

IN RE: **PETITION FOR SPECIAL HEARING** *
(13030 Hanover Road)
4th Election District *
3rd Councilmanic District *
BGE/*Legal Owner* *
Petitioner *

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
Case No. 2014-0127-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Jennifer R. Busse, Esq., on behalf of the legal owner, BGE. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to request an extension of the time limit for utilization of a previously approved Special Exception for the subject property provided in Case No.: 2012-0187-SPHX.

Appearing at the public hearing in support of the request was Eric Jacobson, Brad Davis, Andy Berlett, Zach Fisch and Bill Monk. Jennifer R. Busse, Esq., of Whiteford, Taylor & Preston, LLP appeared and represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Several community members attended the hearing, and their names are listed in the case file. No Zoning Advisory Committee (ZAC) comments were received.

As noted above, a Special Exception was granted for the property on March 23, 2012, allowing BGE to construct on the subject property a public utility (electric substation). Brad Davis, a BGE employee, testified that certain projections of electricity usage and demand have been reduced such that BGE now needs to have the facility "on line" by 2020, instead of 2017 as originally forecast. As such, BGE seeks to extend to five years the time in which to utilize the Special Exception. Bill Monk, who was accepted as an expert in planning and zoning matters,

ORDER RECEIVED FOR FILING

Date 2/4/14
By sen

testified that several structures and buildings on the site have been razed since the earlier hearing. Otherwise, all site conditions remain the same. Based upon the testimony and evidence presented, I will grant the petition.

THEREFORE, IT IS ORDERED this 4th day of February 2014, by this Administrative Law Judge, that Petitioner's request for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve an extension of the time limit for utilization of a Special Exception for the subject property granted in Case No.: 2012-0187-SPHX, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the utilization period for the Special Exception granted in Case No. 2012-0187-SPHX, be and is hereby extended until March 23, 2017.

The relief granted herein shall be subject to the following:

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

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



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

ORDER RECEIVED FOR FILING

Date

2/4/14

By

sln

KEVIN KAMENETZ
County Executive



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

February 4, 2014

Jennifer R. Busse, Esq.
Whiteford, Taylor & Preston, LLP
One W. Pennsylvania Avenue
Suite 300
Towson, Maryland 21204

RE: Petition for Special Hearing
Property: 13030 Hanover Road
Case No.: 2014-0127-SPH

Dear Counsel:

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 Baltimore County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Baltimore County 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.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure



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 Hanover Road which is presently zoned RC2
 Deed References: 31996/00230 10 Digit Tax Account # 16 00 00 22 23
 Property Owner(s) Printed Name(s) BGE

(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. X 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

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)

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

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

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

Contract Purchaser/Lessee:

Name- Type or Print N/A
 Signature [Signature]
 Date 2/14/14
 Mailing Address [Address] City [City] State [State]
 By [Signature]
 Zip Code [Zip] Telephone # [Phone] Email Address [Email]

Attorney for Petitioner:

Jennifer R. Busse, Esq.
 Name- Type or Print [Signature]
 Signature [Signature] Whiteford, Taylor & Preston LLP
 One W. Pennsylvania Ave., Suite 300, Towson, MD
 Mailing Address [Address] City [City] State [State]
 21204 , 410-832-2077 , jbusse@wtpplaw.com
 Zip Code Telephone # Email Address

Legal Owners (Petitioners):

BGE - Jim Burkman / N/A
 Name #1 - Type or Print Name #2 - Type or Print
 Signature #1 [Signature] Signature #2 N/A
 1699 Leadenhall Street, Baltimore, Maryland
 Mailing Address City State
 21230 , 410-470-9578 , jim.burkman@constellation.com
 Zip Code Telephone # Email Address

Representative to be contacted:

Jennifer R. Busse, Esq.
 Name- Type or Print [Signature]
 Signature [Signature] Whiteford, Taylor & Preston LLP
 One W. Pennsylvania Ave., Suite 300, Towson, MD
 Mailing Address [Address] City [City] State [State]
 21204 , 410-832-2077 , jbusse@wtpplaw.com
 Zip Code Telephone # Email Address

CASE NUMBER 2014-0127-94 Filing Date 11/26/13

Do Not Schedule Dates:

Reviewer C.H.

ATTACHMENT to Petition for Special Hearing:

Per the Baltimore County Zoning Regulations ("BCZR"), Section 502.3, Petitioner requests approval for the extension of the time limit for utilization of a previously approved Special Exception for the subject property provided in Case 2012-0187-SPHX granted on March 23, 2012 and Clarified/Amended by Letter dated March 26, 2012.

Zoning Description to Accompany Special Hearing For *BGE Hanover Pike Future Substation*

Beginning at a point on Hanover Pike (Maryland Route 30) 1,885 feet more or less northerly along Hanover Pike from its intersection with Butler Road, said point also being at the intersection of the west side of Hanover Pike (Maryland Route 30, sixty feet wide) as shown on State Roads Commission of Maryland Right of Way Plats Nos. 3185 and 2709 with the second or South 32 degrees East 57.5 perch line of the parcel of land described in a deed dated November 1, 1922 and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 564, folio 47, which was conveyed from Upton Sherwood Berryman and wife to Thomas A. Brown and wife, said place of beginning also being at the beginning of the first line of the parcel of land described in a deed dated December 15, 1970 and recorded among the aforesaid Land Records in Liber O.T.G. No. 5151, folio 254 which was conveyed from Allen M. Brooks and wife to Robert E. Patterson, et al. thence running with and binding on the first through the ninth lines, inclusive, of said last mentioned deed and binding on the westerly side of said Hanover Pike as shown on said Right of Way Plat No. 2709, as now surveyed, referring all bearings of the present description to the Grid Meridian of the Baltimore County Metropolitan District Control Survey, by nine following courses and distances respectively, viz:

- 1.) North 04 degrees 48 minutes 21 seconds West 160.46 feet,
- 2.) South 85 degrees 11 minutes 39 seconds West 21.00 feet,
- 3.) North 04 degrees 48 minutes 21 seconds West 41.00 feet,
- 4.) North 85 degrees 11 minutes 39 seconds East 21.00 feet,
- 5.) North 04 degrees 48 minutes 21 seconds West 498.60 feet,
- 6.) South 85 degrees 11 minutes 39 seconds West 48.00 feet,
- 7.) North 04 degrees 48 minutes 21 seconds West 47.00 feet,
- 8.) North 85 degrees 11 minutes 39 seconds East 48.00 feet, and
- 9.) North 04 degrees 48 minutes 21 seconds West 357.36 feet to the beginning of the tenth or North 26 degree 35 minutes 29 seconds West 1102 foot line of said last mentioned deed; thence running with and binding on said tenth line and on the eleventh through the fourteenth lines, inclusive thereof, as now surveyed, by the five following courses and distances respectively, viz:
 - 10.) North 36 degrees 11 minutes 37 seconds West 1050.10 feet to a concrete monument found,
 - 11.) North 61 degrees 03 minute 52 seconds West 754.82 feet to a concrete monument found,

- 12.) South 87 degrees 39 minutes 05 second West 1185.99 feet to a point measured North 89 degrees 18 minutes 01 second East 22.29 feet from a broken concrete monument found and South 25 degrees 02 minutes 01 second West 197.07 feet from a "cross cut" found on a railroad spike on the Western Maryland Railroad,
- 13.) South 24 degrees 54 minutes 07 seconds West 197.50 feet to a stone found and
- 14.) South 66 degrees 16 minutes 56 seconds West 218.12 feet to a point being a bar at the beginning of the sixth line of that parcel of land which by Deed dated June 3, 1954, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2492, folio 336 was conveyed by Mary T. Kirkpatrick, divorced, to Spring Farms, Inc., measured North 66 degrees 31 minutes 13 seconds East 261.79 feet from a stone found and South 48 degrees 03 minutes 40 seconds East 10.47 feet from a concrete monument found; thence running with and binding on part of the fifteenth line of said last mentioned deed (O.T.G. No. 5151, folio 254) as now surveyed and running and binding on a part of the sixth line of said land (G.L.B. No. 2492, folio 336)
- 15.) South 46 degrees 58 minutes 01 seconds East 424.49 feet to a bar set, thence leaving said sixth line and running for lines of division across said land
- 16.) South 41 degrees 19 minutes 05 seconds West 470.02 feet to a bar set
- 17.) South 34 degrees 38 minutes 07 seconds East 205.64 feet to a bar set
- 18.) South 48 degrees 44 minutes 03 seconds East and passing over a bar set at the distance of 570.57 feet, in all 2,179.71 feet to a bar set
- 19.) South 55 degrees 01 minutes 04 seconds West 625.07 feet to a bar set
- 20.) North 35 degrees 40 minutes 47 seconds West 679.40 feet to a bar set
- 21.) North 80 degrees 44 minutes 14 seconds West 212.03 feet to a bar set and
- 22.) South 54 degrees 08 minutes 10 seconds West 610.09 feet to a bar set and to intersect the second line of the land herein referred to (G.L.B. No. 2492, folio 336) and running thence and binding reversely on part of said second line
- 23.) South 35 degrees 39 minutes 23 seconds East 1,403.37 feet to a stone marked No. 2 at the end of the last line of Eight Sons, thence binding reversely on part of the first line of the herein referred (G.L.B. No. 2492, folio 336)
- 24.) South 81 degrees 09 minutes 54 seconds East 1113.08 feet, more or less, thence leaving said outline and running for a line of division now made parallel with and distant 75 feet southeasterly, measured at right angles, from the centerline of a steel tower transmission line
- 25.) North 53 degrees 13 minutes 27 seconds East 360.94 feet to intersect the last line of the aforesaid parcel of land described in the deed from Mary T. Kirkpatrick, divorced, to Springlake Farms, Inc., thence binding reversely on a part of said last line and reversely on a part of the tenth or North 61 ½ degrees West 44 ½ perches line of said parcel of land, said lines being the common boundary between the property of the herein named party of the first part and the property of Anna H. Coe, widow, the two following courses and distances viz:
- 26.) North 04 degrees 14 minutes 33 seconds West 77.64 feet to the beginning of said last line and
- 27.) South 65 degrees 13 minutes 33 seconds East 74.46 feet, thence leaving said outline and running for a line of division now made parallel with and distant 75 feet southeasterly, measured at right angles from the centerline of a steel tower transmission line

28.) North 53 degrees 13 minutes 27 seconds East 645.24 feet to a point on the west side of the new location of Hanover Road (Hanover Pike—Maryland Route 30), thence running and binding on the west side of said Hanover Road
29.) North 04 degrees 48 minutes 21 seconds West 294.71 feet more or less to a concrete monument now set in the second line of a parcel of land which, by a deed dated March 2, 1931, and recorded among the Land Records of Baltimore County in Liber L.McL.M. No. 874 folio 327, was conveyed by The Real Estate Trustee Incorporated to the Susquehanna Transmission Company of Maryland; thence, binding reversely on a part of said second line, and on the northwest side of said Susquehanna Transmission Company's Right of Way,
30.) South 53 degrees 13 minutes 27 seconds West 176.25 feet to a concrete monument now set; and thence, leaving said outline and running for lines of division the two following courses and distances viz:
31.) North 04 degrees 49 minutes 36 seconds West 243.55 feet to a concrete monument, thence
32.) North 85 degrees 10 minutes 24 seconds East 107.06 feet to a point, thence
33.) North 53 degrees 13 minutes 24 seconds East, 50.16 feet to a point, thence
34.) North 04 degrees 48 minutes 21 seconds West, 576.38 feet to the place of beginning.
Containing 7,888,651 Sq. Ft. or 180.938 acres of land, more or less.



I hereby certify that these documents were prepared by me or under my responsible charge, and that I am a duly licensed property line surveyor under the laws of the State of Maryland, License No. 135, Expiration Date April 12, 2014

This description is for zoning purposes only and has been compiled and best fit from existing deeds of record. A boundary survey has not been performed by FSH Associates.

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: 2014-0127-SPU

Petitioner: BGE

Address or Location: 13030 HANDOVER PIKE

PLEASE FORWARD ADVERTISING BILL TO:

Name: JENNIFER BUSSE

Address: 1 W. PENNSYLVANIA AVE, STE 300

TOWSON, MD 21204

Telephone Number: 410.832.2000

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

No. **107003**

Date: **11/26/13**

PAID RECEIPT

BUSINESS
 11/27/2013 11:00:00 AM 2
 REG #502 WA 11
 >>PRT # 85314 11/27/13 01:00
 Dept 5 11/27/13 11:00:00 AM
 CR NO. 107003
 Recpt
 \$500.00 1.00 CA
 Baltimore 1.00

Fund	Dept	Unit	Sub Unit	Rev Source/	Sub Rev/	Obj	Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150						500.00

Total: **500.00**

Rec From: **Whiteford, Taylor, & Preston**

For: **Special Hearing**

2014-0127-SPH

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

RE: CASE NO: 2014-0127-SPH

PETITIONER/DEVELOPER _____

WHITE FORD, TAYLOR, PERSTON LLP

DATE OF HEARING/CLOSING: _____

1/22/14

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVENUE

ATTENTION:

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 AT _____

HANOVER ROAD

THIS SIGN(S) WERE POSTED ON December 30, 2013
(MONTH, DAY, YEAR)

SINCERELY,

Martin Ogle 12/30/13
SIGNATURE OF SIGN POSTER AND DATE:

MARTIN OGLE
(SIGN POSTER)
60 CHELMSFORD COURT
BALTIMORE, MD 21220
(ADDRESS)
PHONE NUMBER: 443-629-3411

ZONING NOTICE

CASE # 2014-0127-SPH

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: ROOM 206, JEFFERSON BUILDING 105 WEST
CHESAPEAKE AVENUE, TOWSON 21204

DATE AND TIME: WEDNESDAY, JANUARY 22, 2014
AT 2:30 P.M.

REQUEST:

SPECIAL HEARING TO REQUEST APPROVAL FOR THE EXTENSION
OF THE TIME LIMIT FOR VARIATION OF A PREVIOUSLY APPROVED
SPECIAL EXCEPTION FOR THE SUBJECT PROPERTY IN CASE
2012-0187-SPH GRANTED ON MARCH 23, 2012 AND CLARIFIED/
AMENDED BY LETTER DATED MARCH 24, 2012.

PROVISIONS FOR WEATHER AND OTHER CONDITIONS ARE SOMETIMES NECESSARY
TO CONVENIENCE HEARINGS CALL 410-386-3300

DO NOT REMOVE THIS SIGN AND POST UNTIL HEARING DATE UNDER PENALTY OF LAW
MEETING IS HANDICAP ACCESSIBLE

myakm8le 12/30/13



THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

January 2, 2014

THIS IS TO CERTIFY, that the annexed advertisement was published in the following newspaper published in Baltimore County, Maryland, ONE TIME, said publication appearing on January 2, 2014

☐ The Jeffersonian

THE BALTIMORE SUN MEDIA GROUP

By: Susan Wilkinson

Susan Wilkinson

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: #2014-0127-SPH

Hanover Road

W/s Hanover Road, 1,885 ft. +/- n to the centerline of Butler Road

4th Election District - 3rd Councilmanic District

Legal Owner(s): BGE, Jim Burkman

Special Hearing to request approval for the extension of the time limit for utilization of a previously approved Special Exception for the subject property provided in Case 2012-0187-SPHX granted on March 23, 2012 and Clarified/Amended by letter dated March 26, 2012.

Hearing: Wednesday, January 22, 2014 at 2:30 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.

01/123 January 2

963782



KEVIN KAMENETZ
County Executive

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

December 18, 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: 2014-0127-SPH

Hanover Road

W/s Hanover Road, 1,885 ft. +/- N to the centerline of Butler Road

4th Election District – 3rd Councilmanic District

Legal Owners: BGE, Jim Burkman

Special Hearing to request approval for the extension of the time limit for utilization of a previously approved Special Exception for the subject property provided in Case 2012-0187-SPHX granted on March 23, 2012 and Clarified/Amended by letter dated March 26, 2012.

Hearing: Wednesday, January 22, 2014 at 2:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

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

Arnold Jablon
Director

AJ:kl

C: Jennifer Busse, One W. Pennsylvania Ave., Ste. 300, Towson 21204
Jim Burkman, 1699 Leadenhall Street, Baltimore 21230

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JANUARY 2, 2014.**
- (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
Thursday, January 2, 2014 Issue - Jeffersonian

Please forward billing to:

Jennifer Busse
Whiteford, Taylor & Preston
One W. Pennsylvania Avenue, Ste. 300
Towson, MD 21204

410-832-2077

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: 2014-0127-SPH

Hanover Road

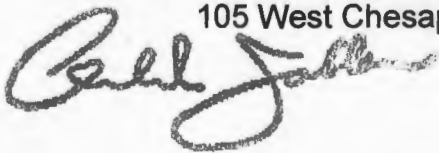
W/s Hanover Road, 1,885 ft. +/- N to the centerline of Butler Road

4th Election District – 3rd Councilmanic District

Legal Owners: BGE, Jim Burkman

Special Hearing to request approval for the extension of the time limit for utilization of a previously approved Special Exception for the subject property provided in Case 2012-0187-SPHX granted on March 23, 2012 and Clarified/Amended by letter dated March 26, 2012.

Hearing: Wednesday, January 22, 2014 at 2:30 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.

M E M O R A N D U M

DATE: March 7, 2014
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2014-0127-SPH – Appeal Period Expired

The appeal period for the above-referenced case expired on March 6, 2014. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: ✓ Case File
Office of Administrative Hearings

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
 13030 Hanover Road; W/S Old Hanover Road, *
 1,885' N of c/line of Butler Road * OF ADMINISTRATIVE
 4th Election & 3rd Councilmanic Districts *
 Legal Owner(s): BGE by Jim Burkman * HEARINGS FOR
 Petitioner(s) * BALTIMORE COUNTY
 * 2014-127-SPH

* * * * *

ENTRY OF APPEARANCE

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

RECEIVED

DEC 13 2013

fe

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of December, 2013, a copy of the foregoing Entry of Appearance was mailed to Jennifer Busse, Esquire, Whiteford, Taylor & Preston, LLP, One West Pennsylvania Avenue, Suite 300, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
 People's Counsel for Baltimore County

CHECKLISTSupport/Oppose/
Conditions/
Comments/
No CommentComment
ReceivedDepartment

12/18/13

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

NO/C

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

FIRE DEPARTMENT

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

12/12/13

STATE HIGHWAY ADMINISTRATION

NO Obj

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT

Date:

1/2/14

SIGN POSTING

Date:

12/30/13

by

agk

PEOPLE'S COUNSEL APPEARANCE

Yes



No



PEOPLE'S COUNSEL COMMENT LETTER

Yes



No



Comments, if any: _____



KEVIN KAMENETZ
County Executive

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

January 15, 2014

BGE
Jim Burkman
1699 Leadenhall Street
Baltimore MD 21230

RE: Case Number: 2014-0127 SPH, Address: Hanover Road

Dear Mr. Burkman:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on November 26, 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, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel
Jennifer R Busse, Esquire, One W. Pennsylvania Avenue, Suite 300, Towson MD 21204

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



James T. Smith, Jr., Secretary
Melinda B. Peters, Administrator

Date: 12/12/13

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

RE: Baltimore County
Item No. 2014-0127-SPH
Special Hearing
BGE, Jim Burkman
13030 Hanover Road
MD30

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 12/11/13. A field inspection and internal review reveals that an entrance onto MD30 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Special Hearing, Case Number 2014-0127-SPH.

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

Sincerely,

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

Steven D. Foster, Chief/
Development Manager
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

Debra Wiley - Fwd: BGE

From: Glenn Elseroad <sgelseroad@verizon.net>
To: "Istahl@baltimorecountymd.gov" <Istahl@baltimorecountymd.gov>
Date: 1/29/2014 7:59 PM
Subject: Fwd: BGE

Sent from Glenn's iPad

Begin forwarded message:

From: Glenn Elseroad <sgelseroad@verizon.net>
Date: January 29, 2014 9:00:42 PM EST
To: "Istahl@baltimorecountymd.gov" <Istahl@baltimorecountymd.gov>, "jbeverungen@baltimorecountymd.gov" <jbeverungen@baltimorecountymd.gov>
Cc: Jacobson Eric T <Eric.Jacobson@constellation.com>, Moore Teresa <moorevpc@comcast.net>, George Harman <ghharman@aol.com>
Subject: BGE

January 28, 2014

Judge Lawrence M. Stahl
Managing Administrative Judge
Office of Administrative Hearings

RE; Special Exception Hearing 2014 - 0127

Dear Judge Stahl,

I am away this week and will be unable to attend the rescheduled hearing Thursday, January 30, 2014. In that I am disappointed to have only been given a four day notice of the rescheduled hearing which made it impossible for me to attend.

The proposed Hanover Pike, BGE Substation is the result of the positive efforts of many. It was not always that way, the original location was one that was away from the public eye, but was of little thought, concern or appreciation to the land preservation efforts of many. It would have been a commercial use surrounded by thousands of acres of farmland in preservation. It would have infringed on the

privacy and tranquil lifestyles of over a dozen families living along Kemp Road.

As word spread of the proposed BGE project, opposition quickly gained momentum from local residents, environmentalist, supporters of land preservation and the Community Groups such as the Valley Planning Council, Hanover Road Association and a growing lack of support from Elected Representatives.

Then four property owners with parcels of land totaling almost 180 acres were approached as to their willingness to sell. Eric Jacobson and members of the BGE Project Team were taken for a site visit and for discussions on size and scope of the project on the property. Then a meeting was held at my house to open lines of communication between BGE and the property owners. Working together we met the site needs of BGE, open space and conservations concerns of the HRA are agreed upon in a 95 year covenant agreement, the land conservation efforts of the VPC are now undisturbed and the residents along Kemp Road will have no infringement on their privacy or loss of property value.

The relocation is a "field of dreams" for BGE. It represents cost savings because of a closer distance to the newly constructed Cockey's Mill Road Substation, as the two substations will work in coordination to increase voltage out put more efficiently. The new location bordering Hanover Pike and a CSX railroad unloading spur will reduce transportation delivery cost, topography of the area for the planned new substation is level reducing excavating and engineering cost. Then perhaps the most important is support gained from community groups and Elected Representatives reducing expensive legal cost and possible fines for failure to meet PJM demand and reliability requirements. It reduced time loss expenditures by moving from gridlock to productivity. One could believe the savings are in close alignment to the actual purchase price paid for the four properties totaling 180 acres.

One issue of contention still remains between the HRA and BGE and that is the unsightly storage of landscaping materials by Glyndon Gardens on a BGE easement and under utility lines. It appears the storage area is constantly increasing.

We are lead to believe that sometime in the past BGE agreed with the owners of Glyndon Gardens to allow storage under the power lines. Then to make matters more confusing a "Special Exception Hearing"

by Glyndon Gardens (2002-390), requesting an increase in building size to allow for a greenhouse to be built. The wording on page 5 of that decision goes to the extent of stating "It is further ordered, that relief be granted here shall include that area of land under the power lines where the Petitioner is currently storing materials". Now after 12 years no greenhouse has ever been build and what was a minor infraction for landscaping material storage has grown to encompass an entire hillside.

Eric Jacobson, Project Manager for the planned BGE substation has advised me they will present a solution to this ongoing problem at the January 30, 2014 hearing. That plan should include reduction of landscape material storage, a landscaping plan providing an evergreen buffer to be planted early this spring with a maintenance agreement to ensure the care and future health of the evergreen screening in a way it will provide relief from the unsightly storage area.

I am asking for your assistance in addressing this matter, even if it requires the court to take a bold step and suspend a decision until a plan is agreed upon by Glyndon Gardens, BGE and HRA as to reduction of storage, providing landscaping buffers, and agreed upon future use limitations.

With great respect and appreciation for your efforts and understanding,

S. Glenn Elseroad Sr.

Past President of the Hanover Road Association
5423 Mt - Gilead Road
Reisterstown, Maryland 21136
443-465-6227

Sent from Glenn's iPad

Debra Wiley - Rescheduling of Case Nos. 2014-0132-XA, 2014-0133-A & 2014-0127-A

From: Debra Wiley
To: Lewis, Kristen
Date: 1/22/2014 10:43 AM
Subject: Rescheduling of Case Nos. 2014-0132-XA, 2014-0133-A & 2014-0127-A
CC: OAH Staff

Good Morning Kristen,

The zoning cases scheduled for Tuesday, January 21st and Wednesday, January 22nd were canceled due to the inclement weather.

The cases are as follows: Jan. 21 - 2014-0132-XA and Jan. 22 - 2014-0133-A & 2014-0127-A. In addition, the case file for Case No. 2012-0187-SPHX was attached to 2014-0127-A and has been banded together.

Please be advised that the files have been placed in the pick-up box for processing and rescheduling.

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



KEVIN KAMENETZ
County Executive

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

March 26, 2012

G. Scott Barhight, Esquire
Jennifer R. Busse, Esquire
Whiteford, Taylor & Preston, L.L.P.
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, MD 21204

RE: **CLARIFICATION** - Petitions for Special Hearing and Special Exception
Case No.: 2012-0187-SPHX
Property: Hanover Road

Dear Counsel:

As I was organizing the documents and exhibits to archive the above-captioned file, I noticed that I overlooked one aspect of special hearing relief sought by Petitioners. Specifically, the Petitioners sought to abandon the special exception relief (for a church) granted by Zoning Commissioner William Wiseman by Order dated February 28, 2006. In reviewing Mr. Wiseman's Order, I noticed that he did not specify a time period for utilization. Therefore, under B.C.Z.R. §502.3 (which provides a maximum 5-year time limit for utilization of a special exception), the special exception granted in Case No. 2006-0251-X is therefore void.

In addition and to eliminate any confusion on the point, the Order issued in the above-captioned matter on March 23, 2012 is hereby Amended to expressly provide that the special exception granted in Case No. 2006-0251-X shall be abandoned. All other aspects of the March 23, 2012 Order shall remain in full force and effect.

Very truly yours,


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw

c: Michael L. Snyder, 5930 Glen Falls Road, Reisterstown, MD 21136
William R. Rosenberger, 13030 Hanover Road, Reisterstown, MD 21136
S. Glenn Elseroad, 5423 Mt. Gilead Road, Reisterstown, MD 21136
Barb Ambrose, 14823 Hanover Pike, Baltimore, MD 21155
Teresa Moore, P.O. Box 5402, Baltimore, MD 21285
George Harman, 5429 Weywood Drive, Reisterstown, MD 21136

JB 3-20-12

IN RE: PETITIONS FOR SPECIAL HEARING *
AND SPECIAL EXCEPTION

W side of Hanover Road; 1,885 feet N *
of the c/l of Butler Road *
4th Election District *
4th Councilmanic District *
(Hanover Road)

William R. Rosenberger, *Legal Owner* *
Baltimore Gas & Electric, *Contract Lessee* *
Petitioners

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2012-0187-SPHX

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for consideration of Petitions for Special Hearing and Special Exception filed by William R. Rosenberger, Legal Owner, and Baltimore Gas & Electric, Contract Lessee, (the "Petitioners"). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows:

- Map 39 Parcel 245 - to abandon the Special Exception approval previously provided via Case No. 1971-134-X contingent upon the utilization, on this subject property, of the Special Exception for a public utility use which is filed concurrently with this Petition for Special Hearing; and
- In the event that BGE fails to close on the sale of the property from Rosenberger to BGE, the existing Special Exception (Case No. 1971-134-X) will continue.

In addition, Petitioners request Special Exception relief for a public utility use per B.C.Z.R. Section 1A01.2.C.17. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit

Appearing at the public hearing in support of the requests were Carol Dodson with BGE, Brad Davis and Eric Jacobson with Constellation Energy, Zacharia Y. Fisch and R. Andrew Berlett, Jr., with FSH, Associates, the professional engineering company who prepared the site plan, and William P. Monk with Morris & Ritchie Associates, Inc. G. Scott Barhight, Esquire and Jennifer R. Busse, Esquire, with Whiteford, Taylor & Preston, LLP, appeared as counsel and represented the Petitioners. A number of interested citizens attended the hearing, including: Michael L. Snyder, William R. Rosenberger, S. Glenn Elseroad, Barb Ambrose, Teresa Moore, and George Harman. In addition, the file contains a letter of support, dated March 1, 2012, from the Valleys Planning Council (VPC).

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A comment was received from the Department of Environmental Protection and Sustainability (DEPS) dated March 14, 2012, which states that the development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code (B.C.C.) as well as comply with Forest Conservation Regulations (Sections 33-6-101 through 33-6-122) of the B.C.C. A comment was also received from the Department of Planning on March 16, 2012, supporting the zoning relief, and that Department also opined that the relief will not be detrimental to the health, safety or general welfare of the surrounding community.

The first witness to testify was Carol Dodson, an asset manager for BGE. Ms. Dodson explained that her job duties as concerns the Hanover Pike project would include ensuring that BGE addresses and meets all County and State standards and regulations with respect to the project. Ms. Dodson stated that the Hanover Pike project was essential, in that it would ensure the reliability of the electricity grid for central Maryland.

Ms. Dodson testified that the substation proposed in this case would transform the incoming 500 KV electricity to 230 KV, and from there the electrical service would be provided to nearby communities. Ms. Dodson emphasized that the BGE substation will not be manned by employees, but would be remotely monitored, and she estimated that BGE will visit once a month for inspections, and that in no event would BGE need to visit the site more than four times a month on an ongoing basis. Ms. Dodson emphasized that there would be locked gates around the equipment and transformer storage area, and that fencing would also contain barbed wire. She also indicated that there would be two 250-watt lights on opposite sides of the shelter structure, which would be illuminated at all times.

The next witness to testify was Zacharia Y. Fisch, a professional engineer with the firm of FSH, Associates. Mr. Fisch's Curriculum Vitae was admitted as Petitioners' Exhibit 4, and the witness was accepted as an expert witness in Baltimore County land development and zoning regulations. Mr. Fisch explained that he prepared the redlined site plan which was marked as Petitioners' Exhibit 3, and that he also created the environmental constraints map admitted as Petitioners' Exhibit 2. Mr. Fisch's firm also performed a wetland delineation and forest buffer analysis, both of which were accepted by the Baltimore County Department of Environmental Protection and Sustainability (DEPS). Mr. Fisch testified that there were two access points to the Hanover substation project, and he opined that there were more than adequate site lines and distances with respect to these points of ingress and egress.

The final portion of Mr. Fisch's testimony concerned a series of photographs he took of the site, from various vantage points. See Exhibit 5. Mr. Fisch then introduced a series of photographs showing various vantage points of the site as it exists now, and contrasted those with a corresponding series of photographs with the utility towers superimposed on the

photograph. The witness explained that the photographs were obviously not 100% accurate in all respects, but were intended to be illustrative of how the utility towers would look when the project was complete. In all instances, Mr. Fisch stressed that due to the topography of the site, the equipment building housing the generators and other electrical circuitry would not be visible from any of the vantage points. See Petitioners' Exhibits 6 through 9.

The final witness was William P. Monk, a project manager and site planner with Morris & Ritchie Associates, Inc. Mr. Monk's CV was marked and admitted as Petitioners' Exhibit 10, and he was accepted as an expert in the Baltimore County land development process, including the development and zoning regulations applicable thereto. Mr. Monk indicated that he was familiar with the applicable legal standards for the grant of special exception relief, as those are set forth in B.C.Z.R. § 502.1, and interpreted in the landmark case of *Schultz v. Pritts*, 291 Md. 1 (1981). Mr. Monk opined that the BGE Hanover project met all of the special exception requirements set forth in that regulation, as well as those in B.C.Z.R. § 411, pertaining to public utility uses. He emphasized that the transformers and electrical equipment would be "tucked in" to the middle of the 180 acre site, making it ideal for the proposed use. Given that no dwellings or water and sewer connections are proposed for the project, Mr. Monk also opined that the site would obviously not cause overcrowding or traffic congestion, and he also noted that the safety and security measures taken by BGE would help ensure that the project was safe and would not harm the health and welfare of the surrounding community.

Several community members appeared at the hearing, and in general indicated they were supportive of the project. Indeed, the file contains a letter of support from the Valleys Planning Council, signed by its President, Teresa Moore. Several speakers, including George Harman, Mike Snyder, and S. Glenn Elseroad, also voiced certain concerns about the appearance of the

utility towers, and they had particular concerns about the Glyndon Gardens operation which they believe was being conducted in violation of applicable zoning laws. The community members were also adamant that the development activity in this case be restricted to the cross-hatched area shown on Exhibit 3 (identified as "Proposed Equipment Area"), and that BGE not undertake any other activities on the balance of the 180 acre site that were not compatible with the RC 2 zoning. The community's concerns were later articulated and summarized in a March 21, 2012, letter from S. Glenn Elseroad, a copy of which will be included with the case file.

Special Exception Standards

Special exception uses are presumptively valid and consistent with the comprehensive zoning plan, People's Counsel v. Loyola College, 406 Md. 54, 77 n. 23 (2008), and no evidence was offered here to rebut the presumption. Petitioners' expert, Bill Monk, testified that the project would satisfy Section 502.1 of the B.C.Z.R., and I concur, based upon the same factors Mr. Monk recited in his testimony. Most importantly, the proposed equipment area is a small portion of the overall tract, and is ideally situated in the center of the parcels. While utility infrastructure is certainly not aesthetically pleasing, the topographical features at this site assist in minimizing the impacts – visual and otherwise – upon the community.

One important caveat concerns the boundaries of the special exception area. Petitioners' redlined site plan proposed that the entire 180 +/- acre tract be defined as the special exception area. After reviewing the plans and evidence, I believe that the special exception area should be restricted to that portion of the tract labeled "Proposed Equipment Area," as shown on Exhibit 3. This will allow BGE to conduct the necessary site improvements for the substation, while at the same time providing comfort to the community that any uses of the balance of the site must comply with RC 2 zoning. Of course, and as mentioned at the hearing, BGE will be permitted to

construct or improve outside the special exception area any roadways, drains, and culverts that are necessary to service or access the "equipment area."

Special Hearing

Petitioners have also requested special hearing relief, concerning the proposed abandonment of the special exception use (veterinary office – Case No. 1971-0134-X), currently existing on the site. This request is uncontroversial, and the contingent nature of the abandonment – as articulated on the lower right hand corner of Petitioners' Exhibit 3 – is also appropriate and consistent with Baltimore County practice.

Community Concerns

As noted above, community members are concerned about the Glyndon Garden operation, and they presented a deed whereby the garden center's predecessor sold certain lands to BGE, while reserving certain rights to the grantor (including the garden center, as grantor's successor in interest) to "farm and use the same [i.e., the land] in any other manner." Citizen's Exhibit 1. As I indicated at the hearing, Maryland law precludes the OAH from construing private legal instruments, and I will therefore not consider the deed or its import. *Blakehurst v. Baltimore County*, 146 Md. App. 509, 520 (2002).

To the extent the garden center is operating in violation of the B.C.Z.R., that is a matter for the code enforcement bureau of the Department of Permits, Approvals, and Inspections. As I noted at the hearing, that agency will accept complaints via its web page, and the complainant can even remain anonymous.

The community was also concerned about the appearance of the large utility towers, which will apparently be 150 to 180 feet tall, and suggested that certain plantings be required to buffer the view. While this may be a good suggestion, I am concerned that I lack the authority to

impose such a requirement. In *PEPCO v. Montgomery Co.*, 80 Md. App. 107, 118 (1989), the

Court of Special Appeals ruled that a County cannot impose conditions upon the construction of electric utility lines, and in so ruling held as follows:

"Once the PSC has by order authorized the erection of power lines along a designated route, little more remains for a local government to do except perform the ministerial duty of issuing the necessary building permits."

Id. at 118.

In any event, perhaps this is a matter that can be revisited at the Hearing Officer's Hearing (HOH), when BGE will seek approval of a Development Plan for the site. The plans and details will be more developed at that phase, and will allow for a more thoughtful and in-depth consideration of this issue.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioners' Special Exception and Special Hearing requests should be granted, subject to the comments and conditions which follow.

THEREFORE, IT IS ORDERED this 23 day of March, 2012, by this Administrative Law Judge, that Petitioners' request for Special Hearing filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows:

- Map 39 Parcel 245 - to abandon the special exception approval previously provided via Case No. 1971-134-X contingent upon the utilization, on this subject property, of the special exception for a public utility use which is filed concurrently with this Petition for Special Hearing; and
- In the event that BGE fails to close on the sale of the property from Rosenberger to BGE, the existing Special Exception (Case No. 1971-134-X) will continue,

be and is hereby GRANTED; and

IT IS FURTHER ORDERED that Petitioners' Special Exception request for a public utility use per B.C.Z.R. Section 1A01.2.C.17, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the area for the special exception public utility use shall be restricted to the crosshatched area depicted on Petitioners' Exhibit 3, which is labeled "Proposed Equipment Area".

The relief granted herein shall be subject to the following:

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

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

Case No.:

#2014-0127-SPH

Exhibit Sheet

Petitioner/Developer

DW
3-7-14

Respondent

SEN
2-4-14

No. 1	11-20-2013 2 sheet plan	Order in No. 02-390-XA
No. 2		
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
W/S of Hanover Pike and *
N/S of Butler Road (NW corner) * DEPUTY ZONING COMMISSIONER
3rd Election District *
4th Councilmanic District * OF BALTIMORE COUNTY
(205 Hanover Pike) *
* CASE NO. 02-390-XA
*
Michael Ray Warner *
Petitioner *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception and Variance filed by the legal owner of the subject property, Michael Ray Warner. The Petitioner is requesting zoning relief for property he owns at 205 Hanover Pike, located in the Reisterstown area of Baltimore County. The special exception request is to approve a greenhouse building in accordance with Section 259.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) which would exceed the floor area requirements of Section 259.3.C.1 of the B.C.Z.R. In addition to the special exception request, the Petitioner is also requesting a variance to allow a total gross floor area for all buildings on the property of 24,400 sq. ft. in lieu of the maximum allowed 8,800 sq. ft. and a total ground floor gross area of 23,200 sq. ft. in lieu of the maximum allowed 6,600 sq. ft.

Appearing at the hearing on this matter were Michael Warner, property owner, Geoffrey Schultz, appearing on behalf of McKee & Associates, the engineers who prepared the site plan of the property, Lawrence Hammond, a representative of Reisterstown/Owings Mills/Glyndon Community Associations (ROG) and Michael Paul Smith, attorney at law, representing the Petitioner. Appearing as an interested citizen was George Harmon, representing the Hanover Road Association.

IDENTIFIED FOR FILING

Date 5/24/02

By J.P. Garmeston

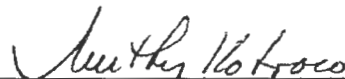
Testimony and evidence indicated that the property, which is the subject of this request, consists of 4.289 acres of land, more or less, the majority of which is zoned BL-CR and a small portion of which is zoned D.R.3.5. The subject property is located on the northwest corner of the intersection of Hanover Pike and Butler Road in Reisterstown. The property is improved with a large retail building, parking area, and nursery display areas, all of which constitutes the business known as "Glyndon Gardens". Mr. Warner is the owner of Glyndon Gardens and has been in business since 1981. At this time, he proposes to expand his operation by constructing a one-story greenhouse building on the subject property in the manner depicted on Petitioner's Exhibit No. 1, the site plan submitted into evidence. Mr. Warner intends to utilize the greenhouse building for purposes of growing nursery stock for his business and displaying same for sale. This currently occurs on the property in an open-air fashion. Photographs of the greenhouse building proposed to be constructed on the property were submitted into evidence. In addition, Mr. Warner had prepared architectural elevation drawings of the greenhouse building itself. In order to proceed with the construction of this new building, the special exception and variance relief is necessary.

As stated previously, Mr. Lawrence Hammond, President of ROG, attended the hearing and offered the general support of his associations. However, he did defer to the Hanover Road Association for any particular issues which may be raised by that group. In addition, support was offered by the Office of Planning, by virtue of their extensive report dated May 10, 2002. The Planning Office recommends approval of this request and further found that the use in question is compatible and in accordance with the design guidelines of the Hanover Pike Corridor Study and the duly adopted Master Plan.

Mr. George Harman, President of the Hanover Road Association, attended the hearing and testified in support of the Petitioner's request. Mr. Harmon testified that his association requests the imposition of certain conditions and restrictions in the event the special exception and variance are granted. These issues were discussed at the hearing with Mr. Warner, the owner of the property, and shall be set forth at the end of this Order. Mr. Harman also pointed out that the Petitioner has been storing materials on property zoned R.C.2 which is adjacent to the property owned by the Petitioner. Mr. Warner testified that the deed by which he took title to this property authorizes him to utilize that area of the land adjacent to his property owned by Baltimore Gas & Electric. In fact, Mr. Warner has an access road, through the area improved with BG&E power lines, which allows for truck deliveries to his business. Customer access is provided by another access point along Hanover Pike. This secondary means of access allows for large truck deliveries to come to the property without interfering with routine customer traffic.

Mr. Warner further explained that in the course of petitioning for this zoning relief, the Planning Office, as well as the Hanover Road Association, asked that certain items offered for sale, such as firewood, mulch and stone, which were displayed along the parking area in the front of the Petitioner's business, be moved and stored to the rear of the Petitioner's business, out of view from the intersection of Hanover Road and Butler Road. Mr. Warner, in an effort to accommodate the Planning Office and the Hanover Road Association, moved these items and stored them to the rear of his business. Mr. Warner has agreed to leave that area, which was previously used to display materials for sale, open and intends to landscape that area of the property. However, relocating those materials and losing that area of his property for display purposes, has caused the Petitioner's business to spill over onto the R.C.2. zoned portion of the

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty
(30) days of the date of this Order.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

ORDER RECEIVED FOR FILING
D-30 5/24/02
BY: 

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For December 16, 2013
Item No. 2014- 0126, 0127 and 0130

DATE: December 18, 2013

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

DAK:CEN
Cc: file

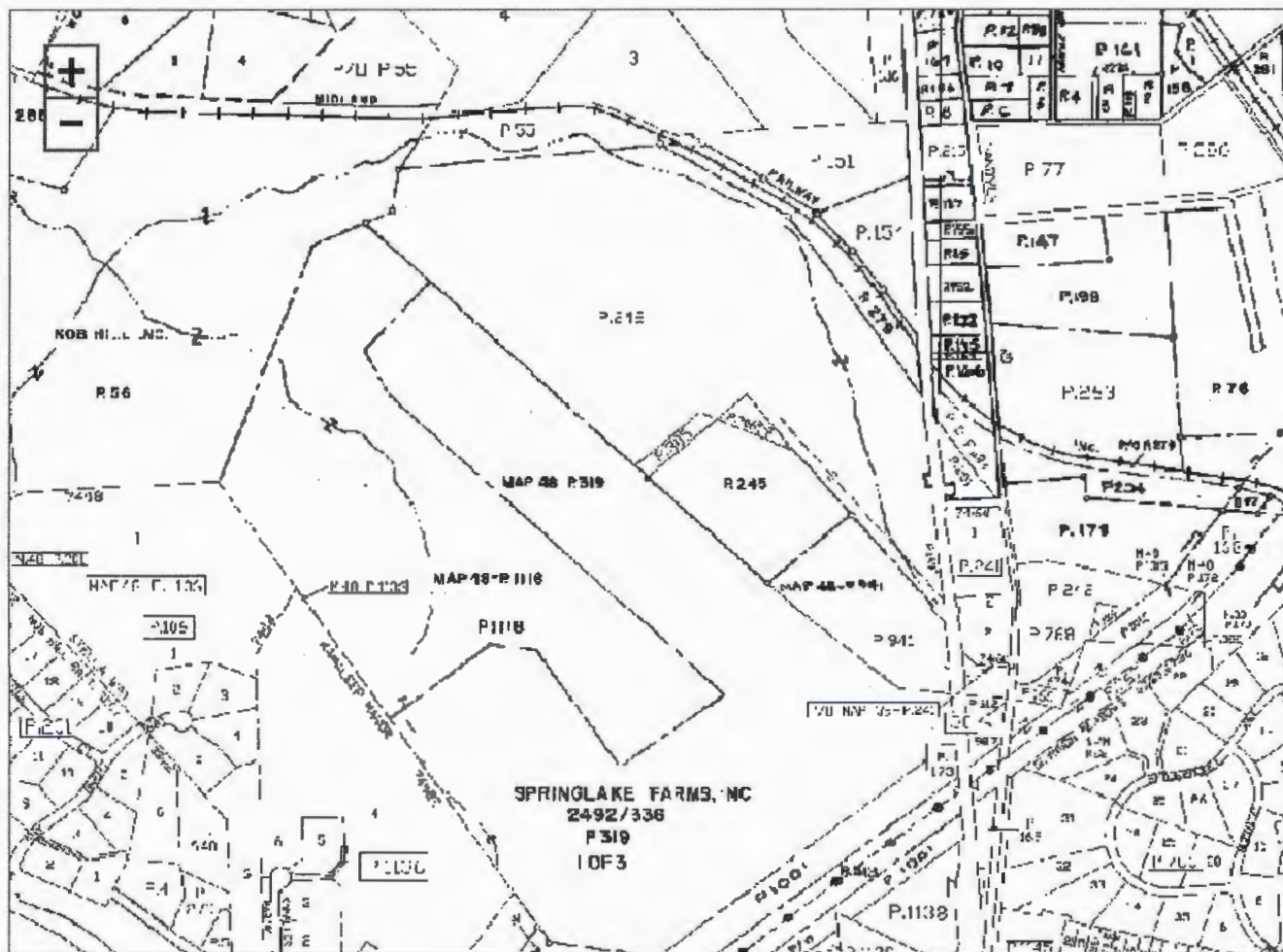
G:\DevPlanRev\ZAC -No Comments\ZAC12162013 -.doc

Real Property Data Search (w3)

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registr
Account Identifier:	District - 04 Account Number - 1600002223	
Owner Information		
Owner Name:	BALTIMORE GAS & ELECTRIC COMPANY	Use: COMM
Mailing Address:	2900 LORD BALTIMORE DR BALTIMORE MD 21244-	Principal Residence: NO Deed Reference: 1) /31996 2)
Location & Structure Information		
Premises Address:	HANOVER RD 0-0000	Legal Description: 9.26 AC 400 FT F 2000 N B
Map: 0039	Grid: 0022	Parcel: 0245
Sub District:	Subdivision: 0000	Section:
Block:	Lot:	Assessment Year: 2014
Special Tax Areas:	Town:	NONE
	Ad Valorem:	
	Tax Class:	
Primary Structure Built 1971	Above Grade Enclosed Area 8874	Finished Basement Area
		Property Land Area 10.0000 AC
Stories	Basement	Type
		VETERNARIAN HOSPITAL
Exterior	Full/Half Bath	Garage
Last Major R		
Value Information		
	Base Value	Value
		As of
		01/01/2014
Land:	421,500	690,100
Improvements	655,900	738,000
Total:	1,077,400	1,428,100
Preferential Land:	0	0
		Phase-in Assessments
		As of
		07/01/2013
		07/01/
		1,077,400
		1,194,
		0
Transfer Information		
Seller: ROSENBERGER WILLIAM R	Date: 04/27/2012	Price: \$1,400,000
Type: ARMS LENGTH MULTIPLE	Deed1: /31996/ 00230	Deed2:
Seller: PATTERSON, ROBERT E	Date: 11/16/1977	Price: \$56,478
Type: ARMS LENGTH IMPROVED	Deed1: /05825/ 00697	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Exemption Information		
Partial Exempt Assessments:	Class	07/01/2013
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00
Tax Exempt:	Special Tax Recapture:	07/01/20
Exempt Class:	NONE	0.00 0.00
Homestead Application Information		
Homestead Application Status: No Application		

Baltimore County

New Search (<http://sdat.resiusa.org/RealProperty/>)District: **04** Account Number: **1600002223**

The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

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

Property maps provided courtesy of the Maryland Department of Planning ©2011.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (<http://www.mdp.state.md.us/OurProducts/OurProducts.shtml>).



(<http://lmsweb05.mdp.state.md.us/website/mosp/>)

☒ Loading... Please Wait. Loading... Please Wait.

PLEASE PRINT CLEARLY

DATE _____

BGE

2014-0127

1-30-14

CITIZEN'S SIGN - IN SHEET

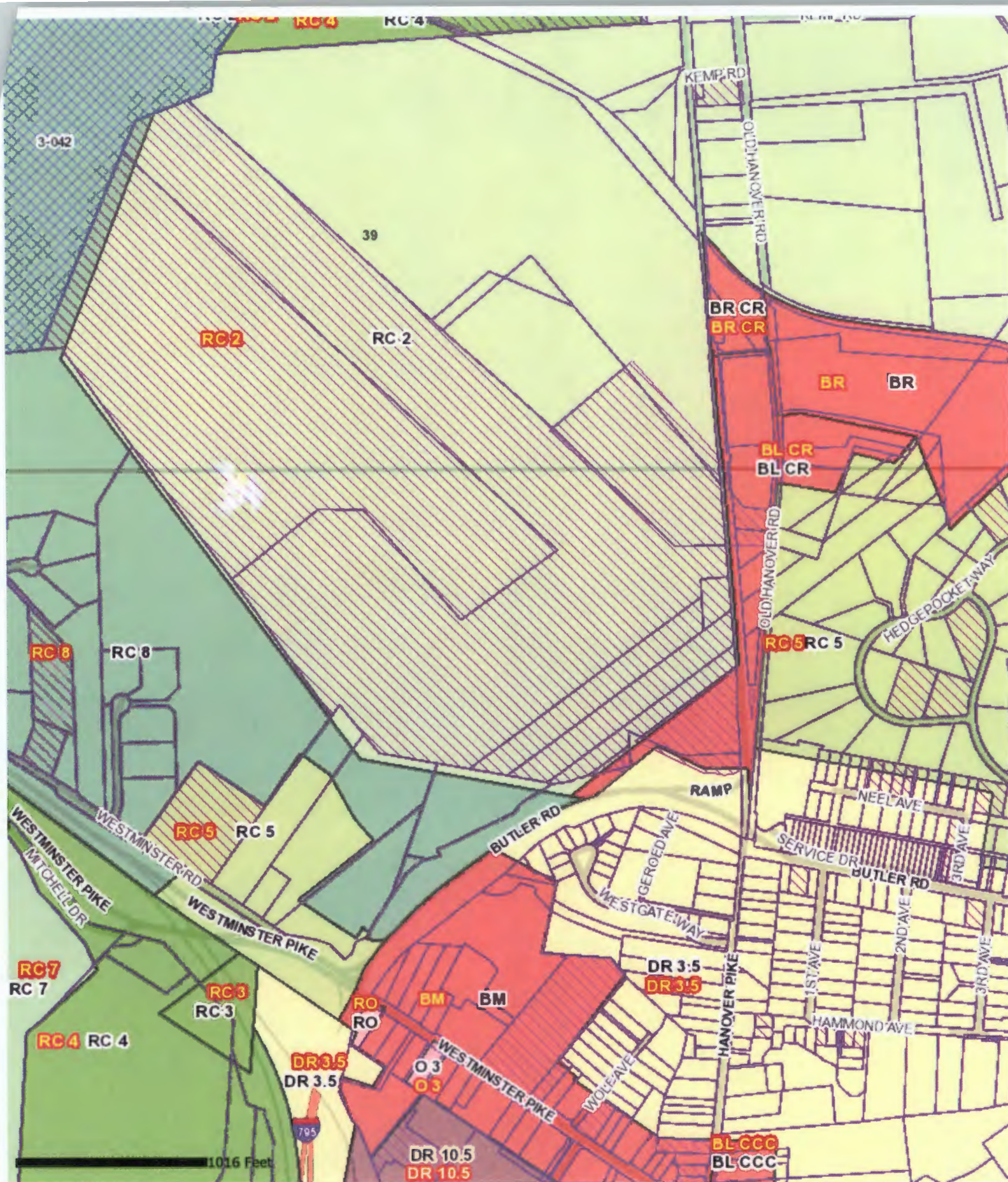
ADDRESS

E - MAIL

[illegible]

CASE NAME BGE
CASE NUMBER 2014-127
DATE 1-30-14

[illegible]



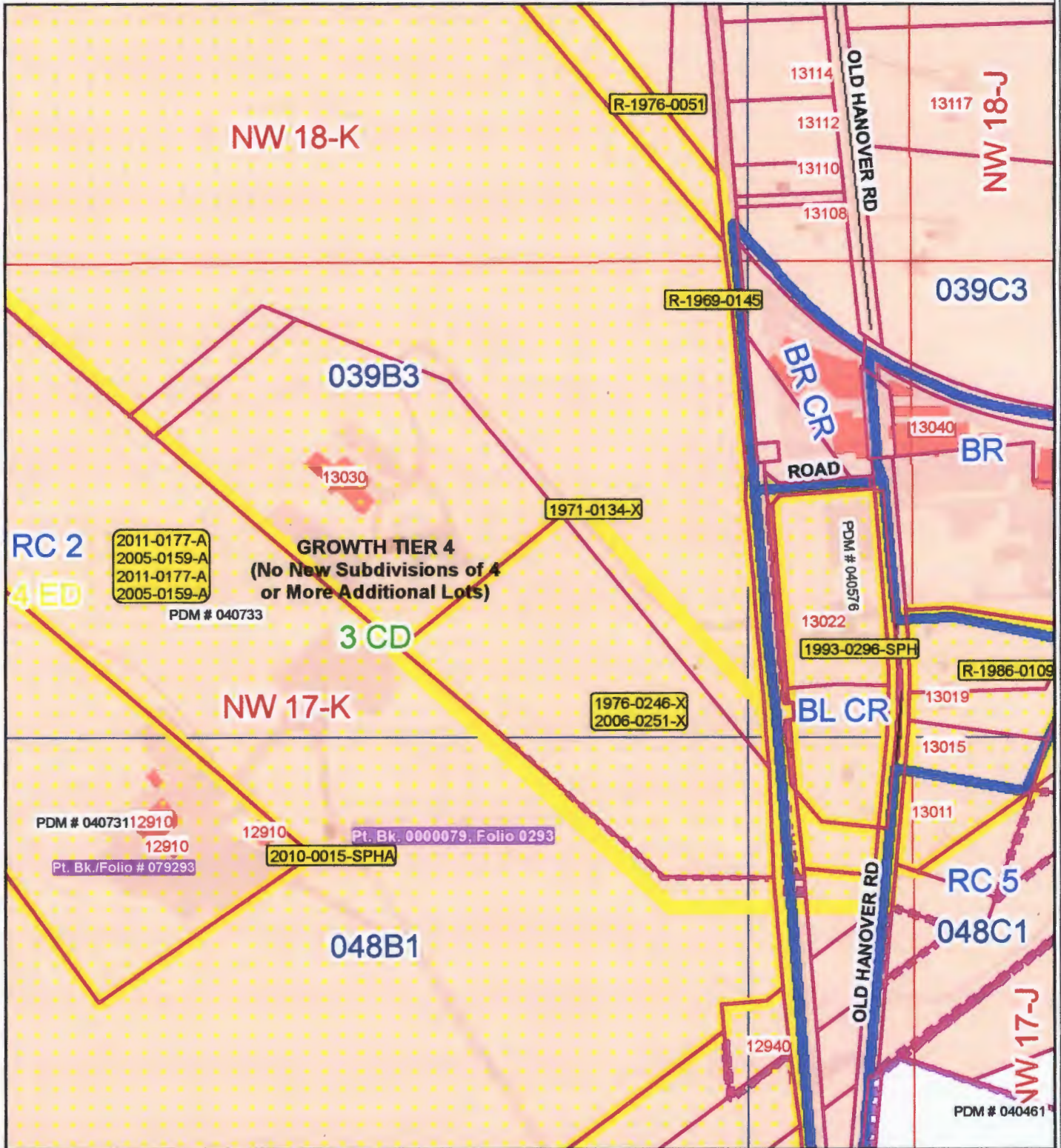
BGE HANOVER PIKE

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BGE Hanover Pike



Publication Date: 11/26/2013



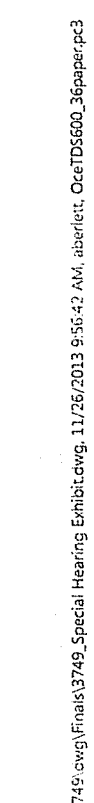
Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



0 87.5175 350 525 700 Feet

1 inch = 345.619658 feet

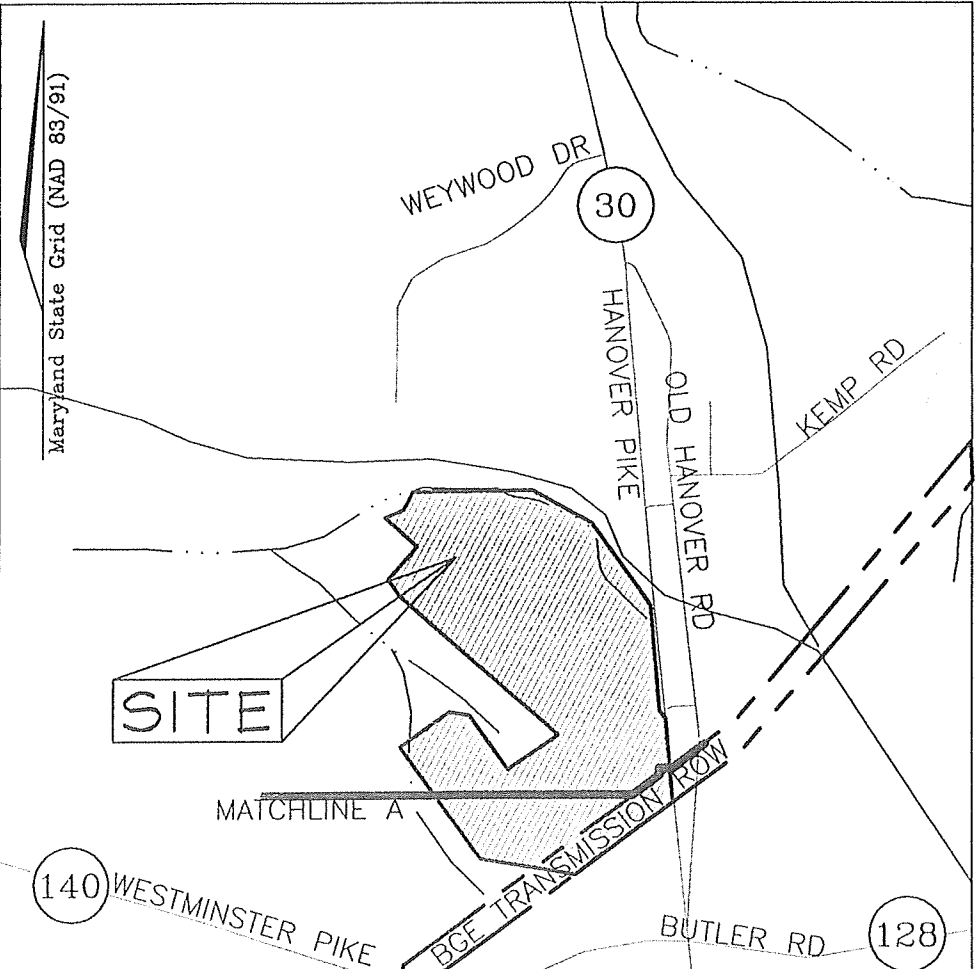
2014- 0127-SPH





LEGEND

- Existing 10 Foot Contour
- Existing 2 Foot Contour
- Existing Trees
- Existing Wetland
- Existing Wetland Buffer
- Perennial Stream
- Intermittent Stream
- 100 year Floodplain
- Property Boundary and Zoning Case Limit
- Existing BRL/Setback
- Existing Internal Parcel Line
- Adjacent Property Line
- Existing Transmission Right-of-Way
- Forest Buffer Easement
- Existing Zoning



VICINITY MAP
SCALE: 1"=2000'
BALTIMORE COUNTY ADC MAP 15 K4/4457G3

SUBJECT PARCELS

Tax Map 48 Parcel 1181 Lot 1 12310 Hanover Rd Reisterstown, MD 21136 Deed: 32079/452 Tax Acct: 0419064626 86.08 Acres	Tax Map 39 Parcel 245 13030 Hanover Rd Reisterstown, MD 21136 Deed: 31996/00230 Tax Acct: 1600002223 9.87 Acres
Tax Map 48 Parcel 941 (1 of 2) Deed: 31996/00220 Tax Acct: 0402065250 6.56 Acres	Tax Map 39 Parcel 246 Deed: 31996/00186 Tax Acct: 1600002224 64.21 Acres
Tax Map 48 Parcel 1001 Baltimore Gas & Electric Co Deed: 5145/259 Tax Acct: 1600002081 7.53± Acres	P/O Tax Map 48 Parcel 313 Susquehanna Trans. Co. Deed: 874/327 4.70± Acres
Total Site Area: 180.94± Ac.	

GENERAL NOTES

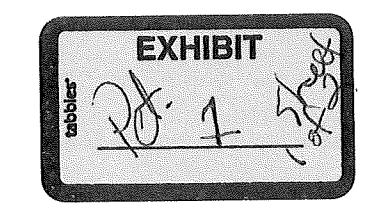
- The jurisdiction of Baltimore County does not extend outside of the fenced area for the location or nature of any transmission tower, transmission line or ancillary structures. The Public Service Commission has jurisdiction over the transmission towers, transmission lines and ancillary structures.
- No parking is required for this project. There is no regular staff present as a result of the proposed project.
- Facility does not require water or sewer service.
- The substation will be constructed in phases.
- The Forest Buffer, Forest Stand Delineation and Wetland locations for TM 39 p.245-246 & TM 49 p.941 were Approved by Baltimore County, DEPS on August 22, 2011
- The Forest Buffer, Forest Stand Delineation and Wetland locations for TM 49 p.319 was Approved by Baltimore County, DEPS on April 12, 2011
- A Forest Buffer Variance Alternatives Analysis was approved on September 26, 2012, with off-site mitigation in a DEPS approved forest bank.
- The proposed fence will be 8' high with 1' of 3-strand barbed wire atop.
- There is no FEMA floodplain on the subject properties.
- The subject parcels are not within the Critical Area.
- Proposed sign shown located at existing driveway for access to Parcels 245-246. Sign details to be determined.

ZONING HISTORY

- TM 39 Parcel 245: Case #1971-134-X; special exception for a veterinarian office.
- TM 48 Parcel 941: Case #2006-251-X; special exception for a church, approved on March 21, 2006.
- TM 48 Parcel 1181, Lot 1 (Formerly P.319); Case #2010-0015-SPHX; the deputy zoning commissioner approved a Special Hearing to affirm the continuation of a Non-conforming Use and a Variance to permit a 0 foot side setback in lieu of the 35 feet required, approved on October 25, 2009.
- TM 48, Parcels 941 and 1181, Lot 1; & TM 39 Parcels 245 and 246: Case #2012-0187-SPHX; Special Exception for a Public Utility use.
- Special Hearing to abandon the Special Exception approval previously provided to Parcel 941 via Case 2006-251-X.
- Special Hearing to abandon the Special Exception approval previously provided to Parcel 245 via Case 1971-134-X.

REQUESTED RELIEF: Special Hearing to extend the utilization period of the Special Exception approval granted via Case 2012-0187-SPHX for a Public Utility use. The Special Exception was granted on March 23, 2012 and amended by a Clarification issued on March 26, 2012.

ZONING DESCRIPTION: This description is for zoning purposes only and has been compiled and best fit from existing deeds of record. A boundary survey has not been performed by FSH Associates.



OWNER/DEVELOPER/CONTRACT PURCHASER
BALTIMORE GAS AND ELECTRIC COMPANY
1699 LEADENHALL ST
BALTIMORE, MARYLAND 21230
ATTN: JIM BURKMAN (410) 470-9578

Prepared By:
FSH Associates
Engineers Planners Surveyors
6339 Howard Lane, Elkridge, MD 21075
Tel: 410-267-5200 Fax: 410-798-1522
E-mail: info@fshnet.com

REV.	DATE	ACCOUNT NO.	DESCRIPTION	APPROVED	AUTOCAD	DESIGN GROUP	PLAN TO ACCOMPANY SPECIAL HEARING	4th ELECTION DISTRICT	3rd COUNTY COUNCIL DISTRICT	ZONING MAPS 39B3 & 48B1	SHEET 1 OF 2	230/500 kv	HANOVER PIKE	SUBSTATION & SYSTEM PROTECTION	SCALE 1"=100'	REV
-	09FEB2012		Plan to Accompany Special Exception and Special Hearings for establishment of substation.	ETJ,JMS	CIVIL ELEC. PRGN. ENGR. PRGN. ENGR. SUPV. ENGR.	DESIGNED DRAWN CHECKED APPROVED DATE 20NOV2013										A
A	20NOV2013		Extension of date to utilize Special Exception	ETJ,JMS												

