

IN RE: PETITIONS FOR SPECIAL HEARING *
AND VARIANCE
(10021 Reisterstown Road) *
3rd Election District *
2nd Council District *
Gordon K. Harden, *Legal Owner* *
McDonald's USA, LLC, *
Contract Purchaser *
Petitioners *

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
Case No. 2014-0141-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Caroline L. Hecker, Esquire with Rosenberg, Martin, Greenberg, LLP, on behalf of Gordon K. Harden, the legal owner, and McDonalds USA, LLC, contract purchaser, ("Petitioners"). The Special Hearing was filed pursuant to § 409.8.B.1 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit the use of land in a residential zone as parking serving a business use. In addition, a Petition for Variance seeks the following:

1. Off-Street Parking:

- 1.1 Section 409.6.A.2 to permit 35 parking spaces in lieu of the required 71 parking spaces.
- 1.2 Section 409.8.A.4 to permit 6 ft. distance to street line (R/W) from parking space for non-residential use in lieu of the required 10 ft.

2. Signage Regulations:

- 2.1 Section 450.4 Attachment 1, 5(a)(VI) to permit 5 wall mounted enterprise signs on building facades in lieu of the permitted 3 signs. (Signs #4 & #5)
- 2.2 Section 450.4 Attachment 1, 3(b)(VII) to permit directional sign of 10.7 ft. in height in lieu of the permitted 6 ft. (Sign #1)
- 2.3 Section 450.4 Attachment 1, 3(b)(Vii) to permit a directional sign of 9.7 ft. in height in lieu of the permitted 6 ft. (Two signs, Sign #2)
- 2.4 Section 450.4 Attachment 1, 3(II) to permit a canopy-type directional sign in lieu of the permitted wall-mounted or free-standing sign. (Two signs, Sign #3)

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By Den

- 2.5 Section 450.5.B.3.b to permit erection of the sign above the face of the canopy in lieu of its erection on the face of the canopy. (Two signs, Sign #3)
- 2.6 Section 450.4 Attachment 1, 5(f)(VII) to permit two order boards of 6.75 ft. in height in lieu of the permitted 6 ft. (Two signs, Sign #7)
- 2.7 Section 450.4 Attachment 1, 3(II) to permit three projected directional signs in lieu of of the permitted wall-mounted or free-standing sign. (Three signs, Sign #8)

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

Appearing at the public hearing in support of the requests from McDonald's was Lee May, Area Construction Manager. Gerard Gaeng, Esquire and Caroline Hecker, Esquire, with Rosenberg, Martin and Greenberg, LLP, appeared and represented the Petitioners. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Several community members, represented by Carroll Holzer, Esquire, attended the hearing and opposed the relief.

Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPW) dated December 31, 2013. That agency noted landscape and lighting plans were required prior to issuance of permits.

The subject property is zoned BL, DR 16 & RO. The site is located on Reisterstown Road (Md. 140) directly across from the proposed Foundry Row project. A Krispy Kreme store operated for several years at the site, but that business closed and the former building is vacant. Petitioners propose to open a McDonald's restaurant (a permitted use in the BL zone), but require zoning relief before they can do so.

Although there are a variety of requests at issue, I believe the petition for variance concerning the number of parking spaces is the "weakest link" in the analytical chain. As such, that will be the sole issue addressed below.

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By DLH

To obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

I do not believe Petitioners have sustained the heavy burden imposed upon them under Maryland law, and the petition will therefore be denied.

With regard to the parking, Petitioners seek variance relief to permit 35 spaces in lieu of the required 71 spaces. Petitioners correctly note that in other cases involving McDonalds, parking variances were granted to permit less than 50% of the required number of spaces. But those cases were unopposed, and whether or not it is proper to do so, the reality is that variances are frequently granted without a searching inquiry if neighboring owners are supportive and the request is reasonable. The County Council recently enacted legislation that allows the Director of the Department of Permits, Approvals and Inspections to reduce parking requirements for certain shopping centers by up to 40%, without a hearing. B.C.Z.R. § 409.13. This seems to me a tacit acknowledgement on behalf of the County that the Regulations simply require too many parking spaces for commercial ventures, which also causes unnecessary environmental impacts. But that provision is not applicable in this case, and thus the Petitioners must seek variance relief.

Here, I believe the request is reasonable, and I agree with Mr. May who testified 35 spaces would be sufficient. I do not believe McDonalds would invest significant sums of money to open a restaurant with inadequate parking, and I do not believe that granting the parking variance would in any way negatively impact the community's health, safety and welfare. Assuming for the sake of argument there was insufficient parking, the frustrated customer would simply choose another fast food restaurant located along this stretch of Reisterstown Road. But

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my subjective feelings are beside the point; the only issue is whether the Petitioners have sustained their burden to obtain a variance.

In seeking variance relief, Petitioners face daunting odds; the court in Cromwell v. Ward, 102 Md. App. 691, 711 (1995) noted that since 1927, only five reported Maryland cases have upheld the grant of variance relief (or reversed the denial of a variance petition). The court in Cromwell also held that "variances are rarely appropriate." Id.

Against this backdrop, Petitioners argue the property is unique given the approximate 14' grade change across the site, new requirements imposed for storm water management, and the proposed SHA taking along the Reisterstown Road frontage. I do not believe these attributes (individually or cumulatively) satisfy the requirements set forth in Cromwell and similar cases.

The SHA taking undoubtedly reduces the size of Petitioners' parking lot, and several parking spaces are lost in the process. But even assuming this would render the property unique, the cases require more: in citing the Rathkopf zoning treatise, the court of appeals held that the uniqueness "must be the proximate cause of the hardship." Salisbury Bd. of Zoning v. Bounds, 240 Md. 547, 554-55 (1965). In fact, the Cromwell court held that the hardship must be "caused by the property's uniqueness." 102 Md. App. at 695 (emphasis in original). The SHA taking may account for the loss of as many as ten spaces, but that is obviously not the proximate cause of the shortage of 36 spaces at the property.

A similar analysis would apply to the other uniqueness factors cited by Petitioners. With regard to the storm water management (SWM) requirements, those are imposed by law and are not physical attributes of the land. As such, this cannot render the property unique; and even if it could, it would again not be the proximate cause of the parking space shortage. According to Petitioners, the SWM areas would result in the loss of a few spaces, which even in combination with the SHA taking would not "cause" the 35 space deficit.

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Date

6/23/14

By

dh

The topographical change across the site is one such intrinsic factor mentioned in the case law that may render the property unique, and Ms. Zarska testified this condition does not exist on neighboring sites. The witness indicated the grade change necessitated a retaining wall on the site and the need for a "buffer." But there was no testimony indicating that the grade change resulted in the loss of any particular number of parking spaces. As such, I do not believe that the uniqueness in this regard was the proximate cause of the parking shortage.

In the end, the small site is the cause of the hardship related to the parking shortage. Though Ms. Zarska cited this as a factor that rendered the property unique, I do not believe that the small size of the lot establishes the requisite uniqueness under the case law. If that were the case, variance relief for parking, setbacks, etc. would need to be granted in every instance where a petitioner claimed to have a small site.

THEREFORE, IT IS ORDERED this 23rd day of June, 2014, by this Administrative Law Judge, that Petitioners' request for Special Hearing filed pursuant to §409.8.B.1 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit the use of land in a residential zone as parking serving a business use, be and is hereby DISMISSED without prejudice as MOOT.

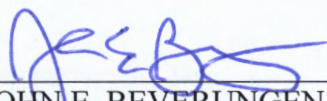
IT IS FURTHER ORDERED that the Petition for Variance pursuant to B.C.Z.R §409.6.A.2 to permit 35 parking spaces in lieu of the required 71 parking spaces, be and is hereby DENIED.

IT IS FURTHER ORDERED that the remaining variance requests set forth in the Petition BE and are hereby DISMISSED without prejudice as MOOT.

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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

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Date 6/23/14

By sln

KEVIN KAMENETZ
County Executive



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

June 23, 2014

Caroline L. Hecker, Esquire
Gerard J. Gaeng, Esquire
Rosenberg, Martin, Greenberg, LLP
25 S. Charles Street, 21st Floor
Baltimore, Maryland 21201

RE: Petition for Variance
Property: 10021 Reisterstown Road
Case No.: 2014-0141-A

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 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.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:slh
Enclosure

c: J. Carroll Holzer, Esquire, 508 Fairmont Avenue, Towson, Maryland 21286
Kimberly Simonetti, 6 St. Thomas Lane, Owings Mills, Maryland 21117
Stephen Kariotis, 15 St. Thomas Lane, Owings Mills, Maryland 21117
Bill Hodgetts, 300 Garrison Forest Road, Owings Mills, Maryland 21117

Noel Levy, 11 Wind Song Ct., Pikesville, Maryland 21208
Ruth Goldstein, 7 Slade Avenue, #121, Pikesville, Maryland 21208
Teresa Moore, P.O. Box 5402, Towson, Maryland 21285
Barabar St. Ours, 119 St. Thomas Lane, Owings Mills, Maryland 21117

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By den

10021 Reisterstown Road
and 3 St. Thomas Lane
N/S Reisterstown Road
JUDGE
43 Feet +/- N/of Center Line of
St. Thomas Lane

* BEFORE THE
* ADMINISTRATIVE LAW

3rd Election District
2nd Councilmanic District

* Case No.: 2014-0141-SPHA

Legal Owners, Gordon K. Hardin
Contract Purchaser

*

RECEIVED

McDonald's USA, LLC

*

JUN 11 2014

OFFICE OF ADMINISTRATIVE HEARINGS

* * * * *

PROTESTANTS' MEMORANDUM
BEFORE THE ADMINISTRATIVE LAW JUDGE

Protestants, *Greater Greenspring Community Association* by
Cheryl Aaron, *et al.*, hereby submit this Memorandum following the Hearing on
the above-captioned matter on Day One – 3/25/14 and Day Two – 5/29/14 and
says:

I.

The Law of Variances

A. Generally

BCZR 307.1 states that the CBA may grant variances:

“...only in cases where special circumstances or conditions
exist that are peculiar to the land or structure which is the subject of
the variance request and where strict compliance with the zoning
regulations of Baltimore County would result in practical difficulty
or unreasonable hardship.”

The standard requires proof of the following:

1. That the land or structure is “unique,” a zoning term of art;
2. That the uniqueness “results” in a “practical difficulty” pertinent to zoning compliance; and
3. That there is true “practical difficulty,” another zoning term of art; and

The purpose of variance law is to allow relief so that a property owner has some reasonable use of his property. See 3 Young, Anderson’s American Law of Zoning 4th, Sec. 20.02 (1996):

The underlying purposes of administrative relief have been discussed in an earlier chapter, but specifically, with respect to variances, it is said that a variance is ‘designed as an escape hatch from the literal terms of the ordinance which, if strictly applied, would deny a property owner all beneficial use of his land and thus amount to confiscation.’ (Emphasis supplied).

The first McLean v. Soley, 270 Md. 208 (1973) criterion connotes some degree of oppression in the unreasonable prevention of a use for a permitted purpose.

The first inquiry here is whether the property is peculiar or “unique.” If evidence of uniqueness is insufficient or unpersuasive, the inquiry ends there. Cromwell v. Ward, 102 Md. App. 691 (1995); Umerley v. People’s Counsel, 108 Md. App. 497 (1996); Riffin v. People’s Counsel, 137 Md. App. 90 (2001). If this threshold is passed, the further question is whether the unique condition results in “practical difficulty.” McLean v. Soley, 270 Md. 208, 213-15 (1973).

Uniqueness Defined and Analyzed

The word “unique” is defined strictly. Otherwise, anyone could make some sort of claim. In Cromwell, 102 Md. App. At 710 (1995), the Court stated:

“In the zoning context the ‘unique’ aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property.

‘Uniqueness’ of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls. ...”

The Court of Appeals has rejected requests for expansion because their essence is relative advantage or convenience to the property owner. *Marino, supra*; *Cleland v. City of Baltimore*, 198 Md. 440 (1951); *Pem Constr. Co. v. City of Baltimore*, 233 Md. 372 (1964). Appellate courts have also rejected variance claims based on financial or revenue considerations. *Burns v. Mayor & City Council*, 251 Md. 554 (1968); *Daihl v. County Board of Appeals*, 258 Md. 157 (1970); *Cromwell, supra*. Quoting *Xanthos v. Board of Adjustment*, 685 P.2d 1032, 1037 (1985):

“Hardship is not demonstrated by economic loss alone... Every person requesting a variance can indicate some economic loss. To allow a variance any time any economic loss is alleged would make a mockery of the zoning program.”

CASE LAW

There is a long history of appellate court opinions discussing the general application of variance or variation requirements. See, *McLean v. Soley*, 270 Md. 208 (1973): the need sufficient to justify a variance must be substantial and urgent and not merely for the convenience of the Applicant; *Wilson v. Mayor and Commissioners of the Town of Elkton*, 35 Md. App. 417(1977): any Petitioner who seeks a zoning variance must exercise proper diligence in ascertaining zoning ordinance requirements to avoid a result of hardship before he acquires the property;

Carney v. City of Baltimore, 201 Md. 130 (1952); and finally, Easter v. Mayor and City Council of Baltimore, 195 Md. 395 (1950): the mere fact that the variance **would make the property more profitable is not** a sufficient ground to justify the relaxation of setback requirements.

In zoning and development law, a variance, if granted, permits a use which is **prohibited and presumed** to be in conflict with the ordinance. An Applicant for a variance, therefore, bears the burden of overcoming the **presumption** that the proposed use is unsuitable. That is done, if at all, by completely satisfying the dictates of the statute authorizing the variance. North v. St. Mary's County, 99 Md. App. 502 (1994).

In North, the Court considered the St. Mary's County Zoning Ordinance. As was pointed out there, the burden is upon the Applicant to show by substantial evidence that **all** of the requirements set forth in those sections have been met.

In North, the Court said:

“Once an ordinance such as that in the case *sub judice* becomes effective, an Applicant's burden cannot generally be met by reference to Thoreau's hut on Walden Pond. Once these types of variance provisions are enacted, the result is generally that any project that does not cause damage to the environment will also be of such an inconsequential nature that it will not constitute an unwarranted hardship for it to be denied. North v. St. Mary's County, *supra*.”

The Court of Appeals has required extremely strict adherence to the statute in regard to the granting of variances by administrative agencies:

“As a general rule, variances are granted sparingly and under exceptional circumstances. To do otherwise would decimate zonal restrictions and eventually destroy all zoning regulations.” Carney v. City of Baltimore, 201 Md. 130, 137 (1952).

The Court of Appeals in *Park Shopping Center, Inc., v. Lexington Park Theater Company*, 216 Md. 271, 276-277 (1958), speaking in reference to the St. Mary's County ordinance, opined:

“The zoning ordinance for St. Mary's County...states that the Board shall have power to authorize... such variance... where, owing to special conditions, the enforcement... will result in unwarranted hardship and injustice.... It is in language typical of a variance as distinguished from an exception...”

“The criteria for determining unnecessary hardship is whether the ... restriction when applied to the property in the setting of its environment is so unreasonable as to constitute an arbitrary and capricious interference with the basic right of private ownership.” (emphasis supplied).

In *North*, the Court then recited a partial list of cases in which variances have been rejected. *Ad+Soil, Inc., v. County Commissioners*, 307 Md. 307 (1986) (ignorance of setback requirements for sewer sludge facility was not a hardship); *Burns v. Mayor and City Council*, 251 Md. 554 (1968) (financial crisis generally not hardship, especially when same crisis applies to other property in same neighborhood); *Salisbury Board of Zoning Appeals v. Bounds*, 240 Md. 547 (1965) (self-inflicted hardship), and others.

Comparison Requirement

Finally, in *North*, the Court discussed the additional requirement that in the land use context, the “unique” aspect of a variance requirement does not refer to the extent of improvements upon the property or upon neighboring property. In clarifying this element of proof necessary, the *North* Court stated:

“Uniqueness of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e. its shape, topography, subsurface condition, environmental factors, historical significance, access and non-access to navigable waters, practical restriction imposed by abutting properties (such as obstructions) or other similar restrictions.” (Emphasis supplied).

In North, the Court found, of course, that there was nothing unique about the subject property. Section 307 of the Baltimore County Zoning Regulations invites the same comparison of the subject site with other property.

A more recent case examining the requirements for a grant of variance arose in Baltimore County and was reported as David Cromwell, et al., v. Arthur Thomas Ward, III, 102 Md. App. 691 (1995). In that case, Judge Cathell for the Court again discussed the uniqueness standard and the comparative analysis required, and he comprehensively reviewed the case law in Maryland applicable to that issue, as well as extensively discussing cases from other jurisdictions and treatises. There, the Court outlined the uniqueness and comparative analysis requirement as follows:

[Variance]

“The first step--uniqueness or peculiarity of the subject property...

The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances. See, e.g., A. Rathkopf, 3 The Law of Zoning and Planning, Section 38 (1979)...

The requirement of the uniqueness of the subject property, as we have indicated, is specifically set out for non-Charter counties in this state’s enabling legislation, Maryland Code Article 66B, and it is also set out in the Baltimore County ordinance applicable here. Additionally, it has been a necessary prerequisite almost since the inclusion of variance practice in zoning laws-- and, before that, it was part of Maryland case law.”

The Court then stated:

“In any event, as to variances, the Court of Appeals, applying the uniqueness standard, stated:

It was incumbent upon the Marino’s to have shown... (ii) that the difficulties of hardships were peculiar to the property in question in contrast with those of other property owners in the same district and (iii) that the hardship was not the result of the Applicants’ own actions.” (Emphasis supplied).”

Marino v. Mayor and City Council of Baltimore, 215 Md. 206, 218 (1957).

The Court then continued:

In Cromwell, *supra* the Court stated:

“Frankel v. Mayor and City Council of Baltimore County, 223 Md. 97, 104 (1960):

It was incumbent...to show that hardship...affected his particular premises and was not...common to other property in the neighborhood...” (Emphasis supplied); Park Shopping Center, Inc. v. Lexington Park Theater Co., Inc., 216 Md. 271, 277-278 (1958).”

Sections 14(b), 14(d), and 16... have been held not to authorize a granting for the mere convenience to the owner, but to require a showing of urgent necessity, hardship peculiar to the particular property....”

The Court then analyzed in Cromwell its previous discussion in North:

“In North v. St. Mary’s County, 99 Md. App. At 512, we held that the ordinance there required a finding that ‘special conditions or circumstances upon the property, or upon neighboring property. “Uniqueness” of property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing of party walls.” [Emphasis supplied.]

Judge Cathell continued his analysis in Cromwell:

“...The seventy-five foot width and aggregation requirements do not put a burden on [appellants’] property which does not apply to other properties in the vicinity...*Id.* at 169. In the case *sub judice*, the Baltimore County fifteen foot height limitation for accessory buildings does not affect Ward’s

property alone; it applies to all of the properties in the neighborhood.” [Emphasis supplied.]

And again:

“See also *Chambers v. Smithfield City*, 714 P.2d 1133, 1135 (Utah 1986), where the Court stated, ‘There is no evidence of special conditions attached to the property itself which do not also attach to the property in the vicinity.’” (Emphasis supplied).

And:

“In *Sibley v. Inhabitants of the Town of Wells*, 462 A.2d 27, 30-31 (Me. 1983), the Supreme Judicial Court of Maine upheld the denial of a variance, holding:

The need for a variance must be due to the unique circumstances of the property and not to the general conditions in the neighborhood... (Emphasis supplied.)

...The hardship must not be the result of action taken by the appellant or a prior owner.

...However, the mere fact that the lot is substandard is not a unique circumstance, all the undeveloped lots in that neighborhood are of substandard size... (Emphasis supplied).

...However, when a landowner purchases land with actual or constructive knowledge of the zoning restrictions, he may not be granted a variance of undue hardship.”

Also:

“A prerequisite to the granting of a hardship zoning variance is the presence of an exceptional and unique hardship to the individual landowner, *unique to that parcel* and not shared by other property owners in the area... Indianalantic’s zoning restrictions are common difficulties shared by all other ocean-front lot owners in the area, and are therefore not the unique hardship required to support a variance. *Town of Indianalantic v. Nance*, 400 So.2d 37, 40 (Fla. App. 5th Dist. 1981).”

Judge Cathell in analyzing various zoning treatises found:

“The treatise writers are also in accord with the rule that variances should only be granted when the uniqueness or peculiarity of a subject property is not shared by neighboring property and where the uniqueness of the property results in an extraordinary impact upon it by the operation of the statute, thus creating undue difficulty (or unnecessary hardship in respect to use variances). (emphasis supplied).

‘It is *fundamental* that the difficulties and hardships must be unique to justify a variance; they must be peculiar to the application of zoning restrictions *particular property* and not in general in character...It is not uniqueness of the plight of the owner, but uniqueness of the land causing the plight, which is the criterion. If the hardship is common to the whole neighborhood, it may be ground for an exception or special use permit [if the statute so provides]... The hardship [in order to justify a variance, however,] ...must relate to the particular property of the Applicant.’

McQuillin, *supra* Section 25.167 [emphasis added, footnotes omitted].

It is held that a variance may be granted only for hardship which relates specifically to the Applicant’s land. Thus, a landowner was not entitled to a variance to relieve his land from a restriction which applied equally to all lots of similar size. (Emphasis supplied).

Finally:

“Yokley quotes from *Taxpayers Association v. Board of Zoning Appeals*, 93 N.E.2d. 645, 647 (N.Y. 1950):

‘The record does not show that the property suffers a unique or singular disadvantage, not common to other property in the district, through the operation of the zoning ordinance. Here, the hardship, if any, is general and characteristic of the entire area, and the remedy lies in a revision of the zoning ordinance through legislative action, not by the granting of a variance to a single property owner.’” (Emphasis supplied).

Judge Cathell discussed variances again in *Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County*, 103 Md. App. 324 (1995). The Court in reviewing the record in that case found “not one minute speck of evidence was produced indicating that this property is inherently unique as “compared” to other properties in the area or that zoning ordinances impact on other properties in the neighborhood, area, or district was in any way different than its impact on the subject property.” (Emphasis supplied). In discussing the difficulty which occasionally arises in the area where environmental regulations (critical area regulations) overlay zoning regulations, the Court in *Chester Haven* stated:

“We do not perceive that it was the legislative intention in passing the State or local critical area legislation that zoning variance procedures would be prostituted in order to alleviate the harshness of environmental regulation. If that is the intention of the legislative entities, they have the power to express clearly that intention. It may well be that the legislature should direct its attention to amending the variance provisions of Article 66B to include the effect of subjection to environmental regulations as a unique quality of property so as to enable local jurisdictions to provide by ordinance for such consideration.”

The Chester Haven Beach Partnership case presents the following comment:

The Board noted that, in addition to the conditional use – or really, in order to qualify to apply for the conditional use – the applicants had to get a variance from the six unit per cluster condition and from the provisions of the density percentages, and additional variances from the conditions for which the ordinance required satisfaction in order to be entitled to a conditional use. In other words, the Board perceived, correctly, that the subject project could not meet the requirements the ordinance established for the granting of the conditional use. Therefore, the applicants were attempting to eliminate the conditions by obtaining variances therefrom.

We will submit that in this case, the same thing is occurring. In the Petition for Special Hearing, the 502.1 criteria are required to be met and here as will be discussed under Paragraph B, in order to meet the 502.1 criteria, the requested variances must be eliminated.

Hardship

Cromwell, supra, likewise speaks to the issue of hardship wherein the Court stated, “A hardship created by the owner...constitutes no valid basis for a variance...deprivation of an advantage does not constitute an unnecessary hardship.”

See also, *Wilson v. Mayor and Commissioners of Town of Elkton*, 35 Md. App. 417 (1977) in which the hardship is not solely due to the manner of the operation of the ordinance upon the subject property. Any Applicant who seeks a zoning variance must exercise proper diligence in ascertaining zoning ordinance requirements before acquiring the subject property to avoid a possible resultant hardship.

It has been stated by the Court of Special Appeals on many occasions that the Board's conclusions with regard to each of the requirements of §307 must be supported by detailed factual findings. *Ocean Hide-a-way Condo v. Boardwalk Plaza*, 68 Md. App. 650, 659-60 (1986). The party seeking a variance bears the burden of showing that each requirement for a variance is satisfied. *North v. St. Mary's County*, 99 Md. App. 502, 510 (1994); *Easter v. Mayor of Baltimore*, 270 Md. 395, 400 (1950). As the Court of Appeals explained in *Turner v. Hammond*, 270 Md. 41, 456 (1973) the evidence presented to the Board must contain something more than conclusory statements. *Accord, Ocean Hide-a-way*, 68 Md. App. At 658-659; *Pistorio v. Zoning Board*, 268 Md. 558, 570 (1983). If the evidence is not before the Board as to each element, the Board may not grant the variance.

B. Application of Facts Before the Administrative Law Judge

In Ms. Zarska's testimony, on cross-examination by Counsel, it is clear that both she and the McDonald Company knew of the required Storm Water Management requirements for the subject site (when prior uses had not required such Storm Water Management) before they contracted to acquire the property. Her testimony that the requirement for the Storm Water Management Facility caused the elimination of two (2) parking spaces.

Second, she testified as to the zoning of the subject site which included the residential zone which required the Request for a Special Hearing to permit parking in the residential zone. She further testified that she knew of the requirement for variances for multiple signage on the subject property because she had dealt with this issue in other areas of Baltimore County in which she represented the engineering aspect for McDonald's. In regard to the signage, she testified that McDonald's would "like to have" the larger signage for this site. That "like to have," does not satisfy the variance requirements and is not a basis for the granting of the variance when it appears that the signage could comply with the County requirements.

Third, she testified that both she and McDonald's were well aware that the site presented "difficult to develop" issues because of its small size. She testified that McDonald's knew of the lack of acreage on the site before they acquired the property. Next, she testified that she and McDonald's knew of the elevation difference from south to north which equated to a thirteen foot (13') vertical difference. Next, she testified that she knew the property was split zoned B.L., R.O. and D.R. 16 before they acquired or contracted to acquire the site. She testified that she and her client knew that the property was on a corner bounded by two (2) roads which would cause difficulty and in her opinion require variances. Next, she testified that they knew of the limited area for parking spaces when they acquired the property as set forth in the Baltimore County Zoning Regulations.

They also knew of the SHA improvements for Reisterstown Road. Knowing all of these things in their preliminary evaluation of the site, McDonald's went ahead knowing that they were going to be required to ask for multiple variances.

As stated in Paragraph A above, a hardship created by the owner constitutes no valid basis for a variance. In Wilson v. Mayor and Commissioners of the Town of Elkton, 35 Md. App. 417 (1977), any Applicant who seeks a zoning variance must exercise proper diligence in ascertaining zoning ordinance requirements before acquiring the subject property to avoid a possible result in hardship. As McLean v. Soley states the need sufficient to justify a variance must be substantial and urgent and not merely for the convenience of the Applicant which has occurred here. Again, in Wilson v. Mayor and Commissioners of the Town of Elkton, one who seeks a variance must exercise proper diligence in ascertaining zoning ordinance requirement to avoid a result of hardship before he acquires the property.

All in all, it can be clearly seen from the evidence and testimony in this case that despite all of the warning signs presented to McDonald's and their engineer, they decided for their own financial reasons to proceed to contract for the property knowing full well that they needed a Special Hearing and multiple, multiple variances. These variances and the Special Hearing should be denied on the above self-admitted testimony of McDonald's.

II.

REQUIREMENTS FOR DRIVE-THRU FACILITIES, §409.10

Pursuant to §409.10 of the Baltimore County Zoning Regulations, a restaurant, fast food, drive-thru requires as a minimum twelve (12) spaces. That Section is attached to this Memorandum as an Exhibit. Also attached to this Memorandum as an Exhibit is a section of the Site Plan submitted by McDonald's

that from all appearances, seems to be an attempt to mislead the Administrative Law Judge and the County Reviewers by counting cars in the drive-thru lane from one (1) to twelve (12) to satisfy said requirement. However, upon examination, it appears that Car #6 is missing and thus there are only eleven (11) cars shown in the drive-thru lane and not the required twelve (12). The Protestants request that the variances and the Special Hearing supported by a defective Site Plan be denied.

III.

SUMMARY OF PROTESTANTS CONCERNS

In order to grant the requests of McDonald's you must find that the relief is in strict harmony with the spirit and intent of said height, areas, off-street parking or sign regulations and the relief McDonald's is requesting will be "without injury to the public health, safety, and general welfare, of the community." The Petitioner's evidence did not meet and indeed rarely attempted to address this burden.

Instead their evidence made it appear that the standard is really what McDonald's "wants" to remedy the obvious defects in the site in terms of its size, zoning, and topography which make it singularly unsuited to a large scale 24 hour fast food take-out operation. They will need more signage because the site is in a blind spot over the crest of a hill and would be missed without large out of compliance signage. Similarly, McDonald's site is so small that numerous oversized signs will be necessary to route traffic through its two (2) lane drive-thru. And it gives the walking public the required ten feet (10') setback from the parking, it simply will have no room for the mandated Storm Water Management Facility, so six feet (6') should be plenty.

McDonald's major argument in this case, was that since the County has granted it some variances in the two (2) locations (one of which is in the center of walkable Pikesville) which were unopposed by the Community, it should get this parking and signage variances here. It also wants to rely on the fact that a prior

leases illegally placed parking on the R.O. land and were not caught. It in effect argues that Baltimore County's parking regulations are off (presumably by more than half) and so should be ignored, which is not something which should not be allowed. Similarly McDonald's conclusion the ten foot (10') setback for landscaping, is simply not needed to shield walkers on the adjacent sidewalk and not obscure the historic marker and a bus stop, does not trump the public's opposition to these requests for relief from standards which constitute the law of this County.

The unsupported conclusion that a drive-thru is what the public wants, provides instead of the only viable way to cram this use on this undersized size, is a cynical approach which ignores the health safety and welfare of the Community. It will probably save McDonald's some money, but McDonald's did not even attempt to prove hardship, or practical difficulty, nor could it. The drive-thru solution to the lack of parking spaces makes any potential problems with trash, loitering, and traffic safety, the Community's problem. McDonald's much touted cleanup protocol of its own site will not be impacted or effected because the trash will go with the patrons off-site into the adjacent community.

The Protestants put on a strong case that the members of the Community believe that the variances will interfere with the public health, safety and general welfare. Not only did a substantial number of the nearby neighbors testify, but also every major institution on the St. Thomas/Garrison Forest Road block – St. Thomas Church, Garrison rural roads. They also expressed opposition to the variances based on congestion, noise, light pollution from lighting standards planned for the R.O. Zone, and the nuisance factors of smell, trash and loitering at the 24 hour drive-thru.

In addition, the Valleys Planning Council, Inc. which sponsored the applications for the federal historic districts whose borders come within one mile of the site – the Greenspring Valley Historic District and the Caves Valley Historic District opposed the variances and the Special Exceptions. The sign

variances will clutter the entrance to the historic valleys, obscure the historic state marker and make the bus stop even harder to see. The fact that McDonald's does not think the public deserves the ten foot (10') setback for landscaping, between its undersized lot and on the adjacent sidewalk does not justify relief from standards which constitute the law of this County.

St. Thomas Lane is not a major street; it is a small winding country road with no shoulders, no on-street parking, and a hilly topography. In compliance with the County's rural roads standards, these roads will not be changing. The steep grade at the intersection of St. Thomas' Lane and Garrison Forest Road makes the three-way stop there difficult, with a volume of 3,660 cars per day. McDonald's second traffic engineer's assumption that everyone will exit on Reisterstown Road and no one will use St. Thomas Lane because it might take a minute longer to go that way did not seem to have any basis in fact, logic, or engineering. This is especially concerning when coupled with the engineering conclusion that customers who want to go South when they exit will have to cross four (4) lanes of traffic to make the planned U-turn if they want to go south on Reisterstown Road.

Even if that is true, that some percentage of customers will choose to stay on Reisterstown Road, adding more complicated ins and outs on a blind hill will undoubtedly complicate the massive intersection improvement at the adjacent intersection, which McDonald's ignores. The Engineer's conclusion that the customers will not be familiar enough with Garrison Forest Road to take that obvious alternative route was undercut by numerous Protestant witnesses that use both Reisterstown Road and St. Thomas Lane all the time. Moreover, even when McDonald's called a second traffic engineer, he did not even attempt to address the site distance problem at the site traveling north on Reisterstown Road that had been exposed in the first day of testimony. Indeed, McDonald's engineer, Owona Roster-Zarsta admitted to the sight distance problem by testifying that she missed the site and drove by it even though she knew the surrounding businesses.

This is yet another reason to deny the request for the variances, if people are going to jam on the brakes in order to enter the site, there will be accidents and more congestion. This problem will not go away with bigger signs, most of which appear to be aimed at improving the operation of the drive-thru in any case based on Ms. Roster-Zarsta's testimony.

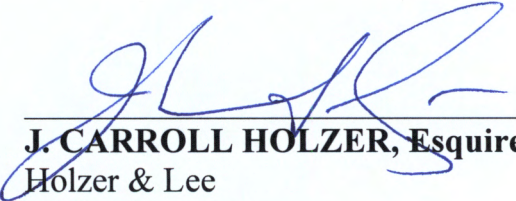
Finally, McDonald's implied conclusion that the neighboring Popeye's and Wendy's (both of which were placed on property owned by the current owner of this property), has created problems with trash, loitering, crime, smells, rats, etc., somehow justifies their further contributing to these issues on St. Thomas' Lane does not satisfy their burden proof to obtain a variance or a Special Exception to allow yet another (and even larger) fast food operation. The burden on the Community that a twenty-four (24) hour drive-thru within hundreds of feet from an apartment complex, single-family housing, and less than a mile from two (2) historic districts and rural agricultural zones, is not overcome by jobs created or the healthy choice options McDonald's will be offering. The issue is not fast food *per se*, it is an extremely busy fast food operation, that needs multiple exceptions to County Code to shoehorn onto this site. It is true that the zoning allows a fast food business here, but it should have to conform to the Baltimore County Zoning Regulations on this site.

The fact that the Petitioner needs to have seven (7) kinds of sign variances for approximately thirteen (13) non-conforming signs, a setback variance, and a Special Hearing to use land in the R.O. Zone to get less than half the number of parking spots Baltimore County Land Use Regulations require in order to install a predominantly take-out McDonald's on this site certainly suggests that the Community is correct that the site is not adequate for the McDonald's planned. Accordingly, since the Petitioner failed to overcome the Community objections based on public safety, health and general welfare, all of the variances should be denied, as well as the Special Exception to allow parking and light standards for the R.O. Zone.

IV.

CONCLUSION

For all of the above reasons, the Administrative Law Judge should deny the Special Hearing and Variances requested by the Applicant.



J. CARROLL HOLZER, Esquire
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410-825-6961
Attorney for Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of June, 2014, a copy of the foregoing Petition for Special Hearing and Variances was mailed first class, postage pre-paid to the following: Caroline Hecker, Esquire, Rosenberg, Martin, Greenberg, LLP, 25 South Charles Street, 21st Floor, Baltimore, Maryland 21201.



J. CARROLL HOLZER, Esquire

ATTACHMENTS

1. Section 409.10
2. Portion of Petitioners Site Plan

Parking spaces for handicapped persons shall be provided in accordance with the standards specified in the Maryland Building Code for the Handicapped, as contained in the Code of Maryland Regulations, Section 05.01.07.

§ 409.10. Requirements for drive-through facilities.

- A. For uses with drive-through facilities, stacking spaces for vehicles waiting to complete a transaction shall be provided in addition to the parking spaces required by Section 409.6. Each stacking space shall be at least 20 feet in length. The stacking space requirement shall not include the space next to the transaction station. The following are the minimum number of required stacking spaces by type use:

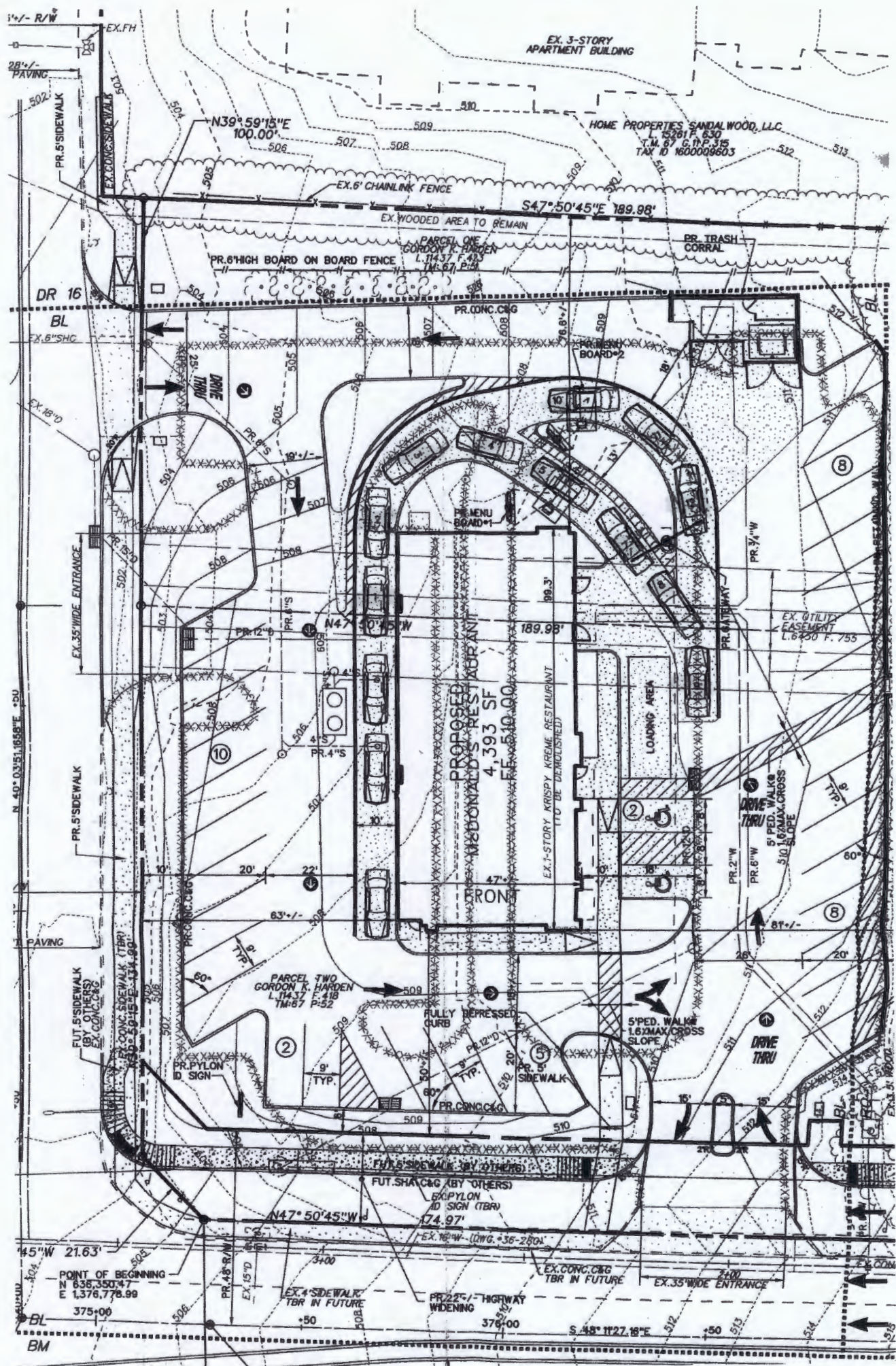
Use	Required Stacking Spaces
Automotive service station	As required in Section 405
Bank	5 for the first station, plus 2 for each additional station
Car wash	As required in Section 419
Restaurant, fast food	7 per station, 5 of which must be behind the order board [Bill No. 110-1993]
Restaurant, fast food, drive-through only	Single drive-through lane: 10 if walkup window is provided; 12 if there is no walkup window [Bill No. 110-1993] Double drive-through lane: 16 with no less than 5 stacking spaces per lane if walkup window is provided; 20 with no less than 5 per lane if there is no walkup window. [Bill No. 110-1993]
Other uses	As determined by the Zoning Commissioner

- B. The drive-through lane shall be distinctly marked by special striping or pavement markings and shall not block entry to or exit from off-street parking spaces otherwise required on the site. 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]

§ 409.11. Off-street loading.

For any building used for commercial or industrial purposes, adequate space for off-street parking to accommodate the loading and unloading of materials shall be provided, consistent with the size and proposed use of the building. Such space, whether inside or outside a



IN RE: PETITION FOR VARIANCE	*	BEFORE THE
10021 Reisterstown Road &	*	
3 St. Thomas Lane	*	BALTIMORE COUNTY
N/S Reisterstown Road	*	
43 ft. north of centerline of	*	OFFICE OF
St. Thomas Lane	*	
	*	ADMINISTRATIVE HEARINGS
3 rd Election District	*	
2 nd Council District	*	
McDonald's Corporation,	*	Case No. 2014-0141-SPHA
Petitioner		

* * * * *

**POST-HEARING MEMORANDUM IN SUPPORT OF
PETITION FOR SPECIAL HEARING AND VARIANCES**

This case involves a Petition for Special Hearing and Variances (the "Petition") filed by McDonald's Corporation ("McDonald's" or the "Petitioner") relating to the property located at 10021 Reisterstown Road. McDonald's, the lessee of the subject property, submits this Post-Hearing Memorandum in Support of the Petition for Special Hearing and Variances. For the reasons set forth below, the Petition should be granted.

BACKGROUND

The property known as 10021 Reisterstown Road (the "Property") is located along the Reisterstown Road commercial corridor at the intersection of Reisterstown Road and St. Thomas Lane in Owings Mills, Maryland. See Pet. Ex. 17. The Property is improved with a one-story structure formerly used as a Krispy Kreme donut shop and drive-through, which has been vacant since approximately 2008. Transcript, March 25, 2014, at 24.¹ The Property is currently in poor condition, with its windows boarded up. Pet. Ex. 2A – 2K. On December 20, 2013, McDonald's submitted the Petition seeking

¹ Unofficial transcriptions of the audio recordings of the hearings on March 25, 2014 and May 29, 2014, prepared by a notary public with Gore Brothers reporting services, are submitted herewith. Regrettably, however, the transcripts are replete with notations of "inaudible" where the notary public transcriptionist was unable to comprehend the speaker. Undersigned counsel have attempted to fill in gaps to the best of our ability based on our notes from the hearings.

relief from provisions of the Baltimore County Zoning Regulations (the "BCZR") in order to construct a McDonald's restaurant with a drive-through at this location. Specifically, McDonald's requests special hearing relief under Sections 500.7 and 409.8.B.1 of the BCZR to permit the use of land in a residential zone as parking serving a business use. In addition, McDonald's requests variance relief from the following sections of the BCZR:

- Section 409.6.A.2 to permit 35 parking spaces in lieu of the required 71 spaces;
- Section 409.8.A.4 to permit a 6-foot distance to the street line (right-of-way) from parking spaces for non-residential use in lieu of the required 10 feet;
- Section 450.4 Attachment 1, 5(a)(VI) to permit 5 wall-mounted enterprise signs on the building facades in lieu of the permitted 3 signs (Sign #4 and #5 on Plan to Accompany Zoning Petition V-2, which is included with the Petition and admitted into evidence as Petitioner's Exhibit 1);
- Section 450.4 Attachment 1, 3(b)(VII) to permit a directional sign of 10.7 ft. in height in lieu of the permitted 6 ft. (Sign #1 on Plan to Accompany Zoning Petition V-2, which is included with the Petition and admitted into evidence as Petitioner's Exhibit 1);
- Section 450.4 Attachment 1, 3(b)(VII) to permit two directional signs of 9.67 ft. in height in lieu of the permitted 6 ft. (Sign #2 on Plan to Accompany Zoning Petition V-2, which is included with the Petition and admitted into evidence as Petitioner's Exhibit 1);
- Section 450.4 Attachment 1, 3(II) to permit two canopy-type directional signs in lieu of the permitted wall-mounted or free-standing signs (Sign #3 on Plan to Accompany Zoning Petition V-2, which is included with the Petition and admitted into evidence as Petitioner's Exhibit 1);
- Section 450.5.B.3.b to permit erection of the signs above the face of the canopy in lieu of on the face of the canopy (Sign #3 on Plan to Accompany Zoning Petition V-2, which is included with the Petition and admitted into evidence as Petitioner's Exhibit 1);
- Section 450.4 Attachment 1, 5(f)(VII) to permit two order boards of 6.75 feet in height in lieu of the permitted 6 feet (Sign #7 on Plan to Accompany Zoning Petition V-2, which is included with the Petition and admitted into evidence as Petitioner's Exhibit 1); and
- Section 450.4 Attachment 1, 3(ii) to permit two projected directional signs in lieu of the permitted wall-mounted or free-standing signs (Sign #8 on Plan to Accompany Zoning Petition V-2, which is included with the Petition and admitted into evidence as Petitioner's Exhibit 1).

The Property and requested relief are more particularly described in the Petition and accompanying plans, which were filed by the Petitioner with the Baltimore County Office of Administrative Hearings and which were accepted into evidence as Petitioner's Exhibit 1.

A public hearing was held on March 25, 2014 and May 29, 2014 at which McDonald's presented evidence in support of the Petition, as well as testimony from Lee May, the Area Construction Manager for McDonald's Corporation; J. Mark Keeley, a Project Manager with Traffic Concepts, Inc., who was accepted as an expert in parking and traffic studies and who conducted a parking study regarding the site; Kenneth W. Schmid, the owner and Vice President of Traffic Concepts, Inc., who was accepted as an expert in traffic engineering and who prepared a time and distance travel study related to the site; Helen Greco, an Operations Consultant with McDonald's Corporation; and Iwona Rostek-Zarska, a professional civil engineer with Baltimore Land Design Group, who was accepted as an expert in site engineering and who supervised the plans for the Property. Several individual protestants (the "Protestants"), represented by counsel, also appeared at and participated in the hearing. Based on the testimony and evidence presented at the hearing, the requested special hearing and variance relief should be granted.

ARGUMENT

I. THE SPECIAL HEARING RELIEF SHOULD BE GRANTED.

Petitioner requests special hearing relief pursuant to Sections 500.7 and 409.8.B.1 to permit the continued use for off-street parking of a sliver of the Property that is in a residential (RO) zone. The request should be granted based on the substantial testimony and evidence that McDonald's presented at the hearing.

The reason for the request is that the zoning boundaries on the site are not contiguous with the property boundaries, as shown on Petitioner's Exhibits 1 and 3. Further, as shown on the Existing Conditions Plan (Pet. Ex. 3), this tiny portion of the Property is already used for off-street parking at the site as part of the parking lot serving the former Krispy Kreme. As Ms. Zarska testified, "the parking spaces that are partially in the RO zone area in the McDonald's proposal [are] in the same location as the parking spaces that are presently on the Krispy Kreme site," and the proposed use involves no additional incursion for parking into the RO portion of the Property. Transcript, May 29, 2014, at 101. Moreover, the adjacent RO property involves no residential use whatsoever. *Id.* at 99. It is the site of an office building and parking lots serving that office use. *Id.*

The request also meets the requirements of Section 409.8.B.2. Plan SH-1, which was accepted into evidence as part of Petitioner's Exhibit 1, shows that the proposed parking area directly adjoins the property proposed to be used for the McDonald's use in accordance with Section 409.8.B.2.a. Ms. Zarska further testified that "only [] automobile[s] [] could use that area," and that no loading services will be performed in the RO zone, consistent with Section 409.B.2.b. Transcript, May 29, 2014, at 102. Moreover, as indicated on the Proposed Conditions Plan accepted into evidence as Petitioner's Exhibit 4, the loading area for the proposed McDonald's will be located against the building and not within the RO zone, consistent with Section 409.B.2.c. Likewise, the trash corral will be located in the rear of the site outside of the RO zone. *Id.*; Transcript, May 29, 2014, at 102.

McDonald's' Lighting Plan, which has been approved by Baltimore County, was admitted into evidence as Petitioner's Exhibit 18 and demonstrates that the proposed lighting will be "regulated as to location, direction, hours of illumination, glare and intensity, as required." Section 409.B.2.d. Ms. Zarska also testified that the lighting

plan is designed to “project[] the lights down” in order to minimize spillover onto adjacent properties, but that the proposed lighting plan will adequately and safely illuminate the site while minimizing any impact on adjacent properties. Transcript, May 29, 2014, at 103. McDonald’s’ operations consultant, Helen Greco, echoed this testimony, stating that the proposed LED lights create “a very secure atmosphere,” but one that is “designed with the impact on the community [] in mind.” *Id.* at 65.

As indicated on Plan SH-1, which is part of Petitioner’s Exhibit 1, the proposed parking area provides a safe and efficient parking arrangement in this area as well as appropriate vehicular access for McDonald’s’ customers in accordance with Section 409.B.2.e. Finally, as required by Section 409.B.2.f, Ms. Zarska testified that the parking area will be available during all hours while McDonald’s is open and will be maintained in a clean and orderly manner along with the rest of the site. Transcript, May 29, 2014, at 104. Ms. Greco also testified regarding McDonald’s’ policy of maintaining a “travel path” every thirty (30) minutes during non-peak times and every fifteen (15) minutes during peak times to canvass the site and pick up any litter or other garbage found on the Property and within a one block radius of the site. *Id.* at 67. Based on all of these considerations, Ms. Zarska testified that, in her professional opinion, permitting this fragment of the RO-zoned area to continue to be used for off-street parking serving the proposed McDonald’s would meet the requirements of Section 409.B.2. *Id.* at 105.

Ms. Zarska also testified that the continued use of the sliver of the RO-zoned area for parking serving a business use meets the requirements of Section 502.1. With regard to Section 502.1.A, Ms. Zarska testified that the continued use of this area for parking serving a business use will not be detrimental to the health, safety or welfare of the locality involved because there are no residential uses in the RO portion of this site or on the adjacent property, which is used as an office building. Transcript, May 29,

2014, at 105. Moreover, the use of this RO-zoned area for parking serving a business use is an existing condition established by the Krispy Kreme. See Pet. Ex. 3. Ms. Zarska also testified that, in accordance with Section 502.1.B, the continued use of this area for off-street parking would not create congestion in roads, streets or alleys because the area is located entirely within the McDonald's site and the parking spaces are accessed from a driveway of adequate width and not from a street or alley. Transcript, May 29, 2014, at 106. Moreover, Ms. Zarska testified that the continued use of the small portion of the RO-zoned area for parking serving a business use would not create any potential hazard from fire, panic or other danger, see Section 502.1.C, as this is an existing condition which has not created any such hazards during the course of its existence. *Id.* at 106-07.

The continued use of this area for parking also will not overcrowd the land or cause an undue concentration of population as it will not increase the density of the site. *Id.* at 107; Section 502.1.D. Likewise, Ms. Zarska testified that the continued use of this area for off-street parking will not interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements in accordance with Section 502.1.E, as the area will only be used for parking and will not impact any of these considerations. Transcript, May 29, 2014, at 107. As Ms. Zarska indicated, the parking area will serve only the McDonald's use, for which there are adequate public facilities available. *Id.* The continued use of this area for parking serving a business use also will not impact light and air, as no structures are proposed to be located in this area. *Id.*; Section 502.1.F. As the proposed building will only be 21' 4" tall and centered on the site, the proposed McDonald's restaurant itself also will not interfere with light and air. Transcript, May 29, 2014, at 107-08.

Ms. Zarska also testified that the continued use of this area for off-street parking would not be inconsistent with the property's current zoning classification or in any way

inconsistent with the spirit and intent of the BCZR, as this use is consistent with the stated purpose of the BCZR to promote orderly development and because there will be no incursion into any residential area, as the adjacent property is used as an office building. Transcript, May 29, 2014, at 108; Section 502.1.G. As the area is already paved and contains no vegetation, the continued use of this area for parking will not be inconsistent with the impermeable surface and vegetative retention provisions of the BCZR. Transcript, May 29, 2014, at 108-09; Section 502.1.H. Finally, Ms. Zarska testified that the continued use of this area for parking would not be detrimental to the environmental or natural resources of the site or the vicinity, as the use of this area for parking is an existing condition. Transcript, May 29, 2014, at 109; Section 502.1.I. The required stormwater management for the site will be provided by reduction of the existing site imperviousness and by the installation of a micro-bioretenention facility. Transcript, May 29, 2014, at 96-97. Accordingly, Ms. Zarska testified that, in her professional opinion, the continued use of the sliver of the RO-zoned land as parking serving a business use satisfies the requirements of Section 502.1. *Id.* at 109.

Protestants produced no evidence to undermine the Petitioner's evidence and testimony demonstrating that the requirements have been met for the special hearing relief to permit the continued use of the RO-zoned area to be used as parking serving the proposed McDonald's use. No witness testified as to any detriment arising from the continued use of this tiny portion of the Property for parking. Tellingly, no owner or tenant of the adjoining RO property appeared in opposition to the Petition. Further, the Department of Planning does not object to the request and confirmed Petitioner's evidence:

The special hearing relief involves a small portion of parking extending into the RO zone, the limits of which are unchanged from the existing conditions. Essentially, since the proposal does not modify the parking where it is in the RO zone, the impact on the character of the community would be unchanged.

Pet. Ex. 11.

Based on all the evidence, the special hearing relief should be granted.

II. THE REQUESTED VARIANCES SHOULD BE GRANTED.

A. The Property Is Unique, And The Unique Characteristics Of The Property Create Practical Difficulties And Unreasonable Hardship If Strict Compliance With The BCZR Were Required.

The requested variances should be granted because, as Ms. Zarska testified, the property has many unique features and these unique features would create a practical difficulty and an unreasonable hardship for McDonald's if strict compliance with the BCZR were required. Section 307.1 authorizes the Administrative Law Judge to "grant variances from height and area regulations, from off-street parking regulations, and from sign regulations ... in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship." Here, the evidence indicates that there are at least eight factors that make the Property unique and that McDonald's would suffer a practical difficulty or unreasonable hardship if strict compliance with the BCZR were required.² Accordingly, the requested variances should be granted.

First, Ms. Zarska testified that the Property is relatively small in size. Transcript, May 29, 2014, at 113. Second, she testified that the topography of the site is quite steep, and that "the huge difference in elevation makes it kind of difficult to develop." *Id.*

² The Court of Appeals has observed that "[w]hen the terms unnecessary hardship (or one of its synonyms) and practical difficulties are framed in the disjunctive ('or'), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulties standard to area variances because use variances are viewed as more drastic departures from zoning requirements." *Belvoir Farms Homeowners Ass'n, Inc. v. North*, 355 Md. 259, 276 n. 10 (1999). See also *Cromwell v. Ward*, 102 Md. App. 691, 694-95 n. 1 (1995). Here, as the use of the Property is permitted by right in the BL zone, the off-street parking and signage variances are more akin to area variances than use variances and therefore are subject to the less restrictive "practical difficulty" standard. Nonetheless, the evidence demonstrates that the unique conditions of the Property would create both a practical difficulty and an unnecessary hardship for McDonald's should strict compliance with the BCZR be required.

at 114. Lee May, Area Construction Manager for McDonald's, confirmed this, testifying that the Property slopes approximately 14 feet from the high point along Reisterstown Road to the low point in the rear of the site, and there is also a steep slope along St. Thomas Lane. Transcript, March 25, 2014, at 25.

Third, the Property has split zoning. See Pet. Ex. 3. Although a majority of the site is located in the BL zoning district, a portion of the Property located along the southern boundary is zoned RO and another portion of the Property located along the eastern boundary is zoned DR.16. *Id.*; Transcript, May 29, 2014, at 116-17. The DR.16 portion of the site cannot be used for commercial purposes. See BCZR Section 1B02.1.

Fourth, Ms. Zarska testified that the Property is unique because the State Highway Administration ("SHA") will be acquiring approximately 22 feet of its Reisterstown Road frontage in order to widen Reisterstown Road in connection with the development of the Foundry Row project, which is across Reisterstown Road from the Property. Transcript, May 29, 2014, at 95, 117. As a result, the Property will lose approximately 4,336 square feet, which is more than 9% of the site. *Id.* at 95.

Fifth, Ms. Zarska testified that the Property is uniquely located on the downhill slope of a hill whose crest is located at the intersection of Reisterstown Road and Garrison View Road. *Id.* at 118. Reisterstown Road slopes steeply downhill from this intersection and, as a result, motorists traveling northbound on Reisterstown Road cannot see the site until they reach the crest of the hill. *Id.*; see also Pet. Ex. 2G, 2H, 2I, 2J, and 2K. Mr. May also corroborated this testimony, stating that "on Reisterstown Road as you're traveling northwest and approaching the site, the road crests at the traffic light at the intersection with Garrison View." Transcript, March 25, 2014, at 25. As a result, Mr. May testified that the "vertical curvature of the road" "limits the visibility of the site." *Id.* In fact, Protestant Kathleen Pontone also confirmed the existence of this

unique topography, stating that, with “the crest of the hill up on the top,” “it is very blind there.” Transcript, May 29, 2014 at 205.

Sixth, the existing office building and mature trees in the area also create unique conditions, obstructing the view of the Property to motorists traveling northbound on Reisterstown Road. *Id.* at 118; *see also* Pet. Ex. 2E, 2I, and 2J.

Seventh, the State’s stormwater management regulations have changed significantly since the Krispy Kreme was constructed, and any new development on this site will be required to comply with the new regulations, which further limit the useable space on the Property. Transcript, May 29, 2014, at 119. These limitations were not in force when neighboring properties were developed. *Id.*

Eighth, Ms. Zarska testified that the Property is unique because it has frontage on two streets, which restricts the usable space on the site due to the landscape buffers required on each frontage and also requires signage facing each street. *Id.* at 119; *see also* Pet. Ex. 4. Although each of these factors individually makes the Property unique, Ms. Zarska testified that, when taken together, they create a site that is truly unlike any other in the vicinity. Transcript, May 29, 2014, at 120.

These unique factors create significant practical difficulties and an unreasonable hardship for McDonald’s if strict compliance with the BCZR were required. Ms. Zarska testified that the small size of the Property, its unique topographical features, its split zoning, the taking by SHA of 22 feet of frontage along Reisterstown Road, the new stormwater management regulations, and the fact that the Property has frontage on two streets create a practical difficulty and unreasonable hardship in providing the required 71 parking spaces on site. *Id.* at 121. Ms. Zarska also testified that the small size of the Property, its split zoning, and the taking by SHA of 22 feet of frontage along Reisterstown Road create a practical difficulty and unreasonable hardship in providing the required 10 feet of landscape buffer along Reisterstown Road. *Id.* at 123. Finally,

Ms. Zarska testified that the small size of the site, its location along the busy Reisterstown commercial corridor, the downhill slope of Reisterstown Road from the crest of the hill at the intersection with Garrison View Road, the location of the existing office building and mature trees in the area which obstruct the view of the Property, and the fact that the Property has frontage on two streets, all create practical difficulties and unreasonable hardships for McDonald's in identifying the site to passing motorists and safely directing traffic in and around the site. *Id.* at 125. Accordingly, the variances should be granted because the Property's many unique conditions would create practical difficulties and unreasonable hardships if strict application of the BCZR were required.

B. The Requested Variances Are In Harmony With The Spirit And Intent Of The BCZR.

The requested variances should be granted because they are in harmony with the spirit and intent of the BCZR in accordance with Section 307.1. The purpose of the BCZR is to promote orderly development, Section 100.1.A.1, which will be accomplished here by providing sufficient on-site parking to serve a particular use. J. Mark Keeley, who was accepted as an expert in parking and traffic studies, testified that the proposed McDonald's will provide 35 parking spaces, which is more than adequate to meet the parking demands of the restaurant. Transcript, March 25, 2014, at 116. Mr. Keeley testified that he performed a parking study to determine the adequacy of the parking spaces proposed for this site, for which he studied the recently remodeled McDonald's restaurant at 12012 Reisterstown Road. *Id.* at 110-13. In this study, which was accepted into evidence as Petitioner's Exhibit 8, Mr. Keeley counted the cars in the parking lot at 12012 Reisterstown Road in fifteen-minute intervals during the restaurant's peak hours, and determined that a maximum of 25 cars utilized the parking lot at any one time. *Id.* at 110. Pet. Ex. 8. He repeated that test recently, after the restaurant was remodeled to a style similar to the proposed restaurant that is the

subject of the Petition. Transcript, March 25, 2014, at 113. Again, the testing demonstrated that no more than 25 spaces were occupied at any peak period. *Id.*; Pet. Ex. 8 p. 2-3.

Mr. Keeley also reviewed parking studies for several other McDonald's locations in the area and performed a linear regression analysis to predict the number of parking spaces that would be required for a restaurant of the size that is planned for this Property. Transcript, March 25, 2014, at 114; Pet. Ex. 8; p. 3-5. Based on this analysis, Mr. Keeley predicted that a maximum of 30 cars would utilize the McDonald's parking lot on this Property and that the proposed 35 parking spaces therefore would provide sufficient parking to meet the demands of the proposed restaurant. Transcript, March 25, 2014, at 115.

Mr. May's testimony regarding the operation of the proposed McDonald's confirmed that the proposed 35 spaces would be sufficient to meet customer demand. Mr. May testified that approximately 65-70% of McDonald's business is done at the drive-through. "[O]nly a small part of the building is devoted [to] the dining room" and the proposed restaurant will have only 16 tables with a total of 66 seats. *Id.* at 38. Moreover, McDonald's has an interest in providing adequate parking for its customers' convenience, as it will lose customers to competitors if they are unable to find a parking space on site. *Id.* at 42. Mr. May also testified that in the unlikely event that a customer is unable to find a parking space on site, he or she would likely use the drive-through window or go to another fast-food restaurant in the area. *Id.* Such a customer would be unlikely to park on adjacent streets and walk back to the restaurant.

Finally, variances have been granted in other cases to permit 35 parking spaces in lieu of the required 62 parking spaces for a McDonald's at 502 Reisterstown Road, and to permit 29 parking spaces in lieu of the 66 required parking spaces for the McDonald's at 12012 Reisterstown Road. Pet. Exs. 7A and 7B, respectively. The 29

parking spaces at 12012 Reisterstown Road have proved adequate in two studies, Pet. Ex. 8. Mr. May confirms that the 29 spaces have worked “very well for us” despite the fact that that location has more tables and more seats than the 16 tables (66 seats) planned for the McDonald’s to be built at the Property. Transcript, March 25, 2014, at 43-44.

Thus, the 35 spaces proposed for the Property will be more than adequate. There is no *evidence* to the contrary, only speculation by the Protestants. Moreover, the Planning Department report dated April 1, 2014 and received in evidence as Petitioner’s Exhibit 11 does not oppose this variance and confirms that the dual order drive-through configuration “moves traffic efficiently reducing the demand for on-site parking.”

Likewise, the variance to permit a 6-foot landscape buffer in lieu of the required 10-foot landscape buffer along Reisterstown Road is also in harmony with the spirit and intent of the BCZR, as it will promote orderly development. Ms. Zarska testified that the purpose of the landscape buffer requirement is to screen headlights from traffic on the adjacent road. Transcript, May 29, 2014, at 131. The proposed 6-foot landscape buffer will provide an adequate area for plantings to perform this function and, when combined with the landscape area in the public right-of-way, effectively provides a 10-foot landscape area. *Id.* at 131; 240. The Landscape Plan, which was accepted into evidence as Petitioner’s Exhibit 19, shows the proposed 6-foot landscape buffer and was approved by Baltimore County on April 8, 2014. *Id.* at 131-32; Exhibit 19. Again, the Department of Planning has no objection to this variance. It recognized that the setback relief is due to highway widening and confirmed that under McDonald’s plan, after the widening, “there is room for the required landscaping along the frontage with a setback of over 10 feet from the edge of paving to the sidewalk.” Pet. Ex. 11.

Similarly, the requested signage variances are in harmony with the spirit and intent of the BCZR, as they will also promote orderly development. As Ms. Zarska testified, the proposed signs will permit the restaurant to be visible to passing motorists and to safely direct traffic in and around the site. *Id.* at 134-35. These signs are similar to those that have been approved at nineteen other McDonald's locations in Baltimore County. *Id.* at 134. As Mr. May testified, they are familiar to the customers and will facilitate vehicle and pedestrian navigation on the site as well as addressing the site's visibility issues. Transcript, March 25, 2104, at 49. In addition, Ms. Zarska testified that the signs will provide proper business identification and are consistent with other signage along the Reisterstown Road corridor. Transcript, May 29, 2014, at 133-34. The proposed signs are smaller in area than what would be permitted by the BCZR, and will not distract passing motorists or pedestrians. *Id.* at 134. Moreover, as the Property has frontage on two streets, additional signage is required in order to properly identify the site to traffic on both streets. *Id.* at 133. As the Department of Planning noted, the "relief requested for signs is consistent with the more recent McDonald's prototype and should not have a negative effect on the commercial corridor or adjacent uses." Pet. Ex. 11.

All of the requested variances are in harmony with the spirit and intent of the BCZR and should be granted.

C. The Requested Variances Will Not Be Detrimental To Health, Safety Or The General Welfare Of The Surrounding Area.

As required by Section 307.1, the requested variances will not be detrimental to health, safety or the general welfare of the surrounding area and therefore should be granted. As Mr. May testified, the Property was formerly used by Krispy Kreme, a similar restaurant use with a drive-through, which went out of business several years ago. Transcript, March 25, 2014, at 24. The Property has been vacant and boarded up since that time and is in very poor condition. *Id.* at 24-25; Pet. Ex. 2A – 2K. The

surrounding area would be greatly improved by the replacement of a vacant, blighted building with a modern, attractive, and well maintained restaurant.

Helen Greco, McDonald's' Operations Consultant, testified that McDonald's employs policies to maintain the site in a clean and orderly fashion and to minimize any impact on nearby property owners. Ms. Greco testified that the Property will be safely lit, consistent with the approved Lighting Plan, and that there will be security cameras throughout the site. Transcript, May 29, 2014, at 65-66; Exhibit 18. She also described McDonald's' policy regarding loitering and the methods McDonald's uses to discourage individuals from remaining on the premises for more than half an hour. Transcript, May 29, 2014 at 66. Ms. Greco also described how McDonald's managers perform a "travel path" inspection of the premises every thirty minutes during non-peak hours and every fifteen minutes during peak hours to pick up trash on the premises and within one block of the site.³ *Id.* at 67. Finally, Ms. Greco and Mr. May both testified regarding the state-of-the-art speaker system for the drive-through, which automatically adjusts its volume based on the ambient noise in the area to minimize the likelihood of anyone being able to hear the speaker system off-site. *Id.* at 68; Transcript, March 25, 2014 at 51-52.

An expert in traffic engineering, Kenneth Schmid, testified that the proposed McDonald's is not anticipated to have any significant impact on traffic, as most of McDonald's customers would travel to and from the site via Reisterstown Road and that it is unlikely that anyone would utilize the local roads off of St. Thomas Lane to return to southbound Reisterstown Road after leaving the McDonald's site. Transcript, May 29, 2014 at 23. Mr. Schmid conducted a travel time-and-distance study to determine which routes McDonald's customers would be likely to use to return to southbound

³ Protestant Simonetti worried about trash, but it was clear from her testimony that her complaint was with Popeye's, which does not inspect its premises and adjoining areas for trash every 30 minutes as McDonald's does. Indeed, she noted she has no trash issues with the Wendy's next door which does keep its site clean. Transcript, May 29, 2014 at 174, 182.

Reisterstown Road once the proposed median is constructed. *Id.* at 19-23. The routes and times are shown on a map admitted as Petitioner's Exhibit 12, and the study is summarized in the report admitted as Petitioner's Exhibit 16.

As a preliminary matter, Mr. Schmid noted that the Institute of Transportation Engineers (ITE) Manual indicates that a fast-food use with a drive-through lane will have a pass-by rate of 50%. *Id.* at 16. This means that 50% of the trips to the McDonald's will be customers who are already on the road network and are not deviating from their course to visit the McDonald's. *Id.* at 15-16. They will simply continue driving northbound on Reisterstown Road after they visit McDonalds. The remaining 50% of trips will be a combination of "new trips" generated by the restaurant and "diverted trips" of those already on the road but who go out of their way to visit the McDonald's. *Id.* at 16-17.

Mr. Schmid studied the possible routes that McDonald's customers might take to return to southbound Reisterstown Road following the installation of the median and concluded that the shortest, quickest and most direct route from the McDonald's to southbound Reisterstown Road would be for customers to proceed north on Reisterstown Road to the traffic light at Painters Mill Road, and make a U-turn at the traffic signal at that intersection to go south on Reisterstown Road. *Id.* at 22-23. In his expert opinion, McDonald's customers would not use a longer, slower and less visible route through the community to return to southbound Reisterstown Road. *Id.* at 23.

Although the Protestants presented no expert testimony to contradict Mr. Schmid's opinion, several individual residents testified that they believed it was more likely that McDonald's customers who were "new trips" originating south of the site would travel eastbound on St. Thomas Lane and use local roads to return to southbound Reisterstown Road because it would be difficult to get into the left lane of Reisterstown Road after making a right from St. Thomas Lane in order to make the U-

turn at Painters Mill Road. See, e.g., *id.* at 197, 203, 226. However, this directly contradicts the testimony of Protestant Cheryl Aaron, who testified on behalf of the Greater Greenspring Association that they had worked closely with the developer of the Foundry Row project to develop a transportation solution to the traffic expected to be generated by that project, which includes 495,000 square feet of retail space and was supported by Ms. Aaron and the association.⁴ *Id.* at 223. Ms. Aaron testified that the community had advocated for the proposed median in Reisterstown Road, barring left turns into and out of St. Thomas Lane, as it would reduce traffic on St. Thomas Lane. *Id.* at 225. She expressly acknowledged that they supported the installation of the median knowing that it would require residents of the local community to make a right turn (northbound) onto Reisterstown Road from St. Thomas Lane and then move into the left lane immediately in order to make a U-turn at Painters Mill Road to proceed southbound on Reisterstown Road. *Id.* at 225, 237. She stated that this traffic movement was “not a great inconvenience” to the residents of the area and that there was no objection to it from the residents of St. Thomas Lane, Garrison Forest Road or Caves Road. *Id.* at 225.

Thus, Ms. Aaron and the Greater Greenspring Association supported the Foundry Row project, based on the installation of the median, knowing they would make the same traffic movement (*i.e.* Route No. 2 on Petitioner’s Exhibit 12 prepared by the traffic engineering expert) that Petitioner’s expert predicts will be made by McDonald’s customers who approach the site from the south and return to their place of origin. *Id.* at 224-25. There is no logic to Protestants’ view that using the U-turn at Painters Mill Road to proceed southbound on Reisterstown Road is “not a great inconvenience” to local residents, but at the same time would be an unrealistic route for McDonald’s customers.

⁴ That is more than 110 times the square footage of the 4,393 square foot restaurant planned by McDonald’s.

In addition to the time-and-distance travel study, Mr. Schmid testified as to how Baltimore County determines whether roads and intersections are sufficient to permit future development. *Id.* at 24-26. He identified the 2013 Basic Services Map for Transportation Zones (Pet. Ex. 13) and the map for 2014 (Pet. Ex. 14). On neither map is the McDonald's site in a restricted zone. *Id.* at 27. Moreover, all intersections in the vicinity are rated C or higher. *Id.* at 28.

Both Ms. Greco and Mr. May testified about McDonald's new state-of-the-art digital sound system for the drive-through ordering. Transcript, March 25, 2014 at 50-52; Transcript, May 29, 2014 at 68. It is much quieter than conventional speaker systems. *Id.* It also automatically reduces the volume when the ambient noise changes. *Id.* For example, in the evening, when there is less background noise, the volume is automatically reduced. Transcript, March 25, 2014, at 52. The rear of the site will also feature a six foot fence that will be a sound barrier. Transcript, May 29, 2014 at 68.

Finally, Ms. Zarska testified that in her expert opinion, the granting of the variances would not be detrimental to the health, safety or general welfare of the surrounding area. Transcript, May 29, 2014, at 135. She noted that the site is in a commercial corridor, *id.* at 90; Pet. Ex. 17, and that adjacent properties include fast food restaurants Wendy's and Popeye's. Transcript, May 29, 2014, at 92. She testified that the impacts of the proposed McDonald's would not be greater than the previous Krispy Kreme use, which included industrial baking and wholesale distribution uses overnight, as well as retail sales. *Id.* at 136. She further testified that lighting on the site will be pursuant to a plan that has been approved by Baltimore County and that is designed to keep light on the Property. *Id.* at 102-03. The requested variances will permit the site to function safely and efficiently, and will not adversely impact the surrounding community. Notably, not one resident of the residential apartment community that

borders the rear of the Property appeared at the hearings to object to McDonald's plans. Based on the evidence at the hearings, the variances will not be detrimental to the health, safety or general welfare of the surrounding area and should be granted.

D. The Hardship Created By The Unique Characteristics Of The Property Is Not Self-Inflicted.

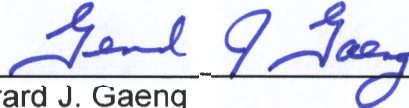
Contrary to the suggestion of one of the Protestants, the hardship imposed on McDonald's has not been self-inflicted. Rather, McDonald's has demonstrated that its hardship and practical difficulties are related to eight unique characteristics of the site. See Section II.A above. Although McDonald's was aware that variances and special hearing relief would be required at the time it entered into a lease for the Property, it is well settled that "[m]ere purchase of a property, even with knowledge that a variance will be needed in order to accomplish the purchaser's plans, does *not* constitute a self-created hardship meriting denial of a variance request." *Chesley v. City of Annapolis*, 176 Md. App. 413, 437 (2007) (emphasis supplied). As a result, "it should not be within the discretion of a board of appeals to deny a variance solely because a purchaser bought with knowledge of zoning restrictions." *Id.* (quoting *Richard Roeser Prof'l Builder, Inc. v. Anne Arundel County*, 368 Md. 294, 304 (2002)).

Here, the fact that McDonald's entered into its lease with knowledge of the zoning restrictions is not grounds for denial of the variances. McDonald's has demonstrated that the proposed reduction in off-street parking is more than adequate to meet its customers' demands and that the requested variances are all consistent with the spirit and intent of the BCZR. The mere fact that McDonald's was aware of the need for special hearing and variance relief when it entered into the lease does not make its hardship self-created. As McDonald's has satisfied the requirements under Section 307.1, the requested variances should be granted.

CONCLUSION

For the foregoing reasons, the requested special hearing and variance relief should be granted as requested.

Respectfully submitted,



Gerard J. Gaeng
Caroline L. Hecker
Rosenberg Martin Greenberg, LLP
25 S. Charles Street, 21st Floor
Baltimore, MD 21201
Phone: (410) 727-6600
Fax: (410) 727-1115
ggaeng@rosenbergmartin.com
checker@rosenbergmartin.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 12th day of June, 2014, that a copy of the foregoing Post-Hearing Memorandum In Support Of Petition For Special Hearing And Variances was mailed first-class mail, postage prepaid to:

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


Gerard J. Gaeng



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 10021 Reisterstown Road and 3 St. Thomas Lane which is presently zoned BL, DR.16, RO
 Deed References: 11437/437; 11437/418 10 Digit Tax Account # 0316095111; 0308006690
 Property Owner(s) Printed Name(s) Gordon K. Harden

(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

The use of land in a residential zone for parking serving a business use pursuant to Section 409.8.B.1.

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

3. X a **Variance** from Section(s)

Please see attached.

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:

McDonald's USA, LLC

Name- Type or Print

Signature

6903 Rockledge Drive, Suite 1100, Bethesda MD

Mailing Address City State

20817 / (240) 497-3626 /

Zip Code Telephone # Email Address

Attorney for Petitioner:

Caroline L. Hecker / Rosenberg Martin Greenberg, LLP

Name- Type or Print

Signature

25 S. Charles Street, 21st Floor Baltimore MD

Mailing Address City State

21201 / (410) 727-6600 / checker@rosenbergmartin.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Gordon K. Harden

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

1000 Weller Circle, Suite 214, Westminster MD

Mailing Address City State

21158

Zip Code Telephone # Email Address

Representative to be contacted:

Lee May, Area Construction Manager, McDonald's Corporation

Name - Type or Print

Signature

6903 Rockledge Drive, Suite 1100 Bethesda MD

Mailing Address City State

20817 / (301) 651-9998 / lee.may@us.mcd.com

Zip Code Telephone # Email Address

CASE NUMBER 2014-0141-SPHA Filing Date 12/20/13

Do Not Schedule Dates: 6/23/14 Reviewer Jcm

By Sen REV. 10/4/11

ORDER RECEIVED FOR FILING

McDonald's Corporation
10021 Reisterstown Road & 3 St. Thomas Lane
Zoned B.L., DR 16, RO
Deed Reference: 11437/437 & 11437/418
Tax Acct. # 0316095111 & 0308006690

Special Hearing Relief is Requested as Follows:

1. Section 409.8.B.1 to permit the use of land in a residential zone as parking serving a business use.

Variance Relief Is Requested From The Following Sections:

1. Off-Street Parking

- 1.1 Section 409.6.A.2 to permit 35 parking spaces in lieu of the required 71 parking spaces.
- 1.2 Section 409.8.A.4 to permit 6 ft. distance to street line (R/W) from parking spaces for non-residential use in lieu of the required 10 ft.

2. Signage Regulations

- 2.1 Section 450.4 attachment 1, 5(a)(VI) to permit 5 wall mounted enterprise signs on building facades in lieu of the permitted 3 signs. (Signs #4 & #5)
- 2.2 Section 450.4 attachment 1, 3(b)(VII) to permit a directional sign of 10.7 ft. in height in lieu of the permitted 6 ft. (Sign #1)
- 2.3 Section 450.4 attachment 1, 3(b)(VII) to permit a directional sign of 9.7 ft. in height in lieu of the permitted 6 ft. (Two signs, Sign #2)
- 2.4 Section 450.4 attachment 1, 3(II) to permit a canopy-type directional sign in lieu of the permitted wall-mounted or free-standing sign. (Two signs, Sign #3)
- 2.5 Section 450.5.B.3.b to permit erection of the sign above the face of the canopy in lieu of its erection on the face of the canopy. (Two signs, Sign #3)
- 2.6 Section 450.4 attachment 1, 5(f)(VII) to permit two order boards of 6.75 ft. in height in lieu of the permitted 6 ft. (Two signs, Sign #7)
- 2.7 Section 450.4 attachment 1, 3(II) to permit three projected directional signs in lieu of the permitted wall-mounted or free-standing sign. (Three signs, Sign #8)

**DESCRIPTION TO ACCOMPANY PETITION
FOR ZONING VARIANCES
10021 REISTERSTOWN ROAD
BALTIMORE COUNTY, MARYLAND
3rd ELECTION DISTRICT; 2nd COUNCILMANIC DISTRICT**

December 19, 2013

Beginning at the point located on the northern side of Reisterstown Road having the variable width of the right-of-way, said point being located northerly 43 feet, more or less, from the intersection of centerlines of Reisterstown Road with St. Thomas Lane, thence running the following courses and distances:

1. North 03° 55' 45" West, 21.63 feet; thence,
2. North 39° 59' 15" East, 134.99 feet; thence,
3. North 39° 59' 15" East, 100.00 feet; thence,
4. South 47° 50' 45" East, 189.98
5. South 39° 59' 15" West, 100.00 feet; thence,
6. South 39° 59' 15" West, 150.00 feet; thence,
7. North 47° 50' 45" West, 174.97 feet to the point of beginning.

Containing 47,349 square feet or 1.087 acres, more or less.

This description is intended for zoning purposes only and shall not be used for conveyance of land.



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 - 0141 - SPHA

Petitioner: MCDONALD'S USA LLC

Address or Location: 10021 REISTERSTOWN ROAD
OWINGS MILLS, MARYLAND 21117

PLEASE FORWARD ADVERTISING BILL TO:

Name: CAROLINE HECKER - ROSENBERG, MARTIN, GREENBERG LLP

Address: 25 SOUTH CHARLES STREET, 21st FLOOR
BALTIMORE, MD. 21201

Telephone Number: 410-727-6600

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

No. **107091**

Date: **12.26.13**

PAID RECEIPT

AGENCY: **WALKIN JEW JEE** DATE: **12/26/2013** TIME: **09:29:10** USER: **2**

REC: **602** WALKIN JEW JEE
 >> RECEIPT # **061722** 12/26/2013 OPEN

DEPT: **5** 529 ZEPHYRUS VERIFICATION

TR NO. **107091**

Receipt Tot: **\$1,000.00**
\$1,000.00 CA **\$1.00** CA
 Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				1000.00

Total: **1000.00**

Rec From: **MCDONALD'S USA, LLC**

For: **2014-0141-SPHA**

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**

JB 3/25
1:30 PM

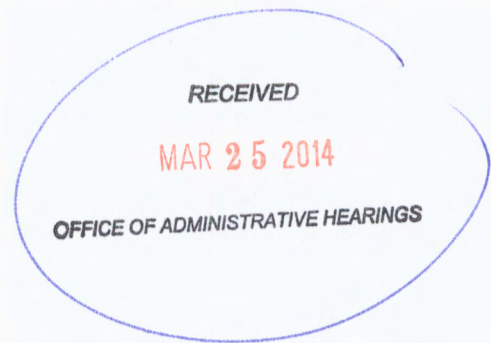
CERTIFICATE OF POSTING

RE: Case No. 2014-0141-SPHA

Petitioner: McDonald's USA, LLC

Hearing / Closing Date: 3/25/14

Baltimore County Department of
Permits and Development Management
Room 111, County Office Building
111 W. Chesapeake Ave.
Towson, Md. 21204

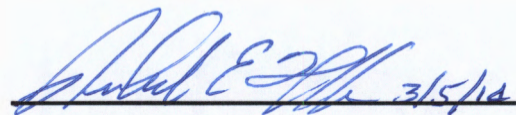


This letter is to confirm, under penalties of perjury, that the necessary sign(s)
were posted conspicuously, on the property located at _____

_____ 10021 Reisterstown Rd. _____

_____ on 3/5/14 _____

Sincerely,

 3/5/14

Richard E. Hoffman

904 Dellwood Drive

Fallston, Md. 21047

(443) 243-7360

Certificate of Posting

Case No. 2013-0141-SPHA



10021 Reisterstown Road

(posted 3/5/14)

Richard E. Hoffman 3/5/14

Richard E. Hoffman

904 Dellwood Drive

Fallston, Md. 21047

(443-243-7360)

Certificate of Posting

Case No. 2013-0141-SPHA

PLACE: Room 205, Jefferson Building, 105 W Chesapeake Ave.
TOWSON 2/26/14

DATE AND TIME: TUES. MAR. 25, 2014 AT 1:30 P.M.

REQUEST: SPECIAL HEARING TO PERMIT THE USE OF LAND IN A RESIDENTIAL ZONE AS PARKING SERVING A BUSINESS USE. VARIANCE FOR OFF-STREET

PARKING TO PERMIT 35 PARKING SPACES IN LIEU OF THE REQUIRED 71 PARKING SPACES; TO PERMIT 6 FT. DISTANCE TO STREET LINE (R/W) FROM PARKING SPACES FOR NON-RESIDENTIAL USE IN LIEU OF THE REQUIRED 10 FEET. SIGNAGE REGULATIONS: TO PERMIT 5 WALL-MOUNTED ENTERPRISE SIGNS ON BUILDING FACADES IN LIEU OF THE PERMITTED 3 SIGNS (SIGN #1); TO PERMIT A DIRECTIONAL SIGN OF 10.7 FT. IN HEIGHT IN LIEU OF THE PERMITTED 6 FT. (SIGN #1); TO PERMIT A DIRECTIONAL SIGN OF 9.7 FT. IN HEIGHT IN LIEU OF THE PERMITTED 6 FT. (SIGN #2); TO PERMIT A CANOPY-TYPE DIRECTIONAL SIGN IN LIEU OF THE PERMITTED WALL-MOUNTED OR FREE-STANDING SIGN (TWO SIGNS, SIGN #3); TO PERMIT ERECTION OF THE SIGN ABOVE THE FACE OF THE CANOPY (TWO SIGNS, SIGN #3); TO PERMIT TWO ORDER BOARDS OF 6.75 FT. IN HEIGHT IN LIEU OF THE PERMITTED 6 FT. (TWO SIGNS, SIGN #7) TO PERMIT 3 PERMITS DIRECTIONAL SIGNS IN LIEU OF THE PERMITTED WALL-MOUNTED OR FREE-STANDING SIGN (THREE SIGNS, SIGN #8).

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

10021 Reisterstown Road

(posted 3/5/14)

Richard E. Hoffman 3/5/14

Richard E. Hoffman

904 Dellwood Drive

Fallston, Md. 21047

(443-243-7360)



THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

March 6, 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 March 4, 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: #2014-0141-SPHA

10021 Reisterstown Road & 3 St. Thomas Lane
N/s Reisterstown Road, 43 ft. +/- n/of centerline of
St. Thomas Lane

3rd Election District - 2nd Councilmanic District

Legal Owner(s): Gordon K. Harden

Contract Purchaser/Lessee: McDonald's USA, LLC

Special Hearing: to permit the use of land in a residential zone as parking serving a business use. **Variance:** for off-street parking to permit 35 parking spaces in lieu of the required 71 parking spaces; to permit 6 ft. distance to street line (R/W) from parking spaces for non-residential use in lieu of the required 10 feet. **Signage Regulations:** to permit 5 wall-mounted enterprise signs on building facades in lieu of the permitted 3 signs (Signs #4 & 5); to permit a directional sign of 10.7 ft. in height in lieu of the permitted 6 ft. (two signs, sign #2); to permit a canopy-type directional sign in lieu of the permitted wall-mounted or free-standing sign (two signs, Sign #3); to permit erection of the sign above the face of the canopy (two signs, Sign #3); to permit two order boards of 6.75 ft. in height in lieu of the permitted 6 ft. (two signs, Sign #7); to permit 3 projected directional signs in lieu of the permitted wall-mounted or free-standing sign (three signs, Sign #8).

Hearing: Tuesday, March 25, 2014 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 3/600 Mar. 4

970810



THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

January 16, 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 14, 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: #2014-0141-SPHA

10021 Reisterstown Road & 3 St. Thomas Lane
N/s Reisterstown Road, 43 ft. +/- n/of centerline of St.
Thomas Lane

3rd Election District - 2nd Councilmanic District
Legal Owner(s): Gordon K. Harden

Contract Purchaser/Lessee: McDonald's USA, LLC

Special Hearing: to permit the use of land in a residential zone as parking serving a business use. **Variance:** for off-street parking to permit 35 parking spaces in lieu of the required 71 parking spaces; to permit 6 ft. distance to street line (R/W) from parking spaces for non-residential use in lieu of the required 10 feet. **Signage Regulations:** to permit 5 wall-mounted enterprise signs on building facades in lieu of the permitted 3 signs (Signs #4 & 5); to permit a directional sign of 10.7 ft. in height in lieu of the permitted 6 ft. (Sign #1); to permit a directional sign of 9.7 ft. in height in lieu of the permitted 6 ft. (two signs, sign #2); to permit a canopy-type directional sign in lieu of the permitted wall-mounted or free-standing sign (two signs, Sign #3); to permit erection of the sign above the face of the canopy (two signs, Sign #3); to permit two order boards of 6.75 ft. in height in lieu of the permitted 6 ft. (two signs, Sign #7); to permit 3 projected directional signs in lieu of the permitted wall-mounted or free-standing sign (three signs, Sign #8).

Hearing: Monday, February 3, 2014 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 1/6/77 Jan. 14

965127



KEVIN KAMENETZ
County Executive

February 18, 2014

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

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: 2014-0141-SPHA

10021 Reisterstown Road & 3 St. Thomas Lane
N/s Reisterstown Road, 43 ft. +/- n/of centerline of St. Thomas Lane
3rd Election District – 2nd Councilmanic District
Legal Owners: Gordon K. Harden
Contract Purchaser/Lessee: McDonald's USA, LLC

Special Hearing to permit the use of land in a residential zone as parking serving a business use.
Variance for off-street parking to permit 35 parking spaces in lieu of the required 71 parking spaces; to permit 6 ft. distance to street line (R/W) from parking spaces for non-residential use in lieu of the required 10 feet. Signage Regulations: to permit 5 wall-mounted enterprise signs on building facades in lieu of the permitted 3 signs (Signs #4 & 5); to permit a directional sign of 10.7 ft. in height in lieu of the permitted 6 ft. (Sign #1); to permit a directional sign of 9.7 ft. in height in lieu of the permitted 6 ft. (two signs, sign #2); to permit a canopy-type directional sign in lieu of the permitted wall-mounted or free-standing sign (Two signs, Sign #3); to permit erection of the sign above the face of the canopy (two signs, Sign #3); to permit two order boards of 6.75 ft. in height in lieu of the permitted 6 ft. (two signs, Sign #7); to permit 3 projected directional signs in lieu of the permitted wall-mounted or free-standing sign (three signs, Sign #8).

Hearing: Tuesday, March 25, 2014 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".

Arnold Jablon
Director

AJ:kl

C: Caroline Hecker, 25 S. Charles St., 21st Fl., Baltimore 21201
McDonald's USA, 6903 Rockledge Dr., Ste. 1100, Bethesda 20817
Gordon Harden, 1000 Eller Circle, Ste. 214, Westminster 21158

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, MARCH 5, 2014.**
(2) **HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.**

TO: PATUXENT PUBLISHING COMPANY
Tuesday, March 4, 2014 Issue - Jeffersonian

Please forward billing to:

Caroline Hecker
Rosenberg, Martin, Greenberg, LLP
25 S. Charles Street, 21st Fl.
Baltimore, MD 21201

410-727-6600

NOTICE OF ZONING HEARING

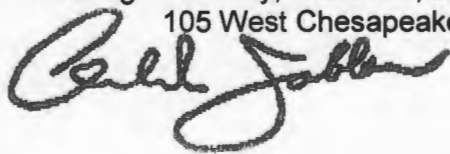
The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2014-0141-SPHA

10021 Reisterstown Road & 3 St. Thomas Lane
N/s Reisterstown Road, 43 ft. +/- n/of centerline of St. Thomas Lane
3rd Election District – 2nd Councilmanic District
Legal Owners: Gordon K. Harden
Contract Purchaser/Lessee: McDonald's USA, LLC

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Variance for off-street parking to permit 35 parking spaces in lieu of the required 71 parking spaces; to permit 6 ft. distance to street line (R/W) from parking spaces for non-residential use in lieu of the required 10 feet. Signage Regulations: to permit 5 wall-mounted enterprise signs on building facades in lieu of the permitted 3 signs (Signs #4 & 5); to permit a directional sign of 10.7 ft. in height in lieu of the permitted 6 ft. (Sign #1); to permit a directional sign of 9.7 ft. in height in lieu of the permitted 6 ft. (two signs, sign #2); to permit a canopy-type directional sign in lieu of the permitted wall-mounted or free-standing sign (Two signs, Sign #3); to permit erection of the sign above the face of the canopy (two signs, Sign #3); to permit two order boards of 6.75 ft. in height in lieu of the permitted 6 ft. (two signs, Sign #7); to permit 3 projected directional signs in lieu of the permitted wall-mounted or free-standing sign (three signs, Sign #8).

Hearing: Tuesday, March 25, 2014 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.

MEMORANDUM

DATE: July 24, 2014
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2014-0141-SPHA - Appeal Period Expired

The appeal period for the above-referenced case expired on July 23, 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
AND VARIANCE		
10021 Reisterstown Road; N/S Reisterstown	*	OF ADMINSTRATIVE
Road, 43' N of c/line of St. Thomas Lane		
3 rd Election & 2 nd Councilmanic Districts	*	HEARINGS FOR
Legal Owner(s): Gordon K. Harden		
Contract Purchaser(s): McDonald's USA LLC	*	BALTIMORE COUNTY
Petitioner(s)		
	*	2014-141-SPHA

* * * * *

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 09 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of January, 2014, a copy of the foregoing Entry of Appearance was mailed to Lee May Construction Manager, McDonald's Corporation, 6903 Rockledge Drive, Suite 1100, Bethesda, Maryland 20817 and Caroline Hecker, Esquire, Rosenberg Martin Greenberg, LLP, 25 S. Charles Street, 21st Floor, Baltimore, Maryland 21201, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CHECKLIST

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
12/31/13	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	C
_____	DEPS (if not received, date e-mail sent _____)	_____
_____	FIRE DEPARTMENT	_____
_____	PLANNING (if not received, date e-mail sent _____)	_____
1/7/14	STATE HIGHWAY ADMINISTRATION	C
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. _____)	
NEWSPAPER ADVERTISEMENT	Date: 1/14/14 - 3/4/14	
SIGN POSTING	Date: 1/14/14 by Hoffman 3-5-14 (Hoffman)	
PEOPLE'S COUNSEL APPEARANCE	Yes ☒ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____



**Rosenberg
Martin
Greenberg** LLP

GERARD J. GAENG
ggaeng@rosenbergmartin.com

June 18, 2014

VIA HAND DELIVERY

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

RECEIVED

JUN 18 2014

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Special hearing relief and variances for 10021 Reisterstown Road
Case No. 2014-0141-SPHA

Dear Judge Beverungen,

Enclosed please find McDonald's Memorandum In Response To New Issue Raised In Protestants' Memorandum. As set forth therein, McDonald's responds to protestants' incorrect assertion – made for the very first time in protestants' post-hearing memorandum – that the plan for the proposed McDonald's restaurant does not provide for adequate stacking spaces for the drive-through service.

Sincerely,

Gerard J. Gaeng

GJG:mkm
4818-0932-6363

Enclosure

cc: J. Carroll Holzer, Esquire (w/enclosure)

JUN 18 2014

IN RE: PETITION FOR VARIANCE

10021 Reisterstown Road &

3 St. Thomas Lane

N/S Reisterstown Road

43 ft. north of centerline of

St. Thomas Lane

3rd Election District2nd Council District

McDonald's Corporation,

Petitioner

BEFORE THE

BALTIMORE COUNTY

OFFICE OF

ADMINISTRATIVE HEARINGS

Case No. 2014-0141-SPHA

OFFICE OF ADMINISTRATIVE HEARINGS

* * * * *

MEMORANDUM IN RESPONSE TO NEW ISSUE RAISED IN PROTESTANTS' MEMORANDUM

McDonald's Corporation ("McDonald's"), by and through its undersigned counsel, files this Memorandum In Response to New Issue Raised In the Protestants' Memorandum filed on June 12, 2014 with regard to the special hearing and variances sought by McDonald's for the property located at 10021 Reisterstown Road (the "Property").

The Protestants' argument regarding the sufficiency of the stacking spaces shown on McDonald's site plan was not raised at the March 25, 2014 or May 29, 2014 hearings in this matter and therefore should not be considered at this late date. Nonetheless, as set forth more fully below, the proposed McDonald's restaurant complies with the regulations governing the required number of stacking spaces for the proposed drive-through use. Moreover, as McDonald's has demonstrated that the Property contains at least eight unique characteristics that distinguish it from any other properties located in the vicinity, and that these unique characteristics create both practical difficulties and an unreasonable hardship in the development of the Property,¹

¹ The Protestants rely on outdated case law for the proposition that an unnecessary hardship occurs only when it "constitutes an arbitrary and capricious interference with the basic right of private ownership." Protestants' Memorandum at 5, quoting *Park Shopping Center, Inc. v. Lexington Park Theater Company*, 216, Md. 271, 276-77 (1958). The Court of Appeals has since "reject[ed] the proposition that the unnecessary

the requested special hearing and variance relief should be granted.

ARGUMENT

Contrary to the Protestants' assertion, the site plan submitted by McDonald's shows the correct number of stacking spaces required for the proposed drive-through restaurant. Section 409.10.A of the Baltimore County Zoning Regulations ("BCZR") requires "7 parking spaces per station, 5 of which must be behind the order board" for the use "restaurant, fast food." McDonald's' site plan, identified as Sheet V-1 and accepted into evidence as part of Petitioner's Exhibit 1, shows a total of eleven stacking spaces for the proposed drive-through restaurant.² Of these eleven stacking spaces, seven are located behind the order boards. As a result, the proposed stacking spaces comply with the requirements of the BCZR.

The Protestants are incorrect in their assertion that the stacking spaces for the proposed McDonald's restaurant are subject to the regulation governing "restaurant, fast food, *drive-through only*." (emphasis added.) The proposed McDonald's is not a "drive-through only" restaurant, as confirmed by the testimony of Lee May at the March 25, 2014 hearing. Mr. May testified that only 65-70% of McDonald's business is done at the drive-through. Transcript, March 25, 2014, at 38. He further testified that a "part of the building is devoted [to] the dining room" and the proposed restaurant will have 16 tables with a total of 66 seats. *Id.* As a result, the proposed McDonald's is not subject

or unwarranted hardship standard is equal to an unconstitutional taking standard." *Belvoir Farms Homeowners Ass'n, Inc. v. North*, 355 Md. 259, 282 (1999). The Court expressly held that "the unnecessary or unwarranted hardship standard, or similar standards, are less restrictive than the unconstitutional taking standard," and "are equivalent to the denial of reasonable and significant use of the property." *Id.*

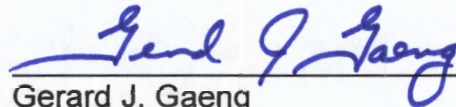
² Baltimore County determines the number of required stacking spaces for a fast food restaurant with a drive-through based upon the number of "service stations," and not on the number of menu boards. As the proposed McDonald's has one service station, seven stacking spaces are required. An informal opinion of the Baltimore County Zoning Review Office related to the McDonald's located at 2107 Joppa Road, which confirms this interpretation, is attached hereto as Exhibit A.

to the regulation governing "restaurant, fast food, drive-through only" cited by the Protestants. The Protestants' argument that the proposed McDonald's does not comply with the regulations governing stacking spaces therefore should be rejected.

CONCLUSION

For the foregoing reasons and as set forth more fully in McDonald's Memorandum filed on June 12, 2014, the requested special hearing and variance relief should be granted as requested.

Respectfully submitted,

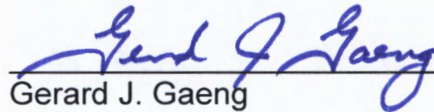


Gerard J. Gaeng
Caroline L. Hecker
Rosenberg Martin Greenberg, LLP
25 S. Charles Street, 21st Floor
Baltimore, MD 21201
Phone: (410) 727-6600
Fax: (410) 727-1115
ggaeng@rosenbergmartin.com
checker@rosenbergmartin.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 18th day of June, 2014, that a copy of the foregoing Response to Protestants' Memorandum was mailed first-class mail, postage prepaid to:

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


Gerard J. Gaeng



KEVIN KAMENETZ
County Executive

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

January 29, 2014

Gordon K. Harden
1000 Weller Circle
Suite 214
Westminster MD 21158

RE: Case Number: 2014-0141 SPHA, Address: 10021 Reisterstown Road and 3 St. Thomas Lane

Dear Mr. Harden:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on December 20, 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." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel
McDonald's USA LLC, 6903 Rockledge Drive, Ste., 1100, Bethesda, MD 20817
Caroline L. Hecker, 25 S. Charles Street, 21st Floor, Baltimore MD 21201
Lee May, Area Construction Manager, 6903 Rockledge Dr., Ste., 1100, Bethesda, MD 20817

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



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

Date: 1/7/14

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

RE: Baltimore County
Item No. 2014-0141-SPHA.
Special Hearing Variance
Gordon H. Harden
10021 Reisterstown Road.
MD 141
SHA Tracking No. 11APBA013

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 1/3/14. A field inspection and internal review reveals that an entrance onto MD 140 consistent with current State Highway Administration guidelines is required. As a condition of approval for Variance, Case Number 2014-0141-SPHA the applicant must contact the State Highway Administration to obtain an entrance permit.

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

Sincerely,

Steven D. Foster, Chief/
Development Manager
Access Management Division

SDF/raz

cc: ~~Mr. Michael Pasquarillo, Utility Engineer, SHA~~
~~Mr. David Peake, District Engineer, SHA~~

* See attached letter.

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

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



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

August 19, 2013

Ms. Colleen M. Kelly,
Supervisor
Department of Permits, Approvals and
Inspections - Development Review Committee
111 W. Chesapeake Avenue, Room 123
Towson, Maryland 21204

RE: Baltimore County
MD 140 (Reisterstown Road)
McDonalds Restaurant
DRC # 082713A
SHA Tracking No. 11APBA013xx
Mile Post: 4.830

Dear Ms. Kelly:

Thank you for the opportunity to review the plan to accompany DRC request, dated August 6, 2013, proposing redevelopment of McDonald's Restaurant at 10021 Reisterstown Road, located in Baltimore County. The State Highway Administration (SHA) has completed a cursory review of the above noted. Based on available information, we have determined that an Access Permit is required for improvements within the MD 140 right-of-way.

In summation: We request that Baltimore County require the applicant to obtain an Access Permit as a condition of DRC # 082713A approval.

Please inform the applicant and engineer of record to submit six (6) sets of plans, a CD containing the plans and supporting documentation in PDF format, directly to Mr. Steven Foster attention of Mr. Michael Bailey. Please reference the SHA tracking number on future submissions. Please keep in mind that you can view the reviewer and project status via SHA Access Management Division web page at <http://www.roads.maryland.gov/pages/amd.aspx>. If you have any questions, or require additional information, please contact Mr. Bailey at 410-545-5593, by using our toll free number in Maryland only at 1-800-876-4742 x5593 or via email at mbailey@sha.state.md.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steven D. Foster'.

for
Steven D. Foster; Chief/Development Manager
Access Management Division

SDF/JWR/MB

cc: Ms. Mariefrance Guiteau, Highway Design Division - SHA
Mr. Gordon K. Harden, owner, 1000 Weller Circle, Suite 214, Westminster, Maryland 21158
Mr. Dennis Kennedy, Baltimore County, Development Plans Review
(DKennedy@baltimorecountymd.gov)
Mr. Lee May, developer, McDonald's USA, LLC 6903 Rockledge Drive, Suite 1100, Bethesda, Maryland 20817 (lee.may@us.mcd.com)

My telephone number/toll-free number is 410-545-5600
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



**Rosenberg
Martin
Greenberg^{LLP}**

GERARD J. GAENG
ggaeng@rosenbergmartin.com

June 12, 2014

RECEIVED

VIA HAND DELIVERY

JUN 12 2014

The Honorable John E. Beverungen
Office of Administrative Hearings
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Special hearing relief and variances for 10021 Reisterstown Road
Case No. 2014-0141-SPHA

Dear Judge Beverungen,

Per your instruction at the conclusion of the hearing in this matter, enclosed please find McDonald's Post-Hearing Memorandum In Support of Petition For Special Hearing And Variances, along with unofficial transcriptions of the audio recordings of the hearings on March 25, 2014 and May 29, 2014.

Please let us know if Your Honor would like anything additional in this matter.

Sincerely,

Gerard J. Gaeng

GJG:mkm

4840-2371-6891

Enclosures

cc: J. Carroll Holzer, Esquire (w/enclosures)



**Rosenberg
Martin
Greenberg^{LLP}**

GERARD J. GAENG
ggaeng@rosenbergmartin.com

March 27, 2014

RECEIVED

MAR 28 2014

OFFICE OF ADMINISTRATIVE HEARINGS

**VIA FACSIMILE (410) 825-4923
AND REGULAR MAIL**

J. Carroll Holzer, Esquire
J. Carroll Holzer, PA
508 Fairmount Avenue
Towson, Maryland 21286

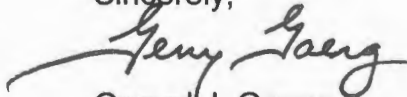
Re: Special hearing relief and variances for 10021 Reisterstown Road
Case No. 2014-0141-SPHA

Dear Carroll,

At the hearing in this matter on Tuesday afternoon, Judge Beverungen directed us to consult together and schedule the continuation of the hearing in this matter. At 8:00 a.m. the next morning (yesterday), I sent you the enclosed email requesting that you provide us with dates when you are available in April to continue the hearing. As of this writing, I have had no response to my request. Please provide dates of availability at your earliest convenience so that the hearing can be completed without undue delay.

Thank you.

Sincerely,


Gerard J. Gaeng

GJG:mkm
4848-4633-3465

cc: The Honorable John E. Beverungen – via email:
(jbeverungen@baltimorecountymd.gov) and regular mail

Gaeng, Gerry

RECEIVED

From: Gaeng, Gerry
Sent: Wednesday, March 26, 2014 8:01 AM
To: 'jcholzer@cavtel.net'
Cc: Hecker, Caroline
Subject: McDonalds Owings Mills

MAR 28 2014

OFFICE OF ADMINISTRATIVE HEARINGS

Carroll,

Can you please provide us with dates you are available in April to continue the hearing?

Gerry

Gerard J. Gaeng



Rosenberg
Martin
Greenberg,

Rosenberg Martin Greenberg LLP
25 South Charles Street, 21st Floor
Baltimore, Maryland 21201
410.727.6600 p
410.727.1115 f
www.rosenbergmartin.com

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For December 30, 2013
Item No. 2014-0141

DATE: December 31, 2013

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

An approved Final Landscape Plan, lighting plan, cost estimate and security are required prior to permit approval.

DAK:CEN:cab

Cc: file.

ZAC-ITEM NO 14-0141-11302013.doc

3/25
1:30

Real Property Data Search (w4)

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registr
Account Identifier:	District - 03 Account Number - 0308006690	
Owner Information		
Owner Name:	HARDEN GORDON K C/O KRISPY KREME DOUGHNUTS MIKE LARUE/REAL ESTATE DEPT	Use: COMMERCIAL Principal Residence: NO
Mailing Address:	370 KNOLLWOOD ST STE 500 WINSTON-SALEM NC 27103-	Deed Reference: 1) /11437/ 00418 2)
Location & Structure Information		
Premises Address:	10021 REISTERSTOWN RD 0-0000	Legal Description: .652 AC 10021-10027 RS SE COR ST TH
Map: 0067	Grid: 0004	Parcel: 0052
Sub District:	Subdivision: 0000	Section:
Block:	Lot:	Assessment Year: 2013
Special Tax Areas:	Town: NONE	Ad Valorem:
Primary Structure Built 2000	Above Grade Enclosed Area 4095	Finished Basement Area
Property Land Area 28,401 SF	Stories	Basement
Type FAST FOOD	Exterior	Full/Half Bath
Garage	Last Major Renova	
Value Information		
	Base Value	Value
		As of 01/01/2013
Land:	360,300	360,300
Improvements	467,800	479,700
Total:	828,100	840,000
Preferential Land:	0	0
		Phase-in Assessments
		As of 07/01/2013
		As of 07/01/
		832,067
		836,03
		0
Transfer Information		
Seller: HARDEN GORDON K	Date: 02/16/1996	Price:
Type: NON-ARMS LENGTH OTHER	Deed1: /11437/ 00418	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Exemption Information		
Partial Exempt Assessments: Class	07/01/2013	07/01/2014
County: 000	0.00	
State: 000	0.00	
Municipal: 000	0.00 0.00	0.00 0.00
Tax Exempt:	Special Tax Recapture:	
Exempt Class:	NONE	
Homestead Application Information		
Homestead Application Status: No Application		

CASE NAME 10021 Retikstein Rd.
CASE NUMBER 2014-014-SP4A
DATE 3/25/14

[illegible]

PLEASE PRINT CLEARLY

CASE NAME

CASE NUMBER

DATE

2014-0141 - SPHA

3/25/14

CITIZEN'S SIGN - IN SHEET

NAME

ADDRESS

CITY, STATE, ZIP

E - MAIL

J. Carroll Holzer	508 Fairmont Ave	Towson MD 21286	
Kimberly Simmonds	6 St Thomas Lane	Owings Mills MD 21117	
Stephen Konioris	15 St Thomas Lane	Owings Mills, MD 21117	
Cheryl Quam-bak	121 St. Thomas Lane	Owings Mills MD 21117	
Bill Higgs	300 Garrison Forest Rd.	Owings Mills, MD 21117	
Liz C. Harboure	1809 Lusk Rd	Owings Mills, MD 21117	
Jonathan Aaron	121 St. Thomas Lane	Owings Mills MD 21117	
Ned Leary	11 Woodstock Ct.	Pikesville, MD 21208	
Ruth Goldstein	75 Lade Avenue #121	Pikesville MD 21208	
* Kathleen Pate	2500 Cais Rd	Owings Mills, 21117	
Larry Moore	PO Box 5402	Towson MD 21285	
Barbara St. Ours	119 St. Thomas Ln	Owings Mills, MD 21117	
Jessica Alden	1301 N Troy St	Arlington, VA 22207	
Coland St. Ours	119 St. Thomas Ln	Owings Mills, MD 21117	
Chrys Shuff	511 Garrison Forest Rd	" "	
Linda Corbin	6 Chiffenden Lane	Owings Mills, MD 21117	
Becky Newhall	3111 W. Golf Course Rd.	Owings Mills, Md. 21117	
Judy in Beach	22 St. Thomas Lane	" "	
Betsy Wimerding	2518 Caves Rd	Owings Mills, MD 21117	

CASE NAME 10021 Risterstown Rd.
CASE NUMBER 2014-GA1-SPHA
DATE 5-29-14

[illegible]

CASE NAME 10021 Reisterstown Rd.
CASE NUMBER 2014-0141-SPHA
DATE 5-29-14

[illegible]

Case No.: 2014-141-SPHA

Exhibit Sheet

Petitioner/~~Developer~~

Protestants

ISW
7-24-14

SEN
6-23-14

No. 1	Site plan with zoning petition	1A-1H Color photos
No. 2	2A-2K Photos of Site	Photo-Historic plaque
No. 3	Existing Conditions Color Exhibit	
No. 4	Proposed Conditions Color Exhibit	
No. 5	SHA letter 9-6-13	
No. 6	Building Elevations	
No. 7	7A Order in 08-235-SPHA 7B Order in 13-189-A	
No. 8	Traffic Concepts Inc. Parking Study 2-11-14	
No. 9	9A > Color photos re: 9B > visibility	
No. 10	Aerial GIS Photo	
No. 11	DOP ZAC comment April 1, 2014	
No. 12	Travel Route Exhibit	

5/29/14
10 AM

Case No.: 2014-0141-SPHA

Exhibit Sheet - Continued

	Petitioner/Developer	Respondent
No. 13	2013 Basic Service Map	r
No. 14	Draft 2014 Basic Services Map	
No. 15	Bath Co. DPW memo 1-10-14	
No. 16	Traffic Concepts Memo May 27, 2014	
No. 17	Zoning Areas Ex.	
No. 18	Lighting Plan	
No. 19	Final Landscape Plan	
No. 20	Traffic Concepts Time Study May 22, 2014	
No. 21		
No. 22		
No. 23		
No. 24		



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 10021 Reisterstown Road and 3 St. Thomas Lane which is presently zoned BL, DR.16, RO
 Deed References: 11437/437; 11437/418 10 Digit Tax Account # 0316095111; 0308006690
 Property Owner(s) Printed Name(s) Gordon K. Harden

(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

The use of land in a residential zone for parking serving a business use pursuant to Section 409.8.B.1.

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

3. ☒ a **Variance** from Section(s)

Please see attached.

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:

McDonald's USA, LLC

Name- Type or Print

Signature

6903 Rockledge Drive, Suite 1100, Bethesda MD

Mailing Address City State

20817 / (240) 497-3626

Zip Code Telephone # Email Address

Attorney for Petitioner:

Caroline L. Hecker / Rosenberg Martin Greenberg, LLP

Name- Type or Print

Caroline L. Hecker

Signature

25 S. Charles Street, 21st Floor Baltimore MD

Mailing Address City State

21201 / (410) 727-6600 / checker@rosenbergmartingreenberg.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Gordon K. Harden

Name #1 - Type or Print

Name #2 - Type or Print

Gordon K. Harden

Signature #1

Signature #2

1000 Weller Circle, Suite 214, Westminster MD

Mailing Address City State

21158

Zip Code Telephone # Email Address

Representative to be contacted:

Lee May, Area Construction Manager, McDonald's Corporation

Name - Type or Print

Lee May

Signature

6903 Rockledge Drive, Suite 1100 Bethesda MD

Mailing Address City State

20817 / (301) 651-9998 / lee.may@us.mcd.com

Zip Code Telephone # Email Address

CASE NUMBER _____ Filing Date ____/____/____ Do Not Schedule Dates: _____ Reviewer _____



McDonald's Corporation
10021 Reisterstown Road & 3 St. Thomas Lane
Zoned B.L., DR 16, RO
Deed Reference: 11437/437 & 11437/418
Tax Acct. # 0316095111 & 0308006690

Special Hearing Relief is Requested as Follows:

1. Section 409.8.B.1 to permit the use of land in a residential zone as parking serving a business use.

Variance Relief Is Requested From The Following Sections:

1. Off-Street Parking

- 1.1 Section 409.6.A.2 to permit 35 parking spaces in lieu of the required 71 parking spaces.
- 1.2 Section 409.8.A.4 to permit 6 ft. distance to street line (R/W) from parking spaces for non-residential use in lieu of the required 10 ft.

2. Signage Regulations

- 2.1 Section 450.4 attachment 1, 5(a)(VI) to permit 5 wall mounted enterprise signs on building facades in lieu of the permitted 3 signs. (Signs #4 & #5)
- 2.2 Section 450.4 attachment 1, 3(b)(VII) to permit a directional sign of 10.7 ft. in height in lieu of the permitted 6 ft. (Sign #1)
- 2.3 Section 450.4 attachment 1, 3(b)(VII) to permit a directional sign of 9.7 ft. in height in lieu of the permitted 6 ft. (Two signs, Sign #2)
- 2.4 Section 450.4 attachment 1, 3(II) to permit a canopy-type directional sign in lieu of the permitted wall-mounted or free-standing sign. (Two signs, Sign #3)
- 2.5 Section 450.5.B.3.b to permit erection of the sign above the face of the canopy in lieu of its erection on the face of the canopy. (Two signs, Sign #3)
- 2.6 Section 450.4 attachment 1, 5(f)(VII) to permit two order boards of 6.75 ft. in height in lieu of the permitted 6 ft. (Two signs, Sign #7)
- 2.7 Section 450.4 attachment 1, 3(II) to permit three projected directional signs in lieu of the permitted wall-mounted or free-standing sign. (Three signs, Sign #8)

**DESCRIPTION TO ACCOMPANY PETITION
FOR ZONING VARIANCES
10021 REISTERSTOWN ROAD
BALTIMORE COUNTY, MARYLAND
3rd ELECTION DISTRICT; 2nd COUNCILMANIC DISTRICT**

December 19, 2013

Beginning at the point located on the northern side of Reisterstown Road having the variable width of the right-of-way, said point being located northerly 43 feet, more or less, from the intersection of centerlines of Reisterstown Road with St. Thomas Lane, thence running the following courses and distances:

1. North 03° 55' 45" West, 21.63 feet; thence,
2. North 39° 59' 15" East, 134.99 feet; thence,
3. North 39° 59' 15" East, 100.00 feet; thence,
4. South 47° 50' 45" East, 189.98
5. South 39° 59' 15" West, 100.00 feet; thence,
6. South 39° 59' 15" West, 150.00 feet; thence,
7. North 47° 50' 45" West, 174.97 feet to the point of beginning.

Containing 47,349 square feet or 1.087 acres, more or less.

This description is intended for zoning purposes only and shall not be used for conveyance of land.



NO. 1A

PROTESTANT'S
EXHIBITS

1B



1C.

NO. 1D

PROTESTANT'S
EXHIBITS

1e



1F

NO. 1 G

PROTESTANT'S
EXHIBITS

I H





GARRISON FOREST CHURCH

(ST. THOMAS' PARISH)

A FRONTIER PARISH CHURCH
AUTHORIZED BY ACT OF ASSEMBLY
1742 AS "A CHAPEL OF EASE FOR
THE FOREST INHABITANTS" OF
SAINT PAUL'S PARISH (BALTIMORE).
REV. THOMAS CRADDOCK INDUCTED
AS FIRST MINISTER JAN. 14, 1745.

STATE ROADS COMMISSION

PROTESTANT' S

EXHIBIT NO.

2







ALL-STATE LEGAL®

EXHIBIT

2C



ALL-STATE LEGAL®

EXHIBIT

2D



ALL-STATE LEGAL®

EXHIBIT

2E



ALL-STATE LEGAL®

EXHIBIT

2F







ALL-STATE LEGAL®

EXHIBIT

21



ALL-STATE LEGAL®

EXHIBIT

2J



ALL-STATE LEGAL®

EXHIBIT

2K

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



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

September 6, 2013

Ms. Colleen M. Kelly,
Supervisor
Department of Permits, Approvals and
Inspections - Development Review Committee
111 W. Chesapeake Avenue, Room 123
Towson, Maryland 21204

RE: Baltimore County
MD 140 (Reisterstown Road)
McDonalds Restaurant
DRC # 082713A
SHA Tracking No. 11APBA013xx
Mile Post: 4.830

Dear Ms. Kelly:

Thank you for the opportunity to review the DRC plan request, dated August 6, 2013, proposing redevelopment of McDonald's Restaurant at 10021 Reisterstown Road, located in Baltimore County. The State Highway Administration (SHA) replied on August 19, 2013 and the following information supplements the previous comments.

1. Based on available information, we determined that an Access Permit is required for improvements within the MD 140 right-of-way.
2. There is a SHA project in the design phase for improving MD 140 from Garrison View Road to north of Owings Mills Boulevard. This improvement provides additional capacity along MD 140. Design plans (Contract No. BA729A21) show outside widening along northbound MD 140 within the project limits. A raised concrete median will also be constructed on MD 140 (Reisterstown Road) will prohibit left turn movements to and from St. Thomas Lane and several properties including the McDonalds site. The McDonalds property's green space along MD 140 is identified as a potential displacement for the SHA road widening. The site plan and redevelopment of the site must be compatible with the SHA project. A copy of the design plan for this area is attached. If you have any questions concerning the design, please contact Ms. Mariefrance Guiteau, of SHA's Highway Design Division. Ms Guiteau can be reached at 410-545-8885.

The project will require an access permit from SHA for the project. As a condition of DRC # 082713A approval, please direct the applicant to coordinate with the SHA Access Management Division to obtain a permit. Any improvements required under the access permit must be completed prior to the County issuing a Use and Occupancy.

Please inform the applicant and engineer of record to submit six (6) sets of plans, a CD containing the plans and supporting documentation in PDF format, as well as a point-by-point response directly to Mr. Steven Foster attention of Mr. Michael Bailey. Please reference the

My telephone number/toll-free number is 410-545-5600

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

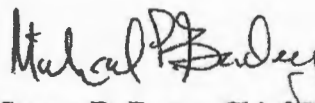
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov



Ms. Colleen M. Kelly
SHA Tracking No. 11APBA013xx
McDonalds Restaurant
Page 2
September 6, 2013

SHA tracking number on future submissions. Please keep in mind that you can view the reviewer and project status via SHA Access Management Division web page at <http://www.roads.maryland.gov/pages/amd.aspx>. If you have any questions, or require additional information, please contact Mr. Bailey at 410-545-5593 or toll free (in Maryland only) at 1-800-876-4742 x5593 or by via email at (mbailey@sha.state.md.us).

Sincerely,



for

Steven D. Foster, Chief/Development Manager
Access Management Division

SDF/JWR/MB

cc: Ms. Mariefrance Guiteau, Highway Design Division - SHA
Mr. Gordon K. Harden, owner, 1000 Weller Circle, Suite 214, Westminster, Maryland 21158
Mr. Dennis Kennedy, Baltimore County, Development Plans Review
(DKennedy@baltimorecountymd.gov)
Mr. Lee May, developer, McDonald's USA, LLC 6903 Rockledge Drive, Suite 1100, Bethesda, Maryland 20817 (lee.may@us.mcd.com)
Mr. Joseph Merrey, Baltimore County, Dept of Permits, Approvals and Inspections
(JMerrey@baltimorecountymd.gov)
Ms. Rochelle Outten, Access Management Division - SHA
Mr. Mike Pasquariello, District 4 Utility Engineer - SHA
Mr. John C. Povalac, engineer, Baltimore Land Design Group, Inc.
(JPoalac@bldginc.com)
Mr. Richard Zeller, Access Management Division - SHA

IN RE: PETITIONS FOR SPECIAL
HEARING AND VARIANCE
SW/S Reisterstown Road, 270' S/W
C/line of Dreher Avenue
(502 Reisterstown Road)

3rd Election District
2nd Council District

McDonald's Corporation
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

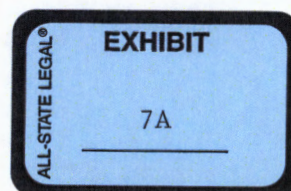
Case No. 08-235-SPHA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owner of the subject property, McDonald's Corporation, through its attorney, Stanley S. Fine, Esquire, for property located at 502 Reisterstown Road (also known as 500 Reisterstown Road). The Petitioner requests a special hearing to verify that the approval granted in Special Hearing Zoning Case No. 66-193-SPH is still valid. In addition, relief is requested from five (5) sections of the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, Petitioner requests variance relief as follows: From B.C.Z.R. Section 409.6.A.2 to permit 35 off-street parking spaces in lieu of the required 62 spaces; from B.C.Z.R. Section 303.2 to permit a front yard (depth) setback of 32 feet in lieu of the required 43 feet; from B.C.Z.R. Section 450.4.5.A to permit five (5) enterprise signs on building facades in lieu of the permitted three (3) signs; from B.C.Z.R. Section 450.4.3 to permit a "canopy" style directional sign in lieu of the permitted wall-mounted or free-standing sign; and from B.C.Z.R. Section 450.5.B.3.6 to permit the erection of a sign above the face of the canopy in lieu of its erection on the face of the canopy. The subject property and requested relief are more particularly described on the site plan submitted and the color sign elevation drawings which were accepted into evidence as Petitioner's Exhibits 2 and 5, respectively.

ORDER RECEIVED FOR FILING
Date 2-5-08
By [Signature]



Appearing at the requisite public hearing in support of the request were Stanley S. Fine, Esquire and Caroline L. Hecker, Esquire, attorneys for McDonald's; Robert A. Houck, owner-operator of the existing McDonald's at the subject location; Lee May, Area Construction Manager for McDonald's Corporation; and Iwona Rostek-Zarska and Walenty Zarski of Baltimore Land Design Group, Inc., the consulting engineers who prepared the site plan for this property. Peirce Macgill, of the Baltimore County Department of Economic Development, also appeared in support of the request. Although no one appeared as a Protestant or other interested person, it should be noted that Howard L. Alderman, Jr., Esquire entered his appearance on behalf of the owners of the property located at 404 Reisterstown Road which is immediately adjacent to the subject property.

An appreciation of the property's past history and use is relevant and is briefly outlined. The property that is the subject of the instant Petitions is known both as 502 Reisterstown Road and as 500 Reisterstown Road. See Petitioner's Exhibit 1. Although the records of the State Department of Assessments and Taxation reflect an address of 500 Reisterstown Road, the physical location of the property has historically been known as 502 Reisterstown Road. For purposes of these Petitions, the property(s) will be referred to as 502 Reisterstown Road. As illustrated on the site plan, two-thirds of the 0.77 acre site immediately adjacent to Reisterstown Road is zoned B.L.; the rear one-third of the property is zoned D.R.5.5. A fast-food restaurant and a drive-thru are permitted uses in the B.L. zone pursuant to B.C.Z.R. Section 230.4. Parking is an accessory use that is not permitted as a matter of right in the D.R.5.5 zone. On October 5, 1966, a use permit was granted by Special Hearing to permit parking on the D.R.5.5 portion of the property in Case No. 66-193-SPH. The existing McDonald's was constructed in 1967 and has operated continuously at this location since that time.

COPIES RECEIVED FOR FILING
Date 2-5-08
By [signature]

Testimony and evidence presented at the hearing discloses that McDonald's proposes to demolish the existing restaurant and rebuild a new restaurant in its place. The existing structure is operationally inadequate and has only one drive-thru window. The proposed structure will occupy approximately the same footprint as the existing structure, and will have an enlarged kitchen area, as well as two drive-thru windows. The proposed restaurant will seat approximately 64 patrons, whereas the existing restaurant seats 76-78 patrons.

Ms. Rostek-Zarska was accepted as an expert in site engineering, and testified that the size and location of the existing building impose certain restraints on the proposed new construction that make the requested variances necessary. The existing McDonald's, shown on the Existing Conditions Sheet (Petitioner's Exhibit 2), is situated 32 feet from Reisterstown Road. The existing building, along with the stacking lane for the drive-thru, occupies most of the lot. In addition, the rear lot line is irregularly shaped, causing the lot to be shallower on one side than the other. Section 303.2 of the B.C.Z.R. provides that the front yard must not be less than the average depth of the front yards of all improved lots within 200 feet on either side of this lot. This would require a 43-foot front yard, which is not feasible given the configuration of the lot. As the lot is shallower on one side than the other, the building cannot be situated further back from Reisterstown Road while maintaining the stacking lane for the drive-thru and the parking spaces in the rear of the building. Moreover, at the recommendation of the Baltimore County Design Review Panel, McDonald's sited the building closer to Reisterstown Road than originally planned, in order to conform to the character of the Pikesville community. In light of the recommendation of the Design Review Panel, a variance from the provisions of Section 303.2 to permit a 32-foot front yard depth in lieu of the required 43-foot front yard is the minimum variance necessary to permit the construction of the new McDonald's.

ORDER RECEIVED FOR FILING
Date 2-5-08
By [signature]

Section 409.6.A.2 of the B.C.Z.R. would require McDonald's to provide 62 parking spaces on the property to accommodate the fast-food restaurant use. McDonald's currently provides 48 off-street parking spaces at this location. In support of its request for a variance from the off-street parking requirements, McDonald's submitted two parking studies conducted by Street Traffic Studies, Ltd. (Petitioner's Exhibits 8 and 9). These studies examined the use of the existing McDonald's parking lot during its peak hours, and found that a maximum of 28 cars were parked in the parking lot at any one time. Both studies therefore concluded that adequate parking exists at this site to accommodate peak demand periods. It is also to be noted that McDonald's does approximately 53% of its business at this location through the one existing drive-thru window. The proposed structure will have two drive-thru windows, which will increase the efficiency of the drive-thru operation and allow McDonald's to do a greater percentage of its business through the drive-thru. Robert A. Houck, owner-operator of the existing McDonald's at this location, testified that he owns and operates 11 McDonald's restaurants and that, in his experience, the addition of a second drive-thru window can be expected to increase the amount of business done at the drive-thru to 60-65%. This increased drive-thru business will lessen the demand for off-street parking. Finally, as the proposed new restaurant will seat fewer patrons than the existing restaurant, the reduction in off-street parking to 35 spaces is expected to sufficiently accommodate the reduced capacity of the restaurant.

Petitioner also seeks variances from B.C.Z.R. Section 450.4.5.A to permit five (5) enterprise signs on building facades in lieu of the permitted three (3) signs; from B.C.Z.R. Section 450.4.3 to permit a "canopy" style directional sign in lieu of the permitted wall-mounted or free-standing sign; and from B.C.Z.R. Section 450.5.B.3.6 to permit the erection of a sign above the face of the canopy in lieu of its erection on the face of the canopy. These signs are McDonald's standard signage plan, and the restaurant at this location would deviate from the

CHANDLER RECEIVED FOR PLUMBING
Date 2-5-08
BY [signature]

standard style of other McDonald's restaurants if the proposed signs were not permitted. McDonald's consulted extensively with the Baltimore County Design Review Panel to ensure that the proposed signs and structure would conform to the character of the Pikesville community, and the proposed signs have been approved by the Panel. In addition, the Office of Planning issued a Zoning Advisory Committee (ZAC) comment indicating that the Petitioner's submittal is consistent with the recommendations of the Design Review Panel, and recommended approval of the requested variances.

After due consideration of the testimony and evidence presented, it is clear that the requested variances meet the standards set forth in B.C.Z.R. Section 307. The property is unique by virtue of its narrow size and irregularly shaped rear lot line. The existing building, located 32 feet from Reisterstown Road, further contributes to the site's uniqueness and imposes certain constraints on the development of the property. These different features of the property and structure drive the need for variance relief and I find that the Petitioner has satisfied its burden at law. The constraints imposed by these features would create a practical difficulty for the Petitioner if strict compliance with the provisions of the B.C.Z.R. were required. I find that the use proposed will not be detrimental to the surrounding locale and will meet the spirit and intent of the B.C.Z.R. I will therefore grant the requested variances.

Additionally, McDonald's has reached an agreement with the owner of the property located at 404 Reisterstown Road immediately adjacent to the subject property. The neighboring property owner has agreed to support McDonald's' Petitions for Variance, provided that three conditions are included in the instant Order. See Attorney Alderman's letter received as Petitioner's Exhibit 7. These conditions relate to the installation of a fence between 502 Reisterstown Road and 404 Reisterstown Road, the erection of appropriate signage on the property at 404 Reisterstown Road regarding parking violations, and the establishment by

ORDER PREPARED FOR FILING
DATE 2-5-08
BY [signature]

McDonald's of procedures for resolving any complaints about parking violations arising from 404 Reisterstown Road. McDonald's consents to these conditions and they will therefore be incorporated herein.

In furtherance of the first condition, McDonald's has submitted a redlined version of the Plat to Accompany Zoning Petition showing the requested fence and shrubbery as Petitioner's Exhibit 6. This modified redlined plat also shows the addition of a 9-foot by 20-foot loading area in the rear of the property which, as a practical matter, will not be used. Mr. Houck testified that loading would occur on the side of the restaurant late at night or very early in the morning, so as not to interfere with the normal operation of the restaurant. Similarly, the modified plan also shows a new dumpster, which will replace the existing dumpster at the rear of the site. The dumpster will be unloaded during non-peak hours so as not to interfere with the normal operation of the restaurant. Two parking spaces are shown adjacent to the dumpster area and are counted toward the total parking provided. These two spaces may be designated as employee parking spaces and could be vacated immediately in the rare event that the dumpster must be unloaded during normal operating hours.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 5th day of February, 2008, that the Petition for Special Hearing to verify that the approval granted in Special Hearing Zoning Case No. 66-193-SPH is still valid, be and is hereby verified and confirmed; and

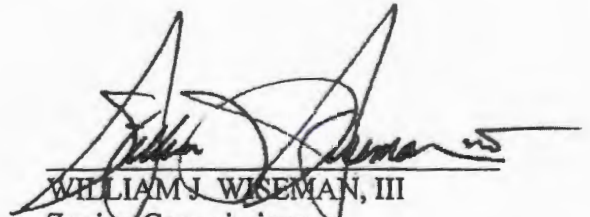
IT IS FURTHER ORDERED that the Petitions for Variance from Section 409.6.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 35 off-street parking spaces in lieu of the required 62 spaces; from B.C.Z.R. Section 303.2 to permit a front yard (depth)

ORDER RECORDED FOR PLANS
Date 2-1-08
18

setback of 32 feet in lieu of the required 43 feet; from B.C.Z.R. Section 450.4.5.A to permit five (5) enterprise signs on building facades in lieu of the permitted three (3) signs; from B.C.Z.R. Section 450.4.3 to permit a "canopy" style directional sign in lieu of the permitted wall-mounted or free-standing sign; and from B.C.Z.R. Section 450.5.B.3.6 to permit the erection of a sign above the face of the canopy in lieu of its erection on the face of the canopy, in accordance with Petitioner's Exhibits 4, 5, and 6, be and are hereby GRANTED, subject to the following conditions:

1. An attractive 48-inch tall, black or dark bronze ornamental iron fence with through-the-top-rail flat-top pickets, is to be erected and maintained by current and future owners of the McDonald's store or property. This fence is to be erected on the grassy strip that separates the entire length of the properties located at 404 and 502 Reisterstown Road. This fence is to be supplemented with shrubbery that is no more than 30 inches tall, spanning both sides of the entire length of the fence but taking into consideration existing trees. The style of the fence and the selection of the shrubbery are to be approved by the owners of 404 Reisterstown Road and the Baltimore County Landscape Architect.
2. McDonald's shall provide adequate and appropriate signage on 404 Reisterstown Road in the immediate vicinity of the common property line between the properties, informing parking violators of their infringement on private property and the potential towing, storage, and removal expenses to be borne by the violator. All such signs shall conform to applicable provisions of Baltimore County law and regulation. McDonald's shall, on an as-needed basis, replace signs on the 404 Reisterstown Road property in the event that they become unreadable.
3. McDonald's shall establish and provide McDonald's employees with clearly written procedures on how to handle and resolve any and all parking violation complaints from the 404 Reisterstown Road property.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code.


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 2-5-08
By [signature]

IN RE: PETITION FOR VARIANCE
(12012 Reisterstown Road)
4th Election District
3rd Councilmanic District
Lee May, Area Construction Mgr.
McDonald's Corporation
Petitioner

*
*
*
*
*

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
Case No. 2013-0189-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Variance filed by Stanley S. Fine, Esquire, on behalf of McDonald's Corporation, legal owner. The Variance was filed pursuant to Baltimore County Zoning Regulations ("B.C.Z.R") as follows:

Parking Regulations:

1.1 To permit 29 parking spaces in lieu of the required 66 parking spaces.

Signage Regulations:

2.1 To permit 5 wall-mounted enterprise signs on the building facades in lieu of the permitted 3 signs (Signs #4 and #5 on Plat to Accompany Zoning Petition).

2.2 To permit a directional sign of 10.67 ft. in height in lieu of the permitted 6 ft. (Sign #1 on Plat to Accompany Zoning Petition).

2.3 To permit two directional signs of 9.71 ft. in height in lieu of the permitted 6 ft. (Sign #2 on Plat to Accompany Zoning Petition).

2.4 To permit two canopy-type directional signs in lieu of the permitted wall-mounted or freestanding signs (Sign #3 on Plat to Accompany Zoning Petition).

2.5 To permit erection of the two signs above the face of the canopy in lieu of on the face of the canopy (Sign #3 on Plat to Accompany Zoning Petition).

2.6 To permit a free-standing enterprise sign having a face of 93 sq. ft. in lieu of the permitted 75 sq. ft. (Sign #6 on the Plat to Accompany Zoning Petition).

2.7 To permit two free-standing order boards of 6.75 ft. in height in lieu of the permitted 6 ft. (Sign #7 on Plat to Accompany Zoning Petition).

2.8 To permit two projecting directional signs in lieu of the permitted wall-mounted or free-standing sign (Sign #8 on Plat to Accompany Variance Petition).

Appearing at the public hearing in support of the requests was Lee May, Construction Manager and Iwona Zarski, the engineer who prepared the plans. Caroline Hecker, Esquire, appeared as counsel and represented the Petitioner. The file reveals that the Petition was properly posted and advertised as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance, and the file does not contain any letters of protest or opposition.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

The subject property is 29,400 square feet and is zoned BL. The Petitioner has operated a McDonald's restaurant on site for over 42 years. Petitioner proposes to demolish the existing restaurant and rebuild a new (more modern and energy efficient) restaurant in the same location. In connection with the project, the Petitioner requests variance relief to install a signage package consistent with the other McDonald's restaurants in Baltimore County, and also seeks a reduction in the number of parking spaces. Though 64 spaces are required under B.C.Z.R. §409, Mr. May testified (via proffer) that the restaurant has operated since 1990 with only 34 parking spaces. Both Mr. May and Ms. Zarski opined that the requested reduction (to 29 spaces) would not be detrimental in any way to the surrounding community. In addition, Petitioner submitted a parking survey conducted by Traffic Concepts, Inc., which concluded that the site would provide sufficient parking supply even with the requested reduction. Exhibit 7.

Based on the evidence presented, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R., as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995). The property is small and has a substantial grade change, sloping downward towards the rear of the site. Thus, it is unique for zoning purposes. The Petitioner would experience a practical difficulty if relief were denied, given it would be unable to construct the planned improvements, and would have difficulty identifying the new restaurant to passing motorists, especially considering the trees lining the roadway as one approaches the restaurant.

Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated not only by Ms. Zarski's proffered testimony, but also by the lack of community and county opposition. In addition, Ms. Hecker indicated she had spoken to members of the Reisterstown-Owings Mills-Glyndon Coordinating Council (ROG), which eagerly awaits the new facility.

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

THEREFORE, IT IS ORDERED this 5th day of April, 2013, by the Administrative Law Judge that the Petition for Variance filed pursuant to B.C.Z.R. as follows:

Parking Regulations:

1.1 To permit 29 parking spaces in lieu of the required 66 parking spaces.

Signage Regulation:

2.1 To permit 5 wall-mounted enterprise signs on the building facades in lieu of the permitted 3 signs (Signs #4 and #5 on Plat to Accompany Zoning Petition).

2.2 To permit a directional sign of 10.67 ft. in height in lieu of the permitted 6 ft. (Sign #1 on Plat to Accompany Zoning Petition).

2.3 To permit two directional signs of 9.71 ft. in height in lieu of the permitted 6 ft. (Sign #2 on Plat to Accompany Zoning Petition).

2.4 To permit two canopy-type directional signs in lieu of the permitted wall-mounted or freestanding signs (Sign #3 on Plat to Accompany Zoning Petition).

2.5 To permit erection of the two signs above the face of the canopy in lieu of on the face of the canopy (Sign #3 on Plat to Accompany Zoning Petition).

2.6 To permit a free-standing enterprise sign having a face of 93 sq. ft. in lieu of the permitted 75 sq. ft. (Sign #6 on the Plat to Accompany Zoning Petition).

2.7 To permit two free-standing order boards of 6.75 ft. in height in lieu of the permitted 6 ft. (Sign #7 on Plat to Accompany Zoning Petition).

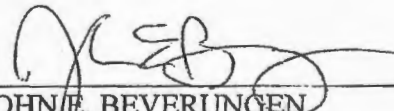
2.8 To permit two projecting directional signs in lieu of the permitted wall-mounted or free-standing sign (Sign #8 on Plat to Accompany Variance Petition,

be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for its 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

TRAFFIC CONCEPTS, INC.

Traffic Impact Studies • Feasibility • Traffic Signal Design • Traffic Counts • Expert Testimony

February 11, 2014

Mr. Valek Zarski
BLDG
BALTIMORE LAND DESIGN GROUP, INC.
230 Schilling Circle, Suite 364
Hunt Valley, Maryland 21031

Re: McDonald's Restaurant – 10021 Reisterstown Road
Parking Lot Occupancy Study
T/C 3015

Dear Mr. Zarski:

Traffic Concepts, Inc. has conducted a parking occupancy study for the purpose of understanding the peak hour parking demand for the proposed 10021 Reisterstown Road McDonald's restaurant. In this case, parking demand means the number of spaces that should be provided at a site to attain an effective parking supply during peak periods. The methodology used to determine the future McDonald's Restaurant peak hour parking demand is to provide the number of observed parked vehicles at a nearby McDonald's restaurant before and after the site was improved. We also examined other McDonald restaurant locations and their parking demand for comparative analysis purposes. This information was used to quantitatively describe future parking demand.

McDonald's Restaurant @ 12012 Reisterstown Road – Parking Accumulation Analysis

Traffic Concepts, Inc. conducted a peak hour parking survey of occupied parking spaces at the McDonald's store located at 12012 Reisterstown Road during peak periods. This survey was conducted in November of 2012 before any modifications were made to the McDonald's restaurant in terms of drive-thru lanes or to the building itself. This parking study was again conducted at the same site in January 2014 after the restaurant renovations and drive-thru aisle improvements were made.

To complete the parking survey, we first identified the McDonald's peak operating hours. The peak periods were determined with field observations and with data contained in the Institute of Transportation Engineers; Parking Generation, 3rd Edition. We then identified the existing on-site parking supply, which originally included 34 parking spaces including two handicap spaces. The original survey dates and the peak hours of operation are described below:

- Wednesday 11/15/12 (11 AM – 2 PM)
- Friday 11/9/12 (11 AM – 2 PM)
- Saturday 11/10/12 (7 AM – 1 PM)



The peak hour parking demand was determined by counting the number of occupied spaces in fifteen minute time intervals during the peak periods. With the existing 34 parking spaces, the weekday and Saturday peak parking occupancy did not exceed 74 percent. Based on our survey finding, we concluded the existing parking supply was adequate to serve the site during the peak periods of a typical weekday and Saturday. Table 1 below shows the parking occupancy rate and parking count for each peak fifteen minute time period.

Table 1
Existing Peak Period Parking Demand with 34 spaces

DATE	Peak 15 Minute Time Period	Peak Period Occupancy Rate	Actual Count Vehicles/spaces
Wed. 11/15/12	12:15-12:30	55.9%	19/34
Friday 11/9/12	1:30-1:45	58.8%	20/34
Saturday 11/10/12	10:00-10:15	73.5%	25/34

Using the vehicle count shown in Table 1 and with 29 spaces as provided with the renovation plan, we determined that the peak parking occupancy would not exceed 86 percent during any of the study periods. Generally, 90 percent is considered adequate. Therefore, we concluded that the new redevelopment plan with 29 parking spaces would adequately serve the site with 86 percent occupancy during the weekday and Saturday peak periods.

Actual Count after Redevelopment

The 12012 Reisterstown Road McDonald's store location was recounted during the following time periods:

- Thursday 1/23/14 (11 AM – 2 PM)
- Friday 1/24/14 (11 AM – 2 PM)
- Saturday 1/25/14 (7 AM – 1 PM)

The table on the following page shows the actual peak hour parking count with 29 parking spaces.

Table 2
Existing Peak Period Parking Demand with 29 spaces

DATE	Peak 15 Minute Time Period	Peak Period Occupancy Rate	Actual Count Vehicles/spaces
Thur. 1/23/14	12:45-1:00	72.4%	21/29
Friday 1/24/14	12:45-1:00	75.9%	22/29
Saturday 1/25/14	9:30-9:45	86.2%	25/29

The actual counts confirm that the McDonald's site with 29 parking spaces do not exceed a parking space occupancy rate of 86 percent. Generally, the parking supply is considered full when 90 percent of the spaces are occupied. We conclude that the parking reduction, which created 29 on-site spaces, provides an effective parking supply.

McDonald's Restaurant Comparative Parking Demand Analysis

Traffic Concepts, Inc. has also conducted other McDonald's parking lot surveys to identify on-site parking demand during the weekday peak periods. Therefore, this study examined the average peak period parking demand vs. 1,000 sq. ft. gross floor area on a weekday. These studies were conducted in Maryland from the years 2010 through 2013. Each study was conducted before the McDonald's renovations and dual drive-thru lanes were constructed. Table 3 below describes the restaurant location, the number of parked vehicles, and the restaurant size.

Table 3
Parking Statistics

McDonald's Restaurant Location	Parked Vehicles (Weekday Peak Hour)	Store Size (Sq. Feet)
501 Frederick RD, Catonsville	20 vehicles - Wed, 12:30-12:45	3,246
12012 Reisterstown RD, Reisterstown	20 vehicles - Fri, 1:30-1:45	3,413
6385 Dobbin RD, Columbia	28 vehicles - Wed. 12:15-12:30	4,370
3382 Laurel Fort Meade Rd, Laurel	28 vehicles - Thurs. 12:45- 1:00	3,600
7927 Belair RD, Rossville	25 vehicles - Thurs. 1:00-1:15	3,369
520 Baltimore BLVD, Westminister	30 vehicles - Friday 12:45 -1:00	4,370
8227 Liberty Road	20 vehicles - Wed. 12:00 -12:45	3,387

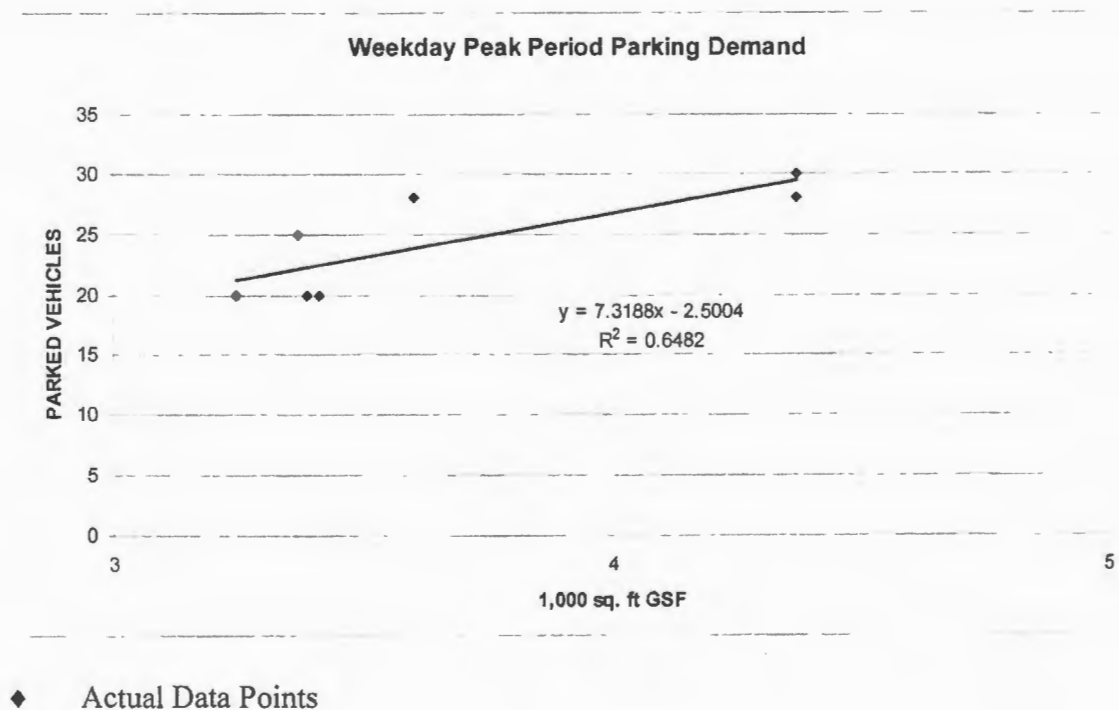
The table 4 describes the study statistics used in this analysis.

Table 4
Parking Statistics

Statistics	Peak Period Demand
Peak Period	12:00 PM – 1:45 PM
Number of studies	7
Average Size of Study Sites	3,679 sq. ft GFA
Coefficient of Determination	65%

The proposed 10021 Reisterstown Road McDonald's restaurant will be 4,393 gsf in size. The data points shown on the chart below represents each of the seven study restaurants peak period parking accumulation and restaurant size. With this data a linear regression equation was created to describe parking demand for the new 4,393 gsf McDonald's restaurant.

Using the proposed McDonald's restaurant building size of 4,393, the expected number of parked vehicles during the weekday 15-minute peak time period is 30 vehicles. The number of parking spaces proposed is 35. Therefore, during the weekday parking period, the parking space occupancy rate is 86 percent.



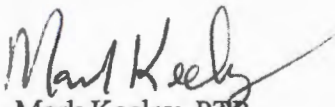
Mr. Valek Zarski
February 11, 2014
Page 5 of 5

The comparative analysis using the equation provides additional information on the expected peak period parking demand. Our study of the existing McDonald's restaurant on Reisterstown Road provides actual counts that describe the expected peak period parking accumulation at the new Reisterstown location.

Based on our 12012 Reisterstown Road McDonald's parking study and with our other parking occupancy data, we conclude that the proposed 35 parking spaces will adequately handle the future peak period parking demand at the new 10021 Reisterstown Road McDonald's Restaurant location.

Please do not hesitate to contact me if you have any questions about this study.

Sincerely,


Mark Keeley, PTP
Traffic Concepts, Inc.

Enclosures: Parking Lot Occupancy Count Sheets

PARKING LOT OCCUPANCY COUNT

PARKING LOT: McD'S - 12012 Reisterstown RD

COUNTY: Baltimore Co

COUNT BY: M. Keeley

DATE: 11/9/2012

WEATHER: CLEAR

DAY: FRIDAY

TIME	Number of Parked Vehicles	Percentage of Occupied Parking Spaces (34 Total Spaces)
11:00-11:15	15	44.1%
11:15-11:30	17	50.0%
11:30-11:45	18	52.9%
11:45-12:00	15	44.1%
12:00-12:15	14	41.2%
12:15-12:30	17	50.0%
12:30-12:45	18	52.9%
12:45-1:00	14	41.2%
1:00-1:15	13	38.2%
1:15-1:30	17	50.0%
1:30-1:45	20	58.8%
1:45-2:00	19	55.9%

TRAFFIC CONCEPTS, INC.
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M:/2820

PARKING LOT OCCUPANCY COUNT

PARKING LOT: McD'S - 12012 Reisterstown Rd

COUNTY: Baltimore Co

COUNT BY: M. Rosen

DATE: 11/10/2012

WEATHER: CLEAR

DAY: Saturday

TIME	Occupied Spaces	Percentage of Occupied Parking Spaces (34 Total Spaces)
7:00-7:15	16	47.1%
7:15-7:30	18	52.9%
7:30-7:45	18	52.9%
7:45-8:00	24	70.6%
8:00-8:15	23	67.6%
8:15-8:30	19	55.9%
8:30-8:45	18	52.9%
8:45-9:00	18	52.9%
9:00-9:15	22	64.7%
9:15-9:30	23	67.6%
9:30-9:45	23	67.6%
9:45-10:00	22	64.7%
10:00-10:15	25	73.5%
10:15-10:30	20	58.8%
10:30-10:45	25	73.5%
10:45-11:00	14	41.2%
11:00-11:15	13	38.2%
11:15-11:30	10	29.4%
11:30-11:45	11	32.4%
11:45-12:00	12	35.3%
12:00-12:15	20	58.8%
12:15-12:30	16	47.1%
12:30-12:45	13	38.2%
12:45-1:00	15	44.1%

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2820

PARKING LOT OCCUPANCY COUNT

PARKING LOT: McD'S - 12012 Reisterstown RD

COUNTY: Baltimore Co

COUNT BY: M Keeley

DATE: 11/14/2012

WEATHER: CLEAR

DAY: Wednesday

TIME	Number of Parked Vehicles	Percentage of Occupied Parking Spaces (34 Total Spaces)
11:00-11:15	8	23.5%
11:15-11:30	11	32.4%
11:30-11:45	9	26.5%
11:45-12:00	15	44.1%
12:00-12:15	16	47.1%
12:15-12:30	19	55.9%
12:30-12:45	18	52.9%
12:45-1:00	16	47.1%
1:00-1:15	12	35.3%
1:15-1:30	13	38.2%
1:30-1:45	15	44.1%
1:45-2:00	11	32.4%

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M:/2820

PARKING LOT OCCUPANCY COUNT

PARKING LOT: McD'S - 12012 Reisterstown RD

COUNTY: Baltimore Co

COUNT BY: Sandee

DATE: 1/23/2014

WEATHER: CLEAR

DAY: Thursday

TIME	Number of Parked Vehicles	Percentage of Occupied Parking Spaces (29 Total Spaces)
11:00-11:15	10	34.5%
11:15-11:30	13	44.8%
11:30-11:45	11	37.9%
11:45-12:00	14	48.3%
12:00-12:15	15	51.7%
12:15-12:30	20	69.0%
12:30-12:45	17	58.6%
12:45-1:00	21	72.4%
1:00-1:15	17	58.6%
1:15-1:30	16	55.2%
1:30-1:45	12	41.4%
1:45-2:00	11	37.9%

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3013

PARKING LOT OCCUPANCY COUNT

PARKING LOT: McD'S - 12012 Reisterstown RD

COUNTY: Baltimore Co

COUNT BY: M. Keeley

DATE: 1/24/2014

WEATHER: CLEAR

DAY: FRIDAY

TIME	Number of Parked Vehicles	Percentage of Occupied Parking Spaces (29 Total Spaces)
11:00-11:15	11	37.9%
11:15-11:30	12	41.4%
11:30-11:45	16	55.2%
11:45-12:00	16	55.2%
12:00-12:15	14	48.3%
12:15-12:30	18	62.1%
12:30-12:45	18	62.1%
12:45-1:00	22	75.9%
1:00-1:15	20	69.0%
1:15-1:30	14	48.3%
1:30-1:45	12	41.4%
1:45-2:00	12	41.4%

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3015

PARKING LOT OCCUPANCY COUNT

PARKING LOT: McD'S - 12012 Reisterstown Rd

COUNTY: Baltimore Co

COUNT BY: J. Robertsson

DATE: 1/25/2014

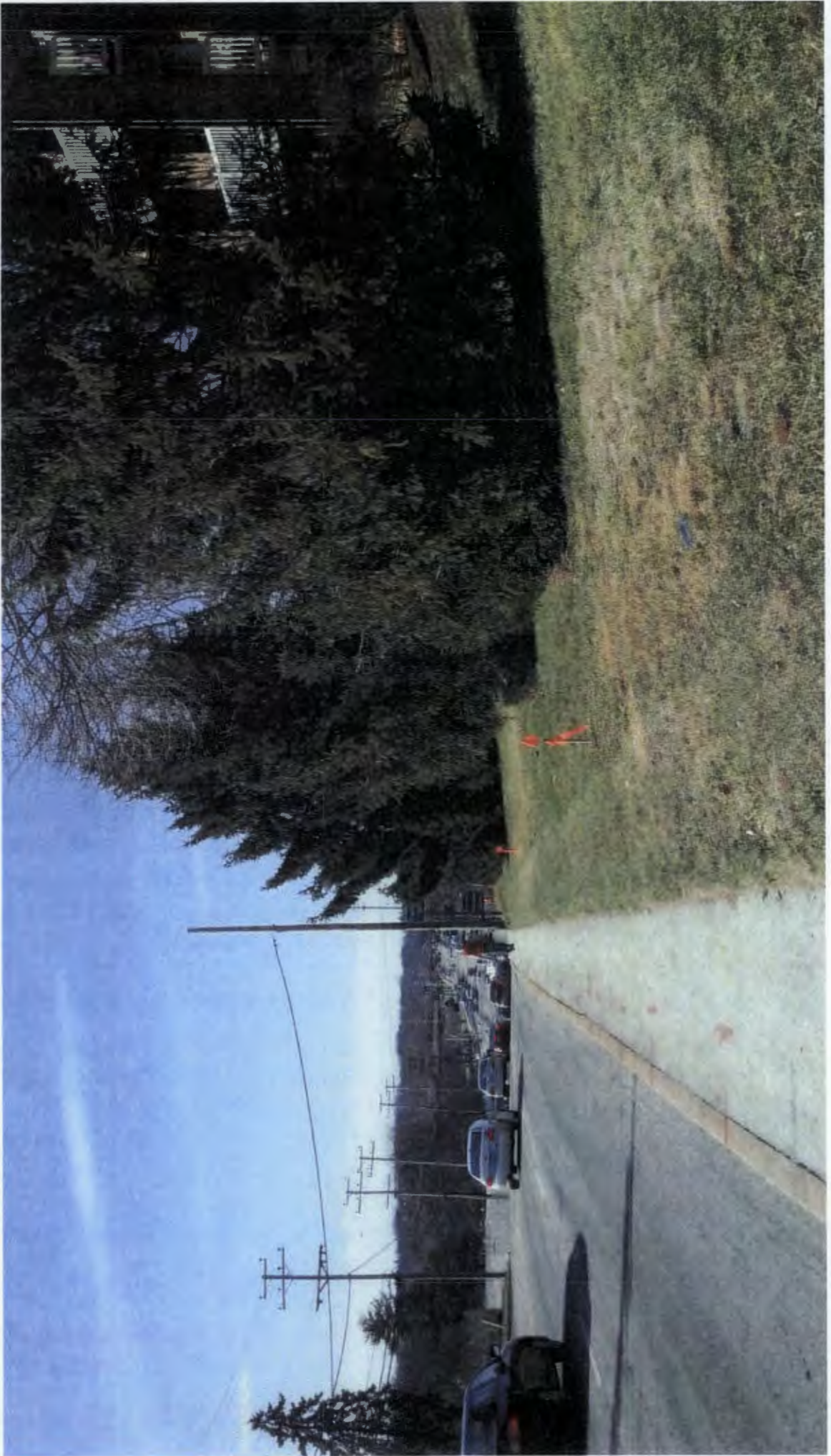
WEATHER: CLEAR

DAY: Saturday

TIME	Occupied Spaces	Percentage of Occupied Parking Spaces (29 Total Spaces)
7:00-7:15	5	17.2%
7:15-7:30	5	17.2%
7:30-7:45	8	27.6%
7:45-8:00	7	24.1%
8:00-8:15	11	37.9%
8:15-8:30	15	51.7%
8:30-8:45	20	69.0%
8:45-9:00	17	58.6%
9:00-9:15	22	75.9%
9:15-9:30	20	69.0%
9:30-9:45	25	86.2%
9:45-10:00	23	79.3%
10:00-10:15	24	82.8%
10:15-10:30	19	65.5%
10:30-10:45	13	44.8%
10:45-11:00	12	41.4%
11:00-11:15	12	41.4%
11:15-11:30	18	62.1%
11:30-11:45	16	55.2%
11:45-12:00	16	55.2%
12:00-12:15	17	58.6%
12:15-12:30	14	48.3%
12:30-12:45	13	44.8%
12:45-1:00	14	48.3%

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3015





BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: April 1, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 10021 Reisterstown Road

INFORMATION:

Item Number: 14-141
Petitioner: Lee May
Zoning: BL
Requested Action: Special Variance, Special Hearing

The petitioner is seeking variance relief to permit 35 parking spaces in lieu of the required 71 parking spaces, to permit a 6 ft distance to street line (R/W) from parking spaces for non- residential use in lieu of the required 10 ft , relief for certain sign variances and a special hearing to permit the use of land in a residential zone as parking serving a business use.

SUMMARY OF RECOMMENDATIONS:

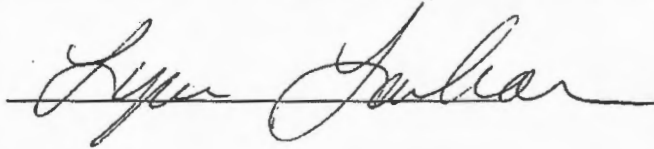
The Department of Planning has reviewed the petitioner's request and accompanying site plan, sign package, architectural elevations and renderings and does not object to the relief requested. The site is currently improved with a vacant Krispy Kreme with drive-through, associated parking and drive aisles. The proposed McDonald's is configured in a similar fashion as the existing with existing access from Reisterstown Road at the same location and the access drive from St Thomas Lane moved to the north approximately 65 feet. Internally the circulation is proposed as a one-way pattern. The double drive-through configuration moves traffic efficiently reducing the demand for on-site parking. The request for setback relief along Reisterstown Road is due to highway widening. However, there is room for the required landscaping along the frontage with a setback of over 10 feet from the edge of paving to the sidewalk. The relief requested for signs is consistent with the more recent McDonald's prototype and should not have a negative effect on the commercial corridor or adjacent uses.

The special hearing relief involves a small portion of parking extending into the RO zone, the limits of which are unchanged from the existing conditions. Essentially, since the proposal does not modify the parking where it is in the RO zone, the impact on the character of the community would be unchanged.

A request for a limited exemption was granted by the DRC (DRC # 082713A) under Section 32-4-106 (b) (8) on September 13, 2013 contingent on hearing for zoning relief. The Department of Planning reviewed that request as well and supported the limited exemption.

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

Division Chief:
AVA/LL

A handwritten signature in cursive script, appearing to read "Lynn Sullivan", written over a horizontal line.

**BALTIMORE COUNTY, MARYLAND
BUREAU OF TRAFFIC ENGINEERING AND TRANSPORTATION PLANNING
INTER-OFFICE CORRESPONDENCE**

DATE: January 10, 2014

TO: Ed Adams, Jr., Director
Department of Public Works

FROM: W. William Korpman, III, Chief 
Bureau of Traffic Engineering and Transportation Planning

SUBJECT: 2014 Basic Services Maps – Transportation: Final Report

Our bureau has restudied all of the intersections currently on the Basic Services Map for 2013 as well as continued the update of all other signalized intersections. Based on these studies over the past year, we are recommending the following changes to the Transportation Map for 2014:

ADDITIONS:

None

LEVEL-OF-SERVICE

--

DELETIONS:

None

--

CHANGES:

Baltimore National Pike(US 40)/N. Rolling Rd	D to F
York Rd(MD 45)/Burke Ave	E to F
Perring Pkwy(MD 41)/Putty Hill Ave	D to F
Pulaski Hwy(US 40)/66 th Street	D to F
Perring Pkwy(MD 41)/E. Joppa Rd	D to E

With the changes above, there are eight "F" level intersections and one "E" level intersections that are being proposed on the 2014 Basic Services Transportation Map that would control development. These intersections are:

Loch Raven Blvd (MD 542) and E. Joppa Rd	LOS = F
Falls Rd (MD 25) and W. Seminary Ave (MD 131)	LOS = F
Falls Rd (MD 25) and W. Joppa Rd	LOS = F
Frederick Rd (MD 144) and Bloomsbury Ave-Ingleside Ave	LOS = F
Baltimore National Pike(US 40)/N. Rolling Rd	LOS = F
York Rd(MD 45)/Burke Ave	LOS = F
Perring Pkwy(MD 41)/Putty Hill Ave	LOS = F
Pulaski Hwy(US 40)/66 th Street	LOS = F
Perring Pkwy(MD 41)/Joppa Rd	LOS = E

Numerous attempts were made by MdSHA to retime the traffic signals in the spring and fall of this year at the intersections noted above that were changed to E or F level intersections. Following these timing changes, field observations were conducted but these intersections remained at the E/F levels. We expect that as the economy improved the traffic volumes began to pick up again resulting in the drop in level-of-service. Note: the intersection of York Rd(Md 45)/Burke Ave was changed from an F to E on the 2013 maps however observations this year found it reverting back to the LOS F rating. The LOS F rating carries the same restrictions on development as the previous LOS E rating.

Commuter sheds for the "Changed" intersections noted above have been updated and will be shown on the 2014 Basic Services Map.

Enclosed is a list of the current D, E, and F intersections for your use. Should you have any questions in regard to the Basic Services Transportation Map for 2014, please contact Greg Carski or Steve Weber at ext. 3554.

WWK/GWC/gwc

Enclosure

cc: Dave Thomas
Steve Weber
Ben Myrick- OOTS
Erin Kuhn, Dist. 4 Traffic

D, E, F List1

12/17/2013

Sig#	Prev Date	Prev LOS	Curr Date	Curr LOS	Time	1st Rd Name	2nd Rd Name	3rd Rd Name	4th Rd Name
S 13	9/25/12	D	9/09/13	F		Baltimore Nat'l Pik	Rolling Rd N		
C 423	9/20/12	D	4/17/13	D		Beaver Dam Rd	Cuba Rd	Shawan Rd	
S 22	3/13/12	D	5/14/13	D		Belair Rd	Ebenezer Rd	Joppa Rd	
S 27	3/20/12	D	5/07/13	D		Belair Rd	Fullerton Ave	Taylor Ave	
S 39	9/15/08	D	9/25/13	D		Bellona Ave	Charles St	Kenilworth Dr	
C 31	4/24/12	F	9/16/13	F		Bloomsbury Ave	Frederick Rd	Ingleside Ave	
C 223	2/25/13	D	10/21/13	D		Brenbrook Dr	Liberty Rd		
C 87	5/09/12	E	9/12/13	F		Burke Ave	Burke Ave W	York Rd	
C 002	9/12/12	D	9/10/13	D		Dulaney Valley Rd	Fairmount Ave		
C 379	5/03/12	D	9/03/13	D		Dulaney Valley Rd	Timonium Rd E		
S 72	4/18/12	D	4/16/13	D		Eastern Ave	Rolling Mill Rd	Eastpoint Mall	
S 74	3/21/12	D	5/22/13	D		Eastern Blvd	Stemmers Run Rd		
S 76	5/01/12	D	4/24/13	D	P	Ebenezer Rd	Pulaski Hwy		
C 376	4/19/12	D	9/18/13	D		Falls Rd	Greenspring Valley Rd	Station Dr	
C 174	5/24/12	F	9/18/13	F		Falls Rd	Seminary Ave W		
C 237	5/15/12	D	9/24/13	D		Falls Rd	Shawan Rd	Tuften Ave	
C 129	5/22/12	F	9/18/13	F		Falls Rd (S/B)	Falls Rd (E/B)	Jones Falls Expwy	Joppa Rd W
C 169	5/10/12	D	4/15/13	D		Frederick Rd	Rolling Rd S		
C 95	6/04/12	D	5/15/13	D		Goucher Blvd	Putty Hill Ave		
C 232	4/25/12	D	4/30/13	D		Harford Rd	Joppa Rd E		
C 32	3/04/12	D	5/01/13	D		Harford Rd	Taylor Ave		
C 591	4/26/12	D	4/09/13	D		Hillen Rd	Stevenson Ln		
S 90	3/24/10	D	4/27/11	D		Honeygo Blvd	White Marsh Blvd		
C 163	9/06/12	D	5/16/13	D		Jarrettsville Pike	Paper Mill Rd	Sweet Air Rd	
C 57	4/12/13	F	10/03/13	F		Joppa Rd E	Loch Raven Blvd		
C 90	3/28/11	D	9/04/13	E		Joppa Rd E	Perring Pkwy		
C 98	3/28/12	D	4/22/13	D		Liberty Rd	Washington Ave		
S 101	5/15/12	D	5/06/13	D	P	Middle River Rd	Pulaski Hwy		
C 112	4/10/12	D	5/08/13	D		Padonia Rd E/W	York Rd		
S 121	10/04/12	D	10/02/13	F		Perring Pkwy	Putty Hill Ave		
S 125	9/20/11	D	5/23/13	F	P	Pulaski Hwy	66th St		
C 220	9/17/12	D	4/08/13	D		Rolling Rd	Windsor Mill Rd		
C 232	2/26/13	D	8/26/13	D		Rolling Rd N	Security Blvd		

D, E, F List1

12/17/2013

Sig#	Prev Date	Prev LOS	Curr Date	Curr LOS	Time	1st Rd Name	2nd Rd Name	3rd Rd Name	4th Rd Name
C 54	3/27/12	D	9/17/13	D		Seminary Ave E/W	York Rd		
C 53	12/06/12	D	10/01/13	D		Timonium Rd E/W	York Rd		

TRAFFIC CONCEPTS, INC.

Traffic Impact Studies • Feasibility • Traffic Signal Design • Traffic Counts • Expert Testimony

MEMORANDUM

TO: Development Team
FROM: Ken Schmid *K*
DATE: May 27, 2014
RE: Travel Time Study/Delay Study - McDonald's Restaurant 10021
Reisterstown Road

Traffic Concepts, Inc. conducted a distance and travel time study for the proposed McDonald's store located at 10021 Reisterstown Road. The study measures the distance and travel time from the proposed McDonald's site to a point south of the site, which is located at the MD 140 (Reisterstown Road) and MD 130 (Greenspring Valley Road) intersection.

The purpose of this study is to determine a logical travel pattern for new site generated vehicle trips leaving the proposed McDonald's site and returning in the MD 140 southbound direction. The travel pattern is the site directional distribution that is defined as the percentage of the new site generated vehicle trips on the approach roads to and from the site. Other trip types generated by the site are pass-by trips. A fast food use with a drive-thru lane according to the Institute of Transportation Engineers Manual has a pass-by rate of 50 percent. This means that half of the proposed McDonald's vehicle trips are comprised of trips already traveling on the adjacent roads (MD 140 and St Thomas Lane) that enter the site and continue in the same direction of travel after exiting from the site. Therefore these trips impact only the site access points and not the adjacent roads or nearby off-site intersections.

The study includes four travel runs on two different days and time periods. The first study was conducted on Thursday, May 15, 2014 during the noontime peak time period. The second study was conducted on Friday, May 16, 2014 during the evening peak hour. The travel routes tested measure three separate southbound travel routes from the site to the MD 140 @ MD 130 intersection. A fourth route is provided for reference purposes and is the distance from the MD 140 @ MD 130 intersection in the northbound direction to the proposed site.

Study Routes

- 1) Route #1 is the most direct route and measures the distance and time for vehicles turning left from St Thomas Lane onto southbound MD 140 and ends at the MD 130 intersection. This route is 1.06 miles in length and the average travel time (both time periods) is 3 minutes and 18 seconds.
- 2) Route #2 is the distance/time traveling from St Thomas Lane turning right onto MD 140 and u-turning at the Painters Mill Road intersection to travel southbound along MD 140 to the MD 130 intersection. The route length is 1.32 miles and the average time (both time periods) is 4 minutes and 31 seconds.
- 3) Route #3 measures the distance and time traveling from the proposed site access on St Thomas Lane to Garrison Forest Road to MD 130. This route is 2.48 miles in length and has an average travel time of 5 minutes and 42 seconds.

Findings

Route #1 is identified as a left turn from St Thomas Lane onto MD 140 southbound to MD 130. This route is the shortest path in terms of distance and time and would be the most familiar route for the McDonald's new site generated trips traveling to the site from the MD 140 northbound direction and returning in the MD 140 southbound direction. The average travel time measured in both study time periods with a left turn from St Thomas Lane to the MD 140 @ MD 130 intersection is 3 minutes and 18 seconds. This route is the route most likely taken by McDonald's customers. However, future improvements along the MD 140 corridor from Painters Mill Road to Garrison View Road will restrict left turn movements from St Thomas Lane. Therefore, other MD 140 southbound travel routes are necessary.

Route #2 also measures distance and time traveled for outbound McDonald's trips traveling to MD 140 in the southbound direction. These trips will make a right turn from St Thomas Lane onto MD 140 and u-turn at the nearest intersection that is the Painters Mill Road intersection. This intersection will be improved jointly by SHA and a private developer. Phase I of this project will be constructed by SHA and will include the construction of a raised median along MD 140 extending from Painters Mill Road past the proposed McDonald's site to Garrison View Road. Median breaks will be provided at all signalized intersections. Additionally, a double left turn lane will be constructed on MD 140 northbound onto Painters Mill Road. Currently, u-turn movements are allowed at the MD 140 @ Painters Mill Road intersection. According to SHA officials, this movement will continue to be allowed after the MD 140 @ Painters Mill Road intersection improvements are completed. This route of travel is 1.32 miles in length with an average travel time of 4 minutes and 31 seconds.

Once the MD 140 @ Painters Mill Road intersection improvements are completed, this route becomes the most viable route for McDonald's customers to travel from the site to MD 140 in the southbound direction.

The third route is the longest route in terms of distance and time. The distance is 1.44 miles longer than route #1 and 1.18 miles longer than route #2. This route requires that the new site generated McDonald's trips exit the McDonald's site and turn right onto St Thomas Lane and travel .80 miles to Garrison Forest Road, then turn right onto Garrison Forest Road and travel 1.39 miles to its termination at MD 130, then turn right onto MD 130 and travel .31 miles to MD 140 where a left turn is required. This route requires that motorists have knowledge of the area's secondary road network surrounding the MD 140 corridor. Garrison Forest Road route is a two-lane roadway with no shoulders that provides access to residential areas, institutional uses, and a golf course. The road has a posted speed of 30 mph and has two stop signs and two speed humps for golf cart/pedestrian crossing.

Conclusions

The general method to determine new trip distribution has three main components. First is the area of influence. Second, it is assumed that the chosen route to the development will be the most direct route in terms of distance and time. Third, it is assumed that the new site generated trips have a termination point of a place of employment or residence.

The area of influence for the proposed McDonald's is the MD 140 corridor and nearby intersecting roads. Typically, fast food uses are located along high volume travel routes to capture pass-by trips. In this case, the site's pass-by trips will be captured from MD 140 and therefore, as previously stated, would not impact the surrounding intersections or road network. The majority of new trips to the site will originate from commercial, office, and residential land uses also along the MD 140 corridor. These trips originating from MD 140 will continue to use MD 140 as a return route to their termination points. The MD 140 route is the most direct route with the least travel time.

In our opinion, there is no unusual traffic circumstance that would cause a deviation from the typical methodology used to determine the site generated trip distribution pattern for this McDonald's store. Site generated trips from MD 140 northbound, would return using MD 140 in the southbound direction even when u-turn movements are necessary. We assert that any trips generated from Garrison Forest Road would be trips originating from Garrison Forest Road and would return in that same direction. This would represent a very low percentage of the McDonald's site generated new trips.

We also note that the current 2013 Basic Services Map Transportation Zones and the unsigned draft of the 2014 Basic Services Map published by Baltimore County Department of Public Works show that the future McDonald's site is located within the urban rural demarcation line but not in a zone identified as having a level of service "D", "E", or "F". In fact there are no individual intersections near the site that are identified as having a level of service "D", "E" or "F".

TRAFFIC CONCEPTS, INC.

Traffic Impact Studies • Feasibility • Traffic Signal Design • Traffic Counts • Expert Testimony

May 22, 2014

MD 140 Distance/Time Study

Study Section: MD 140 @ St Thomas Lane to MD 140 @ MD 130

Study Route #1: Start: Left turn movement from St. Thomas Lane onto MD 140 (Reisterstown Road); End: (MD 140 (Reisterstown Road) @ MD 130 (Greenspring Valley Road)

- Study Date/Time: Thursday, May 15, 2014/11:30 AM – 1:34 PM
- Distance (Miles): 1.06 miles
- Number of Studies: 4
- Average Time: 3 minutes 4 seconds

Study Route #2: Start: Right turn from the St. Thomas Lane onto northbound MD 140 then U-turn at Painters Mill Road to southbound MD 140 (Reisterstown Road)
End: (MD 140 (Reisterstown Road) @ MD 130 (Greenspring Valley Road)

- Study Date/Time: Thursday, May 15, 2014/11:30 AM – 1:34 PM
- Distance (Miles): 1.32 miles
- Number of Studies: 4
- Average Time: 4 minutes 12 seconds

Study Route #3: Start: St. Thomas Lane eastbound from proposed site access location to southbound Garrison Forest Road to westbound MD 130 (Greenspring Valley Rd)
End: (MD 140 (Reisterstown Road) @ MD 130 (Greenspring Valley Road)

- Study Date/Time: Thursday, May 15, 2014/11:30 AM – 1:34 PM
- Distance (Miles): 2.50 miles
- Number of Studies: 4
- Average Time: 5 minutes 36 seconds

Study Route #4: Start: MD 140 (Reisterstown Road) @ MD 130 (Greenspring Valley Road) traveling northbound; End: MD 140 (Reisterstown Road) @ St. Thomas Lane

- Study Date/Time: Thursday, May 15, 2014/11:30 AM – 1:34 PM
- Distance (Miles): 1.06 miles
- Number of Studies: 11
- Average Time: 2 minutes 5 seconds

Study Route #1: Start: Left turn movement from St. Thomas Lane onto MD 140 (Reisterstown Road); End: (MD 140 (Reisterstown Road) @ MD 130 (Greenspring Valley Road)

- Study Date/Time: Friday, May 15, 2014/3:50 PM-5:22 PM
- Distance (Miles): 1.06 miles
- Number of Studies: 4
- Average Time: 3 minutes 32 seconds

Study Route #2: Start: Right turn from the St. Thomas Lane onto northbound MD 140 then U-turn at Painters Mill Road to southbound MD 140 (Reisterstown Road) End: (MD 140 (Reisterstown Road) @ MD 130 (Greenspring Valley Road)

- Study Date/Time: Friday, May 15, 2014/3:50 PM-5:22 PM
- Distance (Miles): 1.32 miles
- Number of Studies: 4
- Average Time: 4 minutes 51 seconds

Study Route #3: Start: St. Thomas Lane eastbound from proposed site access location to southbound Garrison Forest Road to westbound MD 130 (Greenspring Valley Rd) End: (MD 140 (Reisterstown Road) @ MD 130 (Greenspring Valley Road)

- Study Date/Time: Friday, May 15, 2014/3:50 PM-5:22 PM
- Distance (Miles): 2.50 miles
- Number of Studies: 4
- Average Time: 5 minutes 48 seconds

Study Route #4: Start: MD 140 (Reisterstown Road) @ MD 130 (Greenspring Valley Road) traveling northbound; End: MD 140 (Reisterstown Road) @ St. Thomas Lane

- Study Date/Time: Friday, May 15, 2014/3:50 PM-5:22 PM
- Distance (Miles): 1.06 miles
- Number of Studies: 11
- Average Time: 2 minutes 10 seconds

ORIGINAL

In The Matter Of:

Baltimore County Zoning Hearing In Re: McDonalds

Transcription of Hearing Held on March 25, 2014

Vol. 1

June 9, 2014

Gore Brothers Reporting & Videoconferencing

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BALTIMORE COUNTY ZONING

IN THE MATTER OF:

MCDONALD'S

10021 REISTERSTOWN ROAD

_____ /

The above-entitled matter came on for
hearing on March 25, 2014 before the Baltimore County
Zoning Commissioner.

TRANSCRIBED BY: Paula J. Eliopoulos

1 PROCEEDINGS

2 HEARING EXAMINER: Good afternoon everyone.

3 We're here today on a public zoning hearing being
4 recorded in case 2014-141.

5 This is a petition for special hearing
6 variance to a property at 10021 Reisterstown Road. The
7 proposal is for the operation or the construction of a
8 McDonald's restaurant and the zoning requests pertain
9 to some signs at the proposed restaurant, parking
10 spaces and use of certain parking spaces in a
11 residential zone.

12 The petition was advertised and posted as
13 required under the County Zoning Regulations and we're
14 here for the hearing today and I'll let counsel
15 introduce themselves and then we'll see if we need to
16 do anything preliminarily.

17 Okay.

18 MR. GAENG: Good afternoon, Your Honor,
19 Gerard Gaeng from Rosenberg Martin Greenberg firm.
20 This is the first time I've had the pleasure of
21 appearing before Your Honor --

1 Forrest School has sent representation.

2 HEARING EXAMINER: Okay.

3 MR. HOLZER: I had suggested to them, I
4 didn't know how long this case would take today, and
5 some of them would like to be able to get out early.

6 So after the petitioner at least gets
7 started on their presentation, depending on what time
8 it is, could we take some of those out of order?

9 I think that they'll all -- those three
10 individuals from the other institutions will probably
11 take five or six or seven minutes each.

12 HEARING EXAMINER: Okay. Let me check in
13 with counsel over here. How long do you guys think
14 your presentation will take?

15 MR. GAENG: A couple of hours. We have two
16 professionals who are here.

17 HEARING EXAMINER: So maybe that would wrap
18 up by 3:30. What time are you thinking, Mr. Holzer,
19 for your clients wanting to leave by?

20 MR. HOLZER: Well, hopefully by 4:00.

21 HEARING EXAMINER: It sounds like we

1 MR. HOLZER: No.

2 HEARING EXAMINER: Other than what we've
3 discussed.

4 Counsel, anything over here?

5 MR. GAENG: Nothing.

6 HEARING EXAMINER: Okay. Well then with
7 that all said, I'll turn it over to you folks and let
8 you tell us about the case.

9 MR. GAENG: Thank you, Your Honor.

10 This case is about the site, commercial
11 site out on Reisterstown Road. This is Reisterstown
12 Road going north and west, at the intersection of St.
13 Thomas Lane.

14 HEARING EXAMINER: Okay.

15 MR. GAENG: This is across -- right across
16 the street from the old Solo Cup factory that Your
17 Honor is familiar with --

18 HEARING EXAMINER: Yes, I am.

19 MR. GAENG: --it's the Foundry Row.

20 So this is the existing site, Your Honor.
21 On it is an abandoned boarded up Krispy Kreme shop that

1 this over here is zoned RO. And the RO corresponds to
2 this spot. So that actually on the existing site, the
3 Krispy Kreme site which had -- which has 40 parking
4 spaces, these parking spaces, 15 or so actually have
5 been used in the RO zone before because the lines are
6 not conterminous.

7 HEARING EXAMINER: Okay.

8 MR. GAENG: The site is challenging as it
9 will be explained. There are three categories of
10 relief that bring us here today.

11 The first is this petition right here,
12 whether we can get the special hearing relief to allow
13 these spaces to continue to exist on the new site in
14 the RO. There is no residential use at all in the
15 adjoining properties. There's an office building with
16 a parking lot farther back and actually underneath the
17 building as well.

18 HEARING EXAMINER: There's an apartment to
19 the rear?

20 MR. GAENG: Up here. Yes.

21 So we'll seek that relief. The reason that

1 HEARING EXAMINER: So you're not here
2 asking for a use permit to continue from a prior
3 operation?

4 MR. GAENG: No. We're here for a use
5 permit going forward.

6 HEARING EXAMINER: A use permit. Okay.

7 MR. GAENG: The second category of relief
8 that we would be seeking under 307.1 are two variances
9 related to off street parking.

10 One is as to the amount of off street
11 parking to allow us to operate with 35 parking spaces
12 in lieu of the required 71.

13 The second is to allow us to have a parking
14 space, this is the proposed use, Your Honor, instead of
15 being buffer here from the road to the last parking
16 space being 10 feet that it be allowed to be 6 feet.

17 HEARING EXAMINER: Okay. So under Section
18 409 you have to be ten feet back from a roadway for
19 surface parking and you're seeking 6?

20 MR. GAENG: That's correct, Your Honor.

21 HEARING EXAMINER: And that's Reisterstown

1 changing the use and restricting the use of portions of
2 the site.

3 Fourth is that the site is about to shrink.
4 This site, it's much smaller than the existing site
5 because the State Highway Administration is widening
6 the roads to add lanes in both directions as part of
7 the Foundry Row redevelopment work on that property.

8 So we are actually losing an estimated
9 4,300 square feet from the front of the site which is
10 particularly germane to trying to change that 10 foot
11 to 6 foot which the witnesses will explain.

12 The fifth condition is the topography
13 around the site. At the top where Garrison View Road
14 is in this direction is the peak of a hill and the
15 visibility is very poor until you get over that hill
16 and you go past that intersection and you are at the
17 site shortly after you see it.

18 Another feature of the area is this
19 existing office building which the witnesses will
20 describe to you and will show you pictures. It blocks,
21 again, the visibility coming down and it effects the

1 We'll also show that the plan proposed and
2 the variances that we requested are completely in
3 harmony with the spirit and the intent of the
4 regulations that have created the obligations.

5 And finally that we believe it will not
6 injure the public health, safety and general welfare
7 but rather will remove what is a blight and an eye sore
8 in this otherwise thriving commercial community and
9 we'll try to redevelop it into something that is
10 attractive.

11 HEARING EXAMINER: Okay. Thanks. Mr.
12 Holzer, anything preliminarily?

13 MR. HOLZER: Yeah. Normally I don't give
14 opening statements but in light of that opening
15 statement.

16 I think first of all that you should be
17 aware that there's significant community and
18 institutional opposition to this request.

19 And as I've indicated, there is a historic
20 district in the vicinity along St. Thomas Church on St.
21 Thomas Lane.

1 with 43 spots out of the 71 that require some sort of
2 zoning relief.

3 There are also as counsel indicated over
4 the last two or some years I've been involved in the
5 potential for the property across the street to some
6 extent, and there's going to be a -- there's going to
7 be a widening -- a potential widening. I don't know
8 that the State has the money backed to widen it yet,
9 but the potential that's there.

10 Plus there's also, based upon negotiations
11 with the developer across the street, there will be a
12 concrete barrier which will prevent vehicles from
13 coming down St. Thomas Lane and turning left. They
14 will have to turn right.

15 So there will be a right in and right out
16 only which many of the -- the church, the country club,
17 the Valley's Planning Council all are concerned about
18 the traffic that will be generated to go south

19 And as a result of that, you will have to
20 come out of McDonald's, potentially go up or east on
21 St. Thomas Lane until you get to Greenspring, turn

1 that will effect the neighborhood from people being in
2 that facility, using that facility all night long.

3 So, I was -- I was sort of surprised to see
4 in the opening statement the comment that this is a
5 challenging site. Yes, it is a challenging site which
6 is the very reason why it should not belong here, the
7 McDonald's operation, what they are proposing and the
8 size and the operation that they're proposing.

9 As I said before, we have a number of
10 witnesses and I will wait to see how we go in terms of
11 the process here before I present or ask for the
12 opportunity to have some testimony out of order.

13 HEARING EXAMINER: Sure. That's fine.
14 Thank you.

15 Let me ask you the same question I asked
16 Petitioner's counsel. How was Krispy Kreme able to use
17 the parking in the RO zone? Did you find any evidence
18 of a use permit or anything like that?

19 MR. HOLZER: I don't have any knowledge for
20 or against the fact that they had a use permit.

21 But I certainly, by the time this case gets

1 And I understand that there's been some
2 sort of custom or practice that if they don't have a
3 planning staff comment you're to presume that they're
4 supporting the project or have no objection.

5 But I take exception to that for the
6 record.

7 HEARING EXAMINER: Okay. And I don't know
8 that that's accurate. I mean, if that's your
9 perception or if that's what others have told you. If
10 I don't have a comment, I just don't refer to it --

11 MR. HOLZER: I understand.

12 HEARING EXAMINER: --I don't think it goes
13 one way or the other. I agree with you there should be
14 a comment, but in any event, if I don't see one I just
15 don't refer to it and I don't draw a negative or a
16 positive inference from that.

17 MR. HOLZER: Well, (inaudible) that issue.

18 HEARING EXAMINER: No doubt. No doubt. I
19 understand.

20 Okay. So let's get going then. Who are we
21 going to hear from first?

1 responsible for new restaurants and redevelopment of
2 McDonald's restaurants in a specific geographic area.

3 It's generally the Baltimore metropolitan
4 area and the surrounding counties.

5 I also partner with our real estate
6 department to identify opportunities to enhance the
7 plan whether it be for relocations or a new restaurant
8 location as well.

9 Q Let me show you what's been marked as
10 Exhibit 1 which is the petition and attachments in this
11 case.

12 Are you familiar with that?

13 A Yes, I am.

14 Q Are you familiar with the location that's
15 the subject of the petition?

16 A Yes.

17 Q What is McDonald's interest in the
18 property?

19 A McDonald's has entered into a long term
20 ground lease with the property owner to develop a
21 McDonald's restaurant.

1 tenants are at this time. But that's the big anchor.

2 Q What's the condition of the site?

3 A The condition of the site, it's starting to
4 show some aging. It's abandoned. It's windows are
5 boarded up. I noticed some trash, it looks like some
6 scrappers have visited the site to get some of the
7 (inaudible).

8 I also noticed that the building just
9 needed some general maintenance. One portion of the
10 ceiling is starting to fail.

11 Q What is the topography on the site?

12 A On the site it's relatively steep grade.
13 It's actually about 14 feet of fall from the right side
14 to the back left corner of the site on St. Thomas Lane.

15 Q And how about the topography around the
16 site in the commercial strip along Reisterstown Road?

17 A Surrounding the site, to the southeast, to
18 the right if you're facing the site is an existing
19 multi-story office building (inaudible) it's about six
20 or seven feet higher than the subject site.

21 And it's about the same setback from

1 A It does. I know most photography is on the
2 flattened site, but the one thing I would point out is
3 there's a retaining wall (inaudible).

4 Q And what does Exhibit 2G depict?

5 A Exhibit 2G is a view of the site taken from
6 St. Thomas Lane. And it also shows the topography and
7 the slope of the site and how the site has been
8 (inaudible) larger multi-story office building and also
9 note the mature trees and the landscaping there also
10 obscures the view of the site.

11 Q What is across St. Thomas Lane from the
12 site?

13 A Immediately across there's the Popeye's
14 quick service restaurant. And just beyond that is a
15 Wendy's quick service restaurant.

16 Q And is Exhibit 2G taken from the
17 perspective of the front of the Popeye's restaurant
18 looking up the hill?

19 A Right. The photographer would have been
20 standing in front of the Popeye's restaurant in that
21 photograph facing southeast at the oncoming or north

1 photograph as you approach the site, you wouldn't be
2 able to see the top of the Krispy Kreme. But it also
3 demonstrates the same obstructions that limited the
4 view of that site.

5 Q Do the photographs in Petitioner's Exhibit
6 2A through K accurately depict what you saw during your
7 visits to the site?

8 A Yes, they do.

9 MR. GAENG: Your Honor, I would just
10 request that the Board accept Petitioner's Exhibit 1
11 and 2 into evidence.

12 HEARING EXAMINER: Any objection?

13 MR. HOLZER: The question is, did he take
14 these pictures?

15 THE WITNESS: I did not take these
16 pictures, but I have taken very similar pictures. And
17 I visited the site yesterday, so --

18 MR. GAENG: The rules of evidence don't
19 require the witness to take the pictures.

20 MR. HOLZER: Oh, I understand. I can ask
21 the question.

1 Q And what's the ingress and egress from the
2 Krispy Kreme site?

3 A Currently at the Krispy Kreme site there's
4 a general entrance meaning it's a full opening access
5 point where you can make a left into the site or a left
6 out of the site as well as a right in and a right out.

7 And similarly, St. Thomas Lane is the same
8 where you could make, depending what routes, whether
9 left or right into or out of St. Thomas Lane.

10 Q And how many parking places -- spaces are
11 on the site?

12 A It was 40 parking spaces currently shown on
13 the site plan.

14 Q Okay. Let me show you Petitioner's Exhibit
15 4, the proposed conditions. This is the same document
16 that we have up on the board.

17 HEARING EXAMINER: Okay. Thank you.

18 Q Can you identify what Exhibit 4 is?

19 A This is a site plan for the proposed
20 McDonald's restaurant on this property.

21 Q Can you tell me what McDonald's plan is for

1 through which McDonald's is we call it a side by side
2 drive through which, it's really one drive through lane
3 but we split at the function of ordering because that
4 appears to be the longest duration of the step in the
5 drive through process.

6 It also allows us to reduce the length of
7 the (inaudible) for the drive through.

8 Q Is the overall site for the McDonald's as
9 depicted on Exhibit 4 the same size as the existing
10 site?

11 A Actually the site is smaller. The existing
12 site showing the existing right of way line is about
13 4336, approximately square feet larger than the site
14 shown on the proposed McDonald's site (inaudible) the
15 proposed (inaudible) the widening of Reisterstown Road
16 by the Maryland State Highway.

17 The average depth or reduction to the site
18 is about 20 feet. It's an irregular shape, but it's
19 approximately 20 feet.

20 Q Is there any -- in terms of the proposed
21 development by the State Highway Administration, is

1 convenience.

2 So we've actually reduced our projected
3 volumes (inaudible) because most of our business is
4 going to be north westbound traffic and we won't catch
5 that south westbound traffic.

6 Q So the south westbound traffic will not be
7 able to turn into McDonald's?

8 A Correct. Because they won't be able to
9 make the left into the site or return back -- make a
10 left back out of the site and continue southbound.

11 Q Will the southbound traffic be able to turn
12 into St. Thomas Lane?

13 A No. St. Thomas Lane will have that same
14 restriction.

15 Q Let me show you what we've marked as
16 Petitioner's Exhibit 5 and ask you if you can identify
17 this, please.

18 A This is a letter that we sent to Ms.
19 Colleen Kelly at the Department of Permits (inaudible)
20 but this is from the Maryland State Highway
21 Administration and it was advising us of the proposed

1 HEARING EXAMINER: Maybe we can turn that a
2 little more. And then folks, if anybody wants to see
3 any exhibits up here, feel free to gather up in this
4 area and look across.

5 Q Can you please describe the restaurant that
6 McDonald's proposes to build on this site?

7 A We are proposing to build at 4,393 square
8 foot building. This will be a, what's commonly
9 referred to as a (inaudible) it's not a modular
10 building, so it will all be build on site. (inaudible)
11 materials.

12 This is a full brick building. It's not a
13 half brick (inaudible). And it also has an (inaudible)
14 on the side of the building.

15 It has a front elevation of the arcade with
16 the cultured stone and on the upper righthand on this
17 one, that's the new elevation that's more east. The
18 (inaudible) elevation is the (inaudible) site elevation
19 because it faced the office building. Almost at the
20 center of the building there's a customer entrance.

21 And then the bottom elevation is the drive

1 to cool the building than to heat it.

2 We also have a lot of LED lighting both
3 inside as well as in the (inaudible) it's all LED
4 lighting.

5 We've got a number of advancements and
6 features. We've got (inaudible) fryers which use less
7 cooking oil. And we also recycle that cooking oil and
8 convert it into biodeisel fuel. We recycle cardboard.

9 We also have a variable screen exhaust
10 system which calibrates and adjusts to the fryer
11 (inaudible) when needed versus just (inaudible).

12 The list goes on and on. We've just got a
13 lot of new features of that type.

14 Q Why did McDonald's choose this site?

15 A We selected this area due to the high
16 traffic counts on Reisterstown Road as well as, as I
17 mentioned earlier, we're really a business of
18 convenience.

19 And this corridor or stretch of
20 Reisterstown Road draws a lot of people from the area
21 to the destination points like the anchored shopping

1 here.

2 Q Are you also constrained by the area in the
3 rear of the site that's zoned DR16?

4 A Right. We were laying out the site knowing
5 that that was DR16 zoning which is pretty much off
6 limits (inaudible).

7 Q So what would be the difference between the
8 number of parking spaces on the McDonald's site from
9 the existing Krispy Kreme?

10 A Well, Krispy Kreme has 40 parking spaces
11 and their building is about 163 square feet smaller and
12 (inaudible) so there's a difference of five spaces.

13 Q Is there public transportation available to
14 this site?

15 A There is. Fortunately there's a bus
16 service along the Reisterstown Road corridor. And that
17 is also something we factor into our basically a
18 business decision would this be enough parking spaces
19 to serve this restaurant.

20 Many of our people will either come by
21 public transportation or find a path of (inaudible)

1 years, we built two restaurants on Reisterstown Road, I
2 think it was about 2008 or 2009 we re-built a
3 restaurant at 502 Reisterstown Road --

4 Q That's in Pikesville?

5 A That is Pikesville, the business district
6 of Pikesville. And that restaurant, based on the
7 building size, they calculated the number at 66 parking
8 spaces but we were only able to provide 45.

9 And that seems to have been working very
10 well.

11 Q Was a variance granted in order to permit
12 that rebuild to have 45 spaces?

13 A Of course. We got a variance for that, for
14 the number of parking spaces required.

15 And then more recently, last fall, we built
16 a McDonald's restaurant at 12012 Reisterstown Road, we
17 commonly refer to this as the Reisterstown (inaudible).

18 Q That's the one next to Franklin High
19 School?

20 A Correct. It's between Franklin High School
21 and Cherry Hill Nursing Home.

1 identify those.

2 A 7A is the decision from the zoning
3 commission for the first restaurant mentioned at 502
4 Reisterstown Road and 7B is the zoning -- this one is
5 12012 Reisterstown Road, the zoning decision.

6 MR. GAENG: I'm going to ask the Court to
7 accept into evidence Exhibit 6, the proposed elevations
8 and Exhibits 7A and B the decisions regarding the
9 variances that were discussed by the witness.

10 HEARING EXAMINER: Any objection?

11 MR. HOLZER: No.

12 HEARING EXAMINER: Any objection to that, 6
13 or 7A and B?

14 MR. HOLZER: No.

15 HEARING EXAMINER: 6 and 7A and B,
16 Petitioner's are admitted.

17 MR. GAENG: Thank you, Your Honor.

18 Q What's the second parking variance that
19 McDonald's is requesting?

20 A Zoning relief for the six foot landscape
21 buffer along Reisterstown Road. (inaudible) we are

1 maybe it would be helpful if you could point to them as
2 you describe them.

3 A This general layout here, the upper
4 lefthand corner is a reduced copy of the building
5 elevation.

6 On that we have several variances that
7 we're asking for. Baltimore County Zoning Regulations
8 allow five signs on the building -- I'm sorry, three
9 signs on the building, we're proposing five.

10 And that would be a woodmark sign that says
11 McDonald's as well as the McDonald's logo and the not
12 graphic side there's one logo sign on the drive through
13 sign there's a McDonald's woodmark. It has the
14 McDonald's (inaudible) in the upper right.

15 And these are the five signs that we're
16 requesting. They're not large. They're very small,
17 but basically you have to just go by the number of
18 signs.

19 We're also (inaudible) a little more. The
20 drive through service we have leading up to the length
21 of the drive through we have what we call a gateway

1 (inaudible) so there's no variance needed for that.

2 (inaudible)

3 Q Okay. You can sit down.

4 Why is this particular sign package
5 proposed for this site?

6 A This is generally the same sign package
7 that we proposed at 19 other McDonald's restaurants in
8 the county. And it's something our customers have
9 become familiar with.

10 A lot of it is just to assist the
11 customers, whether it's navigating the site or once
12 they've parked to find the door and get into the
13 building.

14 It also (inaudible) of the street. We need
15 to have a presence on the street with St. Thomas Lane
16 and Reisterstown Road. And then the site does have
17 very limited visibility.

18 We are proposing a road sign but because of
19 all of the other signs, the utilities, things like
20 that, landscaping, as long as we have a few other
21 branding (inaudible) view of the restaurant from

1 A With the order board it's basically an
2 interaction of two things. One, first of all, we have
3 it custom ordered this way which is a multi-colored LED
4 display which is much needed because of the fonts and
5 just the colors used.

6 But more importantly is the audio part of
7 it. Many of our competitors still use analogue systems
8 and a lot of our older restaurants did at one time. We
9 still may have a few of them.

10 But we're updating to where all of our new
11 restaurants have a digital communication system and the
12 clarity of the boards is so much better.

13 I know when I order at one of the newer
14 restaurants it's almost like a normal conversation
15 tone.

16 Just for comparison, for this site, for the
17 volume levels, at the speaker post, the one closest to
18 the rear property line to the speaker location is 50
19 feet or about 75 feet to the (inaudible) boarding.

20 With this digital sound system we'll have
21 about 60 to 65 decibels. And just for reference

1 lot.

2 Q What's the amount of capital investment by
3 McDonald's for this project?

4 A We estimate about 2.7 million dollars. And
5 that's, of course, our project (inaudible).

6 Q And are the variances and special hearing
7 relief are in accordance with the plan for the removal
8 of the Krispy Kreme building and the construction of
9 the new restaurant?

10 A If the variance is approved, we will then
11 apply for (inaudible) which will probably take about
12 nine to fifteen months. So roughly the project would
13 be coming in 2015 (inaudible).

14 Q Do you know anything about the operation of
15 the Krispy Kreme, what their hours were?

16 A I don't know exactly. I think, just in
17 doing some research, I did see some reports about how
18 early they opened.

19 I believe the main batch of doughnuts to be
20 shipped out to other retail locations. I remember
21 seeing some trucks in some of the older (inaudible). I

1 Q And before that?

2 A Actually I was a site planner with
3 McDonald's for about 12 years.

4 Q From a planning standpoint?

5 A Correct.

6 Q What prior education or expertise to become
7 a land planner did you have?

8 A Actually my degree is in architectural
9 engineering.

10 Q From where?

11 A Penn State.

12 Q Now, if I could -- well, let me just start
13 towards the end and work back the other way.

14 The McDonald's, as I understand it, there
15 are two McDonald's that you've been involved in on
16 Reisterstown Road, one in Pikesville and then one in
17 Reisterstown which is across from the high school.

18 A Next door to the high school, correct.

19 Q Oh, next door.

20 I think I stopped for a Big Mac there and
21 it seems to me that that McDonald's store sits right on

1 A Correct.

2 Q And that was -- do you recall whether there
3 was any community opposition to that, any protestants
4 show up at the hearing?

5 A I don't remember any. You know, we did
6 meet with the community prior to the hearing and I
7 think we addressed any concerns.

8 I don't remember there being any --

9 Q Well, there's none mentioned in this
10 opinion, in his decision.

11 A That's correct.

12 Q Okay. In terms of the other Pikesville
13 store, apparently there was no one that appeared as
14 protesting in that case either.

15 A Correct. And, again, you're going to test
16 my memory a little more. We did meet with the local
17 community groups and, you know, we explained to them
18 what we planned to do and that may be why nobody showed
19 up.

20 Q Okay. All right.

21 Now, going back to your testimony about

1 Forrest Road, come back around and then go in the
2 store?

3 A Right. On Garrison View.

4 Q Garrison View. I'm sorry.

5 Now, if they wanted to continue to go back
6 in the direction that they were coming or going, how
7 would they get to Reisterstown Road and going south?

8 A I would assume they would make a right out
9 of the site or turn on to St. Thomas Lane and turn
10 right on to Reisterstown Road heading northwest. I
11 don't know if they'll be able to make a left turn, a
12 u-turn at Painter's Mill. They may have to make a left
13 turn, make a circuitous route around the block.

14 Q Is it possible that they could make a right
15 turn, come out the back entrance, make a right turn on
16 St. Thomas Lane go up to Garrison Forrest Road, make a
17 right there and then come back down to get to
18 Greenspring and then come over to Reisterstown Road?

19 A I assume if they're (inaudible). I know I
20 drove up St. Thomas Lane and it wasn't real clear to me
21 as to which way I should go if I was trying to find my

1 A Well, what we've found by expanding our
2 hours, there's actually a lot of people that work all
3 hours of the night, whether they're in the medical
4 profession or fire fighter, police officers. There's a
5 lot of construction activity that occurs at night.

6 So we found that there's a lot of our
7 customers who don't work a normal 9:00 to 5:00 day and
8 (inaudible) there's a lot of activity that does happen
9 during the evening.

10 Q How many employees will be there from
11 midnight until 6:00 in the morning?

12 A Probably the average about three. A
13 manager and two more people.

14 Q And is the restaurant open or is it just
15 the drive through service?

16 A That varies. And it may depend on after
17 being open a while and if there's very few people that
18 come in -- a lot of our restaurants are generally drive
19 through in the hours from like-- and the hours vary,
20 let's say midnight to 4:00 or 5:00 a.m. it may only be
21 drive through service.

1 A Baltimore County, there's 19 or this will
2 be 20 and we have about 44 locations. Some of them are
3 Wal-Marts. I'd say roughly half, 50 percent have been
4 modernized.

5 Q 50 percent?

6 A Approximately.

7 Q Okay. And I think in your testimony you
8 felt that based on your analysis of this location, 65
9 percent of the business would be drive through?

10 A Right. What we're seeing over the years
11 it's slowly increasing.

12 So I like using a range. But it's not an
13 exact science. About 65 percent of our consumers will
14 go through the drive through.

15 Q And not all of those people just drive
16 through and leave the site. Many of them will park in
17 the parking spaces and eat because they like to listen
18 to the radio.

19 I mean, I've seen that myself, so -- is
20 there any breakdown between the number of people who
21 drive through and then park versus the ones that just

1 the walkable distance and they want to come in for
2 lunch or a snack.

3 Q Have you had any experience with crime as
4 it relates to your all night facilities?

5 A No, I don't. I am in construction. I'm
6 not aware of any major crime issues. We've got
7 security cameras. I know if it's an area where crime
8 is a concern it would probably be just a drive through
9 only service.

10 Q Is there any limitation -- can somebody
11 come in at 11:00 at night and sit in your restaurant
12 until 7:00 the next morning?

13 A No. The dining room is provided to our
14 customers only and there's a reasonable expectation
15 that it takes somebody 20 to 30 minutes to eat their
16 meal and then leave.

17 We don't allow loitering, if that's what
18 you're asking.

19 Q Yes, that's what I was asking.

20 Is resolving any loitering problem the
21 manager's responsibility?

1 Reisterstown?

2 A Approximately.

3 Q And when one looks at Popeye's, I see a
4 relatively rectangular lot, somewhat smaller than your
5 proposed site.

6 But never the less, it's a rectangular
7 location for the Popeye's.

8 A I believe it is. From what I could see.

9 Q And when one looks at the Wendy's site
10 which is a little bit off of your exhibit, but Wendy's,
11 if we look at your site plan, Wendy's is also a
12 rectangular site?

13 A Generally.

14 Q Okay. They both have the same topography
15 as it relates to your site versus Popeye's and Wendy's,
16 particularly in the rear?

17 A I don't have survey or topo data from those
18 restaurants, but I have visited the sites. They are
19 more flat, they are generally flat.

20 They are after the hill side begins to
21 level out.

1 -- has the same features that you just talked about
2 your site? In other words, it's bounded by
3 Reisterstown Road and St. Thomas Lane.

4 A Right. It's on the far corner.

5 Q The far corner, here to here?

6 A Yes.

7 Q So there's really not much difference in
8 terms of the Popeye's existing building in that it has
9 access from Reisterstown Road and it has access from
10 St. Thomas Lane in the rear, just like yours; right?

11 A I'm not as familiar with that site, but the
12 size for an (inaudible) individual just to travel on
13 Reisterstown Road. As I'm traveling northwest, I
14 actually see the Popeye's site before I do the subject
15 proposed McDonald's site.

16 Q That's not my question.

17 My question is basically -- I'm not worried
18 about what you can see, I'm worried about whether or
19 not the Popeye's lot is consistent generally with your
20 lot. It's a corner lot and it has two access points.
21 It's rectangular in nature.

1 spaces that will be in need of your special hearing
2 request to be in an RO zone?

3 A I would say a portion of 17 spaces
4 (inaudible) four or five feet.

5 Q I'm taking whatever you tell me. That's
6 why I asked you the question.

7 So let's say 17 will be impacted by the
8 special hearing, right?

9 A Right.

10 Q Okay. Now, as far as the lighting. Your
11 LED lights, will those lights stay on 24 hours a day or
12 at least once they come on at darkness they will stay
13 on until it become light in the morning?

14 A They are controlled by the energy
15 management system, plus a light sensor. So they'll
16 only come on, and you can adjust that sensitivity. But
17 it will come on as it gets dark at night and then they
18 will go off as the sun comes up in the morning.

19 Q Okay. So those lights -- so basically this
20 whole site will be lighted both the parking area and
21 the proposed store itself, through all hours of

1 to have done at this point to determine whether or not
2 this lighting is appropriate for the neighborhood?

3 A Well, there's a couple things to consider.
4 One is, again, we're proposing LED fixtures to you
5 really don't see the source unless you're under the
6 light looking up at it.

7 We're also installing shields on those
8 fixtures along that property line, plus there will be
9 trees as well.

10 So, no, I would not anticipate any direct
11 glare from those rights. And just with LED lights in
12 general, it's a dimmer sight. It's not as bright
13 although if you want to maintain safety, you want to
14 keep that light more around the 30 versus the --

15 Q But your answer is you don't have a
16 lighting plan to demonstrate to the hearing officer at
17 this point whether or not there's going to be an impact
18 based on the lighting and the objections that neighbors
19 in the apartments have?

20 A I don't have a lighting plan yet.

21 Q Okay. You -- likewise you testified that

1 as well as on the survey it shows it's a three story
2 building.

3 Q So from the third floor, those people would
4 be able to look over a six foot fence and landscaping
5 at least for the first couple of years, would it not?

6 A Yes. But there are some trees on their
7 property that are might higher. So in the winter, yes.

8 Q Just one quick question. You indicated --
9 I think I heard you say somewhere that in fact the
10 noise at the property line will be 65 feet deep?

11 A Maybe I should clarify. I might have
12 misspoke.

13 Q Well, there's State requirements of what it
14 is during the day and what it is during the night.

15 A At the property line? If I said that, I
16 apologize, I misspoke. It should be 47 is the decibel
17 level at 50 feet.

18 Q So, have you done a noise analysis or has
19 someone done it for you?

20 A Not on this particular site, no. The
21 figures that we have are based on other properties

1 speaker out there and test that mark.

2 Q Well, (inaudible) people had to do that.

3 On the top of the -- on top of the
4 McDonald's is that where you're having your air
5 conditioning, HVAC, all of that type of stuff? It goes
6 on to the roof?

7 A Yes. Our main purpose and you don't see it
8 at this elevation is there's a generally flat roof
9 behind the parapet so this (inaudible) the roof deck
10 where that equipment that you mentioned sits at on the
11 (inaudible) on average around 14, 14 and a half feet
12 off the ground with a parapet of (inaudible) the
13 cooking exhaust, restroom exhaust and some of the
14 (inaudible).

15 Q But those things are not covered in the
16 roof, they are open to the air; is that correct?

17 A Right.

18 Q So they would emit noise of some sort which
19 would be able to get into the air in terms of the
20 neighbors?

21 A (inaudible) observe that noise. Now, if

1 MR. GAENG: Yes.

2 EXAMINATION BY MR. GAENG:

3 Q Mr. May, you were asked about theoretical
4 possibilities if a customer wanted to come to the
5 restaurant but wanted to go southbound on Reisterstown
6 Road.

7 Isn't it true that although you cannot make
8 a left turn off of St. Thomas Lane on to Reisterstown
9 Road that according to the State Highway plans they can
10 make a right and immediately get into a left turn lane
11 heading northbound?

12 A Yes. That's correct.

13 Q And as you look at the proposed road
14 improvements, that's reflected on the plans that the
15 State Highway Administration sent to you?

16 A Correct.

17 Q With respect to features on this lot
18 (inaudible) there's a steep slope at St. Thomas Lane on
19 the McDonald's site; correct?

20 A When you first go on-site, correct.

21 Q It doesn't exist on the Popeye's or Wendy's

1 the retail development and the employees at the retail
2 development that's going up directly across the street?

3 A It's not factored into our projections, but
4 I'm sure there will be a few (inaudible).

5 MR. GAENG: I have no further questions.

6 HEARING EXAMINER: Okay. Anything further,
7 Mr. Holzer?

8 MR. HOLZER: No.

9 HEARING EXAMINER: Okay. Thank you very
10 much, Mr. May.

11 MR. HOLZER: Your Honor, is it possible,
12 it's almost quarter after 3:00, could I call two
13 witnesses that have been sitting here? One's a
14 representative from the church and one's a (inaudible).

15 HEARING EXAMINER: Okay. Counsel, do you
16 have any objection to our --

17 MR. GAENG: I have one other person who's a
18 professional here who's on the clock. I want to get
19 him today.

20 MR. HOLZER: These are going to be short,
21 eight or ten minutes at the most each.

1 EXAMINATION BY MR. HOLZER:

2 Q Mr. Washburn, I'm not technically
3 representing you, but I'll try to assist in your
4 presentation.

5 Who are you here representing?

6 A The Vespiary of St. Thomas Church.

7 Q And St. Thomas Church is located where in
8 relationship to the proposed McDonald's?

9 A It's actually, I was out there this morning
10 so I clocked it. It's about half a mile up St. Thomas
11 Lane.

12 Q Okay. And why don't you just tell us what
13 concerns -- and you represent the Vespiary as I
14 understand it?

15 A That's correct.

16 Q It's the governing body of an episcopal
17 church?

18 A Yes.

19 Q So why don't you tell us what their concern
20 was?

21 A Their concern is that as the new traffic

1 A St. Thomas Church is, I'm fairly sure, in
2 the Greenspring historic district. It is, I know you
3 all have been out there, it's a very historic church in
4 a historic location.

5 The cemetery goes back to the 1700s and
6 it's in a historic (inaudible) there's no question
7 about that.

8 Q And how would the impact of McDonald's --
9 what impact would that have on the historic nature of
10 the area?

11 A Well, if you think about having people on a
12 regular basis leave McDonald's hamburger liter there, I
13 think we can all -- you can draw your own conclusions
14 from that.

15 And if there's any question about whether
16 that is likely to happen, I can tell you that I
17 regularly pick up liter on Greenspring Valley Road, and
18 I know it's not McDonald's, but the predominant liter
19 that you pick up there is fast food liter.

20 That's what happens. You can see they come
21 down, they turn left on to Greenspring Valley Road and

1 enormous shopping center directly across the street
2 where you can cross. So those are the things that tend
3 to mitigate the problems here.

4 That's all I've got.

5 MR. HOLZER: Okay.

6 HEARING EXAMINER: Anything further?

7 MR. HOLZER: No.

8 HEARING EXAMINER: Counsel?

9 EXAMINATION BY MR. GAENG:

10 Q What are the demographics that you referred
11 to?

12 A You have at -- first you have (inaudible)
13 what used to be the (inaudible) apartments. They are
14 right next to the McDonald's. Now that is foot
15 traffic.

16 But somewhere, like somebody suggested
17 there was going to be foot traffic that would access
18 the McDonald's. And other than those apartments,
19 you'll take your life in your hands if you walked to
20 that apartment -- to that McDonald's on Reisterstown
21 Road. (inaudible) and there is no sidewalk next to

1 But even if there isn't a no u-turn sign
2 there, try and do that today. You can't get over
3 there.

4 I mean, it may be theoretically possible,
5 but it's a very short distance. And if traffic is --
6 one of two things (inaudible) you're going to be
7 encountering stacked traffic that's already trying to
8 make a lefthand turn or you're going to have people who
9 are racing to get through the traffic light and you'll
10 never be able to get over into that left turn lane.

11 So then what do you do? Go up to maybe
12 Owings Mills Boulevard to make a left turn or a u-turn.
13 But u-turns are not what the State has got in mind.

14 Q Marked as Petitioner's 10 is a map that the
15 county produced to us and the only alteration I have
16 made is I colored in the site, the proposed McDonald's.

17 Is that (inaudible)

18 A You're going to come out here and you're
19 going to try to get into that lane?

20 Q No, my question is can you just show us
21 where in relation to McDonald's is the church.

1 A Well, just drive down Reisterstown Road.
2 You've got lots of townhouses there, you've got lots of
3 townhouses on the other side of Crax Lane. You've got
4 lots of (inaudible) at McDonogh. You don't have
5 anything right here. This is Home Depot and Wal-Mart.
6 So I don't think they would be (inaudible).

7 But if you've got somebody here that wants
8 to get a quick McDonald's at 4:00 in the morning,
9 they're going to zip up here. They're not going to be
10 able to get across because of the retaining wall.

11 They'll go up here, come back down here and
12 take a right on Greenspring Valley Road. That's just
13 what's going to happen.

14 Q Do you have any basis for that opinion?

15 A No. I mean, drive around. Check it out.

16 Q I have. I tried to do it and it took me
17 about 15 minutes.

18 A If it took you 15 minutes, you must have
19 got lost because I guarantee you it will be faster and
20 safer.

21 Q You can't even show that route on this map,

1 further you'd find that the customers, the residential
2 customers are at the intersection of Greenspring Valley
3 Road and Reisterstown Road, all within about a quarter
4 of a mile, other than the commuters.

5 The commuters are not a problem. But to
6 the extent as somebody said, it's not a destination,
7 you draw on the local community. And as you draw on
8 the local community because of the configuration,
9 you're going to draw on the people south.

10 The people south are here, their easiest
11 way to get back is come around, get the light on
12 Greenspring Valley Road and go right down. And as they
13 do that, the first place they get to is the church.

14 So I said I'd be fast, but --

15 HEARING EXAMINER: Anything else?

16 MR. GAENG: No.

17 HEARING EXAMINER: Thanks, Mr. Washburn.

18 BILL HODGETTS

19 after having been first duly sworn according to law,
20 was examined and testified as follows:

21 HEARING EXAMINER: Tell us your name and

1 Q And for purposes of the exhibit 10, the
2 location of the school is shown by two green fields
3 along Reisterstown Road with a number of structures
4 behind that.

5 A Right. These are two fields. Actually the
6 property kind of runs over here there's tennis courts
7 and around here is the (inaudible) and all of that.

8 Q And, sir, have you -- you're representing
9 the school?

10 A Correct.

11 Q And what is the concern of the
12 administration of the school in regards to this
13 McDonald's.

14 A Well, you know, one point. We're not
15 anti-development. I mean, we very much agree that this
16 is a derelict and in fact there's a number of
17 properties even closer to us where that's the case as
18 well, where a McDonald's was going to go in some time
19 ago. So I don't know whether you were involved in that
20 or not.

21 But the issue really is for us the type of

1 have a lower school on the parking lot. Obviously the
2 parking lot and lower school would be during the day,
3 the dormitories at night.

4 And as any neighbor comes into the
5 neighborhood there are concerns with things like
6 traffic, (inaudible) or car traffic.

7 But I, you know, we add to the traffic. I
8 mean, we have 620 students, about 400 families coming.
9 Half of them come along Garrison Forrest Road, but
10 we've been there 100 years. So I think we have
11 somewhat of a precedent.

12 And I think something like this, a lower
13 density, lower volume would be fine. We certainly
14 could support something like that.

15 Like Mr. Washburn said, to the extent that
16 the traffic comes in, it comes behind and we add
17 (inaudible) but you quickly realize there's only one of
18 two ways to go. And you're coming out of the back, and
19 you're heading south and you're heading over towards
20 Greenspring Valley and out on to Reisterstown Road.

21 And you've got the church, you've got the

1 that. But then it was Krispy Kreme. Foundry Row is
2 going to add to traffic. So all of these are factors,
3 but this is the one we're talking about here right now.
4 Hence, that's the concern.

5 Q What about the hours of operation for
6 Popeye's or Wendy's for these other commercial
7 operations. Are they open 24 hours, to your knowledge?

8 A Not to my knowledge, no.

9 Q So this would be the first time that 24/7
10 would be introduced into this neighborhood?

11 A I believe that's so. I could be corrected,
12 but I'm not aware of any other. I mean, CVS
13 (inaudible) everything I can think of along the way.
14 You know, all the St. Thomas Lane shops they close up
15 fairly early.

16 So, yes, to my knowledge, that would be the
17 first.

18 Q Anything else before I turn you over to
19 counsel?

20 A That's the major concern.

21 MR. HOLZER: Thank you.

1 Road.

2 A And Painter's Mill, we've got a failed
3 intersection no doubt. So that's there. And as you
4 said, one thought was to capitalize on the traffic
5 that's there.

6 So I would say it's on Garrison Forrest
7 Road and the hours of operation and the possible impact
8 it would have.

9 Q Did you poll the students?

10 A They have lots of choices. We bus them
11 out. There are plenty of choices on Reisterstown Road.

12 Q But the answer is you didn't. This is the
13 administration's position?

14 A I think it's fair to say it's the school
15 (inaudible).

16 Q Have you done any kind of -- commissioned
17 any kind of studies, are you aware of any kind of
18 traffic studies that suggest that someone on
19 Reisterstown Road would go way back through the
20 neighborhood--

21 A No.

1 A Yeah, I know. I'm less frankly capable of
2 talking about the traffic there.

3 MR. GAENG: Thank you, sir.

4 HEARING EXAMINER: Anything else?

5 MR. HOLZER: No.

6 HEARING EXAMINER: You can step down.
7 Thank you, sir.

8 THE WITNESS: Thank you.

9 HEARING EXAMINER: That's fine.

10 MR. HOLZER: I think everyone else can
11 stay.

12 HEARING EXAMINER: Misery loves company I
13 guess to some extent. We'll all sit and hear the
14 details.

15 But I appreciate those who have come out
16 and I'm glad we could accommodate those of you that we
17 had.

18 So now we'll go back to the Petitioner.

19 MR. GAENG: Thank you, Your Honor. I'd
20 like to call Jay Mark Keely.

21 HEARING EXAMINER: Mr. Keely.

1 Q How long have you been in the
2 transportation planning field?

3 A Since 1993, over 21 years.

4 Q Can you describe the positions that you've
5 held during that period of time?

6 A I started my career in Harford County as a
7 transportation planner in 1993.

8 Q Did you work for the County there?

9 A I did. I left the County in 2002 as the
10 Administrator in the Office of Transportation. I then
11 went to Queen Anne's County and I was the
12 transportation planner, adequate public facilities
13 ordinance planner/(inaudible) planner.

14 I then left Queen Anne's County in 2005 and
15 began my career at Traffic Concepts.

16 Q And what are your duties as a project
17 manager?

18 A I review and write traffic impact studies
19 and parking studies.

20 Q Do you hold any certifications?

21 A I have a certification with the

1 you had expert witness experience in Baltimore County.
2 Do you happen to remember what cases you were admitted
3 as an expert?

4 A Most of the cases were Royal Farms stores.

5 Q Royal Farm stores?

6 A Yes, sir.

7 Q I haven't seen you in any one of those,
8 have I?

9 A I believe you have, yes.

10 Q Okay. Thank you.

11 Are those the only cases where you
12 qualified as an expert in the Royal Farms cases?

13 A I don't remember. There may be other
14 commercial -- I can't specifically remember. Most of
15 them are Royal Farms.

16 Q Most of them were Royal Farms?

17 A Yes, sir.

18 MR. HOLZER: Okay. Fine. I have no
19 questions and no objection.

20 HEARING EXAMINER: Then Mr. Keely will be
21 accepted as an expert in the areas proffered by

1 Q Let me show you what's been marked as
2 Petitioner's Exhibit 8. Is that the parking study that
3 you prepared for the Owings Mills McDonald's site?

4 A Yes.

5 Q How many parking spaces are to be provided
6 at the site?

7 A At the new site there will be 35 spaces.

8 Q Can you describe what you did to determine
9 the adequacy of 35 spaces?

10 A I conducted a parking survey in November of
11 2012 at the existing McDonald's located at 12012
12 Reisterstown Road.

13 Q That's what's being referred to as the
14 Reisterstown McDonald's?

15 A Yes.

16 Q And when did you first perform the study on
17 that site?

18 A November, 2012.

19 Q Why did you perform that study in 2012 at
20 the Reisterstown McDonald's?

21 A Well, the McDonald's was renovating that

1 until 1:00.

2 And so then we counted the peak hours and
3 we recorded the highest peak 15 minute parked vehicles
4 were 20 that occurred on a week day and 25 that
5 occurred on a Saturday.

6 Q So you sought to determine in a sense the
7 peak of the peak?

8 A Correct.

9 Q Did you record the occupancy -- I'm sorry,
10 yes, did you record the occupancy rates as a result of
11 that on the parking lot occupancy count sheets that are
12 part of Petitioner's Exhibit 8?

13 A Yes.

14 Q Are the results of that 2012 study
15 summarized in table 1 of Petitioner's Exhibit 8 --

16 A Yes.

17 Q -- on page 2?

18 A Yes.

19 Q And what more can you tell us of that study
20 of the peak of the peak?

21 A By using the week day, the highest week day

1 A Correct. Anything over 90 percent is
2 considered fully occupied.

3 Q After McDonald's rebuilt that restaurant
4 there with the 29 spaces, did you ever go back to
5 determine whether the 29 spaces that you opined about
6 were in fact adequate?

7 A Yes.

8 Q Can you tell us what you did?

9 A I returned to the site on January of 2014,
10 conducted the same study using the peak hour periods
11 from 11:00 to 2:00 week day, 7:00 to 1:00 on a
12 Saturday.

13 Counted occupied parking spaces in 15
14 minute time intervals and determined that during the
15 week day there were 22 parked vehicles, on a Saturday
16 the highest parked vehicles was 25.

17 This provided a week day peak hour
18 occupancy rate of 75.9 and on a week, a Saturday it was
19 86.2, which is under 90 percent. So therefore we
20 concluded that it was adequate parking to serve the
21 site.

1 The forecast using the existing McDonald's
2 sites told us that there would be 30 parked vehicles in
3 any one 15 minute time period.

4 Q And where did you get the peak numbers for
5 the other seven restaurants?

6 A They were surveys that we had done over the
7 past years for McDonald's sites.

8 Q And they were based on a similar
9 methodology in trying to determine the peak of the peak
10 hours?

11 A They were. The exact same methodology was
12 used for those previous studies.

13 Q And the results of the second study that
14 you performed at the Reisterstown restaurant, are they
15 summarized on table 2 of Exhibit 8?

16 A Yes.

17 Q Based on all of this work, do you have an
18 opinion to a reasonable degree of professional
19 certainty as to whether the 35 spaces planned for the
20 Owings Mills McDonald's would be adequate?

21 A Based on my previous work done for

1 Q It's considered adequate in your field?

2 A Yes.

3 Q Are the underlying factual data on which
4 you based your opinion set forth in Petitioner's
5 Exhibit 8?

6 A Yes.

7 MR. GAENG: Your Honor, I request that
8 Petitioner's Exhibit 8 be accepted into evidence.

9 HEARING EXAMINER: Any objection?

10 MR. HOLZER: No.

11 HEARING EXAMINER: Okay. It's admitted,
12 Petitioner's 8.

13 MR. GAENG: Thank you, Your Honor.

14 Q Based on your experience and expertise as
15 an expert in parking and traffic studies, is the fast
16 food parking lot demand on the site ever exceeds
17 capacity, is it likely that customers and those
18 vehicles would park off site and walk to the
19 McDonald's?

20 MR. HOLZER: Objection. That's really
21 stretching it.

1 HEARING EXAMINER: Yes, I think that's
2 probably the case. Sustained.

3 Q You've looked at the site plan. Would a
4 customer be able to leave the McDonald's site and go to
5 the adjacent fast food restaurant without going out on
6 to Reisterstown Road?

7 A Yes, they would.

8 Q Based on the plans that you've reviewed
9 from the SHA for the site and proposed changes to
10 Reisterstown Road including the construction of the
11 median, where would you expect in your professional
12 opinion the bulk of the customers would travel to that
13 location?

14 MR. HOLZER: Objection. This man has
15 testified that he's done a parking count.

16 HEARING EXAMINER: The question --

17 MR. GAENG: Your Honor, he's been qualified
18 as an expert generally in traffic and parking. I'm
19 asking him a question about what his opinion would be
20 as an expert in traffic and parking studies.

21 HEARING EXAMINER: Okay. Well the exhibit

1 MR. GAENG: I'm asking him for his opinion,
2 his expertise. It was not part of the study that he
3 was requested to prepare in writing.

4 MR. HOLZER: I object.

5 HEARING EXAMINER: Is he going to be able
6 to give an opinion then if he hasn't -- how can I let
7 him give an opinion on something that he hasn't
8 studied?

9 MR. GAENG: He's reviewed the plans. He
10 knows what the authoritative (inaudible) is about
11 traffic studies. He's certified. He's familiar to
12 talk about the ITE.

13 HEARING EXAMINER: Yeah. He says he uses
14 the ITE manual and that he's certified by them.

15 Sir, did you look at the State Highway
16 Plans that were submitted into evidence as Exhibit 5, I
17 think they were.

18 THE WITNESS: I did review those.

19 HEARING EXAMINER: When did you review
20 those?

21 THE WITNESS: Several days ago.

1 With the raised median, that would add to
2 the directional flow into the site. I can't give you
3 my opinion without doing a traffic study what that
4 percentage would be, but it's definitely 50 percent.

5 MR. GAENG: I have no further questions.

6 HEARING EXAMINER: Okay. So what you're
7 saying, sir, is that the bulk of the traffic to this
8 site will be traveling northwest on Reisterstown Road?

9 THE WITNESS: I believe that would be the
10 case.

11 HEARING EXAMINER: Okay. And that was also
12 Mr. May's testimony as well.

13 Are we done with the witness?

14 MR. GAENG: Yes, Your Honor.

15 HEARING EXAMINER: Cross examination?

16 MR. HOLZER: Yes.

17 EXAMINATION BY MR. HOLZER:

18 Q Mr. Keely, you did not do a traffic study
19 to determine road movements of where people are going
20 to go once they leave the proposed McDonald's, did you?

21 A I did not.

1 A No. But I have looked at the SHA traffic
2 count volumes and I know that traffic has not increased
3 over the last several years.

4 Q Let me ask you this, what side of the road
5 was the McDonald's store on that you did this
6 calculation in 2012? Was it on the what I'll call the
7 east side or the west side? The west side being
8 towards Baltimore City or southbound.

9 A Southbound. West.

10 Q So any difference between the traffic
11 volumes in 2012 between the southbound versus the
12 northbound on Reisterstown Road?

13 A I don't have that information.

14 Q And you didn't study it, did you?

15 A I did not.

16 Q And you didn't study -- what is the most
17 recent traffic count for Reisterstown Road in 2014?

18 A Again, I didn't do a traffic study.

19 Q Right. But do you know what the most
20 recent figures are for it?

21 A No, I do not.

1 You enter the same, navigate around the store.

2 The only difference is there's dual drive
3 throughs and there are clearly marked signs. So it
4 shouldn't be confusing to the customer.

5 Q I wasn't asking about whether it was
6 confusing. I was asking about whether or not there was
7 a comparison and to your knowledge is there a
8 difference between the parking capacity for a brand
9 new, newly located McDonald's versus one that's been in
10 existence for many years and is simply being renovated?

11 A No.

12 Q Now, you -- Traffic Concepts, is that what
13 I call the Traffic Group or does that deal with
14 traffic?

15 A That's a different organization.

16 Q So you're not part of the Wes Guckert
17 analysis group?

18 A No, sir. No.

19 Q And you're located in Hanover,

20 A Yes, sir.

21 Q Maryland.

1 asking for relief for 17 others. If either one or the
2 other, the variance or the RO petition for special
3 hearing -- do I have that right -- yeah, for special
4 hearing -- if either one of those is denied, then this
5 project can't proceed because you won't have enough
6 parking.

7 MR. GAENG: Objection.

8 HEARING EXAMINER: What's the basis?

9 MR. GAENG: Well, he's asking what would
10 happen with McDonald's if they get rejected. He's not
11 representing McDonald's, he did the parking study.

12 MR. HOLZER: My question is --

13 HEARING EXAMINER: He's asking him a
14 hypothetical, I think. And he already answered I think
15 the first prong of it.

16 MR. HOLZER: He did.

17 HEARING EXAMINER: Didn't you tell Mr.
18 Holzer that if the RO zoned property were not included
19 you believed it's unlikely that it would meet the
20 parking requirements of the zoning rules.

21 THE WITNESS: I should have clarified, I'm

1 HEARING EXAMINER: Any redirect?

2 MR. GAENG: Just briefly, Your Honor.

3 EXAMINATION BY MR. GAENG:

4 Q Mr. Holzer asked you about the 2012 study
5 and you tracked it at the Reisterstown store.

6 Just to clarify, you did the study in 2012
7 at the Reisterstown location and you repeated the
8 identical study in 2014; correct?

9 A That's correct.

10 Q And in the 2014 study you came up with the
11 exact same highest occupancy rate of 25 cars; isn't
12 that correct?

13 A That's correct.

14 HEARING EXAMINER: Let me ask you one
15 question that I'm just not sure the answer. He asked
16 you whether there was any difference between parking
17 studies or parking calculations at an existing
18 restaurant versus one that McDonald's might open in the
19 first instance.

20 And you said that you didn't use any
21 different methodology, was that what you said?

1 MR. GAENG: Yes.

2 HEARING EXAMINER: And what do you
3 anticipate, Mr. Holzer?

4 MR. HOLZER: Well, thank you for letting
5 the other two go. But I think we have five more
6 witnesses who will be longer than those first two.

7 HEARING EXAMINER: They will be?

8 MR. HOLZER: Yes.

9 HEARING EXAMINER: Okay. So I guess the
10 reason -- we're going to stop for today it seems pretty
11 clear. But now what are we going to do going forward?

12 Are you going to choose an additional day
13 or are you going to choose an additional two days? I
14 want you all to think about it and to wrap it up. I
15 hope you can get it done with another day, but I guess
16 my warning to you is that you'd better maybe be on the
17 long side so we don't get to this situation where we're
18 here another day and it too has to go further and then
19 we have another gap.

20 Hopefully they'll be able to schedule you
21 into April. There is an existing calendar for April

1 rebuttal.

2 MR. GAENG: I don't know what the witnesses
3 are going to say.

4 HEARING EXAMINER: They might have a
5 rebuttal witness.

6 MR. GAENG: There may be something that we
7 need to rebut.

8 HEARING EXAMINER: We've had those cases go
9 on --

10 MR. HOLZER: Then we'll try and get two
11 days.

12 HEARING EXAMINER: That's all I'm putting
13 in your minds that it's not always so clear and it's
14 not clear to me how long it's going to take.

15 But if you have one witness, Mr. Holzer has
16 five, I think there's probably a chance that you might
17 want a rebuttal witness or to recall one of the other
18 ones to speak to some of the issues.

19 And if that goes beyond the time, then
20 we're going to be picking a third day and we'll be yet
21 another month or two down the road.

1 STATE OF MARYLAND

2 CITY OF BALTIMORE: ss

3

4 I, Paula J. Eliopoulos, a Notary Public in and
5 for the State of Maryland, Baltimore City, do hereby
6 certify that the foregoing is a true and accurate
7 transcription of the recording to the best of my
8 ability due to the quality of the audio recording.

9 As witness, my hand this 11th day of June, 2014.

10

11

12

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Paula J. Eliopoulos

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Paula J. Eliopoulos

15

Notary Public

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18

19

20 My Commission Expires:

21 June 15, 2016

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Aaron (2) 4:10,11 abandoned (2) 7:21;25:4 able (23) 5:5;14:13;19:16;29:2; 35:7,8,11;40:11,20;42:9; 43:8;44:3;58:4;59:11;60:5; 75:4;77:19;88:18;89:10; 91:10;119:4;121:5;133:20 absolutely (2) 62:7;134:7 accept (3) 29:10;36:12;45:7 accepted (4) 106:8,16;107:21;117:8 access (7) 8:4,4;31:4;69:9,20; 87:17 accommodate (7) 6:1,13;42:9;44:4;46:6; 82:7;103:16 accordance (1) 53:7 according (5) 22:8;79:9;82:14;93:19; 104:2 account (1) 84:1 accurate (1) 21:8 accurately (1) 29:6 across (17) 7:15,15;17:5,11;18:4; 24:15,15,17;27:11,13;37:4; 42:16;55:17;81:2;87:1; 91:10;92:6 activity (4) 18:9;61:5,8;70:8 actually (16) 9:2,4,16;13:8;24:17; 25:13;33:11;35:2;55:2,8; 61:2;68:14;69:14;78:9; 83:9;95:5 add (9) 13:6;16:21;34:4;96:18; 97:7,16;98:1;99:2;123:1 added (1) 14:5 additional (4) 34:4;36:9;133:12,13 address (11) 10:3;22:11,12;82:17,19; 84:21;94:1,18;104:5,7; 118:11 addressed (1) 57:7 addresses (1) 6:17	adds (1) 98:18 adequacy (2) 109:9;114:7 adequate (8) 105:12;112:14,20;113:6, 20;115:20;116:2;117:1 adequately (1) 112:18 adjacent (3) 26:14;50:13;119:5 adjoining (1) 9:15 adjust (1) 71:16 adjusts (1) 39:10 Administration (9) 13:5;20:16;33:21;35:21; 36:6;79:15;95:12;98:13; 108:18 administration's (1) 101:13 Administrative (2) 56:21;106:10 Administrator (1) 105:10 admitted (6) 30:8;36:15;45:16;107:2; 117:11;122:5 advancements (1) 39:5 advantage (1) 84:13 advertised (1) 3:12 advising (1) 35:21 afternoon (6) 3:2,18;4:7,8;82:21;94:10 again (13) 13:21;14:8;40:2;42:8; 57:15;66:4;73:4;74:4; 116:6;118:12;125:18; 126:6,6 against (1) 19:20 aging (1) 25:4 ago (2) 95:19;121:21 agree (3) 21:13;95:15;96:3 ahead (3) 96:9;118:12;130:10 air (3) 77:4,16,19 allow (6) 9:12;11:11,13;47:8; 65:17;82:11 allowed (1) 11:16 allows (1)	33:6 Almost (3) 37:19;51:14;81:12 alone (1) 20:20 along (18) 15:20;24:5;25:16;41:16; 45:21;50:11;52:19;70:4; 73:8;74:2,16;95:3;96:4; 97:9;99:13;100:18,18; 116:6 alteration (1) 89:15 although (3) 73:13;79:7;92:7 always (3) 20:11;134:15;135:13 ambient (1) 52:7 American (1) 106:6 amongst (1) 98:13 amount (6) 11:10;50:4;53:2;86:10; 124:20;128:21 ample (1) 42:1 analogue (1) 51:7 analysis (12) 63:8;75:18;76:20;114:7, 20;116:5,20;124:2,6,7; 126:9;127:17 analyzed (1) 128:6 anchor (1) 25:1 anchored (2) 24:21;39:21 angles (1) 50:1 Anne's (3) 88:7;105:11,14 answered (3) 118:20;129:14;130:17 anticipate (3) 18:9;73:10;133:3 anti-development (1) 95:15 apartment (7) 9:18;72:16,16;74:12,20; 84:3;87:20 apartments (6) 73:19;87:13,18;88:3,8,10 apologize (1) 75:16 apparently (1) 57:13 appearances (1) 10:5 appeared (1) 57:13	appearing (1) 3:21 appears (4) 18:7;33:4;70:2;124:1 applies (1) 130:12 apply (1) 53:11 appreciate (2) 103:15;130:20 approach (1) 29:1 approached (1) 32:16 approaching (3) 26:3;50:12;80:8 appropriate (1) 73:2 approval (1) 72:11 approved (2) 53:10;80:18 approximately (9) 24:2,14;33:13,19;63:6; 67:2;68:8;116:7;130:15 April (2) 133:21,21 arcade (1) 37:15 arches (1) 58:10 architectural (1) 55:8 area (28) 13:18;14:7;16:19;22:21; 23:2,4;26:14;32:18;37:4; 38:6;39:15,20;40:3,9;41:2; 54:12,20;56:20;60:19;65:7; 71:20;74:2;84:2,10;85:10; 102:15;114:17;120:11 areas (4) 38:11;84:3;90:19;107:21 around (18) 13:13;25:15;32:12,17; 56:9;59:1,13;62:9;64:9; 73:14;77:11;91:15;92:7; 93:11;94:16;95:7;96:9; 127:1 assert (1) 20:8 assist (2) 49:10;83:3 Assistant (1) 100:14 Association (2) 4:10;106:7 assume (4) 58:13;59:8,19;76:19 assuming (3) 34:12;72:15;102:3 attached (3) 36:1,5,8 attachments (2)

38:13;54:12;117:17; 127:8	CFO (1) 100:14	135:13,14	66:2;103:12
capital (1) 53:2	challenge (1) 38:21	clearly (1) 127:3	comparative (1) 116:4
capitalize (1) 101:4	challenging (5) 9:8;16:9;10;19:5,5	clients (1) 5:19	compare (1) 124:13
car (1) 97:6	chance (2) 98:18;135:16	clock (1) 81:18	comparison (3) 51:16;76:13;127:7
cardboard (1) 39:8	change (2) 13:10;76:1	clocked (1) 83:10	competitors (1) 51:7
care (1) 62:11	changed (1) 14:3	close (3) 68:15;74:9;99:14	complaints (1) 52:12
career (2) 105:6,15	changes (4) 8:15;34:1;119:9;122:8	closed (2) 8:1;24:9	complete (1) 58:15
cares (1) 6:6	changing (1) 13:1	closer (2) 28:21;95:17	completed (1) 84:1
Caroline (1) 4:3	chart (2) 30:10;114:19	closest (1) 51:17	completely (1) 15:2
carries (2) 114:11;116:9	chat (2) 134:9;136:5	club (1) 17:16	complex (1) 88:4
Carroll (1) 4:9	check (4) 5:12;56:17;91:15;114:15	co-ed (1) 98:4	compliance (1) 14:19
Cars (4) 8:5;112:1,7;131:11	Cherry (2) 43:21;56:9	co-exist (1) 96:17	comply (1) 80:15
case (15) 3:4;5:4;7:8;10;18:7; 19:21;23:11;57:14;95:17; 108:5;119:2;123:10; 134:11;136:3,4	Cheryl (1) 4:10	collection (1) 24:6	Concepts (4) 104:11,12;105:15;127:12
cases (5) 107:2,4,11,12;135:8	children (1) 76:14	Colleen (1) 35:19	concern (9) 65:8;83:19,21;95:11; 96:14;98:13;99:4,20; 100:16
catch (1) 35:4	choices (2) 101:10,11	colored (2) 78:8;89:16	concerned (2) 17:17;66:13
categories (1) 9:9	choose (3) 39:14;133:12,13	colors (1) 51:5	concerning (1) 10:5
category (1) 11:7	chosen (1) 134:1	Columbia (2) 128:3,12	concerns (4) 18:21;57:7;83:13;97:5
Catonsville (1) 128:3	Church (19) 4:21;15:20;17:16;81:14; 83:6,7,17;84:11,16,20;85:1, 3;89:21;90:1,2,11;93:13; 96:3;97:21	comfortable (1) 42:4	conclude (3) 90:9;114:12;136:2
cause (1) 98:12	circle (1) 70:19	coming (13) 13:21;17:13;53:13;58:9; 59:6;88:12,15;92:20;96:8; 97:8,18;98:17;102:9	concluded (3) 20:1;113:20;136:13
ceiling (1) 25:10	circling (1) 96:9	comment (4) 19:4;21:3,10,14	conclusions (1) 85:13
cemetery (1) 85:5	circuitous (1) 59:13	comments (2) 20:12,21	concrete (1) 17:12
center (9) 24:20;30:20;32:10;37:20; 38:3;40:1;56:5,12;87:1	circulation (1) 32:13	commercial (11) 7:10;8:14;14:9;15:8; 24:20;25:16;60:19;64:20; 70:8;99:6;107:14	condition (3) 13:12;25:2,3
certain (5) 3:10;14:4;62:7;126:16; 128:21	circumstances (2) 12:11,14	commission (1) 45:3	conditioning (1) 77:5
certainly (3) 19:21;34:21;97:13	citizens (1) 82:11	commissioned (1) 101:16	conditions (8) 12:11,14;14:18;26:16; 30:10,13,15;31:15
certainty (2) 112:12;115:19	city (3) 16:2;60:5;125:8	commonly (2) 37:8;43:17	conducted (7) 108:6;109:10;110:13,15; 113:10;118:19;124:8
certification (2) 105:21;106:1	clarified (1) 129:21	communication (1) 51:11	confer (1) 134:4
certifications (1) 105:20	clarify (2) 75:11;131:6	Community (12) 4:10;15:8,17;16:6;18:4, 11;57:3,6,17;93:7,8;134:18	configuration (2) 93:8;120:17
certified (2) 121:11,14	clarity (1) 51:12	commuter (2) 96:7;102:10	configurations (1) 120:16
cetera (3) 32:7;40:1;72:6	cleaner (1) 52:2	commuters (2) 93:4,5	confusing (2) 127:4,6
	clear (6) 30:3;59:20;76:3;133:11;	company (2)	connection (1) 110:11

113:5;115:9;123:19;124:3 determined (3) 110:20;113:14;114:17 determining (1) 110:19 detriments (1) 14:12 develop (2) 23:20;116:10 developed (3) 14:4;24:3;126:16 developer (1) 17:11 development (4) 33:21;81:1,2;96:1 devoted (2) 38:8,10 difference (13) 18:14;41:7,12;68:2,8; 69:7;125:10;126:8,15; 127:2,8;131:16;132:11 different (9) 6:8;38:11,12;50:1,1;76:8; 120:10;127:15;131:21 differs (1) 50:19 difficulty (1) 14:20 digital (2) 51:11,20 dimension (1) 66:16 dimensions (1) 74:9 dimmer (1) 73:12 dining (3) 38:5,9;65:13 dire (1) 106:18 direct (4) 14:14;60:12;73:10;96:11 direction (7) 12:18;13:14;30:16,19; 59:6;60:5;70:2 directional (4) 28:16;52:17;122:15; 123:2 directions (1) 13:6 directly (2) 81:2;87:1 discussed (2) 7:3;45:9 discussion (1) 60:12 display (1) 51:4 distance (5) 28:9;34:19;65:1;80:8; 89:5 distinction (1) 96:8	distribution (1) 68:11 district (4) 15:20;43:5;84:20;85:2 document (2) 31:15;120:7 documentation (1) 18:6 documents (1) 108:19 dollars (1) 53:4 done (19) 6:14;72:7;73:1;75:18,19; 76:7,20;82:4;101:16;115:6; 21;116:4;119:15;123:13; 128:1,3,10,11;133:15 door (4) 49:12;55:18,19;64:21 dormitories (3) 96:21;97:3;98:9 dotted (1) 78:16 doubt (3) 21:18,18;101:3 doughnuts (1) 53:19 down (20) 13:21;17:13;18:1,2; 42:12;49:3;59:17;62:12; 72:20;85:21;90:20;91:1,11; 92:5,10;93:12;102:1,6; 103:6;135:21 downward (1) 52:18 DR16 (2) 41:3,5 draw (7) 21:15;80:21;85:13;93:7, 7,9;132:7 drawing (1) 46:16 drawings (1) 58:14 draws (1) 39:20 drive (46) 8:3;18:10;22:13;24:4,5; 26:15;32:5,16,21;33:2,2,5, 7;37:21;38:2,15;42:16; 47:12,20,21;48:2,4,14,14, 16;52:12;58:6;61:15,18,21; 63:9,14,15,21;65:8;68:17; 74:2;84:8;86:8;90:10,10; 91:1,15;110:1;122:20; 127:2 driving (2) 64:9,13 drop (1) 26:20 drops (1) 12:18 drove (1)	59:20 dual (2) 110:1;127:2 due (6) 39:15;40:10,12;46:4; 48:5;110:5 duly (4) 22:8;82:14;93:19;104:2 duration (1) 33:4 during (9) 29:6;61:9;75:14,14;97:2; 105:5;108:8;110:14;113:14 duties (1) 105:16 E earlier (2) 39:17;50:20 early (5) 5:5;53:18;54:1,1;99:15 easier (2) 78:10;92:12 easiest (1) 93:10 east (3) 17:20;37:17;125:7 Easton (1) 4:12 eat (6) 63:17;64:7;65:15;84:7; 90:11;102:15 eating (1) 62:10 economic (1) 118:10 education (1) 55:6 educational (1) 104:18 effect (2) 19:1;84:17 effected (3) 40:17;70:13;80:3 effectively (1) 70:13 effects (2) 13:21;14:16 efficiency (1) 38:18 egress (1) 31:1 eight (10) 12:13;24:14;48:3;54:21; 70:9,14,15,16,16;81:21 either (9) 8:5;41:20;57:14;58:5; 84:6;129:1,4;130:11;134:2 elementary (1) 98:5 elevation (8) 37:15,17,18,18,21;38:1;	47:5;77:8 elevations (2) 36:20;45:7 eliminate (1) 68:16 eliminated (1) 128:15 else (10) 30:5;86:2;90:9;93:15; 98:2;99:18;103:4,10; 132:13;136:8 elsewhere (1) 84:7 emerge (1) 52:7 emit (1) 77:18 employed (4) 22:17;50:18,20;104:10 employees (2) 61:10;81:1 employment (1) 54:11 encounter (2) 84:6,10 encountering (1) 89:7 encroachment (1) 10:9 end (2) 16:21;55:13 energy (1) 71:14 enforce (1) 66:3 engineer (4) 54:7;118:3;120:16;136:3 engineering (1) 55:9 engineers (1) 104:13 enhance (1) 23:6 enlargements (1) 46:17 enormous (1) 87:1 enough (5) 41:18;46:6;86:3;129:5; 134:20 enter (2) 48:1;127:1 entered (1) 23:19 entrance (6) 31:4;37:20;48:2,11; 59:15;68:7 episcopal (1) 83:16 equal (1) 38:13 equipment (1) 77:10
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flatten (1) 80:10 flattened (1) 27:2 floor (1) 75:3 floors (1) 74:19 flow (2) 18:20;123:2 focus (1) 124:2 folks (7) 6:13;7:7;37:2;64:9; 72:16;82:7;118:4 follows (4) 22:9;82:15;93:20;104:3 Fontone (1) 4:18 fonts (1) 51:4 food (13) 32:18;38:12;48:17;50:21; 64:4;84:6;7;85:19;90:11; 117:16;119:5;122:15,20 foot (12) 13:10,11;24:3;37:8;38:7; 45:20;72:13;74:15;75:4; 80:21;87:14,17 footage (3) 40:8,18;114:18 forecast (2) 114:20;115:1 form (1) 112:11 formed (1) 120:6 Forrest (21) 4:13;5:1;16:2;59:1,16; 88:1;90:15;92:17;94:3,11, 12,13,20;96:13,18;97:9; 98:4;100:17,19;101:6; 102:19 forth (2) 18:12;117:4 Fortunately (1) 41:15 forward (3) 11:5;82:10;133:11 found (2) 61:1,6 Foundry (4) 7:19;13:7;24:20;99:1 four (2) 48:11;71:4 Fourth (1) 13:3 Franklin (3) 43:18,20;56:8 frankly (1) 103:1 free (1) 37:3	frequently (1) 20:10 Friday (1) 110:17 front (7) 13:9;27:17,20;34:8; 37:15;40:18;56:11 fryer (1) 39:10 fryers (1) 39:6 fuel (1) 39:8 full (3) 31:4;37:12;134:12 fully (1) 113:2 function (1) 33:3 further (15) 14:8;16:1;18:10;54:3; 56:10;66:10;72:17;78:19; 80:10;81:5,6;87:6;93:1; 123:5;133:18	50:20 generators (2) 38:21;78:3 generically (1) 76:5 geographic (1) 23:2 Gerard (1) 3:19 germane (1) 13:10 gets (5) 5:6;19:21;50:4;52:7; 71:17 girls (1) 100:3 girl's (1) 98:7 glad (1) 103:16 glare (2) 73:11;74:2 goal (1) 118:9 goes (10) 8:21;20:1;21:12;39:12; 77:5;85:5;86:1;96:9; 118:13;135:19 golden (1) 58:10 Good (7) 3:2,18;4:1,6,6,8;82:21 Gotcha (1) 12:6 governing (1) 83:16 grade (4) 25:12;26:21;98:10,10 grades (1) 76:2 granted (7) 10:12;18:8;34:16;43:11; 56:19,20;130:13 graphic (1) 47:12 grave (1) 90:6 Greater (3) 4:9;80:8;114:17 green (3) 18:1;38:17;95:2 Greenberg (1) 3:19 Greenspring (14) 4:10;17:21;18:1;59:18; 85:2,17,21;88:4,6;91:12; 92:18;93:2,12;97:20 gross (2) 40:8,9 ground (2) 23:20;77:12 Group (2) 127:13,17	groups (1) 57:17 guarantee (1) 91:19 Guckert (1) 127:16 guess (7) 6:8;10:19;58:16;68:4; 103:13;133:9,15 gut (1) 134:14 guys (3) 5:13;90:18;134:2
H			
			half (7) 37:13;54:21;63:3;72:13; 77:11;83:10;97:9 hamburger (3) 84:14,14;85:12 Hampstead (1) 56:15 hand (2) 22:6;82:12 hands (1) 87:19 Hanover (2) 104:7;127:19 happen (6) 61:8;84:4;85:16;91:13; 107:2;129:10 happens (3) 84:12;85:20;102:11 hard (1) 82:10 hardship (1) 14:21 Harford (1) 105:6 harmony (1) 15:3 heading (4) 59:10;79:11;97:19,19 health (1) 15:6 hear (3) 21:21;78:1;103:13 heard (4) 75:9;86:5,11,16 HEARING (123) 3:2,3,5,14;4:1,5,19;5:2, 12,17,21;6:3,6,16;7:2,6,14, 18;8:7,16,9;7,12,18;10:11, 18;11:1,6,17,21;12:3,6,8; 15:11;19:13;20:3,17,21;7, 12,18;22:2,10,15;29:12; 30:4,7;31:17;36:14;37:1; 45:10,12,15;53:6;54:4;57:4, 6;71:1,8;73:16;76:12; 78:20;81:6,9,15;82:1,6,16, 21;86:6;87:6,8;93:15,17,21; 94:4,7;100:1;103:4,6,9,12,

108:3 irregular (1) 33:18 issue (4) 21:17;84:21;95:21;96:20 issues (6) 18:19;44:12;50:2;65:6; 96:2;135:18 ITE (8) 110:18;121:12,14; 122:15,18;132:2,4,6	15:68;16;99:1 Krispy (26) 7:21;9:3;10:13;16:7; 18:14,17;19:16;24:4,8,9; 26:1,14;28:4,5;29:2;31:2,3; 32:3,15;34:15;41:9,10;53:8, 15;68:15;99:1	71:12;75:5;134:12 leave (8) 5:19;63:16;64:4;65:16; 66:8;85:12;119:4;123:20 LED (8) 39:2,3;51:3;52:16,17; 71:11;73:4,11 Lee (3) 22:1,7,12 left (21) 12:19;17:13;25:14;30:20; 31:5,5,9;32:19;35:9,10; 38:2;59:11,12;79:8,10; 85:21;88:20;89:10,12; 105:9,14 lefthand (2) 47:4;89:8 legal (1) 58:14 length (2) 33:6;47:20 less (5) 39:6;52:8;67:6;103:1; 106:13 letter (3) 35:18;36:2,3 letters (2) 48:4,11 letting (1) 133:4 level (5) 52:2,9;67:21;68:12;75:17 levels (1) 51:17 lieu (1) 11:12 life (1) 87:19 light (14) 14:18;15:14;18:1;26:4; 28:8,8;38:19;52:21;71:13, 15;73:6,14;89:9;93:11 lighted (1) 71:20 lighting (13) 39:2,4;52:14,15,16; 71:10;72:3,4;73:2,16,18,20; 80:17 lights (6) 52:17,20;71:11,11,19; 73:11 like- (1) 61:19 likely (6) 84:4;85:16;90:10;117:17; 128:19;132:21 likewise (1) 73:21 limit (1) 26:6 limitation (1) 65:10 limited (5)	18:17;29:3;40:10;49:17; 50:15 limits (1) 41:6 Linda (1) 4:15 line (14) 8:20,21,21;10:14;33:12; 51:18;70:5;72:13;73:8; 74:5,7;75:10,15;78:16 lines (2) 9:5;12:21 list (2) 39:12;46:11 listed (1) 128:9 listen (1) 63:17 listing (1) 30:12 lists (1) 132:10 liter (4) 85:12,17,18,19 little (11) 8:18;28:21;37:2;44:5; 47:19;57:16;67:10;68:19; 84:18;92:21;98:16 live (2) 16:4;72:16 lived (1) 92:14 lobby (1) 62:4 local (3) 57:16;93:7,8 located (10) 16:1;32:10;68:21;78:9; 83:7;109:11;116:6;127:9, 19;128:16 location (17) 23:8,14;24:1;51:18;52:5; 56:6;60:4;62:13;63:8;67:7; 78:12;85:4;95:2;119:13; 126:11,18;131:7 locations (7) 42:20;50:1;53:20;62:12, 17;63:2;128:11 logo (2) 47:11,12 loitering (3) 65:17,20;66:7 long (14) 5:4,13;6:7;19:2;23:19; 24:11;34:19;42:4;49:20; 54:19;60:21;105:1;133:17; 135:14 longer (2) 132:17;133:6 longest (1) 33:4 look (8) 20:14;37:4;67:11;75:4;
J	L		
January (1) 113:9 Jay (2) 103:20;104:1 job (4) 22:19;54:14,17;104:15 Judge (1) 56:21 jurisdictions (1) 20:11	lack (1) 84:6 land (3) 55:7;132:5,11 landscape (2) 45:20;46:13 landscaping (7) 27:9;46:1;49:20;50:12; 74:17;75:4;76:1 Lane (55) 4:11,12,14,15;7:13;8:4; 12:5;15:21;16:5;17:13,21; 24:5;25:14;26:15;27:6,11; 30:20;31:7,9;32:6;33:2; 34:4,5,9;35:12,13;38:2; 42:16;48:16;49:15;59:9,16, 20;64:11,19;68:7;69:3,10; 72:18;79:8,10,18;83:11; 84:8;88:7,19,20;89:10,19; 91:3;92:10;99:14;102:17, 21;110:2 lanes (3) 13:6;30:16;48:3 large (4) 42:8;47:16;88:4,8 larger (2) 27:8;33:13 last (7) 11:15;17:4;42:21;43:15; 62:4;94:5;125:3 Laurel (2) 128:3,12 law (5) 22:8;56:21;82:14;93:19; 104:2 laying (1) 41:4 layout (4) 32:10;40:21;47:3;72:12 layouts (1) 40:19 lead (1) 12:15 leading (1) 47:20 leads (1) 90:9 learn (1) 54:15 lease (1) 23:20 least (7) 5:6;10:20;12:13;66:14;		
K			
Kariotis (1) 4:13 Kathy (1) 4:18 Keely (8) 103:20,21;104:1,6; 106:14;107:20;123:18; 132:15 keep (2) 64:1;73:14 Kelly (1) 35:19 Kennedy (1) 20:15 key (1) 34:6 kids (1) 86:20 kind (9) 72:5;76:16;90:8;95:6; 98:3;101:16,17,17;134:10 kindly (1) 94:14 kitchen (1) 38:11 knowing (1) 41:4 knowledge (5) 19:19;99:7,8,16;127:7 knows (1) 121:10 Kreme (26) 7:21;9:3;10:13;16:7; 18:14,17;19:16;24:4,8,9; 26:1,14;28:4,6;29:2;31:2,3; 32:3,15;34:15;41:9,10;53:8,			

4:11,11,12,13,14 much (9) 13:4;41:5;51:4,12;69:7; 81:10;95:15;132:15;136:10 multi-colored (1) 51:3 multi-story (2) 25:19;27:8 must (3) 12:10;14:18;91:18 myself (1) 63:19	newer (2) 40:13;51:13 newly (1) 127:9 next (15) 42:12;43:18;55:18,19; 56:2,14;62:3;64:21;65:12; 78:12,16;86:18,19;87:14,21 nice (3) 52:5;84:10;90:2 night (11) 18:19;19:2;52:7;60:15; 61:3,5;65:4,11;71:17; 75:14;97:3 nine (1) 53:12 nobody (1) 57:18 noise (6) 74:1;75:10,18;76:20; 77:18,21 none (2) 57:9;76:2 normal (3) 32:13;51:14;61:7 Normally (1) 15:13 north (14) 7:12;27:21;28:3;30:18; 34:5;35:4;50:8;58:3,8; 60:17;68:6;80:10;88:10,14 northbound (3) 79:11;80:6;125:12 northwest (8) 26:3;28:13,15;34:13; 59:10;60:18;69:13;123:8 note (4) 14:10;16:16;26:2;27:9 notice (2) 8:19;74:1 noticed (4) 25:5,8;60:11;62:9 November (3) 109:10,18;124:11 number (22) 8:9;18:18;19:9;39:5; 41:8;43:7,14;46:8;47:17; 62:11;63:20;66:15,15; 70:18;76:9,17;88:8;95:3, 16;110:9;116:13,19 numbers (1) 115:4 Nursing (3) 43:21;56:9;62:3	122:2;129:7 objections (2) 18:13;73:18 obligations (1) 15:4 obscures (1) 27:10 observation (1) 74:21 observe (2) 77:21;80:16 observed (1) 118:19 obstructions (4) 28:18;29:3;80:4,5 obtain (2) 10:2;54:13 obtained (1) 116:14 Obviously (2) 8:17;97:1 occasions (1) 106:12 occupancy (10) 111:9,10,11;112:2,5,21; 113:18;116:15;120:2; 131:11 occupied (3) 110:13;113:2,13 occur (2) 114:20;116:12 occurred (2) 111:4,5 occurs (1) 61:5 off (16) 11:9,10;12:18;26:18,20; 40:18;41:5;52:21;66:21; 67:10;71:18;77:12;79:8; 90:3;92:21;117:18 office (16) 9:15;13:19;20:19;25:19; 27:8;28:7,12;37:19;46:12; 64:5,21;68:6;105:10;106:9; 136:5,6 officer (1) 73:16 officers (1) 61:4 oil (2) 39:7,7 old (3) 7:16;20:9;132:9 older (3) 51:8;53:21;62:16 once (4) 32:3;49:11;71:12;123:20 oncoming (1) 27:21 one (58) 8:12;11:10;12:16;20:19; 21:13,14;25:9;27:2;28:12; 33:2;37:17;43:18;44:3;	45:4;46:16;47:12;51:2,8,13, 17;55:16,16;56:2,7,14,20; 57:13;62:2,6,7;67:3,9;73:4; 75:8;78:5;81:17;86:17,18; 89:6;95:14;97:17;99:3; 100:2;101:4;107:7;115:3; 116:16;126:10;127:9; 129:1,4;131:14,18;132:20; 134:15,19;135:15,17 ones (5) 58:3;63:21;80:14;128:6; 135:18 One's (2) 81:13,14 only (25) 12:7;16:16;17:16;18:10, 17;34:14;38:8;40:11;43:8; 44:3,9;50:4;58:2,7;61:20; 65:9,14;71:16;88:2;89:15; 97:17;107:11;124:2;127:2; 134:15 on-site (1) 79:20 open (12) 18:17,18;60:15,21;61:14, 17;62:1,8;76:3;77:16;99:7; 131:18 opened (4) 8:1;24:13;53:18;54:1 opening (5) 15:14,14;16:8;19:4;31:4 operate (2) 11:11;24:11 operated (1) 24:14 operation (13) 3:7;10:13;11:3;16:10; 18:16;19:7,8;53:14;60:11, 13;99:5;101:7;108:9 operations (2) 66:5;99:7 opine (1) 118:16 opined (1) 113:5 opinion (16) 57:10;91:14;112:11,16, 18;115:18;117:4;119:12, 19;120:7;121:1,6,7;122:11, 18;123:3 opportunities (2) 23:6;98:1 opportunity (1) 19:12 opposed (2) 60:20;86:8 opposite (1) 88:4 opposition (2) 15:18;57:3 order (11) 5:8;6:13;10:2;19:12; 43:11;48:7,8;50:16;51:1,
N			
name (8) 22:11,12;82:16,18;93:21; 94:5;104:5,6 names (1) 6:17 nature (4) 60:19;69:21;85:9;90:13 navigate (1) 127:1 navigating (1) 49:11 nearby (1) 96:21 necessary (1) 52:20 need (14) 3:15;6:7;10:3;22:4; 48:13;49:14;71:1;72:21; 116:2;130:15;134:3,8,21; 135:7 needed (4) 25:9;39:11;49:1;51:4 needs (1) 6:8 negative (1) 21:15 negotiated (1) 18:4 negotiations (1) 17:10 neighbor (1) 97:4 neighborhood (10) 19:1;40:2;60:3,8,20; 64:10;73:2;97:5;99:10; 102:4 neighborhood- (1) 101:20 neighboring (1) 64:20 neighbors (3) 16:4;73:18;77:20 new (21) 9:13;23:1,7;37:17;39:13; 48:15;51:10;53:9;62:13,17; 80:15;83:21;109:7;116:11; 120:15;122:19;126:10,17; 127:9;132:8,11	object (1) 121:4 objection (15) 21:4;29:12;30:3,6;36:13; 45:10,12;81:16;107:19; 117:9,20;118:20;119:14;	oncoming (1) 27:21 one (58) 8:12;11:10;12:16;20:19; 21:13,14;25:9;27:2;28:12; 33:2;37:17;43:18;44:3;	
	O		

points (2) 39:21;69:20	presence (1) 49:15	129:15	Queen (3) 88:7;105:11,14
police (2) 61:4;66:9	present (2) 14:19;19:11	properties (3) 9:15;75:21;95:17	quick (4) 27:14,15;75:8;91:8
policy (1) 66:2	presentation (5) 5:7,14;18:13;30:14;83:4	property (28) 3:6;8:20,21;12:12,21; 13:7;17:5;18:4;23:18,20; 24:10;31:20;36:10;51:18; 68:4;70:1;72:13;73:8;74:5; 7,16;75:7,10,15;84:16;95:6; 102:20;129:18	quickly (1) 97:17
poll (1) 101:9	presume (1) 21:3		quieter (1) 52:7
poor (1) 13:15	pretty (2) 41:5;133:10	proposal (3) 3:7;112:12;134:6	R
Popeye's (16) 27:13,17,20;42:16;67:3,7; 15;68:21;69:8,14,19;78:13; 79:21;80:13;98:21;99:6	prevent (1) 17:12	proposed (49) 3:9;11:14;15:1;31:15,19; 32:8,21;33:14,15,20;34:11; 35:21;36:19,20;40:18;44:9; 45:7;46:4,19;48:21;49:5,7; 50:6;52:14;66:17;67:5; 68:7,14;69:15;71:21;79:13; 80:5,9;83:8;84:4;89:16; 108:10,17;110:3;114:8,8, 12,21;119:9;122:8;123:20; 124:4;128:16;130:14	R16 (2) 8:13,18
portion (2) 25:9;71:3	previous (2) 115:12,21	proposes (1) 37:6	racing (1) 89:9
portions (2) 13:1;122:9	previously (1) 108:19	proposing (7) 16:11;19:7,8;37:7;47:9; 49:18;73:4	radio (1) 63:18
posed (1) 130:7	primary (1) 64:15	Protestants (2) 16:13;57:3	Raise (3) 22:6;32:2;82:12
position (3) 54:20;100:13;101:13	prior (6) 10:13,16;11:2;55:6;57:6; 130:3	Protestant's (1) 136:4	raised (2) 122:13;123:1
positions (1) 105:4	probability (1) 98:18	protesting (1) 57:14	ran (1) 114:19
positive (2) 20:19;21:16	probably (15) 5:10;6:1;28:13;52:4; 53:11;61:12;62:11;64:20; 65:8;92:9;102:12;119:2; 134:16,19;135:16	provide (1) 43:8	random (1) 102:11
possibilities (1) 79:4	problem (4) 18:11;65:20;82:5;93:5	provided (3) 65:13;109:5;113:17	range (1) 63:12
possible (5) 59:14;81:11;89:4;101:7; 136:7	problems (1) 87:3	public (7) 3:3;15:6;41:13,21;64:17; 96:4;105:12	rare (1) 52:11
post (1) 51:17	procedures (1) 114:14	pull (2) 58:4;72:19	rate (6) 112:2,5,21;113:18; 116:15;131:11
posted (1) 3:12	proceed (2) 129:5;136:4	pupalic (1) 84:10	rates (2) 111:10;132:4
potential (4) 17:5,7,9;18:5	PROCEEDINGS (2) 3:1;136:13	purchase (1) 84:5	rather (2) 15:7;20:10
potentially (1) 17:20	process (3) 19:11;33:5;110:6	purpose (3) 10:9;77:7;108:7	rationale (1) 18:8
practice (1) 21:2	produced (2) 50:19;89:15	purposes (3) 8:14;14:9;95:1	read (1) 18:7
practicing (1) 20:10	profession (1) 61:4	put (5) 14:6;80:14;94:14;126:19; 134:17	reading (1) 6:16
Pratt (1) 82:19	professional (7) 81:18;106:1,4;112:12; 115:18;119:11;122:11	putting (1) 135:12	real (2) 23:5;59:20
precedent (1) 97:11	professionals (1) 5:16		realize (1) 97:17
precisely (1) 114:1	proffer (2) 106:14;118:2	Q	really (8) 33:2;39:17;69:7;73:5; 95:21;96:19;117:20;118:2
predicted (1) 114:1	proffered (1) 107:21	qualified (2) 107:12;119:17	rear (9) 9:19;12:19;41:3;51:18; 52:20;67:16;69:10;74:3,16
predominant (1) 85:18	project (9) 21:4;53:3,5,12;104:16; 105:16;108:4;122:10;129:5	quarter (3) 81:12;93:3;132:20	reason (4) 9:21;19:6;46:3;133:10
prefer (1) 64:7	projected (1) 35:2		reasonable (4) 65:14;112:11;115:18; 134:5
preliminarily (3) 3:16;6:20;15:12	projections (1) 81:3		reasons (1) 8:12
prepare (1) 121:3	projects (1) 104:17		rebuild (1) 43:12
prepared (2) 10:7;109:3	prong (1)		rebuilt (1) 113:3
pre-school (1) 98:7			

59:3,8,10,14,15,17;63:10; 64:2;66:18,18;69:4,10; 70:12;71:8,9;76:6;77:17; 79:10;82:12;87:14;88:4; 90:1,2,2,6,7;91:5,12;92:6,9; 93:12;94:15;95:5;98:16; 99:3;122:1;124:4,9,21; 125:19;128:4,14;129:3; 136:9 righthand (3) 32:12;37:16;70:4 rights (1) 73:11 RO (17) 9:1,1,5,14;10:14,19; 16:19;19:17;70:5,8,13,18; 71:2;128:16;129:2,18; 130:1 Road (122) 3:6;4:13;7:11,12;8:4; 11:15;12:1,7;13:13;18:2; 24:16,17;25:16;26:1,2,4,8; 28:1,9,15,16;30:17;33:15; 34:2,10,14;36:1;39:16,20; 41:16;42:12,15,20;43:1,3; 16;45:4,5,21;48:21;49:16; 18;50:9,11,14;52:8;55:16; 56:1,11,20;58:4,10,17;59:1, 7,10,16,18;60:18;64:11; 68:2;69:3,9,13;79:6,9,13; 85:17,21;87:21;88:5,6,14, 16;91:1,12;92:4,14;93:3,3, 12;94:3,18,19,20;95:3; 96:13,18;97:9,20;100:19, 20;101:1,7,11,19;102:2,12, 19;104:7;108:18;109:12; 114:11;116:7,9;119:6,10; 120:14;122:9;123:8,19; 124:6,14,18,20;125:4,12, 17;126:2,21;128:4;135:21 roads (2) 13:6;94:21 roadway (1) 11:18 roof (7) 38:19,20;77:6,8,9,16;78:1 room (2) 38:9;65:13 Roosevelt (1) 92:9 roped (1) 90:3 Rosenberg (1) 3:19 Rossville (1) 128:4 rough (1) 76:16 roughly (3) 53:12;63:3;66:20 route (4) 59:13;91:21;102:7,18 routes (1)	31:8 Row (4) 7:19;13:7;24:20;99:1 Royal (5) 107:4,5,12,15,16 rubble (1) 24:18 rules (2) 29:18;129:20 runs (1) 95:6 S safely (1) 14:14 safer (1) 91:20 safety (2) 15:6;73:13 Salisbury (1) 104:19 same (20) 19:15;25:21;29:3;31:7, 15;33:9;35:13;49:6;56:6; 67:14;69:1;78:8;80:4; 113:10;114:11;115:11; 126:12,21;127:1;131:11 satisfy (1) 10:5 Saturday (8) 110:18,21;111:5;112:4,6; 113:12,15,18 saw (1) 29:6 saying (4) 58:2;76:4;102:6;123:7 schedule (2) 133:20;134:2 School (30) 5:1;16:1;43:19,20;54:15; 55:17,18;56:2,8;86:18,19, 20;94:11,12,13;95:2,9,12; 96:5;97:1,2;98:1,3,4,5,8; 100:3,14,17;101:14 science (1) 63:13 scrappers (1) 25:6 screen (2) 32:11;39:9 screening (1) 32:6 seat (2) 22:10;104:4 seats (3) 38:7;44:6,8 second (6) 11:7,13;12:17;45:18; 100:1;115:13 section (3) 8:13;10:5;11:17 security (1)	65:7 seeing (2) 53:21;63:10 seek (1) 9:21 seeking (3) 11:8,19;12:4 seems (4) 20:4;43:9;55:21;133:10 selected (1) 39:15 selecting (1) 74:3 sell (1) 40:3 sense (1) 111:6 sensitivity (1) 71:16 sensor (1) 71:15 sent (4) 5:1;35:18;36:6;79:15 serve (4) 41:19;42:2;112:18; 113:20 service (8) 24:4;27:14,15;41:16; 47:20;61:15,21;65:9 servicing (1) 126:17 serving (1) 90:20 set (1) 117:4 setback (1) 25:21 setbacks (1) 50:14 seven (11) 5:11;16:18,18;24:14; 25:20;70:11;100:2,4,8; 114:16;115:5 Seventh (1) 14:2 several (5) 42:21;47:6;70:19;121:21; 125:3 severe (1) 14:20 SHA (2) 119:9;125:1 shape (5) 8:15;33:18;40:10,11; 66:19 sheet (2) 6:19;78:7 sheets (4) 36:8,9,10;111:11 shields (2) 52:19;73:7 shipped (1) 53:20	shop (1) 7:21 shopping (4) 39:21;56:5,12;87:1 shops (1) 99:14 short (4) 50:4,14;81:20;89:5 shortly (1) 13:17 show (18) 12:10,13;13:20;15:1; 23:9;25:4;26:9;30:9;31:14; 35:15;36:16;44:20;57:4; 70:1;72:4;89:20;91:21; 109:1 showed (2) 57:18;78:10 showing (3) 26:15;33:12;74:9 shown (3) 31:12;33:14;95:2 shows (4) 27:6;28:13,16;75:1 shrink (1) 13:3 shrinks (1) 14:8 shrubbery (2) 28:17;46:14 side (20) 25:13;32:17,19;33:1,1; 34:11;37:14;38:1;47:12; 67:20;68:2,3;70:4;88:14; 91:3;125:4,7,7,7;133:17 sidewalk (2) 64:17;87:21 sight (2) 73:12;80:8 sign (14) 6:18;46:19;47:10,12,13; 48:1,5,8,21;49:4,6,18; 88:21;89:1 signage (4) 14:1,13,16;50:17 signed (1) 58:19 significant (3) 15:17;16:6;42:4 signs (12) 3:9;28:16,16;46:21;47:8, 9,15,18;48:18;49:19;58:16; 127:3 similar (14) 28:20;29:16;32:4,9,15; 68:15;110:3;114:10,11,13; 115:8;116:9,10,11 similarly (2) 31:7;48:7 Simonetti (1) 4:14 simple (1) 114:19
--	--	--	--

strict (1) 14:18	16;81:4;85:1;98:7,15,21; 130:1;131:15;134:9,12; 136:12	test (2) 57:15;77:1	21:9;115:2
strip (3) 8:13,18;25:16	surface (1) 11:19	testified (6) 22:9;73:21;82:15;93:20; 104:3;119:15	tone (1) 51:15
struck (1) 16:8	surprised (1) 19:3	testimony (8) 16:12;19:12;57:21;63:7; 76:19;86:5;118:8;123:12	took (3) 91:16,18;116:19
structure (3) 24:7;26:7;28:6	surrounding (3) 23:4;25:17;60:19	tests (1) 116:14	top (4) 13:13;29:2;77:3,3
structures (1) 95:3	survey (5) 67:17;75:1;109:10; 110:17;124:16	Thanks (4) 15:11;22:15;93:17;136:9	topo (1) 67:17
students (2) 97:8;101:9	surveys (1) 115:6	theoretical (1) 79:3	topography (10) 8:10;12:17;13:12;25:11, 15;27:6;40:11;50:3;67:14; 80:10
studied (3) 120:19;121:8;126:13	Sustained (1) 119:2	theoretically (1) 89:4	torn (1) 62:12
studies (17) 76:6;101:17,18;104:14; 105:18,19;106:15;114:5; 115:12;117:15;118:15,15; 119:20;121:11;128:8,18; 131:17	sworn (4) 22:8;82:14;93:19;104:2	thereabouts (1) 6:12	towards (7) 12:18;16:1;55:13;60:5; 92:10;97:19;125:8
study (35) 90:8;108:6,7,11,14,16; 109:2,16,19;110:12,13,14; 111:14,19;112:8,10;113:10; 114:2,15;115:13;116:15; 120:2,12;121:2;123:3,18; 124:2;125:14,16,18;129:11; 131:4,6,8,10	system (9) 39:10;50:18,19;51:11,20; 52:6,9;71:15;76:7	therefore (3) 112:5;113:19;116:11	townhouses (3) 88:8;91:2,3
stuff (1) 77:5	systems (2) 50:20;51:7	thin (1) 8:13	Towson (1) 104:20
subject (10) 23:15;25:20;28:4,14,21; 66:16;69:14;72:10;80:9; 108:4	T	thinking (1) 5:18	tracked (1) 131:5
submit (2) 72:8,10	table (4) 111:15;115:15;128:1,9	third (3) 12:20;75:3;135:20	traffic (82) 14:14;17:18;18:12,20,20; 26:4;28:8;34:13,14;35:4,5, 6,11;39:16;50:4;52:8;60:9, 17;80:6,8,21;83:21;87:15, 17;89:5,7,9;90:8;96:1,6,7, 12,16,18;97:6,6,7,16;98:2; 99:2;100:16,18,21;101:4, 18;102:16;103:2;104:11,12, 14,14;105:15,18;106:15; 108:6;116:10;117:15; 118:15;119:18,20;120:14, 16;121:11;122:12,16,17,21; 123:3,7,18;124:14,20; 125:1,2,10,17,18;126:9,21; 127:12,13,14
submitted (2) 120:1;121:16	tables (3) 38:6;44:6,8	Thomas (48) 4:11,12,14,14,21;7:13; 8:4;12:5,6;15:20,21;16:5; 17:13,21;25:14;27:6,11; 31:7,9;34:9;35:12,13;38:2; 42:16;49:15;59:9,16,20; 64:11,19;68:7;69:3,10; 72:17;79:8,18;82:13,18; 83:6,7,10;84:8;85:1;88:19; 96:4;99:14;102:16,21	training (3) 54:14,17;66:6
sufficient (4) 42:7;118:11;124:4; 128:17	talk (1) 121:12	though (2) 38:7;126:14	transportation (10) 41:13,21;104:16;105:2,7, 10,12;106:1,2;118:3
suggest (1) 101:18	talked (2) 66:13;69:1	thought (5) 6:17;70:11;92:16;101:4; 136:1	trash (5) 24:6;25:5;32:6;84:15; 86:1
suggested (3) 5:3;16:9;87:16	talking (6) 92:16;96:2;99:3;102:21; 103:2;118:8	three (7) 5:9;9:9;28:6;47:8;61:12; 75:1;76:15	travel (4) 28:1;40:3;69:12;119:12
suggesting (1) 64:19	talks (1) 18:21	threshold (3) 52:1;76:11,12	travelers (1) 50:8
suggests (1) 18:21	tall (1) 48:15	thriving (1) 15:8	traveling (5) 26:3;28:15;58:8;69:13; 123:8
Suite (2) 22:13;104:7	tasked (1) 120:19	throughs (1) 127:3	trees (5) 27:9;28:17;46:14;73:9; 75:6
summarized (2) 111:15;115:15	technically (1) 83:2	throughway (1) 28:1	trend (2) 86:11,15
sun (1) 71:18	tells (1) 134:14	thrust (1) 100:15	trespassing (1) 84:15
Sundays (1) 90:4	Tellus (1) 22:11	Thursday (1) 110:16	tried (2)
support (4) 70:8;97:14;116:2;130:16	ten (4) 11:18;48:18;81:21; 106:13	title (2) 22:19;104:15	
supporting (1) 21:4	tenants (1) 25:1	today (12) 3:3,14;5:4;6:9;8:12;9:10; 12:15;81:19;89:2;133:10; 134:5;136:2	
sure (15) 16:2;19:13;24:21;64:14,	tend (1) 87:2	told (2)	
	tennis (1) 95:6		
	term (2) 23:19;42:4		
	terms (8) 14:12;19:10;33:20;54:11; 57:12;69:8;70:3;77:19		

37:8;44:20;45:18;46:3; 50:5;53:2;78:9;12:91:13; 100:13;104:15;109:1,13; 110:3;129:8	121:3 wrong (2) 70:12;98:19	12th (1) 98:10 14 (5) 25:13;68:1,8;77:11,11 15 (8) 4:13;9:4;91:17,18; 110:14;111:3;113:13;115:3 16 (2) 38:6;70:21 163 (1) 41:11 17 (9) 44:6;71:3,7;128:15; 129:1;130:1,3,4,12 1700s (1) 85:5 19 (2) 49:7;63:1 190 (2) 66:20,21 1993 (2) 105:3,7	105:3 21076 (1) 104:8 21117 (1) 94:3 22 (1) 113:15 24 (4) 62:1,5;71:11;99:7 24/7 (4) 18:16;96:19;98:12;99:9 25 (6) 111:4;112:4,7;113:16; 116:17;131:11 250 (1) 66:21 29 (9) 44:4,9,15;110:6,9;112:13, 18;113:4,5 2A (4) 26:10,11;29:6;30:7 2F (2) 26:12,20 2G (3) 27:4,5,16 2H (2) 28:2,3 2I (2) 28:11,12 2J (2) 28:19,20 2K (1) 26:10
whole (2) 60:12;71:20 who's (3) 58:1;81:17,18 widen (2) 17:8;108:18 widening (4) 13:5;17:7,7;33:15 wind (1) 6:11 window (5) 8:3;38:4;72:18;86:1; 90:10 windows (2) 25:4;48:17 winter (1) 75:7 wise (1) 134:12 within (8) 12:17;26:21;42:21;46:9; 62:18;64:21;93:3;120:11 without (4) 10:19;42:14;119:5;123:3 WITNESS (28) 22:12;29:15,19;45:9; 82:18;94:2,6;103:8;104:6; 106:9;107:1;118:5;121:18, 21;122:3;123:9,13;129:21; 130:3;132:1,6,10,20; 134:16,16;135:5,15,17 witnesses (7) 8:9;13:11,19;19:10; 81:13;133:6;135:2 wonder (1) 20:4 Woodbridge (1) 128:4 woodmark (2) 47:10,13 words (4) 20:18;69:2;100:3;124:19 work (12) 13:7;55:13;61:2,7;96:15; 102:1;105:8;115:17,21; 134:3,10;136:6 worked (1) 54:19 working (2) 43:9;44:7 worried (2) 69:17,18 wrap (3) 5:17;32:17;133:14 wraps (1) 56:8 write (1) 105:18 writing (1)	Y yard (1) 90:6 years (12) 17:4;24:14;43:1;54:21; 55:3;63:10;75:5;97:10; 105:3;115:7;125:3;127:10 yesterday (3) 20:14;24:18;29:17 Z ZAC (1) 20:12 zip (1) 91:9 zone (11) 3:11;9:5;10:14,19;16:20; 19:17;70:8,13,18;71:2; 96:19 zoned (3) 9:1;41:3;129:18 zoning (18) 3:3,8,13;8:11,21;12:20; 14:19;16:17;17:2;40:6; 41:5;45:2,4,5,20;47:7; 129:20;136:5 1 1 (6) 23:10;29:10;30:7;46:15; 48:19;111:15 1:00 (2) 111:1;113:11 1:30 (1) 6:5 10 (5) 11:16;13:10;89:14;94:14; 95:1 100 (1) 97:10 10021 (1) 3:6 101 (1) 78:7 11:00 (3) 65:11;110:21;113:11 1100 (1) 22:13 119 (1) 4:12 12 (2) 55:3;98:8 12012 (3) 43:16;45:5;109:11 121 (1) 4:11	2 2 (4) 29:11;48:19;111:17; 115:15 2.7 (1) 53:4 2:00 (2) 110:21;113:11 20 (8) 33:18,19;63:2;65:15; 76:11,11;111:4;112:1 2000 (3) 8:1;10:20;24:13 2002 (1) 105:9 2005 (1) 105:14 2008 (3) 8:1;24:9;43:2 2009 (1) 43:2 2010 (1) 128:10 2012 (14) 109:11,18,19;110:7,12; 111:14;112:10;124:11,14, 20;125:6,11;131:4,6 2013 (1) 128:10 2014 (5) 113:9;124:21;125:17; 131:8,10 2014-141 (1) 3:4 2015 (2) 53:13;124:21 20817 (1) 22:14 21 (1)	3 3 (6) 30:10;36:12,14;66:15; 128:1,9 3.5 (1) 116:7 3:00 (2) 72:19;81:12 3:30 (2) 5:18;6:5 30 (4) 65:15;73:14;115:2; 116:19 300 (1) 94:2 307.1 (1) 11:8 31 (2) 40:12,15 34 (4) 110:6,7;112:1,17 35 (15) 11:11;16:16;40:15,16; 42:1;109:7,9;114:7;115:19; 116:1,16,18;124:3;130:12, 16 350 (1) 66:20

ORIGINAL

In The Matter Of:

Baltimore County Zoning Hearing In Re: McDonalds

Transcribing the Hearing that was held on May 29, 2014
Vol. 1
June 2, 2014

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BALTIMORE COUNTY ZONING

IN THE MATTER OF :

MCDONALD'S

10021 REISTERSTOWN ROAD

_____ /

The above-entitled matter came on for
Hearing on May 29, 2014 before the Baltimore County
Zoning Commissioner.

TRANSCRIBED BY: Paula J. Eliopoulos

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

INDEX (Continued)

May 29, 2014

Hearing

WITNESSES: Kim Simonetti

Examination by: Marked

Mr. Holzer 166

Mr. Gaeng 176

WITNESSES: Steven Kariotis

Examination by: Marked

Mr. Holzer 183

Mr. Gaeng 189

WITNESSES: Barbara St. Ours

Examination by: Marked

Mr. Holzer 195

Mr. Gaeng 199

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

PROCEEDINGS,

HEARING EXAMINER: Good morning, everybody.

We're here today on a continuation of a hearing that began on March 25th, 2014 and this is case number 2014-141. This is a petition for special hearing and for variance for a property at 10021 Reisterstown Road.

Okay. So why don't we have counsel introduce themselves for the record and then we'll pick up where we left off.

MR. GAENG: I'm Gerard J. Gaeng, Your Honor, Rosenberg Martin Greenberg firm.

With me is my partner Caroline Hecker.

HEARING EXAMINER: Okay. Good morning.

MR. HOLZER: J. Carroll Holzer, 508 Fairmount Avenue, Towson, Maryland on behalf of the Greater Greenspring Community Association, Cheryl Aaron as President and six other individuals.

HEARING EXAMINER: Yeah, we got that last time.

MR. GAENG: Your Honor, were we on the

1 hearing, but I will mark that as Exhibit 11.

2 And, Counsel, all you were really doing is
3 synthesizing what was in the report; right?

4 MR. GAENG: That's correct, Your Honor.

5 HEARING EXAMINER: So it's there and I will
6 obviously take a look at that.

7 Mr. Holzer, if you have disagreement, I'm
8 sure that's something you'll explore.

9 Okay. I looked through my notes and I saw
10 that we took a few things out of order. We had some of
11 Mr. Holzer's clients, Mr. Washburn and Mr. Hodges
12 testified.

13 And then your traffic engineer, Mr. Kelly.
14 Where -- did Petitioners rest their case?

15 MR. GAENG: No, we did not, Your Honor.
16 It's still Petitioner's case.

17 HEARING EXAMINER: Okay. Good. Then we're
18 back to you folks.

19 MR. GAENG: Thank you, Your Honor. I'd
20 like to call Kenneth Schmid please.

21 HEARING EXAMINER: Okay, Mr. Schmid, come

1 A I'm Vice President.

2 Q What is your educational background?

3 A I have a Bachelor's of Science in Civil
4 Engineering from the University of Maryland.

5 Q How long have you been in the traffic
6 engineering field.

7 A 33 years.

8 Q Since 1981?

9 A That's correct.

10 Q Can you describe the positions that you've
11 held in this field since that time?

12 A I worked for the Maryland State Highway
13 Administration out of college for six years with the
14 Office of Traffic and Safety and then transferred to
15 the district five office of traffic engineering.

16 I left the State Highway employment to work
17 for Anne Arundel County Department of Public Works for
18 three years. I oversaw part of the county and then
19 reviewed all of the development proposals and all of
20 the operation requests by (inaudible).

21 And I left there and went and started a

1 you been accepted as an expert in traffic engineering
2 there?

3 A Probably about 25.

4 Q Have you been accepted as an expert in
5 traffic engineering elsewhere in the State of Maryland?

6 A Many of the counties in the State of
7 Maryland, Annapolis, Baltimore City, Bel Air.

8 Q Have you authored any professional
9 publications in your field?

10 A Well, when I worked for State Highway
11 Administration, in the beginning I put together the
12 first traffic (inaudible) they're still using it, but
13 they've modified it over 20 years.

14 MR. GAENG: Mr. Holzer, do you have any
15 questions on qualifications before I proffer the
16 witness?

17 MR. HOLZER: Yes, I'd like to ask.

18 HEARING EXAMINER: Go ahead.

19 EXAMINATION BY MR. HOLZER:

20 Q Have you appeared or testified or qualified
21 as an expert in the Circuit Court for Baltimore County?

1 A Well, originally we were retained to study
2 and comment on the requested variance for reduced
3 parking spaces.

4 So in conjunction with that, we've
5 reviewed -- my company reviewed the site plans. We
6 reviewed the basic surfaces maps for Baltimore County
7 in this area, reviewed proposed improvements from the
8 State Highway development project that's currently
9 pending along the Reisterstown Road corridor.

10 Q Is this in connection with the parking
11 facility or (inaudible)

12 A We become familiar with as much as we can.
13 But reviewing plans and sight distance, review of the
14 basic surfaces map was all part of the parking
15 variance.

16 As a result of the last meeting, there was
17 some questions about traffic patterns and traffic
18 passes that people may use to and from the McDonald's
19 store from the south on Reisterstown Road.

20 So we were engaged to do a travel time
21 study to determine what route would be the (inaudible).

1 right in and right out.

2 Q Based on your experience as a traffic
3 engineer, do you have an opinion as to generally what
4 the flow of traffic to and from the proposed McDonald's
5 site, you expect it to be?

6 A Yeah. We refer basically to the trip --
7 key trip generation manual. It tells us various
8 characteristics of traffic flows for various land uses
9 all the way from residential (inaudible) to commercial
10 to in this case high turn over or a fast food
11 restaurant.

12 Q And what did it advise you as to such a use
13 -- what the past volume is.

14 A Well, trips associated with fast food
15 restaurants are made up of basically three different
16 types of trips.

17 The first trip is what we call a pass by.
18 These are people that are already driving along the
19 front of the site either in the north or southbound
20 direction and deviate from their primary trip going
21 home or to work and they turn into the McDonald's to

1 and then go back to where they were going to park to go
2 to work or to the Metro or whatever.

3 We see them as new trips to the road
4 network because they're not actually driving right by
5 us and they are added trips. But they're already out
6 in the road system, new to this area.

7 So they typically get lumped in with new
8 trips.

9 So in this site we're going to have 50
10 percent of the trips are pass by and 50 percent of them
11 new to the roads.

12 Q With respect to the pass by travelers, do
13 they have (inaudible) adjacent roads and intersections?

14 A Well, no. They are already traveling
15 through. They are bypassing through the site and then
16 proceed back out and travel through the intersection
17 they were going to travel through any way.

18 Q With regards to people who are not pass by
19 customers but rather say are traveling north on
20 Reisterstown Road from their homes and jobs to go to
21 McDonald's and return to their point of origin, is

1 path might be better than another path to come to a
2 site then we could do travel time studies.

3 Q Did you do such a travel time study with
4 respect to the McDonald's site?

5 A We did for the southbound direction.

6 And basically what we did, it's three
7 different paths that we looked at.

8 Q When you say southbound, meaning that
9 people who were coming from the south north to the
10 McDonald's site and then returning to the southbound?

11 A I think that was the question-

12 Q It was.

13 A If there was a concern of the use of
14 secondary roads to get back to the south and not leave
15 (inaudible) along the Reisterstown Road corridor.

16 Q Can you describe the study that you did?

17 A We basically picked three paths. The
18 existing path would be heading directly left out of our
19 site heading south on Reisterstown Road. This would be
20 the condition we have before the raised median is put
21 in.

1 time period.

2 And each time period we did four travel
3 runs for each path.

4 Q Okay. And does this map show the three
5 routes?

6 A Yes, it does. The first route is in blue.
7 That's the route where we made a direct left turn out
8 on to Reisterstown Road and traveled south to the
9 intersection of Greenspring Valley Drive.

10 The orange shows us with the median where
11 we had to go up to the intersection of Painter's Mill
12 Road and make a u-turn and come back down.

13 And the third site is the path that went
14 down St. Thomas Lane to Garrison Forrest Road and down
15 to Greenspring Valley Road and back to the
16 intersection.

17 Q And that is in yellow; is that correct?

18 A That's in yellow. Correct.

19 Q What were the average times and distances
20 for those three routes?

21 A Route one was an average of three minutes

1 visual spec sheet and the study, the time distance
2 study that you just described, do you have an opinion
3 to a reasonable degree of professional certainty as to
4 how a customer traveling on Reisterstown Road from the
5 south to McDonald's as the destination would return?

6 A It's clear to me that those people would
7 use the Maryland 140 corridor.

8 Q Reisterstown Road corridor?

9 A To ingress and egress back to the points
10 south.

11 Q And what's the basis for that opinion?

12 A That's the shortest and most direct exit.
13 And I don't think the -- some of the people in the area
14 might know the back way around, but the majority of
15 people don't know that.

16 And that's going to have them travel longer
17 and farther to get there.

18 Q In addition to your analysis, based on your
19 experience as a traffic engineer, do you have the
20 knowledge of how Baltimore County itself assesses
21 whether existing roads are sufficient to allow

1 intersection when the light turns green and they look
2 at the last car to cue. If that car makes it all the
3 way through the cue then it's not a loaded cycle.

4 If it is a loaded cycle, then it's noted as
5 a loaded cycle. And the levels of service are based on
6 the percent of loaded cycles per hour.

7 So an A level service has no loaded cycles
8 at all on the approach. B, any approach can be up to
9 10 percent loaded cycle. Ten cycles an hour
10 (inaudible). And it goes on. D is 30 to 70 and E
11 70-85 percent.

12 Anything that works as an E or F level of
13 service is considered at over capacity and they develop
14 a traffic shed around that intersection to protect new
15 development from adding further traffic to that region.

16 So if there's load cycles, there's a failed
17 intersection and your property is within that traffic
18 shed, you can't develop it until the intersection is
19 remedied.

20 Q The shed is the zone, if you will, around
21 the intersection?

1 some borderline between (inaudible)

2 Q And Exhibit 14, can you identify what that
3 is?

4 A That's the basic services map from 2014.

5 Q (inaudible) And can you identify what
6 Exhibit 15 is?

7 A 15 is a preliminary letter out of
8 Department of Public Works (inaudible) traffic plan
9 showing what changes might occur between 2013 and 2014.

10 Q And in the changes from 2013 to 2014 map
11 (inaudible) explaining that (inaudible) intersections
12 added to the list that are (inaudible) do you have a
13 copy?

14 (inaudible) is there any Baltimore County
15 restriction on the development of the proposed
16 McDonald's site based on the adequacy or inadequacy of
17 the roads?

18 A No.

19 Q Are there any intersections near the
20 proposed site that have been graded 2013 to 2014 by the
21 County as failed intersections?

1 in your study?

2 A No. No. There's going to be a small
3 amount of trips that we generate on that corridor and
4 they will use Garrison Forrest to St. Thomas Lane to
5 access the McDonald's and go back to their home or
6 business, but (inaudible).

7 Q What is the nature of the (inaudible) in
8 this road?

9 A (inaudible) low density houses. There's a
10 private school along Garrison Forrest Drive. There's
11 single families. It's three way stopped intersections,
12 raised speed humps for golf cart crossing. But
13 generally it's a windy one lane road in each direction.

14 Q Would you expect (inaudible) the analysis
15 that you've done from the opening (inaudible).

16 MR. HOLZER: Objection. He hasn't laid a
17 proper foundation.

18 HEARING EXAMINER: Okay. That's sustained.
19 Why don't you maybe ask him if he's at all familiar
20 with that or studied that.

21 Q Did you not review the plans for

1 generically there or with respect to the boundary road
2 Project.

3 A The boundary road project and the
4 preliminary results of the traffic study would include
5 the developments that are being currently proposed.

6 HEARING EXAMINER: And you've reviewed
7 that?

8 THE WITNESS: Yes, sir.

9 HEARING EXAMINER: Okay. Overruled. I'll
10 allow that.

11 Next question.

12 Q Based on your review of that, would you
13 expect the boundary road project to change your
14 analysis?

15 A Basically I think the corridor is going to
16 (inaudible) there's a lot of access points along
17 Reisterstown Road.

18 Over the years it has developed into a lot
19 of frequent (inaudible) in and out. When you get a
20 situation like that with the volume you have on
21 Reisterstown Road, it's better to channelize those

1 objection to those documents.

2 12, I have no objection to that either.

3 HEARING EXAMINER: Okay. So do you want to
4 take a moment to look at number 16? Admitted are
5 Petitioner's 12, 13 --

6 MR. HOLZER: I'm going to object to it.

7 HEARING EXAMINER: Okay. So 12, 13, 14 and
8 15 are admitted. Petitioner's 16 -- what is
9 Petitioner's Exhibit 16, Mr. Schmid?

10 THE WITNESS: It's basically a summation of
11 what he did in regards to the travel time study I
12 testified to.

13 HEARING EXAMINER: In conjunction with
14 Exhibit 12 --

15 THE WITNESS: The map, yes.

16 HEARING EXAMINER: Showing the three
17 different routes, is that the idea?

18 THE WITNESS: That's correct.

19 HEARING EXAMINER: All right. Then I'll
20 admit Petitioner's 16 over counsel's objection.

21 Okay.

1 go back and do this analysis of this route number 3; is
2 that correct?

3 A That's correct.

4 Q Now, do you have any documents there that
5 are the basic documents that permitted you to come to
6 the conclusions that you did on Exhibit 16?

7 In other words, the raw data?

8 A I don't have the raw data with me. I have
9 the summary of the travel times with me that show the
10 day and Friday evening travel times, the average for
11 each.

12 Q Okay. Did you personally do this analysis?

13 A No, my -- someone from my office did that.

14 Q Who?

15 A Michael Alwick.

16 MR. GAENG: I'd just object to the
17 question. There's a lack of clarity about which
18 analysis. The analysis that's already been marked and
19 admitted or if you're referencing the other document
20 that the witness has just handed you, I would suggest
21 that you mark it so that the record is clear.

1 looking at.

2 Q Right.

3 So this document that I'm looking at, that
4 I don't want to identify, but I have no objection if
5 counsel does --

6 HEARING EXAMINER: Okay.

7 Q --is again a summary, it's not the raw data
8 that was produced by the gentleman in your office?

9 A That's true.

10 Q And his name again was?

11 A Mike Alwick.

12 Q Alwick?

13 A Yes, sir.

14 Q Now, Mr. Alwick went out, did he do this by
15 himself or was he accompanied by someone else?

16 A He did it by himself.

17 Q And he produced raw data on a yellow pad or

18 --

19 A Yeah.

20 Q --notebook or something like that?

21 A Yes.

1 Exhibit 20, please.

2 HEARING EXAMINER: Okay. Marked for
3 identification as Petitioner's Exhibit 20, a document
4 that Mr. Schmid is discussing with Mr. Holzer.

5 Q Now, what is being marked as Exhibit 20 is
6 not what was handed to me.

7 MR. GAENG: I'm sorry.

8 MR. HOLZER: It was only two pages.

9 THE WITNESS: I just had it in my file here
10 so -- you were asking me questions --

11 MR. GAENG: What I just handed up
12 (inaudible)

13 MR. HOLZER: Because I only had two pages
14 here and that was four pages.

15 HEARING EXAMINER: This is five pages that
16 I have here.

17 So you're taking the maps off?

18 MR. GAENG: Yes, sir.

19 HEARING EXAMINER: It hasn't been admitted.
20 This is marked for identification as Petitioner's 20 is
21 a two page document dated May 22, 2014 from Traffic

1 Q So document Exhibit 20, Petitioner's 20 is
2 your collection of his notes that you have no personal
3 knowledge of this, of the times that it took, right?

4 You didn't accompany him.

5 A I didn't accompany him. I told him what to
6 do.

7 Q You told him what to do. Did you watch him
8 every minute of the day while he was out there doing
9 this?

10 A No, I don't watch everybody that does work
11 for me every minute of the day.

12 Q So your answer is you cannot personally
13 testify that he did or performed these activities other
14 than he documented it in some notes to you.

15 A But I did go out to the site on the next
16 week and familiarized myself with the site as well. I
17 did that one other time where I went out during lunch
18 time and did the same route. One time, though.

19 Q One time.

20 A It was pretty much exactly what happened
21 here.

1 taking raw data for purposes of your analysis?

2 A We didn't do a traffic impact study, no.

3 Q So all you did was review the trip
4 generation manual to determine -- to form the basis of
5 some of your opinions and you also looked at the State
6 Highway and Baltimore County traffic counts?

7 A I looked at the County's basic services map
8 and I requested they give me the data sheets for each
9 analysis of various intersections. And I looked at
10 those and saw the level of service they projected and
11 then I reviewed the State Highway Administration plans
12 for improvement.

13 Q How many trips per day on Reisterstown Road
14 proceed from south to north at the site location?

15 A I can estimate.

16 Q No.

17 A I don't know.

18 Q You don't know?

19 A (inaudible).

20 Q Did you oversee what Mr. Keely testified to
21 in terms of the parking analysis on the first day he

1 HEARING EXAMINER: There's no question
2 pending. I -- okay. No question pending.

3 Q Would it surprise you to know that Mr. Lee
4 May on the first day, I believe he was McDonald's area
5 construction manager, testified that the drive through
6 would be 65 percent at this location?

7 A I was here, but I'm not sure if he was
8 talking about the drive through customers at the store
9 as opposed to those who parked are two different
10 things.

11 I was talking about pass by vehicles that
12 are driving along the road.

13 Q I understand that. Now I'm asking you in
14 regards to this specific store, do you believe that Mr.
15 May was correct when he testified that 65 percent of
16 their customers going to that store would be probably
17 using the drive through?

18 A If Mr. May testified to that, I would
19 believe him.

20 Q Okay. Now, did you utilize 65 percent of
21 the customers at that store or did you use 50 percent

1 The 50 percent --

2 HEARING EXAMINER: Okay, well, the witness
3 --

4 MR. GAENG: --in his testimony was about a
5 different concept.

6 HEARING EXAMINER: We'll let the witness
7 answer it.

8 A One has to do with the percentage of people
9 that park and go into the store and eat dinner versus
10 the people that drive through and leave. The other has
11 to do with how trips get there, what kind of cars are
12 coming in.

13 Q Now I understand. Okay.

14 Now, tell me in regard to the fact that
15 there will be 65 percent of the customers driving
16 through that store, do you have an opinion as to
17 whether or not that will effect your analysis of
18 anything that you've testified to this morning?

19 A No.

20 Q It will have no effect?

21 A No, sir.

1 A I don't know for sure the number. There's
2 one just inside the Beltway to the south.

3 Q On what side is that, on the northbound
4 side or southbound?

5 A I think it's the southbound side, but I
6 couldn't tell you for sure.

7 Q Well, have you visited those other
8 McDonald's?

9 A No.

10 Q You haven't done that personally either?

11 A Why would I?

12 Q I don't know.

13 A I don't either.

14 Q You're testifying as a traffic expert --

15 A You need to know where the other McDonald's
16 is (inaudible).

17 Q Okay. Well, I'm glad to hear that.

18 So, how many times have you visited the
19 proposed site yourself?

20 A This proposed site for this case, two
21 times. I've been in this area many times.

1 were sitting there around 5:00 in the evening,
2 northbound traffic coming out of -- from the Beltway
3 are going (inaudible) Reisterstown Road, would you be
4 inclined to try to get out on Reisterstown Road or
5 would you be inclined to perhaps find another way to
6 get out of the McDonald's?

7 A I would use the shortest and most
8 convenient route which would be Reisterstown Road.

9 Q Could it be the slowest?

10 A No.

11 Q But you don't know -- you just testified
12 that you don't know specifically what the average daily
13 trips are in front of the location of the McDonald's.

14 A The travel time study would reflect what
15 that traffic really was.

16 Q Right then. You get it right now.

17 A Right.

18 Q Now, there's going to come a time like when
19 we take a look at your Exhibit 12, I see route one
20 which is basically going to go away when the State
21 Highway Administration does its thing and puts up its

1 let me ask you this: Have you looked at any statistics
2 or done any analysis to determine whether or not how
3 many left turns or u-turn lanes -- cars are going
4 through there currently?

5 A I did no studies, Baltimore County did.

6 Q And what were their figures?

7 A I think in the morning the left turning was
8 about 500 vehicles and the through volume was about
9 1100 vehicles.

10 Q Now, do you know what they're projecting
11 after the barrier goes up?

12 A No. They are going to add another lane.

13 Q They're adding another lane. Do you know
14 whether or not there will be u-turns permitted?

15 A Yes. We already checked with State
16 Highway.

17 Q Okay. Now, why would they add another left
18 turn lane there?

19 A To make the intersection work better.

20 Q Because one lane of traffic would not carry
21 the amount of cars that want to make a left turn at

1 goes up with taking -- going on route two which is
2 orange 4.30 minutes, we go 1.32 miles, that's your
3 opinion; right?

4 A Four and a half minutes. Right.

5 Q And it's one minute longer to go twice as
6 far if you take the yellow route?

7 A Correct.

8 Q Is there going to be a light at St. Thomas
9 Lane and Reisterstown Road to allow the traffic from
10 the 65 percent of drive through customers to get back
11 out on Reisterstown Road?

12 A No.

13 Q So that means you're going to have to wait
14 until traffic gives you a break to be able to get out
15 on to Reisterstown Road, right?

16 A It was factored into our traffic concept.

17 Q Well, on the day that you did it.

18 A Exactly.

19 Q Not on the day that's going to be in
20 existence when this McDonald's shows up.

21 A We're going to have a big change, shift in

1 Q But the question is, if you're going to
2 make a u-turn there, is it safe for somebody to come
3 out of St. Thomas Lane, make a right turn into the
4 break of traffic at 5:00 in the afternoon and then
5 cross three lanes of traffic in order to accomplish
6 your route 2?

7 A Yes, it is safe.

8 Q It will be safe, but it's going to be a lot
9 longer than 4.3.

10 A That's not true.

11 Q And how can you support your opinion?

12 A Because I believe the intersection is going
13 to get better with the improvements.

14 Q Oh.

15 A There's more through lanes and the cuing is
16 going to get less.

17 And frankly, I'd rather make that route
18 than route one.

19 Q Let me go back. Did you do an analysis of
20 the intersection at St. Thomas Lane and Garrison
21 Forrest Road?

1 down on a site they've done something to say it's going
2 to be successful.

3 Q But you didn't --

4 A No, I didn't see anything or discussed
5 anything.

6 Q You haven't seen anything --

7 A No, sir.

8 Q So you didn't take any of that into
9 consideration?

10 A No. We just did a projection using the IT
11 trip generation manual, what it projects it would be.

12 Q And that's a manual that just applies all
13 over the country?

14 A Yes.

15 Q And what's it sort of a generic idea to
16 give a traffic engineer what they can expect?

17 A Well, not an idea. It's based on data
18 points and empirical data that we use to predict
19 traffic flow.

20 Q But is it every --

21 A It's not a wild guess.

1 HEARING EXAMINER: Okay. Any objection,
2 Mr. Holzer?

3 MR. HOLZER: I guess I'm going to object.
4 (inaudible).

5 HEARING EXAMINER: Okay. That's easy
6 enough. So Exhibit 20, Petitioner's 20 will be
7 admitted over objection.

8 EXAMINATION BY MR. GAENG:

9 Q Mr. Schmid, is it customary for traffic
10 engineers in their profession to rely on data that's
11 generated by their employees?

12 A Yeah. I couldn't do everything myself.
13 Yes. I have people who do traffic counts for me daily,
14 who have worked for me for 10 to 12 years. I rely on
15 the data. Yeah.

16 A lot of things get done that I sign that I
17 trust that people are doing it right.

18 Q Mr. Holzer I believe referred in a question
19 to the 65 percent of people using the drive through and
20 where they would go in the southbound direction.

21 Isn't it true from your report and the

1 please.

2 HEARING EXAMINER: Ms. Greco.

3 HELEN GRECO,

4 after having been first duly sworn according to law,
5 was examined and testified as follows:

6 HEARING EXAMINER: Have a seat and tell us
7 your name and business address, please.

8 THE WITNESS: My name is Helen Greco.
9 Business address is 6509 (inaudible) in Bethesda,
10 Maryland.

11 HEARING EXAMINER: Okay. Thank you.
12 Counsel?

13 EXAMINATION BY MR. GAENG:

14 Q Ms. Greco, would you spell your last name
15 for the record, please.

16 A Sure. It's G-r-e-c-o.

17 Q And what's your employer?

18 A Duvall Corporation (phonetic).

19 Q What is your job title?

20 A My job title is operations consultant.

21 Q And what do you do as an operations

1 They have LED lighting.

2 Q Are you familiar with the operations of
3 McDonald's restaurants that have -- share this design?

4 A I am, yes.

5 Q What would the lighting be on this site
6 from the exterior?

7 A The exterior lighting will be LED lighting.
8 And I know from the past restaurants that I found are
9 LED lighting is -- it's pretty bright outside, but the
10 lighting comes down so it's like a very secure
11 atmosphere for the (inaudible) or anyone is to walk
12 outside.

13 Q Is it designed with the impact on the
14 community sites in mind?

15 A It is. The lights shine down instead of
16 shining out.

17 Q Now, what security will exist at this
18 restaurant?

19 A Well, the majority of our restaurants have
20 security systems and they have at least 16 cameras.

21 So the cameras are inside the restaurant as

1 our trash.

2 They are coupled and we have trash bins
3 outside on the parking lot that have lids.

4 And then also as part of our procedures for
5 operation, we do a 30 minute travel pass.

6 Q What do you mean by a travel pass?

7 A Well, we go outside. We walk outside the
8 restaurant, we go inside the restaurant just to make
9 sure that it's clean and that it's up to McDonald's
10 standards.

11 And then also we have our maintenance man
12 pick up trash within one block of each direction
13 whether it's our trash or McDonald's trash.

14 Q How often is a travel path inspection on
15 the site?

16 A It's done every 30 minutes during the day
17 and then during our peaks we do every 15 minutes.

18 Q And when are the peaks?

19 A From 11:00 to -- in the morning from 7:00
20 to 9:00, lunch rush from 11:00 to 2:00 and then dinner
21 from 5:00 to 7:00.

1 I think in the next 30 days we're also
2 adding yogurt, go-gurt to that. I was actually trained
3 on that yesterday as another healthier choice.

4 And then of course you know everything else
5 that we have, our salads and our burgers.

6 MR. GAENG: No further questions.

7 HEARING EXAMINER: Okay. Mr. Holzer.

8 EXAMINATION BY MR. HOLZER:

9 Q I don't know where to start.

10 As a regular lunch eater at McDonald's --
11 let me ask you, in your jurisdiction, your
12 responsibility, do you cover Joppa Road and Loch Raven
13 Boulevard and Joppa Road, Perring Parkway?

14 A No, I don't have a restaurant.

15 Q Okay. One of them is old, one of them is
16 new.

17 And talking about loitering. You may have
18 the policy, but if the local owner or the local
19 operation doesn't enforce it, you have a problem.

20 MR. GAENG: Your Honor, I'm going to object
21 to counsel's testifying.

1 that's where our office is. But I'm there maybe once a
2 month if that. I'm -- we're called remote workers.

3 So five days out of seven or I would say
4 four and a half days out of my work week, I'm at a
5 different McDonald's and it's at all different times.

6 Q So you don't have a particular area of
7 McDonald's that you're responsible for?

8 A I do.

9 Q I thought you did. I thought you testified
10 to that.

11 A I do. I have 30 restaurants that I'm
12 responsible for.

13 Q Where are those restaurants located
14 generally?

15 A Generally, I have ten in Southern Maryland
16 and Baltimore County, Howard County.

17 Q Where in Baltimore County?

18 A I get confused because I'm kind of
19 challenged with directions.

20 Q I assume you have been to their --

21 A I have. I have. I just recently got this

1 Q Are they redoing that one now?

2 A Yeah, they are. They just finished it.

3 Q Okay.

4 A One in Elkridge Landing, I said that, in
5 Linthicum.

6 One on O'Donnell Street in Baltimore, on
7 Pratt Street in Baltimore.

8 Q Okay. Now, how -- my question was, how do
9 you enforce these rules which sound great on paper and
10 as company policy, but how do you enforce them relative
11 to the owner of the McDonald's operation?

12 A I would say that if I'm in the restaurant
13 and there is a problem, I try to help them solve it.
14 And then if they have a problem that they can't solve,
15 they would call and ask for my advice.

16 Q Do you ever get calls, particularly from a
17 restaurant, one of the McDonald's that's opened 24
18 hours, do you get calls late at night with problems or
19 issues?

20 A No, I don't.

21 Q Okay. Are all McDonald's open 24 hours?

1 be a 24 hour or something less than that is not within
2 your bailiwick of responsibility?

3 A Correct.

4 Q All right.

5 The idea of having security cameras,
6 certainly that is to benefit McDonald's, it's not to
7 protect the neighborhood in any way, is it?

8 It's really oriented to the internal
9 security of the McDonald's operation?

10 A Well, I think it is internal. But then
11 also if something does happen then we could -- I mean,
12 we could make a copy of the tape if something does
13 happen on the parking lot or something happens that our
14 videos get.

15 Q So within that context the security is for
16 the McDonald's operation itself, but there could be an
17 ancillary benefit to the police if you happen to have a
18 tape dealing with something that occurred?

19 A Correct.

20 Q How many times have you visited this
21 particular site, if at all?

1 REWONA ROSTEK-ZARSKA,
2 after having been first duly sworn according to law,
3 was examined and testified as follows:

4 HEARING EXAMINER: Take a seat and tell us
5 your name and business address, please.

6 THE WITNESS: My name is Rewona
7 Rostek-Zarska.

8 HEARING EXAMINER: Spell that all, if you
9 would. Spell the whole thing.

10 THE WITNESS: The first name is Rewona,
11 R-e-w-o-n-a. The last name is R-o-s-t-e-k hyphen
12 Z-a-r-s-k-a. People call me Ms. Zarska. That's how
13 I'm known. It's easier.

14 HEARING EXAMINER: Okay. Thank you. Go
15 ahead counsel.

16 MR. GAENG: Thank you, Your Honor.

17 EXAMINATION BY MR. GAENG:

18 Q Ms. Zarska --

19 A I'm sorry, I didn't answer the question.

20 HEARING EXAMINER: Yeah, your business
21 address.

1 A We cover the area which is the radius about
2 40 miles from Baltimore City downtown.

3 So it covers the Carroll County, Howard
4 County, Harford County, Anne Arundel County, Baltimore
5 County, Baltimore City and (inaudible).

6 Q Can you describe the nature of the services
7 that your firm provides just generally?

8 A Like I said, we're a consulting civil
9 engineers specializing in land development services.
10 We provide -- accomplish tasks that are (inaudible)
11 generally and feasibility studies for the project
12 (inaudible).

13 And then we're providing through the zoning
14 cases, like today I'm here for. And then we do the
15 very heart, the engineering, the design for the site.

16 And then we do the post construction
17 services such as as-built plans, make sure that
18 everything works correctly.

19 We do the project management also.

20 So our (inaudible) engineering tasks
21 typically which we would perform would be like doing

1 Q How many site plans have you prepared or
2 supervised for projects in Baltimore County?

3 A I've done a lot of projects. I think you
4 can say it was hundreds. They are different sizes
5 (inaudible)

6 Q Do you belong to any professional
7 associations?

8 A Yes, I do. Actually I'm a member of the
9 Baltimore County Engineer's Association. And we are
10 also, take some resources from the Home Builder's
11 Association of Maryland, although we're not a member,
12 but we could use the resources in order to make
13 ourselves -- to see what's going on in our field, what
14 changes.

15 Q What's the purpose of the Baltimore County
16 Engineer's Association?

17 A Well, (inaudible) they exchange information
18 about the coming changes to the regulations and the
19 legislation. So we kind of share our knowledge about
20 things.

21 And the changes (inaudible) is really

1 about 50, I think. It was for the (inaudible).

2 Q Have you ever been accepted as such an
3 expert before the Board of Appeals?

4 A I testified before the Board of Appeals a
5 few times (inaudible). I never testified in municipal
6 court, the Circuit Court (inaudible).

7 MR. GAENG: Mr. Holzer, any questions as
8 to qualifications?

9 MR. HOLZER: Yes.

10 EXAMINATION BY MR. HOLZER:

11 Q In terms of the Baltimore Land Design Group
12 and Consulting Engineers at Schilling Circle, how many
13 folks are in your office?

14 A It was eight. Eight people.

15 Q Eight?

16 A Yes. It's one administrative person, it's
17 one head operator and the rest of us are engineers who
18 have (inaudible) engineering experience (inaudible)
19 about thirty years of experience.

20 Q So if there are eight people, do all eight
21 work on site design plats such as the ones that were

1 Q Have you ever done a site plan for
2 McDonald's before?

3 A Yes, I have.

4 Q And how many times?

5 A Many. It's -- within Baltimore County or
6 --

7 Q Anywhere.

8 A We've done a lot of them. I would say
9 maybe 60 to 70. But our entire business is in the
10 commercial projects.

11 We do quite a few projects that are
12 (inaudible) but our (inaudible) is in the commercial
13 projects.

14 Q So if you say about 60 McDonald's project
15 --

16 A Or more. I never counted them. It's quite
17 a good number.

18 Q Okay. And you're familiar with their
19 operation as a result of working on those site plans?

20 A First we try to keep up with what
21 McDonald's is doing and actually that they are going

1 information from to give us what we need for this
2 particular task.

3 MR. GAENG: Your Honor, I think we're
4 getting a little far afield on qualifications.

5 MR. HOLZER: I have another area that I
6 want to know some questions on.

7 Q You testified that you only have eight
8 people in your office so you subcontract out various --
9 various components of the project.

10 A We sub consultants, yes.

11 Q You sub consultants. And you mentioned
12 landscaping. So there's no landscaping person in your
13 office.

14 A That's correct.

15 Q You said environmental. So if there's an
16 environmental issue, you have to go outside of your
17 office.

18 A Very specific environmental issues. We
19 understand the environmental issues, but there may be
20 certain tasks which requires very specialized skill and
21 knowledge of the environment. And we hire those

1 an expert in site planning.

2 HEARING EXAMINER: Okay. Any objection,
3 Mr. Holzer? Standing objection?

4 MR. HOLZER: Standing objection.

5 HEARING EXAMINER: All right. Then I will
6 admit Ms. Zarska as an expert in civil engineering and
7 specifically site engineering as counsel proffered.

8 EXAMINATION BY MR. GAENG:

9 Q Ms. Zarska, are you familiar with the
10 petition before the Administrative Law Judge, which is
11 Petitioner's Exhibit 1?

12 A Yes, I am.

13 Q What has been your involvement in this
14 project?

15 A At this point I supervised the preparation
16 of the plan to accompany the petition for the special
17 (inaudible) and for the zoning variances.

18 Q And you've personally visited the site with
19 your (inaudible) staff?

20 A Yes, I have on quite a few occasions.

21 Q How would you describe the area where the

1 existing petition, and I also have the version before
2 up here.

3 A I'm sorry.

4 Q Does this reflect the current state of the
5 site?

6 A Yes, it does.

7 Q And what is there?

8 A Well, there's presently a vacant building
9 which is boarded up (inaudible).

10 Q I can move this closer to you.

11 A Okay. This is an existing (inaudible) 4230
12 square feet.

13 At the present time it's boarded up. The
14 windows and openings are boarded up for security
15 reasons.

16 Around the perimeter there is parking
17 facilities and the (inaudible) lighting. There are
18 also some (inaudible) landscaped area.

19 The total amount of the parking spaces is
20 40 on this side and some of them are on the north side
21 of the building and 15 of them on the south side of the

1 development.

2 Reisterstown Road right now at the present
3 time it's two lanes in this direction, in the
4 northbound direction and two in the southbound
5 direction. And there are two entrances to the site.
6 One is off of Reisterstown Road and the other one is on
7 St. Thomas Lane.

8 Q Thank you.

9 We had previously marked Exhibit --
10 Petitioner's Exhibit 4. This is the proposed
11 revisions.

12 Your Honor, where is the best place to put
13 this easel where you can --

14 HEARING EXAMINER: I have a copy that I'm
15 going to follow along with, so wherever anybody needs
16 to see, or the witness --

17 MR. GAENG: The witness is going to have to
18 point to things.

19 THE WITNESS: I'd like to ask if my
20 pronunciation is clear for everyone.

21 HEARING EXAMINER: It's fine.

1 Highway Administration about the very, very final
2 location of that line. But we don't expect any major
3 changes. That's (inaudible) this line.

4 Q Does this plan reflect a smaller site than
5 your original plan?

6 A Yes, it does, actually. The State
7 Highway's widening, it's about 24 feet wide, and the
8 State can (inaudible) let me just make sure that I have
9 the plan, 4336 square feet, which is this line shown on
10 the plan.

11 So it's almost the size of the proposed
12 McDonald's which is 4393.

13 Q Next to the entrance on -- can you point
14 out where the ingress and egress is to St. Thomas Lane?

15 A It's very close to the I guess (inaudible)

16 Q Next to that you have a green area.

17 A That one?

18 Q Yes.

19 A Yes.

20 Q What is that?

21 A This is the storm water management practice

1 did not have one installed because it's an older
2 development.

3 I think the storm water management
4 regulations came into effect in the '70s. There were
5 different requirements what needs to be managed, how
6 the storm water is supposed to be managed.

7 Many of them were about (inaudible)
8 management facilities which controlled the peak flow
9 outflow from the site.

10 But recently the storm water management
11 regulations are more with the storm water quality
12 management which there's a concept is to remove the
13 pollutants from the storm water coming off from the
14 parking lots and the impervious area, so that's
15 changed.

16 Q When did those regulations go into effect?

17 A It's a very new regulation. I think the
18 MDE issued these new policies in 2007 and then
19 Baltimore County I believe adopted them in 2010 coming
20 forth.

21 So that requires specific to management

1 which is part of Petitioner's Exhibit 1.

2 Can you describe the special hearing relief
3 that we're requesting?

4 A The special hearing (inaudible) parking
5 (inaudible). We're trying to provide the parking
6 spaces according to commercial use but being in the
7 residential zone.

8 Q Can you show exactly where that is.

9 A It's the cross hatched and the little
10 slither here.

11 Q What is the adjacent use on that south side
12 of the property?

13 A On the south side? As I said before, this
14 is an office but it's not being used as a (inaudible)
15 residential use, but it's an office building, three
16 story office building.

17 And like I stated before, I think it's a
18 medical office building.

19 Q Is there any residential use at all in that
20 adjacent property?

21 A Not on this (inaudible). It's an office

1 MR. HOLZER: I'd move to strike that
2 testimony.

3 HEARING EXAMINER: Yeah. I think that's
4 sustained.

5 Q Let me ask you about the conditions of the
6 zoning regulation 409.8.D2 which apply to the unique
7 (inaudible) to allow tips in those parking spaces
8 (inaudible).

9 The parking spaces that are partially in
10 the RO zone area in the McDonald's proposal in the same
11 location as the parking spaces that are presently on
12 the Krispy Kreme site?

13 A Yes. They may be offset by one foot or so,
14 because we wanted to create a little bit more
15 (inaudible) area, but essentially they are in the same
16 area.

17 Q Is there any additional use of the RO area,
18 the parking on the north--

19 A No. This area is being used currently as
20 parking spaces and it will remain as such. We're not
21 adding any density or any new impervious areas for the

1 Baltimore County already.

2 Q And what will be used to keep the light on
3 the site, so that it lights the site, but doesn't light
4 --

5 A I think the lights (inaudible) special
6 lighting typical commercial uses may have (inaudible)
7 light bulbs will be on the lower scale lighting which
8 has their specific power. And that the shoe box kind
9 of lighting exists, that one is projecting the lights
10 down.

11 And they could be adjusted. So if there is
12 maybe some house (inaudible) direct the light down.
13 They are adjustable.

14 I think they come on a 30 percent angle but
15 they could be adjusted so that the lights will go down
16 and they wouldn't take away from any of the public
17 roads and the residential areas.

18 Q Let me show you what's been marked as
19 Petitioner's Exhibit 18.

20 Is that the lighting plan that you've been
21 testifying about?

1 needs to be done.

2 Q And it's your professional opinion that in
3 permitting this area of the RO zone to continue to be
4 used as parking (inaudible) all of the requirements of
5 section 409 (inaudible)

6 A Yes, I do.

7 Q Let's turn if you can to section 522.1
8 (inaudible).

9 In your professional opinion, would
10 permitting this area of the RO zoning similarly to use
11 as off street parking pursuant to your site plan be
12 detrimental to the health, safety or general welfare of
13 the locality?

14 A In my opinion it will not be. (inaudible)
15 right now it's being used as parking, parking facility
16 and it's going to remain as such.

17 There is no residential use on the adjacent
18 property or in the area adjacent to this.

19 And the next development actually the
20 existing building like I said, it's not a residential
21 use, it's the office building.

1 of conditions.

2 Q Would the continuing use of these parking
3 spaces tend to (inaudible) crowd up the lane and cause
4 an undue concentration in population?

5 A This is a parking lot. It's not a building
6 that generates a population or has any impact. So I
7 don't think there's an impact.

8 Q Would continuing to permit the parking
9 there interfere with adequate provisions for schools,
10 parks, water and sewage, transportation or other public
11 requirements convenient to improvement?

12 A No. Again, this is more appropriate to
13 the buildings than the parking themselves. As a matter
14 of fact, since they are existing water and sewer
15 (inaudible) the use of that side and we are going to
16 (inaudible).

17 Q Would it interfere with light or air?

18 A No. The lighting -- and again, this is a
19 parking space. So it will not effect the lighting
20 situation or the air on the site.

21 The building itself is located in the back,

1 the Zoning Regulations?

2 A No. It's because it is an existing parking
3 lot (inaudible) so it's no inconsistent with what it is
4 right now.

5 Q Would there be any detriment to the
6 environmental and natural resources of this site?

7 A No. Again, it's a (inaudible) condition.
8 And as a matter of fact, there are no inconsistent
9 environmental sensitive areas which are present which
10 would be (inaudible) the parking lot.

11 Q In your professional opinion, would
12 permitting this continued use of the parking places
13 that encroach the RO zoned land satisfy the objectives
14 of Section 502.1 of the Baltimore County Zoning
15 Regulations which we just reviewed?

16 A I do believe.

17 Q Let's turn from the special hearing relief
18 to the variances that are being requested.

19 Let me direct your attention to Plan B1
20 which is one of the attachments to Petitioner's 1 and
21 ask you to describe the two parking related variances

1 permitted 6 feet. And this is referred to the sign
2 which is located at the tip of the island which is the
3 drive through line.

4 So this is the sign, the drive through.
5 And then the height to the top of the sign from the
6 (inaudible)

7 And then it says here requesting a variance
8 from Section 4684 attachment 1,3 and 7 (inaudible) two
9 directional signs (inaudible) the sign which is here
10 and it goes to the (inaudible).

11 So then the sign says (inaudible)
12 directional sign (inaudible) the top of that surface.

13 And then we have a variance for Section 4
14 (inaudible) attachment 1, 3, 2 (inaudible) directional
15 signs in lieu of the permitted wall mounted or free
16 standing sign.

17 So these are the signs which are located
18 (inaudible) kind of the entry door to the side and from
19 the front.

20 And then these are (inaudible) which
21 becomes sort of the directional sign (inaudible) far

1 of the prerequisites for the special variance relief is
2 the existence of special conditions or circumstances.

3 So I want to ask you as an expert in site
4 engineering, do you have an opinion to a reasonable
5 degree of professional certainty as to whether there
6 are special circumstances or conditions that are
7 peculiar to this property and effect what's suitable?

8 A I do believe that there are quite a few of
9 the certain elements which make the site peculiar and
10 kind of difficult to develop.

11 And actually the combination of (inaudible)
12 makes it so unique and so peculiar.

13 Q What are some of the elements that make the
14 property unique in your opinion?

15 A First of all, the site is quite small and
16 by itself it wouldn't have mattered too much but the
17 (inaudible) of the other factors that make it kind of
18 (inaudible).

19 As the (inaudible) of the side (inaudible)
20 State Highway to (inaudible). So it's small.

21 It's quite a unique (inaudible) between the

1 (inaudible) these areas here.

2 Q I'm showing you what --

3 A Also the other --

4 Q I'm going to let you finish the question, I
5 was just going to try to ask, what we've marked as
6 Exhibit 2F, illustrates the drop towards that corner?

7 A Well, this picture actually shows this area
8 here, the drive through and the parking lot. It's
9 relatively flat, but there is quite a change in the
10 elevation between this green line up here (inaudible).

11 Q Thank you.

12 A Here where we can see clearly the drop
13 which I was referring to.

14 Q The witness is looking at Exhibit 2G.

15 A This is actually St. Thomas Lane looking
16 southerly along Reisterstown Road. It shows the
17 (inaudible) which is here.

18 And this is here.

19 This specific Exhibit 2H shows a --

20 Q 2H?

21 A 2H shows the front of the boarded up Krispy

1 those areas.

2 And if this site was just to go out and
3 next door would be BL, this area (inaudible) you don't
4 need to divide the green area or green space but the
5 parking connected and make it like a continuous
6 (inaudible) extension of the parking place.

7 So the split zones is also uniqueness here.

8 And also there's this widened buffer that
9 the State Highway Administration as I mentioned before
10 (inaudible) the size of the lot even more which makes
11 it more difficult to comply with all of the
12 regulations.

13 Q Does that have any effect on the visibility
14 of the site, the fact that the taking of the frontage?

15 A Yes, actually. Because the building needs
16 to be pushed back, the proposed McDonald's building, it
17 could be closer to Reisterstown Road, but because of
18 the widening it needs to be pushed back.

19 And the existing office building therefore,
20 as you can see, it's more obstructing that building in
21 this case.

1 Q Are those illustrated by those photos that
2 we just discussed, Exhibits 2G through 2J?

3 A Yes. Yes.

4 And then the requirement for the storm
5 water management (inaudible) for the parking lot so
6 that's something that needs to be provided which no
7 other development had. I don't think they do have.

8 Actually, I checked the GIS, the Baltimore
9 County GIS and searched for any storm water management
10 (inaudible) which were created since 2008. There were
11 not too many.

12 So it was only a few random lots which
13 would make me believe that they are not (inaudible)
14 storm water management facilities in this manner.

15 And it needs to be (inaudible) I don't
16 think there are many there.

17 At the time that this site is being located
18 along the effected frontage to (inaudible) which
19 essentially requires some buffers (inaudible) set backs
20 for the parking lot (inaudible) certain limitations.

21 So it's these -- these factors put together

1 when complying with the off street parking
2 requirements.

3 A I do. I find that there is a very
4 difficult hardship in complying with the Baltimore
5 County Development Regulations.

6 Q What's your basis for that opinion?

7 A Like we just described, there are so many
8 site conditions which make it impossible almost to
9 provide enough of the parking spaces which are
10 required.

11 I mentioned that there are about 40 parking
12 spaces right now on the site. Krispy Kreme building is
13 quite similarly sized to the McDonald's. McDonald's is
14 a little bit larger, I think, 160 square feet.

15 So if we would have to provide 71 parking
16 spaces, and right now it's 40, we would have to add 31
17 parking spaces.

18 And you can see that it's physically
19 impossible to do on this site. I think (inaudible) 70.

20 The fact that 71 parking spaces is required
21 by the Baltimore County Zoning Regulations, but it's

1 So what this other (inaudible) how many
2 parking spaces we can provide on this site.

3 So specific to this site condition would
4 not allow us to provide more than (inaudible).

5 Q Can we look at the same questions in terms
6 of the variance reducing the requirement 10 feet on
7 Reisterstown to 6 feet in terms of the distance between
8 the right of way and the off street parking.

9 Do you have an opinion with respect to that
10 variance request as to whether it would be a practical
11 difficulty or unreasonable hardship to the Petitioner
12 to require that that 10 foot regulation.

13 A I really do think that it would be a
14 hardship.

15 I think that the McDonald's wants to
16 provide (inaudible) from the side which would provide a
17 smooth maneuvering and then quick operation for both in
18 and out of the parking lots and create a slide smooth
19 situation.

20 (inaudible) certain conditions on the side
21 that (inaudible) which limits how far we can go with

1 compliance with the zoning regulations would result in
2 a practical difficulty or bring reasonable hardship to
3 the petitioner?

4 A Yes. In my opinion it would.

5 Q And what is the basis for your opinion?

6 A Again, the big factor here is that there
7 are so many of those unique conditions on the side
8 which dictate how many signs which we would like to
9 have and how -- and where to place them to create a
10 (inaudible) along the side.

11 McDonald's needs to be visible from the
12 road and having the small sides, we've located in a
13 very busy commercial corridor (inaudible) some of the
14 existing vegetation along the side of the Reisterstown
15 Road, being located near this road crest it slopes
16 down.

17 And we're having the advantage of
18 (inaudible) then it dictates really what we're going to
19 do with the signage.

20 If it meets the (inaudible) traffic to
21 provide enough of the (inaudible) signs on the building

1 from (inaudible) the existing sign from the office
2 building the traffic. So you almost have to be
3 somewhat at this location to see that McDonald's.

4 So if you're trying (inaudible) it's hard
5 to see. So we wanted to provide signs in hoping that
6 there's a little opening somewhere in the vegetation or
7 between that people will notice the sign and identify
8 the McDonald's, they'll know where to go.

9 MR. GAENG: Your Honor, I'd move to admit
10 Exhibits 9A and B.

11 HEARING EXAMINER: Any objection, Mr.
12 Holzer?

13 MR. HOLZER: No.

14 HEARING EXAMINER: Okay. Exhibits 9A and B
15 are admitted, Petitioner's Exhibits.

16 Q I'd like you to address -- as you know,
17 it's necessary to show with the variances we requested
18 are complying with the spirit and intent of the Zoning
19 Regulations.

20 Starting with the parking variance
21 regarding the number of spaces, we are planning for 35

1 MR. HOLZER: Well, this petition was file
2 in -- some people, some people said. I'd move to
3 strike all of that.

4 HEARING EXAMINER: Yeah. I think if she
5 could refer to something that she's opined or something
6 she's reviewed or an opinion she has on this site, I'm
7 not saying that the testimony is out of the scope of
8 the spirit and intent question, but I think she did
9 refer to it being -- there being some idea in the
10 field.

11 Q Can you limit your answer to your opinion
12 as to whether this variance would be in the spirit of
13 the Zoning Regulations.

14 A Like I said, I believe that the intent was
15 to provide enough parking spaces on the site to
16 accommodate a specific use and not to create a
17 situation that there is enough parking spaces that the
18 people could start parking on the adjacent street of
19 the adjacent property owners.

20 So I have to believe that the studies which
21 were done by my colleagues from the Traffic Concept

1 asked and answered that, I believe.

2 MR. GAENG: I'm going down the elements,
3 Your Honor, with respect to the --

4 HEARING EXAMINER: It's overruled.

5 MR. GAENG: --harmony issue.

6 HEARING EXAMINER: Go ahead.

7 A I do feel that it fits within the spirit
8 and intent of Baltimore County Zoning Regulations.
9 That the requirement is to (inaudible) the parking lot
10 sufficiency, not to allow lighting from the (inaudible)
11 lights to reflect on the public (inaudible) or the
12 adjacent residential areas.

13 So I stated before the 6 feet is enough to
14 accomplish that and we had actually provided the
15 vegetation which should sufficiently do that.

16 And we do have the approved landscape plan
17 which was approved by Ms. Tanzy on April 8th of this
18 year.

19 Q I'm showing you what's been marked as
20 Petitioner's Exhibit 19. Can you identify Petitioner's
21 Exhibit 19?

1 A I think that they are in harmony with the
2 spirit and intent of Baltimore County Zoning
3 Regulations.

4 I know that Baltimore County has a
5 (inaudible) inspection of (inaudible) which requires
6 specific times that they are really concerned about the
7 kind of signs in the past and that they want them to be
8 functional, serving the purpose (inaudible) not too
9 much and so on.

10 I think that the proposed signs which we
11 are proposing here do serve the purpose (inaudible) so
12 that that helps (inaudible) signs were created for
13 which will (inaudible)

14 And because of the situation (inaudible) we
15 need to provide a greater number of the signs than
16 allowed because we want to provide five and
17 (inaudible).

18 But because of those conditions like
19 (inaudible) for example, people who travel from
20 whatever direction, we want to make sure that there are
21 enough signs on the building that McDonald's could be

1 A It helps to navigate that and there's no
2 confusion, there's no congestion. Somewhere the
3 entrance is that people don't know where to go.

4 So signs help to channel the side and the
5 movement. And I think now people who are customers
6 that (inaudible) package which is used (inaudible) so
7 it (inaudible).

8 Q The final requirement is that the relief
9 that we're requesting not be detrimental to the health,
10 safety and general welfare of the surrounding areas.

11 I'd like to ask you with respect to each
12 item of the relief that we are requesting whether you
13 have a professional opinion as to whether the granting
14 of those variances and that special hearing relief
15 would be detrimental to the health, safety or the
16 general welfare of the surrounding area.

17 A Well, in my opinion the granting of the
18 special hearing variances would not be detrimental to
19 the health, safety and general welfare of the
20 surrounding area.

21 Actually on the contrary. On the contrary

1 The signage on the side and the (inaudible)
2 navigate around the site and find out where they need
3 to go so they're no confusion or anything.

4 I think it was stated here (inaudible)
5 McDonald's (inaudible) impact on the traffic in
6 general. But the more traffic most likely would be
7 (inaudible) much much bigger development across
8 Reisterstown Road.

9 I think that the project will be developed
10 (inaudible) storm water management on the side because
11 they (inaudible) storm water management quality that's
12 on the (inaudible).

13 I think that (inaudible) corridor and
14 possibly bring some more (inaudible) generate some type
15 of system (inaudible).

16 MR. GAENG: Your Honor, I'd like to offer
17 as evidence Petitioner's 17, 18 and 19.

18 HEARING EXAMINER: 17 is the zoning area
19 map, 18 is the lighting plan approved by the County and
20 19 the landscape plan; is that correct?

21 MR. GAENG: That's correct.

1 MR. GAENG: No further questions, Your
2 Honor.

3 HEARING EXAMINER: Okay. I assume we
4 should take a break.

5 I'll eat downstairs. But why don't we take
6 an hour and we'll come back at quarter of 2:00 and Mr.
7 Holzer will begin.

8 MR. HOLZER: Thank you.

9 HEARING EXAMINER: All right. See
10 everybody in an hour.

11 (Luncheon recess was taken)

12 HEARING EXAMINER: Okay. Welcome back
13 everybody. We're done our lunch and we are continuing
14 with Ms. Zarska's testimony. Mr. Holzer, you're up.

15 MR. HOLZER: Thank you.

16 EXAMINATION BY MR. HOLZER:

17 Q Ma'am, do you know where the closest
18 residence is to the subject site?

19 A The closest residence?

20 Q Yes.

21 A It probably will be in the apartment

1 MR. HOLZER: Mr. Chairman, I do not want
2 lengthy answers to my questions if I ask a yes or no --

3 HEARING EXAMINER: I understand that.

4 MR. HOLZER: And that's what I saw this
5 morning of this witness. So I'm not going to be very
6 patient when it comes to her talking all over the map.

7 HEARING EXAMINER: Okay. Well, I think
8 she's trying to answer the questions. I want everybody
9 to be as professional as we can be.

10 The question is again, rephrase the
11 question.

12 Q My question is, what is the closest
13 residential home to the subject site? Did you bother
14 to check it out and did you measure it?

15 A The closest residential dwelling would be
16 the apartment building which is immediately on the east
17 side of the subject property.

18 Q My question was, what is the closest
19 residential home, ma'am.

20 A It was beyond the property which is zoned a
21 residential office, next door. Next property.

1 A We are awaiting the results of this hearing
2 to submit the final plan. It would not make sense to
3 submit the plan without finishing this hearing.

4 Q Okay. So after this hearing when the
5 decision is made, then you'll submit the final plan for
6 the storm water management facility?

7 A I would wait for the appeal period which is
8 one month from the decision date and then I could
9 submit the final plat.

10 Q Suppose an appeal is taken from this
11 decision, whatever it may be, would you then wait to
12 get the final plans submitted and approved by the
13 County?

14 A I will do as I will be directed by
15 McDonald's, my client.

16 Q Your client is McDonald's, so McDonald's is
17 advising you. Aren't you advising McDonald's also of
18 the regulations in the County?

19 A I think the regulations, I give them the
20 knowledge about the regulations, make them aware.

21 Q Right.

1 contracts or any knowledge of McDonald's --

2 HEARING EXAMINER: Well, she's mentioned
3 the feasibility. I'm inclined to, in these hearings,
4 allow -- err on the side of allowing testimony, so I'll
5 allow the question. It's overruled.

6 A My understanding is that they entered into
7 the lease agreement with the Krispy Kreme owner, with
8 the property owner and it's in some kind of contractual
9 state.

10 I'm not certain about the details, what's
11 involved, what the conditions are. I just know that
12 they entered into this kind of a thing.

13 Q Okay. Now, when you did the feasibility
14 analysis or study for McDonald's, you were aware of the
15 new storm water management requirements which would
16 necessitate that storm water management area being
17 placed on the subject property, were you not?

18 A Sir, I stated that I did not do the
19 feasibility study for that particular site, but
20 normally I would recommend about such a requirement.

21 Q Okay. And whatever you did in regard to

1 this site for a McDonald's and if they wanted to be
2 able to park vehicles along that line.

3 A At some point they knew about it, yes.

4 Q Did you ever investigate as to whether
5 Krispy Kreme had approval or a permit or authorization
6 to use this area in the RO for parking?

7 A We tried to receive any development
8 information from any agencies from the Baltimore County
9 and (inaudible) obtained a copy of the site plan which
10 was prepared for the Krispy Kreme from the engineer
11 (inaudible) application relationship, we're
12 professional colleagues.

13 So we obtained the site plan from them and
14 (inaudible) information was (inaudible) that there was
15 an approval for use of that piece as parking.

16 Q So --

17 A So I believe there was no legal formal
18 request or a special hearing to obtain such permission.

19 Q Right. Did you bother to check the
20 archives of Baltimore County?

21 A Sir, we always check the archives. But I

1 I'd like to see a copy of the form, if you did.

2 A I will.

3 Q Now, in regards to the lighting plan, I
4 just didn't quite catch where you are saying the three
5 light poles were placed.

6 Were they placed within the RO zone or were
7 they placed in the merchant zone?

8 A They are within the RO zone just behind the
9 parking lot. Let me double check just to make sure
10 where they are.

11 They are behind the curb, so they must be
12 on the RO zone.

13 Q Your testimony was they are behind the curb
14 so therefore it must be in the RO zone.

15 A Yes. It appears to be that this line, the
16 third line, and the poles are here. They are behind
17 the curb line so they will be within the RO zone.

18 Q In the RO zone. Thank you.

19 A Yes.

20 Q Now, in regards to the variance relief for
21 the sign. When you -- you worked on 60 plus McDonald's

1 A Not exactly the same. It varies from
2 project to project, it depends. But similar, yes.

3 Q Right. Okay.

4 Now, so when -- when this project was
5 proposed and reviewed by you and submitted to
6 McDonalds, did you inform them that they were going to
7 have to ask for sign variances?

8 A They were aware of that at some point.

9 Q Okay. Now, when you were discussing sign
10 variances, you said this is what, and I took the notes
11 down, quote, we would like to have. You used those
12 words, we'd like to have.

13 Now, is there something that would comply
14 with the sign legislation that you could live with, in
15 other words that you could accept as sign --
16 appropriate signage on this site?

17 A The signs which we're proposing for this
18 site, I'm not sure if I understand completely your
19 question.

20 Could you please rephrase that.

21 Q Well, you're familiar with the variance

1 what exactly they need for the new business, how many
2 signs they need.

3 The recognize the uniqueness of the place
4 where the McDonald's is positioned. So they would make
5 the final decision, it would not be up to me to decide.

6 Q Gotcha. Gotcha. So you don't know whether
7 or not you could put up in the case of sign regulation
8 2.1, you don't know whether you could use three wall
9 mounted enterprise signs instead of five.

10 A I don't know that. Yes, you are correct.

11 Q And in regards to 2.2 variances for a sign
12 10.7 feet high instead of 6, you don't know whether or
13 not you could get away with or meet the requirements of
14 the 6 foot sign there, do you?

15 A We could not provide 6 feet signs because
16 it's not enough clearance for the car to go under the
17 sign without the certain distance between the car and
18 the sign.

19 Q Okay.

20 A So the physical condition dictates how far
21 it needs to be.

1 their decision. I would not have anything to say in
2 that respect.

3 Q I understand. I understand.

4 But all the signage requirements were laid
5 out for McDonald's by your firm, were they not, when
6 they first retained you?

7 A Yes. How it works, we take our first
8 approach and we do some preliminary positioning of the
9 signs and we submit it to the McDonald's and they
10 review it.

11 And if they concur with our proposal then
12 we present the case in front of the judge. But I would
13 not come to the hearing without getting the approval
14 from McDonald's which one to use.

15 Q I understand that.

16 Now, does McDonald's need a bigger sign
17 than Popeye's or Wendy's on their property which is
18 right next to this property?

19 A Are you referring to the free standing
20 sign, the island sign or --

21 Q I'm talking about any signs.

1 I drove by.

2 Q That was because of Krispy Kreme.

3 A And I saw Popeye's immediately so I noticed
4 that it must be somewhere here because they like to be
5 close to each other.

6 Q Okay. Let me ask you this now.

7 When you are retained by the company, 60
8 plus and they come to you on this occasion, you told
9 them, did you not, that this site was small?

10 A They knew before me that it was a small
11 site. But, yes, it was of course a discussion. But
12 it's not quite unusual to have the McDonald's on this
13 site for the property. It's, I would say --

14 Q But, I mean --

15 MR. GAENG: May the witness finish her
16 answer, please.

17 HEARING EXAMINER: Yeah, go ahead. Were
18 you finished your answer?

19 THE WITNESS: Yes.

20 Q Now, in addition to you mentioning that
21 this site was small at least five times in your

1 you that there was a 13 vertical foot elevation
2 problem, did it?

3 A No, they knew the condition.

4 Q Now, you also told them, and you knew
5 because of your review, that the property was zoned BL,
6 RO and DR16, so that it was a split zoned small
7 elevation difference piece of property.

8 A Yes, they knew about it.

9 Q And one would -- why, if they didn't
10 realize and if you didn't point out to them, that this
11 site is on a corner of Reisterstown Road and St. Thomas
12 Lane; right?

13 A Right.

14 Q So they knew that because there were two
15 roads which bounded this property, you informed them,
16 did you not, that there would be variances required to
17 certain dimensions that had to be satisfied by --
18 before the County would approve this plan?

19 A Yes.

20 Q Knowing all of that, they chose to go
21 ahead, and you chose to testify today as to all of the

1 at McDonald's and instead of the 65 percent of the cars
2 zooming through the windows, getting their stuff and
3 moving on, there's more cars, where would those cars
4 tend to go to park?

5 A Sir, I would not -- I did not think about
6 it because I was pretty convinced that the amount of
7 the parking spaces which would be provided, 35 on the
8 site would satisfy the demand of the business.

9 Q I know.

10 A So I did not have to think too much about
11 it.

12 Q So --

13 A Where would they go? We heard the
14 different testimony, but I am not an expert to talk
15 about it, but we've heard that this is not a
16 destination point, it's a drive by business. And if
17 people don't have enough parking spaces they would
18 probably go to Park Heights Wendy's or there's a few
19 extra fast food restaurants in the very close vicinity.

20 They may go as well to another McDonald's
21 which is not that far away from that location.

1 plan and when I'm sitting in McDonald's eating, I
2 always see big tractor trailer trucks come in and
3 unload the bread, the meat, et cetera.

4 How are they going to get into this site
5 and where are they going to unload and is there any
6 restriction on when they deliver to the site?

7 A Sir, from my experience working for
8 McDonald's sites, on this particular one we have a
9 designated area which is labeled on the plan, loading
10 area.

11 Q Where is that, right here?

12 A Yes. That's where it is.

13 And my knowledge about the delivery, it
14 typically happens at night -- not at night, in the off
15 peak hours.

16 So typically the parking process
17 (inaudible) without too many of the customers, so
18 that's when the delivery happens.

19 Q Well, this loading area happens to be right
20 in front of the cues, does it not? What are these
21 things called here where --

1 then and 7:00 in the morning or whenever they wake up.
2 This is a 24 hour operation.

3 A I understand that it is a 24 hour
4 operation. I would not know to tell you when the
5 delivery will happen on this one. It would have to be
6 decided on.

7 MR. HOLZER: Okay. Thanks. I have no
8 further questions.

9 HEARING EXAMINER: Okay. Counsel?

10 EXAMINATION BY MR. GAENG:

11 Q Ms. Zarska, you were asked about the --
12 whether McDonald's needed to have signs bigger than
13 Wendy's, Popeye's. Isn't it correct that there's no
14 variance being requested with respect to the sign
15 (inaudible).

16 A That's correct. We are not asking for a
17 variance to the road sign. That's actually smaller
18 than is permitted in square footage (inaudible).

19 Q And on other projects that you've worked
20 for, the similar McDonald's restaurants, have variances
21 been (inaudible) as to parking requirements?

1 MR. HOLZER: Yes. We have four neighbors
2 who want to testify, the first being Kimberly
3 Simonetti.

4 HEARING EXAMINER: Okay, Ms. Simonetti,
5 come on forward. How are you?

6 THE WITNESS: Good. How are you today?

7 HEARING EXAMINER: Good.

8 Come on over here. Remain standing and
9 raise your right hand.

10 KIMBERLY SIMONETTI,
11 after having been first duly sworn according to law,
12 was examined and testified as follows:

13 HEARING EXAMINER: Sit down there, take a
14 seat. Tell us your name and business address, please.

15 THE WITNESS: My name is Kimberly Simonetti
16 and I --

17 HEARING EXAMINER: Can you spell your last.

18 THE WITNESS: Simonetti is spelled
19 S-i-m-o-n-e-t-t-i.

20 HEARING EXAMINER: Thank you.

21 EXAMINATION BY MR. HOLZER:

1 MR. HOLZER: I don't remember which one it
2 was either.

3 Q And did you bring some photos with you
4 today --

5 A I did.

6 Q I want to show them to counsel before I
7 start asking you about them.

8 I will show you this first picture.
9 Address your comments to the Administrative Law Judge.

10 A Yes.

11 Q And you can actually hold this and explain
12 what it is. We'll mark these.

13 A This is standing in my driveway, which my
14 property line goes almost to where this phone pole is.

15 HEARING EXAMINER: Okay.

16 A I have an acre of land. So this is like
17 standing sort of where my mailbox is, that is the
18 proposed McDonald's site.

19 HEARING EXAMINER: Okay. Is that the
20 entrance to the apartment?

21 A That's the entrance, that's Wood Key and

1 turning into Popeye's right here.

2 Right now, St. Thomas Lane is wide enough
3 for a car to turn into Popeye's and then traffic move
4 around that car.

5 So to the right it's not designated as two
6 lanes, but there is --

7 HEARING EXAMINER: St. Thomas is not?

8 THE WITNESS: No. It's one single lane
9 each way.

10 HEARING EXAMINER: Okay. So what movement
11 are you describing?

12 THE WITNESS: Okay. So if you're coming
13 from Reisterstown Road and you're turning into Popeye's
14 chicken --

15 HEARING EXAMINER: But you're turning on to
16 St. Thomas?

17 THE WITNESS: St. Thomas, the rear entrance
18 of Popeye's --

19 HEARING EXAMINER: Okay.

20 THE WITNESS: There is room for a car to
21 kind of move around, keep the flow of traffic because

1 hazard and it's dangerous.

2 Q Now, there are six other photos. Many of
3 them are similar and I would just have her go through
4 those for you.

5 HEARING EXAMINER: Okay.

6 A This is the front of my property. We own
7 -- oops --

8 HEARING EXAMINER: The strip before the
9 road?

10 A A strip before the road. It's constant
11 trash. If you notice, there is a fence here and that's
12 to keep the trash off my property as best as we can.

13 So this is what we pick up on a weekly
14 basis already. This is the same thing. Same trash.
15 You can see the fence.

16 HEARING EXAMINER: The green fence is
17 yours?

18 A Yes. And this is already McDonald's and
19 they're not even moved in yet, and I already have a
20 problem with trash with McDonald's already and you're
21 not even moved in.

1 \$3000 in damage to my roof. And I'm (inaudible) with
2 Popeye's and the apartment buildings for trash
3 violation. And I know that McDonald's is going to add
4 to the problem and the burden that I'm already faced
5 with.

6 As a matter of fact, there was two summers
7 we weren't even allowed to use our back deck area, that
8 we have a beautiful outdoor living room set. We were
9 not able to even use it because there were so many bird
10 feces on our back deck and around our property from
11 these vultures.

12 And it's all because of the fast food
13 restaurants and the apartments.

14 HEARING EXAMINER: Okay.

15 MR. HOLZER: Could I submit that as
16 Protestant's 1A through whatever?

17 HEARING EXAMINER: Yes. Any objection?

18 MR. GAENG: No objection.

19 HEARING EXAMINER: Okay. So Petitioner's
20 Exhibit 1A through whatever we get to, a series of
21 several color photographs will be --

1 (inaudible) of that concern?

2 A I guess I would have to see, to go through
3 that. But we were told that Krispy Kreme was going to
4 go there getting lights and it wasn't. It was a
5 disaster.

6 And it was definitely impeding our privacy
7 and it was shining into our living room area which is
8 in the back of our house. That's how bright it was.

9 Even with vegetation that we planted along
10 the tree lines to make us private from Verizon lot, it
11 still was in our living room.

12 Because in the winter the trees don't have
13 leaves, so --

14 Q Now, what about the noise issues, have you
15 had in the past or are you concerned about the noise
16 issue?

17 A Constant. Constant.

18 Q Let me ask you this, Krispy Kreme, was that
19 a drive through situation?

20 A Yes, it was. And it was a problem and
21 there would be people over there hanging out in the lot

1 and you won't be disrupting us and getting the
2 residents upset. It's just not meant (inaudible).
3 It's a waste of everybody's time and money.

4 Q Do you have any concern about crime with
5 past history -

6 A Yes. I've had people, police officers in
7 my yard with drawn guns looking for the (inaudible) or
8 whatever that had been robbed.

9 You know, I have to endure that. Granted,
10 I knew when I purchased that I was going to be near
11 commercial property and that was all fine. However,
12 with that said, I expect a certain amount of security
13 and a certain amount of respect.

14 Because that property was a house before
15 it -- it was built originally in 1912, before ever
16 (inaudible) businesses moved in there.

17 Q I'm sorry, are you saying your house?

18 A My house was originally built in 1912.
19 It's 100 years old.

20 Q So you've been there before the commercial
21 corridor strip was developed?

1 And, you know, with all due respect, I
2 think it's the wrong property for you.

3 MR. HOLZER: Thank you. Your witness.

4 HEARING EXAMINER: Okay. Counsel?

5 EXAMINATION BY MR. GAENG:

6 Q Ms. Simonetti, you live right behind the
7 Verizon building?

8 A Next to it.

9 Q So you were talking -- you showed a photo
10 of a car coming up here to turn (inaudible). I guess
11 I'm not understanding what the issue would be.

12 The traffic coming up here after the median
13 strip, people would turn into the restaurant off of
14 Reisterstown Road. Nobody down here would do it.

15 A So you wouldn't have cars turning right
16 into the back of your property?

17 Q They could, but it wouldn't be a lash of
18 traffic flow coming up Reisterstown Road. You would
19 turn directly into the restaurant rather than going
20 around the corner to come in the back way.

21 A Well, you can say that with Popeye's

1 they're a filthy restaurant and I would never eat
2 there.

3 MR. GAENG: No further questions.

4 HEARING EXAMINER: Anything further, Mr.
5 Holzer?

6 MR. HOLZER: No.

7 HEARING EXAMINER: Thank you, ma'am.
8 Do you have the photos?

9 THE WITNESS: Yes. Do you want them?

10 HEARING EXAMINER: Yeah, I need those.
11 Thank you.

12 THE WITNESS: There you go.

13 MR. HOLZER: The next witness would be
14 Steven Kariotis.

15 HEARING EXAMINER: Okay, Mr. Kariotis.
16 Remain standing and raise your right hand.

17 STEVEN KARIOTIS,
18 after having been first duly sworn according to law,
19 was examined and testified as follows:

20 HEARING EXAMINER: Tell us your name and
21 business address and spell your last name if you would.

1 Q All right. Do you know the operating hours
2 of the Krispy Kreme?

3 A I do. The Krispy Kreme opened at 5:00 a.m.
4 I worked very close, so people knew that that was where
5 you could get doughnuts early in the morning.

6 Q And coffee?

7 A And coffee. They also were a specifically
8 Kosher operation. So their distribution was rather
9 limited only for those places that wanted a Kosher
10 Krispy Kreme, otherwise there were other places that
11 they would purchase.

12 Q Do you know what time they closed?

13 A I don't recall, no. But it wasn't a late
14 night -- because it was only doughnuts, it didn't
15 really operate that long.

16 It was mainly 5:00 a.m. that I can recall.

17 Q Okay. And you -- how have you become
18 familiar with this McDonald's proposal?

19 A I've been looking at the property and I've
20 really been concerned with some of the variances that
21 they're asking for.

1 home and then go back to work. So I'm on that
2 intersection a lot.

3 If I'm not riding my bicycle, I might be
4 working. My wife will probably be coming home today in
5 a little bit and getting off at the bus which is
6 currently, if I may --

7 Q Sure.

8 A --at this intersection right here, there's
9 a bus stop.

10 Q For purposes of the record he is pointing
11 to, I don't know what that exhibit number is, but he's
12 pointed to the -- it's where it says Peeler.py or
13 (inaudible) side. So I don't know what that.

14 HEARING EXAMINER: Okay. But you're
15 talking about a bus stop at St. Thomas and
16 Reisterstown?

17 MR. HOLZER: At St. Thomas and
18 Reisterstown. Right on the very corner of the proposed
19 project.

20 HEARING EXAMINER: Okay.

21 Q So currently there's, I think, a ten foot

1 still their facility. They still sell Big Macs. There
2 are several others in the area. We're already
3 saturated with McDonald's. We're already picking up
4 the trash.

5 And I would agree with Kim, yes, the
6 buzzards are a problem. We already have an issue with
7 trash from the other places that are there.

8 The trash, the traffic issues that I have.
9 I'm concerned about loitering. I know they're talking
10 about 35 parking spaces and really the main crux of
11 this building is going to be they want to have a drive
12 through. They want to put people in and out.

13 Every McDonald's I've looked at seems to
14 offer free Wi-fi which tells me no, we want you to stay
15 and have another milkshake and stick around for a
16 while. Have another burger.

17 The longer you stay, the more money you're
18 spending. And we're going to offer that by having
19 something like Wi-fi.

20 These are things that I'm not interested
21 in. My house was built in 1932 (inaudible) late 1928.

1 Q Is it fair to say that you just don't
2 believe that your community will be well served by
3 having McDonald's there?

4 A Another McDonald's? We already are well
5 served by McDonald's. We have one within a half a
6 mile.

7 Q I mean at this location. It wouldn't
8 matter if they expanded the parking and made the
9 building smaller, you don't think that's -- you don't
10 want McDonald's there?

11 A I don't see how fitting something like what
12 you want into this small spot, admitted we talked about
13 the (inaudible) rules. I'm the target for the
14 (inaudible) when it's coming down. Again, just an
15 individual on a bicycle or a pedestrian walking on the
16 sidewalk.

17 You're looking at an extra entrance on St.
18 Thomas in case they missed the first one they can go to
19 the second one.

20 Even the Popeye's. And that admittedly has
21 a very good view. People can see that right away.

1 130,000 square feet Wegman's; right?

2 A That is correct.

3 Q 365,000 square feet additional retail and
4 restaurants?

5 A Yes.

6 Q And that's a half a million square feet of
7 retail and restaurants. You think the McDonald's is
8 going to drive traffic in this neighborhood or a half a
9 million square feet of retail and restaurants and
10 Wegman's that you support?

11 A I do know that the heavier traffic,
12 especially in the evenings (inaudible) northbound on
13 Reisterstown Road. I do know that they're going to put
14 a median dividing that traffic and we know how heavy
15 traffic Reisterstown Road already is.

16 Q And they're also going to widen --

17 A And widen it, yes. But that won't be -- I
18 don't believe it's on this side, it's on the right
19 side.

20 What I don't know is how your plans
21 actually (inaudible) pedestrian and bicycle. This is

1 A Actually, there has been comments by the
2 (inaudible) the pedestrian bicycle plan as well. They
3 are not going to put a bicycle lane in. Bicycles are
4 allowed to use the entire right lane of the road.
5 Actually, I can ride in any lane of the road provided I
6 use hand signals (inaudible) some sort of signal to let
7 people know where I am and make sure my intentions are
8 clear.

9 Again, being a bicyclist riding up and
10 (inaudible) no they will not put a bicycle lane in.

11 The existing roads already allow for me to
12 use the lane and from what I understand that's
13 sufficient.

14 MR. GAENG: Thank you very much for your
15 testimony.

16 HEARING EXAMINER: Anything else, counsel?

17 MR. HOLZER: Nothing further.

18 HEARING EXAMINER: Okay. Thank you, Mr.
19 Kariotis.

20 THE WITNESS: Thank you.

21 HEARING EXAMINER: Okay. Next witness.

1 A Yes.

2 Q How have you been made aware?

3 A From, just from the community and the
4 proposals that have been put forth.

5 Q What concerns, if any, do you have relative
6 to what they're proposing at that site?

7 A Well, my main concern is obviously the
8 traffic on Reisterstown and again on St. Thomas Lane.

9 My concern with Reisterstown Road is that
10 car traffic will be attempting to enter the McDonald's
11 entrance essentially backing up traffic and making it
12 difficult to turn into St. Thomas Lane.

13 And then once on St. Thomas Lane, people
14 will be exiting the McDonald's and traveling up St.
15 Thomas Lane because they most typically go northbound
16 on Reisterstown Road.

17 And I have a young daughter who's going to
18 be driving soon who's going to be making a lefthand
19 turn on to St. Thomas Lane when she wants to travel
20 anywhere within the community. I have concerns about
21 that.

1 Thomas Lane but not nearly enough. And parking in our
2 driveway, actually, to take radar and things like that
3 and pulling people over.

4 Q Anything else before I let you go?

5 A I also have, one thing in regards to the
6 fast food industry on the bottom of St. Thomas Lane is
7 the smell basically. It's not a pleasant smell with
8 the grease from the friers. And we can actually smell
9 that from where I live.

10 In addition, I have concerns about the
11 rodent population which currently exists now and I
12 think it will be (inaudible) with the volume of the
13 people who (inaudible).

14 Q I assume you're referring to mice or rats?

15 A Yes.

16 Q They come all the way up from Reisterstown
17 Road down to cause concern to your property?

18 A Yes, sir.

19 Q The rats and rodents?

20 A We do see them every now and then. I don't
21 know where they're coming from.

1 A There will be more traffic.

2 Q People who are going south are going to
3 come up St. Thomas to get to where they need to go?

4 A Yes.

5 MR. GAENG: Thank you. No other questions.

6 HEARING EXAMINER: Mr. Holzer, anything
7 else?

8 MR. HOLZER: Nothing.

9 HEARING EXAMINER: Okay. Thank you, Ms.
10 St. Ours.

11 Good afternoon. Remain standing. Raise
12 your right hand.

13 KATHLEEN FONTONE,
14 after having been first duly sworn according to law,
15 was examined and testified as follows:

16 HEARING EXAMINER: Take a seat and tell us
17 your name and business address, please.

18 THE WITNESS: Thank you. My name is
19 Kathleen Fontone. My business address is 100 Light
20 Street, Baltimore, Maryland 21202. I'm representing
21 Valleys Planning Council.

1 county with Reisterstown Road and Carroll County
2 obviously the boundary on the other side it's Falls
3 Road generally is our boundary on the east side.

4 Valley's Planning Council is very concerned
5 with -- the primary reason I'm here is I'm Chairman of
6 the roads committee and we've had a very active road
7 committee for over 30 years to try and (inaudible) and
8 be proactive in planning for the preservation of the
9 lower areas which include rural roads.

10 Because the areas won't stay rural if you
11 have high traffic going through it.

12 So we've spent considerable time studying
13 it using traffic experts and also have created a rural
14 roads guide which the County has largely adopted.

15 And it's tailor made for areas like St.
16 Thomas Lane, which is a windy -- I think their traffic
17 expert also described it as a very winding, no shelter
18 whatsoever, narrow lane. Vegetation close in on both
19 sides.

20 And a lot of winding and a lot of up and
21 down. And we see that in particular in the area that's

1 private county. And it also -- it shows -- I think
2 this picture actually shows pretty well a couple of the
3 things that Steve was describing.

4 In particular, you can see the crest of the
5 hill up on the top. It is very blind there. And I'm
6 sort of surprised that their traffic expert didn't
7 address the sight distances and whether this is a safe
8 sight distance.

9 Typically with this you need a turn out
10 lane because cars are going to be traveling down
11 Reisterstown Road fast. And what they're going to be
12 expected to do is make a quick righthand turn into the
13 Krispy Kreme site, into the McDonald's site.

14 And it's a difficult distance to see.

15 You also -- Steve described the bus stop.
16 There's a bus stop right here. And there's been no
17 testimony whatsoever by McDonald's about how they're
18 going to account for this bus stop.

19 The people in -- a number of the local
20 residents, including this very large apartment complex
21 behind, utilize this bus stop.

1 It's probably a half mile away.

2 The St. Thomas Church yard and the St.
3 Thomas Church yard includes the other side of St.
4 Thomas Lane right at the intersection of Garrison
5 Forrest Road.

6 One of our major concerns with the Valley's
7 Planning Council was the intersection of St. Thomas
8 Lane and Garrison Forrest Road.

9 Again, you've got a very high elevation on
10 Garrison Forrest Road coming north. And I do have a
11 plat, it's really difficult to see, and I apologize for
12 this.

13 Do you want me to go forward --

14 Q Well, if it would help, the Petitioner put
15 this Exhibit 12 in evidence.

16 A Does that show it?

17 Q It may well show what your -- illustrate
18 what your concerns are.

19 A Let's see. Yeah. It absolutely does.

20 Exhibit 12 in the top lefthand corner.

21 This is the intersection of St. Thomas Lane and

1 ways to do it. We've asked for a three way stop and
2 they -- and I think they're right -- they say they
3 can't put a three way stop there.

4 So it was very difficult to do anything to
5 this road, to make it safer.

6 You know, I certainly did hear the
7 testimony of the traffic expert which was because this
8 way takes one minute more, nobody is going to use it?
9 It would be one thing to say if a percentage of people
10 might not use it, but the assumption that no one will
11 use it seems absurd.

12 The intersection here is definitely a
13 problem.

14 HEARING EXAMINER: Is that Painter's Mill?

15 A This is a C. This is the Painter's Mill
16 intersection. It's definitely a problem.

17 And the State is going to spend 50 million
18 dollars on it and (inaudible) 50 million dollars before
19 Foundry Row was coming in. That long predated -- that
20 plan long predated Foundry Row.

21 It's because this is a problematic

1 peak hours.

2 So you're going to have all of those people
3 going on -- not all of them. I mean, some -- obviously
4 some will go on Reisterstown Road. But you have to
5 assume that there's going to be a percentage of those
6 people that are going on St. Thomas Lane and it's going
7 to double or triple the traffic on St. Thomas Lane and
8 on Garrison Forrest Road.

9 We have every major institution in the area
10 from the school, Garrison Forrest School, St. Thomas
11 Church, the Greenspring (inaudible) all of them getting
12 up and testifying that this is going to have an
13 enormous impact on the neighborhood based on, you know,
14 what they see as the traffic pattern here.

15 The other concern that we have is that the
16 people who are using the drive through, we do
17 understand that a lot of people use the drive through
18 are -- because they're not going to be able to park
19 here are going to go and park at St. Thomas Church.
20 And St. Thomas Church has no ability to handle that
21 amount of trash.

1 nowhere for them to go. There's a day school, there's
2 a kiddie day school right here, the Garrison Forrest
3 School here.

4 And as I think you heard testimony, there's
5 these individual private homes with no security
6 whatsoever. And what the concern is, it's difficult to
7 cross the street. Where are these people going to go
8 and how is the community going to deal with that.

9 The other thing we are concerned about is
10 the housing in this area. I mean, we generally do want
11 there to be affordable housing. This is affordable
12 housing within our area.

13 We want to protect it. We want people to
14 be able to use the bus service comfortably, to be
15 shielded. To have some vegetation here. I appreciate
16 they think that it's not necessary to have that
17 vegetation, but we think the County Regulations are
18 there for a reason and that there should be a
19 vegetative buffer.

20 We are concerned about the parking in the
21 RO. Again, the County has these rules and regulations

1 without the -- if you have one.

2 A I want my (inaudible) road. And
3 (inaudible) is right here. And we like St. Thomas Lane
4 do have a problem with trash. And again, you know, I
5 don't want to cast dispersions about people that use
6 McDonald's. We all go to McDonald's from time to time.
7 But it just kind of seems that that trash is what winds
8 up on your roads.

9 And we all regularly pick up trash and it
10 certainly is food from McDonald's and we're concerned
11 about having such an intensive use right here.

12 This is going to be the major -- one of the
13 major cross routes for people leaving the McDonald's
14 and coming in.

15 Sometimes it's simply it's in the back of
16 the truck and it blows out, but there sure seems to be
17 a lot of it and we're concerned about that.

18 Q What about the Valley's position in regards
19 to St. Thomas Lane? Has it been the subject of
20 interest for a period that existed prior even to the
21 McDonald's coming into the site?

1 A No.

2 MR. HOLZER: Thank you, Your witness.

3 HEARING EXAMINER: Counsel?

4 EXAMINATION BY MR. GAENG:

5 Q Ms. Martine, Valley Planning Council casts
6 a pretty big shadow doesn't it?

7 A I hope so.

8 Q Geographically.

9 A Yes. We have a big --

10 Q Your claim is that you represent areas all
11 the way up to Pretty Boy Reservoir.

12 A That's correct. Actually I think we go all
13 the way to the County line.

14 Q All the way up 83 to Mays Chapel Road?

15 A Beyond that. Yes.

16 Q You took issue with the traffic expert that
17 testified this morning. I was just wondering, do you
18 have any contrary time and distance studies or traffic
19 studies that you had procured?

20 A We don't have anything at this time.

21 Q Nor do you have any empirical data about

1 can only tell you that that intersection is about to be
2 the subject of a 50 million dollar project that was --
3 some of which was planned well before Foundry Row. So
4 I think that everyone, whether it's B, D, E or F, needs
5 to think of that.

6 Q And the purpose of that money is to improve
7 the drivability at the intersection; is that correct?

8 A I assume so.

9 Q Do you have any other studies that would
10 contradict -- let me strike that.

11 Were you here the first day of testimony?

12 A Yes.

13 Q And you heard the traffic study (inaudible)
14 35 parking spaces would be more than sufficient for
15 this site based on the studies (inaudible).

16 Do you have any studies or did you bring
17 any studies to contradict that opinion?

18 A I'm not aware of any studies, but I will
19 say that the closest McDonald's has 85 parking spaces
20 that we have not talked about at all.

21 The Beltway and Reisterstown Road, I went

1 (inaudible) Caves Road which is at least
2 two and a half miles from the site -

3 A Yes.

4 Q --three miles by driving?

5 A Probably, sure.

6 MR. GAENG: I don't have any further
7 questions, Your Honor.

8 HEARING EXAMINER: Okay. Mr. Holzer, I
9 have the Garrison Forrest Church sign that Ms. Fontone
10 spoke about. Do you want that?

11 MR. HOLZER: Yes.

12 HEARING EXAMINER: That will be marked as
13 Protestant's 2. Any objection?

14 MR. GAENG: No objection.

15 HEARING EXAMINER: Okay. That will be
16 marked and admitted as Protestant's 2.

17 Okay. Thank you, Ms. Fontone.

18 MR. HOLZER: Last witness.

19 HEARING EXAMINER: Okay. Good afternoon.
20 Ma'am, remain standing. Raise your right hand, please.

21 CHERYL AARON,

1 EXAMINATION BY MR. HOLZER:

2 Q Can you describe what the boundaries
3 generally are?

4 A Reisterstown Road and St. Thomas Lane to
5 Greenspring Avenue, Owings Mills Boulevard to Falls
6 Road.

7 Q And the association -- that association has
8 been familiar with this McDonald's proposal for a
9 while?

10 A Yes.

11 Q I am assuming that you have some of the
12 same kind of issues in terms of the areas of issue.

13 Can we take traffic. Any concerns that you
14 have with regard to the traffic issue?

15 A Yes. As the zoning committee chair, I have
16 a somewhat different perspective about the traffic
17 issue because I sat in and worked with the Foundry Row
18 developer quite intensively for over two years trying
19 to develop, along with the traffic group, traffic
20 patternings that would be acceptable to the community
21 to allow Foundry Row to move forward.

1 become a right out and a right in. So you wouldn't
2 have people making a left to go that way.

3 The only way you were going to go was go
4 out right or you come in right. And that was -- there
5 was not a twitch from any resident on St. Thomas Lane,
6 Garrison Forrest Road or Caves Road to the
7 inconvenience, granted not a great inconvenience, but
8 it is an inconvenience to them now when we want to go
9 southbound we will have to make our way across three
10 lanes of traffic into the u-turn lane to then go.

11 It's -- we take the traffic in the Valley
12 seriously. And that was part of the development plan
13 that was approved by Mr. Bevelangan (phonetic) a couple
14 months ago, actually.

15 And it's in stone and it's going to happen
16 and the community worked really hard at our own expense
17 financially and in terms of time to reach that
18 agreement.

19 And if this -- if these variances are
20 granted and this McDonald's project goes forward, all
21 the community's hard work will be undermined because

1 wouldn't have to do northbound traffic from
2 Reisterstown Road at all.

3 Q That sounds very attractive, doesn't it?

4 A At rush hour it would make your time
5 quicker.

6 Q And what other concerns related to St.
7 Thomas Lane, if there are any, if you could go on.

8 A That primary aspect of the traffic pattern
9 and just the mere fact that all of our hard work would
10 be undermined and what we gained we stand to lose for
11 naught. And we can only make a right out and a right
12 in.

13 Q Now, in addition to that issue, the traffic
14 issue, what does the proposed McDonald's do to the
15 neighborhood, et cetera? Other areas of concern that
16 you may have?

17 A Well, the -- neither of the fast food
18 restaurants nor Krispy Kreme were 24/7. Popeye's and
19 Wendy's, they both close, I think they close at
20 midnight and the drive through closes at 1:00.

21 And they have been riddled with their own

1 whatever. Just hang out.

2 They'll just, in our opinion, in our view,
3 it's -- nothing good can come out of a 24/7 fast food
4 store so close to a residential area.

5 And, can I --

6 Q I was just going to say, when you say so
7 close to a residential area, is it unusual when you
8 look at the whole Reisterstown Road corridor that it
9 seems like in this location at least from the exhibit
10 that the Petitioner has introduced that it looks like
11 the residential community comes much closer to
12 Reisterstown Road in this area than it did elsewhere or
13 it does elsewhere?

14 A That is true. The two other places that
15 come to mind immediately first would be Greenspring
16 Valley Road. And when its business is a window
17 replacement company that's on that corner and then
18 there are like two little houses that have office
19 designation and then it's the country club.

20 And then the next situation would be
21 Rosewood Lane and that has a shopping center and a gas

1 that's generated on an average day by a fast food
2 restaurant that's not open 24/7 I can only imagine what
3 24/7 looks like in the dumpster.

4 Q Anything else before I let you go?

5 A I do. I have a couple of things. One,
6 part of the element of -- that has to be proven to get
7 the variances granted is that there's not a negative
8 impact on the community if I understood the testimony
9 earlier of the land planner.

10 By her own testimony, she has admitted that
11 the site is too small for what they want to do. And
12 it's my understanding that the definition of a hardship
13 is something that's being hoisted on you not something
14 that you are hoisting in yourself.

15 In all of the testimony it seems as though
16 they're creating this hardship. This hardship isn't
17 existing, you know, on its own. Every time they're
18 doing something, whether it's storm water management or
19 signs or the six foot variance or having to only have
20 35 parking spaces, they're creating the hardship.

21 And the second thing is, when they're

1 intersection, at that point it was shared with us
2 through the Traffic Group, and I have personal
3 knowledge of it, and I probably have a copy of the
4 report if I would have thought to have brought it, that
5 that intersection was at non-peak times a D and at peak
6 times it was a E.

7 And if these improvements were not done
8 that intersection would fail in the very near future.

9 So I was really shocked today to hear the
10 A, C thing.

11 And just one other point that I want to
12 make. I know that there have been variances granted on
13 the two other McDonald's, the one in Pikesville and I
14 think the one in down in Reisterstown.

15 But in both of those instances, those
16 McDonald's were not contested by any community. There
17 was no push back.

18 And they weren't in a historic area like
19 this one is.

20 And it's just a concern and I just think
21 that it's -- this doesn't make sense that it's too

1 from 71 to 35. And if I do the math that's what, a 50
2 percent decrease in the parking.

3 Q Correct. But you're also aware of the
4 testimony that there are only 29 parking places if you
5 went out Reisterstown Road which has been located at
6 Jarrison Cafe (inaudible).

7 A I wouldn't know that.

8 Q You testified about Foundry Row and you
9 were involved in supporting that project; is that
10 correct?

11 A Correct.

12 Q In fact, you were promoted (inaudible)
13 2013. We're looking forward to having some retail in
14 our own backyard and some more restaurant options as
15 well as to not have the eye sore sitting there. It's a
16 good thing; is that correct?

17 A Correct.

18 Q What are the restaurant options in Foundry
19 Row that you wanted to see in your back yard? Strike
20 that. Do you know what restaurants are going to be in
21 Foundry Row?

1 A You mean the median strip?

2 Q Yes.

3 A Yes.

4 Q And you said -- you testified that as a
5 result the people who lived up here were going to have
6 to come down here and make a u-turn to go southbound on
7 Reisterstown Road; is that correct?

8 A Yes.

9 Q Okay. And that's how you would get to
10 Foundry Row?

11 A Well, that would be kind of easy, go over
12 and have to make a u-turn. I can just make a left on
13 to Painter's Mill Road.

14 MR. GAENG: I don't have any further
15 questions.

16 HEARING EXAMINER: Anything Mr. Holzer?

17 MR. HOLZER: No questions.

18 HEARING EXAMINER: Thank you, Ms. Aaron.

19 MR. HOLZER: That would be our case.

20 HEARING EXAMINER: So that's the
21 Protestant's case. I have two exhibits in your case,

1 you're under oath. Take a seat there and we'll have
2 you answer some questions.

3 REWONA ZARSKA,
4 after having been recalled for rebuttal testimony, was
5 examined and testified as follows:

6 EXAMINATION BY MR. GAENG:

7 Q Ms. Zarska, there was some testimony that
8 seemed that we needed variances to populate this
9 particular use in this site. Is that correct?

10 A Yes.

11 Q Isn't in fact this use of a fast food
12 restaurant permitted under this zone?

13 A Yes, it is. We just have to make
14 (inaudible) on the particulars on here.

15 Q There was some testimony about the set back
16 and the amount of green area that there would be there.

17 Which one --

18 A I think the color one shows, Exhibit 12.

19 Q Can you address what the green will be
20 there, what the area is.

21 A I'm not sure if it was clear to everyone

1 for the use.

2 So it's not inaudible)

3 MR. GAENG: No further questions.

4 HEARING EXAMINER: Mr. Holzer?

5 EXAMINATION BY MR. HOLZER:

6 Q Is a fast food restaurant such as
7 McDonald's permitted in the RO zone?

8 A In the RO zone? No.

9 Q And in the DR16?

10 A No.

11 MR. HOLZER: Thank you. No further
12 questions.

13 HEARING EXAMINER: Okay. Thank you, Ms.
14 Zarska.

15 THE WITNESS: When I referred to the use --

16 MR. HOLZER: Objection.

17 HEARING EXAMINER: Okay. Anything else,
18 counsel?

19 MR. GAENG: Yes. I would call Mr. Schmid.

20 HEARING EXAMINER: Okay.

21 TED SCHMID,

1 (inaudible) where they are appropriate. And to not do
2 that you've got to go through a waiver process
3 (inaudible) difficult to get waived.

4 So my look at these plans, there will be a
5 bike compatible shoulder. They're not going to have a
6 travel lane (inaudible).

7 MR. GAENG: No further questions.

8 HEARING EXAMINER: Mr. Holzer?

9 MR. HOLZER: No questions.

10 HEARING EXAMINER: Okay. Thank you, Mr.
11 Schmid.

12 Anyone else?

13 MR. GAENG: No.

14 HEARING EXAMINER: Anything else, Mr.
15 Holzer?

16 MR. HOLZER: No.

17 HEARING EXAMINER: Okay. Thanks everybody.
18 That will conclude the case. I'll review everything
19 and send out an order in probably about a week.

20 MR. HOLZER: I didn't realize it was going
21 to be that fast.

1 cases like this before. Each case is somewhat unique,
2 but just try to stick to -- try to stick to the salient
3 points if you can and so -- would you like to have a
4 submittal at the same time, a different time or do you
5 -- what's your preference?

6 MR. GAENG: I think two weeks is fine.

7 HEARING EXAMINER: So both parties,
8 Protestants and the Petitioner will submit some memos
9 in two weeks and then I'll amend my earlier statement
10 and say that within a week or ten days after that I'll
11 send out an order.

12 MR. HOLZER: I would like your assistance.
13 I would like to get some transcripts.

14 HEARING EXAMINER: What specifically? When
15 you say transcript, do you mean a recording, you mean
16 this recording?

17 MR. HOLZER: Yeah. Yeah. Can we get the
18 recording and I'll see if I can get that done within
19 the two week time period.

20 HEARING EXAMINER: Oh, yeah. I think all
21 that's required is for Mr. Wiley or someone to come up

1 STATE OF MARYLAND

2 CITY OF BALTIMORE: ss

3

4 I, Paula J. Eliopoulos, a Notary Public in and
5 for the State of Maryland, Baltimore City, do hereby
6 certify that the foregoing is a true and accurate
7 transcription of the recording to the best of my
8 ability due to the quality of the audio recording

9 As witness, my hand and notarial seal this
10 6th day of June, 2014.

11

12

13

14

Paula J. Eliopoulos

15

Paula J. Eliopoulos

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20 My commission expires:

21 June 15, 2016

	acquired (2) 144:17;146:20	adjoining (1) 96:20	215:4
\$	acre (2) 169:16;174:10	adjust (1) 68:8	against (1) 216:5
\$3000 (1) 175:1	acreage (2) 158:3,7	adjustable (1) 103:13	agencies (3) 88:13;147:8;148:13
\$40 (2) 148:7,21	acres (1) 178:19	adjusted (3) 103:11,15;154:14	agency (1) 148:13
A	across (13) 14:10;42:18;92:17;137:7; 154:20;168:10;182:8; 188:21;192:19,20;225:9; 226:4;236:2	adjusts (1) 68:7	ago (1) 225:14
Aaron (4) 5:17;221:21;222:5; 237:18	active (1) 203:6	Administration (14) 9:13;11:11;12:7;43:11; 51:21;54:12,16,17;94:8,15; 95:1;117:9;194:20;242:11	agree (2) 6:15;189:5
ability (1) 211:20	activities (1) 41:13	Administrative (5) 10:17;82:18;83:16;89:10; 169:9	agreement (2) 145:7;225:18
able (9) 55:14;66:2;147:2;152:8; 11;175:9;211:18;213:14; 244:8	actual (1) 180:10	admissible (1) 6:14	ahead (9) 11:18;60:19;72:12;77:15; 131:6;140:21;157:17; 159:21;222:15
above (1) 112:5	actually (43) 17:4;26:9;42:21;68:4; 69:2;70:21;81:8;84:18; 85:21;86:7;94:16,20;95:6; 102:18;104:1;105:19; 108:12;113:11;114:9; 115:7,15;117:15;119:8; 126:21;128:12;131:14; 135:21;165:17;169:11; 170:9;172:4;182:15;190:9; 193:21;195:1,5;199:2,8; 204:13;205:2;217:12; 225:14;226:17	admission (3) 6:13;32:13;60:20	Air (4) 11:7;72:21;107:17,20
absolutely (2) 190:14;207:19	add (5) 20:19;53:12,17;121:16; 175:3	admit (3) 33:20;89:6;127:9	airport (2) 72:5,16
absurd (1) 209:11	added (2) 17:5;27:12	Admitted (12) 33:4,8;35:19;39:19;61:7; 127:15;138:5,20;176:5; 191:12;221:16;231:10	albeit (1) 6:21
accent (1) 94:1	adding (5) 25:15;53:13;69:2;101:21; 136:17	admittedly (1) 191:20	alive (1) 136:14
accept (2) 6:5;151:15	addition (5) 23:18;157:20;190:9; 199:10;227:13	adopted (2) 97:19;203:14	alleys (2) 106:4,9
acceptable (1) 223:20	additional (9) 14:8,11;98:7;101:17; 122:19;138:21;193:3; 204:18;210:4	Adrianne (1) 6:7	allow (15) 23:21;31:10;55:9;101:7; 112:11;123:4;124:3; 131:10;145:4,5;166:10; 180:12;188:7;195:11; 223:21
accepted (8) 6:1;11:1,4;12:16;82:15; 83:2;94:7;102:21	address (26) 8:8,10;18:17;32:3;63:7,9; 77:5,21;127:16;130:16; 167:14;168:1,2;169:9; 183:21;196:7,9;201:17,19; 205:7;214:8;220:9;222:4,6; 239:19;240:16	advantage (1) 125:17	allowed (9) 36:16;133:16;134:4,17; 152:15;175:7;188:1;194:9; 195:4
access (9) 14:20;16:6;29:5;30:8; 31:16;32:3;216:17;226:12, 18	addressed (1) 34:12	advice (1) 73:15	allowing (1) 145:4
accesses (1) 14:15	adequacy (1) 27:16	advise (2) 15:12;158:6	allows (2) 98:19;106:7
accident (1) 172:6	adequate (1) 107:9	advised (5) 146:7,11;158:1,3;160:13	almost (8) 95:11;121:8;122:8;127:2; 154:19;169:14;172:11; 206:4
accidents (1) 204:5	adjacent (8) 17:13;99:11,20;105:17, 18;129:18,19;131:12	advising (2) 143:17,17	along (27) 13:9;14:6,8;15:18;18:16; 19:15;28:10;29:10;30:12; 31:16;32:3;45:12;90:4,16; 93:15;114:2;115:16; 118:14;119:18;125:10,14; 126:18;147:2;177:9; 223:19;228:15;230:5
accommodate (4) 106:12;128:11;129:16; 240:19		Advisory (1) 6:20	although (2) 32:4;81:11
accommodated (2) 240:19;246:12		aerial (3) 138:9,14,20	always (3) 18:3;147:21;163:2
accompanied (1) 37:15		A-F (1) 24:19	Alwick (4) 35:15;37:11,12,14
accompany (3) 41:4,5;89:16		affordable (2) 213:11,11	amend (1) 245:9
accomplish (4) 57:5;79:10;82:8;131:14		afield (1) 87:4	amount (13) 29:3;48:17;53:21;91:19;
according (11) 8:5;63:4;77:2;99:6; 136:5;167:11;183:18; 196:4;201:14;222:1;232:11		afternoon (9) 28:13;40:8,15,16;52:20; 57:4;196:1;201:11;221:19	
account (3) 114:10;132:12;205:18		again (24) 22:8;37:7,10;38:15; 46:14;52:18;72:20;104:10; 107:12,18;109:7;114:21; 125:6;130:16;141:10; 191:14;195:9;197:8;206:1, 5;207:9;210:19;213:21;	
acquire (1) 144:18			

103:1;108:9,12;109:14; 119:8;120:19;121:4,21; 122:9;128:7;131:8;132:15, 21;133:2,4;142:18;147:8, 20;152:1;201:20;214:6,9; 218:3 bannering (1) 18:13 Barbara (2) 3:15;196:8 barrier (4) 52:1;53:11;54:21;68:12 base (1) 240:4 Based (16) 15:2;22:21;23:18;24:18; 25:5;27:16;28:17;31:12; 34:20;48:2,14;59:17;162:7; 166:5;211:13;219:15 basic (10) 13:6,14;24:3,5,15;26:12; 27:4;34:18;35:5;43:7 basically (12) 15:6,15;19:6,17;24:5,9; 26:16;31:15;33:10;51:20; 144:4;199:7 basis (9) 23:11;43:4;121:6;122:12; 125:5;173:14;174:15; 182:19;220:5 bathroom (1) 42:9 beautiful (1) 175:8 become (5) 13:12;54:8;185:17; 196:20;225:1 becomes (1) 111:21 bedroom (1) 176:16 began (1) 5:4 begin (2) 139:7;202:19 beginning (2) 11:11;34:7 begins (1) 202:20 behalf (1) 5:16 behind (12) 149:8,11,13,16;156:20; 181:6;184:9,11,15;200:14; 205:21;206:13 Bel (2) 11:7;72:21 belong (1) 81:6 Beltway (5) 49:2;51:2;202:21;219:21; 220:10 benefit (2)	75:6,17 berm (1) 236:20 best (5) 84:6,12,13;93:12;173:12 Bethesda (3) 63:9;70:15,21 better (5) 19:1;31:21;53:19;54:5; 57:13 Bevelangan (1) 225:13 beyond (5) 128:18;134:4;141:20; 144:20;217:15 bicycle (14) 186:13,15;187:3;188:5,8; 191:15;193:21;194:2; 195:2,3,10;216:14;242:18, 20 Bicycles (1) 195:3 bicyclist (1) 195:9 bicyclists (1) 242:9 big (14) 55:21;118:18,20;125:6; 163:2;164:3,6;182:12; 189:1;204:2;216:10,17; 217:6,9 bigger (4) 137:7;155:16;164:3; 165:12 bike (6) 194:21;216:10,12,17; 242:21;243:5 bins (1) 67:2 bird (2) 175:9;180:18 birds (1) 174:16 bit (12) 72:2;101:14;116:3;120:2; 121:14;122:2;124:10; 126:7,15;136:12;187:5; 230:1 BL (6) 98:15;100:10,11;102:11; 117:3;159:5 blind (2) 205:5;208:18 block (1) 67:12 blocking (1) 126:19 blocks (2) 16:21;156:17 blows (1) 215:16 blue (1) 21:6	Board (6) 10:21;83:3,4;138:8; 162:7;202:10 boarded (4) 91:9,13,14;115:21 bones (2) 174:11,13 borderline (1) 27:1 both (13) 26:20;40:10;64:7;114:14; 123:17;203:18;204:1; 206:17;210:17;227:19; 233:15;244:21;245:7 bother (5) 141:13;142:8,11,14; 147:19 bottom (1) 199:6 bought (2) 180:2,5 Boulevard (4) 69:13;223:5;226:12,20 boundaries (2) 202:20;223:2 boundary (5) 31:1,3,13;203:2,3 bounded (1) 159:15 box (4) 103:8;176:21;182:14,15 Boy (1) 217:11 bread (1) 163:3 break (9) 55:14;56:6;57:4;76:14, 16;139:4;238:5,8,15 brick (1) 64:19 brief (2) 244:18,20 briefly (1) 98:12 bright (3) 65:9;176:15;177:8 bring (6) 125:2;137:14;169:3; 194:13;219:16;232:17 brought (2) 190:5;233:4 brown (1) 26:19 buffer (6) 114:9;117:8;136:20; 206:3,3;213:19 buffers (3) 116:21;119:19;122:21 build (5) 14:6,19;64:18;88:9;190:4 Builder's (1) 81:10 building (50)	64:19,20;80:2;91:8,21; 92:1,3,3,4,6,9,10,14,15,20; 98:19,20;99:15,16,18; 100:1,2;105:20,21;106:20; 107:5,21;116:1;117:15,16, 19,20;118:3,15,17;121:12; 125:21;126:18;127:2; 133:21;140:1,4,12;141:16; 156:21;168:16;181:7; 189:11;191:9;228:11 buildings (3) 107:13;118:15;175:2 built (6) 80:16;150:5,7;179:15,18; 189:21 bulb (1) 102:14 bulbs (2) 102:16;103:7 bulldoze (1) 158:19 burden (1) 175:4 burger (3) 50:21;56:4;189:16 burgers (1) 69:5 bus (9) 187:5,9,15;188:3;205:15, 16,18,21;213:14 bushes (3) 132:5,8;156:20 busier (1) 60:3 business (25) 6:18;8:8,10;29:6;63:7,9; 77:5,20;85:9;86:3;90:3; 92:16;98:16;124:5,5;130:3; 153:1;161:8,16;164:18; 167:14;183:21;201:17,19; 229:16 businesses (2) 18:15;179:16 businessinaudible (1) 10:14 busy (2) 60:4;125:13 buzzards (1) 189:6 bypass (2) 62:10;172:15 bypassing (1) 17:15 bys (3) 46:3,5;48:9
C			
			cafe (2) 66:10;235:6 call (10) 7:20;15:17;62:21;66:14; 73:15;76:18;77:12;122:10;

Colony (1) 8:10	compliance (2) 120:19;125:1	configured (1) 214:15	Continued (3) 3:1;108:6;109:12
color (4) 66:6;90:14;175:21; 239:18	comply (6) 80:7;117:11;134:3; 151:13;152:8,12	conflict (1) 128:14	continuing (5) 46:6;82:4;107:2,8;139:13
colored (1) 90:10	complying (3) 121:1,4;127:18	conformance (1) 128:4	continuous (2) 82:7;117:5
colors (1) 26:17	component (2) 136:7;232:15	confused (2) 71:18;72:2	contract (2) 144:18;146:21
combination (1) 113:11	components (1) 87:9	confusing (1) 46:3	contracts (1) 145:1
combined (1) 232:16	compress (1) 124:9	confusion (2) 135:2;137:3	contractual (1) 145:8
comfortably (1) 213:14	compression (1) 96:9	congestion (3) 106:3;124:10;135:2	contradict (3) 218:2;219:10,17
coming (33) 16:18;18:19;19:9;20:1; 28:19;47:12;51:2;56:6; 70:18;80:14;81:18;97:13; 19;118:14;171:12;174:20; 181:10,12,18;182:4;187:4; 191:14;192:4,10;199:21; 207:10;208:14;209:19; 210:4,5;215:14,21;232:16	concentration (1) 107:4	conjunction (4) 13:4;14:10;30:1;33:13	contrary (3) 135:21,21;217:18
comment (2) 6:20;13:2	concept (5) 47:5;55:16;97:12;129:21; 130:16	connected (1) 117:5	control (3) 80:10,10,13
comments (4) 156:18;169:9;195:1; 240:14	Concepts (6) 8:16,17,18;10:4,10;40:1	connection (2) 13:10;68:2	controlled (1) 97:8
commercial (13) 15:9;30:8;85:10,12;90:4; 15,20;99:6;103:6;125:13; 179:11,20;212:3	Concept's (1) 12:19	consider (1) 236:9	convenient (3) 18:3;51:8;107:11
Committee (5) 6:20;203:6,7;222:9; 223:15	conceptual (1) 142:19	considerable (1) 203:12	conversations (1) 232:20
communities (1) 228:13	concern (19) 19:13;176:8;177:1;179:4; 197:7,9;198:7,10;199:17; 200:9,12,17,21;206:8; 210:14;211:15;213:6; 227:15;233:20	consideration (1) 59:9	conveyed (1) 60:10
Community (14) 5:17;65:14;191:2;197:3; 20;213:8;214:11;222:17; 223:20;224:4;225:16; 229:11;231:8;233:16	concerned (13) 133:6;160:4;177:15; 185:20;189:9;203:4; 204:17;212:13;213:9,20; 215:10,17;228:8	considered (2) 25:13;112:19	convinced (1) 161:6
community's (1) 225:21	concerning (1) 120:14	consist (1) 14:7	copies (1) 246:9
company (7) 13:5;48:6;64:7;73:10; 92:18;157:7;229:17	concerns (17) 176:6;178:9;180:7,16; 186:3;197:5,20;198:11,15, 16;199:10;204:10,11;207:6, 18;223:13;227:6	constant (6) 173:10;174:2,7;177:17, 17;180:18	copy (6) 27:13;75:12;93:14;147:9; 149:1;233:3
compare (1) 120:3	conclude (1) 243:18	constantly (1) 172:6	corner (14) 104:2;114:15;115:6; 136:12;159:11;168:13; 170:10,13,16;172:21; 181:20;187:18;207:20; 229:17
compared (1) 120:4	concluded (2) 48:15;246:17	constraints (1) 156:2	Corporation (3) 63:18;70:10;124:5
compatibility (2) 242:18,20	conclusions (3) 35:6;42:16;46:1	construction (6) 45:5;46:15;79:16;80:11; 164:15;210:9	corporations (1) 64:3
compatible (2) 242:17;243:5	concur (1) 155:11	consultant (4) 63:20;64:1;88:11;132:3	corral (2) 66:20;102:10
complete (1) 108:13	condition (8) 19:20;109:7;120:13; 123:3;126:14;153:20; 159:3;206:6	consultants (2) 87:10,11	correctly (1) 79:18
completely (3) 46:3;151:18;156:19	conditions (15) 100:9;101:5;107:1;108:2; 113:2,6;120:3,4,9;121:8; 123:20;125:7;133:18; 134:19;145:11	consulting (3) 10:1;79:8;83:12	corridor (15) 13:9;18:16;19:15;23:7,8; 28:11;29:3;31:15;32:3; 90:4,20;125:13;137:13; 179:21;229:8
complex (6) 92:11;184:10,12;205:20; 210:2;230:2	confer (1) 124:14	consuming (1) 212:18	Council (11) 201:21;202:8,16;203:4; 204:5;206:12;207:7; 214:18;216:4;217:5;222:18
		contact (6) 86:11,17,20,21;246:3,6	Council's (2) 202:13,19
		contacted (1) 28:8	counsel (22) 5:8;7:2;12:17;37:5; 60:17;63:12;76:6;77:15; 89:7;140:16;165:9;169:6; 170:11;181:4;190:19;
		contemporary (1) 64:20	
		contested (3) 233:16;234:7,14	
		context (1) 75:15	
		continuation (1) 5:3	
		continue (5) 105:3;108:20;208:6; 226:8;238:15	

detail (1) 36:17	dimensions (1) 159:17	districts (1) 212:5	159:6;241:9
detailed (1) 32:10	diminished (1) 158:7	divide (1) 117:4	draft (1) 146:2
details (2) 88:17;145:10	dinner (2) 47:9;67:20	dividing (1) 193:14	drain (2) 96:15;16
determination (1) 86:18	direct (8) 14:20;21:7;23:12;103:12; 109:19;110:11;142:17; 144:20	DNA (1) 228:16	drains (1) 80:15
determine (7) 13:21;26:2;43:4;53:2; 70:17;74:2;142:12	directed (1) 143:14	document (8) 6:13;35:19;37:3;38:2,16; 39:3,21;41:1	drastic (1) 116:20
determined (1) 74:4	direction (15) 15:20;19:5;29:13;42:4; 46:6;61:20;67:12;93:3,4,5; 114:14;116:5;118:8; 133:20;226:15	documentation (1) 176:11	drawing (1) 100:17
determines (1) 26:2	directional (12) 110:21;111:9,12,14,21; 112:14;126:4,7;134:2,9; 154:1,6	documented (1) 41:14	drawings (1) 164:15
detriment (1) 109:5	directions (1) 71:19	documents (4) 33:1;35:4,5;60:11	drawn (1) 179:7
detrimental (4) 105:12;135:9,15,18	directly (4) 19:18;168:10;181:19; 192:20	dogs (4) 174:8,9,11,12	draws (1) 26:3
develop (5) 25:13,18;113:10;114:7; 223:19	Director (1) 6:7	dollar (1) 219:2	DRC3 (1) 98:18
developed (6) 10:8;31:18;32:9;137:9; 146:1;179:21	disagreement (1) 7:7	dollars (5) 58:21;176:12;178:15; 209:18,18	drivability (1) 219:7
developer (3) 54:9;223:18;236:16	disaster (1) 177:5	done (26) 29:15;38:5,9;49:10;53:2; 59:1;61:16;67:16;80:5; 81:3;85:1,8;88:16;105:1; 129:21;136:5;139:13; 142:21;144:15;174:21; 218:7;233:7;242:10; 244:11,14;245:18	Drive (45) 8:10;21:9;29:10;44:7,13; 45:5,8,17;46:4,17;47:10; 48:19;50:9,16;52:4;55:10; 61:19;64:19;66:1,4,5;68:2; 111:3,4;112:10;115:8; 130:6,8;134:7;154:4; 161:16;177:19;186:13; 189:11;193:8;194:17; 211:16,17;216:7,8;220:13; 227:20;232:3,5;234:3
developers (1) 8:20	discharged (1) 96:14	door (6) 111:18;116:1;117:3; 140:10,12;141:21	driveway (8) 106:7,11;124:1;169:13; 172:17;199:2;200:18,20
Developer's (1) 230:7	disclose (1) 236:16	dotted (1) 100:12	driving (10) 15:18;17:4;45:12;47:15; 142:9;156:10,18;197:18; 216:6;221:4
development (23) 9:19;13:8;14:10;24:1,6; 25:15;27:15;30:2,15;78:8; 79:9;93:1;97:2;105:19; 119:7;121:5;137:7;144:6; 11;147:7;192:21;225:12; 240:20	discussed (6) 32:10;59:4;119:2;134:19; 158:11;218:12	double (5) 14:9;64:19;149:9;172:8; 211:7	drop (3) 114:10;115:6,12
developments (2) 30:14;31:5	discussing (2) 39:4;151:9	doughnut (1) 186:8	dropping (1) 136:15
deviate (1) 15:20	discussion (1) 157:11	doughnuts (3) 182:17;185:5,14	drops (1) 114:14
dictate (1) 125:8	dispersions (1) 215:5	down (46) 14:13;20:7,8;21:12,14, 14;56:18;59:1;65:10,15; 72:16;92:11,14;96:14; 103:10,12,15;108:14;116:2, 10;118:9;125:16;126:15; 131:2;151:11;156:10; 167:13;181:14;186:13; 188:10;191:14;199:17; 203:21;205:10;208:5,9,13; 210:1,13;212:11;224:1,17; 226:7,10;233:14;237:6	drove (2) 20:18;157:1
dictates (3) 125:18;153:20;154:12	disrupting (1) 179:1	downhill (1) 176:19	dry (1) 114:12
difference (6) 114:6,18,21;122:17; 158:18;159:7	distance (13) 13:13;22:4,6;23:1;123:7; 153:17;154:12;194:4,7,14; 205:8,14;217:18	downstairs (2) 139:5;246:9	due (1) 181:1
different (21) 15:15;18:4;19:7;20:18, 19;33:17;36:12,12;45:9; 46:3;47:5;71:5,5;81:4;97:5; 116:17,20;134:15;161:14; 223:16;245:4	distances (5) 21:19;36:18;192:14; 204:3;205:7	downtown (2) 16:20;79:2	duly (8) 8:5;63:4;77:2;167:11; 183:18;196:4;201:14;222:1
difficult (16) 113:10;114:6,12;117:11; 120:15;121:4;148:8,9; 192:15;197:12;204:3; 205:14;207:11;209:4; 213:6;243:3	distribute (1) 84:5	DR16 (2)	dumpster (1) 231:3
difficulty (3) 120:21;123:11;125:2	distributed (1) 136:9		dumpsters (1) 230:21
	distribution (3) 108:4;136:7;185:8		Dunbarton (1) 230:2
	district (12) 9:15;206:10,11,14,16,19; 212:3,3,6,6,10;216:2		during (6) 20:20;41:17;67:16,17; 80:11;228:1

195:16,18,21;196:6;198:9; 201:6,9,16;209:14;217:3; 221:8,12,15,19;222:3,14, 21;234:5;237:16,18,20; 238:3,7,14,21;241:4,13,17, 20;242:3;243:8,10,14,17; 244:1,5,9,13,16,19;245:7, 14,20;246:5,16 example (4) 30:6;80:20;90:15;133:19 except (2) 28:14,16 exchange (1) 81:17 excited (1) 186:8 Exhibit (54) 6:2,5,6;7:1;20:15;26:8, 10,11,12;27:2,6;32:7;33:9, 14;35:6;36:4;38:20;39:1,3, 5;41:1;51:19;61:6;89:11; 90:7,8,17,21;93:9,10;94:3, 6;99:1;103:19;115:6,14,19; 116:6;126:13;131:20,21; 138:13,19;168:20;175:20; 187:11;198:13,13;207:15, 20;218:18;229:9;230:7; 239:18 Exhibits (8) 32:13;119:2;127:10,14, 15;168:7;170:5;237:21 exist (1) 65:17 existed (3) 146:4;184:19;215:20 existence (2) 55:20;113:2 existing (22) 19:18;23:21;91:1,11; 92:2,9,13,20;96:19;100:1,9; 105:20;106:18;107:14; 109:2;117:19;118:17; 125:14;126:18;127:1; 195:11;231:17 exists (2) 103:9;199:11 exit (2) 23:12;124:4 exiting (2) 182:6;197:14 expanded (1) 191:8 expect (6) 15:5;29:14;31:13;59:16; 95:2;179:12 expected (1) 205:12 expense (1) 225:16 experience (8) 10:5;15:2;23:19;28:17; 83:18,19;148:1;163:7 experienced (1)	244:21 expert (26) 10:15;11:1,4,21;12:14, 16;28:17;42:14;49:14; 82:15;83:3;89:1,6;113:3; 130:13;161:14;198:2,11; 200:6;203:17;205:6;209:7; 214:14;217:16;218:3,6 experts (2) 203:13;234:17 explain (6) 169:11;186:3;200:11; 202:9,13;224:7 explained (1) 180:8 explaining (1) 27:11 explore (1) 7:8 express (2) 180:17;198:10 expressed (1) 214:2 extension (1) 117:6 extent (1) 46:9 exterior (2) 65:6,7 extra (3) 136:18;161:19;191:17 eye (1) 235:15 F face (3) 88:5;112:5;228:7 faced (1) 175:4 facilitate (1) 134:20 facilities (3) 91:17;97:8;119:14 facility (12) 13:11;96:19;98:2;105:15; 140:3;142:16;143:6; 150:16;176:14;184:7; 188:19;189:1 facing (2) 170:13;174:3 fact (17) 47:14;52:3;82:6;107:14; 109:8;117:14;120:16; 121:20;175:6;178:8; 198:21;227:9;234:7,15; 235:12;239:11;240:10 factor (1) 125:6 factored (1) 55:16 factors (3) 113:17;118:4;119:21	fail (1) 233:8 failed (2) 25:16;27:21 fair (4) 160:13;191:1;196:12; 208:14 fairly (1) 246:1 Fairmount (1) 5:16 falls (4) 202:15;203:2;223:5; 226:10 familiar (17) 13:12;29:19;64:10,15,17; 65:2;68:1;84:21;85:18; 89:9;94:11;104:10;151:21; 184:18;185:18;196:20; 223:8 familiarized (1) 41:16 families (1) 29:11 family (1) 140:8 far (15) 55:6;66:21;86:17;87:4; 96:21;111:21;123:21; 153:20;160:3;161:21; 170:10,13;174:21;184:6; 234:1 farther (3) 23:17;92:11;126:15 fast (18) 15:10,14;16:7;44:13; 56:15;161:19;175:12; 188:16;199:6;205:11; 216:9;227:17;229:3; 230:20;231:1;239:11; 241:6;243:21 feasibility (6) 79:11;144:8,10;145:3,13, 19 feces (1) 175:10 feed (1) 174:12 feel (2) 124:13;131:7 feet (38) 91:12;95:7,9;110:6,6,21; 111:1;112:12;121:14; 123:6,7;124:14,15;130:18, 18;131:13;132:10;153:12, 15;154:2;168:14;172:1,2,7; 188:2;193:1,3,6,9;194:8,9; 210:4;240:1,4,7,8,12 fence (4) 68:11;173:11,15,16 few (11) 7:10;62:9;83:5;85:11; 86:1;88:14;89:20;98:7;	113:8;119:12;161:18 field (7) 9:6,11;11:9;78:15;81:13; 82:16;129:10 fifteen (3) 22:1,10;52:10 fight (2) 178:20,21 figure (1) 208:21 figures (1) 53:6 file (3) 39:9;129:1;148:10 fill (1) 148:6 filled (2) 148:21;220:3 filters (1) 96:12 filthy (1) 183:1 final (13) 95:1;132:1;135:8;142:1, 3,19,20;143:2,5,9,12;153:5; 164:15 finalized (1) 94:20 finally (4) 56:5,7,9,10 financially (1) 225:17 find (8) 18:18;51:5;120:15;121:3; 137:2;162:14,16;238:11 fine (5) 93:21;148:20;179:11; 244:20;245:6 finer (1) 176:12 finish (4) 115:4;116:13;140:19; 157:15 finished (5) 50:21;56:4;73:2;157:18; 162:18 finishing (1) 143:3 fire (1) 106:15 firm (6) 5:12;8:19;10:1;34:7; 79:7;155:5 first (42) 8:5;11:12;15:17;21:6; 34:11;38:8;43:21;45:4; 58:11;63:4;77:2,10;85:20; 86:15;90:2;94:6;110:8,8; 113:15;155:6,7;156:18; 160:4;167:2,11;169:8; 178:11;183:18;186:11; 191:18;192:5,10;196:4; 201:14;202:14;219:11;
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28:6 Granted (7) 179:9;220:5;225:7,20; 231:7;233:12;234:11 granting (3) 128:3;135:13,17 graph (1) 20:17 grease (1) 199:8 great (4) 58:19;73:9;140:11;225:7 Greater (5) 5:17;133:15;222:10,16; 230:12 Greco (6) 62:21;63:2,3,8,14;76:10 G-r-e-e-o (1) 63:16 green (8) 25:1;95:16;115:10;117:4, 4;173:16;239:16,19 Greenberg (1) 5:12 Greenspring (21) 5:17;20:4,9,10,14;21:9, 15;58:7,13;204:12;206:13; 211:11;212:10,12;222:10, 16,20;223:5;224:12;226:8; 229:15 ground (3) 96:10;98:9;240:2 group (7) 18:19;78:2,5;83:11; 223:19;224:15;233:2 groups (1) 216:15 Guckert (2) 224:14,14 guess (15) 6:14,19;59:21;60:1;61:3; 84:9;86:2;88:16;92:21; 95:15;100:7;116:2;177:2; 181:10;198:13 guide (1) 203:14 guides (1) 24:5 guns (1) 179:7	32:16;35:20;39:6,11 handle (2) 48:17;211:20 handled (1) 66:18 hang (1) 229:1 hanging (3) 177:21;178:3;228:9 Hanover (1) 8:10 happen (7) 75:11,13,17;82:1;114:8; 165:5;225:15 happened (4) 41:20;158:12,13;168:3 happening (1) 82:3 happens (5) 16:5;75:13;163:14,18,19 happy (2) 68:19;246:12 hard (11) 82:1;118:11;126:20; 127:4;130:7;156:12; 210:10;225:16,21;227:9; 228:2 harder (1) 62:10 hardship (10) 120:16,21;121:4;123:11, 14;125:2;231:12,16,16,20 Harford (1) 79:4 harmony (5) 128:20;130:17;131:5; 132:20;133:1 hatched (1) 99:9 hazard (3) 106:15,20;173:1 head (1) 83:17 heading (3) 19:18,19;226:10 headquarters (1) 86:6 health (4) 105:12;135:9,15,19 healthier (2) 68:18;69:3 hear (12) 49:17;168:3;190:7;198:2; 200:5,7;209:6;218:6; 220:18,19,20;233:9 heard (10) 44:9;104:12,16;161:13, 15;178:10;200:8;213:4; 219:13;220:15 Hearing (209) 3:3;5:2,4,6,14,19;6:3,12, 16;7:1,5,17,21;8:7;11:18; 12:12,15;22:7,11,13,17,20;	29:18;30:21;31:6,9;32:14, 19;33:3,7,13,16,19;34:3,11; 36:2,6,9,14,19;37:6;38:19; 39:2,15,19;40:3;42:13; 45:1;46:8,13;47:2,6;50:5,6; 60:10,16,19;61:1,5;62:16, 19;63:2,6,11;68:12;69:7; 70:3;72:12;74:15;76:6,9,15, 20;77:4,8,14,20;84:1;88:20; 89:2,5;93:14,21;94:6;99:2, 4;101:3;109:17;127:11,14; 128:19;129:4;131:4,6; 135:14,18;137:18;138:1,4, 8,10,13,16,19;139:3,9,12; 140:20;141:3,7;143:1,3,4; 145:2;146:16,17,20;147:18; 155:13;157:17;165:9; 166:8,13,15,17,20;167:4,7, 13,17,20;168:15,19;169:15, 19;170:2,4,7,11,20;171:7, 10,15,19;173:5,8,16;174:3; 175:14,17,19;176:4;178:10; 181:4;183:4,7,10,15,20; 187:14,20;190:19;195:16, 18,21;196:6;198:9;201:6,9, 16;209:14;214:4;217:3; 221:8,12,15,19;222:3,14, 21;234:5;237:16,18,20; 238:3,7,14,21;241:4,13,17, 20;242:3;243:8,10,14,17; 244:1,5,9,11,13,16,19; 245:7,14,20;246:5,16 Hearings (3) 10:17;82:18;145:3 heart (1) 79:15 heavier (4) 40:21;188:11,12;193:11 heavy (2) 188:6;193:14 Hecker (1) 5:13 height (1) 111:5 Heights (1) 161:18 held (1) 9:11 Helen (3) 62:21;63:3,8 help (9) 73:13;82:2;135:4;136:2; 154:19;156:3;207:14; 216:19;246:12 helps (2) 133:12;135:1 Hence (2) 224:4;226:12 hierarchy (1) 74:11 high (9) 15:10;68:6;98:18,20; 116:9;126:16;153:12;	203:11;207:9 higher (2) 24:13;176:10 Highway (26) 9:12,16;11:10;12:6;13:8; 14:5;30:11;43:6,11;51:21; 53:16;54:11,16,17;94:8,15, 17;95:1;113:20;117:9; 122:18;194:20;224:10; 242:11,13,14 Highway's (1) 95:7 hill (1) 205:5 himself (2) 37:15,16 hire (1) 87:21 historic (12) 190:2,13,14;204:13; 206:9,13,16;212:5,6,6; 216:2;233:18 history (1) 179:5 hit (1) 58:11 Hodges (1) 7:11 hoisted (1) 231:13 hoisting (1) 231:14 hold (1) 169:11 Holzer (116) 3:7,12,17;5:15,15;6:9,10, 14;7:7;11:14,17,19;12:11; 29:16;30:17;32:15,16,21; 33:6;34:3,4,5;36:3,5,7,10; 38:18;39:4,8,13;42:11; 46:12;60:15;61:2,3,18; 62:17,18;69:7,8;70:1;76:5; 83:7,9,10;87:5;88:18;89:3, 4;101:1;127:12,13;128:17; 129:1;130:21;138:2,3,17, 18;139:7,8,14,15,16;141:1, 4;144:21;165:7;166:5,13, 14,21;167:1,21;169:1; 175:15;181:3;183:5,6,13; 184:3;187:17;190:18; 195:17;196:11;200:1; 201:6,8;202:1;217:2;221:8, 11,18;223:1;234:4;237:16, 17,19;238:1,2;241:4,5,11, 16;243:8,9,15,16,20;244:3, 6,15,18;245:12,17;246:3 Holzer's (2) 7:11;200:5 home (15) 15:21;16:12,14;29:5; 81:10;141:13,19;180:19; 186:17,18;187:1,4;188:20, 21;228:5
H			
half (11) 55:4;71:4;162:1,1; 188:17;191:5;193:6,8; 206:4;207:1;221:2 halfway (2) 196:15,17 hand (8) 8:3;36:9;167:9;183:16; 195:6;196:2;201:12;221:20 handed (4)			

214:16;215:11 intensively (1) 223:18 intent (11) 108:9;127:18;128:5,7,20; 129:8,14;131:8;132:20; 133:2;134:11 intentions (1) 195:7 interact (1) 88:15 interest (1) 215:20 interested (1) 189:20 interfere (2) 107:9,17 internal (2) 75:8,10 internet (1) 210:16 intersection (47) 17:16;20:3,4,14;21:9,11, 16;24:10,10,16;25:1,14,17, 18,21;26:6;28:15,16;30:9, 10;32:1;52:17;53:19;54:8; 57:12,20;58:5,9,12;62:12; 187:2,8;200:19;207:4,7,21; 208:11,19;209:12,16;210:1; 219:1,7;232:19;233:1,5,8 intersections (19) 14:14;17:13;26:15,17,18; 27:11,19,21;28:2,7,10,12; 29:11;43:9;204:10;218:1,4, 10,13 interstate (1) 156:15 into (58) 15:21;16:18,19;31:18; 32:1;36:18;47:9;55:16; 56:15,15;57:3;59:8;62:6, 12;94:7;96:14;97:4,16; 108:16,18;132:12;145:6,12; 163:4;170:19;171:1,3,13; 172:8,8,16,17;177:7;178:2; 180:11;181:13,16,19;182:2, 8,9;186:9;191:12;192:8; 197:12;198:3;200:9; 205:12,13;212:11;215:21; 216:16;224:18;225:10; 232:3,8,9,14 introduce (1) 5:9 introduced (3) 134:14;229:10;240:11 inverted (1) 16:16 investigate (2) 147:4;228:21 invisible (3) 240:4,6,8 involved (4) 145:11;160:4;235:9;	236:19 involvement (2) 12:19;89:13 irrelevant (1) 52:5 Irvine (1) 212:9 island (2) 111:2;155:20 issue (17) 66:12;87:16;126:8;131:5; 177:16;181:11;189:6; 202:14;210:7;217:16; 223:12,14,17;227:13,14; 232:16;240:16 issued (2) 12:7;97:18 issues (11) 73:19;87:18,19;177:14; 186:2;188:13;189:8; 214:18;223:12;228:1; 230:16 item (1) 135:12	keep (10) 76:16;82:2;85:20;103:2; 104:13;171:21;173:12; 226:9;244:11,19 keeping (3) 174:5;176:13,14 Kelly (1) 7:13 Kenneth (3) 7:20;8:4,9 Kerry (1) 176:1 key (2) 15:7;169:21 kiddie (1) 213:2 Kim (2) 3:5;189:5 Kimberly (3) 167:2,10,15 Kimberly's (1) 230:4 kind (32) 47:11;68:7;71:18;81:19; 84:5;90:10,11;103:8; 106:20,21;108:13;111:18; 113:10,17;114:6,9;120:12; 126:1;133:7;134:10;136:7; 144:2;145:8,12;152:20; 164:16;171:21;178:2; 214:16;215:7;223:12; 237:11 knew (16) 146:2,7,9,19;147:3; 157:10;158:2,9;159:3,4,8, 14;160:6,6;179:10;185:4 knock (1) 140:9 Knowing (2) 159:20;188:2 knowledge (12) 23:20;41:3;74:6;81:19; 84:13;86:5;87:21;143:20; 145:1;163:13;202:3;233:3 known (1) 77:13 knows (2) 74:13;86:21 Kosher (2) 185:8,9 Kreme (27) 100:6,8,19;101:12; 121:12;136:4,6;145:7; 147:5,10;157:2;160:5; 176:10;177:3,18;178:3,5; 182:11,17;184:19,20;185:2, 3,10;186:5;205:13;227:18 Kremes (1) 116:1 Krispy (28) 100:6,8,18;101:12; 115:21;121:12;136:3,6; 145:7;147:5,10;157:2;	160:5;176:10;177:3,18; 178:2,5;182:11,17;184:19, 20;185:2,3,10;186:5; 205:13;227:18
			L
			labeled (2) 90:18;163:9 lack (1) 35:17 ladies (1) 246:9 laid (2) 29:16;155:4 land (15) 15:8;44:11;78:2,5,7,8; 79:9;83:11;108:19;109:13; 150:6;158:15;169:16; 178:19;231:9 Landing (2) 72:5;73:4 landscape (6) 124:15;131:16;132:1,11; 136:20;137:20 landscaped (1) 91:18 landscaping (3) 80:20;87:12,12 lane (94) 14:8,9,12;20:2,6,7;21:14; 29:4,13;53:12,13,18,20; 54:6;55:9;56:15,16,16;57:3, 20;66:2,9,3;75:14;107:3; 114:4;115:15;159:12; 168:2;171:2,8;172:14; 174:3;180:11;182:1,4; 184:2,6;186:14;188:10; 190:4,8;194:21;195:3,4,5, 10,12;196:10;197:8,12,13, 15,19;198:4,17;199:1,6; 200:10,17;203:16,18;204:2, 12;205:10;207:4,8,21; 210:16;211:6,7;215:3,19; 216:16;222:6,9;223:4; 224:2,2,9,9,20,21;225:5,10; 226:7;227:7;228:21; 229:21;232:8,10,14;236:4; 242:9;243:6 lanes (11) 30:12;53:3;54:5;57:5,15; 66:5;93:3;130:9;171:6; 225:10;242:17 large (3) 205:20;206:2;222:19 largely (1) 203:14 larger (1) 121:14 lash (1) 181:17 last (18) 5:19;8:13;10:9;13:16;
	J		
	jail (1) 74:20 Jarrison (1) 235:6 Jay (1) 34:7 job (5) 63:19,20;78:9;82:14;84:3 jobs (1) 17:20 Johnson (1) 10:2 joint (1) 30:11 Joppa (2) 69:12,13 Judge (3) 89:10;155:12;169:9 jurisdiction (3) 69:11;70:17;202:15 jurisdictions (1) 84:20 jurisdiction's (1) 80:9		
	K		
	Kariotis (6) 3:10;183:14,15,17;184:1; 195:19 K-a-r-i-o-t-i-s (1) 184:2 KATHLEEN (2) 201:13,19 Keely (4) 34:7;43:20;48:7;60:11		

majority (6) 18:15;23:14;64:18;65:19; 98:15;116:17	marker (3) 190:1;204:13,16	144:13,17;145:1,14;146:7, 14;147:1;149:21;150:8,14; 152:20;153:4;155:5,9,14, 16;156:5,11,14,16;157:12; 158:14;160:14;161:1,20; 162:14,15,19,20;163:1,8; 164:11;165:12,20;168:11; 169:18;172:4,9,21;173:18, 20;175:3;180:9,11;182:10, 17;184:12;185:18;188:1,12, 17,18;189:3,13;190:5; 191:3,4,5,10;192:12;193:7; 196:18,21;197:10,14;198:4; 205:13,17;210:20;212:16; 214:1;215:6,6,10,13,21; 219:19;223:8;225:20; 227:14;228:2,6,6,9;232:13; 233:13,16;234:2;240:16,21; 241:7	6:2;240:10;244:4,8 memorandum (1) 32:9 memos (1) 245:8 mention (1) 212:16 mentioned (5) 87:11;117:9;121:11; 130:5;145:2 mentioning (1) 157:20 menu (2) 68:14,16 merchant (1) 149:7 mere (1) 227:9 met (1) 214:2 method (1) 24:17 Metro (3) 16:19;17:2;210:1 metropolitan (1) 210:15 mice (1) 199:14 Michael (1) 35:15 microbial (1) 96:8 middle (4) 14:13;40:10;56:18; 220:11 mid-level (2) 28:12,13 midnight (1) 227:20 might (10) 19:1;23:14;27:9;44:17; 152:8;168:20;187:3; 209:10;212:2;224:9 Mike (1) 37:11 mile (7) 52:4;162:1,1;188:17; 191:6;206:17;207:1 mileage (2) 22:8,11 miles (11) 22:2,4,13,14,16;55:2; 79:2;162:2;198:18;221:2,4 milk (1) 68:21 milkshake (1) 189:15 Mill (11) 20:3;21:11;28:15;52:16; 54:1;209:14,15;232:18,20, 21;237:13 million (7) 58:21;193:6,9;209:17,18;
makes (7) 25:2;113:12;114:6; 117:10;156:3;192:15;204:2	markers (1) 204:19		
making (6) 186:10,12;197:11,18; 225:2;232:1	Martin (1) 5:12		
man (1) 67:11	Martine (1) 217:5		
managed (2) 97:5,6	Maryland (15) 5:16;8:11;9:4,12;11:5,7; 23:7;63:10;71:15;72:18,21; 78:3;81:11;201:20;222:7		
management (26) 66:15;79:19;80:12;84:11; 95:21;96:5,18;97:3,8,10,12, 21;119:5,9,14;122:20; 128:15;137:10,11;142:16; 143:6;145:15,16;146:1,3; 231:18	master (1) 130:7		
manager (3) 45:5;46:15;66:13	Master's (1) 78:13		
managers (2) 66:2;68:8	materials (1) 34:16		
maneuvering (2) 123:17;124:4	math (2) 18:14;235:1		
manner (1) 119:14	matter (6) 82:6;107:13;109:8;172:7; 175:6;191:8	MDE (1) 97:18	
Manor's (1) 230:2	mattered (1) 113:16	meals (1) 68:19	
manual (9) 15:7;43:4;44:10;46:1,19; 59:11,12;104:19,21	maximize (1) 130:10	mean (16) 67:6;72:8;74:13;75:11; 122:3;150:3;157:14;180:9; 188:1;191:7;211:3;213:10; 230:21;237:1;245:15,15	
many (43) 10:19;11:6;24:19;43:13; 46:4,5;48:13,20;49:18,21; 53:3;70:15;75:20;81:1; 82:20;83:12;85:4,5;97:7; 119:11,16;120:11;121:7; 123:1;125:7,8;128:13; 134:14,14;140:15;142:9; 150:2;153:1;163:17;173:2; 175:9;176:3;178:12,13; 214:5,6,13;244:7	May (38) 3:2;13:18;38:2,5,14; 39:21;40:5,13;45:4,15,18; 46:15;60:1,2,3,4;62:9; 69:17;86:11,12;87:19;88:7; 101:13;103:6;140:18; 143:11;146:4;148:14; 157:15;161:20;166:6; 178:6;187:6;188:4;192:2,2; 207:17;227:16	meaning (2) 19:8;172:15 means (4) 18:18;55:13;82:10; 242:16 meant (1) 179:2 measure (3) 114:2,11;141:14 meat (1) 163:3 media (2) 96:12,12 median (13) 14:12,19,21;19:20;21:10; 56:18;181:12;193:14; 224:13,16;232:21;237:1; 242:15 medical (3) 92:3,6;99:18 meet (2) 152:17;153:13 meeting (1) 13:16 meetings (1) 82:2 meets (1) 125:20 member (4) 10:11,14;81:8,11 members (1) 222:11 membership (1) 222:18 memo (4)	
map (18) 13:14;20:16;21:4;24:3,5, 15;26:12;27:4,10;33:15; 34:18;43:7;90:11,13; 137:19;138:11;141:6; 196:13	Maybe (8) 6:16;29:19;71:1;85:9; 103:12;154:14;166:9;190:7		
maps (2) 13:6;39:17	Mays (1) 217:14		
March (2) 5:4;34:10	McDonalds (1) 151:6		
mark (9) 7:1;20:15;35:21;36:3; 38:16,18,19,21;169:12	McDonald's (187) 12:20;13:18;14:4,17,18; 15:4,21;16:13,20,21;17:21; 18:9;19:4,10;20:13;23:5; 27:16;28:20;29:5;44:5,9; 45:4;46:16;48:12,14,20; 49:8,15;50:17,19,20;51:6, 13;55:20;58:16,17;62:7; 64:4,5,11;65:3;66:15,19,20; 67:9,13;68:13,15,17,18; 69:10;70:6,9,10,16;71:5,7; 73:11,17,21;74:1,2,3,7,10; 75:6,9,16;85:2,14,21;95:12; 101:10;104:12,13,20; 110:18;117:16;121:13,13; 122:5;123:15;125:11; 126:2;127:3,8;130:5,7; 133:21;134:14;137:5; 142:13;143:15,16,16,17;		
Marked (22) 3:6,11,16;26:8;32:6; 35:18;39:2,5,20;42:11;90:6, 21;93:9;103:18;110:12; 115:5;126:13;131:19; 218:18;221:12,16;230:6			

61:1,7;89:2,3,4;127:11; 128:17;130:21;138:1,17; 144:19;175:17,18;198:8; 221:13,14;241:16	officers (1) 179:6	openings (1) 91:14	otherwise (1) 185:10
objectives (1) 109:13	offices (2) 18:7,11	operate (2) 78:21;185:15	Ours (6) 3:15;176:10;196:8;200:4; 201:10;206:8
obscure (1) 204:19	offset (2) 100:20;101:13	operated (2) 64:8;186:6	O-u-r-s (1) 196:9
observe (1) 24:21	often (5) 32:2,5;67:14;172:11; 174:10	operating (1) 185:1	ourselves (1) 81:13
obstruct (1) 164:18	old (2) 69:15;179:19	operation (23) 9:20;64:5;67:5;69:19; 73:11;74:8;75:9,16;85:19; 86:18;92:19;104:11,11; 123:17;130:6;142:6,12; 164:20;165:2,4;178:5; 182:11;185:8	out (87) 7:10;9:13;14:14,16;15:1; 16:2,4,5;17:5,16;19:18; 20:1,6,13;21:7;24:9;26:3; 27:7;31:19;37:14;40:5; 41:8,15,17;48:11;50:4,7; 51:2,4,6;55:11,14;56:21; 57:3;62:7,7,13;65:16; 66:13;71:3,4;87:8;95:14; 96:16,17;104:21;106:8,12; 117:2;123:18;129:7;136:6; 137:2;141:14;148:6,21; 155:5;159:10;162:19; 168:12;177:21;178:20; 180:10;189:12;192:2,6; 200:10,20;205:9;210:11; 212:14;215:16;216:15,16; 220:16;225:1,4;226:8,13; 227:11;229:1,3;234:13; 235:5;238:11;243:19; 245:11
obstructing (1) 117:20	older (1) 97:1	operations (3) 63:20,21;65:2	outdoor (1) 175:8
obstructions (1) 108:3	onboard (1) 232:16	operator (1) 83:17	outflow (1) 97:9
obstructs (1) 118:3	once (6) 14:21;26:2;71:1;76:1; 104:15;197:13	operators (2) 64:2;70:16	outside (10) 64:19;65:9,12;66:1;67:3, 7,7;68:7;87:16;186:6
obtain (2) 88:13;147:18	one (108) 6:21;18:21;21:21;22:9; 28:16;29:13;40:10;41:17; 18,19;44:20;46:10;47:8; 48:1;49:2;51:19;53:20; 54:6,11;55:5;57:18;58:11; 67:12;69:15,15;72:16,21; 73:1,4,6,17;82:12;83:16,17; 84:19;90:15;93:6,6;94:18; 95:17;97:1;98:16;101:13; 102:16,16;103:9;104:17; 109:20;110:4,8,18,19; 112:21;122:8,8,8;136:21; 140:2,4;143:8;150:17; 154:3;155:14;159:9; 160:18;162:3,5,6,16,17; 163:8;165:5;168:21;169:1; 170:10;171:8;178:7;191:5; 18,19;192:1,10,11;199:5; 204:11;207:6;209:8,9,10; 215:1,12;216:3,18,20; 218:19;220:4,7,15;224:4, 13;226:3;231:5;233:11,13, 14,19;239:17,18	opined (1) 129:5	out-weigh (1) 234:2
obtained (2) 147:9,13	ones (8) 24:13;64:18;83:21;120:5; 150:2,3;164:8;220:12	opinion (41) 15:3;23:2,11;28:19; 46:18;47:16;48:7;55:3; 56:2,3;57:11;105:2,9,14; 106:1;108:5,6,11;109:11; 113:4,14;120:17;121:6; 122:13;123:9;124:20; 125:4,5;128:1,6;129:6,11; 132:21;135:13,17;136:1; 154:18;162:9;198:6; 219:17;229:2	over (28) 10:8,9;11:13;15:10; 16:17;24:7;25:13;30:15; 31:18;33:20;56:19;59:13; 61:7;68:5;70:17;116:17; 141:6;167:8;174:21; 177:21;198:19,19;199:3; 203:7;210:5,7;223:18; 237:11
obvious (2) 224:5,7	on-line (1) 82:11	opinions (1) 43:5	overgrown (2) 118:16,20
obviously (7) 7:6;158:17;197:7;203:2; 211:3;222:8;246:6	only (23) 16:4;34:11,12;39:8,13; 52:12;87:7;102:4;104:17; 119:12;122:1;128:6;172:1, 16;174:17;185:9,14;219:1; 225:3;227:11;231:2,19; 235:4	opportunity (1) 180:17	override (1) 166:10
occasion (1) 157:8	on-line (1) 82:11	opposed (4) 45:9;74:8;142:12;194:9	Overruled (3) 31:9;131:4;145:5
occasions (2) 89:20;172:12	opened (2) 73:17;185:3	opposition (2) 6:9,10	oversaw (1) 9:18
occupied (1) 92:6	opening (2) 29:15;127:6	optimum (1) 80:5	oversee (2) 43:20;88:14
occur (1) 27:9		options (2) 235:14,18	overview (1) 144:10
occurred (1) 75:18		orange (3) 21:10;52:13;55:2	Owings (6) 16:17;90:4;222:6;223:5; 226:12,20
O'Donnell (1) 73:6		order (6) 7:10;57:5;81:12;86:21; 243:19;245:11	
off (25) 5:10;39:17;80:14;93:6; 97:13;105:11;106:3; 108:20;114:11;116:11; 121:1;122:13;123:8; 130:19;163:14;172:13; 173:12;181:13;184:4; 187:5;196:13;228:21; 232:2,12;234:20		organizations (1) 10:12	
offer (6) 68:21;86:4;137:16;138:6; 189:14,18		oriented (1) 75:8	
offered (2) 6:1,6		origin (1) 17:21	
Office (38) 9:14,15;10:16;16:11; 35:13;37:8;71:1;78:2; 82:17;83:13;87:8,13,17; 92:3,6,8,15;98:17;99:14,15, 16,18,21;105:21;116:1; 117:19;118:3,15,17;126:18; 127:1;140:12;141:21; 148:19,20;156:21;229:18; 246:7		original (2) 18:2;95:5	
		originally (3) 13:1;179:15,18	
		others (1) 189:2	

phonetic (2) 63:18;225:13 photo (5) 138:14,20;170:8,9;181:9 photograph (2) 126:21;138:9 photographs (1) 175:21 photos (4) 119:1;169:3;173:2;183:8 phrase (1) 236:5 physical (2) 104:11;153:20 physically (2) 42:15;121:18 pick (7) 5:9;67:12;104:15,17; 112:17;173:13;215:9 picked (1) 19:17 picking (2) 174:18;189:3 picture (6) 115:7;116:2,4;169:8; 205:2;206:2 pictures (2) 112:10;204:15 piece (6) 98:18;120:6;146:12; 147:15;150:6;159:7 Pikesville (3) 48:21;220:11;233:13 pink (1) 26:17 place (9) 16:12,14;58:11;93:12; 117:6;125:9;134:6;153:3; 166:6 placed (5) 145:17;149:5,6,7;150:7 places (11) 18:7,8;104:7;109:12; 126:6,10;185:9,10;189:7; 229:14;235:4 placing (1) 112:6 plan (49) 24:20;27:8;30:5,7;80:1; 85:1;88:6,10;89:16;94:3; 13:95:4,5,9,10;96:4;98:21; 102:14,19;103:20;105:11; 109:19;110:11;131:16; 132:1,8,11;136:5;137:19; 20;140:2;143:2,3,5;146:2,2, 7;147:9,13;149:3;159:18; 160:5;163:1,9;194:20; 195:2;209:20;225:12; 236:20 plane (1) 80:16 planned (1) 219:3	planner (1) 231:9 planning (24) 6:2,8;26:1,3,13;84:17; 89:1;127:21;148:13; 201:21;202:7,13,16,19; 203:4,8;204:4;206:12; 207:7;214:18;216:4;217:5; 222:18;240:10 plans (14) 13:5,13;22:21;29:21; 43:11;79:17;81:1;85:19; 143:12;193:20;242:12,14, 14;243:4 planted (1) 177:9 plat (2) 143:9;207:11 plate (2) 66:7,8 plats (1) 83:21 pleasant (1) 199:7 please (16) 7:20;8:8;39:1;63:1,7,15; 77:5;151:20;157:16; 158:15;167:14;196:7; 201:17;221:20;222:4; 240:17 plopped (1) 58:21 plot (1) 124:17 plus (3) 149:21;157:8;162:10 point (21) 17:21;42:9;46:8;89:15; 93:18;95:13;116:9,11; 126:16;147:3;151:8;158:9; 159:10;161:16;168:12; 174:21;178:7;192:2; 226:18;233:1,11 pointed (3) 187:12;192:6;234:13 pointing (1) 187:10 points (4) 23:9;31:16;59:18;245:3 pole (1) 169:14 poles (3) 149:5,16;176:21 police (7) 66:14,17;75:17;174:10, 20;179:6;198:21 policies (2) 64:4;97:18 policy (4) 66:11;69:18;73:10; 212:17 pollutants (1) 97:13	Popeye's (23) 92:13;140:12;142:5; 155:17;156:6;157:3; 165:13;170:19;171:1,3,13, 18;172:8;174:5;175:2; 181:21;182:2,8,19;191:20; 192:4,8;227:18 popular (1) 228:7 populate (1) 239:8 population (5) 18:10;107:4,6;174:17; 199:11 portion (1) 92:6 position (14) 8:21;80:1,6;112:18; 118:19;154:11;202:4,5,17; 204:6;214:17,21;215:18; 244:9 positioned (2) 153:4;156:12 positioning (1) 155:8 positions (1) 9:10 positives (1) 234:2 possibly (1) 137:14 post (1) 79:16 posted (1) 210:16 potential (1) 106:15 potentials (1) 136:15 power (1) 103:8 practical (3) 120:20;123:10;125:2 practice (2) 95:21;96:7 Pratt (1) 73:7 precisely (1) 152:14 predated (2) 209:19,20 predict (1) 59:18 predicted (1) 226:15 prefer (1) 244:11 preference (1) 245:5 preferable (1) 226:19 preliminary (3) 27:7;31:4;155:8	premises (1) 182:16 preparation (3) 50:5,6;89:15 prepare (1) 164:15 prepared (5) 81:1;102:15;132:2;146:6; 147:10 prerequisites (1) 113:1 presence (2) 118:6;146:11 present (6) 91:13;93:2;109:9;155:12; 156:2;220:6 presentation (1) 20:17 presented (1) 60:6 presently (2) 91:8;101:11 preservation (1) 203:8 preserve (2) 212:8;216:19 preserved (1) 214:12 President (3) 5:18;9:1;48:6 pretty (11) 41:20;65:9;66:16;116:10; 118:17;161:6;174:5;205:2; 206:2;217:6,11 prevent (1) 14:16 previously (3) 32:11;90:21;93:9 primarily (1) 222:20 primary (3) 15:20;203:5;227:8 printouts (1) 28:9 prior (3) 44:15;184:19;215:20 privacy (1) 177:6 private (7) 29:10;177:10;205:1; 213:5;228:10,11,12 privy (1) 58:20 proactive (1) 203:8 probably (12) 10:8;11:3;45:16;50:7; 139:21;161:18;187:4; 196:15;207:1;221:5;233:3; 243:19 problem (15) 66:13;69:19;73:13,14; 159:2;164:5;173:20;174:8;
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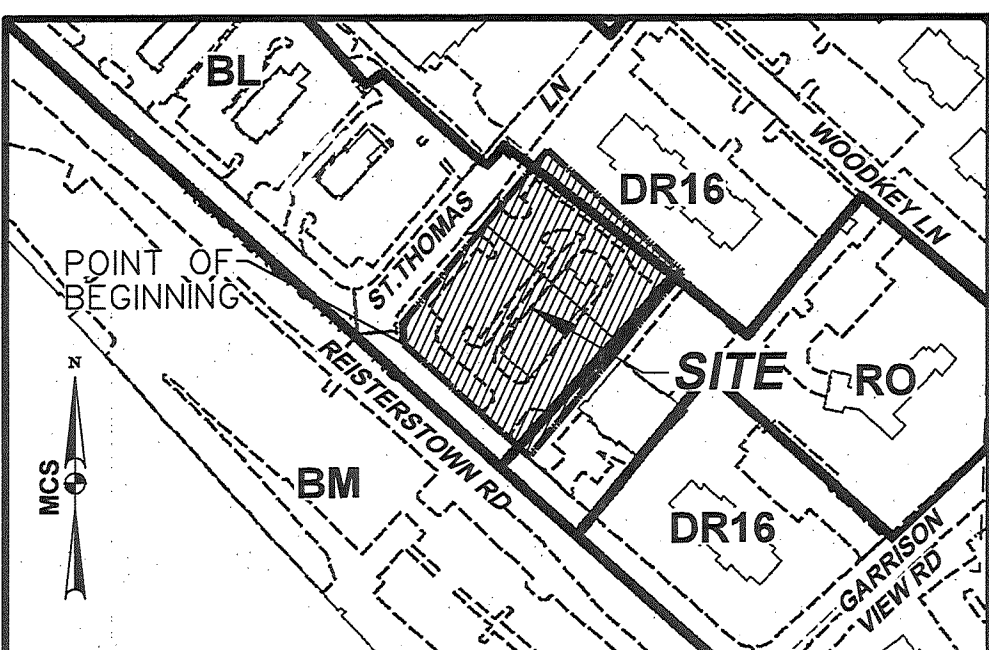
92:21;228:5 realize (3) 140:15;159:10;243:20 really (36) 7:2;16:5;51:15;52:5,12; 66:12;72:1;75:8;81:21; 114:12;116:2;120:1,12; 122:15;123:13;124:15; 125:18;130:7;133:6;148:3; 156:12,13;174:4;178:8; 185:15,20;189:10;194:5; 207:11;208:10,19;210:10; 218:14;220:4;225:16;233:9 rear (2) 171:17;182:10 reason (8) 40:5;162:10;174:13; 192:1;203:5;213:18;214:1; 224:7 reasonable (6) 23:3;113:4;120:18; 124:20;125:2;128:1 reasons (2) 91:15;224:5 rebuttal (4) 238:3,19;239:4;242:1 recall (2) 185:13,16 recalled (2) 239:4;242:1 receive (1) 147:7 received (1) 44:4 receives (1) 96:13 recent (1) 128:14 recently (3) 68:19;71:21;97:10 recess (2) 139:11;238:13 recognizable (1) 134:21 recognize (2) 152:21;153:3 recognized (1) 134:1 recommend (1) 145:20 record (9) 5:9;6:1,19;35:21;63:15; 148:11,14;187:10;202:14 recording (4) 6:4;245:15,16,18 records (1) 138:17 red (1) 90:15 redoing (1) 73:1 reduce (1) 124:11	reduced (1) 13:2 reducing (2) 123:6;130:18 reduction (1) 128:16 refer (4) 15:6;88:17;129:5,9 reference (1) 94:15 referencing (1) 35:19 referred (6) 61:18;111:1;132:5; 198:12;204:14;241:15 referring (7) 115:13;116:6;150:8,10; 155:19;199:14;240:1 refers (1) 86:20 reflect (7) 26:14;51:14;91:4;94:3, 13;95:4;131:11 refused (2) 236:16,17 regard (5) 47:14;54:19;124:19; 145:21;223:14 regarding (3) 64:5;127:21;242:8 regards (12) 17:18;33:11;45:14;149:3, 20;153:11;176:6;180:7; 188:13;199:5;214:17; 215:18 region (3) 25:15;78:20;90:12 regular (2) 69:10;174:15 regularly (2) 192:7;215:9 regulated (2) 134:3,10 regulation (6) 97:17;101:6;120:20; 123:12;128:9;153:7 regulations (44) 80:9;81:18;84:8,21;86:9; 97:4,11,16;98:4,8;108:10, 12;109:1,15;117:12;121:5, 21;122:10;125:1;127:19; 128:5,8,15,21;129:13; 130:17;131:8;132:21; 133:3;134:12;143:18,19,20; 144:5,6,11;150:12;152:1,9, 13,18;213:17,21;242:20 Reisterstown (108) 5:7;13:9,19;14:3,8,9,12, 13,20;17:20;18:16;19:15, 19;20:11;21:8;23:4,8; 28:10,20;30:1,8,13;31:17, 21;43:13;48:20,21;50:18; 51:3,4,8;52:16;55:9,11,15;	58:12;64:11;90:4,16;93:2, 6;94:9,14;114:19;115:16; 117:17;118:12,14;123:7; 125:14;137:8;158:8; 159:11;170:14;171:13; 172:1,7,13,14;178:18; 181:14,18;186:15,16,21; 187:16,18;188:5;193:13,15; 196:16;197:8,9,16;198:3; 199:16;200:13;202:20; 203:1;204:1;205:11;211:4; 218:15;219:21;220:8,16; 223:4;224:12,16;226:2,9, 13,16,18;227:2;229:8,12; 230:11,13,13;232:2,6,12; 233:14;234:12;235:5; 236:3;237:7 relate (1) 230:17 related (4) 109:21;112:3;150:15; 227:6 relates (1) 200:21 relationship (3) 66:16;147:11;168:8 relative (4) 42:21;73:10;186:4;197:5 relatively (1) 115:9 relief (7) 99:2;109:17;113:1;135:8, 12,14;149:20 relies (1) 130:14 rely (2) 61:10,14 Remain (8) 8:2;101:20;105:16;167:8; 183:16;196:2;201:11; 221:20 remedied (1) 25:19 remember (2) 110:16;169:1 remote (1) 71:2 remove (1) 97:12 renewal (1) 82:6 rephrase (3) 46:12;141:10;151:20 replacement (1) 229:17 report (4) 6:7;7:3;61:21;233:4 reports (1) 12:8 represent (1) 217:10 representatives (1) 214:2	represented (1) 222:13 representing (1) 201:20 represents (1) 38:8 request (3) 48:3;123:10;147:18 requested (10) 13:2;34:21;43:8;109:18; 110:1,13;120:15;127:17; 165:14;224:14 requesting (5) 99:3;111:7;124:19;135:9, 12 requests (3) 9:20;84:1,2 require (5) 122:7;123:12;146:13,15; 206:7 required (14) 12:3;110:10;121:10,20; 124:11,12,16;128:3,10; 134:18;136:10;159:16; 160:7;245:21 requirement (6) 119:4;123:6;131:9;135:8; 145:20;160:10 requirements (11) 82:12;97:5;105:4;107:11; 121:2;122:13;145:15; 152:18;153:13;155:4; 165:21 requires (8) 82:7,8;87:20;88:10; 97:21;119:19;133:5;214:6 rescue (1) 174:9 research (2) 120:2;132:9 researched (1) 148:11 Reservoir (1) 217:11 residence (2) 139:18,19 residences (1) 140:6 resident (2) 222:8;225:5 residential (24) 15:9;18:6;92:8,15;98:17, 19;99:7,15,19;103:17; 105:17,20;108:16,18; 122:21;131:12;141:13,15, 19,21;229:4,7,11;230:12 residents (2) 179:2;205:20 resources (5) 81:10,12;109:6;206:10, 19 respect (14) 6:11;17:12;19:4;31:1;
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schedule (1) 244:12 schematically (1) 132:7 scheme (1) 90:14 Schilling (2) 78:3;83:12 Schmid (15) 7:20,21;8:4,9;12:15;33:9; 36:10;39:4;61:9;62:20; 241:19,21;242:3,7;243:11 S-c-h-m-i-d (1) 8:14 school (10) 29:10;88:8;208:16; 211:10,10;213:1,2,3; 228:10,21 schools (1) 107:9 Science (2) 9:3;78:13 scope (2) 129:7;144:20 screaming (1) 178:1 screen (1) 124:16 searched (2) 119:9;120:6 seat (10) 8:7;63:6;77:4;122:8,8; 167:14;196:6;201:16; 222:3;239:1 seats (3) 122:1,4;220:16 second (10) 20:1;38:13;40:14;56:16; 120:7;170:8,9;191:19; 192:11;231:21 secondary (1) 19:14 seconds (5) 22:1,4,6,10;52:10 section (15) 104:8;105:5,7;109:14; 110:9,16,17,20;111:8,13; 112:4,8,13;152:1;224:16 secure (1) 65:10 security (9) 65:17,20;75:5,9,15; 91:14;179:12;213:5;228:4 sediment (1) 80:9 seeing (1) 186:11 seemed (1) 239:8 seems (7) 122:1;189:13;209:11; 215:7,16;229:9;231:15 sell (1)	189:1 seminars (1) 82:11 send (2) 243:19;245:11 sense (6) 46:6;98:10;143:2;154:18; 156:3;233:21 sensitive (1) 109:9 series (1) 175:20 seriously (1) 225:12 serve (2) 68:20;133:11 served (2) 191:2,5 service (11) 24:14;25:5,7,13;26:17; 28:12,14;43:10;68:3;80:16; 213:14 services (13) 8:19;24:3,5,15;26:12; 27:4;34:18;43:7;78:8;79:6, 9,17;102:6 serving (1) 133:8 set (5) 119:19;130:9;175:8; 232:12;239:15 setback (1) 130:18 seven (1) 71:3 several (4) 175:21;176:11;189:2; 226:2 sewage (1) 107:10 sewer (2) 24:4;107:14 SH (1) 98:21 shadow (1) 217:6 share (3) 24:8;65:3;81:19 shared (1) 233:1 shed (5) 25:14,18,20;26:4,18 sheds (1) 26:16 sheet (1) 23:1 sheets (1) 43:8 shelter (1) 203:17 shielded (1) 213:15 shift (1)	55:21 shine (1) 65:15 shining (2) 65:16;177:7 shock (1) 158:21 shocked (1) 233:9 shoe (1) 103:8 Shopping (3) 216:11,15;229:21 short (2) 238:13,15 shortcut (1) 198:12 shorten (2) 188:2;194:3 shortening (2) 192:13;194:6 shorter (2) 194:14;244:12 shortest (3) 18:4;23:12;51:7 shot (1) 216:20 shoulder (2) 242:18;243:5 shoulders (1) 242:21 show (21) 21:4;26:7,9;32:6;35:9; 38:7;90:6;98:12,21;99:8; 100:10;103:18;127:17; 132:7;168:7;169:6,8; 194:18;207:16,17;230:6 showed (2) 181:9;224:15 showing (5) 27:9;33:16;115:2;131:19; 190:1 shown (5) 26:21;90:13;95:9;126:21; 168:20 shows (19) 21:10;26:16,21;36:17; 55:20;84:8;90:11;94:16; 100:12;115:7,16,19,21; 116:9;130:1;205:1,2; 239:18;240:3 shrink (1) 98:4 shrubbery (1) 180:10 shush (1) 228:18 side (53) 49:3,4,5;72:2,6,7,20; 91:20,20,21;92:19;96:11; 99:11,13;100:4,19;102:18; 106:6;107:15;111:18; 113:19;114:5;118:14,21;	123:16,20;124:4,9;125:7, 10,14;126:6,10;135:4; 137:1,10;140:1;141:17; 145:4;164:1,7;187:13; 193:18,19;196:18,18;203:2, 3;207:3;210:6;212:7;230:3, 11 sides (2) 125:12;203:19 sidewalk (4) 180:12;188:6;191:16; 194:13 sight (4) 13:13;184:12;205:7,8 sign (52) 61:16;92:4;110:21;111:1, 4,5,9,11,12,16,21;112:2,2,5, 6,14,16;118:17,20;126:1; 127:1,7;134:13;149:21; 151:7,9,14,15;153:7,11,14, 17,18;154:1,5,7,8,9,9,13; 155:16,20,20;156:19,21; 165:14,17;186:6;204:21; 208:4,17;221:9 signage (12) 110:14;124:19;125:19; 132:18,19;137:1;150:19,20; 151:16;152:12;155:4; 156:13 signal (2) 195:6;224:10 signalized (10) 24:10;28:10;30:9,10; 32:1;58:4,9,12;62:11,13 signals (1) 195:6 signature (2) 104:2,3 signed (2) 146:21;236:18 significantly (2) 222:19;224:17 signing (1) 166:3 signs (33) 110:19;111:9,15,17; 125:8,21;126:4,7;127:5; 133:7,10,12,15,21;134:2,3, 9,16;135:4;151:17;152:15, 17;153:2,9,15;154:17; 155:9,21;156:3;165:12; 204:18,18;231:19 similar (3) 151:2;165:20;173:3 similarly (3) 105:10;121:13;208:13 Simonetti (8) 3:5;167:3,4,10,15,18; 181:6;192:6 S-i-m-o-n-e-t-t-i (1) 167:19 simply (1) 215:15
---	--	---	--

232:5 staff (2) 89:19;148:3 stamp (2) 88:9;104:3 stand (2) 226:2;227:10 standards (1) 67:10 standing (16) 8:2;89:3,4;111:16; 112:15;154:8;155:19; 167:8;169:13,17;183:16; 188:2,3;196:2;201:11; 221:20 start (4) 6:21;69:9;129:18;169:7 started (3) 9:21;20:12;148:17 Starting (2) 127:20;158:10 starts (1) 230:2 State (38) 9:12,16;11:5,6,10;12:6; 13:8;14:5,19;30:11;32:2; 43:5,11;51:20;53:15;54:11, 16,17;58:3;91:4;94:8,15,16, 21;95:6,8;113:20;117:9; 122:18;145:9;188:7; 194:20;209:17;218:15; 242:11,13,14,19 stated (4) 99:17;131:13;137:4; 145:18 statement (1) 245:9 statements (1) 218:1 station (2) 16:19;230:1 statistics (1) 53:1 stay (5) 10:7;66:12;189:14,17; 203:10 steep (2) 122:16;208:3 steeper (1) 114:10 step (1) 148:12 Steve (4) 196:14;204:13;205:3,15 Steven (4) 3:10;183:14,17;184:1 Stevenson (1) 208:15 stick (3) 189:15;245:2,2 still (9) 7:16;11:12;94:21;177:11; 182:1;189:1,1;226:2;	240:20 stone (1) 225:15 stop (13) 187:9,15;205:15,16,18, 21;208:2,3,4,17,19;209:1,3 stopped (3) 29:11;42:1;176:2 store (14) 13:19;45:8,14,16,21;46:7, 17;47:9,16;70:20;72:13; 158:20;216:12;229:4 stores (2) 60:3;182:13 storm (26) 80:12,13;84:10;95:21; 96:5,16,18;97:3,6,10,11,13; 119:4,9,14;122:19;128:14; 137:10,11;142:16;143:6; 145:15,16;146:1,3;231:18 story (2) 92:10;99:16 straight (2) 182:9;226:20 strange (1) 162:10 street (23) 14:11;73:6,7;92:17; 105:11;106:3;108:20; 121:1;122:13;123:8; 129:18;130:19;168:10,14; 178:17;188:8,21;190:3; 192:19,20;201:20;213:7; 236:3 streets (2) 106:4,9 strict (3) 120:19;124:21;132:20 strike (4) 101:1;129:3;219:10; 235:19 strip (7) 173:8,10;179:21;181:13; 224:14,16;237:1 striped (1) 164:16 strips (1) 42:18 structural (3) 88:7,10;154:11 structure (2) 92:20;108:2 structures (1) 106:19 studied (4) 29:20;34:12;44:4;218:21 studies (20) 10:6,9;19:2;38:9;44:11; 53:5;60:12;79:11;80:4,16; 129:20;130:13;144:8; 217:18,19;219:9,15,16,17, 18 study (27)	13:1,21;19:3,16;23:1,2; 28:18;29:1;31:4;32:10; 33:11;34:12,17;40:14,15; 42:20;43:2;48:4,8;51:14; 54:10;60:6;130:12;144:10; 145:14,19;219:13 studying (1) 203:12 stuff (3) 136:15;161:2;180:4 sub (3) 87:10,11;88:11 subconsultant (1) 102:15 subcontract (1) 87:8 subcontractors (1) 88:4 subject (8) 12:20;139:18;140:15; 141:13,17;145:17;215:19; 219:2 submit (9) 143:2,3,5,9;144:2;155:9; 175:15;244:8;245:8 submittal (1) 245:4 submitted (4) 60:12;84:1;143:12;151:5 subsequent (1) 24:12 successful (1) 59:2 sufficiency (1) 131:10 sufficient (5) 23:21;130:3;195:13; 219:14;234:18 sufficiently (1) 131:15 suggest (1) 35:20 suggesting (1) 226:14 suitable (1) 113:7 Suite (1) 78:3 summary (3) 35:9;36:11;37:7 summation (1) 33:10 summers (1) 175:6 supervised (2) 81:2;89:15 supervisor (1) 66:16 support (5) 57:11;64:2;100:1;193:10; 214:10 supported (1) 192:16	supporters (1) 216:10 supporting (2) 130:3;235:9 Suppose (2) 143:10;154:8 supposed (1) 97:6 supposedly (1) 220:1 sure (29) 7:8;26:4;45:7;49:1,6; 58:21;63:16;66:20;67:9; 68:17;72:10;79:17;92:5; 95:8;96:6;133:20;136:4; 149:9;151:18;158:16; 162:2;187:7;195:7;200:10; 215:16;216:1;221:5; 239:21;246:16 surface (7) 96:11;98:8,9;106:21; 108:21;110:5;111:12 surfaces (2) 13:6,14 surprise (1) 45:3 surprised (4) 205:6;218:5,16,17 surrounding (3) 135:10,16,20 surveyed (1) 48:12 sustained (2) 29:18;101:4 swear (2) 42:7,8 sworn (8) 8:5;63:4;77:2;167:11; 183:18;196:4;201:14;222:1 synopsizing (1) 7:3 system (9) 17:6;68:1;96:15,16,18; 124:17;130:8;137:15;246:8 systems (2) 16:4;65:20
T			
tables (3) 122:1,4;220:16 tailor (1) 203:15 talk (1) 161:14 talked (2) 191:12;219:20 talking (12) 45:8,11;69:17;94:21; 126:11;141:6;146:8; 155:21;181:9;187:15; 189:9;220:7 talks (1)			

triple (1) 211:7	16:10;32:2;96:6;102:2; 137:14;150:15,20;154:6,13	153:5,7;154:9;162:11; 165:1;168:12;170:12; 172:20;173:13;176:9; 178:17;181:10,12,18;184:7; 189:3;190:8,9;192:7,10; 194:18;195:9;196:14,16,17; 197:11,14;198:4,17;199:16; 200:13,19;201:3;202:21; 203:20;204:17,21;205:5; 206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	Valley (25) 20:4,9,10,14;21:9,15; 58:7,13;78:3;204:12; 206:12,13,16;212:10,12; 216:16;217:5;222:20; 224:3,12,19;225:11;226:8, 10;229:16
trips (19) 15:14,16;16:8,9,10,10,11, 15,17;17:3,5,8,10;29:3; 43:13;44:12;47:11;51:13; 210:18	types (2) 15:16;178:4	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	Valleys (1) 201:21
truck (3) 164:13,17;215:16	typical (3) 20:20;103:6;210:19	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	Valley's (12) 202:4,7,13,16,19;203:4; 204:4;207:6;214:18; 215:18;216:4;222:18
trucks (8) 163:2;164:2,4,12;182:12, 14,14,15	typically (10) 17:7;30:14,15;79:21; 148:3;163:14,16;197:15; 205:9;218:5	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	value (1) 180:20
true (5) 37:9;56:12;57:10;61:21; 229:14	U	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	Van (1) 6:7
trust (1) 61:17	ultimate (2) 94:18;144:1	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	variance (33) 5:6;13:2,15;34:13;48:3; 84:2;110:17;111:7,13; 112:3;113:1;123:6,10; 124:19;127:20;128:3; 129:12;130:18;146:14,15; 149:20;151:21;152:6; 154:8;160:14;165:14,17; 166:2;192:1;194:8,10; 231:19;234:11
try (19) 18:18;51:4;73:13;84:12; 85:20;115:5;140:21; 150:13;162:14;172:15; 178:16;203:7;208:21; 228:15;244:16,16,19;245:2, 2	ultimately (1) 164:14	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	variances (30) 84:9;89:17;109:18,21; 110:3,13;120:14;127:17; 128:20;132:19;135:14,18; 150:21;151:7,10;152:5; 153:11;154:16;159:16; 160:1;165:20;185:20; 220:5;225:19;231:7; 233:12;234:8,16,20;239:8
trying (13) 86:6,8,9;99:5;127:4; 141:8;182:8,9;188:10,10; 200:15;208:13;223:18	under (5) 153:16;160:7;239:1,12; 242:5	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	variant (1) 160:11
turmoil (1) 174:7	undermine (1) 218:9	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	varies (1) 151:1
turn (48) 14:9,16;15:10,21;16:5; 20:10,11,13;21:7;53:18,21; 56:13,16,16;57:3;62:12; 105:7;109:17;120:13; 126:3;132:18;171:3;172:1, 8,13,15;180:11;181:10,13, 19;182:1,4,9;186:14,21; 192:7;197:12,19;200:9,16, 18;205:9,12;208:10; 224:10;232:2,7,8	undermined (2) 225:21;227:10	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	various (16) 14:14;15:7,8;43:9;44:11; 48:12,12,13;80:8,11,14; 87:8,9;88:13;150:12;164:2
turning (9) 53:7;170:19;171:1,13,15; 172:16;181:15;182:8; 186:11	underneath (1) 154:5	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	vegetation (10) 118:20;124:16;125:14; 127:6;131:15;156:20; 177:9;203:18;213:15,17
turns (3) 25:1;53:3;56:19	understood (2) 146:13;231:8	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	vegetative (2) 108:21;213:19
twice (1) 55:5	undesirable (1) 178:4	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	vehicles (6) 45:11;53:8,9;102:2,8; 147:2
twitch (1) 225:5	undue (1) 107:4	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	Verizon (4) 92:14;168:16;177:10; 181:7
two (45) 16:10,21;20:19;22:3,15, 16;39:8,13,21;45:9;49:20; 50:7;52:12,13;54:5;55:1; 72:14;82:8;93:3,4,5;98:16; 109:21;110:2;111:8; 116:18;159:14;162:2; 171:5;174:8;175:6;204:11; 208:2;210:8;221:2;223:18; 229:14,18;233:13;234:12; 237:21;244:13;245:6,9,19	unfortunately (3) 176:18;208:18;212:21	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	version (2) 90:10;91:1
type (9)	unique (10) 101:6;113:12,14,21; 116:15,16;118:5;120:12; 125:7;245:1	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	versus (4) 47:9;48:9;58:19;214:18
	uniqueness (2) 117:7;153:3	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	vertical (1) 159:1
	University (1) 9:4	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	via (1)
	unless (2) 180:9;188:6	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	unload (2) 163:3,5	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	unnecessary (1) 128:16	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	unrealistic (1) 226:1	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	unreasonable (2) 120:21;123:11	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	unusual (2) 157:12;229:7	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	up (89) 5:10;15:15;20:2;21:11; 25:8;39:11;50:12,13;51:21; 53:11;55:1,20;56:6;67:9, 12;82:1,2;85:20;86:5,10; 91:2,9,13,14;104:15,17; 107:3;112:17;115:10,21; 116:11;120:7;124:10; 130:9;139:14;152:12;	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	upon (2) 34:20;220:5	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	upset (1) 179:2	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	use (58) 13:18;15:12;19:13;23:7; 24:13,16;29:4;45:21;51:7; 59:18;78:7;81:12;84:12; 98:4;99:6,11,15,19;100:3; 101:17;102:5,6;105:10,17, 21;106:14;107:2,15;108:7; 109:12;128:11;129:16; 132:12;134:5;136:16,19; 147:6,15;153:8;155:14; 175:7,9;195:4,6,12;209:8, 10,11;211:17;213:14; 214:16;215:5,11;232:2; 239:9,11;241:1,15	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	used (15) 46:19;92:16;99:14;100:4, 7,12;101:19;103:2;105:4, 15;135:6;138:7;151:11; 164:8;182:16	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	uses (4) 15:8;30:8;44:11;103:6	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	using (7) 11:12;45:17;59:10;61:19; 108:12;203:13;211:16	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	usual (1) 90:11	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	usually (2) 148:9;244:3	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	utility (1) 80:15	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	utilize (2) 45:20;205:21	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	utilized (1) 150:19	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	utilizing (1) 46:17	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	u-turn (8) 20:3;21:12;53:3;56:14; 57:2;225:10;237:6,12	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	u-turns (2) 32:5;53:14	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	V	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	
	vacant (2) 91:8;136:3	206:14;208:6;210:12; 211:12;212:11;215:8,9; 217:11,14;228:3,21;230:1; 232:5;237:5;245:21	

9:7,13,18;10:3,9,9;11:13; 31:18;61:14;68:5;78:16,19; 82:9;83:19;179:19;203:7; 210:8;223:18 yelling (1) 178:1 yellow (8) 21:17,18;37:17;50:9,18; 52:14;55:6;226:15 yesterday (1) 69:3 Yo9u (1) 178:16 yogurt (1) 69:2 young (2) 197:17;228:16	22:2,12,13;52:6,8,9 1.32 (4) 22:4,16,17;55:2 1.6 (1) 52:4 1:00 (1) 227:20 1:34 (2) 38:11;42:2 10 (11) 25:9;61:14;110:6;123:6, 12;130:18;138:7,13,19; 194:9;206:3 10.7 (1) 153:12 100 (4) 92:5;96:6;179:19;201:19 10021 (2) 5:6;64:11 11 (5) 6:2,5,6;7:1;242:17 11:00 (4) 67:19,20;164:20;228:4 11:30 (2) 38:10;42:2 1100 (1) 53:9 119 (1) 196:9 12 (17) 20:16;32:13,20;33:2,5,7, 14;51:19;61:14;74:8; 164:19;198:13,13,14; 207:15,20;239:18 1200 (1) 210:21 121 (1) 222:6 13 (9) 26:8,11,12;32:20,21;33:5, 7;114:4;159:1 130,000 (1) 193:1 14 (7) 26:10;27:2;32:20,21; 33:7;104:6;164:19 140 (1) 23:7 15 (10) 26:10;27:6,7;32:20,21; 33:8;67:17;74:8;91:21; 184:2 15th (3) 38:14;40:5,13 16 (11) 32:7,13;33:4,8,9,20;35:6; 65:20;122:1,4,10 160 (1) 121:14 166 (1) 3:7 17 (6) 90:7,9;137:17,18;138:4;	230:7 176 (1) 3:8 18 (4) 103:19;137:17,19;138:4 183 (1) 3:12 189 (1) 3:13 19 (5) 131:20,21;137:17,20; 138:4 1912 (2) 179:15,18 1928 (1) 189:21 1932 (1) 189:21 1938 (2) 190:1;204:17 195 (1) 3:17 1981 (1) 9:8 199 (1) 3:18 1990 (2) 180:2,20 1995 (1) 78:19 1A (2) 175:16,20 1st (1) 6:6	2012 (1) 210:16 2013 (5) 26:12;27:9,10,20;235:13 2014 (10) 3:2;5:4;6:7;27:4,9,10,20; 38:2;39:21;104:5 2014-141 (1) 5:5 21117 (1) 222:7 21202 (1) 201:20 21431 (1) 78:4 22 (2) 10:9;39:21 22nd (2) 38:2,5 230 (1) 78:2 24 (14) 73:17,21;74:1,3,7;75:1; 82:8,10;95:7;142:6;165:2, 3;178:5;180:4 24/7 (7) 174:20;227:18;228:6; 229:3;231:2,3;234:2 25 (1) 11:3 25th (2) 5:4;34:10 29 (2) 3:2;235:4 2F (1) 115:6 2G (2) 115:14;119:2 2H (3) 115:19,20,21 2I (2) 116:7,8 2J (1) 119:2
Z			3
Zarska (13) 76:20;77:12,18;89:6,9; 112:21;130:12;165:11; 238:20,21;239:3,7;241:14 Z-a-r-s-k-a (1) 77:12 Zarska's (1) 139:14 zone (23) 25:20;98:19;99:7;100:11, 11,13;101:10;102:11,11; 105:3;106:2;114:9;116:20; 149:6,7,8,12,14,17,18; 239:12;241:7,8 zoned (11) 98:14,15,17,18;108:19; 109:13;116:17;141:20; 146:9;159:5,6 zones (2) 116:17;117:7 Zoning (41) 6:20;79:13;84:7,8;89:17; 90:11,12;98:12;100:15,17, 20,21;101:6;105:10;108:7, 9;109:1,14;120:20;121:21; 122:9,10;125:1;127:18; 128:8,21;129:13;131:8; 132:21;133:2;134:12; 136:18;137:18;144:5; 152:1,9,12,15,18;222:9; 223:15 zooming (1) 161:2	11 (11) 89:11;99:1;109:20; 110:12,20;111:14;112:9,14; 170:3,4,6 1,3 (1) 111:8 1.06 (6)	2 2 (5) 57:6;111:14;210:5; 221:13,16 2.1 (1) 153:8 2.2 (1) 153:11 2.3 (1) 154:1 2.48 (3) 22:6,19,20 2:00 (3) 67:20;70:7;139:6 20 (12) 10:9;11:13;39:1,3,5,20; 41:1,1;60:21;61:6,6;78:19 2000 (2) 10:8;184:17 2007 (1) 97:18 2008 (1) 119:10 2009 (2) 148:18;158:11 2010 (2) 97:19;98:3	3 (3) 35:1;90:21;111:14 3.15 (1) 52:4 3:00 (2) 70:7;228:10 3:50 (1) 38:14 30 (15) 10:20;25:10;64:2;66:12; 67:5,16;69:1;71:11;78:16; 103:14;182:19;198:18; 203:7;212:19;228:14 31 (1) 121:16 33 (1)

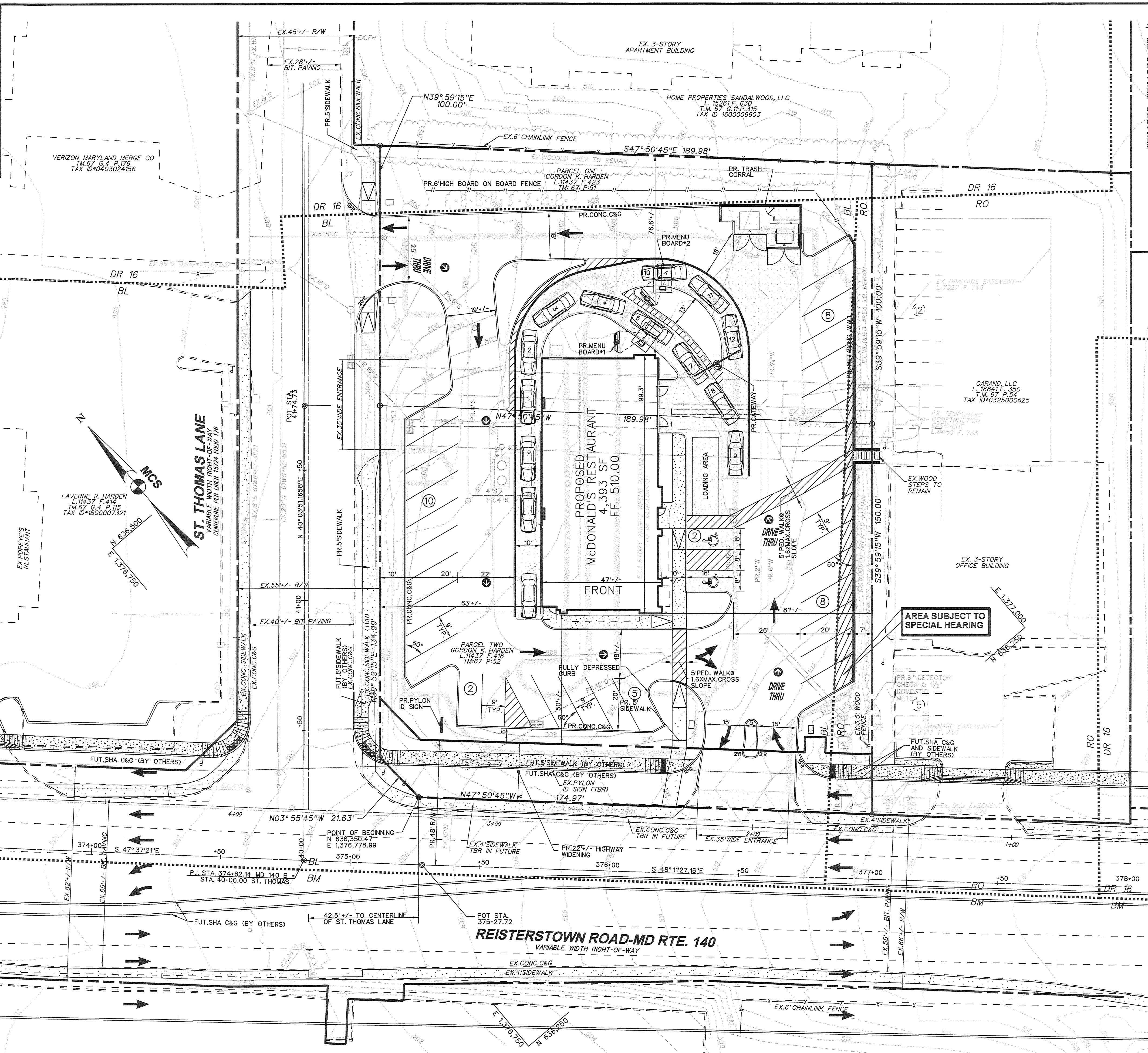


ZONING MAP

SCALE: 1" = 200'
(MAP: 67 B1)

LEGEND

RIGHT-OF-WAY LINE	---
PROPERTY LINE	---
EX. EASEMENT	---
ZONING LINE	---
EX. CONCRETE CURB AND GUTTER	---
EX. CURB AND GUTTER TO BE REMOVED	---
EX. EDGE OF PAVING	---
EX. CONCRETE	---
TO BE REMOVED DESIGNATION	(TBR)
EX. STORM DRAIN, MANHOLE & INLET	---
EX. SANITARY SEWER, MANHOLE & CLEANOUT	---
EX. WATER MAIN, VALVE & FIRE HYDRANT	---
EX. ELECTRIC LINE	---
EX. GAS LINE	---
EX. TELEPHONE LINE, POLE & BOX	---
EX. OVERHEAD LINE	---
EX. INDEX COUNTOURS	---
EX. INTERMEDIATE COUNTOURS	---
EX. TREE LINE	---
"EXISTING" DESIGNATION	EX.
BUILDING RESTRICTION LINE	BRL
LANDSCAPE RESTRICTION LINE	LRL
PR. CONCRETE CURB & GUTTER	PR.C&G
PR. STORM DRAIN, MANHOLE & INLET	PR.15"D
PR. SANITARY SEWER & CLEANOUT	PR.6"S
PR. WATER MAIN, VALVE & FIRE HYDRANT	PR.6"W
PR. INDEX COUNTOURS	410
PR. INTERMEDIATE COUNTOURS	412
PR. RETAINING WALL	---
PR. PARKING COUNT	8
"PROPOSED" DESIGNATION	PR.



BENCH MARK

ELEVATIONS ARE BASED ON NAVD 88 DATUM PER BALTIMORE COUNTY CONTROL POINTS:
CONTROL POINT 1263:
N 635.876, E 1,380.712, 091: EL 482.68
CAPED REBAR IN DRIVEWAY FOR HOUSE
*309 ON GARRISON FOREST ROAD, 3153'
SOUTHWEST OF UTILITY POLE *327008
LOCATED ON THE WEST SIDE OF GARRISON FOREST ROAD.
CONTROL POINT 1264:
N 636.300, E 1,380.818, 01: EL 493.93
CAPED REBAR IN DRIVEWAY FOR HOUSE
*317 ON GARRISON FOREST ROAD, 26.98'
SOUTHWEST OF UTILITY POLE *327008
LOCATED ON THE WEST SIDE OF GARRISON FOREST ROAD.

SITE DATA

- AREA OF TRACT (LEASE AREA PARCEL ONE AND TWO):
PARCEL 51 - 0.436 AC; PARCEL 52 - 0.651 AC
TOTAL TRACT AREA: 1.087 AC
HIGHWAY WIDENING: 0.10 AC (4,332 SF)
NET AREA: 0.987 AC (43,009 SF)
- OWNER:
GORDON K. HARDEN
1000 WELLS CIRCLE, SUITE 214
WESTMINSTER, MARYLAND 21158
- TAX MAP REFERENCES:
T.M. 67; P. 51; TAX ID: 0316095111
T.M. 67; P. 52; TAX ID: 0308006690
- DEED REFERENCES:
PARCEL 51: L. 11437; F. 423; PARCEL 52: L. 11437; F. 418
- ELECTION DISTRICT: 3; COUNCILMANIC DISTRICT: 2
- EXISTING ZONING: BL, DR 16, RO; MAP *067 B1
- EXISTING USE: EX. KRISPY KREME - TO BE RAZED
PROPOSED USE: NEW MCDONALD'S RESTAURANT
- CENSUS TRACT: 4037.01
WATER SERVICE AREA: Pikesville Fourth Zone
TRANSPORTATION ZONE: 710
ZIP CODE: 21117
WATERSHED NO: GWYNNS FALLS
- MINIMUM SETBACK REQUIREMENTS (BL ZONE):
FRONT: 10' FROM FRONT PROPERTY LINE, 40' FROM STREET CENTERLINE AND
AVERAGE OF FRONT YARD DEPTHS PER BCZR, SECTION 303.2
SIDE: 10' FROM SIDE LINE ABUTTING LOT IN RESIDENCE ZONE (RO)
REAR: 20' FROM REAR LINE ABUTTING LOT IN RESIDENCE ZONE (OR 16)
- F.A.R.:
PERMITTED - 3.0
PROVIDED - 0.09 (4,393 SF / 47,349 SF)
- BUILDING HEIGHT:
PERMITTED - 40 FT
PROVIDED - 23.3 FT
- ADT: 550 x 4,393 / 1,000 SF - 2,417 TRIPS
- LANDSCAPE REQUIREMENTS:
LANDSCAPING WILL BE PROVIDED PER THE MOST RECENT BALTIMORE COUNTY LANDSCAPE MANUAL, UNLESS PERMITTED OTHERWISE. MODIFICATIONS WILL BE REQUESTED.
- STORM WATER MANAGEMENT (SWM):
THIS SITE IS A RE-DEVELOPMENT. SWM SHALL BE ADDRESSED IN ACCORDANCE WITH THE FOLLOWING CRITERIA:
- REDUCTION OF EX. IMPERVIOUS AREAS WITHIN LIMIT OF DISTURBANCE (LOD) BY 50%
- IMPLEMENTATION OF ESD PRACTICES TO MEET TO PROVIDE WATER QUALITY TREATMENT FOR AT LEAST 50% OF EX. IMPERVIOUS AREA WITHIN LOD OR
- USE A COMBINATION OF IMPERVIOUS AREA REDUCTION AND ESD IMPLEMENTATION FOR AT LEAST 50% OF EX. IMPERVIOUS AREAS
- USE OF ALTERNATIVE SWM MEASURES
SINCE THE FULL REDUCTION OF EXISTING IMPERVIOUS AREA COULD NOT BE ACHIEVED FOR PROPOSED DEVELOPMENT, THEREFORE ESD PRACTICE, FILTERRA OR EQUIVALENT, WILL BE PROVIDED TO MEET SWM REQUIREMENTS.
- THERE ARE NO EXISTING OR PROPOSED WELL OR SEPTIC AREAS.
- PUBLIC WATER AND SANITARY SEWER FACILITIES ARE AVAILABLE TO SERVICE THIS SITE.
- THERE ARE NO KNOWN STREAMS, WETLANDS REQUIRING REGULATION, ARCHEOLOGICAL SITES, OR ENDANGERED SPECIES HABITATS.
- THERE ARE NO KNOWN UNDERGROUND STORAGE TANKS OR HAZARDOUS MATERIALS.
- THERE ARE NO HISTORIC BUILDINGS ON THIS PROPERTY.
- THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
- FLOOD MAP INFORMATION:
PREMISES IS SHOWN ON NATIONAL FLOOD INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP FOR BALTIMORE COUNTY, MARYLAND COMMUNITY PANEL 220 OF 580, NUMBER 240010 0220 D, REVISED AUGUST 2, 2011 AND DESIGNATED AS ZONE X (10) BE OUTSIDE OF THE 0.2% ANNUAL OCCURRENCE FLOODPLAIN.
- FOREST CONSERVATION REQUIREMENTS:
THE DEVELOPER IS REQUESTING A VARIANCE TO SECTION 33-6-109 (IN-PART) OF THE BALTIMORE COUNTY CODE TO RESTRICT APPLICABILITY OF THE FOREST CONSERVATION REGULATIONS TO THE PROPOSED LIMIT OF DISTURBANCE. THE RESULTING 0.2 ACRE AFFORESTATION OBLIGATION WILL BE MET BY PURCHASE OF CREDIT IN A COUNTY APPROVED FOREST RETENTION BANK.
- ANY SIGNS SHALL COMPLY WITH SECTION 450 OF THE BCZR AND ALL SIGN POLICIES, UNLESS PERMITTED OTHERWISE. ZONING VARIANCES ARE BEING REQUESTED.
- LIGHTING SHALL BE ERCTED AS NOT TO REFLECT INTO ANY ADJOINING RESIDENTIAL AREAS AND PUBLIC ROADS.
- THE BOUNDARY SHOWN HEREON WAS TAKEN FROM THE ALTA / ACSM LAND TITLE SURVEY PREPARED BY BOHLER ENGINEERING, DATED JANUARY 19, 2011.
- ALL PARKING SPACES WILL BE PERMANENTLY STRIPED.
- ALL PROPOSED PAVED AREAS WILL BE A DURABLE, DUSTLESS SURFACE (MACADAM).

PARKING REQUIREMENTS

PARKING SPACES REQUIRED: 4,393 SF @ 16 PS / 1000 SF - 71 PS

PARKING SPACES PROVIDED: 35 PS (INCL. 2 HDOP)

ZONING VARIANCE IS BEING REQUESTED

DEVELOPMENT APPROVAL

- REQUEST FOR A-7 LIMITED EXEMPTION WAS GRANTED BY DRC ON OCTOBER 15, 1999; DRC *09209F.
- REQUEST FOR LIMITED EXEMPTION UNDER SECTION 32-4-106(b)(18) TO RESTRICT ON EXISTING MCDONALD'S RESTAURANT WAS GRANTED BY DRC ON SEPTEMBER 13, 2013. CONTINGENT ON HEARING FOR ZONING VARIANCES, DRC *082713A.

ZONING HISTORY

CASE NO: 88-0288-X;
PETITION FOR SPECIAL EXCEPTION THAT THE PROPERTY BE APPROVED FOR A CLASS "B" OFFICE BUILDING IN A RO ZONE GRANTED ON MARCH 7, 1988.

2014-0141-SPHA

SPECIAL HEARING REQUEST

TO PERMIT THE USE OF LAND IN A RESIDENTIAL ZONE AS PARKING SERVING A BUSINESS USE.

NOTE:
THIS PLAN IS INTENDED FOR ZONING PURPOSES ONLY
AND SHALL NOT BE USED FOR ANY OTHER PURPOSE.

BLDG

Baltimore Land Design Group Inc.
Consulting Engineers

230 SCHILLING CIRCLE, SUITE 364 • HUNT VALLEY, MARYLAND 21031
PHONE: 410.229.9851 • FAX: 410.229.9865 • BLDG@BLDGINC.COM



PROFESSIONAL CERTIFICATION

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 21245, EXPIRATION DATE: JUNE 9, 2014.

OWNER

GORDON K. HARDEN
1000 WELLS CIRCLE, SUITE 214
WESTMINSTER, MARYLAND 21158

DEVELOPER / APPLICANT

MCDONALD'S USA, LLC
BALTIMORE - WASHINGTON REGION
6903 ROCKLEDGE DRIVE, SUITE 1100
BETHESDA, MARYLAND 20817
PHONE (240) 497-3626

REVISIONS			
DATE	NO.	DESCRIPTION	BY

PLAT TO ACCOMPANY PETITION
FOR SPECIAL HEARING

MCDONALD'S RESTAURANT

10021 REISTERSTOWN ROAD
OWINGS MILLS, MARYLAND 21117

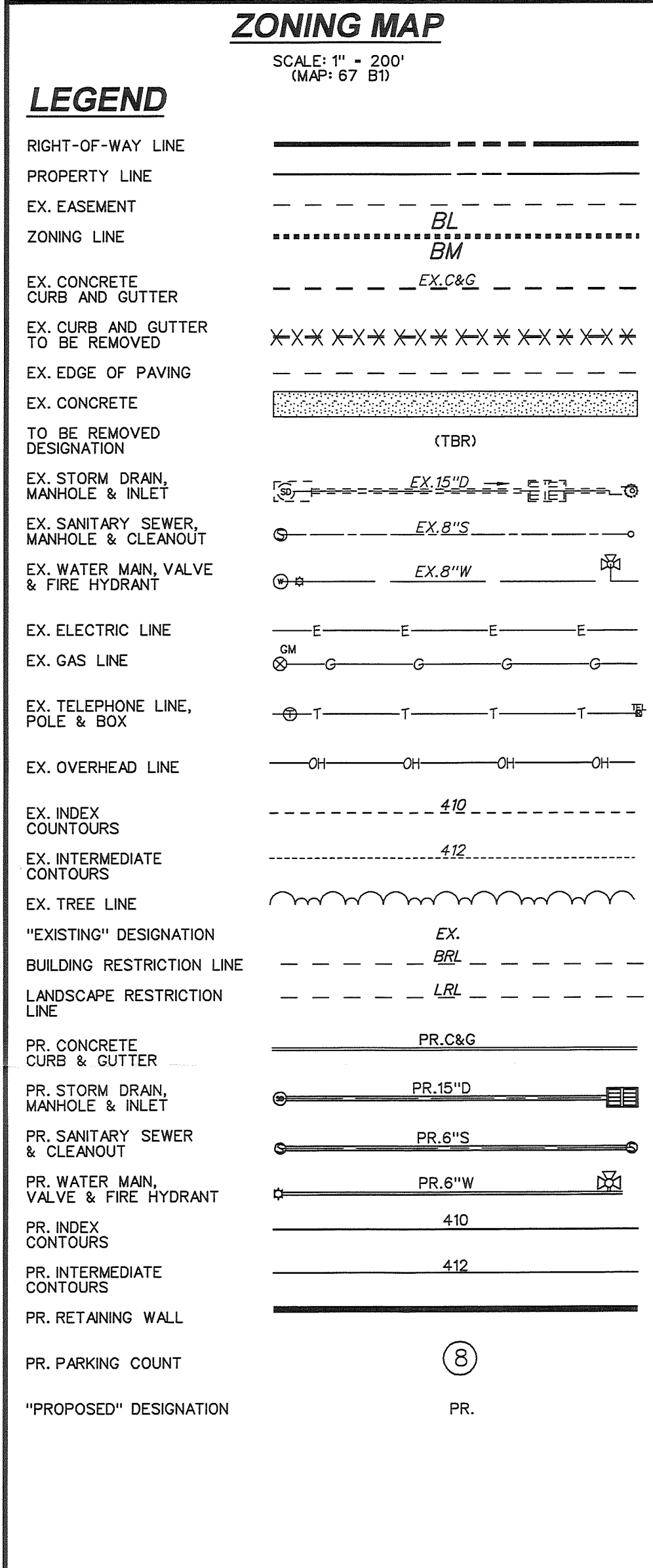
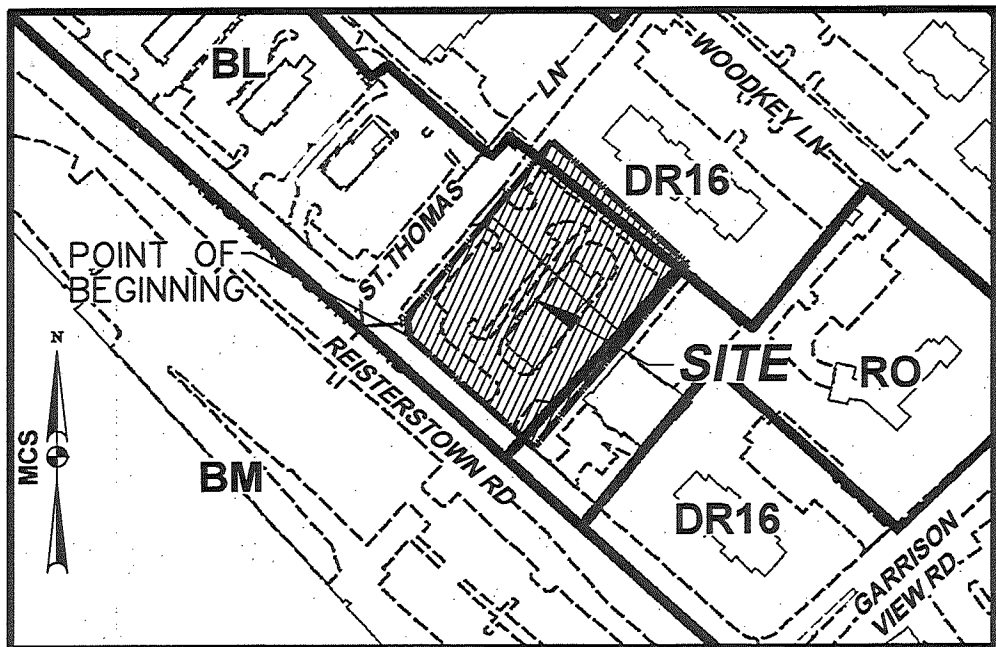
BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 20'

ELECTION DISTRICT 3, C2
DATE: DECEMBER, 2013

DRAWING NO.

SH-1

SHEET 1 OF 1

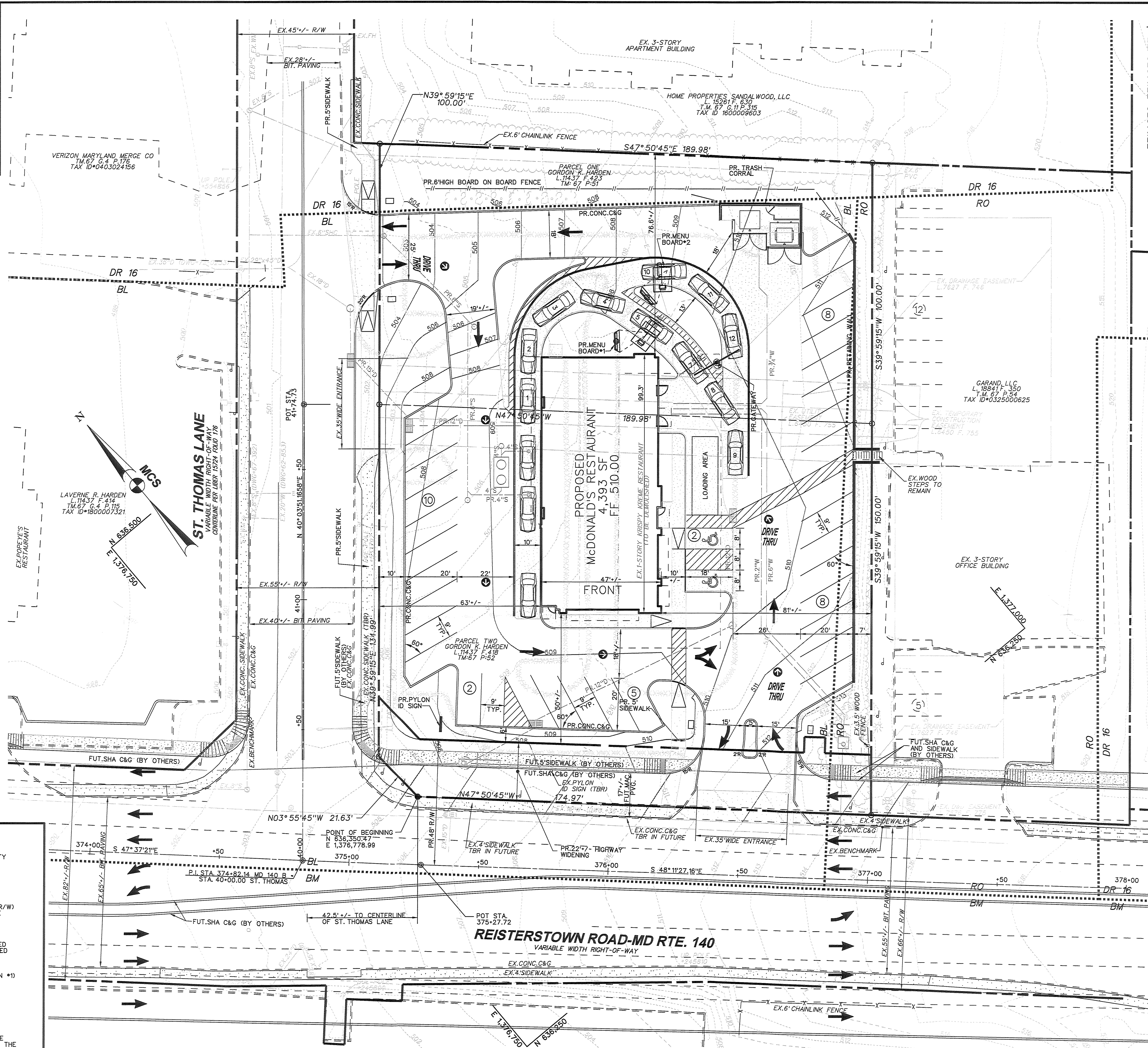


ZONING VARIANCE REQUESTS

THE FOLLOWING REQUESTS ARE FOR VARIANCES FROM THE BALTIMORE COUNTY ZONING REGULATIONS (BCZR):

- VARIANCE FOR PARKING REQUIREMENTS:
 - SECTION 409.6.A.2 TO PERMIT 35 PARKING SPACES IN LIEU OF THE REQUIRED 71 PARKING SPACES.
 - SECTION 409.8.A.4 TO PERMIT 6 FT DISTANCE TO STREET LINE (R/W) FROM PARKING SPACES FOR NON-RESIDENTIAL USE IN LIEU OF THE REQUIRED 10 FT.
- VARIANCE FOR SIGN REQUIREMENTS:
 - SECTION 450.4 ATTACHMENT 1.5(i)(v) TO PERMIT 5 WALL MOUNTED ENTERPRISE SIGNS ON BUILDING FACADES IN LIEU OF THE PERMITTED 3 SIGNS (SIGNS #4 & #5)
 - SECTION 450.4 ATTACHMENT 1.3(i)(vii) TO PERMIT A DIRECTIONAL SIGN OF 10.7 FT. IN HEIGHT IN LIEU OF THE PERMITTED 6 FT. (SIGN #1)
 - SECTION 450.4 ATTACHMENT 1.3(i)(vii) TO PERMIT A DIRECTIONAL SIGN OF 9.7 FT. IN HEIGHT IN LIEU OF THE PERMITTED 6 FT. (TWO SIGNS, SIGN #2)
 - SECTION 450.4 ATTACHMENT 1.3(i)(i) TO PERMIT A CANOPY-TYPE DIRECTIONAL SIGN IN LIEU OF THE PERMITTED WALL-MOUNTED OR FREE-STANDING SIGN (TWO SIGNS, SIGN #3)
 - SECTION 450.5.B.3.3 TO PERMIT ERECTION OF THE SIGN ABOVE THE FACE OF THE CANOPY IN LIEU OF ITS ERECTION ON THE FACE OF THE CANOPY. (TWO SIGNS, SIGN #3)
 - SECTION 450.4 ATTACHMENT 1.5 (i)(vii) TO PERMIT TWO ORDER BOARDS OF 6.75 FT. IN HEIGHT IN LIEU OF THE PERMITTED 6 FT. (TWO SIGNS, SIGN #7)
 - SECTION 450.4 ATTACHMENT 1.3(i)(i) TO PERMIT TWO PROJECTED DIRECTIONAL SIGNS IN LIEU OF THE PERMITTED WALL-MOUNTED OR FREE-STANDING SIGN. (TWO SIGNS, SIGN #8)

NOTE:
THIS PLAN IS INTENDED FOR ZONING PURPOSES ONLY
AND SHALL NOT BE USED FOR ANY OTHER PURPOSE.

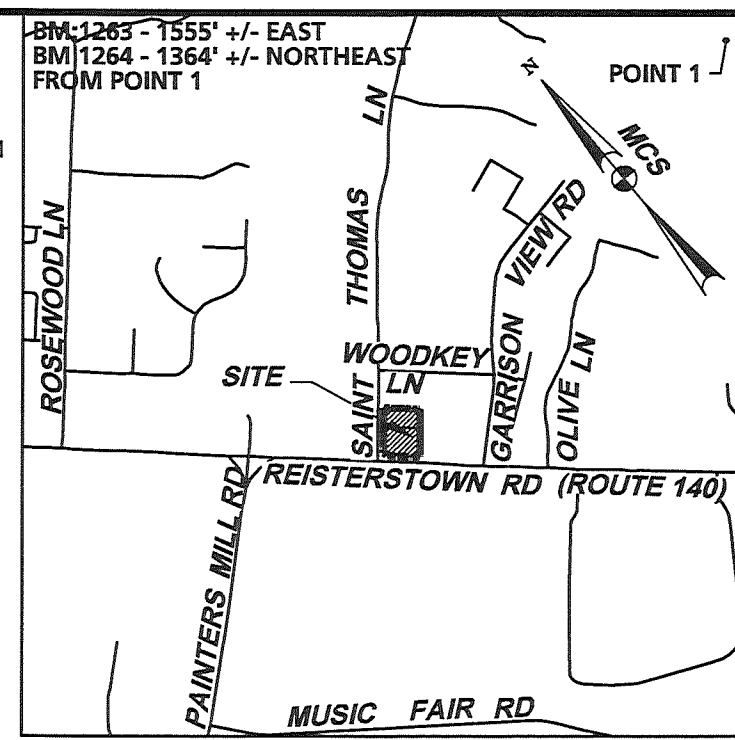


BENCH MARK

ELEVATIONS ARE BASED ON NAVD 88 DATUM
PER BALTIMORE COUNTY CONTROL POINTS:

CONTROL POINT 1263:
N 838.876.73' E 1.380.712.09' EL 482.68
CAPPED REBAR IN DRIVEWAY FOR HOUSE
*309 ON GARRISON FOREST ROAD, 31.53'
SOUTHEAST OF UTILITY POLE *327009
LOCATED ON THE WEST SIDE OF GARRISON
FOREST ROAD.

CONTROL POINT 1264:
N 838.300.80' E 1.380.818.01' EL 493.93
CAPPED REBAR IN DRIVEWAY FOR HOUSE
*317 ON GARRISON FOREST ROAD, 26.98'
SOUTHEAST OF UTILITY POLE *320772
LOCATED ON THE WEST SIDE OF GARRISON
FOREST ROAD.



SITE DATA

- AREA OF TRACT (LEASE AREA PARCEL ONE AND TWO):
PARCEL 51 - 0.436 AC; PARCEL 52 - 0.651 AC
TOTAL TRACT AREA 1.087 AC
HIGHWAY WIDENING: 0.10 AC (4,332 SF)
NET AREA: 0.987 AC (43,009 SF)
- OWNER:
GORDON K. HARDEN
1000 WELLS CIRCLE, SUITE 214
WESTMINSTER, MARYLAND 21158
- TAX MAP REFERENCES:
T.M. 67: P. 51: TAX ID. # 0316085111
T.M. 67: P. 52: TAX ID. # 0308006990
- DEED REFERENCES:
PARCEL 51: L. 11437; F. 423; PARCEL 52: L. 11437; F. 418
- ELECTION DISTRICT: 3; COUNCILMANIC DISTRICT: 2
- EXISTING ZONING: BL, DR 16, RO; MAP #067 B1
- EXISTING USE: EX. KRISPY KREME - TO BE RAZED
PROPOSED USE: NEW McDONALD'S RESTAURANT
- CENSUS TRACT: 4037.01
WATER SERVICE AREA: Pikesville Fourth Zone
TRANSPORTATION ZONE: 710
ZIP CODE: 21117
WATERSHED NO: GWYNN'S FALLS
- MINIMUM SETBACK REQUIREMENTS (BL ZONE):
FRONT: 10' FROM FRONT PROPERTY LINE, 40' FROM STREET CENTERLINE AND
AVERAGE OF FRONT YARD DEPTHS PER BCZR SECTION 303.2
SIDE: 10' FROM SIDE LINE ABUTTING LOT IN RESIDENCE ZONE (RO)
REAR: 20' FROM REAR LINE ABUTTING LOT IN RESIDENCE ZONE (DR 16)
- F.A.R.:
PERMITTED - 3.0
PROVIDED - 0.09 (4,393 SF / 47,349 SF)
- BUILDING HEIGHT:
PERMITTED - 40 FT
PROVIDED - 23.3 FT
- ADT: 550 x 4,393 / 1,000 SF - 2,417 TRIPS
- LANDSCAPE REQUIREMENTS:
LANDSCAPING WILL BE PROVIDED PER THE MOST RECENT BALTIMORE COUNTY
LANDSCAPE MANUAL, UNLESS PERMITTED OTHERWISE. MODIFICATIONS WILL BE
REQUESTED.
- STORM WATER MANAGEMENT (SWM):
THIS SITE IS A RE-DEVELOPMENT. SWM SHALL BE ADDRESSED IN ACCORDANCE WITH
THE FOLLOWING CRITERIA:
 - REDUCTION OF EX. IMPERVIOUS AREAS WITHIN LIMIT OF DISTURBANCE (LOD) BY 50%
 - IMPLEMENTATION OF ESD PRACTICES TO HELP TO PROVIDE WATER QUALITY
TREATMENT FOR AT LEAST 50% OF EX. IMPERVIOUS AREA WITHIN LOD OR
 - USE A COMBINATION OF IMPERVIOUS AREA REDUCTION AND ESD IMPLEMENTATION
FOR AT LEAST 50% OF EX. IMPERVIOUS AREAS
 - USE OF ALTERNATIVE SWM MEASURESSINCE THE FULL REDUCTION OF EXISTING IMPERVIOUS AREA CANNOT NOT BE ACHIEVED
FOR THE PROPOSED DEVELOPMENT, THEREFORE ESD PRACTICE, FILTERRA OR EQUIVALENT,
WILL BE PROVIDED TO MEET SWM REQUIREMENTS.
- THERE ARE NO EXISTING OR PROPOSED WELL OR SEPTIC AREAS.
- PUBLIC WATER AND SANITARY SEWER FACILITIES ARE AVAILABLE TO SERVICE THIS
SITE.
- THERE ARE NO KNOWN STREAMS, WETLANDS REQUIRING REGULATION, ARCHEOLOGICAL
SITES, OR ENDANGERED SPECIES HABITATS.
- THERE ARE NO KNOWN UNDERGROUND STORAGE TANKS OR HAZARDOUS MATERIALS.
- THERE ARE NO HISTORIC BUILDINGS ON THIS PROPERTY.
- THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
- FLOOD MAP INFORMATION:
PREMISES IS SHOWN ON NATIONAL FLOOD INSURANCE PROGRAM, FLOOD INSURANCE
RATE MAP (FIRM) PANEL 220 BALTIMORE COUNTY, MARYLAND COMMUNITY PANEL 220 OF 580.
NUMBER 240010 0220 D, REVISED AUGUST 2, 2011 AND DESIGNATED AS
ZONE X (TO BE OUTSIDE OF THE 0.2% ANNUAL OCCURRENCE FLOODPLAIN).
- FOREST CONSERVATION REQUIREMENTS:
THE DEVELOPER IS REQUESTING A VARIANCE TO SECTION 33-6-109 (IN-PART) OF THE
BALTIMORE COUNTY CODE TO RESTRICT APPLICABILITY OF THE FOREST CONSERVATION
REGULATIONS TO THE PROPOSED LIMIT OF DISTURBANCE. THE RESULTING 0.2 ACRE
AFFORESTATION OBLIGATION WILL BE MET BY PURCHASE OF CREDIT IN A COUNTY
APPROVED FOREST RETENTION BANK.
- ANY SIGNS SHALL COMPLY WITH SECTION 450 OF THE BCZR AND ALL SIGN POLICIES,
UNLESS PERMITTED OTHERWISE. ZONING VARIANCES ARE BEING REQUESTED.
- LIGHTING SHALL BE ERECTED AS NOT TO REFLECT INTO ANY ADJOINING RESIDENTIAL
AREAS AND PUBLIC ROADS.
- THE BOUNDARY SHOWN HEREON WAS TAKEN FROM THE ALTA / ACSM LAND TITLE SURVEY
PREPARED BY BOHLER ENGINEERING, DATED JANUARY 19, 2011.
- ALL PARKING SPACES WILL BE PERMANENTLY STRIPED.
- ALL PROPOSED PAVED AREAS WILL BE A DURABLE, DUSTLESS SURFACE (MACADAM).

PARKING REQUIREMENTS

PARKING SPACES REQUIRED: 4,393 SF @ 16 PS / 1000 SF - 71 PS

PARKING SPACES PROVIDED: 35 PS (INCL. 2 HDOP)

SEE "ZONING VARIANCE REQUESTS" ON THIS SHEET

DEVELOPMENT APPROVAL

- REQUEST FOR A-7 LIMITED EXEMPTION WAS GRANTED BY DRC
ON OCTOBER 15, 1998; DRC #09209F.
- REQUEST FOR LIMITED EXEMPTION UNDER SECTION 32-4-106(b)(8)
TO REBUILD ON EXISTING McDONALD'S RESTAURANT WAS GRANTED
BY DRC ON SEPTEMBER 13, 2013. CONTINGENT ON HEARING FOR ZONING
VARIANCES. DRC#092713A

ZONING HISTORY

CASE NO: 88-0288-X;
PETITION FOR SPECIAL EXCEPTION THAT THE PROPERTY BE APPROVED
FOR A CLASS 'B' OFFICE BUILDING IN A RO ZONE GRANTED ON MARCH 7, 1988.

2014-0111-SHA

BLDG
Baltimore Land Design Group Inc.
Consulting Engineers
230 SCHILLING CIRCLE, SUITE 364 • HUNT VALLEY, MARYLAND 21031
PHONE: 410.229.9851 • FAX: 410.229.9865 • BLDG@BLDGINC.COM



PROFESSIONAL CERTIFICATION

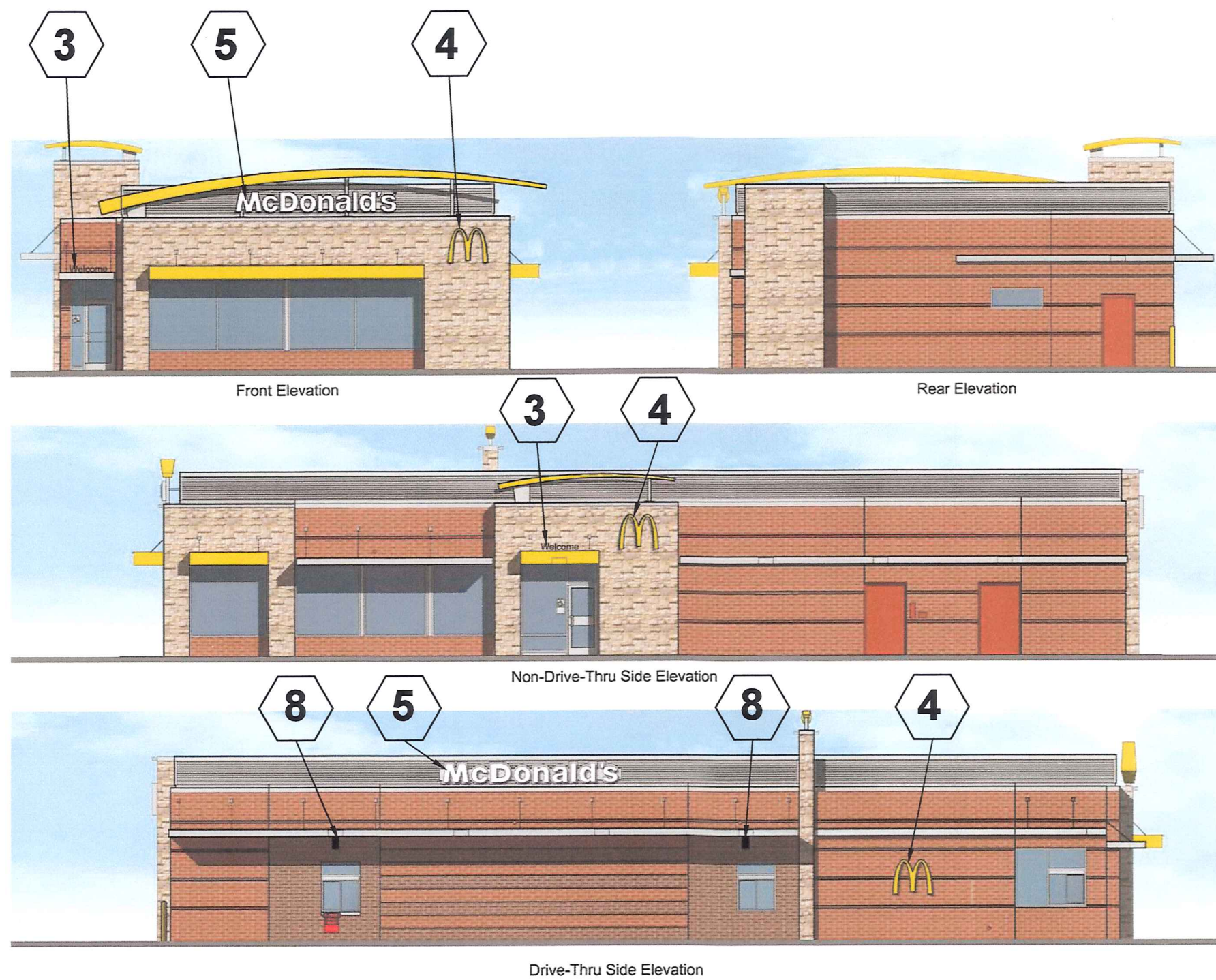
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR
APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE
NO. 21245, EXPIRATION DATE: JUNE 9, 2014.

OWNER
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WESTMINSTER, MARYLAND 21158

DEVELOPER / APPLICANT
McDONALD'S USA, LLC
BALTIMORE - WASHINGTON REGION
6903 ROCKLEDGE DRIVE, SUITE 1100
BETHESDA, MARYLAND 20817
PHONE (240) 497-3626

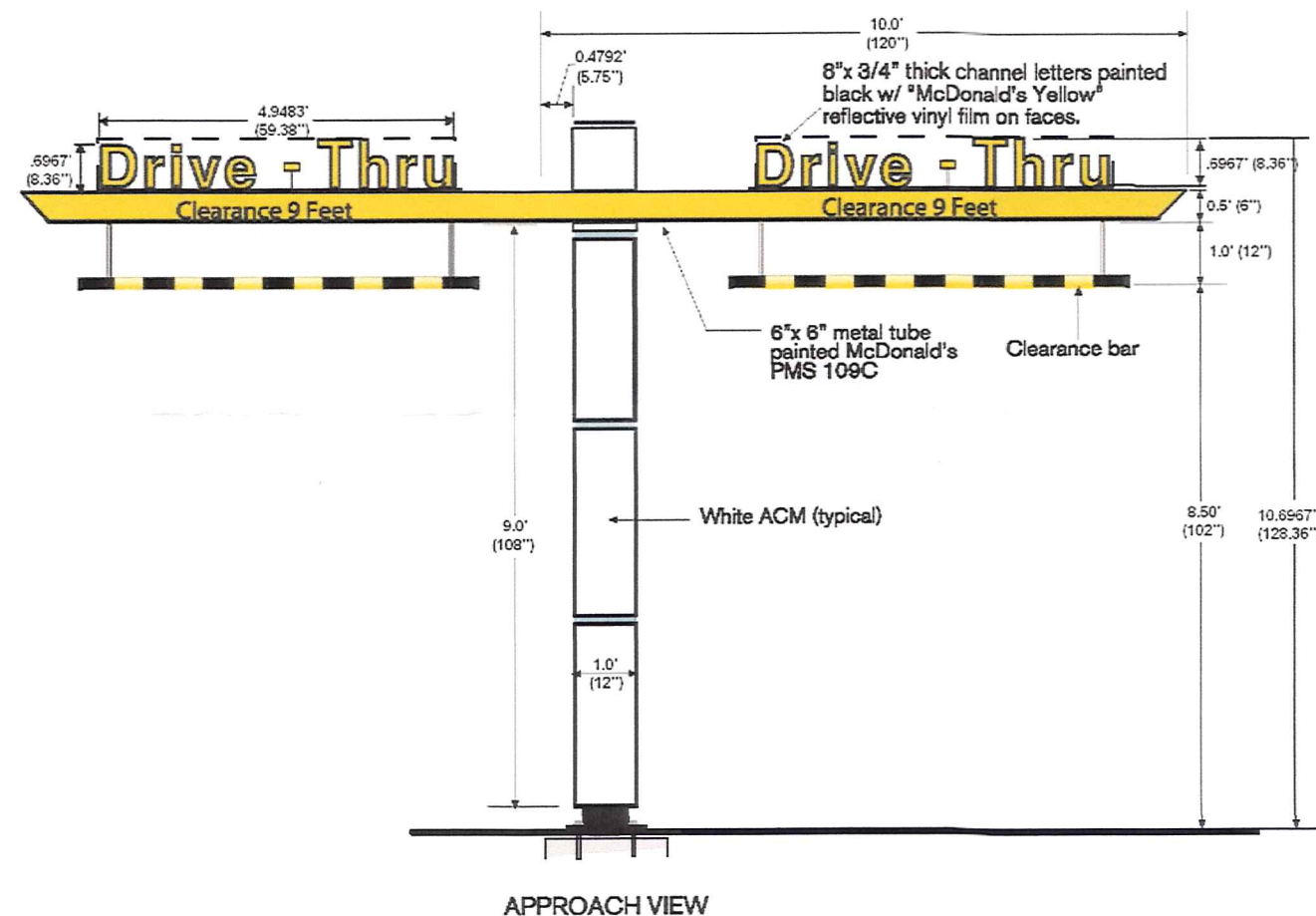
REVISIONS			
DATE	NO.	DESCRIPTION	BY

**PLAN TO ACCOMPANY ZONING PETITION FOR
ZONING VARIANCES**
McDONALD'S RESTAURANT
10021 REISTERSTOWN ROAD
OWINGS MILLS, MARYLAND 21117
BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 20'
ELECTION DISTRICT 3, C2
DATE: DECEMBER, 2013
DRAWING NO.
V-1
SHEET 1 OF 2



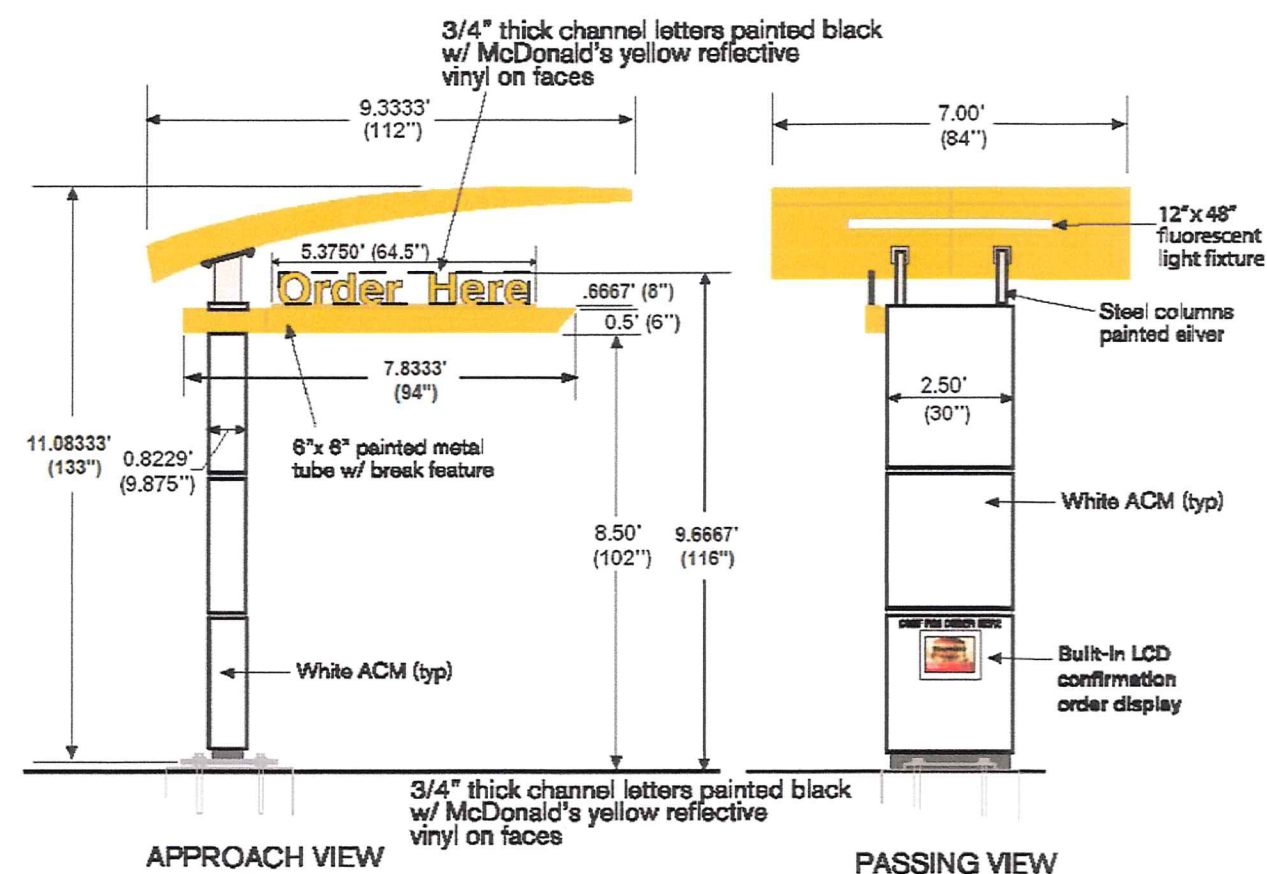
1

DOUBLE WELCOME POINT GATEWAY	
CLASS:	DIRECTIONAL
STRUCTURAL TYPE:	FREESTANDING
FACE AREA:	2 x 0.6967' x 4.9483' = 6.8950 SF
QUANTITY:	1
HEIGHT:	10.6967 FT.
ILLUMINATION:	NO



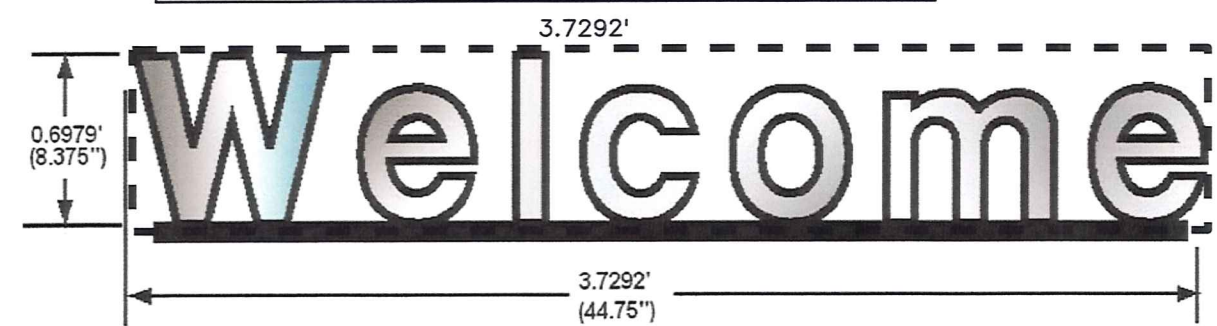
2

DRIVE-THRU TWIN POLE CANOPY	
CLASS:	DIRECTIONAL
STRUCTURAL TYPE:	FREESTANDING
FACE AREA:	6.3750' x 0.6667' = 3.5835 SF
QUANTITY:	2
HEIGHT:	9.6667 FT.
ILLUMINATION:	NO



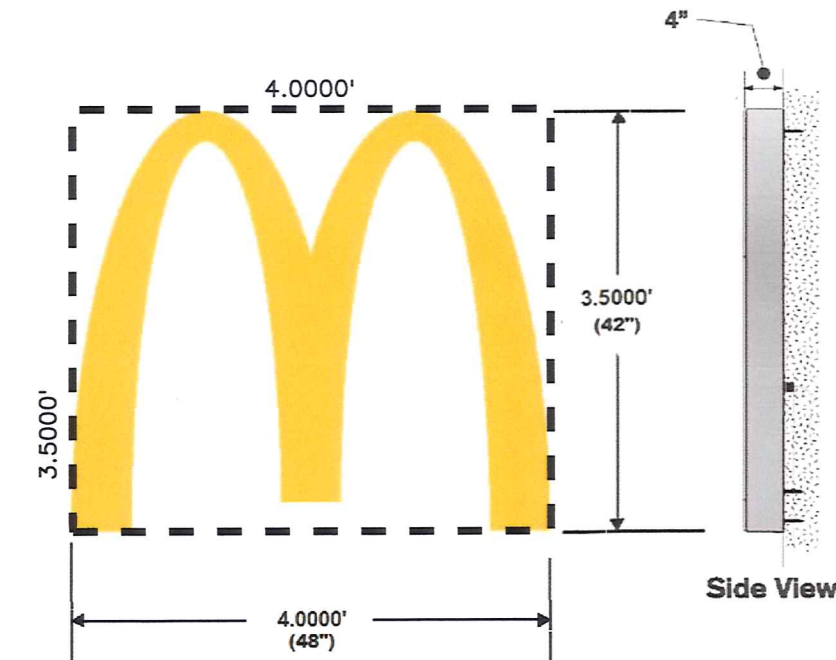
3

WELCOME LETTERS	
CLASS:	DIRECTIONAL
STRUCTURAL TYPE:	CANOPY
FACE AREA:	3.7292' x 0.6979' = 2.6026 SF
QUANTITY:	2
HEIGHT:	N/A
ILLUMINATION:	NO



4

NEXT GEN 42" ARCH	
CLASS:	ENTERPRISE
STRUCTURAL TYPE:	WALL-MOUNTED
FACE AREA (BOXED):	4.0000' x 3.5000' = 14.0000 SF
QUANTITY:	3
HEIGHT:	N/A
ILLUMINATION:	YES



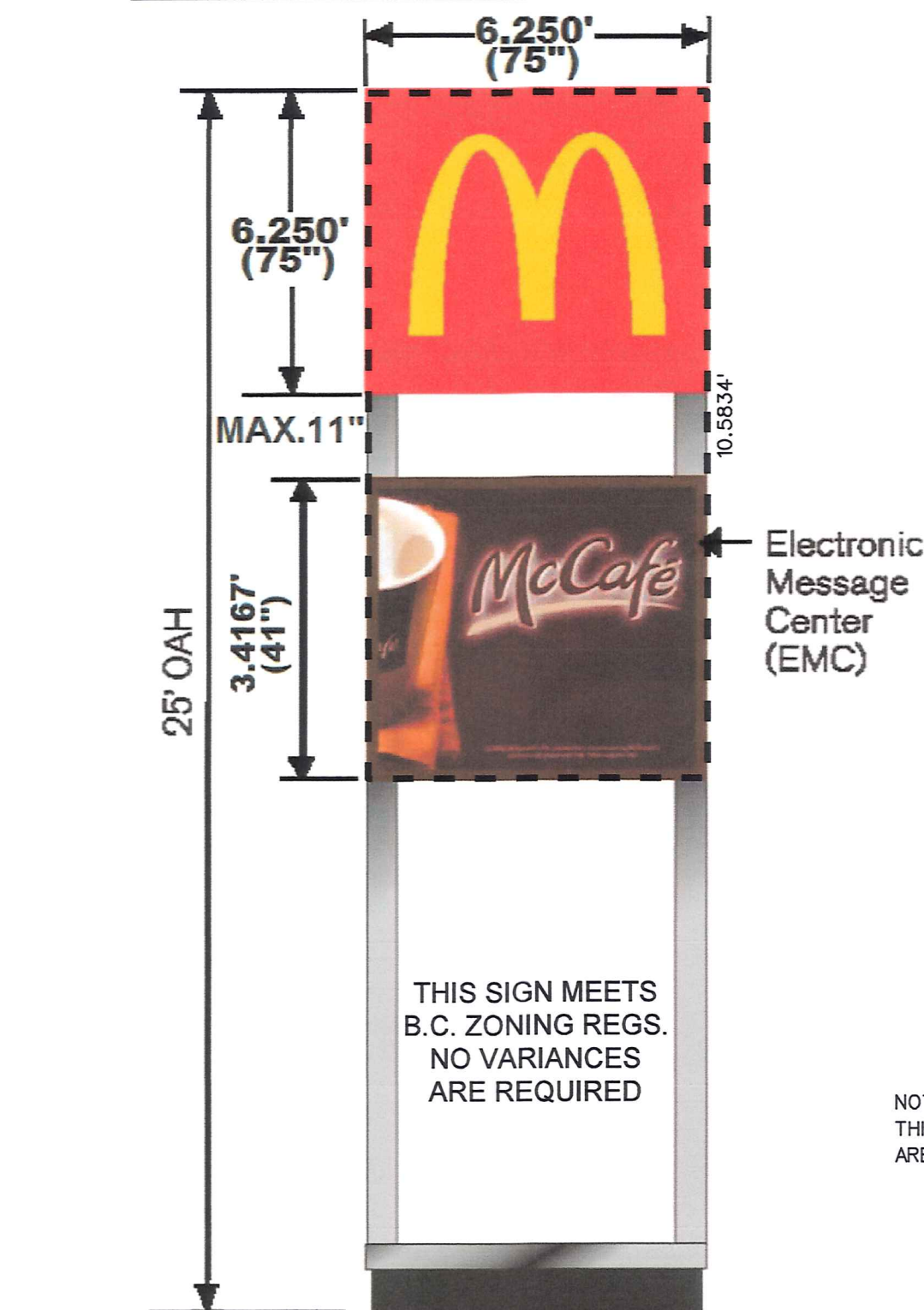
5

NEXT GEN 24" WORDMARK	
CLASS:	ENTERPRISE
STRUCTURAL TYPE:	WALL-MOUNTED
FACE AREA:	16.4167' x 2.0000' = 32.8334 SF
QUANTITY:	2
HEIGHT:	N/A
ILLUMINATION:	YES



6

NEXT GEN 25' OAH ROAD SIGN WITH PANELS	
CLASS:	ENTERPRISE
STRUCTURAL TYPE:	FREESTANDING
FACE AREA:	6.2500' x 10.5834' = 66.1463 SF
QUANTITY:	1
HEIGHT:	25 FT.
ILLUMINATION:	YES



NOTE:
THIS SIGN MEETS BCZR. NO VARIANCES
ARE REQUESTED / REQUIRED.

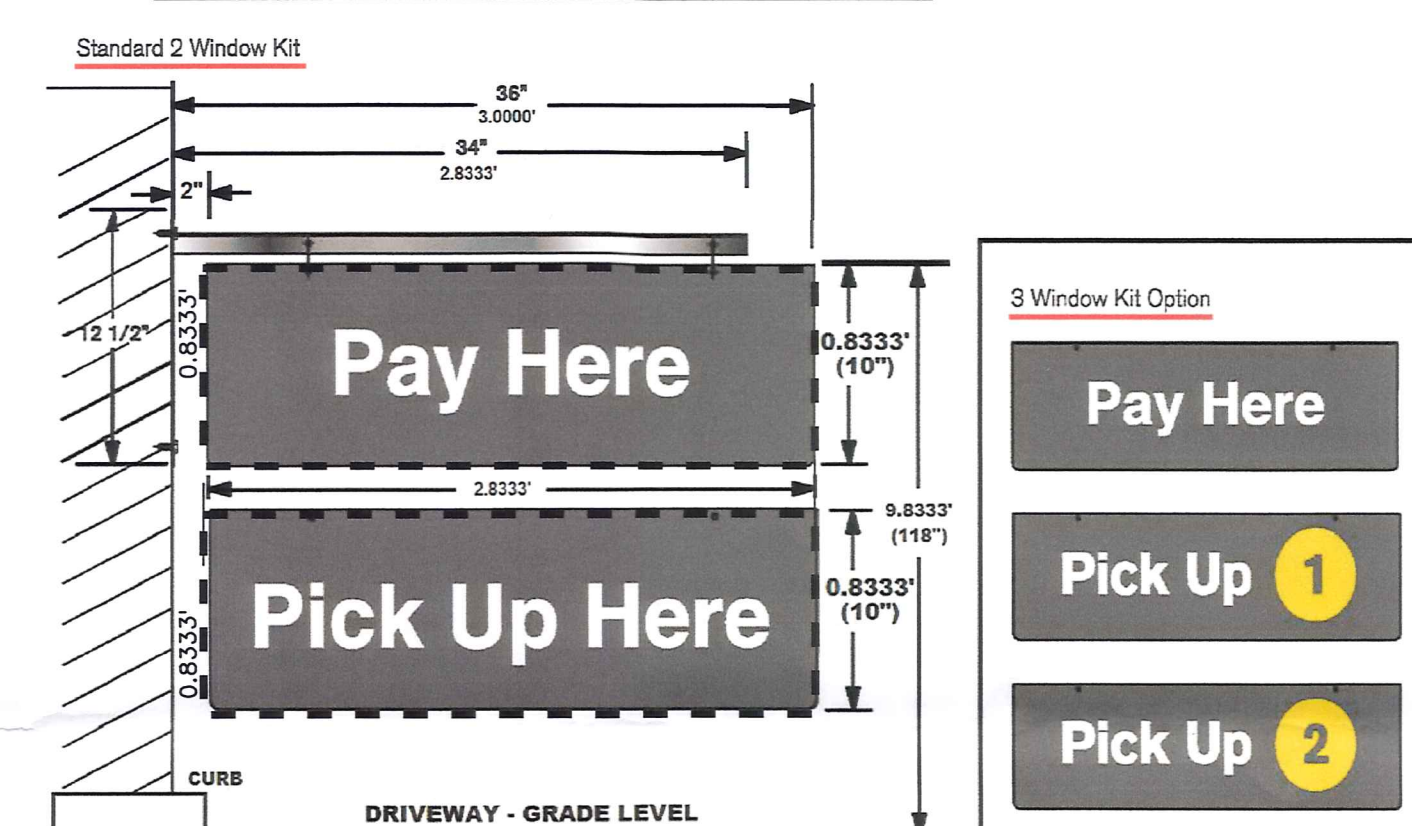
7

OPO 4 COLUMN MENU BOARD	
CLASS:	ORDER BOARD
STRUCTURAL TYPE:	FREESTANDING
FACE AREA (BOXED):	8.6250' x 4.7500' = 40.9688 SF
QUANTITY:	2
HEIGHT:	6.75 FT.
ILLUMINATION:	YES



8

NEXT GEN WINDOW POSITION SIGNS	
CLASS:	DIRECTIONAL
STRUCTURAL TYPE:	PROJECTING
FACE AREA (BOXED):	2.8333' x 0.8333' = 2.3610 SF
QUANTITY:	3
HEIGHT:	9.8333 FT.
ILLUMINATION:	NO



I. ENTERPRISE SIGN ON THE BUILDING FACADES

- AREA / FACE OF THE ENTERPRISE SIGNS ON THE SINGLE FACADE:
 - FRONT FACADE (LENGTH = 47.0')
 - MAXIMUM AREA / FACE ALLOWED: 2 x 47 = 94.0 SF
 - AREA / FACE PROPOSED:
 - SIGN #5 = 32.8334 SF
 - SIGN #4 = 14.0000 SF
 - TOTAL = 46.8334 SF < 94 SF
 - NON-DRIVE-THRU FACADE (LENGTH = 99.3')
 - MAXIMUM AREA / FACE ALLOWED: 2 x 99.3 = 198.6 SF
 - AREA / FACE PROPOSED:
 - SIGN #4 = 14.0000 SF
 - TOTAL = 14.0000 SF < 198.6 SF
 - DRIVE-THRU FACADE (LENGTH = 99.30')
 - MAXIMUM AREA / FACE ALLOWED: 2 x 99.30 = 198.60 SF
 - AREA / FACE PROPOSED:
 - SIGN #5 = 32.8334 SF
 - SIGN #4 = 14.0000 SF
 - TOTAL = 46.8334 SF < 198.60 SF
 - REAR FACADE: NONE
- NUMBER OF ENTERPRISE SIGNS:
 - NUMBER OF SIGNS PERMITTED:
 - THREE (3) ON PREMISES. NO MORE THAN TWO ON EACH FACADE.
 - NUMBER OF ENTERPRISE SIGNS PROPOSED:
 - SIGNS ON FRONT FACADE: 2 (SIGNS #4 & #5)
 - SIGN ON NON-DRIVE-THRU FACADE: 1 (SIGN #4)
 - SIGNS ON DRIVE-THRU FACADE: 2 (SIGNS #4 & #5)
 - SIGN ON REAR FACADE: NONE

II. DIRECTIONAL SIGNS ON THE BUILDING FACADES

- MAX. AREA / FACE ALLOWED - 8 SF / SIGN
- AREA / FACE PROPOSED:
 - SIGN #3 = 2.6026 SF < 8 SF ALLOWED
 - SIGN #8 = 2.3610 SF < 8 SF ALLOWED
- STRUCTURAL TYPE ALLOWED: WALL-MOUNTED

III. DIRECTIONAL FREESTANDING SIGNS

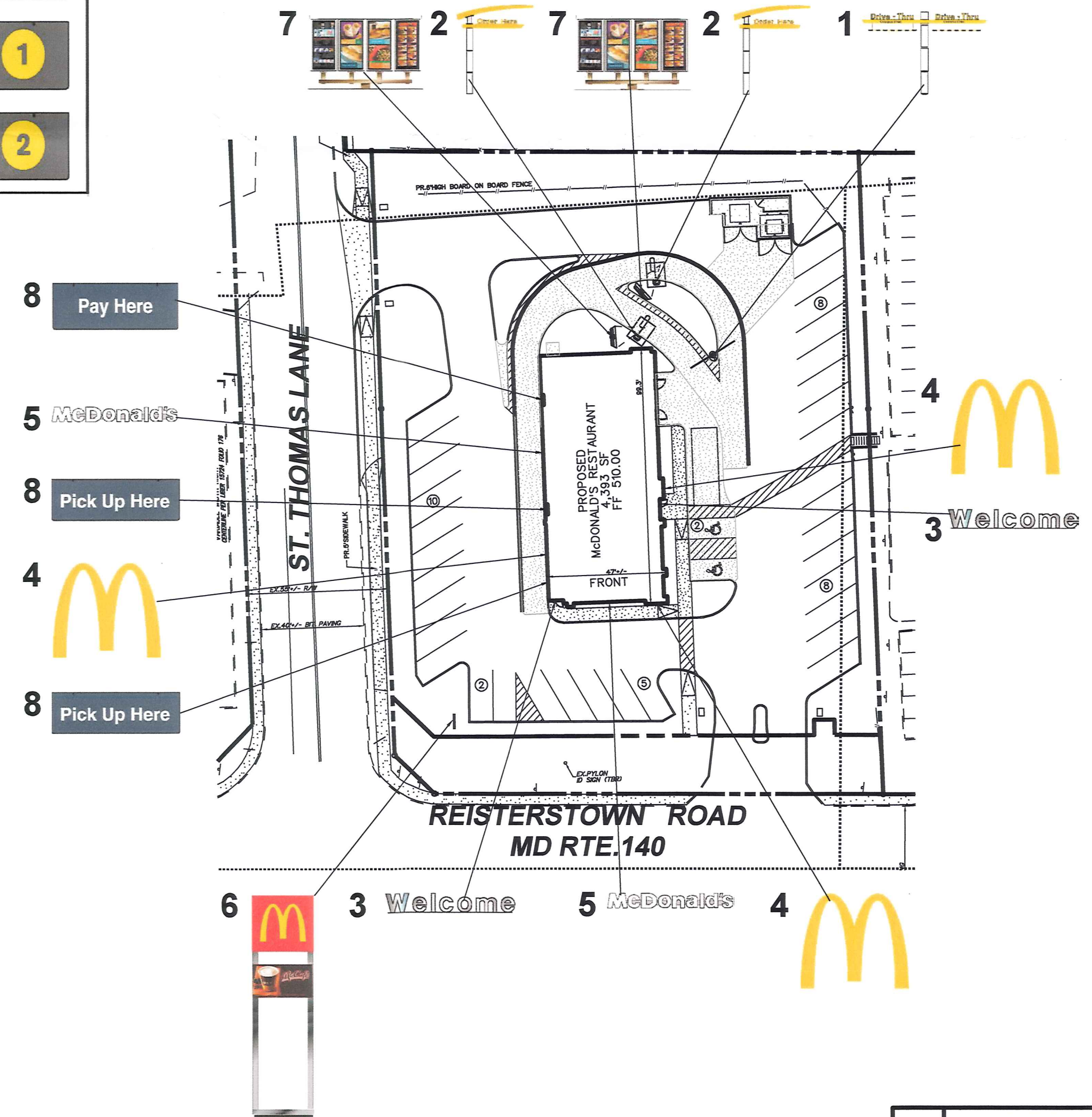
- MAX. AREA / FACE ALLOWED: 8 SF / SIGN
- AREA / FACE PROPOSED:
 - SIGN #1 = 6.8950 SF < 8 SF ALLOWED
 - SIGN #2 = 3.5835 SF < 8 SF ALLOWED
- STRUCTURAL TYPE ALLOWED: FREESTANDING
- MAX. HEIGHT ALLOWED: 6 FT
 - SIGN #1 = 10.6967 FT > 6 FT
 - SIGN #2 = 9.6667 FT > 6 FT

IV. ENTERPRISE FREESTANDING ROAD SIGN: (SIGN #6)

- MAX. AREA / FACE ALLOWED: 75 SF
- MAX. AREA / FACE PROPOSED: 66.1463 SF
- MAX. HEIGHT ALLOWED: 25'
- MAX. HEIGHT PROPOSED: 25'
- MAX. NUMBER / PREMISES ALLOWED: 1 PER FRONTAGE
- NUMBER OF PROPOSED SIGNS: 1

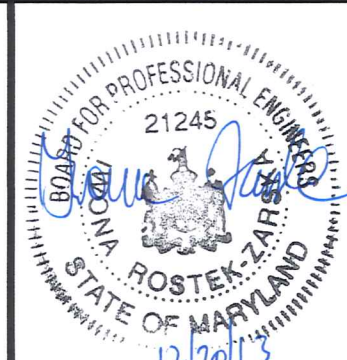
V. ENTERPRISE FREESTANDING ORDER BOARD (SIGN #7)

- MAX. AREA / FACE ALLOWED: 50 SF PER ORDER BOARD
- MAX. AREA / FACE PROPOSED: 40.9688 SF
- MAX. HEIGHT ALLOWED: 6 FT
- MAX. HEIGHT PROPOSED: 6.75 FT > 6 FT
- MAX. NUMBER / PREMISES ALLOWED: 2
- NUMBER OF PROPOSED SIGNS: 2



NOTE:
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Consulting Engineers
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BALTIMORE - WASHINGTON REGION
6903 ROCKLEDGE DRIVE, SUITE 1100
BETHESDA, MARYLAND 20817
PHONE (240) 497-3626

REVISIONS			
DATE	NO.	DESCRIPTION	BY

PLAN TO ACCOMPANY ZONING PETITION
SIGNAGE DETAILS AND DATA
McDONALD'S RESTAURANT
10021 REISTERSTOWN ROAD
OWINGS MILLS, MARYLAND 21117
BALTIMORE COUNTY, MARYLAND
SCALE: N.T.S.

ELECTION DISTRICT 3, C2
DATE: DECEMBER, 2013

DRAWING NO.
V-2
SHEET 2 OF 2

MATCH LINE STA. 371+00 - SEE SHEET PS-02

SYMBOL	DESCRIPTION
	CARBIDE GRINDING & RESURFACING
	FULL DEPTH HMA
	CONCRETE SIDEWALK
	PAVEMENT / SIDEWALK REMOVAL
	EXISTING UTILITY POLE
	DETECTABLE WARNING SURFACE
	TREE REMOVAL
	DRIVEWAY / PARKING HMA
	RELOCATED UTILITY POLE
	TYPE 'B' SOIL STABILIZATION MATTING
	PROPOSED TRAVEL LANE

WARNING:
2-15,000 - volt high-pressure oil filled (PSI) pipe type cables. Hand digging is required when working in the area of the cables and BGE inspection needs to be present. Call BGE @ 410-291-3094 or 410-291-1212 48 hours prior to excavation to have an inspector present. Damage to these cables is extremely costly to those who damage them.



SCALE IN FEET

0 10 20 40

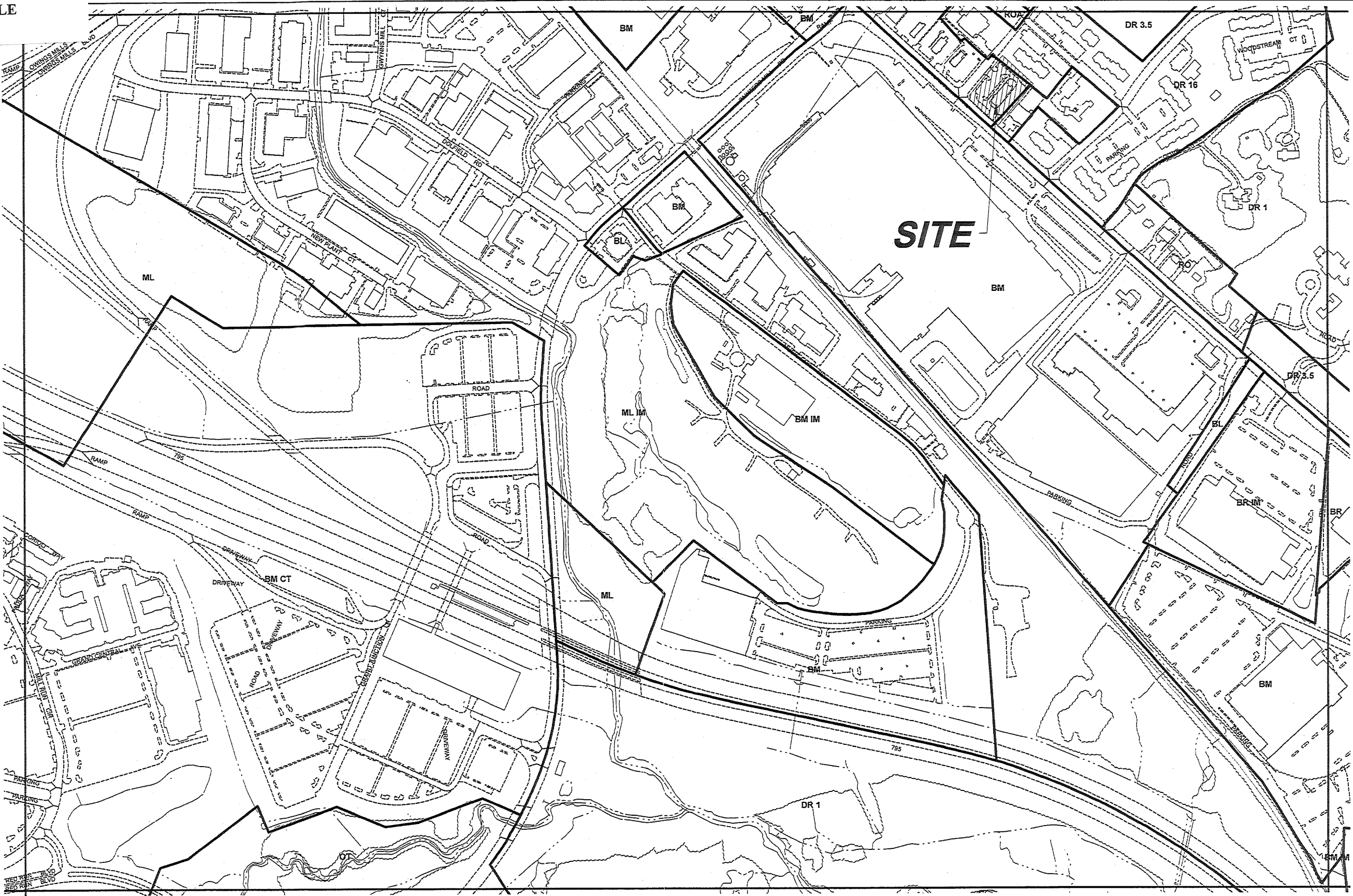
MODIFIED STANDARD TYPE 'A' COMBINATION
CONCRETE CURB AND GUTTER
12 INCH GUTTER PAN 12 INCH DEPTH
(SEE STD. NO. MD 620.02)

SEE SHEET PS-07 FOR ADDITIONAL
QUANTITY NOTES AND TEST PIT CHART.

MATCH LINE STA. 375+50 - SEE SHEET PS-04

QUANTITY NOTES

REDUCED FROM ORIGINAL SIZE
NOT TO SCALE



Plan Sheet: 067B1

Note:
The zoning depicted in this map incorporates the actions associated with 2012 Comprehensive Zoning Map Process and Baltimore County Board of Appeals actions through December 31, 2012.

Legend

Zoning	Streams	Rail Lines
Buildings	Roads	Vegetation

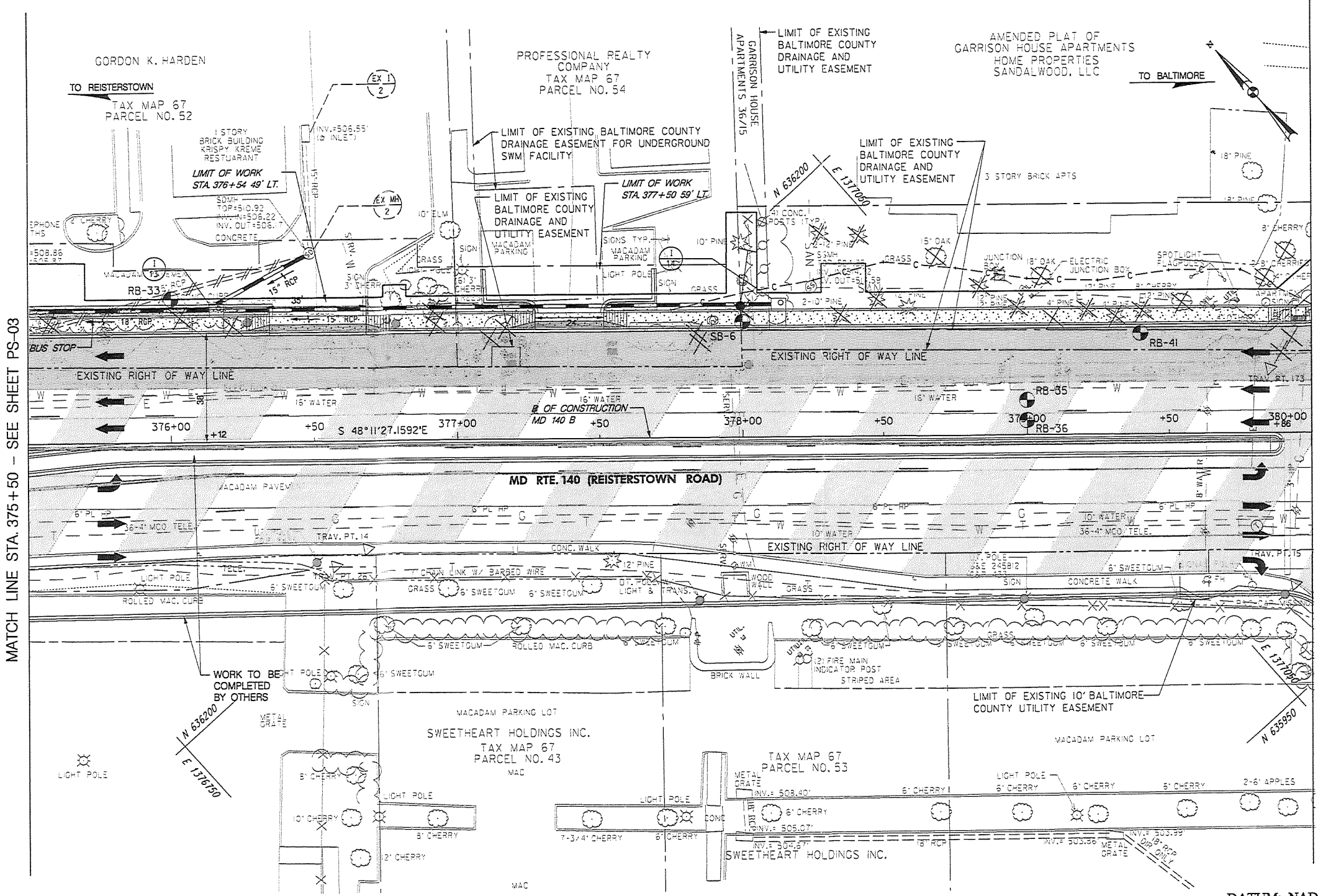
Baltimore County
Department of Planning
Official Zoning Map

Scale
1" = 200'
0 100 200 400 Feet

Data Sources:
Planimetric Data - Baltimore County
OT/IGIS Services Unit
1:2400, from 2008 photography
Zoning - Baltimore County Office of Planning
1:2400, 2012

REDUCED FROM ORIGINAL SIZE
NOT TO SCALE

BORING TARGET DATA					
TARGET	BASELINE	STATION	OFFSET	NORTHING	EASTING
SB-6	MD 140 B	378+00.00	40.00' LT	636178.0299	1376992.8374



MATCH LINE STA. 375+50 - SEE SHEET PS-03

MATCH LINE STA. 380+00 - SEE SHEET PS-05

QUANTITY NOTES		
MODIFIED STANDARD TYPE 'A' COMBINATION CONCRETE CURB AND GUTTER 12 INCH GUTTER PAN 12 INCH DEPTH (SEE STD. NO. MD 620.02)		
STATION	L.F.	REMARKS
375+50 TO 376+33. LT	174'	
376+68 TO 377+27. LT	104'	
377+51 TO 380+00. LT	283'	

1' CONCRETE SLOT		
STATION	L.F.	REMARKS
375+50 TO 376+85. LT	85'	

5 INCH CONCRETE SIDEWALK		
STATION	S.F.	REMARKS
375+50 TO 376+32. LT	423	
375+50 TO 376+33. LT	165	PARKING LOT
376+69 TO 377+26. LT	293	
377+52 TO 380+00. LT	1235	

SIDEWALK RAMP AND DETECTABLE WARNING SURFACE (MD STD 655.40)		
STATION	TYPE	WARNING SURFACE (SF)
376+31.52, 39.9 LT	TYPE A	
376+70.30, 39.9 LT	TYPE A	
377+25.22, 39.8 LT	TYPE A	
377+53.57, 39.9 LT	TYPE A	
379+95.40, 38.7 LT	655.12	10

PLACE FURNISHED TOPSOIL 4 INCH DEPTH		
STATION	S.Y.	REMARKS
376+69 TO 377+09. LT	10	
377+75 TO 380+00. LT	224	

TURFGRASS ESTABLISHMENT		
STATION	S.Y.	REMARKS
376+69 TO 377+09. LT	10	
377+75 TO 380+00. LT	224	

GRINDING HOT MIX ASPHALT 0 TO 2 INCH		
STATION	S.Y.	REMARKS
375+50 TO 380+00. LT	2,572	

6 INCH PERFORATED CIRCULAR PIPE UNDERDRAIN (SEE STD. NO. MD 387.11)		
STATION	L.F.	REMARKS
375+50 TO 380+00. LT	450'	

TYPE A CURB - ANY HEIGHT		
STATION	L.F.	REMARKS
375+50 TO 376+33. LT	83'	
376+90 TO 377+27. LT	37'	
377+52 TO 379+85. LT	233'	

STANDARD TYPE A CURB 8 INCH X 16 INCH		
STATION	L.F.	REMARKS
379+85 TO 380+00. LT	15'	

SHA STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION
HIGHWAY DESIGN DIVISION
MD 140 (REISTERSTOWN ROAD)
NORTH OF PAINTERS MILL ROAD TO
SOUTH OF GARRISON VIEW ROAD

RK&K
RUMMEL, KLEPPER & KAHL, LLP
81 MOSHER STREET | BALTIMORE, MD 21217
PH: (410) 728-2500 FAX: (410) 728-3160
www.rk.com

Engineers | Construction Managers | Planners | Scientists

PAVEMENT LEGEND	
	CARBIDE GRINDING & RESURFACING
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	CONCRETE SIDEWALK
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	RELOCATED UTILITY POLE

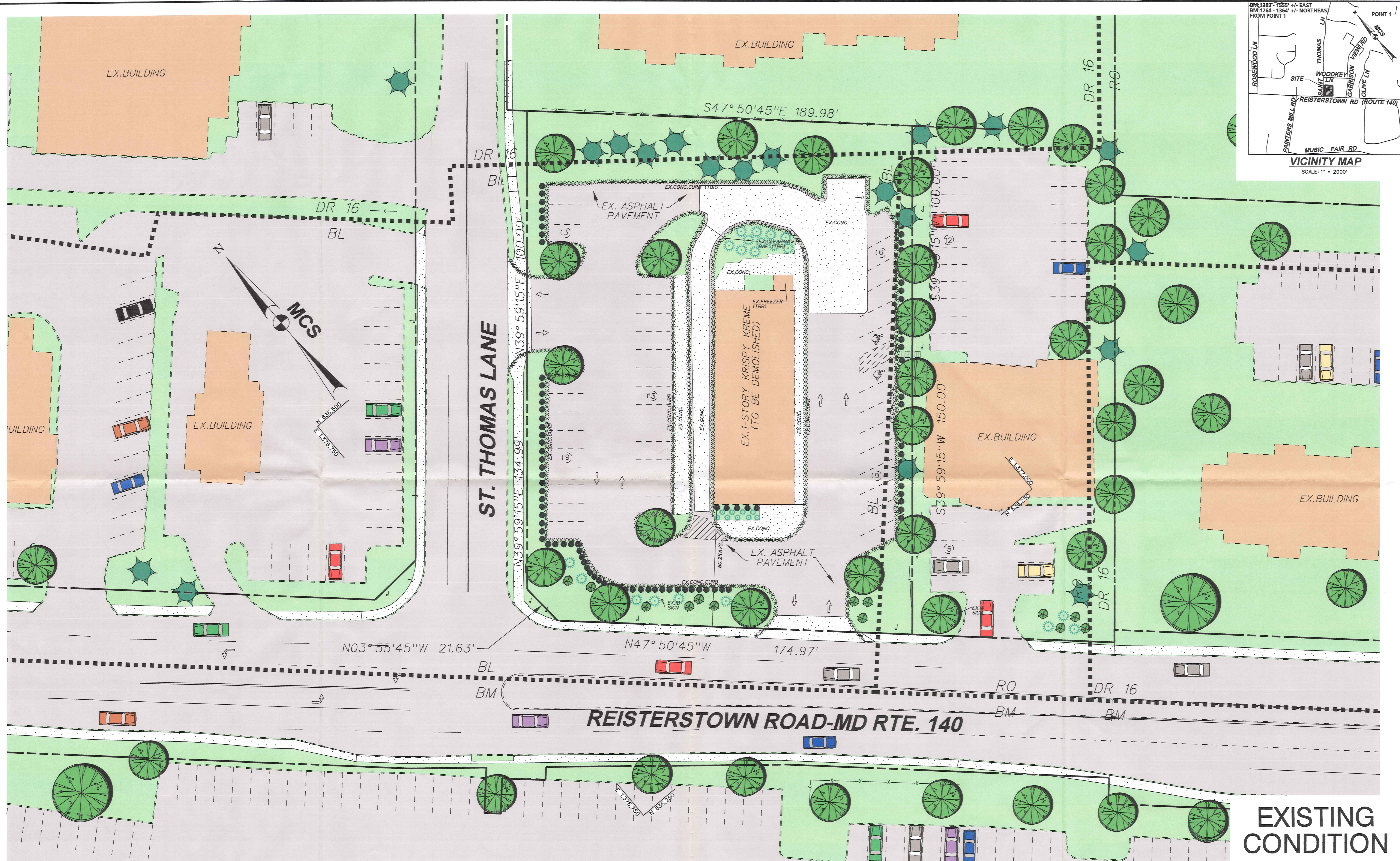
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0 10 20 40
SCALE IN FEET

CROSS REFERENCE		R / W PLAT NUMBER	REVISIONS
ITEM	SHEET NO.		
TYPICAL SECTION SHEETS	TS-01		
GEOMETRIC LAYOUT SHEETS	GS-02		
ROADWAY PROFILE SHEETS	PR-03		

ROADWAY PLAN			
SCALE	1" = 20'	DATE	MAY 3, 2013
DESIGNED BY	DIR / JDG	COUNTY	BALTIMORE COUNTY
DRAWN BY	SJS	LOGMILE	4.580 TO 5.025
CHECKED BY	KBK	HORIZONTAL SCALE	N/A
F.A.P. NO.	SEE TITLE SHEET	VERTICAL SCALE	N/A
DRAWING NO.	PS-04	OF	07
SHEET NO.	20	OF	?

PLOTTED: Thursday, August 01, 2013 AT 12:11 PM
FILE: \\baldwin\2007\2007\07250_shahead\140-Reisterstown\CADD\Plan\140-R004_M0140.dgn



**EXISTING
CONDITION**

BLDG
Baltimore Land Design Group Inc.
Consulting Engineers
222 SCHILLING CIRCLE SUITE 105 • HUNT VALLEY, MARYLAND 21030
PHONE: 410.229.9851 • FAX: 410.229.9865 • BLDG@BLDGINC.COM

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1000 WELLER CIRCLE, SUITE 214
WESTMINSTER, MARYLAND 21158

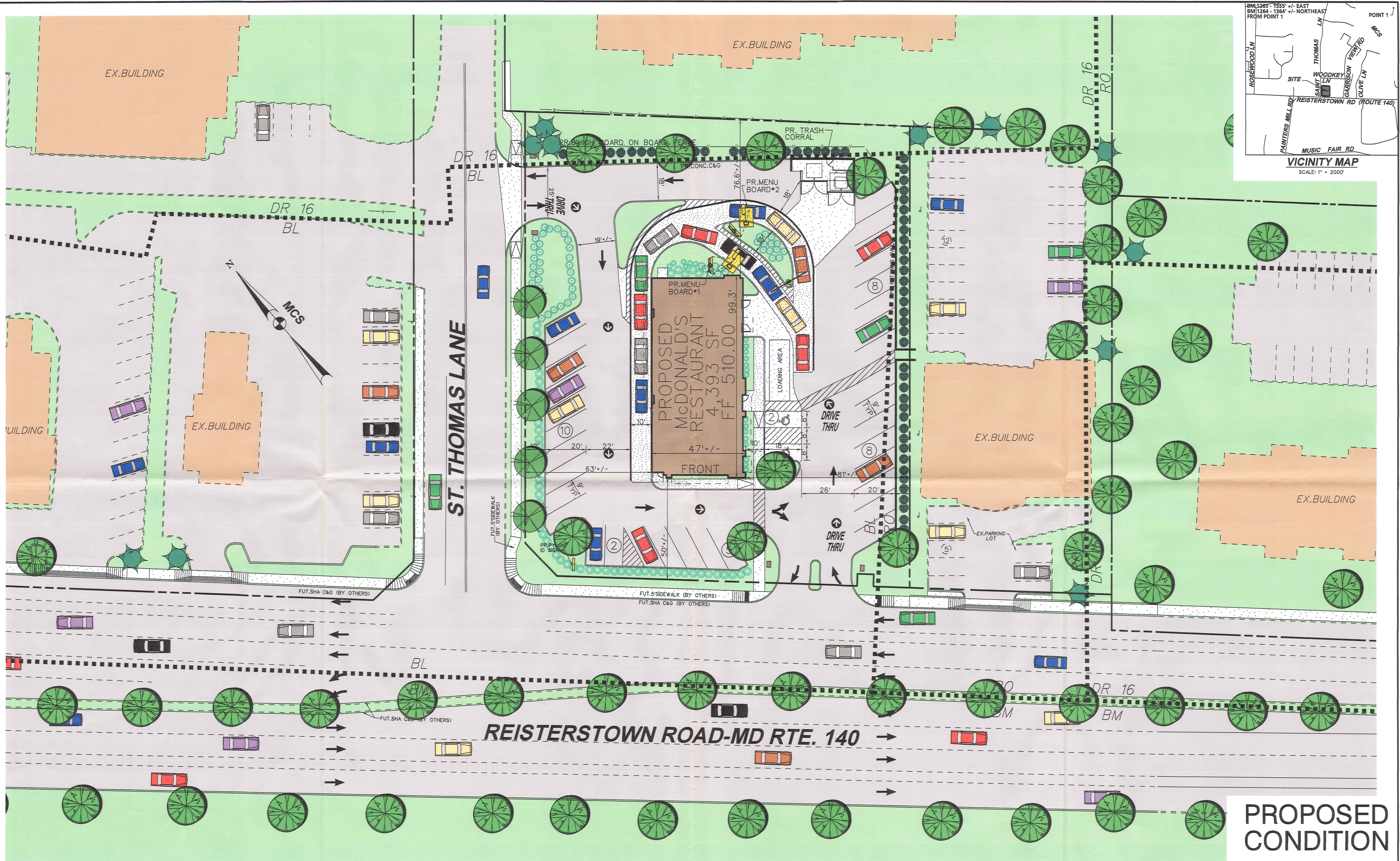
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McDONALD'S USA, LLC
BALTIMORE - WASHINGTON REGION
6903 ROCKLEDGE DRIVE, SUITE 1100
BETHESDA, MARYLAND 20817
PHONE (240) 497-3626

REVISIONS				BY
DATE	NO.	DESCRIPTION		

COLOR EXHIBIT
McDONALD'S RESTAURANT
10021 REISTERSTOWN ROAD
OWINGS MILLS, MARYLAND 21117
BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 20'

ELECTION DISTRICT 3, C2
DATE: MARCH, 2014

DRAWING NO.
C-1
SHEET 1
EXHIBIT



**PROPOSED
CONDITION**

BLDG

Baltimore Land Design Group Inc.
Consulting Engineers

222 SCHILLING CIRCLE SUITE 105 • HUNT VALLEY, MARYLAND 21106
PHONE: 410.229.9851 • FAX: 410.229.9865 • BLDG@BLDGINC.COM

PROFESSIONAL CERTIFICATION

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 27742, EXPIRATION DATE: JULY 18, 2012.

OWNER

GORDON K. HARDEN
1000 WELLER CIRCLE, SUITE 214
WESTMINSTER, MARYLAND 21158

DEVELOPER / APPLICANT

McDONALD'S USA, LLC
BALTIMORE - WASHINGTON REGION
6903 ROCKLEDGE DRIVE, SUITE 1100
BETHESDA, MARYLAND 20817
PHONE (240) 497-3626

REVISIONS			
DATE	NO.	DESCRIPTION	BY

COLOR EXHIBIT

McDONALD'S RESTAURANT

10021 REISTERSTOWN ROAD
OWINGS MILLS, MARYLAND 21117

BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 20'

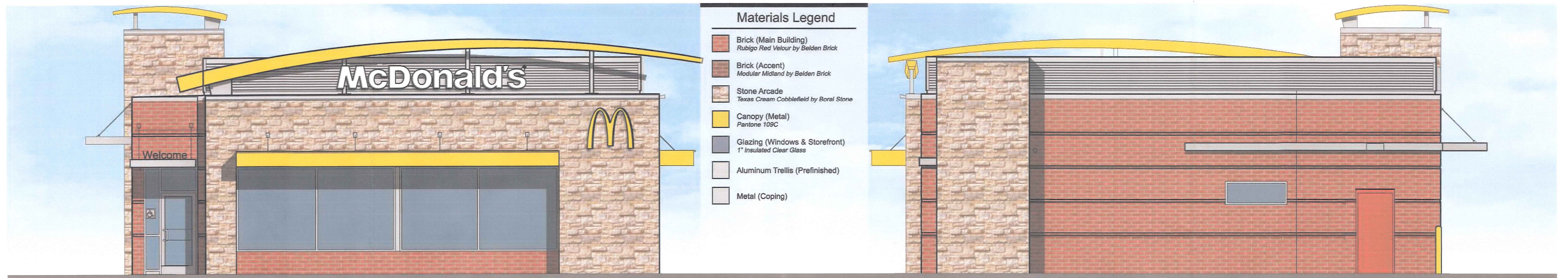
ELECTION DISTRICT 3, C2
DATE: MARCH, 2014

DRAWING NO.

C-2

SHEET 2 OF 2

EXHIBIT



Front Elevation

Rear Elevation



Non-Drive-Thru Side Elevation



Drive-Thru Side Elevation

Proposed McDonald's Restaurant
10021 Reisterstown Road
Owings Mills, Maryland



0 200 400 800 1,200 1,600 Feet

Orthophotography - Spring 2011



LEGEND

ROUTE 1
3MIN-15SEC

ROUTE 2
4MIN-30SEC

ROUTE 3
5MIN-40SEC

ST. THOMAS LN.

GARRISON FOREST RD.

GREENSPRING VALLEY RD.

MD 140 (REISTERSTOWN RD.)

SITE

DESTINATION

TRAFFIC CONCEPTS, INC.
7525 Connelley Drive
Suite B
Hanover, MD 21076
(410) 760-2911
FAX: (410) 760-2915
EMAIL: TRAFFIC@TRAFFIC-CONCEPTS.COM

TRAVEL ROUTE EXHIBIT
10021 REISTERSTOWN RD. McDONALDS
BALTIMORE COUNTY

DRAWN BY: M. ROSEN	DESIGNED BY: M. KEELEY	CHECKED BY:
DATE: 5-28-2014	SHEET NO: 1 OF 1	SCALE:



Department of Public Works

2013 Basic Services Map Transportation Zones

Legend

Intersections

Level Of Service

○

 D

●

 E

●

 F

LAND_TYPE

Urban

Transportation Zones

Level of Service

D

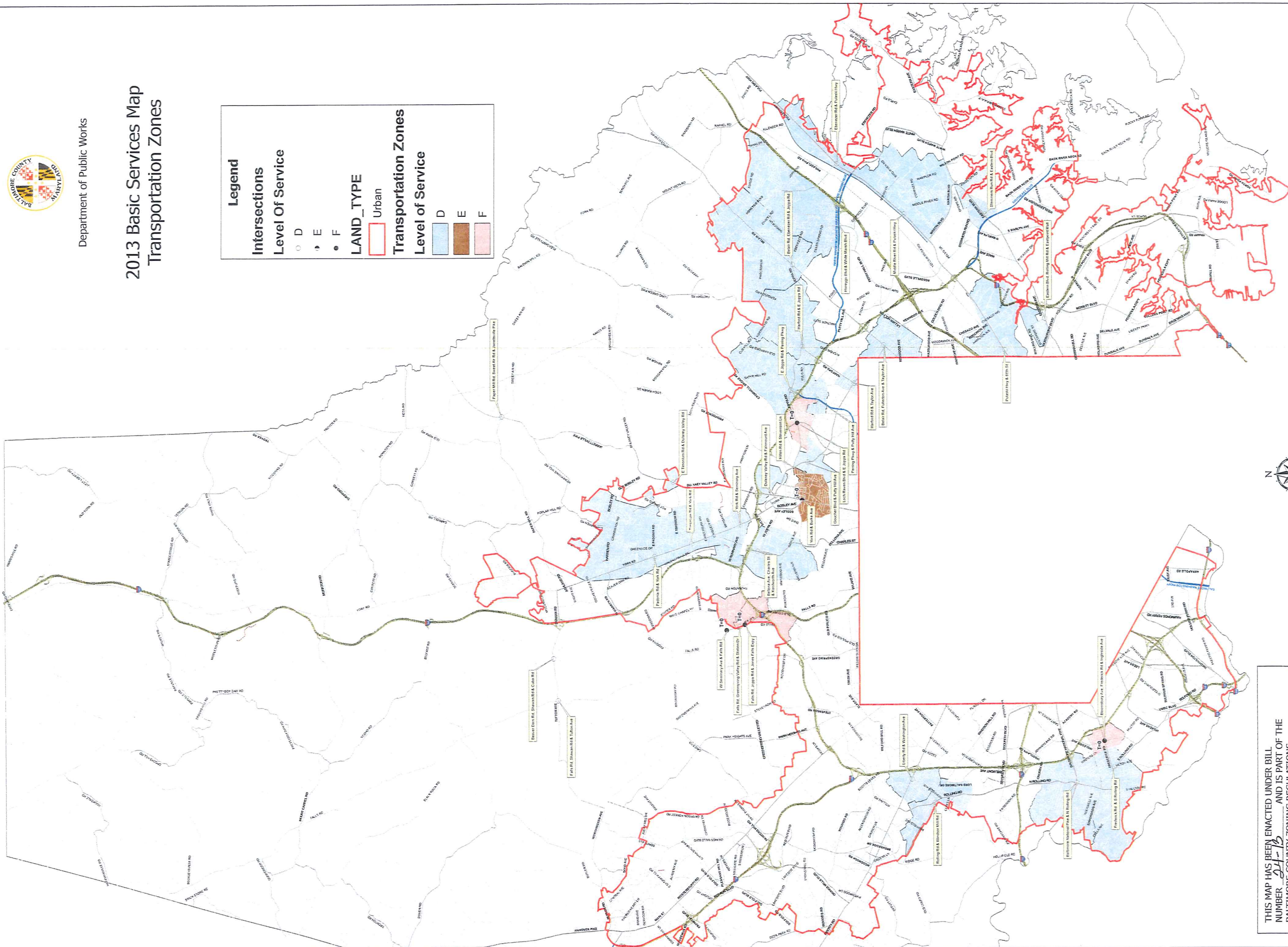
 D

E

 E

F

 F



Feature Class Production Dates
Intersections 2013
Transportation Zones 2013
Urban Rural Demarcation Line 2012
Roads 2013
County Boundary 2008
Produced by the Baltimore County Department of Public Works
North American Datum 1983 146RN, U.S. Survey Foot
Published May 24, 2013

Scale 1 inch = 4,000 feet

0

2,000

4,000

8,000

12,000

16,000

Feet

THIS MAP HAS BEEN ENACTED UNDER BILL NUMBER 24-13 AND IS PART OF THE BALTIMORE COUNTY ZONING REGULATIONS, 1955, AS AMENDED BY THE BILL ADOPTED May 10, 2013. EFFECTIVE May 20, 2013.

[Signature]
COUNCIL OF BALTIMORE COUNTY



Department of Public Works

2014 Basic Services Map Transportation Zones

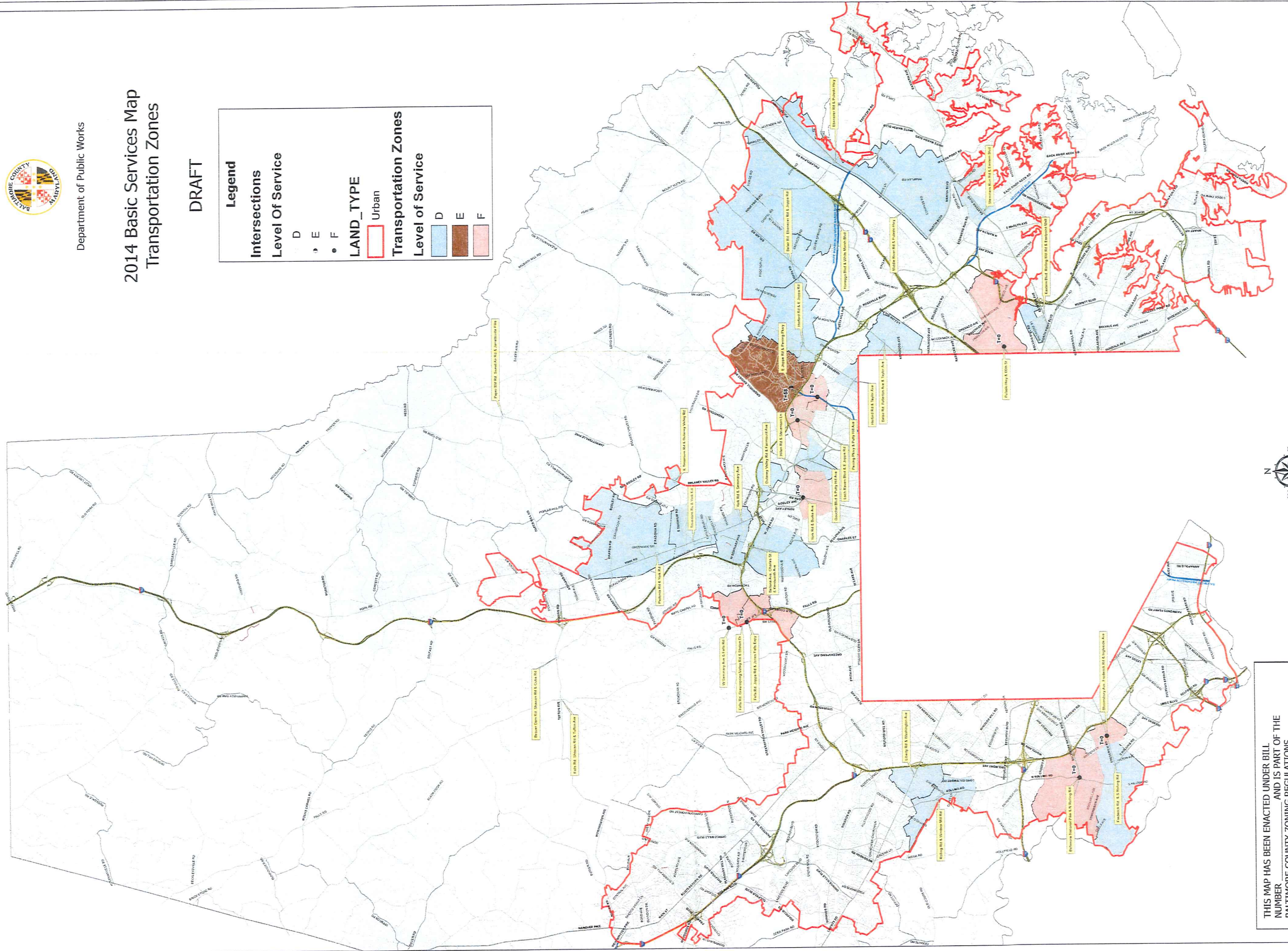
DRAFT

Legend

Intersections
Level Of Service
D
E
F

LAND_TYPE
Urban

Transportation Zones
Level of Service
D
E
F



THIS MAP HAS BEEN ENACTED UNDER BILL
NUMBER _____ AND IS PART OF THE
BALTIMORE COUNTY ZONING REGULATIONS,
1955, AS AMENDED BY THE BILL ADOPTED
_____ EFFECTIVE _____

COUNCIL OF BALTIMORE COUNTY

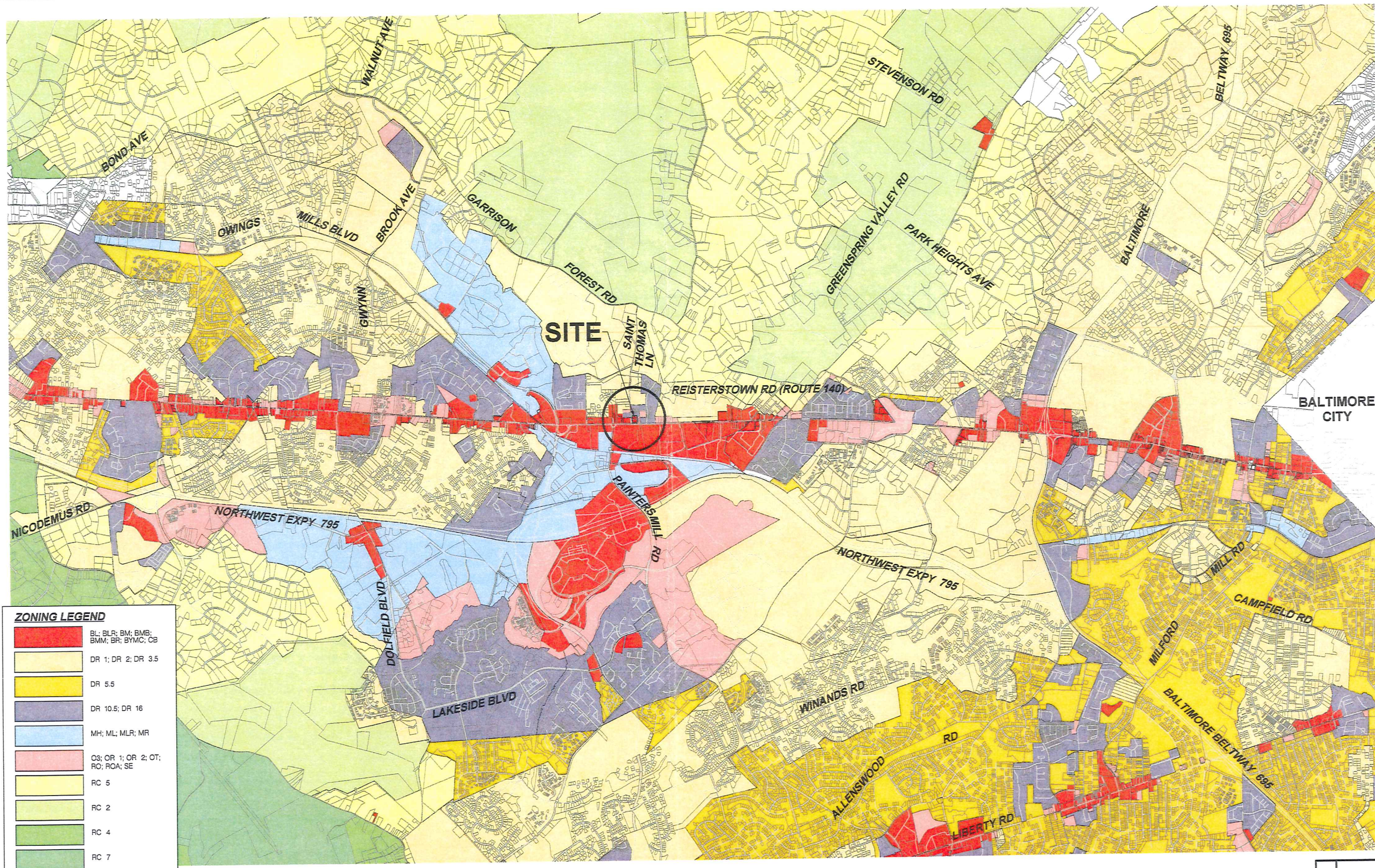
Scale 1 inch = 4,000 feet



Feature Class Production Dates
Transportation Zones 2014
Intersections 2014
Urban Land Demarcation Line 2012
County Boundary 2008
Produced by the Baltimore County Department of Public Works
North American Datum 1983 (NAD83), U.S. Survey Feet
Published January 23, 2014

ALL-STATE LEGAL®

EXHIBIT



ZONING LEGEND

[Red Box]	BL; BLR; BM; BMB; BMM; BR; BYMC; CB
[Light Yellow Box]	DR 1; DR 2; DR 3.5
[Yellow Box]	DR 5.5
[Purple Box]	DR 10.5; DR 16
[Light Blue Box]	MH; ML; MLR; MR
[Pink Box]	O3; OR 1; OR 2; OT; RO; ROA; SE
[Light Green Box]	RC 5
[Medium Green Box]	RC 2
[Dark Green Box]	RC 4
[Darkest Green Box]	RC 7

BLDG

Baltimore Land Design Group Inc.
Consulting Engineers

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OWNER

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WESTMINSTER, MARYLAND 21158

DEVELOPER / APPLICANT

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6903 ROCKLEDGE DRIVE, SUITE 1100
BETHESDA, MARYLAND 20817
PHONE (240) 497-3626

REVISIONS			
DATE	NO.	DESCRIPTION	BY

ZONING AREAS
EXHIBIT

McDONALD'S RESTAURANT

10021 REISTERSTOWN ROAD
OWINGS MILLS, MARYLAND 21117

BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 20'

ELECTION DISTRICT 3, C
DATE: MARCH, 2014

ALL-STATE LEGAL

EXHIBIT

