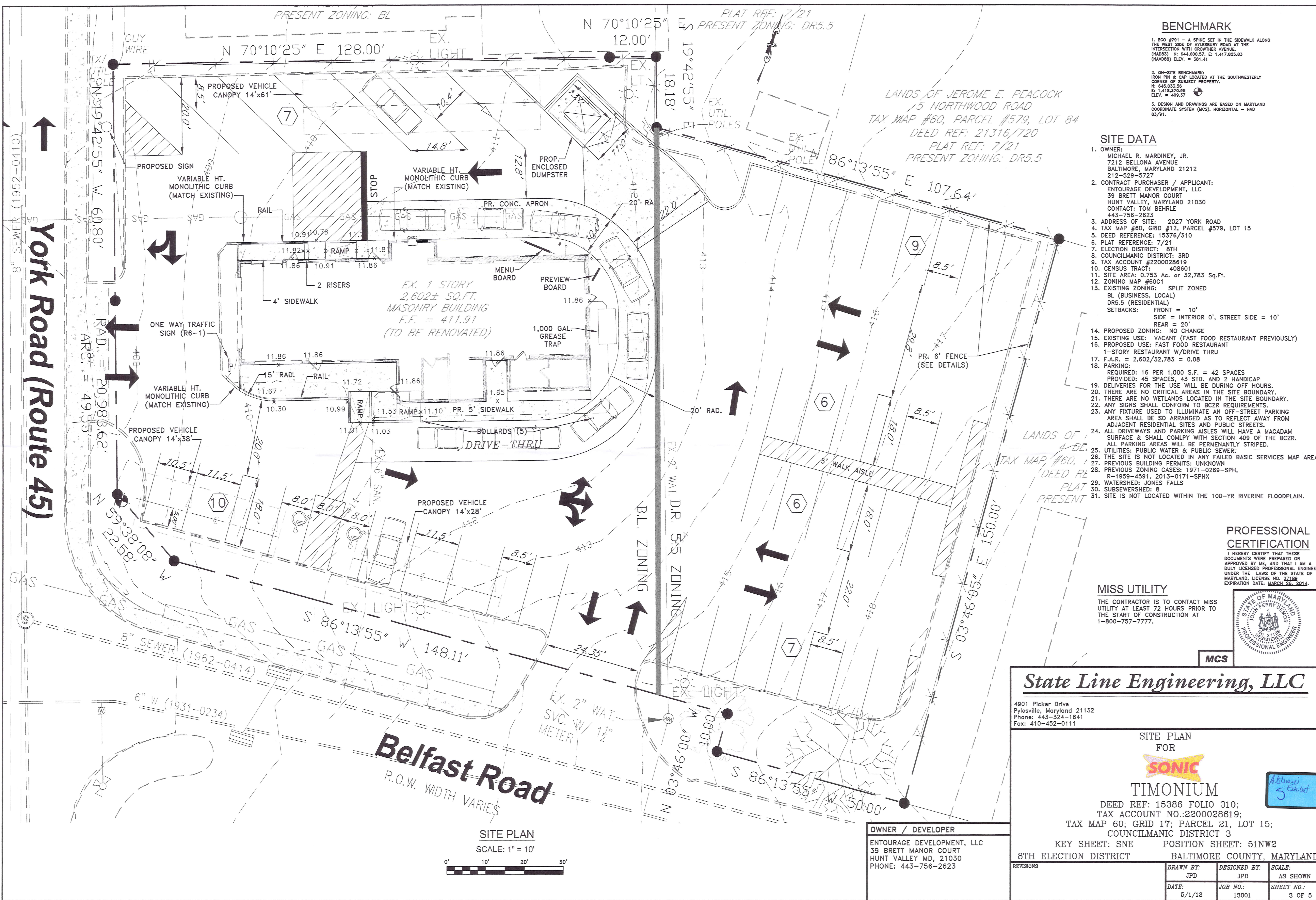
TAX MAP 60; GRID 17; PARCEL 21, LOT 15;
COUNCILMANIC DISTRICT 3

KEY SHEET: SNE POSITION SHEET: 51NW2

8TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

REVISIONS		DRAWN BY:	DESIGNED BY:	SCALE:
		JPD	JPD	AS SHOWN
		DATE:	JOB NO.:	SHEET
		8/8/13	13001	2

2



BENCHMARK

1. B.O. #791 - A SPIKE SET IN THE SIDEWALK ALONG THE WEST SIDE OF AYLESBURY ROAD AT THE INTERSECTION WITH CROWTHER AVENUE.
(NAVD83) N: 844,600.57, E: 1,417,825.83
(NAVD88) ELEV. = 381.41

2. ON-SITE BENCHMARK:
IRON PIN & CAP LOCATED AT THE SOUTHWESTERLY CORNER OF SUBJECT PROPERTY.
N: 845,035.58
E: 1,416,370.98
ELEV. = 409.37

3. DESIGN AND DRAWINGS ARE BASED ON MARYLAND COORDINATE SYSTEM (MCS). HORIZONTAL - NAD 83/91.

- SITE DATA**
- OWNER:
MICHAEL R. MARDINEY, JR.
7212 BELLONA AVENUE
BALTIMORE, MARYLAND 21212
212-529-5727
 - CONTRACT PURCHASER / APPLICANT:
ENTOURAGE DEVELOPMENT, LLC
39 BRETT MANOR COURT
HUNT VALLEY, MARYLAND 21030
CONTACT: TOM BEHRLE
443-756-2623
 - ADDRESS OF SITE: 2027 YORK ROAD
 - TAX MAP #60, GRID #12, PARCEL #579, LOT 15
 - DEED REFERENCE: 15376/310
 - PLAT REFERENCE: 7/21
 - ELECTION DISTRICT: 8TH
 - COUNCILMANIC DISTRICT: 3RD
 - TAX ACCOUNT #2200028619
 - CENSUS TRACT: 408601
 - SITE AREA: 0.753 Ac. or 32,783 Sq.Ft.
 - ZONING MAP #60C1
 - EXISTING ZONING: SPLIT ZONED
BL (BUSINESS, LOCAL)
DR5.5 (RESIDENTIAL)
SETBACKS: FRONT = 10'
SIDE = INTERIOR 0', STREET SIDE = 10'
REAR = 20'
 - PROPOSED ZONING: NO CHANGE
 - EXISTING USE: VACANT (FAST FOOD RESTAURANT PREVIOUSLY)
 - PROPOSED USE: FAST FOOD RESTAURANT
1-STORY RESTAURANT W/DRIVE THRU
 - F.A.R. = 2,602/32,783 = 0.08
 - PARKING:
REQUIRED: 16 PER 1,000 S.F. = 42 SPACES
PROVIDED: 45 SPACES, 43 STD. AND 2 HANDICAP
 - DELIVERIES FOR THE USE WILL BE DURING OFF HOURS.
 - THERE ARE NO CRITICAL AREAS IN THE SITE BOUNDARY.
 - THERE ARE NO WETLANDS LOCATED IN THE SITE BOUNDARY.
 - ANY SIGNS SHALL CONFORM TO BCZR REQUIREMENTS.
 - ANY FIXTURE USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.
 - ALL DRIVEWAYS AND PARKING AISLES WILL HAVE A MACADAM SURFACE & SHALL COMPLY WITH SECTION 409 OF THE BCZR.
 - ALL PARKING AREAS WILL BE PERMANENTLY STRIPED.
 - UTILITIES: PUBLIC WATER & PUBLIC SEWER.
 - THE SITE IS NOT LOCATED IN ANY FAILED BASIC SERVICES MAP AREA.
 - PREVIOUS BUILDING PERMITS: UNKNOWN
 - PREVIOUS ZONING CASES: 1971-0269-SPH,
R-1959-4591, 2013-0171-SPHX
 - WATERSHED: JONES FALLS
 - SUBWERSHED: 8
 - SITE IS NOT LOCATED WITHIN THE 100-YR RIVERINE FLOODPLAIN.

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. 27188 EXPIRATION DATE: MARCH 28, 2014.

MISS UTILITY

THE CONTRACTOR IS TO CONTACT MISS UTILITY AT LEAST 72 HOURS PRIOR TO THE START OF CONSTRUCTION AT 1-800-757-7777.



State Line Engineering, LLC

4901 Picker Drive
Pylesville, Maryland 21132
Phone: 443-524-1641
Fax: 410-452-0111

SITE PLAN FOR

SONIC

TIMONIUM

DEED REF: 15386 FOLIO 310;
TAX ACCOUNT NO.:2200028619;
TAX MAP 60; GRID 17; PARCEL 21, LOT 15;
COUNCILMANIC DISTRICT 3

KEY SHEET: SNE POSITION SHEET: 51NW2
8TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

OWNER / DEVELOPER

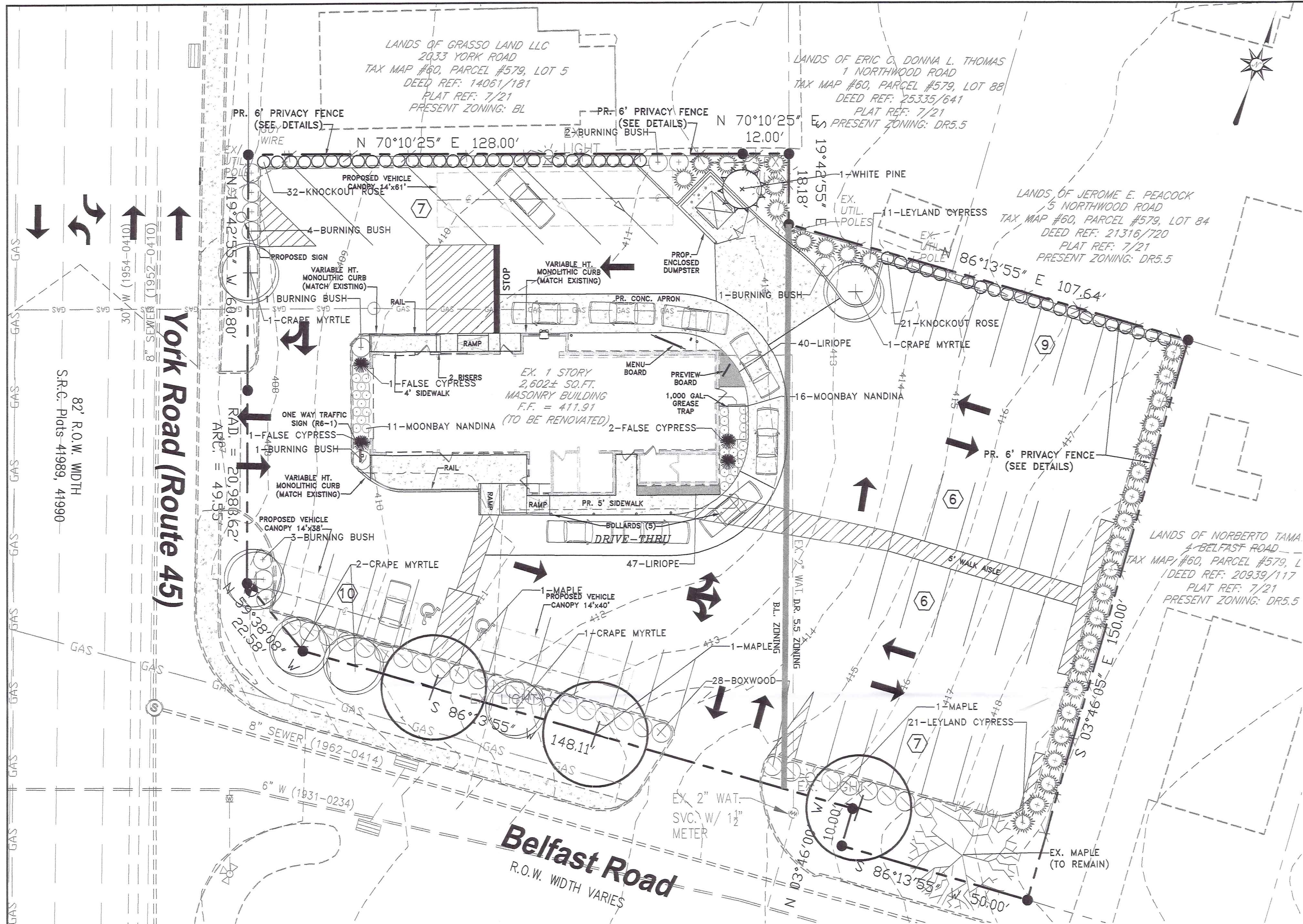
ENTOURAGE DEVELOPMENT, LLC
39 BRETT MANOR COURT
HUNT VALLEY MD, 21030
PHONE: 443-756-2623

REVISIONS

DATE	DESIGNED BY	SCALE
5/1/13	JPD	AS SHOWN

SHEET NO.: 3 OF 5

SITE PLAN
SCALE: 1" = 10'



LANDSCAPE TABULATION

- CONDITION A - 331 LIN. FT. OF ADJACENT ROAD / 40 = 8 PLANTING UNITS
- CONDITION B - 171 LIN. FT. BELFAST ROAD / 15 = 11 PLANTING UNITS
- CONDITION C - 40 LIN. FT. YORK ROAD / 15 = 3 PLANTING UNITS
- CONDITION D - 45 PARKING SPACES / 12 = 4 PLANTING UNITS
- CONDITION E - 195 LIN. FT. SERVICE LANE / 15 = 13 PLANTING UNITS
- CONDITION F - 27 LIN. FT. DUMPSTER ENCLOSURE / 15 = 2 PLANTING UNITS

41 PLANTING UNITS REQUIRED

PLANT LIST

QUANTITY	BOTANICAL NAME/COMMON NAME	MINIMUM SIZE	ROOT
SHADE TREES			
3	ACER RUBRUM 'RED SUNSET' / RED SUNSET MAPLE	2" TO 2.5" CAL.	B & B
ORNAMENTAL TREES			
6	LAGERSTROEMIA INDICA 'WHIT II' / DYNAMITE CRAPE MYRTLE	1" TO 1.5" CAL.	B & B
EVERGREEN TREES			
32	CUPRESSOCYPARIS X LEYLANDII / LEYLAND CYPRESS	6" HEIGHT	B & B
1	PINUS STROBUS / WHITE PINE	6" HEIGHT	B & B
EVERGREEN SHRUBS			
28	BUXUS SEMPERVIRENS 'VARIEGATA' / VARIEGATED ENGLISH BOXWOOD	3 GAL.	CONTAINER
27	NANDINA D. 'MOONBAY' / MOONBAY NANDINA	3 GAL.	CONTAINER
4	CHAMAECYPARIS OBT. 'NANA GRACILLIS' / DWARF HANOKI FALSECYPRESS	24-30"	CONTAINER
DECIDUOUS SHRUBS			
12	EUONYMUS ALATUS 'COMPACTA' / DWARF BURNING BUSH	18" TO 30"	B & B
53	ROSA 'KNOCKOUT' / KNOCKOUT ROSE	1 GAL.	CONTAINER
GROUND COVER			
87	LIRIOPE M. 'BIG BLUE' / BIG BLUE LIRIOPE	4" POT	

3 MAJOR TREES = 3 P.U.
6 MINOR TREES = 3 P.U.
33 EVERGREEN TREES = 16.5 P.U.
124 SHRUBS (18" TO 30") = 24.8 P.U.
TOTAL = 47.3 P.U. PROVIDED

49 P.U. ON SITE WITH THE EXISTING TREE CREDIT

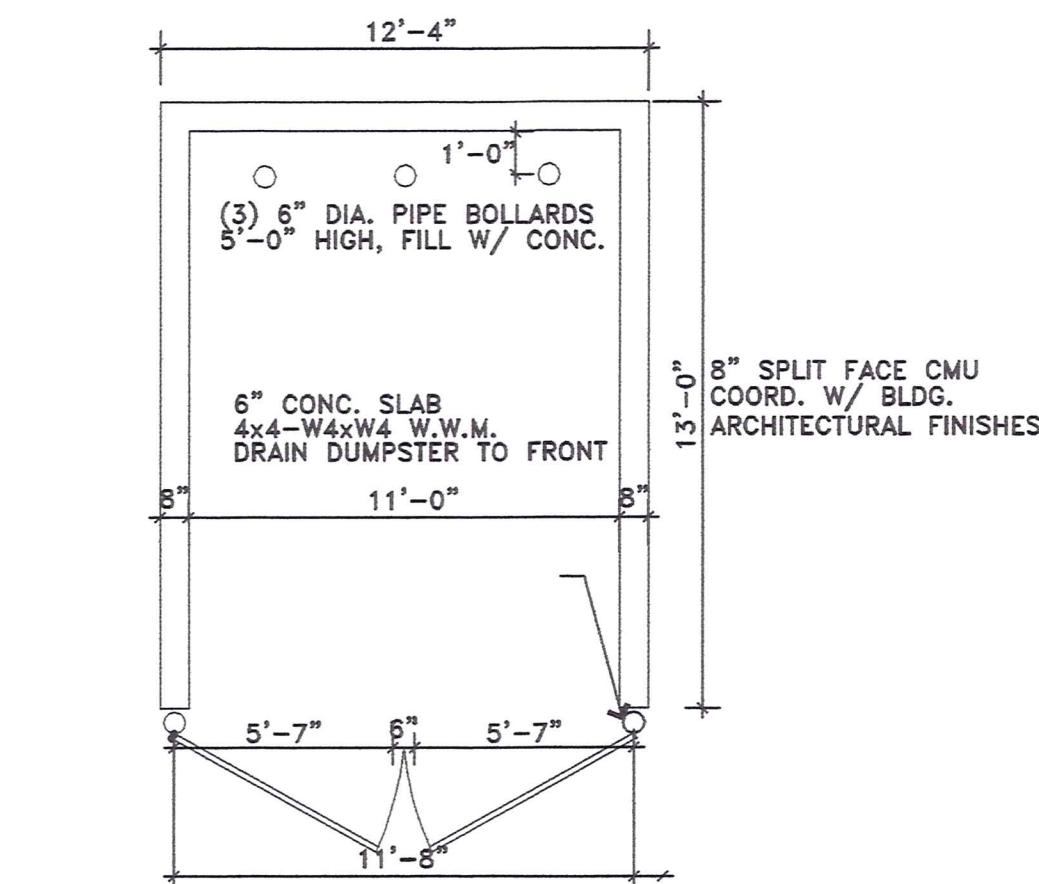
NOTE:

1) CREDITED 2 PLANTING UNIT FOR 1 EXISTING MAPLE ALONG BELFAST ROAD.

2) BOARD ON BOARD FENCE PROVIDED ALONG EASTERN AND NORTHERN PERIMETER IN LIEU OF THE 10' LANDSCAPE BUFFER.

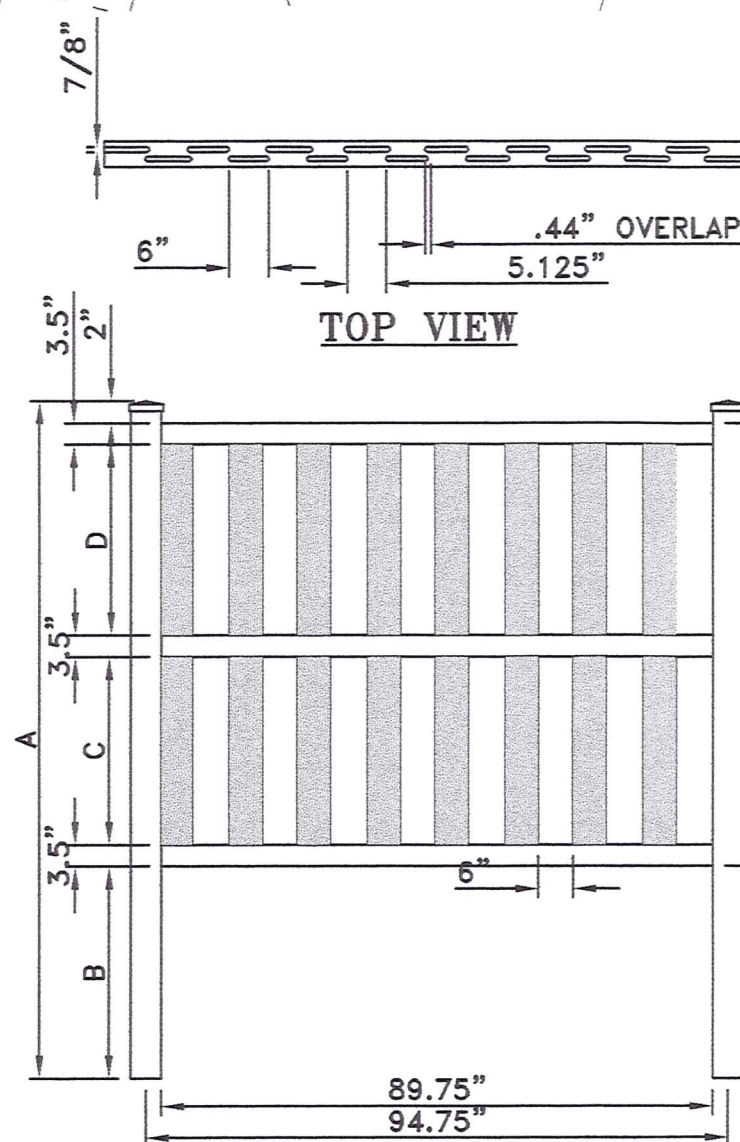
FINAL LANDSCAPE PLAN

SCALE: 1" = 16'



DUMPSTER ENCLOSURE DETAIL

NOT TO SCALE



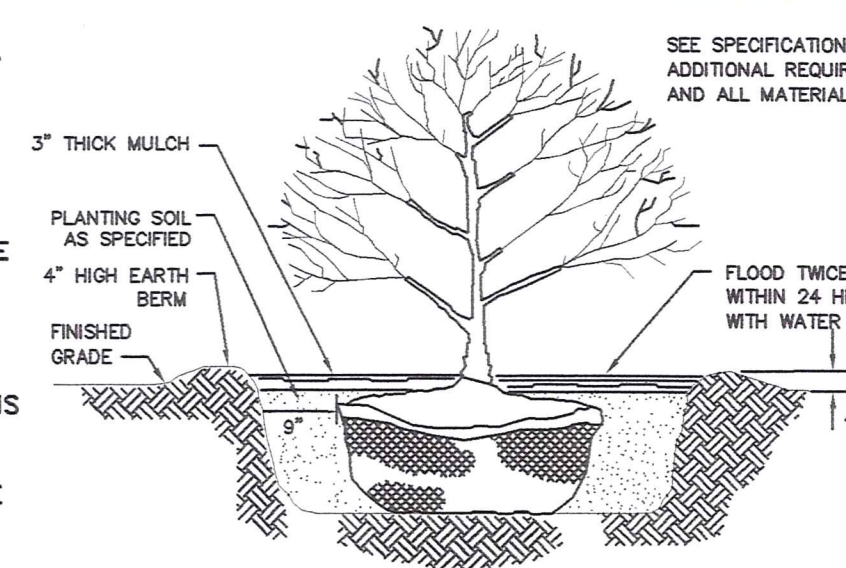
A	B	C	D	E
H(FT) INCHES	H(FT) INCHES	H(FT) INCHES	H(FT) INCHES	H(FT) INCHES
6 1/8	6 3/4	6 30/75	6 30/75	6 72

- NOTES:
1. FENCE IS TO BE A VINYL FENCE (COLOR TO BE DETERMINED)
2. THE FENCE SHALL BE SIMILAR TO THAT AS SHOWN.

FENCE DETAIL

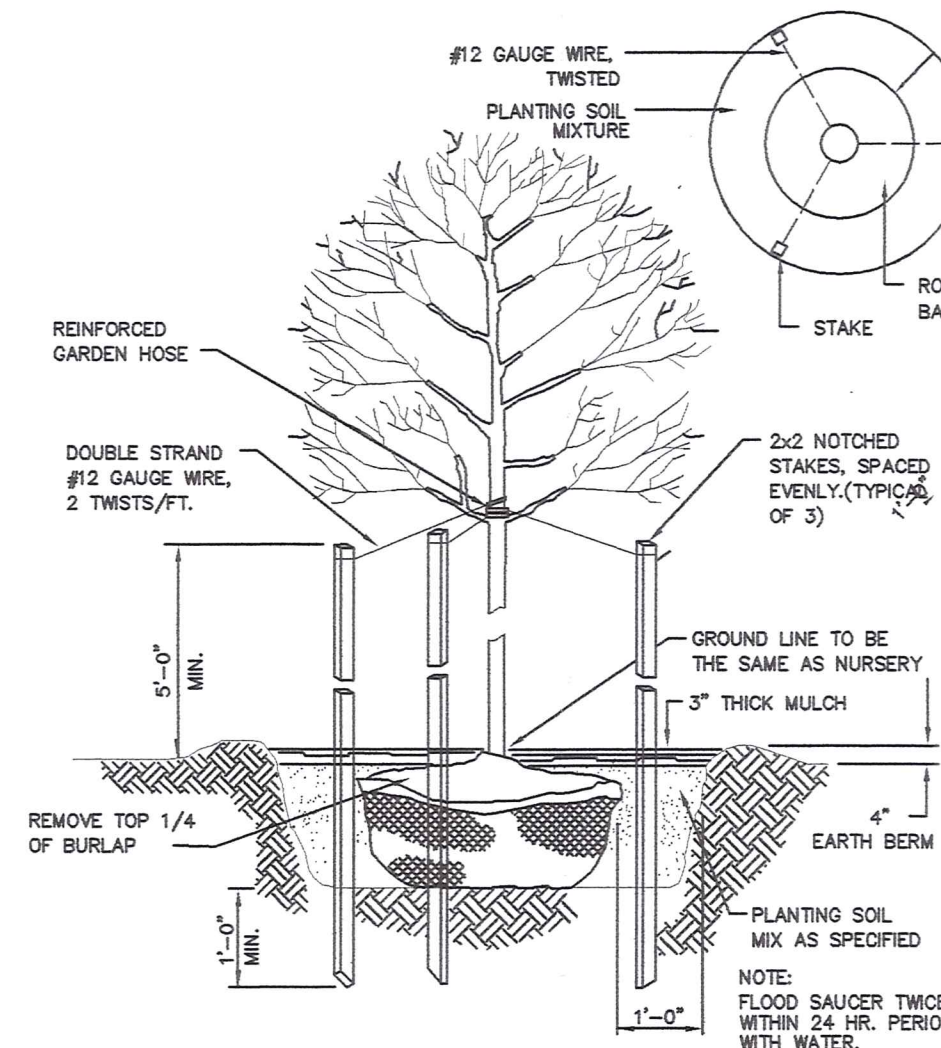
LANDSCAPE NOTES

- ALL PLANT MATERIALS SHALL BE NURSERY GROWN AND SHALL CONFORM TO AMERICAN ASSOCIATION OF NURSERYMEN, INC. STANDARDS.
- ALL PLANTING PROCEDURES AND SPECIFICATIONS SHALL CONFORM TO "LANDSCAPE SPECIFICATION GUIDELINES FOR BALTIMORE WASHINGTON METROPOLITAN AREA" LATEST EDITION.
- THE CONTRACTOR SHALL CONTACT "MISS UTILITY" FOR UNDERGROUND UTILITY LOCATIONS AT LEAST 72 HOURS PRIOR TO THE COMPLETION DATE.
- ALL PLANTS SHALL BE GUARANTEED BY THE CONTRACTOR FOR ONE YEAR FOLLOWING THE INSTALLATION COMPLETION DATE.



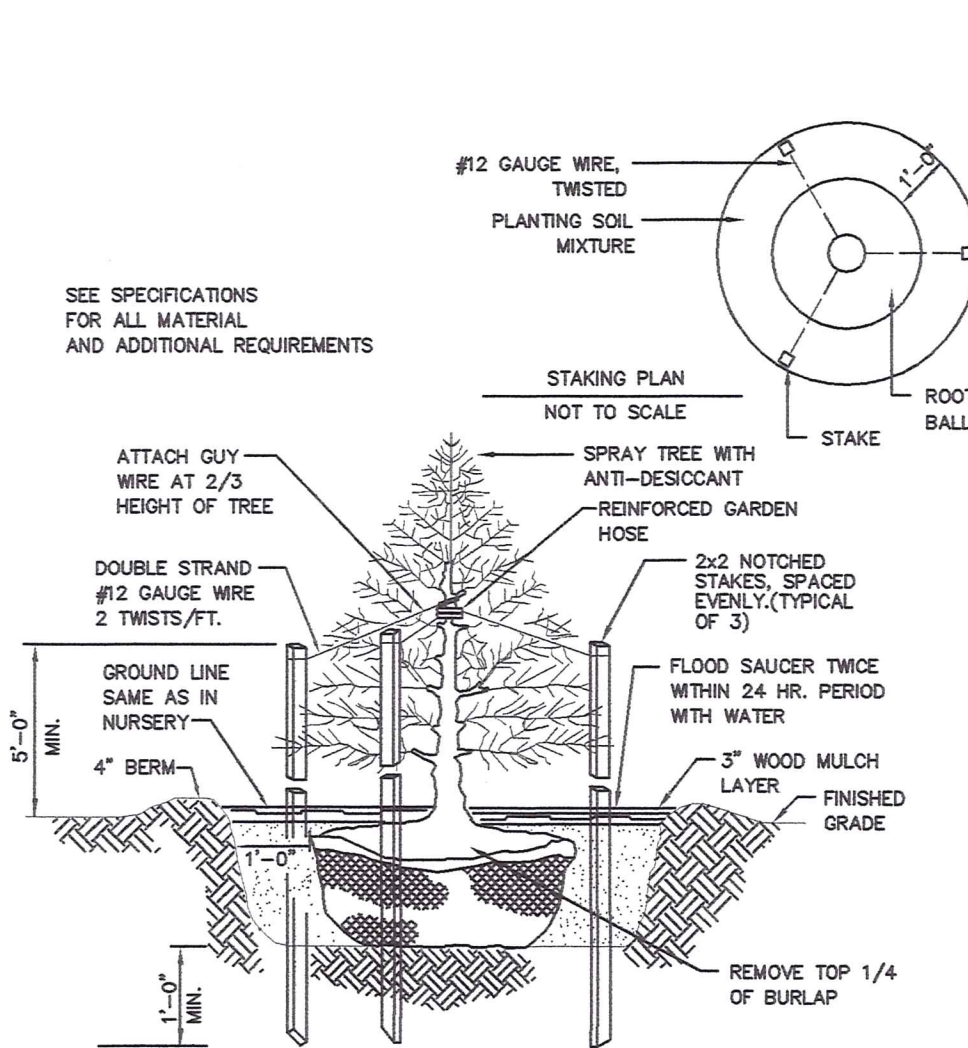
SHRUB PLANTING DETAIL

NOT TO SCALE



DECIDUOUS TREE PLANTING DETAIL

NOT TO SCALE



EVERGREEN TREE PLANTING DETAIL

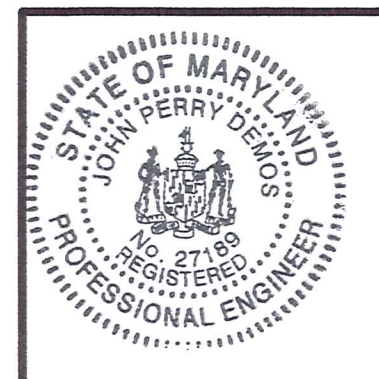
NOT TO SCALE

OWNER'S SIGNATURE AND CERTIFICATION FORM

I certify that I have reviewed this Final Landscape Plan; that I am aware of the regulations presented in the Baltimore County Landscape Manual, and I agree to comply with these regulations and all applicable policy, guidelines and ordinances. I agree to certify the implementation of this approved Final Landscape Plan upon completion of the Landscape installation not later than one (1) year from the date of approval of this plan to the Department of Permits, Approvals & Inspections, Development Plans Review, County Office Building, Room 119, Towson, Md. 21204

Owner's Signature _____ Date _____
Tom Behrle for Entourage Development, LLC 443-756-2623
Print Owner's Name Telephone #

39 Brett Manor Court, Hunt Valley, MD 21030
(Print) Mailing address - city - state - zip



State Line Engineering, LLC

4901 Picker Drive
Pylesville, Maryland 21132
Phone: 443-324-1641
Fax: 410-452-0111

FINAL LANDSCAPE PLAN FOR



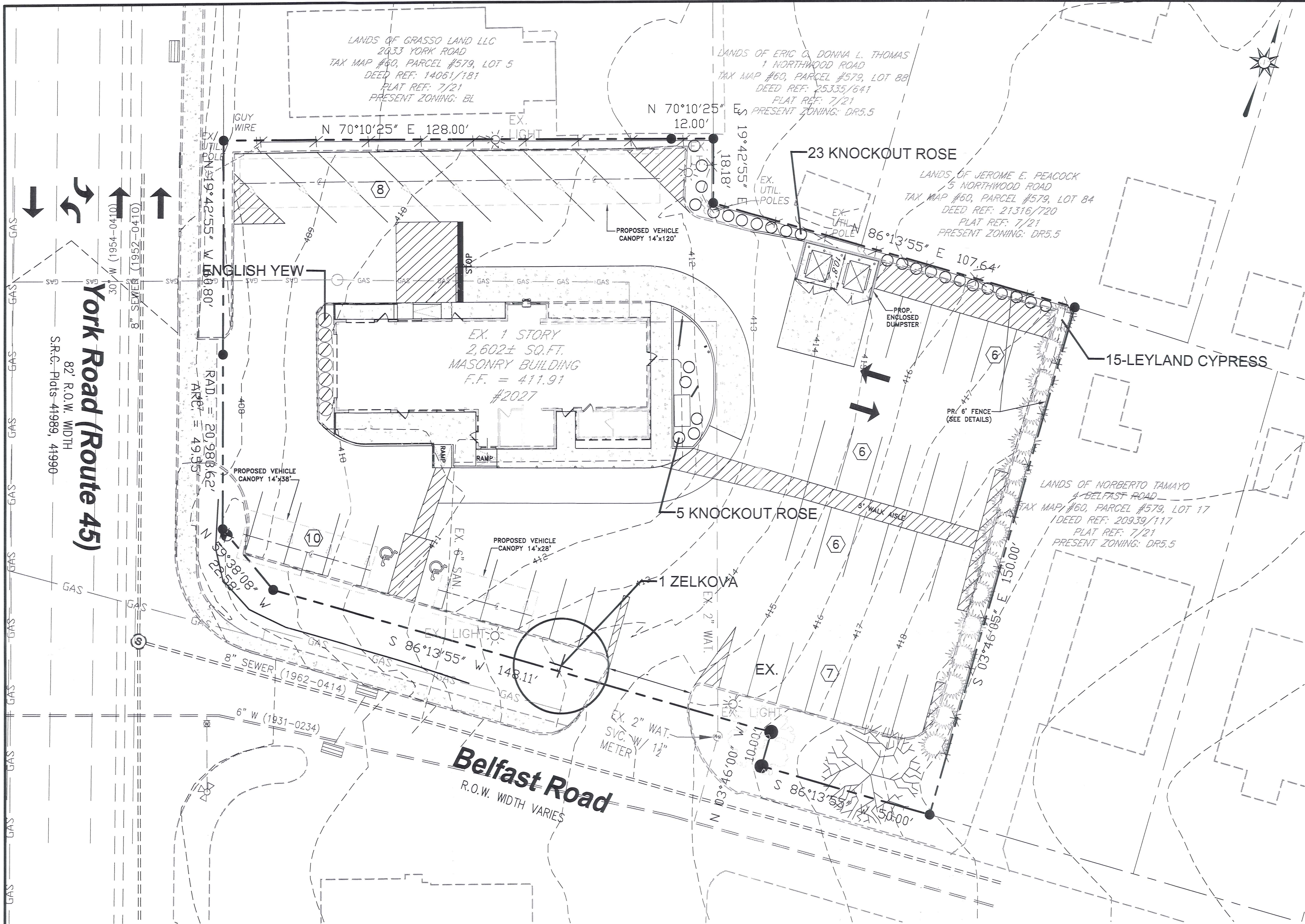
TIMONIUM

DEED REF: 15386 FOLIO 310;
TAX ACCOUNT NO.: 2200028619;
TAX MAP 60; GRID 17; PARCEL 21, LOT 15;
COUNCILMANIC DISTRICT 3

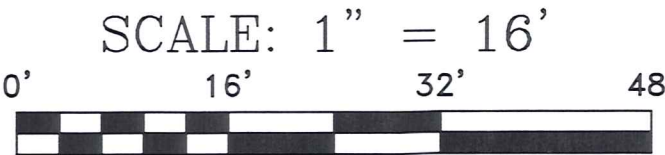
KEY SHEET: SNE POSITION SHEET: 51NW2

8TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

REVISIONS	DRAWN BY:	DESIGNED BY:	SCALE:
	JPD	JPD	AS SHOWN
	DATE:	JOB NO.:	SHEET NO.:
	4/3/13	13001	5 OF 5



FINAL LANDSCAPE AND LIGHTING PLAN



LANDSCAPE NOTES

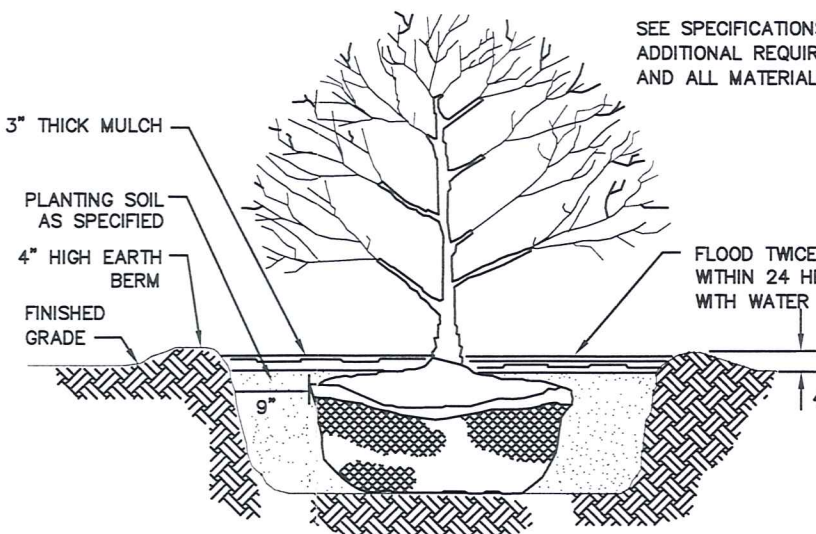
- 1) ALL PLANT MATERIALS SHALL BE NURSERY GROWN AND SHALL CONFORM TO AMERICAN ASSOCIATION OF NURSERYMAN, INC. STANDARDS.
- 2) ALL PLANTING PROCEDURES AND SPECIFICATIONS SHALL CONFORM TO "LANDSCAPE SPECIFICATION GUIDELINES FOR BALTIMORE WASHINGTON METROPOLITAN AREA" LATEST EDITION.
- 3) THE CONTRACTOR SHALL CONTACT "MISS UTILITY" FOR UNDERGROUND UTILITY LOCATIONS AT LEAST 72 HOURS PRIOR TO THE COMPLETION DATE.
- 4) ALL PLANTS SHALL BE GUARANTEED BY THE CONTRACTOR FOR ONE YEAR FOLLOWING THE INSTALLATION COMPLETION DATE.

PLANT LIST

QUANTITY	BOTANICAL NAME/COMMON NAME	MINIMUM SIZE	REMARKS
23	CUPRESSOCYPARIS LEYLANDII / LEYLAND CYPRESS	5'-6' HGT.	
28	ROSA 'KNOCKOUT' / KNOCKOUT ROSE	2 GAL.	
7	TAXUS BACCATA 'RAPANDENS' / SPREADING ENGLISH YEWE	18" TO 24"	
1	ZELKOVA SERRATA 'GREEN VASE' / GREEN VASE ZELKOVA	2.5" TO 3" CAL.	

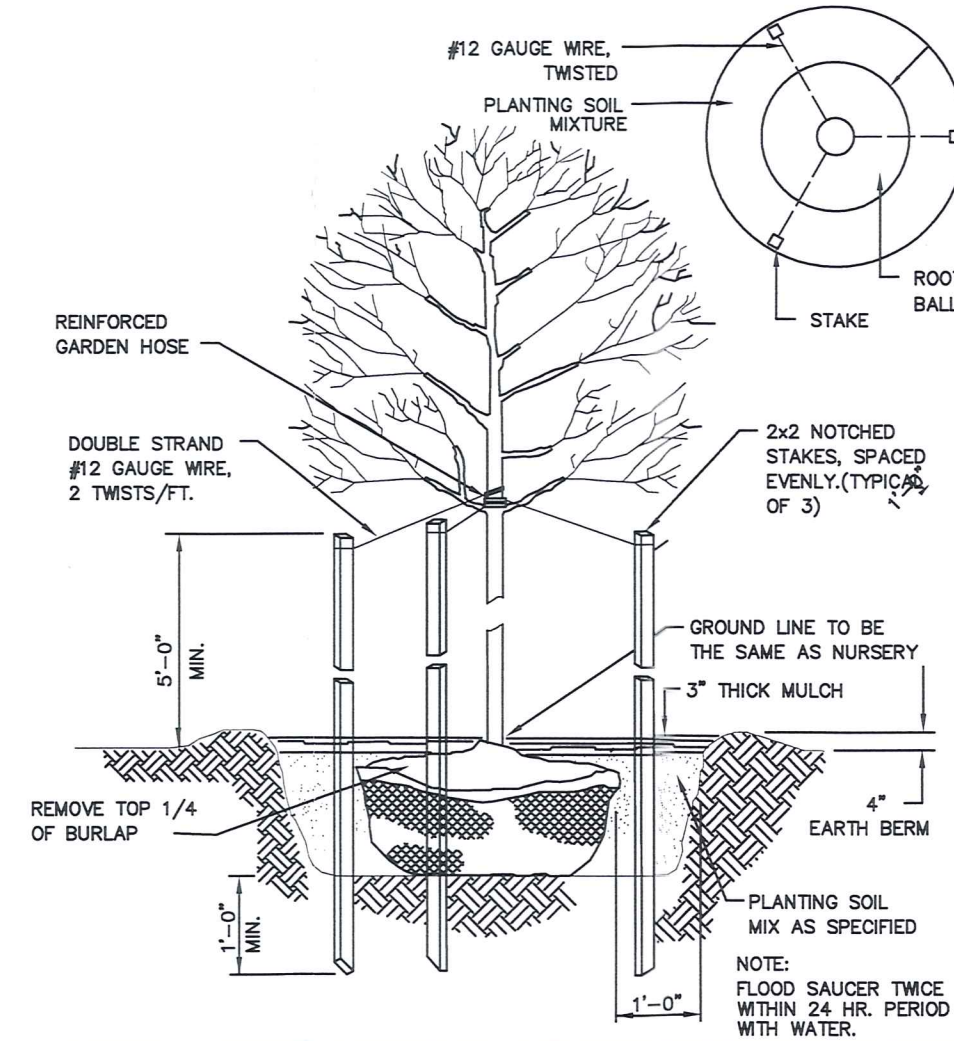
OWNER / DEVELOPER

ENTOURAGE DEVELOPMENT, LLC
39 BRETT MANOR COURT
HUNT VALLEY MD, 21030
PHONE: 443-756-2623



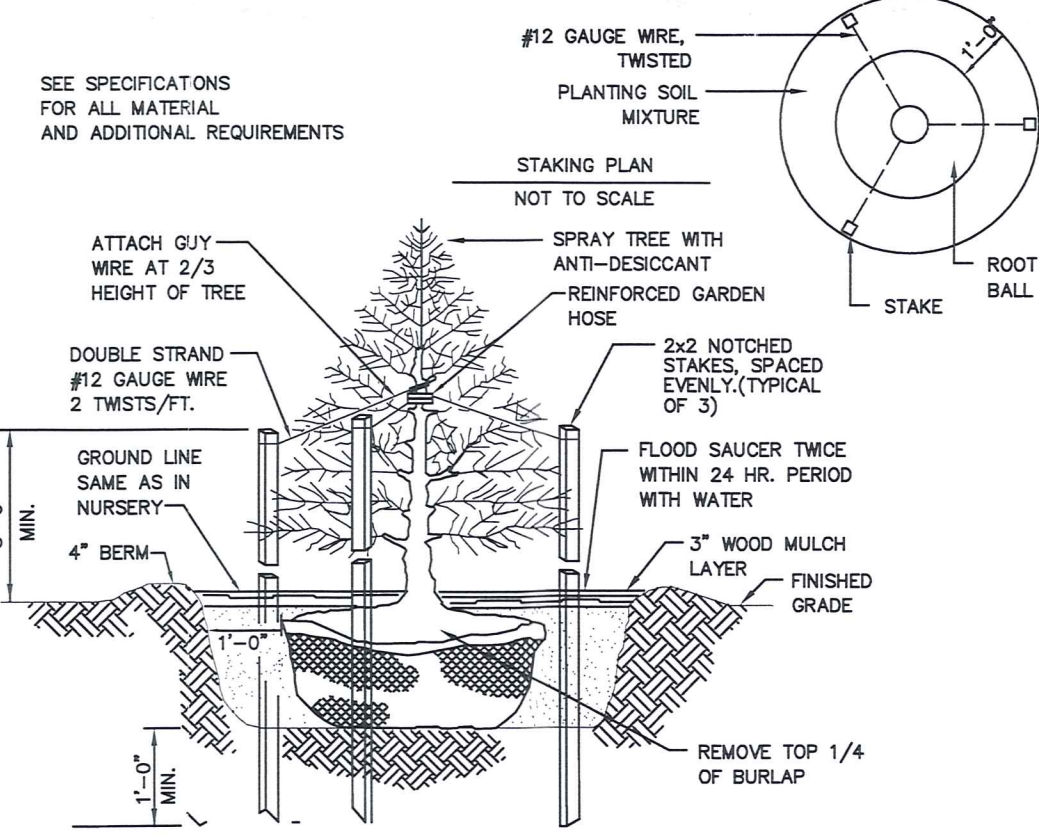
SHRUB PLANTING DETAIL

NOT TO SCALE



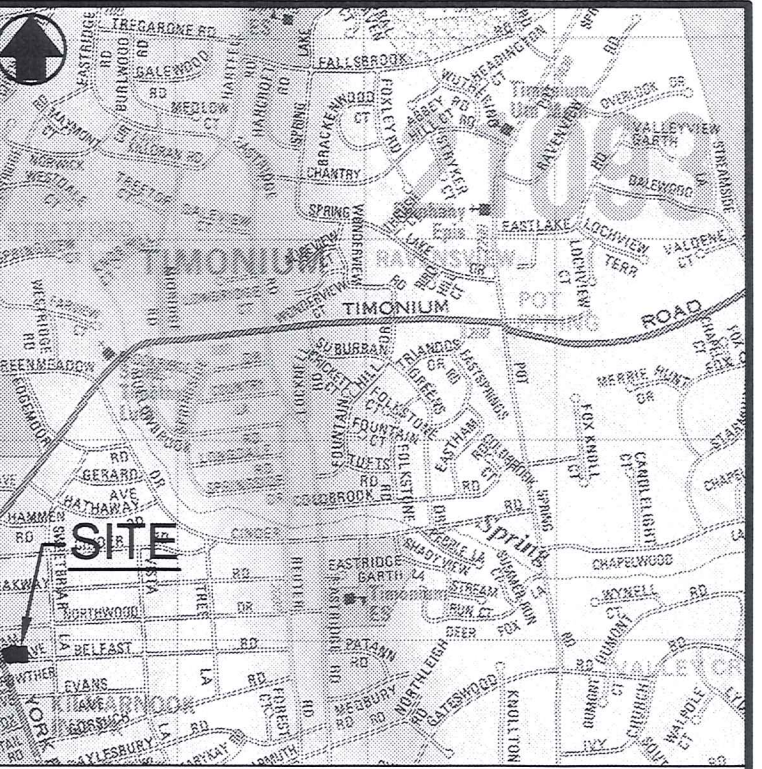
DECIDUOUS TREE PLANTING DETAIL

NOT TO SCALE



EVERGREEN TREE PLANTING DETAIL

NOT TO SCALE



LOCATION MAP

SCALE: 1" = 200'

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. 27189 EXPIRATION DATE: MARCH 28, 2014.

State Line Engineering, LLC

4901 Picker Drive
Pylasville, Maryland 21132
Phone: 443-324-1641
Fax: 410-452-0111

LANDSCAPE PLAN FOR PETITIONER'S

EXHIBIT NO. 14

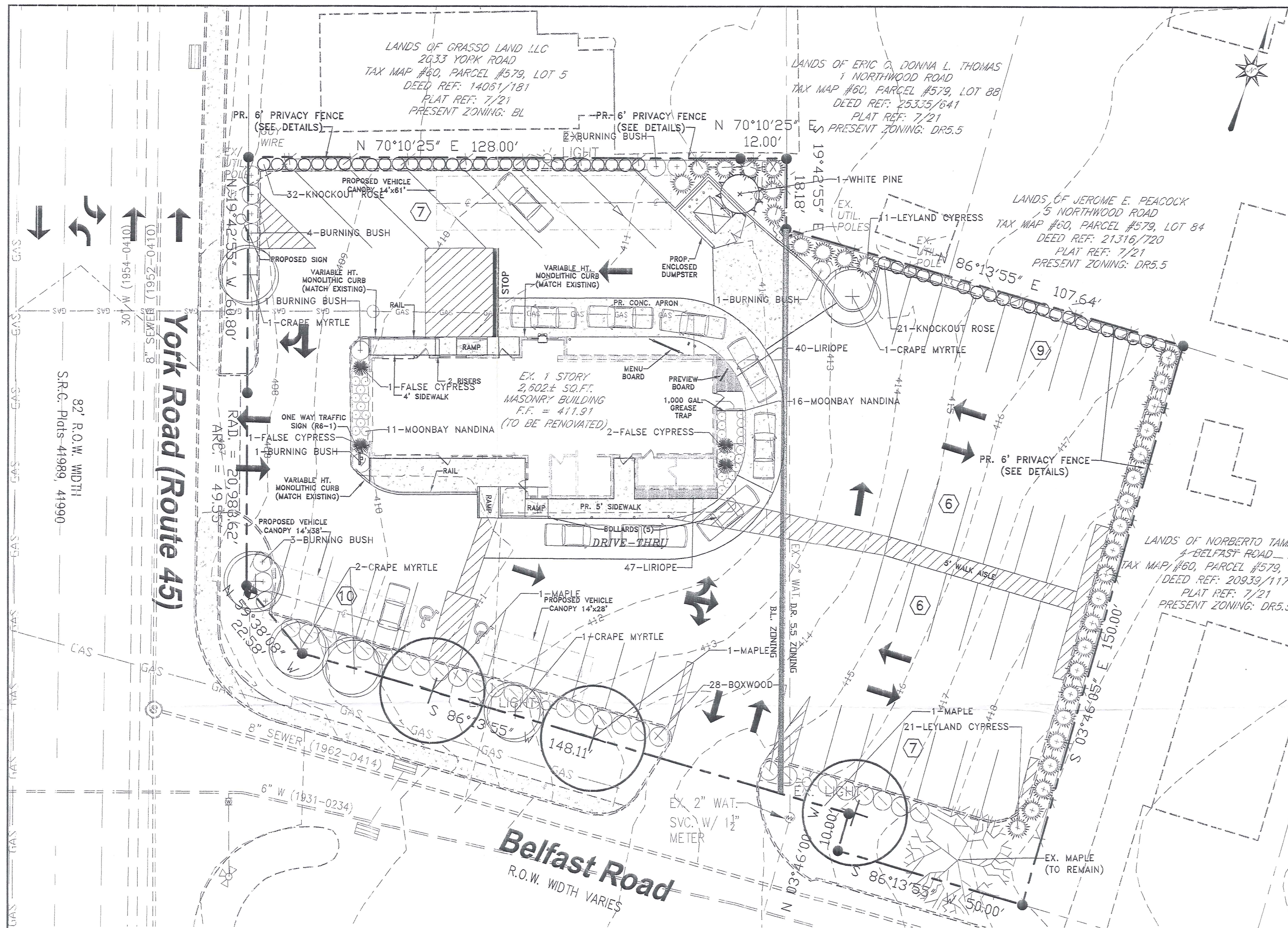
TIMONIUM

DEED REF: 15386 FOLIO 310;
TAX ACCOUNT NO.:2200028619;
TAX MAP 60; GRID 17; PARCEL 21, LOT 15;
COUNCILMANIC DISTRICT 3

KEY SHEET: SNE POSITION SHEET: 51NW2

8TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

REVISIONS	DRAWN BY:	DESIGNED BY:	SCALE:
	JPD	JPD	AS SHOWN
	DATE:	JOB NO.:	SHEET NO.:
	3/6/13	13001	5 OF 5



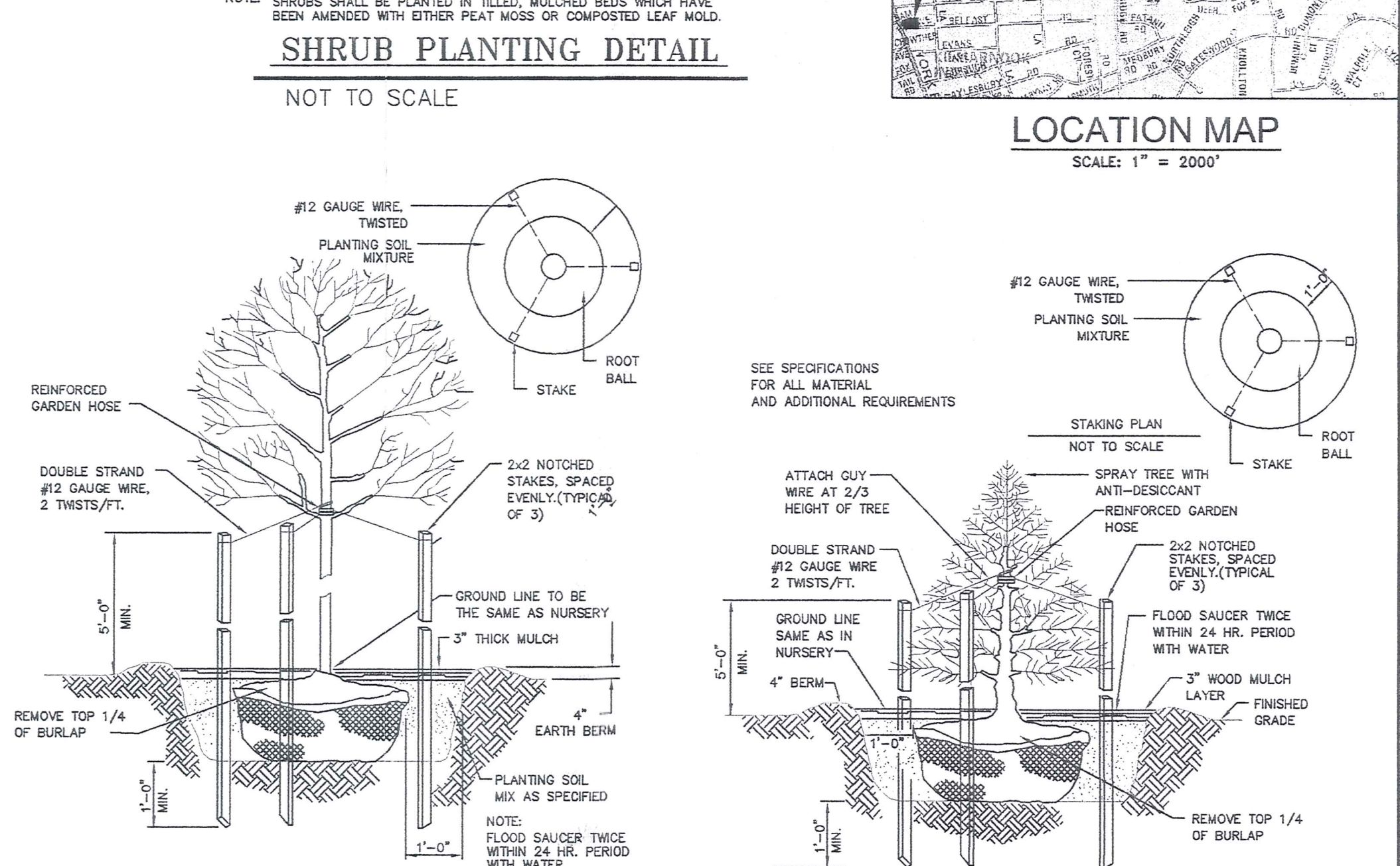
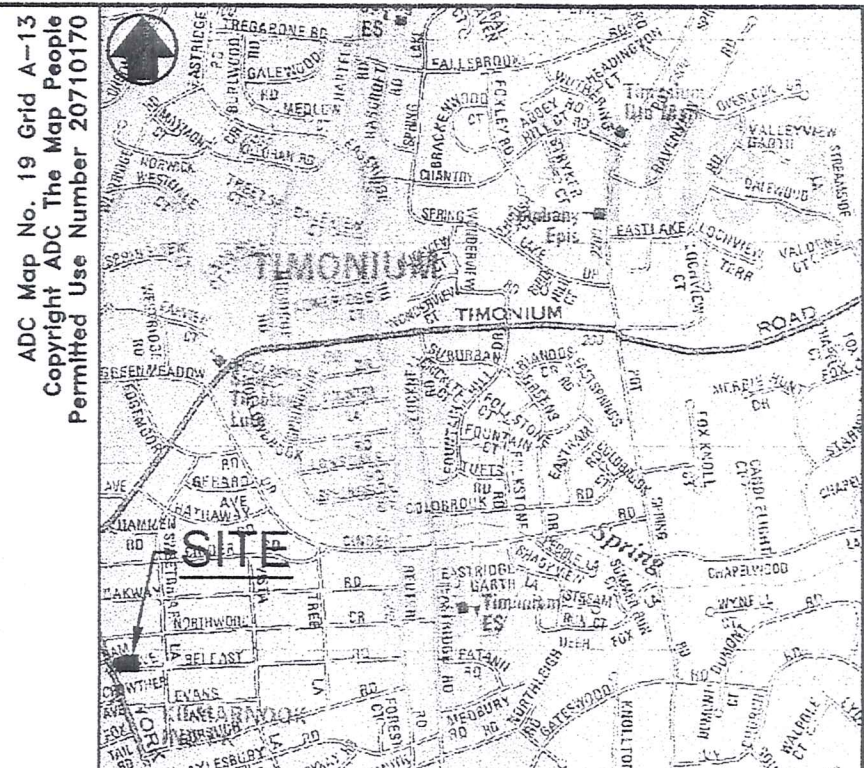
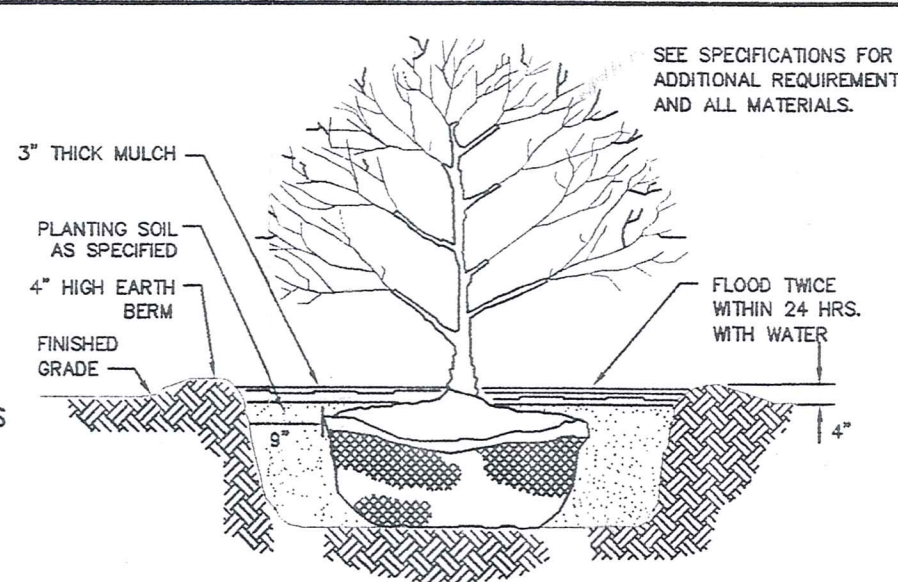
LANDSCAPE NOTES

1) ALL PLANT MATERIALS SHALL BE NURSERY GROWN AND SHALL CONFORM TO AMERICAN ASSOCIATION OF NURSERYMEN, INC. STANDARDS.

2) ALL PLANTING PROCEDURES AND SPECIFICATIONS SHALL CONFORM TO "LANDSCAPE SPECIFICATION GUIDELINES FOR BALTIMORE WASHINGTON METROPOLITAN AREA" LATEST EDITION.

3) THE CONTRACTOR SHALL CONTACT "MISS UTILITY" FOR UNDERGROUND UTILITY LOCATIONS AT LEAST 72 HOURS PRIOR TO THE COMPLETION DATE.

4) ALL PLANTS SHALL BE GUARANTEED BY THE CONTRACTOR FOR ONE YEAR FOLLOWING THE INSTALLATION COMPLETION DATE.



DECIDUOUS TREE PLANTING DETAIL **EVERGREEN TREE PLANTING DETAIL**

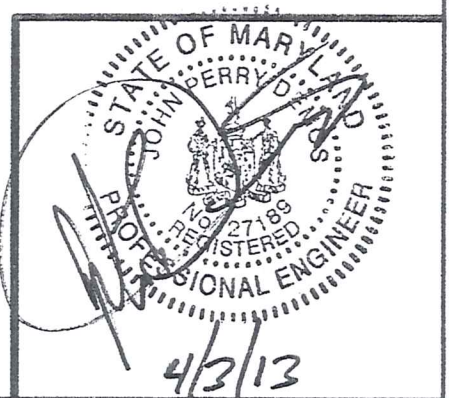
NOT TO SCALE

OWNER'S SIGNATURE AND CERTIFICATION FORM

I certify that I have reviewed this Final Landscape Plan; that I am aware of the regulations presented in the Baltimore County Landscape Manual, and I agree to comply with these regulations and all applicable policy, guidelines and ordinances. I agree to certify the implementation of this approved Final Landscape Plan upon completion of the Landscape installation not later than one (1) year from the date of approval of this plan to the Department of Permits, Approvals & Inspections, Development Plans Review, County Office Building, Room 119, Towson, Md. 21204

Owner's Signature: *Tom Behre* Date: 4/3/13
Tom Behre for Entourage Development, LLC 443-756-2623
Print Owner's Name Telephone #

39 Brett Manor Court, Hunt Valley, MD 21030
(Print) Mailing address - city - state - zip



LANDSCAPE TABULATION

1) CONDITION A - 331 LIN. FT. OF ADJACENT ROAD / 40 = 8 PLANTING UNITS
2) CONDITION B - 171 LIN. FT. BELFAST ROAD / 15 = 11 PLANTING UNITS
3) CONDITION C - 40 LIN. FT. YORK ROAD / 15 = 3 PLANTING UNITS
4) CONDITION D - 45 PARKING SPACES / 12 = 4 PLANTING UNITS
5) CONDITION E - 195 LIN. FT. SERVICE LANE / 15 = 13 PLANTING UNITS
6) CONDITION F - 27 LIN. FT. DUMPSTER ENCLOSURE / 15 = 2 PLANTING UNITS
41 PLANTING UNITS REQUIRED

PLANT LIST

QUANTITY	BOTANICAL NAME/COMMON NAME	MINIMUM SIZE	ROOT
SHADE TREES			
3	ACER RUBRUM 'RED SUNSET' / RED SUNSET MAPLE	2" TO 2.5" CAL.	B & B
ORNAMENTAL TREES			
6	LAGERSTROEMIA INDICA 'WHIT II' / DYNAMITE CRAPE MYRTLE	1" TO 1.5" CAL.	B & B
EVERGREEN TREES			
32	CUPRESSOCYPARIS X LEYLANDII / LEYLAND CYPRESS	6" HEIGHT	B & B
1	PINUS STROBUS / WHITE PINE	6" HEIGHT	B & B
EVERGREEN SHRUBS			
28	BUXUS SEMPERVIRENS 'VARIEGATA' / VARIEGATED ENGLISH BOXWOOD	3 GAL.	CONTAINER
27	NANDINA D. 'MOONBAY' / MOONBAY NANDINA	3 GAL.	CONTAINER
4	CHAMAECYPARIS OBT. 'NANA GRACILLIS' / DWARF HANOKI FALSECYPRESS	24-30"	CONTAINER
DECIDUOUS SHRUBS			
12	EUONYMUS ALATUS 'COMPACTA' / DWARF BURNING BUSH	18" TO 30"	B & B
53	ROSA 'KNOCKOUT' / KNOCKOUT ROSE	1 GAL.	CONTAINER
GROUNDCOVERS			
87	LIRIOPE M. 'BIG BLUE' / BIG BLUE LIRIOPE	4" POT	

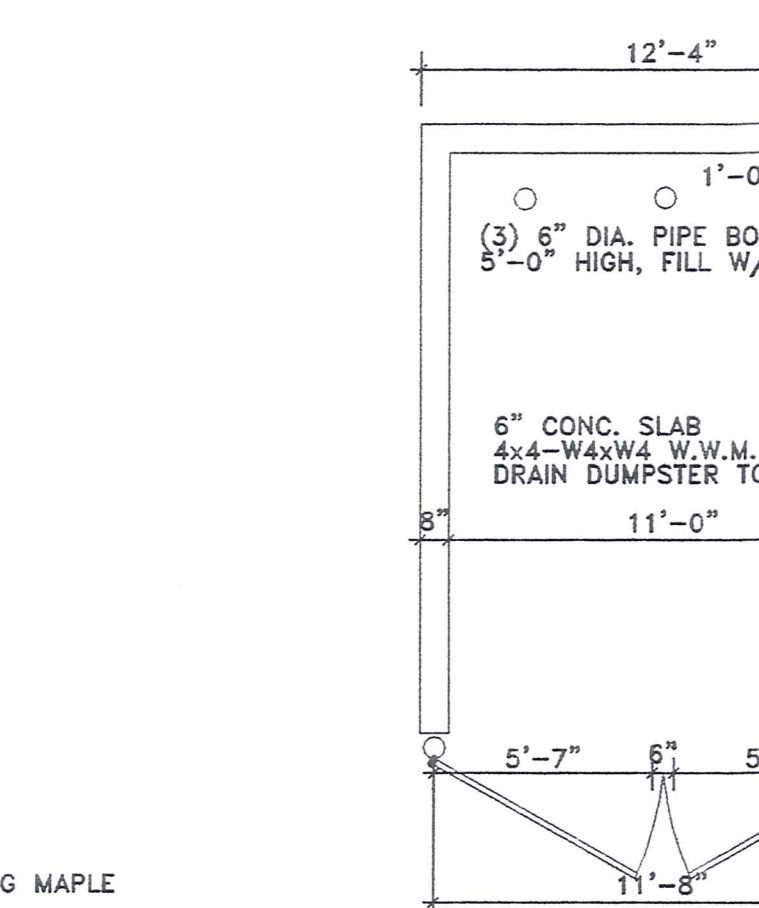
3 MAJOR TREES = 3 P.U.
6 MINOR TREES = 3 P.U.
33 EVERGREEN TREES = 16.5 P.U.
124 SHRUBS (18" TO 30") = 24.8 P.U.
TOTAL = 47.3 P.U. PROVIDED

49 P.U. ON SITE WITH THE EXISTING TREE CREDIT

NOTE:
1) CREDITED 2 PLANTING UNIT FOR 1 EXISTING MAPLE ALONG BELFAST ROAD.
2) BOARD ON BOARD FENCE PROVIDED ALONG EASTERN AND NORTHERN PERIMETER IN LIEU OF THE 10' LANDSCAPE BUFFER.

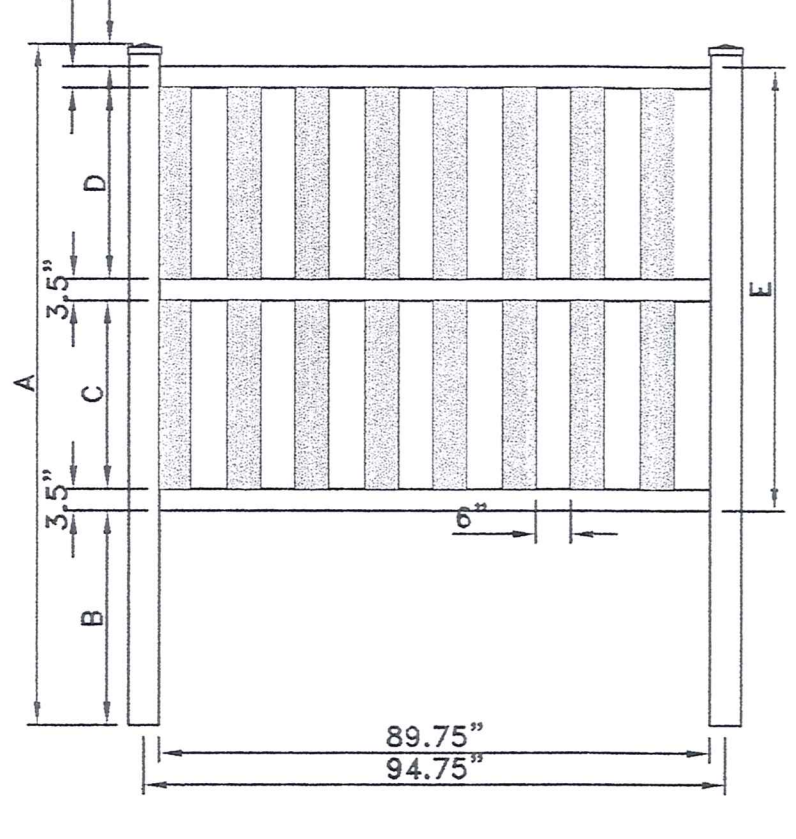
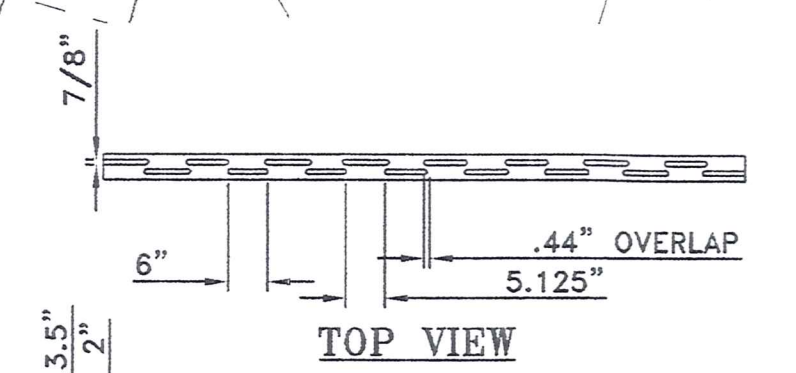
FINAL LANDSCAPE PLAN

SCALE: 1" = 16'



DUMPSTER ENCLOSURE DETAIL

NOT TO SCALE



A	B	C	D	E
1/2"	1/2"	1/2"	1/2"	1/2"
1/2"	1/2"	1/2"	1/2"	1/2"
1/2"	1/2"	1/2"	1/2"	1/2"
1/2"	1/2"	1/2"	1/2"	1/2"

NOTES:
1. FENCE IS TO BE A VINYL FENCE (COLOR TO BE DETERMINED)
2. THE FENCE SHALL BE SIMILAR TO THAT AS SHOWN.

FENCE DETAIL

APPROVED Final Landscape Plan
Baltimore County
Dept. of Permits, Approvals & Inspections
Jeanette M. Stern-Tansey 4/4/13
Jeanette M. Stern-Tansey, R.L.A. Date

OWNER / DEVELOPER
ENTOURAGE DEVELOPMENT, LLC
39 BRETT MANOR COURT
HUNT VALLEY MD, 21030
PHONE: 443-756-2623

State Line Engineering, LLC

4901 Picker Drive
Pylesville, Maryland 21132
Phone: 443-324-1641
Fax: 410-452-0111

FINAL LANDSCAPE PLAN FOR
SONIC
TIMONIUM
DEED REF: 15386 FOLIO 310;
TAX ACCOUNT NO.: 2200028619;
TAX MAP 60; GRID 17; PARCEL 21, LOT 15;
COUNCILMANIC DISTRICT 3
KEY SHEET: SNE POSITION SHEET: 51NW2
8TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

REVISIONS	DRAWN BY:	DESIGNED BY:	SCALE:
	JPD	JPD	AS SHOWN
	DATE:	JOB NO.:	SHEET NO.:
	4/3/13	13001	5 OF 5

Petition's No. 15

PRESENT ZONING: BL

PLAT REF: 7/21
PRESENT ZONING: DR5.5

BENCHMARK

1. BCO #791 - A SPIKE SET IN THE SIDEWALK ALONG THE WEST SIDE OF AYLESBURY ROAD AT THE INTERSECTION WITH CROWTHER AVENUE.
(NAD83) N: 644,600.57, E: 1,417,825.83
(NAVDS8) ELEV. = 381.41

2. ON-SITE BENCHMARK:
IRON PIN & CAP LOCATED AT THE SOUTHWESTERLY CORNER OF SUBJECT PROPERTY.
N: 845,033.56
E: 1,418,370.88
ELEV. = 409.37

3. DESIGN AND DRAWINGS ARE BASED ON MARYLAND COORDINATE SYSTEM (MCS), HORIZONTAL - NAD 83/91.

SITE DATA

- OWNER:
MICHAEL R. MARDINEY, JR.
7212 BELLONA AVENUE
BALTIMORE, MARYLAND 21212
212-529-5727
- CONTRACT PURCHASER / APPLICANT:
ENTOURAGE DEVELOPMENT, LLC
39 BRETT MANOR COURT
HUNT VALLEY, MARYLAND 21030
CONTACT: TOM BEHRLE
443-756-2623
- ADDRESS OF SITE: 2027 YORK ROAD
- TAX MAP #60, GRID #12, PARCEL #579, LOT 15
- DEED REFERENCE: 15376/310
- PLAT REFERENCE: 7/21
- ELECTION DISTRICT: 8TH
- COUNCILMANIC DISTRICT: 3RD
- TAX ACCOUNT #2200028619
- CENSUS TRACT: 408601
- SITE AREA: 0.753 Ac. or 32,783 Sq.Ft.
- ZONING MAP #60C1
- EXISTING ZONING: SPLIT ZONED
BL (BUSINESS, LOCAL)
DR5.5 (RESIDENTIAL)
SETBACKS: FRONT = 10'
SIDE = INTERIOR 0', STREET SIDE = 10'
REAR = 20'
- PROPOSED ZONING: NO CHANGE
- EXISTING USE: VACANT (FAST FOOD RESTAURANT PREVIOUSLY)
- PROPOSED USE: FAST FOOD RESTAURANT
1-STORY RESTAURANT W/DRIVE THRU
- F.A.R. = 2,602/32,783 = 0.08
- PARKING:
REQUIRED: 16 PER 1,000 S.F. = 42 SPACES
PROVIDED: 43 SPACES, 41 STD. AND 2 HANDICAP
PROVIDED: 45 SPACES, 43 STD. AND 2 HANDICAP
- DELIVERIES FOR THE USE WILL BE DURING OFF HOURS.
- THERE ARE NO CRITICAL AREAS IN THE SITE BOUNDARY.
- THERE ARE NO WETLANDS LOCATED IN THE SITE BOUNDARY.
- ANY SIGNS SHALL CONFORM TO BCZR REQUIREMENTS.
- ANY FIXTURE USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.
- ALL DRIVEWAYS AND PARKING AISLES WILL HAVE A MACADAM SURFACE & SHALL COMPLY WITH SECTION 409 OF THE BCZR. ALL PARKING AREAS WILL BE PERMANENTLY STRIPED.
- UTILITIES: PUBLIC WATER & PUBLIC SEWER.
- THE SITE IS NOT LOCATED IN ANY FAILED BASIC SERVICES MAP AREA.
- PREVIOUS BUILDING PERMITS: UNKNOWN
- PREVIOUS ZONING CASES: 1971-0269-SPH, R-1959-4591
- WATERSHED: JONES FALLS
- SUBWERSHED: 8
- SITE IS NOT LOCATED WITHIN THE 100-YR RIVERINE FLOODPLAIN.

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. 22188, EXPIRATION DATE: MARCH 28, 2014.

MISS UTILITY

THE CONTRACTOR IS TO CONTACT MISS UTILITY AT LEAST 72 HOURS PRIOR TO THE START OF CONSTRUCTION AT 1-800-757-7777.

MCS

State Line Engineering, LLC

4901 Picker Drive
Pylesville, Maryland 21132
Phone: 443-324-1641
Fax: 410-452-0111

SITE PLAN REDLINE REVISION
FOR



TIMONIUM

DEED REF: 15386 FOLIO 310;
TAX ACCOUNT NO.: 2200028619;
TAX MAP 60; GRID 17; PARCEL 21, LOT 15;
COUNCILMANIC DISTRICT 3
KEY SHEET: SNE POSITION SHEET: 51NW2
8TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

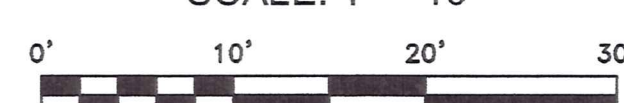
REVISIONS	DRAWN BY:	DESIGNED BY:	SCALE:
	JPD	JPD	AS SHOWN
	DATE:	JOB NO.:	SHEET NO.:
	3/28/13	13001	3 OF 5

OWNER / DEVELOPER

ENTOURAGE DEVELOPMENT, LLC
39 BRETT MANOR COURT
HUNT VALLEY MD, 21030
PHONE: 443-756-2623

SITE PLAN

SCALE: 1" = 10'



Belfast Road
R.O.W. WIDTH VARIES

York Road (Route 45)

8" SEWER (1952-0410)

GAS

GUY WIRE

PROPOSED SIGN
VARIABLE HT. CANOPY 14'x120'
MONOLITHIC CURB
(MATCH EXISTING)

ONE WAY TRAFFIC
SIGN (R6-1)

VARIABLE HT.
MONOLITHIC CURB
(MATCH EXISTING)

PROPOSED VEHICLE
CANOPY 14'x38'

8" SEWER (1962-0414)

6" W (1931-0234)

PRESENT ZONING: BL

N 70°10'25" E 128.00'

PROPOSED VEHICLE
CANOPY 14'x105'

VARIABLE HT.
MONOLITHIC CURB
(MATCH EXISTING)

EX. 1 STORY
2,602± SQ.FT.
MASONRY BUILDING
F.F. = 411.91
(TO BE RENOVATED)

DRIVE-THRU

PROPOSED VEHICLE
CANOPY 14'x28'

B.L. ZONING

EX. 2" WAT.
SVC. W/ 1/2"
METER

N 70°10'25" E 12.00'

19°42'55" E 18.18'

PLAT REF: 7/21
PRESENT ZONING: DR5.5

EX. UTIL.
POLES

EX. UTIL.
POLE

LANDS OF JEROME E. PEACOCK
5 NORTHWOOD ROAD

TAX MAP #60, PARCEL #579, LOT 84

DEED REF: 21316/720

PLAT REF: 7/21

PRESENT ZONING: DR5.5

86°13'55" E 107.64'

PR. CONC.
APRON

PR. CONC.
APRON

PR. CONC.
APRON

PR. CONC.
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PR. CONC.
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PR. CONC.
APRON

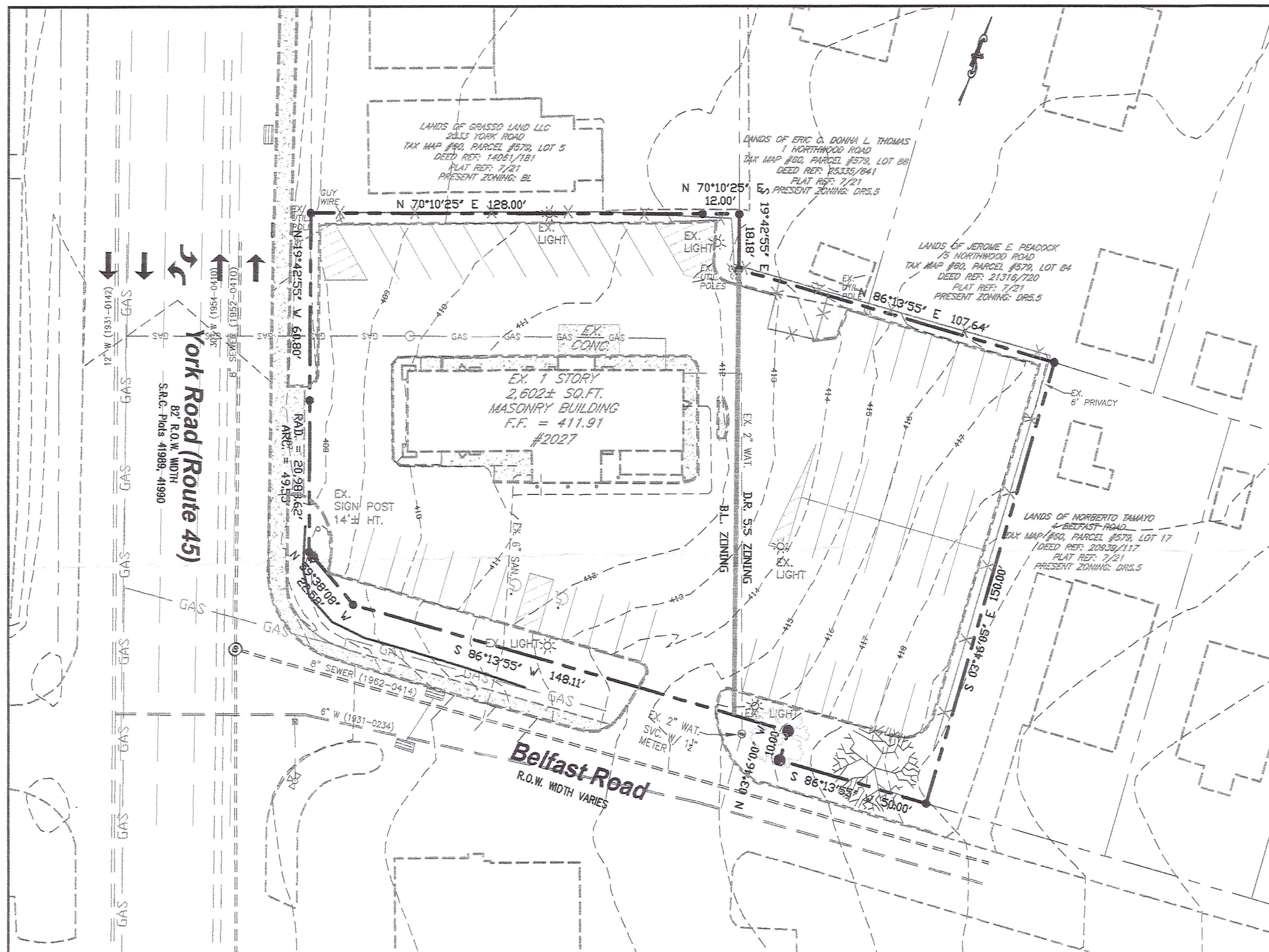
PR. CONC.
APRON

PR. CONC.
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PR. CONC.
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PR. CONC.
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PR. CONC.
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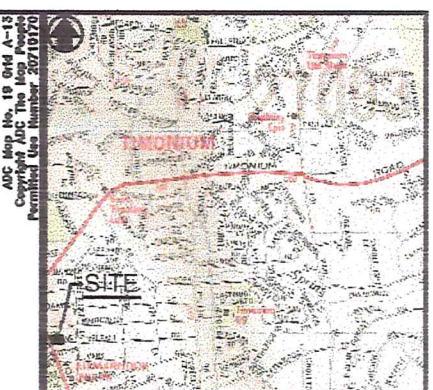


BENCHMARK

1. B.M. 8791 - A SPICE SET IN THE SIDEWALK ALONG THE WEST SIDE OF ATLANTIC ROAD AT THE INTERSECTION WITH CROFTON AVENUE. CHAINED TO B.M. 844-000.07, D. 1,417.005.05 (NAD83) ELEV. = 281.41

2. ON-SITE BENCHMARK: IRON PIN & CAP LOCATED AT THE SOUTHWESTERLY CORNER OF SUBJECT PROPERTY. IN GRASS. D. 1,416.970.00 ELEV. = 408.57

3. DESIGN AND DRAWINGS ARE BASED ON MARYLAND COORDINATE SYSTEM (MCS), HORIZONTAL - NAD 83/91.



- SITE DATA**
- OWNER: MICHAEL R. MARDINEY, JR.
7212 BELLONA AVENUE
BALTIMORE, MARYLAND 21212
212-829-8727
 - CONTRACT PURCHASER / APPLICANT: ENTOURAGE DEVELOPMENT, LLC
39 BRETT MANOR COURT
HUNT VALLEY, MARYLAND 21030
CONTACT: TOM BEHRLE
443-756-2623
 - ADDRESS OF SITE: 2027 YORK ROAD
 - TAX MAP #60, GRID #12, PARCEL #579, LOT 15
 - DEED REFERENCE: 15576/310
 - PLAT REFERENCE: 7/21
 - ELECTION DISTRICT: 8TH
 - COUNCILMANIC DISTRICT: 3RD
 - TAX ACCOUNT #2200028619
 - CENSUS TRACT: 408601
 - SITE AREA: 0.755 Ac. or 32,783 Sq.Ft.
 - ZONING MAP #60C1
 - EXISTING ZONING: SPLIT ZONED
BL (BUSINESS, LOCAL)
DRS.5 (RESIDENTIAL)
SETBACKS: FRONT = 10'
SIDE = INTERIOR 0', STREET SIDE = 10'
REAR = 20'
 - PROPOSED ZONING: NO CHANGE
 - EXISTING USE: VACANT (FAST FOOD RESTAURANT PREVIOUSLY)
 - PROPOSED USE: FAST FOOD RESTAURANT
1-STORY RESTAURANT W/DRIVE THRU
17. F.A.R. = 2,602/32,783 = 0.08
 - PARKING: REQUIRED: 18 PER 1,000 S.F. = 42 SPACES
PROVIDED: 43 SPACES, 41 STD. AND 2 HANDICAP
 - DELIVERIES FOR THE USE WILL BE DURING OFF HOURS.
 - THERE ARE NO CRITICAL AREAS IN THE SITE BOUNDARY.
 - THERE ARE NO WETLANDS LOCATED IN THE SITE BOUNDARY.
 - ANY SIGNS SHALL CONFORM TO BCZR REQUIREMENTS.
 - ANY FUTURE USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.
 - ALL DRIVEWAYS AND PARKING AISLES WILL HAVE A MACADAM SURFACE & SHALL COMPLY WITH SECTION 409 OF THE BCZR.
 - ALL PARKING AREAS WILL BE PERMANENTLY STRIPED.
 - UTILITIES: PUBLIC WATER & PUBLIC SEWER.
 - THE SITE IS NOT LOCATED IN ANY FAILED BASIC SERVICES MAP AREA.
 - PREVIOUS BUILDING PERMITS: UNKNOWN
 - PREVIOUS ZONING CASES: 1971-0289-SPH, R-1959-4591
 - WATERSHED: JONES FALLS
 - SUBWERSHED: 8
 - SITE IS NOT LOCATED WITHIN THE 100-YR RIVERINE FLOODPLAIN.

MISS UTILITY

THE CONTRACTOR IS TO CONTACT MISS UTILITY AT LEAST 72 HOURS PRIOR TO THE START OF CONSTRUCTION AT 1-800-757-7777.

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. 22184, EXPIRATION DATE: MARCH 28, 2014.

MCS

State Line Engineering, LLC

4901 Flicker Drive
Pylesville, Maryland 21132
Phone: 443-324-1641
Fax: 410-452-0111

EXISTING PLAN
FOR



TIMONIUM

DEED REF: 15386 FOLIO 310;
TAX ACCOUNT NO.: 2200028619;
TAX MAP 60; GRID 17; PARCEL 21, LOT 15;
COUNCILMANIC DISTRICT 3

KEY SHEET: SNE POSITION SHEET: 51NW2

8TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

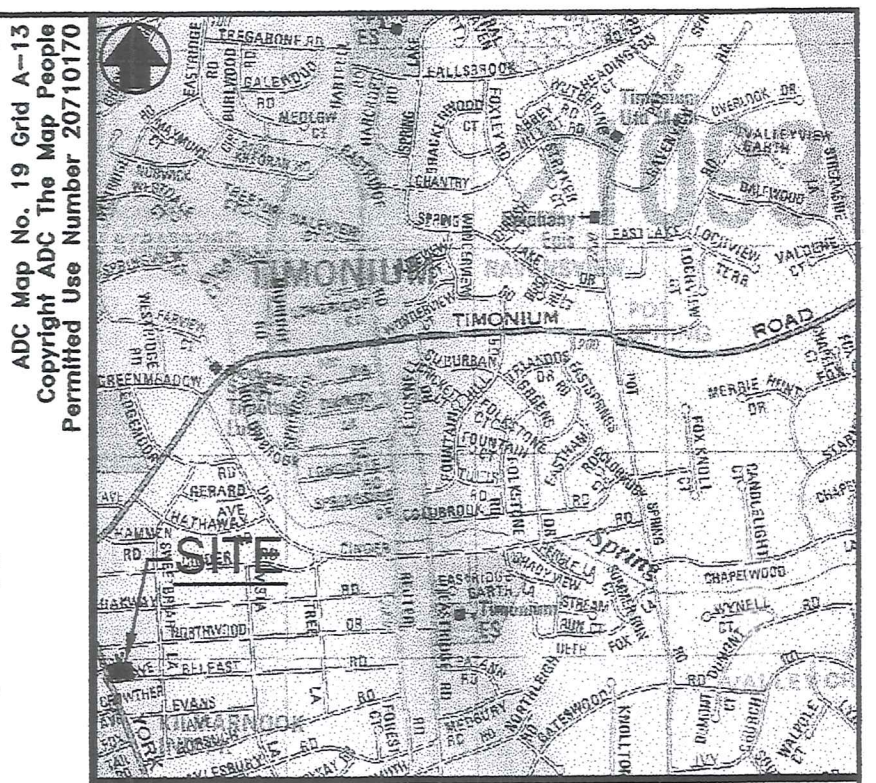
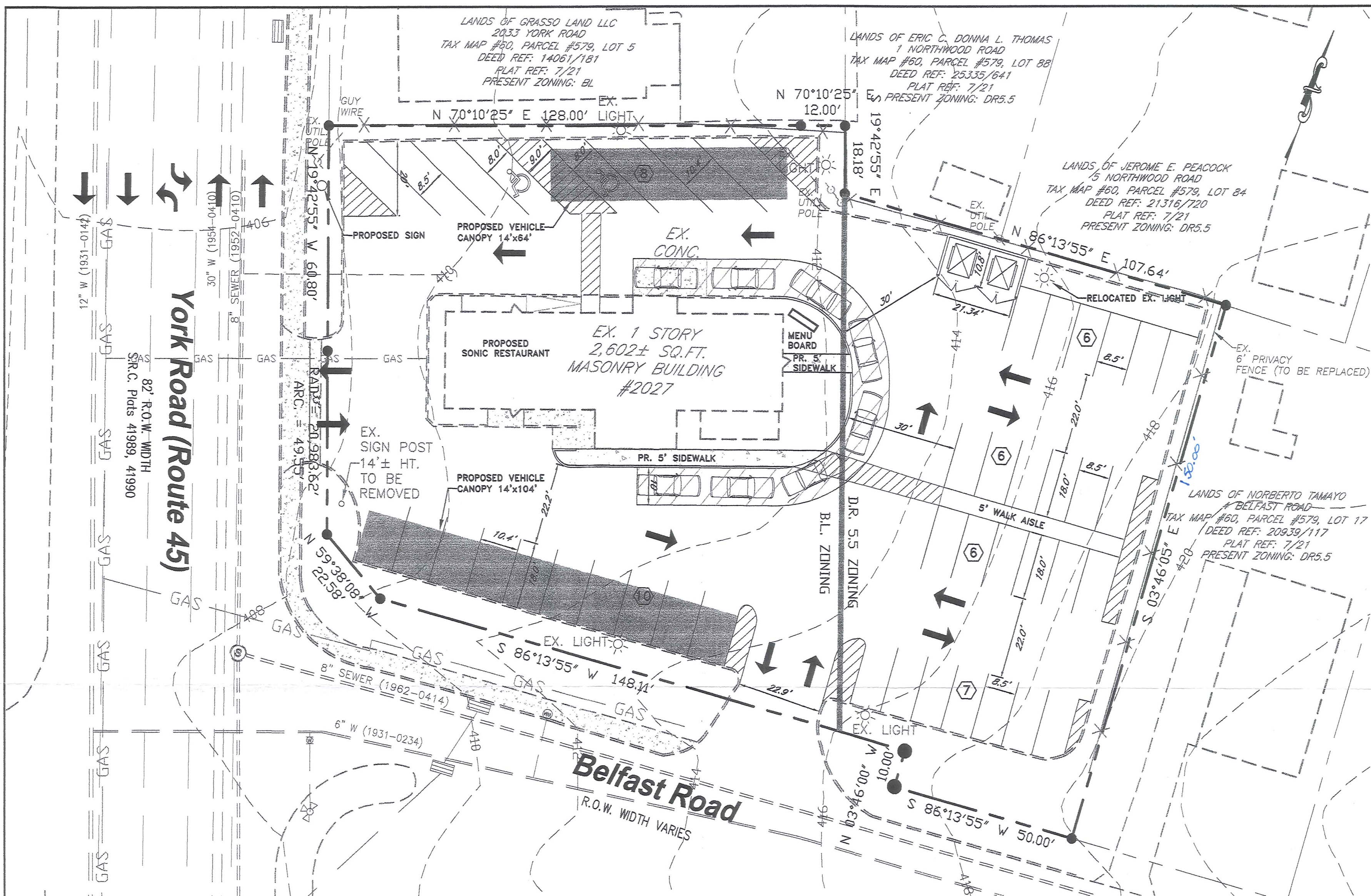
OWNER / DEVELOPER

ENTOURAGE DEVELOPMENT, LLC
39 BRETT MANOR COURT
HUNT VALLEY MD, 21030
PHONE: 443-756-2623

DRAWN BY:	DESIGNED BY:	SCALE:
JPD	JPD	AS SHOWN
DATE:	JOB NO.:	SHEET NO.:
5/9/13	13001	

- NOTES:**
- THE EXISTING PHYSICAL FEATURES DEPICTED ON THIS PLAN WERE GENERATED FROM BOTH FIELD RUN TOPOGRAPHIC SURVEY AND BALTIMORE COUNTY GIS.
 - THE BOUNDARY INFORMATION SHOWN HEREON WAS DERIVED FROM THE PLAT REFERENCED BY THE PROPERTY DATA AS WELL AS RIGHT-OF-WAY PLATS. THE EXACT LOCATION SHOULD NOT BE RELIED UPON FOR ESTABLISHMENT OF THE PROPERTY LINES. A BOUNDARY SURVEY SHOULD BE PERFORMED TO IDENTIFY THE EXACT BOUNDARY LOCATION.

Petitioner's # 115



LOCATION MAP
SCALE: 1" = 2000'

SITE NOTES

- OWNER: MICHAEL R. MARDINEY, JR.
7212 BELLONA AVENUE
BALTIMORE, MARYLAND 21212
212-529-5727
- CONTRACT PURCHASER / APPLICANT: ENTOURAGE DEVELOPMENT, LLC
39 BRETT MANOR COURT
HUNT VALLEY, MARYLAND 21030
CONTACT: TOM BEHRLE
443-756-2623
- ADDRESS OF SITE: 2027 YORK ROAD
- TAX MAP #60, GRID #12, PARCEL #579, LOT 15
- DEED REFERENCE: 15376/310
- PLAT REFERENCE: 7/21
- ELECTION DISTRICT: 8TH
- COUNCILMANIC DISTRICT: 3RD
- TAX ACCOUNT #2200028619
- CENSUS TRACT: 408601
- SITE AREA: 0.753 Ac. or 32,783 Sq.Ft.
- ZONING MAP #60C1
- EXISTING ZONING: SPLIT ZONED
BL (BUSINESS, LOCAL)
DR5.5 (RESIDENTIAL)
SETBACKS: FRONT = 10'
SIDE = INTERIOR 0', STREET SIDE = 10'
REAR = 20'
- PROPOSED ZONING: NO CHANGE
- EXISTING USE: VACANT (FAST FOOD RESTAURANT PREVIOUSLY)
- PROPOSED USE: FAST FOOD RESTAURANT
1-STORY RESTAURANT W/DRIVE THRU
F.A.R. = 2,602/32,783 = 0.08
- PARKING:
REQUIRED: 16 PER 1,000 S.F. = 42 SPACES
PROVIDED: 43 SPACES, 41 STD. AND 2 HANDICAP
- DELIVERIES FOR THE USE WILL BE DURING OFF HOURS.
- THERE ARE NO CRITICAL AREAS IN THE SITE BOUNDARY.
- THERE ARE NO WETLANDS LOCATED IN THE SITE BOUNDARY.
- ANY SIGNS SHALL CONFORM TO BCZR REQUIREMENTS.
- ANY FIXTURE USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.
- ALL DRIVEWAYS AND PARKING AISLES WILL HAVE A MACADAM SURFACE & SHALL COMPLY WITH SECTION 409 OF THE BCZR. ALL PARKING AREAS WILL BE PERMANENTLY STRIPED.
- UTILITIES: PUBLIC WATER & PUBLIC SEWER.
- THE SITE IS NOT LOCATED IN ANY FAILED BASIC SERVICES MAP AREA.
- PREVIOUS BUILDING PERMITS: UNKNOWN
- PREVIOUS ZONING CASES: 1971-0269-SPH, R-1959-4591
- WATERSHED: JONES FALLS
- SUBSEWERSHED: 8
- SITE IS NOT LOCATED WITHIN THE 100-YR RIVERINE FLOODPLAIN.

PROPOSED SITE

SCALE: 1" = 20'

REQUESTED RELIEF

SPECIAL HEARING RELIEF TO APPROVE:

- THE PROPOSED OFF-STREET PARKING AND LOADING AS BEING AUTHORIZED UNDER CASE NO. 1971-0269-SPH; AND
- A MODIFIED PARKING PLAN PURSUANT TO SECTION 409.12.B OF THE BCZR; AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

SPECIAL EXCEPTION RELIEF TO USE THE PROPERTY FOR:

- A DRIVE-IN RESTAURANT IN ACCORDANCE WITH SECTION 230.3 OF THE BCZR; AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

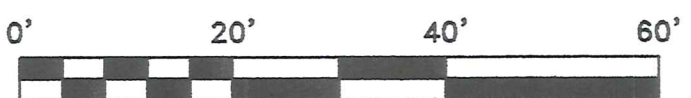
PROFESSIONAL CERTIFICATION

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, LICENSE NO. 27189, EXPIRATION DATE: 03/26/14.

John P. Demos
Date: 1/16/13



2013-0171-SPHX



MCS

State Line Engineering, LLC

4901 Picker Drive
Pylesville, Maryland 21132
Phone: 443-324-1641
Fax: 410-452-0111

PLAN TO ACCOMPANY HEARING FOR SPECIAL EXCEPTION

for



TIMONIUM

DEED REF: 15386 FOLIO 310;
TAX ACCOUNT NO.: 2200028619;
TAX MAP 60; GRID 17; PARCEL 21, LOT 15;
COUNCILMANIC DISTRICT 3

KEY SHEET: SNE POSITION SHEET: 51NW2

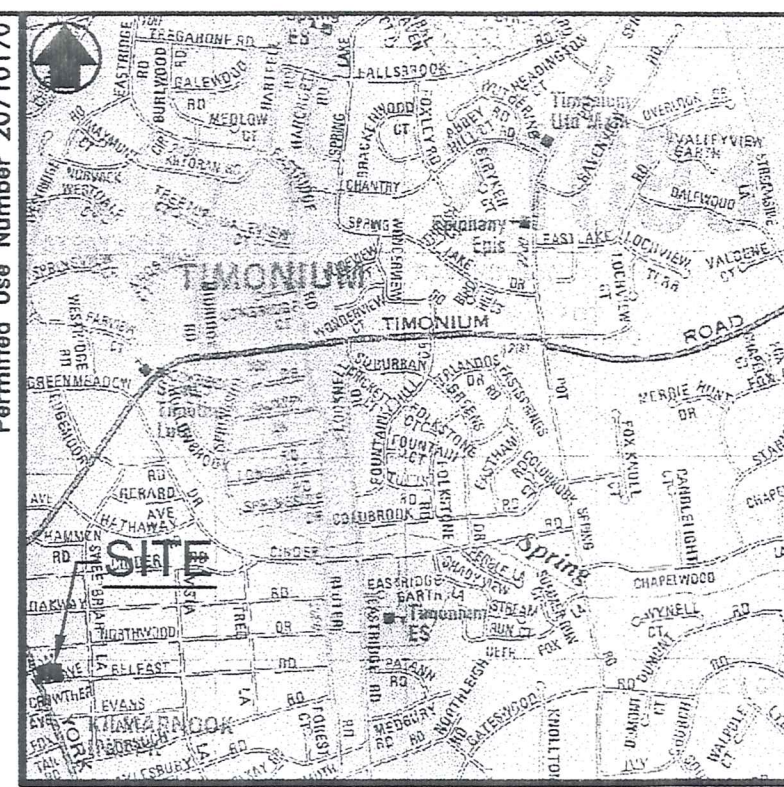
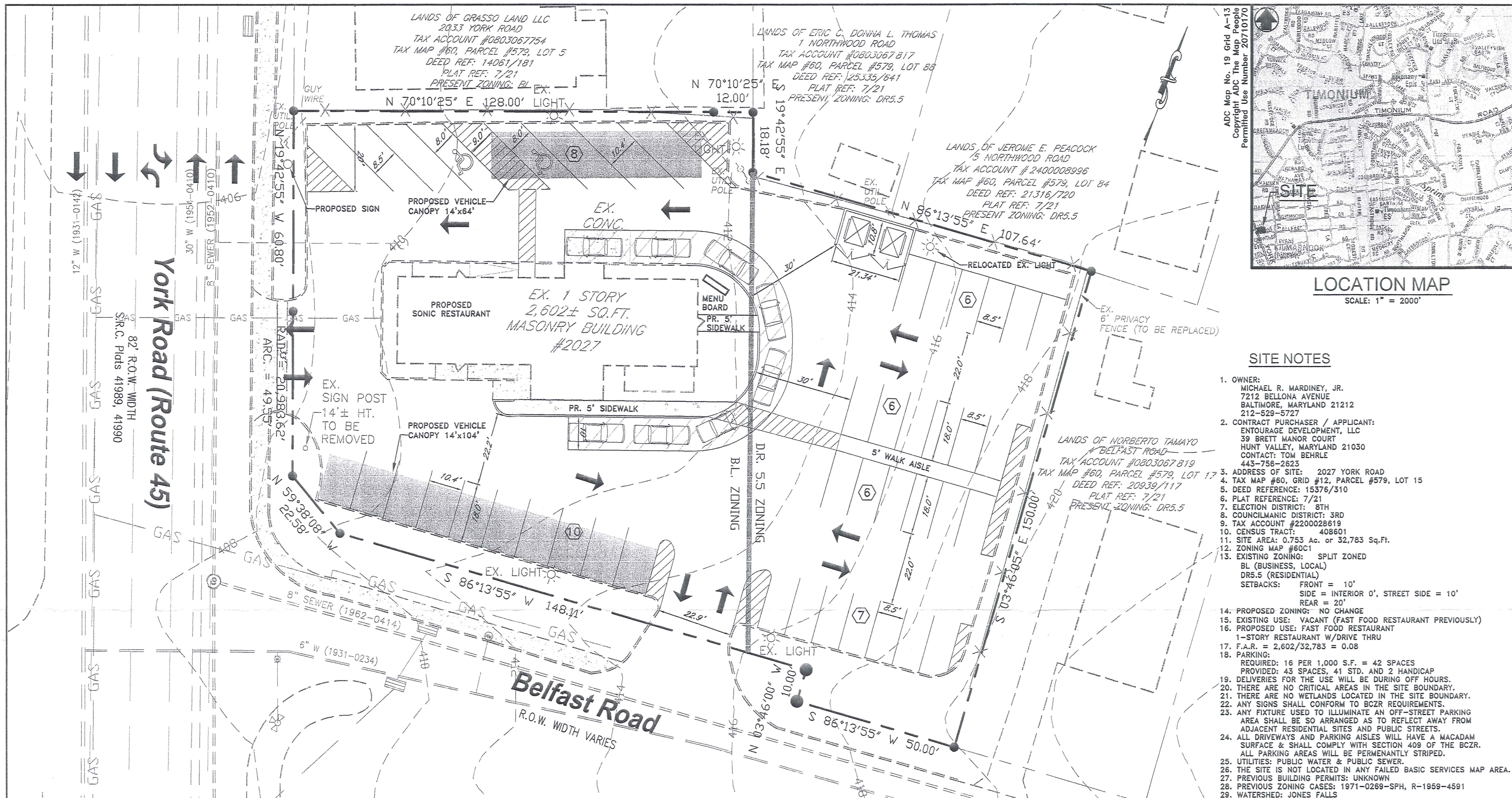
8TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

REVISIONS	DRAWN BY:	DESIGNED BY:	SCALE:
	JPD	JPD	AS SHOWN
	DATE:	JOB NO.:	SHEET NO.:
	1/16/13	13001	1 OF 1

NOTES:

- THE EXISTING PHYSICAL FEATURES DEPICTED ON THIS PLAN WERE GENERATED FROM BOTH FIELD OBSERVATIONS AND BALTIMORE COUNTY GIS. THIS PLAN SHOULD NOT BE RELIED UPON AS A FINAL CONSTRUCTION DRAWING.
- THE BOUNDARY INFORMATION SHOWN HEREON WAS DERIVED FROM THE PLAT REFERENCED BY THE PROPERTY DATA. THE EXACT LOCATION SHOULD NOT BE RELIED UPON FOR ESTABLISHMENT OF THE PROPERTY LINES. A BOUNDARY SURVEY SHOULD BE PERFORMED TO IDENTIFY THE EXACT BOUNDARY LOCATION.

OLD 2013-0171 SPHX



LOCATION MAP
SCALE: 1" = 2000'

- SITE NOTES**
- OWNER: MICHAEL R. MARDINEY, JR.
7212 BELLONA AVENUE
BALTIMORE, MARYLAND 21212
212-529-5727
 - CONTRACT PURCHASER / APPLICANT: ENTOURAGE DEVELOPMENT, LLC
39 BRETT MANOR COURT
HUNT VALLEY, MARYLAND 21030
CONTACT: TOM BEHRLE
443-756-2623
 - ADDRESS OF SITE: 2027 YORK ROAD
 - TAX MAP #60, GRID #12, PARCEL #579, LOT 15
 - DEED REFERENCE: 15376/310
 - PLAT REFERENCE: 7/21
 - ELECTION DISTRICT: 8TH
 - COUNCILMANIC DISTRICT: 3RD
 - TAX ACCOUNT #2200028619
 - CENSUS TRACT: 408601
 - SITE AREA: 0.753 Ac. or 32,783 Sq.Ft.
 - ZONING MAP #60C1
 - EXISTING ZONING: SPLIT ZONED
BL (BUSINESS, LOCAL)
DR5.5 (RESIDENTIAL)
SETBACKS: FRONT = 10'
SIDE = INTERIOR 0', STREET SIDE = 10'
REAR = 20'
 - PROPOSED ZONING: NO CHANGE
 - EXISTING USE: VACANT (FAST FOOD RESTAURANT PREVIOUSLY)
 - PROPOSED USE: FAST FOOD RESTAURANT
1-STORY RESTAURANT W/DRIVE THRU
 - F.A.R. = 2,602/32,783 = 0.08
 - PARKING:
REQUIRED: 16 PER 1,000 S.F. = 42 SPACES
PROVIDED: 43 SPACES, 41 STD. AND 2 HANDICAP
 - DELIVERIES FOR THE USE WILL BE DURING OFF HOURS.
 - THERE ARE NO CRITICAL AREAS IN THE SITE BOUNDARY.
 - THERE ARE NO WETLANDS LOCATED IN THE SITE BOUNDARY.
 - ANY SIGNS SHALL CONFORM TO BCZR REQUIREMENTS.
 - ANY FIXTURE USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.
 - ALL DRIVEWAYS AND PARKING AISLES WILL HAVE A MACADAM SURFACE & SHALL COMPLY WITH SECTION 409 OF THE BCZR. ALL PARKING AREAS WILL BE PERMANENTLY STRIPED.
 - UTILITIES: PUBLIC WATER & PUBLIC SEWER.
 - THE SITE IS NOT LOCATED IN ANY FAILED BASIC SERVICES MAP AREA.
 - PREVIOUS BUILDING PERMITS: UNKNOWN
 - PREVIOUS ZONING CASES: 1971-0269-SPH, R-1959-4591
 - WATERSHED: JONES FALLS
 - SUBSEWERSHED: 8
 - SITE IS NOT LOCATED WITHIN THE 100-YR RIVERINE FLOODPLAIN.

PROPOSED SITE
SCALE: 1" = 20'

CASE # 2013-0171-SPHXA
REQUESTED RELIEF - REVISED
SPECIAL HEARING RELIEF TO APPROVE:

- A USE PERMIT FOR THE USE OF LAND IN A RESIDENTIAL ZONE FOR PARKING FACILITIES TO MEET THE REQUIREMENTS OF SECTION 409.6 PURSUANT TO SECTION 409.8.B OF THE BCZR, OR IN THE ALTERNATIVE FOR CONFIRMATION THAT THE PROPOSED PARKING FACILITY IS AUTHORIZED UNDER THE USE PERMIT APPROVED IN CASE NO. 1971-0269-SPH; AND
- A MODIFIED PARKING PLAN PURSUANT TO SECTION 409.12.B OF THE BCZR; AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

SPECIAL EXCEPTION RELIEF TO USE THE PROPERTY FOR:

- A DRIVE-IN RESTAURANT IN ACCORDANCE WITH SECTION 230.3 OF THE BCZR; AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

VARIANCE FROM SECTION(S): 1801.1.B.1.e.(5)

- 1801.1.B.1.E OF THE BCZR TO PERMIT A 0' BUFFER AND 0' SETBACK IN LIEU OF THE REQUIRED 50' BUFFER AND 75' SETBACK IN A RESIDENTIAL TRANSITION AREA; AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

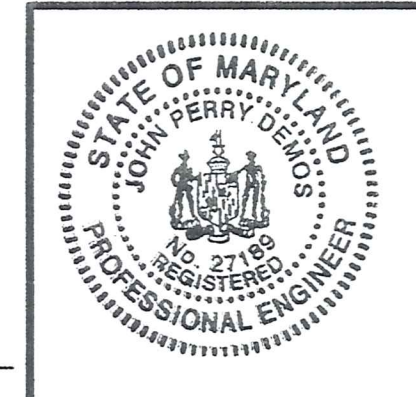
NOTES:

- THE EXISTING PHYSICAL FEATURES DEPICTED ON THIS PLAN WERE GENERATED FROM BOTH FIELD OBSERVATIONS AND BALTIMORE COUNTY GIS. THIS PLAN SHOULD NOT BE RELIED UPON AS A FINAL CONSTRUCTION DRAWING.
- THE BOUNDARY INFORMATION SHOWN HEREON WAS DERIVED FROM THE PLAT REFERENCED BY THE PROPERTY DATA. THE EXACT LOCATION SHOULD NOT BE RELIED UPON FOR ESTABLISHMENT OF THE PROPERTY LINES. A BOUNDARY SURVEY SHOULD BE PERFORMED TO IDENTIFY THE EXACT BOUNDARY LOCATION.

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. 27189, EXPIRATION DATE: 03/26/14

John P. Demos
Date: 2/21/13



MCS

State Line Engineering, LLC

4901 Picker Drive
Pylesville, Maryland 21132
Phone: 443-324-1641
Fax: 410-452-0111

PLAN TO ACCOMPANY PETITION FOR ZONING HEARING
CASE# 2013-0171-SPHXA

SONIC

TIMONIUM

DEED REF: 15386 FOLIO 310;
TAX ACCOUNT NO.:2200028619;
TAX MAP 60; GRID 17; PARCEL 21, LOT 15;
COUNCILMANIC DISTRICT 3

KEY SHEET: SNE POSITION SHEET: 51NW2
8TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

REVISIONS		DRAWN BY:	DESIGNED BY:	SCALE:
		JPD	JPD	AS SHOWN
DATE:		JOB NO.:	SHEET NO.:	
2/21/13		13001		1 OF 1

REVISED 2013-0171 SPHXA