

2/8/16

BEFORE THE COUNTY BOARD OF APPEALS
FOR BALTIMORE COUNTY

IN RE: PETITION FOR SPECIAL HEARING
BY NORTH POINT RECYCLING, LLC
FOR THE PROPERTY LOCATED ON THE
W/S HALETHORPE FARMS RD, 395' S OF
C/L TRIDENT COURT
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District

Case No.: 2014-0278-SPH

Recovermat Mid-Atlantic, LLC,
Legal Owner/Appellant

North Point Recycling, LLC,
Petitioner/Appellee

ORDER OF DISMISSAL

This matter comes to the Board of Appeals by way of an appeal filed by Howard L. Alderman, Jr., Esquire, on behalf of Recovermat Mid-Atlantic, LLC, Legal Owner/Respondent/Appellant from a decision of the Administrative Law Judge dated October 1, 2014 in which the requested Petition for Special Hearing was granted with conditions.

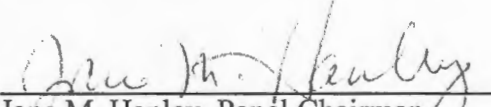
WHEREAS, in open public hearing before the Board held on January 7, 2016, Counsel for Petitioner/Appellee, North Point Recycling, LLC, voluntarily and on the record withdrew the Petition for Special Hearing; and

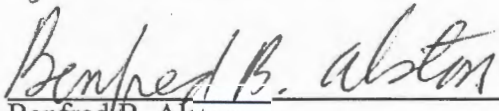
WHEREAS, in accordance with Rule 3.b.2. of the *Rules of Practice and Procedure* of this Board of Appeals, any withdrawal of a Petition that is withdrawn less than ten (10) days before the scheduled hearing date shall be dismissed with prejudice; and

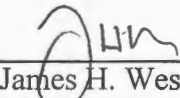
IT IS THEREFORE ORDERED this 8th day of February, 2016,
by the Board of Appeals of Baltimore County that the Petition for Special Hearing in Case No. 14-

278-SPH be and the same is hereby **DISMISSED with prejudice**, thereby rendering the October 1, 2014 Order of the Administrative Law judge as **null and void**.

BOARD OF APPEALS OF
BALTIMORE COUNTY


Jane M. Hanley, Panel Chairman


Benfred B. Alston


James H. West

Copies to Counsel:

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
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Towson, Maryland 21204
Attorneys for Legal Owner/Appellant

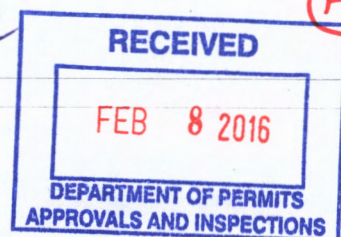
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2/9/16
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February 8, 2016

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Edward J. Gilliss, Esquire
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RE: In the Matter of: *Recovermat Mid-Atlantic, LLC – Legal Owner*
North Point Recycling, LLC – Aggrieved
Case No.: 14-278-SPH

Dear Counsel:

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

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

Very truly yours,

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure
Duplicate Original Cover Letter

c: See Distribution List attached

Distribution List

February 8, 2016

Page 2

c: Recovermat Mid-Atlantic, LLC
North Point Recycling, LLC
Robert D. Capalongo, RLA/CNA Engineers
Paul Tharp
Katie Heam
Dale Fields, Business Licensing/Motor Vehicle Administration
Phil Dacey, Esquire/Motor Vehicle Administration
Office of People's Counsel
Arnold Jablon, Deputy Administrative Officer, Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

12/30/15

BEFORE THE COUNTY BOARD OF APPEALS
FOR BALTIMORE COUNTY

RECEIVED

DEC 30 2015

BALTIMORE COUNTY
BOARD OF APPEALS

INRE: **PETITION FOR SPECIAL HEARING**
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District

Case No.: **2014-0278-SPH**

Owner/Appellant

North Point Recycling, LLC,

Appellee/Competitor

APPELLANT'S OPPOSITION IN RESPONSE TO
APPELLEE'S MOTION TO DISMISS

Recovermat Mid-Atlantic, LLC ("**Recovermat**" or "**Appellant**"), Owner of the above-referenced property and a party (without waiving objection as to standing of North Point Recycling, LLC) in the above-captioned case, hereby files its Opposition in Response to the Motion to Dismiss¹ filed by North Point Recycling, LLC ("**North Point**" or "**Appellee**"), and in support of its opposition states as follows:

Recovermat has conducted manufacturing operations on the subject property in Halethorpe for over twenty (20) years following a public hearing wherein its manufacturing

¹ Recovermat, by filing this Response does not waive its objection, based on legal standing, to North Point's filing of its Petition for Special Hearing and/or North Point's continued participation in these proceedings. See *Benn Ray v. Mayor and City Council of Baltimore*, 430 Md. 74, 85 (2013); *Committee for Responsible Dev. On 25th Street v. Mayor and City Council of Baltimore*, 137 Md. App. 60, 86 (2001); *Bryniarski v. Montgomery County Board of Appeals*, 247 Md. 137 (1967); *Superior Outdoor Signs, Inc. v. Eller Media Co.*, 150 Md. App. 479, 500 (2003); *Eastern Service Ctrs., Inc. v. Cloverland Farm Dairy, Inc.*, 130 Md. App. 1, 9 (2000).

'use' was approved. North Point, a competitor of Recovermat, operates its business on the other side of Baltimore County from the subject property owned by Recovermat. Solely to stifle competition, North Point filed a Petition for Special Hearing seeking a determination that Recovermat's "use of the property, zoned MH-IM, as a junk yard is illegal . . ." under the *Baltimore County Zoning Regulations* ("BCZR").

Section 101.1 of the BCZR defines "Junkyard" as follows:

Any land used commercially or industrially for storage or for sale of scrap metal, wastepaper, rags or other junk, and any land, except as provided for by Section 428, used for the storage of unlicensed or inoperative motor vehicles, dismantling or storage of such vehicles or parts thereof, or used machinery, regardless of whether repair or any other type of commercial operation occurs, **but excluding scrap for use in manufacturing processes on the premises or waste materials resulting from such processes** or resulting from the construction or elimination of facilities for such processes. The term does not include unlicensed motor vehicles located at automotive service stations, service garages or new or used motor vehicle outdoor sales areas, or any vehicle stored pursuant to Section 405A. (Emphasis supplied.)

To reach the conclusion he desired, the Administrative Law Judge ("ALJ") applied only the first fourteen (14) words of that definition² and ignored completely the legislatively adopted exception (highlighted above) for scrap metal used in Recovermat's manufacturing process and the materials resulting from such processes³. It was for that reason that

² The 'pertinent part' of the definition quoted by the ALJ is "[a]ny land used commercially or industrially for storage or for sale of scrap metal." ALJ Order at 3.

³ A copy of the *Opinion and Order* of the ALJ, dated October 1, 2014, is attached hereto and incorporated herein as Exhibit A.

Recovermat noted an appeal to this Board.

ARGUMENT

- I. The 'issue' before this Board is set forth in Appellee's Petition for Special Hearing wherein it sought a determination that Recovermat's manufacturing operation as a "junk yard" is illegal.

Appellee, being unable to thwart the adoption and enactment of County Council Bill No. 35-15 which created the newly defined use of 'scrap metal processing facility', now seeks to define that which the County Council did not. Appellee states boldly and without qualification, support or authority, that the new and separately described use of "scrap metal processing facility" in BCZR Section 101.1 "is a lesser included subset of "Junkyards." This is like arguing that offices are subsets of medical offices and vice versa. Appellee ignores that each use has separate requirements and each use is permissible in different zoning classifications, either as of right or by special exception. In the MH zone, scrap metal processing facilities are a use permitted as of right, while junkyards are permitted only via special exception. Notwithstanding the significant legal difference, Appellee argues that the permitted use is "a subset" of a special exception use?

The 'issue' has not changed; rather, it is the law that has changed despite Appellee's substantial efforts to stop it. Recovermat is not introducing any new 'issue' as alleged by Appellee. If this appeal goes to a full hearing, Recovermat will argue directly the 'issue' of how its manufacturing processes fit within the exclusion contained in the definition of "Junkyard". Recovermat will also address the change in 'law' that the appellate courts have

said must be applied on appeal of a matter. A newly enacted law which affects a matter still in litigation when it became law will be “applied by the court reviewing the case at the time the statute takes effect **although it was not yet law when the decision appealed from was rendered . . .**” *Janda v. General Motors Corp.*, 237 Md. 161, 169 (1964) (Emphasis supplied.); *See also O’Donnell v. Bassler*, 289 Md. 501, 508 (1981); *Rockville Fuel & Feed v. Gaithersburg*, 266 Md. 117 (1972); *McHale v. DCW Dutchship, LLC*, 415 Md. 145, 161 (2010). Appellee would have this Board ignore the required application of change of law as ‘irrelevant to the proceedings.” *Appellee’s Motion* at 6. This Board should eschew Appellee’s proposition that applicable law be ignored or disregarded.

II. Appellee is the ‘master’ of its own pleadings and possesses the sole power to end the mootness it describes.

It is not clear to Recovermat why Appellee continues with its quest to classify Recovermat as a ‘Junkyard” when the County Council has enacted a new and specific **permitted use** (permitted as of right) — ‘scrap metal processing facility’⁴ — for manufacturing operations such as Recovermat. In contrast (and as described above), “Junkyards” are only permitted by way of Special Exception in the MH zone.

Appellee asserts in its Motion only that Recovermat “stores and sells scarp metal, and therefore fits within the definition of a Junkyard.” *Appellee’s Motion* at 6. Appellee refuses

⁴ See BCZR § 101.1 for the definition of the use; *See also* BCZR § 256.1.A.4, listing ‘scrap metal processing facility’ as a permitted use in the Manufacturing Heavy (MH) zone.

to apply the entire statutory definition of Junkyard as adopted by the County Council. Why? Because applying the entire definition negates classification of Recovermat's manufacturing operation as a Junkyard. It is well settled law that a statute must be construed statute "as a whole so that no word, clause, sentence, or phrase is rendered surplusage, superfluous, meaningless, or nugatory." *HNS Development, LLC v. People's Counsel for Baltimore County*, 200 Md. App. 1, 37-38 (2011); *See also Trail v. Terrapin Run, LLC*, 403 Md. 523, 580 (2008).

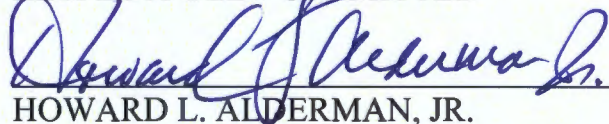
Appellee, as the master of its own pleadings, can end the 'mootness' it alleges and save the Board and the parties from needless expenditures of valuable time and money by merely following the Board's Rules. Specifically, Rule 3.b.2 of the *Rules of Practice and Procedure of the Baltimore County Board of Appeals*, authorizes the Appellee to withdraw its Petition for Special Hearing. The failure to withdraw its Petition thereby continuing with its request for a determination that Recovermat's use is a special exception use, given the specific action of the Baltimore County Council in enacting a use permitted as of right governing the Recovermat operations and use, is, at best, proceeding in bad faith. Moreover, where is the 'Candor Toward the Tribunal' mandated by Rule 3.3 of the *Maryland Rules of Professional Conduct*? Appellee is fully aware of the legal effect of Council Bill 35-15, its controlling authority relative to Recovermat's operations, the appellate court mandated application of change of law during pendency of an appeal, and that the now applicable law is directly adverse to the position advanced by Appellee in its Motion to Dismiss and Petition

for Special Hearing.

SUMMARY

Recovermat properly noted an appeal of the ALJ's decision regarding classification of Recovermat's manufacturing use as a Junkyard to this Board. The 'issue' pending before the Board is the proper classification of the 'use' on the subject property. During the pendency of the appeal, the County Council enacted a specific, use permitted as of right in the MH zone, which describes the very manufacturing use and operation of Recovermat. Recovermat has not changed the 'issue' pending on appeal; rather, the County Council changed the 'law' which this Board is obligated to apply. Application of that law renders Appellee's Petition moot. The Board should, upon consideration of the Motion filed by Recovermat, declare immediately that Appellee's Petition has been rendered moot by the act of the County Council and put an end to this costly and needless litigation.

RESPECTFULLY SUBMITTED



HOWARD L. ALDERMAN, JR.

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Towson, Maryland 21204

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410-296-2801 (Fax)

Attorneys for Recovermat Mid-Atlantic, LLC

CERTIFICATE OF SERVICE

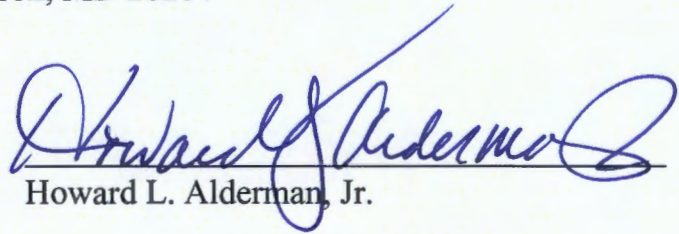
I HEREBY CERTIFY that on this 30th day of December, 2015, a copy of the foregoing Appellant's Opposition in Response to Appellee's Motion to Dismiss Appeal was mailed, postage prepaid, First Class United States Mail to:

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

and

was hand-delivered to

Edward J. Gilliss, Esquire
James L. Shea, Jr.
RMMR, LLP
102 W. Pennsylvania Ave, Suite 600
Towson, MD 21204



Howard L. Alderman, Jr.

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

(2202 Halethorpe Farms Road)

13th Election District

1st Councilmanic District

Recovermat Mid-Atlantic LLC

Legal Owner

Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* CASE NOS. 2014-0178-A
AND 2014-0278-SPH

* * * * *

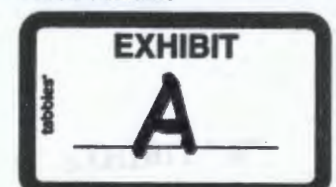
OPINION AND ORDER

These matters come before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed on behalf of the legal owner, Recovermat Mid-Atlantic LLC ("Recovermat"), and a Petition for Special Hearing filed by North Point Recycling, LLC. The Variance Petition seeks relief from the rear yard setback requirements, while the Petition for Special Hearing seeks a declaration that Recovermat is operating a "junkyard" at the site. The cases were combined for hearing.

Howard L. Alderman, Jr., Esquire with Levin & Gann, PA, represented the Petitioner in the Variance case, and Edward J. Gilliss, Esquire with Royston, Mueller, McLean & Reid, LLP, represented the Petitioner in the Special Hearing case. The Petitions were advertised and posted as required by the Baltimore County Zoning Regulations (B.C.Z.R.). Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP). That agency did not oppose the Variance request, but noted in the Special Hearing case that it "does not support a defined junkyard for this location."

PETITION FOR VARIANCE

The subject property is approximately 10 acres and is zoned M.H.-I.M. Recovermat





LEVIN & GANN, P.A.
ATTORNEYS AT LAW

Howard L. Alderman, Jr., Esquire | Principal
D: 410.321.4640 | halderman@levingann.com

December 30, 2015

VIA HAND DELIVERY

Krysundra Cannington, Administrator
Board of Appeals of Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

RECEIVED

DEC 30 2015

BALTIMORE COUNTY
BOARD OF APPEALS

RE: *In the Matter of Recovermat Mid-Atlantic, LLC*
Case No. 14-278-SPH
Appellant's Opposition in Response to Appellee's Motion to Dismiss

Dear Ms. Cannington:

Enclosed, please find the original and three copies of the *Appellant's Opposition in Response to Appellee's Motion to Dismiss* in the above-referenced matter. Upon the receipt and review of this letter and attached Appellant's Response, should you or the Board need any additional information in support of the opposition therein, please do not hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr.

HLA/gk

c: Recovermat Mid-Atlantic, LLC [via email]
Edward J. Gilliss, Esquire [via hand-delivery]
People's Counsel for Baltimore County [via regular mail]

2/18/05

In RE: PETITION FOR VARIANCE AND
SPECIAL HEARING
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District
Recovermat Mid-Atlantic, LLC
Legal Owner
Petitioner

* BEFORE THE
* BOARD OF APPEALS
* FOR BALTIMORE COUNTY
* Case No.: 2014-0278-SPH

* * * * *

MOTION TO DISMISS RECOVERMAT'S APPEAL

North Point Recycling, LLC, Appellee, by its undersigned counsel, hereby files the following Motion to Dismiss Recovermat's Appeal, and as reason therefor states as follows:

PROCEDURAL POSTURE

In Case No. 2014-0278-SPH, North Point Recycling, LLC ("North Point" or the "Appellee")) sought a declaration that Recovermat Mid-Atlantic, LLC ("Recovermat" or the "Appellant") was operating a "Junkyard," as that term is defined under § 101.1 of the Baltimore County Zoning Regulations (the "BCZR"). Administrative Judge John E. Beverungen (the "ALJ") determined that Recovermat's operation fell within the definition of a Junkyard as contained in this BCZR provision. A copy of the ALJ's October 1, 2014 Opinion and Order, which contained this determination, is attached hereto as **Exhibit "A."**

Recovermat appealed the ALJ's Junkyard ruling to the Baltimore County Board of Appeals (the "Board"). Recovermat's appeal is the only matter currently pending before the Board, and thus whether Recovermat's operation falls within the definition of a Junkyard pursuant to BCZR § 101.1 is the only issue to be determined by the Board at the *de novo* hearing currently scheduled for January 7, 2016.

For the reasons set out below, Recovermat's appeal must now be dismissed.

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BALTIMORE COUNTY
BOARD OF APPEALS

ARGUMENT

- I. The only issue that is to be determined on appeal is whether Recovermat's operation falls within the definition of a Junkyard pursuant to BCZR § 101.1.

The law is clear that, when a matter is appealed to the Baltimore County Board of Appeals, the issues which the Board must determine are confined to those issues that were determined below, and from which an appeal was taken. That issue was conclusively determined in *Daihl v. County Bd. of Appeals of Baltimore County*, 258 Md. 157, 265 A.2d 227 (1970). That case also involved a zoning decision appealed to the Baltimore County Board of Appeals. *Id.* at 158, 227-228. On appeal, the Court of Appeals addressed the scope of review of the County Board of Appeals in a *de novo* appeal. The question was whether the Board was free to consider *issues* outside those determined below and appealed (regardless of whether the *evidence* would be heard *de novo*). The Court of Appeals held that:

... we think the more sensible interpretation of the meaning of the scope of a *de novo* hearing as used in relation to an appeal heard by the County Board of Appeals, from a decision of the Zoning Commissioner, is that it is restricted to the specific issue or issues resolved by the Commissioner from which an appeal has been taken.

Id. at 163-164, 230.

Under Maryland law, it is clear that the Board, in a *de novo* hearing, may hear entirely new or different evidence, and that the Board is free to make its own determination (without deference to any earlier decision). What the Board may not do, however, is enlarge *the issues* to be determined beyond that which was determined below.

Here, the issue below was whether Recovermat's operation falls within the definition of a Junkyard pursuant to BCZR § 101.1. The ALJ's decision itself makes it clear that this was the sole issue. At the outset of the applicable portion of the ruling, the Opinion clearly states, "In Case No 2014-0278-SPH, the Petitioner seeks a declaration that Recovermat is operating a

junkyard on the property.” Ex. A., p. 3. The ALJ’s decision then analyzed that specific code provision, which defines a Junkyard as “[a]ny land used commercially or industrially for storage or for sale of scrap metal.” BCZR § 101.1. The ALJ then explicitly found that Recovermat fit within that definition. *See* Ex. A, p. 3-4 (“I believe that Recovermat’s operation, as described by witnesses at the hearing, constitutes a ‘junkyard,’ “This ‘sale’ (to the steel mills) of ‘scrap metal’ leads inexorably to the conclusion Recovermat is operating a ‘junkyard’ (as defined by the B.C.Z.R.) on the property.”). On appeal, the sole issue, therefore, is the same – whether the Appellant’s operation falls within the definition of a “Junkyard” pursuant to BCZR § 101.1.

The issue before the Board is not whether Recovermat’s operation may or may not also fit within a new category created by the recently passed Baltimore County Council Bill 35-15 (“Bill 35-15”).¹ The applicability of those provisions were not an issue before the ALJ, as that law did not even exist at that point. The definition of Junkyard contained in BCZR § 101.1 was adopted by Baltimore County Council Bill 135-1986, and was not modified in any way by Bill 35-15. The definition of Junkyard contained in BCZR § 101.1 was the same prior to the ALJ’s decision as it is today and there has been no substantive change in the law regarding what constitutes a Junkyard pursuant to the BCZR since that time. At no point was the applicability of this provision to the Appellant’s operation raised below, nor, obviously, did the ALJ’s decision make a determination on the applicability of this provision. Simply put, whether or not the Appellant’s operation fits within the scope of Bill 35-15 was not an issue before the ALJ, and is not, therefore, an issue before the Board. Bill 35-15 has no relevance to these particular proceedings; instead, the validity of Bill 35-15, and its applicability to the Appellants, are issues for another day in a different forum.

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¹ That Bill created the new category of a “scrap metal processing facility,” which did not exist prior to the ALJ’s determination. A scrap metal processing facility is a lesser included subset of junkyards.

While it is true that the Board is free to consider any and all evidence regarding the issue of whether Recovermat's operation falls within the definition of a Junkyard, this aspect of a *de novo* hearing does not expand *the issues* that the Board is free to consider beyond the issue decided by the ALJ. The issue of whether Recovermat's operation falls within the new category created by Bill 35-15 is an issue beyond the scope of Recovermat's appeal. The mere fact that the Board is free to render its own decision on the Junkyard issue, without deference to the earlier decision by the ALJ, does not expand the *scope of the issues* before the Board, and does not allow it to consider, as a wholly original matter, whether Recovermat is operating a scrap metal processing facility under Bill 35-15. The Court of Appeals has specifically held that such appeals to the Baltimore County Board of Appeals are "restricted to the specific issue or issues resolved by [the ALJ] from which an appeal has been taken." *Daihl, supra*.

For these reasons, the only issue before the Board on appeal is whether Recovermat's operation falls within the definition of a Junkyard pursuant to BCZR § 101.1.

II. The remedy for a moot appeal is dismissal of the appeal.

Recovermat has argued, in prior filings and correspondence, that the issue before the Board in this appeal is "moot." As recounted above, the sole issue for the Board to determine on appeal is whether Recovermat's operation falls within the definition of a "Junkyard" as that term is used in BCZR § 101.1. While the Appellee does not agree with most, if any, of the statements/arguments by the Appellant,² it agrees that the Appellant's appeal may be moot in the following sense.

² For example, the appellant has argued that the existence of Bill 35-15 "changed the law" and must be applied by the Board in this proceeding. As noted above, Bill 35-15 did not change the definition of "Junkyard" under BCZR 101.1, and, as articulated, application of this provision is the only issue on appeal. The appellant has also argued, oddly, that it cannot dismiss its own appeal voluntarily. The statement in this motion should not be construed as agreement with any of these positions, or any other position espoused by the Appellant, beyond what is stated herein.

Recovermat may very well assert that, notwithstanding the fact that it operates a Junkyard within the definition of BCZR § 101.1, its operation also fits within the separate classification of a “scrap metal processing facility,” a classification which was created by Bill 35-15 (and which is a lesser included subset of “Junkyards.”). While “Junkyards” require a special exception, Junkyards that are also scrap metal processing facilities may (arguably) be permitted of right. Thus, if Recovermat believes that it is entitled to continue to operate of right as a “scrap metal processing facility,” the determination of whether it is also operating as a Junkyard may make no practical difference to it. In this sense, the issue before the Board – whether the Appellant is a Junkyard—may be “moot.” That is not to say, however, that the determination that the Appellant has operated as Junkyard was or is incorrect, either before the ALJ or now. The Appellant is a Junkyard because it stores and sells scrap metal, and the definition of a Junkyard contained in BCZR § 101.1 therefore clearly applies. That definition has never changed throughout these proceedings.

To the extent that the Appellant argues that it may now operate of right pursuant to Bill 35-15, notwithstanding the fact that it may also be a Junkyard, then its appeal of that determination is, in fact, moot. Maryland Courts have held that ordinarily, the remedy for a moot appeal is a dismissal of the appeal prior to a determination on the merits. *See, e.g., Hammen v. Baltimore County Police Dept.*, 373 Md. 440, 450, 818 A.2d 1125, 1131 (2003); *Albert S. v. Dep't of Health & Mental Hygiene*, 166 Md. App. 726, 746, 891 A.2d 402, 414 (2006); *Prince George's County v. Columcille Bldg. Corp.*, 219 Md. App. 19, 25, 98 A.3d 1043, 1046 (2014); *Prince George's County v. Fraternal Order of Police, Prince George's County, Lodge 89*, 172 Md. App. 295, 303, 914 A.2d 199, 204 (2007). In the event that the Appellant argues that it may now operate of right, notwithstanding the fact that it is a Junkyard, because it

fits within some other provision of the BCZR, the Board must dismiss Recovermat's appeal as moot and allow the decision of the ALJ to stand.

If, however, Recovermat believes that it has never been a Junkyard under BCZR § 101.1, and that a determination of that issue is now necessary for whatever reason (whether because of a concern as to the underlying validity of Bill 35-15, or for some other reason), then this issue before the Board may not be moot. The Appellee will present evidence that Recovermat stores and sells scrap metal, and therefore fits within the definition of a Junkyard. The Appellant is free to present evidence that it does not store or sell scrap metal to rebut this evidence. All other issues and evidence, however, including evidence and argument over whether the Appellant falls within an independent zoning definition created by Bill 35-15, are irrelevant to the proceedings before the Board on January 7, 2016 (should this appeal not be dismissed as moot prior to that date).

Conclusion

In light of the foregoing, the Board must either 1) dismiss Recovermat's appeal as moot, or 2) clarify that the sole issue to be determined on January 7, 2016 is the issue determined by the ALJ in Case No. 2014-0278-SPH, i.e., whether the appellant's operation falls within the definition of a "Junkyard," as defined by BCZR § 101.1, and specifically exclude any issue or evidence regarding the applicability of any other provision created by Bill 35-15, as outside of the scope of issues on appeal and hence irrelevant.

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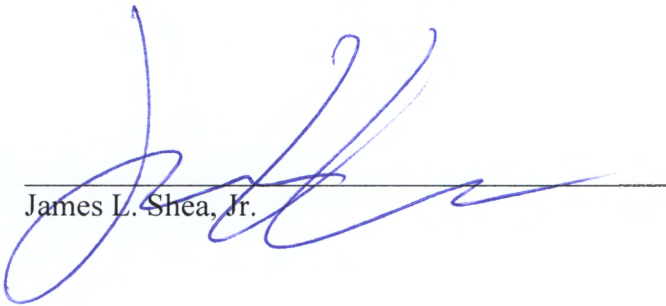


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Towson, MD 21204
Attorneys for North Point Recycling, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of December, 2015, a copy of the foregoing Motion to Dismiss Recovermat's Appeal was hand delivered to:

Howard L. Alderman, Jr., Esq.
Levin & Gann, PA
Nottingham Center
502 Washington Avenue, Suite 800
Towson, MD 21204-4525


James L. Shea, Jr.

ROYSTON, MUELLER,
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**IN RE: PETITIONS FOR VARIANCE AND
SPECIAL HEARING**

(2202 Halethorpe Farms Road)

13th Election District

1st Councilmanic District

Recovermat Mid-Atlantic LLC

Legal Owner

Petitioner

*

BEFORE THE

*

OFFICE OF ADMINISTRATIVE

*

HEARINGS FOR

*

BALTIMORE COUNTY

*

CASE NOS. 2014-0178-A
AND 2014-0278-SPH

* * * * *

OPINION AND ORDER

These matters come before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed on behalf of the legal owner, Recovermat Mid-Atlantic LLC ("Recovermat"), and a Petition for Special Hearing filed by North Point Recycling, LLC. The Variance Petition seeks relief from the rear yard setback requirements, while the Petition for Special Hearing seeks a declaration that Recovermat is operating a "junkyard" at the site. The cases were combined for hearing.

Howard L. Alderman, Jr., Esquire with Levin & Gann, PA, represented the Petitioner in the Variance case, and Edward J. Gilliss, Esquire with Royston, Mueller, McLean & Reid, LLP, represented the Petitioner in the Special Hearing case. The Petitions were advertised and posted as required by the Baltimore County Zoning Regulations (B.C.Z.R.). Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP). That agency did not oppose the Variance request, but noted in the Special Hearing case that it "does not support a defined junkyard for this location."

PETITION FOR VARIANCE

The subject property is approximately 10 acres and is zoned M.H.-I.M. Recovermat

EXHIBIT "A"

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ATTORNEYS AT LAW

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LAUREL PARETTA REESE
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1931-2008

* ALSO ADMITTED IN D.C.

December 18, 2015

Via Hand Delivery

Ms. Krysendra "Sunny" Cannington
Administrator
Board of Appeals for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

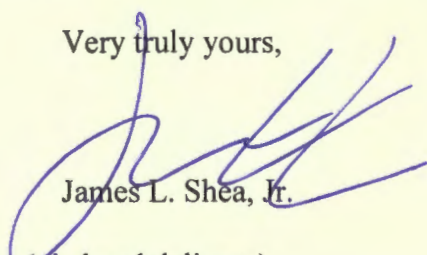
Re: Recovermat Mid-Atlantic, LLC
Case No. 2014-0278-SPH

Dear Ms. Cannington:

Enclosed please find a Motion to Dismiss Recovermat's Appeal, filed on behalf of North Point Recycling, LLC, Appellee.

Please date stamp the additional copy of the Motion provided, and return it to my courier.

Very truly yours,


James L. Shea, Jr.

JLS/jls

cc: Howard L. Alderman, Jr., Esquire (via hand delivery)

RECEIVED
DEC 18 2015

BALTIMORE COUNTY
BOARD OF APPEALS



Board of Appeals of Baltimore County

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November 18, 2015

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

RE: *In the Matter of: Recovermat Mid-Atlantic, LLC*
Case No. 14-278-SPH/Motion for Reconsideration

Dear Mr. Alderman:

This will acknowledge receipt of your letter dated November 11, 2015 in the above referenced matter. The Board will treat this letter as a Motion for Reconsideration. A copy of your Motion for Reconsideration, along with the response filed by Mr. Shea on November 12, 2015, will be forwarded to the appropriate Board members for their review and ultimate consideration.

Therefore, in response to your Motion for Reconsideration, a public deliberation will be scheduled and appropriate notice promptly sent to all parties to this matter. In the interests of judicial economy, a hearing will be scheduled to immediately follow the public deliberation in the event it is needed.

Possible hearing dates have been previously provided. I kindly request an immediate response to the previously provided dates.

Should you have any questions, please contact me at 410-887-3180.

Very truly yours,

Sunny Cannington
Krysundra "Sunny" Cannington
Administrator

c: Edward J. Gilliss, Esquire
James L. Shea, Jr., Esquire

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* ALSO ADMITTED IN D.C.

November 12, 2015

Via Hand Delivery

Ms. Krysundra "Sunny" Cannington
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Board of Appeals for Baltimore County
The Jefferson Building
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RECEIVED
NOV 12 2015
BALTIMORE COUNTY
BOARD OF APPEALS

Re: Recovermat Mid-Atlantic, LLC
Case Nos. 14-178-SPH
14-178-A

Dear Ms. Cannington:

This letter responds to recent filing and correspondence in this matter, as well as Mr. Alderman's November 11, 2015 letter requesting reconsideration of the Board's October 14, 2015 denial of Recovermat Mid-Atlantic, LLC's ("Recovermat") Motion for Judgment. Please consider this letter as North Point Recycling, LLC's ("North Point") opposition to that request.

At the outset, we are in receipt of Recovermat's November 3, 2015 filing regarding Case No. 14-178-A. Our understanding is that this document withdraws Recovermat's original Petition for Variance, and that, in light of this withdrawal, the variance granted by ALJ Beverungen on or about October 1, 2014, which was the subject of the appeal to the Board of Appeals, is null and of no further effect. Provided this is confirmed by the Board, North Point has no objection the removal of North Point's variance appeal from the Board's docket.

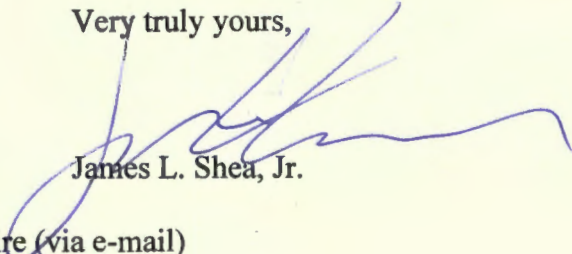
For the reasons set out in North Point's Opposition to Motion for Judgment, and as argued before the Board on October 14, 2015, Recovermat is simply not entitled to Judgment on its appeal of ALJ Beverungen's decision in Case No. 14-178-SPH. North Point renews and incorporates those argument in response to Recovermat's November 11, 2015 motion for reconsideration. Judge Beverungen's decision was and is correct, and should not reversed, either

Ms. Krysundra "Sunny" Cannington
Administrator
Board of Appeals for Baltimore County
Page 2
November 12, 2015

by way of summary judgment or a full *de novo* appeal. The Board correctly determined this on October 14, 2015, after the parties fully briefed the issues and the Board heard argument, and nothing warrants revisiting that issue at this juncture.

If Recovermat continues to assert that Judge Beverungen's decision was legally incorrect and must be reversed, this matter must proceed to a regular *de novo* hearing before the Board. We are in receipt of the proposed dates for this hearing, and are checking these dates with our client and witnesses, and will advise as to availability as soon as we are able.

Very truly yours,



James L. Shea, Jr.

JLS/jls

cc: Howard L. Alderman, Jr., Esquire (via e-mail)



LEVIN & GANN, P.A.
ATTORNEYS AT LAW

Howard L. Alderman, Jr., Esquire | Principal
D: 410.321.4640 | halderman@levingann.com

November 11, 2015

VIA EMAIL ATTACHMENT & REGULAR MAIL

Krysundra Cannington, Administrator
Board of Appeals of Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

RECEIVED
NOV 13 2015

BALTIMORE COUNTY
BOARD OF APPEALS

RE: *In the Matter of Recovermat Mid-Atlantic, LLC*
Case No. 14-278-SPH
Renewed Request for Judgment Based on Change in Circumstances
Known Date of Unavailability

Dear Ms. Cannington:

I am in receipt of your letter dated October 30, 2015, which arrived in my office only yesterday, regarding potential hearing dates on the above-referenced Case and Case No. 14-178-A. As you are aware, the Petition for Variance in Case No. 14-178-A has been withdrawn without prejudice in strict accordance with the Board's Rules, therefore there will be no hearing on that Case.

In the proceeding on October 14, 2015, there were two matters before the Board. The first was a Motion to Dismiss the appeal in Case No. 14-178-A, which was denied, after which the Petition in that case was completely withdrawn. The other issue pending before the Board was a Motion for Judgment in Case No. 14-278-SPH, which was supported by uncontraverted Affidavits. The Board opined that since there was going to be a public hearing on the appeal of the decision in Case No. 14-178-A, including live testimony and evidence, the Board would take live testimony and evidence in Case No. 14-278-SPH in lieu of the Affidavits.

While a written decision has not yet been issued by the Board following the October 14th proceedings, I hereby request that the Board reconsider its position on consideration of the Motion for Judgment. Given that the Board stated the only reason they were not ruling on the Motion for Judgment is that a public hearing was required anyway for the appeal of Case No. 14-178-A, and that hearing is now moot, the Board can rule on the evidence it has before it regarding the Motion for Judgment.

Krysundra Cannington, Administrator
November 11, 2015
Page 2



LEVIN & GANN, P.A.
ATTORNEYS AT LAW

In the event that the Board will, notwithstanding the withdrawal of Case No.14- 0178-A, still require a hearing, I have sent your proposed dates to my clients and witnesses this morning via email attachment. I have not yet heard back from them, however, I know that I am not available on January 14, 2015.

Upon the receipt and review of this letter should you or the Board need any additional information in support of the request herein, please do not hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr.

HLA/gk

c: Recovermat Mid-Atlantic, LLC [via email and regular mail]
Edward J. Gilliss, Esquire [via email and regular mail]

7/24/15



JUL 24 2015

BALTIMORE COUNTY
BOARD OF APPEALS

In RE: PETITION FOR VARIANCE AND
SPECIAL HEARING
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District
Recovermat Mid-Atlantic, LLC
Legal Owner
Petitioner

* BEFORE THE
* BOARD OF APPEALS
* FOR BALTIMORE COUNTY
* Case Nos.: 2014-178-A
and 2014-0278-SPH

* * * * *

OPPOSITION TO
MOTION TO DISMISS APPEAL AND MOTION FOR JUDGMENT

North Point Recycling, LLC, by its undersigned counsel, hereby files the following
Opposition to Recovermat's Motion to Dismiss Appeal and Motion for Judgment, and as reason
therefor states:

PROCEDURAL POSTURE

In Case No. 2014-0278-SPH, North Point Recycling, LLC ("North Point") sought a
declaration that Recovermat Mid-Atlantic, LLC ("Recovermat") was operating a "junkyard," as
that term is defined by the Baltimore County Zoning Regulations (the "BCZR"). Administrative
Judge John E. Beverungen (the "ALJ") determined that it did, and Recovermat appealed that
determination to the Baltimore County Board of Appeals (the "Board"). These proceedings are
referred to herein as the "Special Hearing Petition" and "Special Hearing Appeal" respectively.

In Case No. 2014-178-A, Recovermat sought a variance for its property, which was
granted by the ALJ. North Point appealed that decision to the Board. These proceedings are
referred to herein as the "Variance Petition" and "Variance Appeal" respectively.

These appeals were scheduled for hearing before the Board on June 2, 2015. On May 21,
2015, the Baltimore County Council passed Bill 35-15, which became effective June 1, 2015.

Recovermat has now filed two motions. The first, with respect to the Special Hearing
Appeal, argues that its own appeal should be dismissed as moot (in reality, Recovermat is not

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seeking dismissal, but a reversal of the ALJ by way of summary judgment, discussed below). The second, with respect to the Variance Appeal, argues that North Point's appeal should be denied because it does not have standing to maintain it. These two motions are collectively referred to as "the Motions" or "Recovermat's Motions" herein.

Both Motions must be denied by the Board, for the reasons set out below.

ARGUMENT

- I. These proceeding cannot be dismissed based on standing because Recovermat has cited the incorrect standard for administrative standing.

Recovermat has argued in its Motions that North Point did not have standing to request a special hearing, and does not have standing to oppose Recovermat's Special Hearing Appeal. Recovermat has also argued that North Point did not have standing to oppose Recovermat's request for variance, and does not have standing to pursue the Variance Appeal. Both arguments are incorrect. Recovermat has cited the incorrect standard for administrative standing in its Motions. The correct standard provides standing to any person who is an "interested person," and is a much more relaxed standard than the classic "aggrievement" standard cited by Recovermat. North Point clearly meets this requirement, and therefore Recovermat's Motions must be denied.

The law is clear that there are different standards for standing to be a party at the administrative level and standing to maintain a judicial review action in the circuit court. *See Sugarloaf Citizens' Ass'n v. Dep't of Env't*, 344 Md. 271, 285, 686 A.2d 605, 612 (1996). All of the caselaw cited by Recovermat deals with the latter issue, and hence is not applicable to the present situation.¹ The correct standard, as articulated by the Court of Appeals, is as follows:

¹ The following should not be construed as any admission that North Point would not have standing to seek judicial review of the Board's decision. The only point made here is that the issue of this higher threshold is not before the Board, because this proceeding is still at the administrative level.

The cases in this Court, and the language of the Administrative Procedure Act itself, § 10-222(a)(1) of the State Government Article, recognize a distinction between standing to be a party to an administrative proceeding and standing to bring an action in court for judicial review of an administrative decision. Thus, a person may properly be a party at an agency hearing under Maryland's "relatively lenient standards" for administrative standing but may not have standing in court to challenge an adverse agency decision. *Maryland-Nat'l v. Smith*, 333 Md. 3, 11, 633 A.2d 855, 859 (1993). See *Medical Waste v. Maryland Waste*, 327 Md. 596, 611-614, 612 A.2d 241, 248-250 (1992) (organization was a party at the administrative proceeding but lacked standing to maintain a judicial review action.)

The requirements for administrative standing under Maryland law are not very strict. Absent a statute or a reasonable regulation specifying criteria for administrative standing, one may become a party to an administrative proceeding rather easily. In holding that a particular individual was properly a party at an administrative hearing, Judge J. Dudley Digges for the Court in *Morris v. Howard Res. & Dev. Corp.*, 278 Md. 417, 423, 365 A.2d 34, 37 (1976), explained as follows:

"He was present at the hearing before the Board, testified as a witness and made statements or arguments as to why the amendments to the zoning regulations should not be approved. This is far greater participation than that previously determined sufficient to establish one as a party before an administrative agency. See, e.g., *Baxter v. Montgomery County*, 248 Md. 111, 113, 235 A.2d 536 (1967) (per curiam) (submitting name in writing as a protestant); *Bryniarski v. Montgomery Co.*, 247 Md. 137, 143, 230 A.2d 289, 293-94 (1967) (testifying before agency); *Hertelendy v. Montgomery Cty.*, 245 Md. 554, 567, 226 A.2d 672, 680 (1967) (submitting into evidence letter of protest); *DuBay v. Crane*, 240 Md. 180, 184, 213 A.2d 487, 489 (1965) (identifying self on agency record as a party to proceedings); *Brashears v. Lindenbaum*, 189 Md. 619, 628, 56 A.2d 844, 849 (1948) (same). Bearing in mind that the format for proceedings before administrative agencies is intentionally designed to be informal so as to encourage citizen participation, we think that absent a reasonable agency or other regulation providing for a more formal method of becoming a party, anyone clearly identifying himself to the agency for the record as having an interest in the outcome of the matter being considered by that agency, thereby becomes a party to the proceedings."

More recently, Judge McAuliffe for the Court in *Maryland-Nat'l v. Smith*, supra, 333 Md. at 10, 633 A.2d at 859, summarized Maryland law relating to status as a party in administrative proceedings:

"*Morris* and other cases of this Court indicate that the threshold for establishing oneself as a party before an administrative agency is indeed

low. Although we have said that one's presence at the hearing and testimony in favor of an asserted position is sufficient, *id.*, we have also said that personal appearance and testimony at the hearing are not required. *Hertelendy v. Montgomery Cty.*, 245 Md. 554, 567, 226 A.2d 672 (1967); *Largo Civic Ass'n v. Pr. Geo's Co.*, 21 Md.App. 76, 81, 318 A.2d 834 (1974). In fact, it has been held to be sufficient that the hearing examiner considered the appellant to be a party, *Northampton Corp. v. Pr. George's Co.*, 21 Md.App. 625, 633-34, 321 A.2d 204, *rev'd on other grounds*, 273 Md. 93, 327 A.2d 774 (1974), or that the appellant's name was submitted to the Board of Appeals as one who would be aggrieved by an adverse decision. *Wright v. McCubbin*, 260 Md. 11, 14, 271 A.2d 365 (1970). *See also Baxter v. Montgomery County*, 248 Md. 111, 113, 235 A.2d 536 (1967) (submitting name in writing as a protestant is sufficient); *Bryniarski v. Montgomery Co.*, 247 Md. 137, 143, 230 A.2d 289 (1967) (testifying before agency is sufficient); *DuBay v. Crane*, 240 Md. 180, 184, 213 A.2d 487 (1965) (identifying self on agency record as a party is sufficient)."

See Medical Waste v. Maryland Waste, supra, 327 Md. at 611-612, 612 A.2d at 248-249.

Sugarloaf Citizens' Ass'n v. Dep't of Env't, 344 Md. 271, 285-87, 686 A.2d 605, 613 (1996).

This standard has been repeated time and again by the Courts. *See Comm. for Responsible Dev. on 25th St. v. Mayor & City Council of Baltimore*, 137 Md. App. 60, 71, 767 A.2d 906, 911 (2001) ("the requirements for administrative standing are such that one may have administrative standing, but lack standing to seek judicial review."); *Maryland-Nat'l Capital Park & Planning Comm'n v. Smith*, 333 Md. 3, 10, 633 A.2d 855, 859 (1993) ("the threshold for establishing oneself as a party before an administrative agency is indeed low.")

This relaxed standard was again discussed and reaffirmed in *Chesapeake Bay Found., Inc. v. Clickner*, 192 Md. App. 172, 993 A.2d 1163 (2010). Quoting *Sugarloaf* at length, the Court noted that, "Maryland land use cases draw a distinction between an "interested party" and an "aggrieved party" for purposes of standing in administrative proceedings." *Id.* at 183, 1170. The Court in *Clicker* made clear that, absent a specific standing requirement, the "interested

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person” standard applies to administrative standing, and not the more restrictive “aggrieved person” standard.

Like Anne Arundel County (which was analyzed in *Clicker*), Baltimore County is a charter county. The Baltimore County Board of Appeals is a local government entity authorized by the Legislature through the Express Powers Act, MD. CODE ANN., Local Government § 10-305 (formerly Article 25A, § 5(U)). That Act provides that a county may “enact local laws to provide for . . . a decision by the county board of appeals on petition of any interested person . . .” MD. CODE ANN., Local Government § 10-305(a)(4)(emphasis added). Baltimore County’s Charter implements this provision and provides the Baltimore County Board of Appeals with authority to hear a broad range of appeals, consistent with Article 25A’s authorization. See Baltimore County Charter Art. IV, Sec. 602. Such appeals include the appeal of a final decision of an ALJ on a special hearing or a variance request, as are at issue here. The Baltimore County Code (the “BCC”) provides that, “A person aggrieved or feeling aggrieved by a decision of the Zoning Commissioner or the Director of Permits, Approvals and Inspections may appeal the decision or order to the Board of Appeals.” BCC § 32-3-401(a).

As discussed in *Sugarloaf, supra*, the concept of a “person aggrieved,” is a common law concept that imposes a higher standard than an “interested person” or “person feeling aggrieved.”² The class of persons who, under the Baltimore County Code, may “feel aggrieved” (but who are not strictly aggrieved) is broader. The Court of Appeals has specifically noted that the category of people “feeling aggrieved” under the Baltimore County Code is a separate and

² The Court of Special Appeals has indicated, in *dicta*, that Charter Counties (such as Baltimore County) may not be able to enact a more restrictive standard to appeal to a board of appeals than the “interested person” standard provided for by the Maryland Code. See *Chesapeake Bay Foundation, Inc. v. Clickner*, 192 Md. App. 172, 186-187, 993 A.2d 1163, 1172-1173 (2010). Thus, whether or not there is a distinction between an “an interested person” and a “person feeling aggrieved” is not material in this context. Using the term “a person feeling aggrieved” may provide an appeal right to a broader category than “interested persons,” but may not restrict such rights to a lesser group.

broader category than those people "aggrieved" in strict legal sense. See *Toomey v. Gomeringer*, 235 Md. 456, 461, 201 A.2d 842, 844 (1964)(at footnote 1).

Thus, under the specific Baltimore County Code provisions and the concepts discussed in *Sugarloaf* and *Clicker*, North Point does not need to show classic aggrievement to have standing, as argued by Recovermat in its Motions. Instead, because North Point meets the more relaxed standard for administrative standing, it would be a legal error to dismiss North Point's Variance Appeal based on standing. The Motion for Judgment must therefore be denied.

II. The ALJ's decision on the Special Hearing Petition was correct and must be reaffirmed.

The decision issued by the ALJ that Recovermat has been operating a junkyard on the premises was and is legally correct, and the Board must therefore come to the same conclusion on appeal. In the event that Recovermat believes that Bill 35-15 now permits it to do what previously was not permitted, it is incumbent upon it to dismiss its own appeal and proceed to operate its business on that basis. The passage of Bill 35-15, however, does not mean that the ALJ's decision was incorrect, and it does not entitle Recovermat to a reversal of that decision.³

Even though an appeal to the Board of Appeals is heard *de novo*, the Court of Appeals has specifically held that such appeals to the Baltimore County Board of Appeals are "restricted to the specific issue or issues resolved by [the ALJ] from which an appeal has been taken."

Daihl v. Cnty. Bd. of Appeals of Baltimore Cnty., 258 Md. 157, 163, 265 A.2d 227, 230 (1970).

Thus the proper scope of the current proceeding is simply whether Recovermat's operation falls within the definition of a junkyard under the Baltimore County Code, the issue decided by the ALJ (and not whether Recovermat falls within a new subset of junkyards created by Bill 35-15).

³ Tellingly, even though Recovermat has argued that these matters are now "moot," its proposed Order seeks a declaration from the Board that its operation "... is not a junkyard as previously found by the ALJ." Rather than being moot, Recovermat thus continues to press for an affirmative reversal of the ALJ's legal conclusion. See Proposed Order, paragraph C.

The Board must reaffirm the ALJ's decision by reaching the same legal conclusion—that Recovermat's operation falls within the definition of a junkyard—because it is a correct interpretation of the law.

III. There are factual issues which preclude resolution of this case by way of motion.

Even assuming that the function of this appeal is to determine whether, moving forward, Recovermat is now permitted to continue its heretofore illegal use of the property, there are still factual issues which would preclude summary judgment by way of motion, with respect to Recovermat's Special Hearing Appeal.

Bill 35-15 did not alter the definition of a junkyard, nor did it alter the fact that junkyards are only permitted in MH-IM zones by way of special exception. *See* BCZR § 256.2. That was the law of Baltimore County prior to the passage of Bill 35-15, and it continues to be the law today. As the ALJ properly held, by definition, *any* operation that involves the storage or sale of scrap metal falls within this category, including Recovermat's operation on the property.⁴ What Bill 35-15 did was carve out a specific subset of junkyard uses (termed "scrap metal processing facilities") and provided that this specific subset of junkyard uses is permitted of right, under certain conditions that only Recovermat can meet.⁵ Even assuming that legislation is valid, there is still an open issue of whether certain components of Recovermat's operation fall *outside* the scope of Bill 35-15, but still fall *within* the scope of junkyards. For example, Bill 35-15 does not apply to Recovermat's business of buying, storing, and selling more valuable metals such brass,

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⁴ That interpretation is entirely consistent with *every other* local or statewide regulatory scheme, whether MD. CODE ANN., Business Regulation § 17-1001, *et. seq.*, Baltimore County Code § 21-21-101(c)(1), or MD. CODE ANN., Transportation § 8-803(a) and 8-801(e) and (d). Each and every one of these schemes treat scrap metal processors as a lesser included subset of the broader category of junkyards.

⁵ Legislation that is "the arbitrary and unreasonable devotion of a small area within a zoning district to a use which is inconsistent with the use to which the rest of the district is restricted," and which "has appeared in many cities in America as the result of pressure put upon councilmen to pass amendments to zoning ordinances solely for the benefit of private interests" constitutes "spot zoning" and hence is invalid. *See Cassel v. Mayor & City Council of Baltimore*, 195 Md. 348, 354, 73 A.2d 486, 488 (1950). Because this Bill was designed solely for this one piece of property, the Board should find that Bill 35-15 meets this definition, and is therefore invalid.

copper and the like (that do not run through a shredder and hence do not involve scrap metal "processing" by use of a shredder). Such operations, however, still fall within the definition of a junkyard, because they involve storing and selling scrap metals. As such, in order to continue such uses, a special exception would still be required. These issues are factual issues, however, which are not appropriate for the Board to resolve by way of a summary judgment motion.

All of that being said, the issue of whether Bill 35-15 now provides that certain subsets of junkyard uses are now permitted as of right is not before the Board on appeal. The issue is whether the ALJ's decision that Recovermat's operation falls within the definition of a junkyard was correct. It clearly does and the ALJ's decision was correct. For this reason, not only is Recovermat not entitled to summary judgment on its appeal, the Board must reaffirm the ALJ's decision on appeal. The Motion to Dismiss must therefore be denied.



Edward J. Gilliss
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CERTIFICATE OF SERVICE

I hereby certify that on this 24 day of July, 2015, a copy of the foregoing Opposition to Recovermat's Motion to Dismiss Appeal and Motion for Judgment was mailed to:

Howard L. Alderman, Jr., Esq.
Levin & Gann, PA
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1913-1991

H. ANTHONY MUELLER
1913-2000

RICHARD A. REID
1931-2008

* ALSO ADMITTED IN D.C.

July 24, 2015

Via Hand Delivery

Ms. Krysundra "Sunny" Cannington
Administrator
Board of Appeals for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

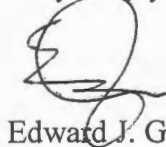
RECEIVED
JUL 24 2015
BALTIMORE COUNTY
BOARD OF APPEALS

Re: Recovermat Mid-Atlantic, LLC
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District
Case No. 14-0278-SPH and
Case No. 14-0178-A

Dear Ms. Cannington:

Enclosed for filing in the above-captioned matter please find an Opposition to Motion to Dismiss Appeal and Motion for Judgment.

Very truly yours,



Edward J. Gilliss

EJG/ajf
Enclosure

cc: Howard L. Alderman, Jr., Esquire (via e-mail and regular mail)
People's Counsel for Baltimore County (via regular mail)
North Point Recycling, LLC (via e-mail)

7/2/15

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

IN RE: **PETITION FOR VARIANCE**
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District

Case No.: 2014-0178-A

Recovermat Mid-Atlantic, LLC,

Legal Owner

IN RE: **PETITION FOR SPECIAL HEARING**
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District

Case No.: 2014-0278-SPH

North Point Recycling, LLC,

Petitioner/Competitor

MOTION FOR JUDGMENT

Case No. 2014-0278-SPH

MOTION TO DISMISS APPEAL

Case No. 2014-0178-A

Recovermat Mid-Atlantic, LLC ("Recovermat"), Owner of the above-referenced property and a party (without waiving objection as to standing) in both of the above-captioned cases, hereby requests that the Petition for Special Hearing be ruled Moot and dismissed, that any prior finding regarding the relief in said Petition be reversed as Moot, and that the appeal filed by North Point Recycling, LLC in Case No. 2014-0178-A be dismissed based on lack of standing, and in support thereof states as follows:

1. Recovermat is the fee-simple owner of the property located at 2202 Halethorpe Farms Road ("subject property").

2. The subject property is located in the Halethorpe community of Baltimore County, also being within the First Councilmanic District.

3. North Point Recycling, LLC ("North Point"), whose address is listed on the Petition for Special Hearing it filed in Case No. 2014-0278-SPH as being in Baltimore City, is purportedly operating a business at 2723 North Point Road, in the Dundalk area of Baltimore County, also being within the Seventh Councilmanic District.

4. Recovermat and its predecessor have operated a manufacturing processing/recycling business on the subject property since 1994.

5. In 1995, the County approved the introduction of 'white goods' [washers, dryers, metal shelving, etc.] into the manufacturing process that was occurring on the subject property.

6. In 2008, then Baltimore County Director of the Department of Permits and Development Management, Timothy Kotroco, approved Recovermat's introduction of additional scrap metal in the form of automobile bodies into the manufacturing process that was occurring on the subject property. A copy of that "spirit and intent" letter is attached hereto and incorporated herein as Exhibit "A".

7. On or about June 18, 2014, North Point, through its local legal counsel, filed a Petition for Special Hearing with regard to the subject property, docketed as Case No. 2014-0278-SPH, requesting that the Administrative Law Judge ("ALJ") "[d]etermine that the use of the property, zoned MH-IM, as a junk yard [*sic*] is illegal since junk yards are not permitted without a special exception, and the November 24, 2008 'spirit and intent' letter is insufficient to grant junk yard use."

8. The ALJ found as a fact, in Case No. 2014-0178-A that: "Recovermat operates at the

site a scrap metal processing business.” ALJ *Opinion and Order*, October 1, 2014, at pages 1-2. A copy of the October 1st *Opinion and Order* is attached hereto and incorporated herein as Exhibit “B”.

9. Over objection from Recovermat, who participated in the Special Hearing case without waiving its objection that North Point did not have standing to file such a Petition and that the Petition was filed by a competitor of Recovermat solely to stifle the business of Recovermat, the ALJ made a finding in Case No. 2014-0278-SPH that the scrap metal processing manufacturing operation on the subject property met the definition of ‘junkyard’ as defined in the *Baltimore County Zoning Regulations* (“BCZR”). To make that finding, the ALJ relied on only the first fourteen (14) words of the one hundred twenty-five (125) word BCZR definition of ‘junkyard’ and most curiously and without explanation omitted the exclusion provision thereof that provides “but excluding scrap for use in manufacturing processes on the premises or waste materials resulting from such processes”. BCZR § 101.1. A verbatim copy of the BCZR definition of ‘junkyard’ is attached hereto and incorporated herein as Exhibit “C”.

10. Recovermat noted a timely appeal to this Board of the ‘junkyard’ determination rendered by the ALJ in Case No. 2014-0278-SPH.

11. The hearing on that appeal (as well as North Point’s appeal of the setback variance relief requested by Recovermat in Case No. 2014-0178-A, supported by the directly adjoining neighbor and granted by the ALJ) has been set and postponed at the request of counsel representing the parties to this case.

12. During the periods of postponement, the Honorable Thomas Quirk, Baltimore County Councilman for the First Councilmanic District, introduced Council Bill No. 35-15, entitled “Zoning Regulations - Scrap Metal Processing Facility”. After consideration and amendment, the County

Council unanimously adopted Council Bill No. 35-15, a copy of which is attached hereto and incorporated herein as Exhibit "D" and which is now law.

13. A 'scrap metal processing facility' is now permitted as of right in the MH zone, subject to certain qualifications/conditions.

14. Attached hereto and incorporated herein as Exhibit "E" is the affidavit of Robert Capalongo, RLA who investigated each of the qualifications/conditions on a scrap metal processing facility. Mr Capalongo, under oath and based on personal knowledge, determined that the Recovermat operation qualifies with specific requirements of a scrap metal processing facility as defined in the BCZR.

15. Attached hereto and incorporated herein as Exhibit "F" is the affidavit of Paul Smith, Managing Member of Recovermat, who is familiar with the subject property and who is familiar with all aspects of the scrap metal processing conducted on the subject property, the equipment used and electrical requirements, as well as the manufactured output of that processing. Mr Smith under oath and based on personal knowledge, determined that the Recovermat operation qualifies with specific requirements of a scrap metal processing facility as defined in the BCZR.

16. As demonstrated in the two Affidavits (Exhibits "E" & "F"), Recovermat's location, operation, equipment, electrical requirements and manufactured output meet specifically all requirements of a scrap metal processing facility as now defined and permitted in Baltimore County.

17. Recovermat's scrap metal processing use is, as a result of unanimous legislative action, now permitted as of right.

18. Given that Recovermat's operations are a scrap metal processing facility permitted as of right in the MH zone, the prior determination by the ALJ regarding such use as a 'junkyard'

has been rendered moot and of no further legal import.

19. North Point, presumably a payer of County taxes, does not own property or otherwise operate any business within either the sight or sound of the subject property, nor can it allege any special effect or distinct impact necessary to qualify as “plus factors” supporting specific injury that would confer standing on it as an interested person. *See Benn Ray v. Mayor and City Council of Baltimore*, 430 Md. 74, 85 (2013); *Committee for Responsible Dev. On 25th Street v. Mayor and City Council of Baltimore*, 137 Md. App. 60, 86 (2001); *Bryniarski v. Montgomery County Board of Appeals*, 247 Md. 137 (1967).

20. North Point’s motivation for filing the Petition for Special Hearing was solely to stifle competition. There are limits on the nature of the required, affected interest(s) of a protestant and prevention of competition is not a proper element to be considered, nor is a protestant aggrieved for standing purposes when its interest is to stave off competition with its established business. *See Superior Outdoor Signs, Inc. v. Eller Media Co.*, 150 Md. App. 479, 500 (2003); *Eastern Service Ctrs., Inc. v. Cloverland Farm Dairy, Inc.*, 130 Md. App. 1, 9 (2000).

21. Recovermat hereby renews its motion (denied by the ALJ) that North Point’s Petition for Special Hearing [Case No. 2014-0278-SPH] and North Point’s participation in opposition to the relief requested in Case No. 2014-0178-A are improper as North Point has no legal standing to maintain either.

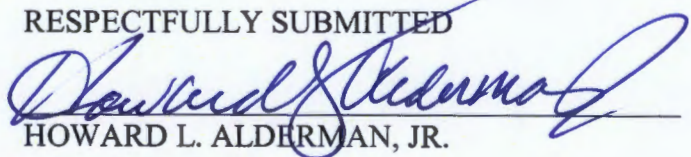
22. There is no genuine dispute of fact that (a) the *Baltimore County Zoning Regulations* were amended by unanimous act of the County Council adding “Scrap Metal Processing Facility” to the uses permitted as of right in the MH zone; (b) Recovermat’s processing/manufacturing operation, property location and equipment/electricity used in that operation and the output thereof

meet all requirements of a Scrap Metal Processing Facility as defined in the BCZR; and (c) the County property on which North Point conducts its business is in Dundalk and is not in the vicinity of nor within sight or sound of Recovermat's property is in Halethorpe.

FOR ALL OF THE FOREGOING REASONS, Recovermat respectfully requests that the Board:

- A. Render the decision of the ALJ in Case No. 2014-0278-SPH **MOOT**, as the *Baltimore County Zoning Regulations* now permit a Scrap Metal Processing Facility such as Recovermat as a use permitted as of right in the MH zone;
- B. **DISMISS** with prejudice the Petition for Special Hearing filed by North Point in Case No. 2014-0278-SPH;
- C. **REVERSE** the finding of the ALJ in Case No. 2014-0278-SPH that Recovermat's manufacturing operation and processes are a 'junkyard' as defined in the *Baltimore County Zoning Regulations*;
- D. **DISMISS** with prejudice North Point's appeal of the ALJ's decision in Case No. 2014-0178-A granting a rear yard setback variance; and
- E. **GRANT** such further relief as the nature of this case may require.

RESPECTFULLY SUBMITTED



HOWARD L. ALDERMAN, JR.

Levin & Gann, PA

Nottingham Centre, 8th Floor

502 Washington Avenue

Towson, Maryland 21204

410-321-0600

410-296-2801 (Fax)

Attorneys for Recovermat Mid-Atlantic, LLC

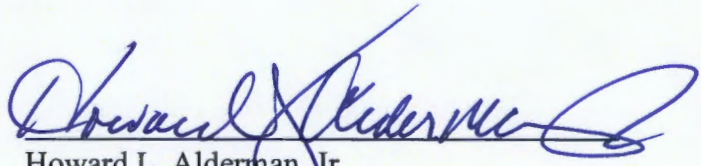
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of July, 2015, a copy of the foregoing Motion for Judgment and Motion to Dismiss Appeal was mailed, postage prepaid, First Class United States Mail to:

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

and

Edward J. Gilliss, Esquire
RMMR, LLP
102 W. Pennsylvania Ave, Suite 600
Towson, MD 21204



Howard L. Alderman, Jr.

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

IN RE: **PETITION FOR VARIANCE**
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District

Case No.: **2014-0178-A**

Recovermat Mid-Atlantic, LLC,
Legal Owner

IN RE: **PETITION FOR SPECIAL HEARING**
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District

Case No.: **2014-0278-SPH**

North Point Recycling, LLC,
Petitioner/Competitor

ORDER

Upon consideration of the Motion for Judgment in Case No. 2014-2078-SPH, and the Motion for Dismissal of Appeal filed in Case No. 2104-0178-A, filed on behalf of the Owner in this matter and after review of any timely response filed thereto, it is this _____ day of _____, 2015, ORDERED,

- A. The entire decision of the Administrative Law Judge in Case No. 2014-0278-SPH has been rendered MOOT by legislative action of the Baltimore County Council;
- B. The Petition for Special Hearing filed by North Point Recycling, LLC, in Case No. 2014-0278-SPH is hereby DISMISSED with prejudice;
- C. The Board finds that the use on the property owned by Recovermat Mid-Atlantic, LLC is a scrap metal processing facility as now defined and permitted in the *Baltimore County Zoning Regulations* and such use is not a 'junkyard' as previously found by the ALJ;

D. North Point Recycling, LLC, does not own property or operate any business activity within the sight and sound of the scrap metal processing facility on the property of Recovermat Mid-Atlantic, LLC, and therefore lacks the required aggrievement and standing to maintain an appeal of the Opinion and Order of the ALJ in Case No. 2014-0178-A, therefore that appeal is hereby DISMISSED with prejudice.

BOARD OF APPEALS FOR
BALTIMORE COUNTY



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

November 24, 2008

Mr. Howard L. Alderman, Esq.
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, Maryland 21204

Re: Recovermat Mid-Atlantic, LLC Property
Sprit & Intent Letter dated November 11, 2008
Zoning Case No. 94-135A

Dear Mr. Alderman:

Thank you for your very detailed letter dated November 11, 2008. You have requested my interpretation of both, the Baltimore County Zoning Regulations as well as my previous zoning decision in case No. 94-135A rendered when I was Deputy Zoning Commissioner.

In 1993, this office approved the use of this property, by your client, as "any other industrial or manufacturing use", as that use is listed and permitted in the MH zone pursuant to section 256.3 of the BCZR. At that time, I approved a variance to allow said use to be located within 150 feet of a residential zone and 0 feet from the street abutting a residential zone boundary. The use has continued on this property for the past 15 years.

On May 16, 1995, this office approved the introduction of "white goods" into the manufacturing process that was occurring on the property. This approval was given to your client by way of a spirit and intent letter written to this office and approved by Mr. John J. Lewis on behalf of Mr. Arnold Jablon, then Director. This approval was issued after consultation with me in my previous position as Deputy Zoning Commissioner.

At this time, your client is requesting approval to introduce into the manufacturing process, additional scrap metal in the form of stripped automobile bodies. You have described the manner by which these materials are processed in your letter dated November 11, 2008. I have also gained a better understanding of this scrap metal processing by my site visits to the property and through a meeting held in my office between members of my staff, yourself and representatives from Recovermat Mid-Atlantic, LLC.

It is my opinion, based on the aforementioned, that the introduction of additional scrap metal in the form of stripped automobile bodies, (as described in your letter) is within the spirit and intent of my previous zoning decision and falls within the category of "Any other industrial

EXHIBIT

A

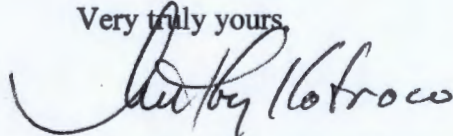
or manufacturing use", as specified in section 256.3 of the Baltimore County Zoning Regulations.

The introduction of this additional type of scrap material, given its size and bulk, causes me to impose additional conditions and restrictions upon this use. I shall require that all automobile bodies/hulks shall be processed within 48 hours from the time they arrive on site. Any scrap bodies/hulks not so processed within that time frame shall be removed from the premises. There shall also be a height limitation on the stockpiling of the scrap bodies/hulks. In no event shall the stacking of this material exceed 35 feet.

Finally, there needs to be additional landscaping and screening on the property, particularly in the area of the property where there once existed a row of mature willow trees. This area of the property, which is now devoid of natural vegetation, is the northern property line of the property and which has its common boundary line with property recently being developed into a new industrial park. Given the bulk and size of this new material, simple pine trees will not provide an appropriate screen. This applicant will have to provide a substantial landscape screen such as tall fencing in conjunction with evergreen trees. Over time, the trees will fill in to provide a nice visual barrier. However, at this time I believe it is appropriate to provide both a fence and evergreen plantings. Accordingly, the applicant shall meet with Avery Harden of my office to work out the details and timing for the installation of this screening.

In addition to the aforementioned, the applicant shall be required to obtain any and all other necessary Federal, State and local permits as are required to perform this function on their property. Should you have any question regarding the contents of this letter, please feel free to contact my office.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Timothy M. Kotroco", written in a cursive style.

Timothy M. Kotroco, Director

IN RE: PETITIONS FOR VARIANCE AND
SPECIAL HEARING
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District
Recovermat Mid-Atlantic LLC
Legal Owner
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* CASE NOS. 2014-0178-A
AND 2014-0278-SPH

* * * * *

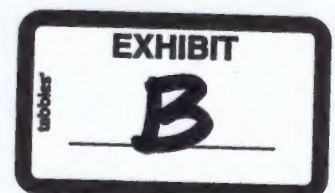
OPINION AND ORDER

These matters come before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed on behalf of the legal owner, Recovermat Mid-Atlantic LLC ("Recovermat"), and a Petition for Special Hearing filed by North Point Recycling, LLC. The Variance Petition seeks relief from the rear yard setback requirements, while the Petition for Special Hearing seeks a declaration that Recovermat is operating a "junkyard" at the site. The cases were combined for hearing.

Howard L. Alderman, Jr., Esquire with Levin & Gann, PA, represented the Petitioner in the Variance case, and Edward J. Gilliss, Esquire with Royston, Mueller, McLean & Reid, LLP, represented the Petitioner in the Special Hearing case. The Petitions were advertised and posted as required by the Baltimore County Zoning Regulations (B.C.Z.R.). Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP). That agency did not oppose the Variance request, but noted in the Special Hearing case that it "does not support a defined junkyard for this location."

PETITION FOR VARIANCE

The subject property is approximately 10 acres and is zoned M.H.-I.M. Recovermat



BALTIMORE COUNTY ZONING REGULATIONS, SECTION 101.1:

JUNKYARD: Any land used commercially or industrially for storage or for sale of scrap metal, wastepaper, rags or other junk, and any land, except as provided for by Section 428, used for the storage of unlicensed or inoperative motor vehicles, dismantling or storage of such vehicles or parts thereof, or used machinery, regardless of whether repair or any other type of commercial operation occurs, but excluding scrap for use in manufacturing processes on the premises or waste materials resulting from such processes or resulting from the construction or elimination of facilities for such processes. The term does not include unlicensed motor vehicles located at automotive service stations, service garages or new or used motor vehicle outdoor sales areas, or any vehicle stored pursuant to Section 405A.

[Bill No. 135-1986]



COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2015, Legislative Day No. 8

Bill No. 35-15

Mr. Tom Quirk, Councilman

By the County Council, April 20, 2015

A BILL
ENTITLED

AN ACT concerning

Zoning Regulations - Scrap Metal Processing Facility

FOR the purpose of defining a scrap metal processing facility; permitting a scrap metal

processing facility by right in the County's M.H. Zones, subject to certain conditions;

permitting a scrap metal processing facility as a special exception, subject to certain

conditions; prohibiting a scrap metal processing facility in the MD 43 overlay district;

providing for the application of the Act; and generally relating to the regulation of a scrap

metal processing facility.

BY adding

Section 101.1, the definition of "scrap metal processing facility," alphabetically
Baltimore County Zoning Regulations

~~BY repealing and re-enacting, with amendments~~

~~Section 256.1.A.1~~

~~Baltimore County Zoning Regulations~~

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter stricken from existing law.

~~Strike out~~ indicates matter stricken from bill.

Underlining indicates amendments to bill.



AFFIDAVIT OF ROBERT D. CAPALONGO, RLA

I, Robert D. Capalongo, am over the age of eighteen, am competent to make this affidavit and have personal knowledge of the following facts:

1. I am a Maryland Registered Landscape Architect.
2. I appeared, qualified and testified, without objection, before the Baltimore County Administrative Law Judge in Case No. 2014-0178-A as an expert witness in matters of Baltimore County Zoning and Development.
3. I have reviewed the definition and specific use requirements of "Scrap Metal Processing Facility" as added to the *Baltimore County Zoning Regulations*, Sections 101.1 and 256.1, by Council Bill No. 35-15.
4. I am familiar with the real property owned by Recovermat Mid-Atlantic, LLC at 2202 Halethorpe Farms Road ("Recovermat Property").
5. I prepared and sealed the plans which accompanied Recovermat's Petition for Variance in Case No. 2014-0178-A.
6. The Recovermat Property is not located within the MD 43 Overlay District.
7. The Recovermat Property is more than seven (7) acres in size.
8. The Recovermat Property is located more than Fifteen Hundred (1,500) feet from any Density Residential (DR) zone line.
9. The Recovermat Property shares a common property line with the right-of-way of Interstate 895, a federal interstate highway and is, therefore, within 500 feet of the right-of-way of a federal interstate highway.

I do solemnly declare and affirm under the penalties of perjury that the above statements are true and correct and that, since I am on vacation out of the State with my family I have signed this Affidavit electronically.

[my electronic signature]

Robert D. Capalongo
Robert D. Capalongo, RLA
CNA, Inc.
215 Bynum Road
Forest Hill, MD 21050

DATE OF AFFIDAVIT: July 7, 2015

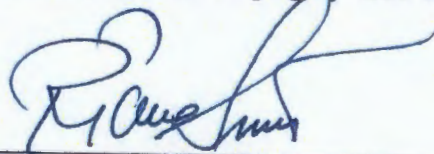


AFFIDAVIT OF PAUL SMITH

I, Paul Smith, am over the age of eighteen, am competent to make this affidavit and have personal knowledge of the following facts:

1. I am the Managing Member of Recovermat Mid-Atlantic, LLC, a Maryland limited liability company.
2. I am familiar with the real property owned by Recovermat Mid-Atlantic, LLC at 2202 Halethorpe Farms Road ("Recovermat Property").
3. I am familiar with all aspects of the scrap metal processing conducted on the Recovermat Property and the manufactured output of that processing.
4. Recovermat is engaged primarily in (a) the purchase, by weight, of ferrous and non-ferrous scrap metal; and (b) processing the metal purchased, the manufactured output of which is shipped by truck or rail as a raw material to be used for melting purposes by steel mills, foundries, smelters, refiners and similar users.
5. Recovermat conducts no retail sales on the Recovermat Property nor does Recovermat pay any retail sales tax on the ferrous and non-ferrous metal it purchases.
6. All scrap vehicles, which Recovermat purchases based on weight, are processed within forty-eight (48) hours of receipt, unless a delay is caused by equipment breakage, electrical interruption, or manufacture-required preventive maintenance.
7. I am familiar with the shredder affixed to and used in the processing of scrap metal on the Recovermat Property which is powered by electricity, requiring a minimum capacity of 3,000 KVA; the electrical supply is provided by BGE, a public utility.

I do solemnly declare and affirm under the penalties of perjury that the above statements are true and correct.



Paul Smith, Managing Member
Recovermat Mid-Atlantic, LLC
2202 Halethorpe Farms Road
Baltimore, MD 21227

DATE OF AFFIDAVIT: July 7, 2015





LEVIN & GANN, P.A.
ATTORNEYS AT LAW

Howard L. Alderman, Jr., Esquire | Principal
D: 410.321.4640 | halderman@levingann.com

July 9, 2015

RECEIVED
JUL 09 2015

HAND DELIVERED

Krysundra Cannington, Administrator
County Board of Appeals for Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

BALTIMORE COUNTY
BOARD OF APPEALS

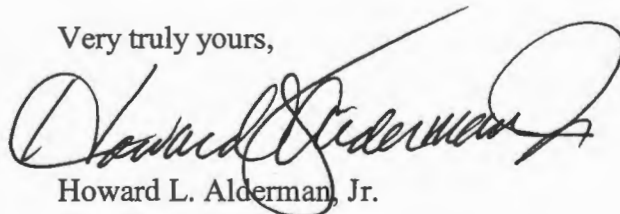
RE: Recovermat Mid-Atlantic, LLC, Legal Owner
Case Nos.: 2014-0178-A & 2014-0278-SPH
Motion for Judgment [Case No. 2014-0278-SPH] / *Motion to Dismiss Appeal* [Case No. 2014-0178-A]

Dear Ms. Cannington:

On behalf of my client, Recovermat Mid-Atlantic, LLC, please accept for filing and distribution to members of the Board, a Motion for Judgment in Case No. 2014-0278-SPH and a Motion to Dismiss Appeal in Case No. 2014-0178-A. An original and three copies of the pleading, proposed Order and all exhibits are included as directed by the Board.

Should you or any member of the Board need additional information in this regard, please do not hesitate to contact me.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk
Enclosures (4)
c (w/encl.[1])

Recovermat Mid-Atlantic, LLC
Edward J. Gilliss, Esquire
People's Counsel for Baltimore County

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

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THE ROYSTON BUILDING
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OF COUNSEL

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* ALSO ADMITTED IN D.C.

July 20, 2015

Via Hand Delivery

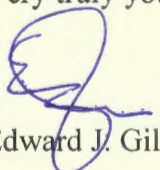
Ms. Krysundra "Sunny" Cannington
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2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District
Case No. 14-0278-SPH and
Case No. 14-0178-A

Dear Ms. Cannington:

We are in receipt of Recovermat Mid-Atlantic, LLC's July 9, 2015 Motion for Judgment in Case No. 14-0278-SPH and Motion to Dismiss Appeal in Case No. 14-178-A. On behalf of our client, North Point Recycling, LLC, we intend to file oppositions to these Motions. If there is a deadline for such pleading to be filed, please advise.

Very truly yours,


Edward J. Gilliss

EJG/ajf

cc: Howard L. Alderman, Jr., Esquire (via e-mail)
North Point Recycling, LLC (via e-mail)

RECEIVED
JUL 20 2015

BALTIMORE COUNTY
BOARD OF APPEALS

5/21/15

In RE: PETITION FOR VARIANCE AND
SPECIAL HEARING
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District
Recovermat Mid-Atlantic, LLC
Legal Owner
Petitioner

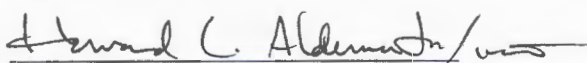
* BEFORE THE
* BOARD OF APPEALS
* FOR BALTIMORE COUNTY
* Case Nos.: 2014-178-A
and 2014-0278-SPH

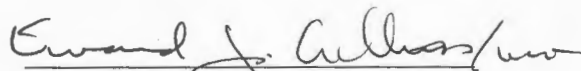
* * * * *

JOINT REQUEST FOR POSTPONEMENT

The parties, by their undersigned counsel, hereby jointly request that this matter, scheduled for hearing before the Board on June 2, 2015, be postponed inasmuch as on May 21, 2015 the Baltimore County Council passed Bill 35-15 which may obviate the need for the hearing of this matter.

The parties request a postponement of 45 days which will allow a complete analysis of the impact of Bill 35-15.


Howard L. Alderman, Jr., Esq.
Levin & Gann, PA
Nottingham Center
502 Washington Avenue, Suite 800
Towson, MD 21204-4525
Attorney for Recovermat MidAtlantic, LLC


Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Suite 600
Towson, MD 21204
Attorney for North Point Recycling, LLC

ROYSTON, MUELLER,
McLEAN & REID, LLP
SUITE 600
102 W PENN. AVE.
TOWSON, MARYLAND
21204-4575
410-823-1800

RECEIVED
MAY 22 2015

BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of May, 2015, a copy of the foregoing Notice of Appeal was hand delivered to:

Howard L. Alderman, Jr., Esq.
Levin & Gann, PA
Nottingham Center
502 Washington Avenue, Suite 800
Towson, MD 21204-4525

Peter Max Zimmerman, Esq. and Carol S. Demilio, Esq.
People's Counsel for Baltimore County
Jefferson Building Room 204
105 West Chesapeake Avenue
Towson, MD 21204



for Edward J. Gilliss

ROYSTON, MUELLER,
McLEAN & REID, LLP
SUITE 600
102 W PENN. AVE.
TOWSON, MARYLAND
21204-4575
410-823-1800

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

SUITE 600

THE ROYSTON BUILDING
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4575

TELEPHONE 410-823-1800

FACSIMILE 410-828-7859

www.rmmr.com

OF COUNSEL

LAUREL PARETTA REESE
EUGENE W. CUNNINGHAM, JR., P.A.
BRADFORD G.Y. CARNEY
STEPHEN C. WINTER
JOHN A. PICA, JR.

CARROLL W. ROYSTON
1913-1991

H. ANTHONY MUELLER
1913-2000

RICHARD A. REID
1931-2008

* ALSO ADMITTED IN D.C.

R. TAYLOR McLEAN
WILLIAM F. BLUE
THOMAS F. McDONOUGH
KEITH R. TRUFFER*
ROBERT S. HANDZO*
EDWARD J. GILLISS
TIMOTHY J. OURSLER
ROBERT G. BLUE
CRAIG P. WARD
LEANNE M. SCHRECENGOST
LISA J. McGRATH

JAMES L. SHEA, JR.
MARTHA K. WHITE
ROBERT F. MILLER
SARAH M. GRABENSTEIN

May 21, 2015

Via Hand Delivery

Board of Appeals for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Petition for Variance and Special Hearing
220 Halethrope Farms Road
13th Election District
1st Councilmanic District
Recovermat Mid-Atlantic, LLC

Dear Board Members:

Enclosed please find a Joint Request for Postponement in the above-captioned matter.

Very truly yours,



for Edward J. Gilliss

EJG/ajf
Enclosure

RECEIVED
MAY 22 2015

BALTIMORE COUNTY
BOARD OF APPEALS

12/12/14

BEFORE THE COUNTY BOARD OF APPEALS
FOR BALTIMORE COUNTY

IN RE: **PETITION FOR VARIANCE**
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District

Case No.: 2014-0178-A

Recovermat Mid-Atlantic, LLC,

Legal Owner

IN RE: **PETITION FOR SPECIAL HEARING**
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District

Case No.: 2014-0278-SPH

North Point Recycling, LLC,

Petitioner/Competitor

REQUEST FOR POSTPONEMENT

Case No. 2014-0178-A

Case No. 2014-0278-SPH

Recovermat Mid-Atlantic, LLC, Owner of the above-referenced property and a party (without waiving objection as to standing) in both of the above-captioned Cases, hereby requests that the Hearing presently scheduled on Wednesday, January 28, 2015 be postponed. In accordance with Rule 2(b) of the Board's rules, the basis for the requested postponement is based on one or more medical procedures to be performed on the undersigned. This request is filed more than fifteen (15) days in advance of the scheduled hearing.

In speaking with the Administrator of the Board this morning, rather than try to reschedule this matter for a firm date in March, the Board's Administrator will, in January 2015, assess the status of the situation and discuss available dates with involved counsel.

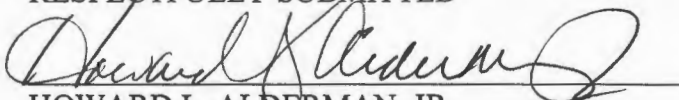
DEC 12 2014

FOR ALL OF THE FOREGOING REASONS, the Owner respectfully requests that the

Board:

- A. Postpone the hearing presently scheduled for January 28, 2015; and
- B. Grant such further relief as the nature of this case may require.

RESPECTFULLY SUBMITTED



HOWARD L. ALDERMAN, JR.

Levin & Gann, PA

Nottingham Centre, 8th Floor

502 Washington Avenue

Towson, Maryland 21204

410-321-0600

410-296-2801 (Fax)

Attorneys for Recovermat Mid-Atlantic, LLC

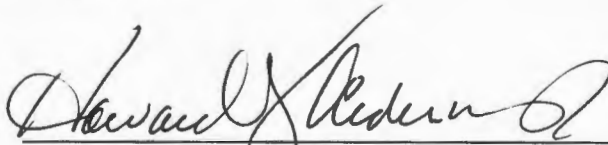
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of December 2014, a copy of the foregoing Request for Postponement was mailed, postage prepaid, First Class United States Mail to:

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

and

Edward J. Gilliss, Esquire
RMMR, LLP
102 W. Pennsylvania Ave, Suite 600
Towson, MD 21204



Howard L. Alderman, Jr.

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

IN RE: **PETITION FOR VARIANCE**
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District

Case No.: **2014-0178-A**

Recovermat Mid-Atlantic, LLC,
Legal Owner

IN RE: **PETITION FOR SPECIAL HEARING**
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District

Case No.: **2014-0278-SPH**

North Point Recycling, LLC,
Petitioner/Competitor

ORDER

Upon consideration of the Motion for Postponement filed on behalf of the Owner/Appellant in this matter and after review of the extraordinary circumstances which the Board has found are satisfactory in nature to justify the requests contained in the Motion, it is this _____ day of _____, 2014, ORDERED,

- A. The hearing presently scheduled for Wednesday, January 28, 2015 in this matter is hereby POSTPONED;
- B. The Board's Administrator shall contact all counsel of record during January 2015 regarding the rescheduling of this matter.

BOARD OF APPEALS FOR
BALTIMORE COUNTY

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

December 12, 2014

RECEIVED
DEC 12 2014

BALTIMORE COUNTY
BOARD OF APPEALS

HAND DELIVERED

David L. Thurston, Chairman
County Board of Appeals for Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

RE: Recovermat Mid-Atlantic, LLC
Petition for Variance
Petition for Special Hearing
Case Nos.: 2014-0178-A & 2014-0278-SPH
Hearing: Wednesday, January 28, 2014

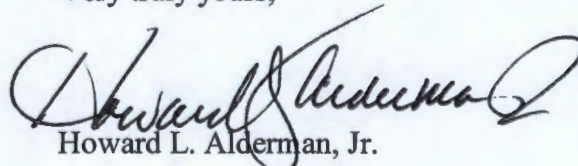
Dear Mr. Thurston:

The enclosed Motion for Postponement is filed in accordance with Board of Appeals Rule 2.c. The extraordinary circumstances justifying this request are set forth in the Motion and specifics related thereto have been discussed with Sunny, Edward Gilliss, Esquire and Peter Max Zimmerman, People's Counsel. Both Ed and Peter have advised verbally that they have no objection to the requested postponement.

Should you or any member of the Board desire any additional information or justification in support of this Motion, please have Sunny give me a call at her convenience.

Thank you for your consideration of this request.

Very truly yours,


Howard L. Alderman, Jr.

HLA/gk
Enclosure

c (w/encl.): Edward J. Gilliss, Esquire
People's Counsel for Baltimore County

10/22/14
BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY

IN RE: **PETITION FOR VARIANCE**
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District

Case No.: **2014-0178-A**

Recovermat Mid-Atlantic, LLC,

Legal Owner

RECEIVED

OCT 22 2014

IN RE: **PETITION FOR SPECIAL HEARING**
(2202 Halethorpe Farms Road)
13th Election District
1st Councilmanic District

OFFICE OF ADMINISTRATIVE HEARINGS

Case No.: **2014-0278-A**

North Point Recycling, LLC,

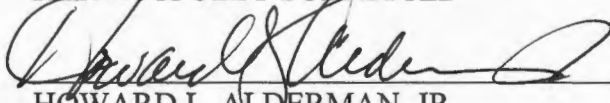
Petitioner/Competitor

NOTICE OF **LIMITED** APPEAL – Case No. 2014-0178-A

NOTICE OF APPEAL – Case No. **2014-0278-A**

Recovermat Mid-Atlantic, LLC, Owner of the above-referenced property and a party and the Petitioner in Case No. **2014-0178-A**, by and through its attorneys, Howard L. Alderman, Jr., and Levin and Gann, P.A., hereby notes a limited appeal to the County Board of Appeals for Baltimore County of a portion of the Opinion and Order of the Administrative Law Judge rendered on October 1, 2014 (the “Variance Opinion and Order”), a copy of which is attached hereto and incorporated herein. This limited appeal is to only of enumerated Condition/Restriction No. 2 of the Variance Opinion and Order requiring Owner to obtain a Special Exception and all other portions defining the Petitioner’s use at the subject property as a ‘junkyard’. Further, Recovermat Mid-Atlantic, LLC, Owner of the above-referenced property and a party (without waiving objection as to standing) in Case No. **2014-0278-A**, by and through its attorneys, Howard L. Alderman, Jr., and Levin and Gann, P.A., hereby notes an appeal to the County Board of Appeals for Baltimore County of the Special Hearing Opinion and Order of the Administrative Law Judge rendered on October 1, 2014 (the “Special Hearing Opinion and Order”), a copy of which is attached hereto and incorporated herein. This appeal is of all and any portions of the Special Hearing Opinion and Order, the findings of fact and conclusions of law pertaining thereto, the relief granted thereby and the conditions/restrictions placed on Owner’s property and variance relief imposed as a result thereof.

RESPECTFULLY SUBMITTED



HOWARD L. ALDERMAN, JR.

Levin & Gann, PA

Nottingham Centre, 8th Floor

502 Washington Avenue

Towson, Maryland 21204

410-321-0600

410-296-2801 (Fax)

Attorneys for Recovermat Mid-Atlantic, LLC

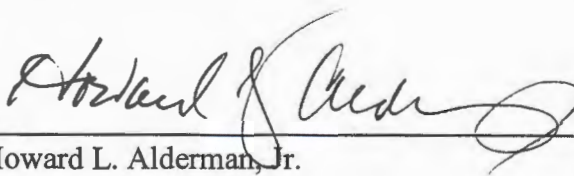
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of October 2014, a copy of the foregoing Notices were mailed, postage prepaid, First Class United States Mail to:

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

and

Edward J. Gilliss, Esquire
RMMR, LLP
102 W. Pennsylvania Ave, Suite 600
Towson, MD 21204



Howard L. Alderman, Jr.

10/1/14

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

(2202 Halethorpe Farms Road)

13th Election District

1st Councilmanic District

Recovermat Mid-Atlantic LLC

Legal Owner

Petitioner

* BEFORE THE

* OFFICE OF ADMINISTRATIVE

* HEARINGS FOR

* BALTIMORE COUNTY

* CASE NOS. 2014-0178-A
AND 2014-0278-SPH

* * * * *

OPINION AND ORDER

These matters come before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed on behalf of the legal owner, Recovermat Mid-Atlantic LLC ("Recovermat"), and a Petition for Special Hearing filed by North Point Recycling, LLC. The Variance Petition seeks relief from the rear yard setback requirements, while the Petition for Special Hearing seeks a declaration that Recovermat is operating a "junkyard" at the site. The cases were combined for hearing.

Howard L. Alderman, Jr., Esquire with Levin & Gann, PA, represented the Petitioner in the Variance case, and Edward J. Gilliss, Esquire with Royston, Mueller, McLean & Reid, LLP, represented the Petitioner in the Special Hearing case. The Petitions were advertised and posted as required by the Baltimore County Zoning Regulations (B.C.Z.R.). Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP). That agency did not oppose the Variance request, but noted in the Special Hearing case that it "does not support a defined junkyard for this location."

PETITION FOR VARIANCE

The subject property is approximately 10 acres and is zoned M.H.-I.M. Recovermat

ORDER RECEIVED FOR FILING

Date 10-1-14

By DW

operates at the site a scrap metal processing business. Paul Tharp, a Recovermat employee, described the operation of the business in some detail, and underscored that scrap metal is not stored at the site for any length of time, and that no retail sales are conducted on the premises. He explained the current building on site is deficient, and Recovermat proposes to construct a new building on the property for storage and maintenance purposes. Given the configuration of the site, and the flow of traffic in and out of the business, Mr. Capalongo (a landscape architect) stated the proposed location of the new building was really the only sensible choice. Mr. Capalongo testified the property is shaped like a "carving knife," and that environmental constraints prevent the western portion of the site from being developed.

The proposed building shown on the plan would be located 10' from the eastern property line, while the regulations require 30' and 50' (the M.H. regulations impose differing rear yard requirements along the length of the proposed structure). Recovermat submitted a letter from the Maryland Food Bank (the immediate neighbor to the east) expressing support for the requests. Petitioner's Exhibit 5, Case No. 2014-0178-A.

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).

While variances are not to be routinely granted, I believe Petitioner has met this test. The property is irregularly shaped and is constrained by environmental features on the western portion of the site. If the B.C.Z.R. were strictly interpreted the Petitioner would suffer a practical difficulty, since it would be unable to construct the new building in the location proposed.

Finally, I find that the variance can be granted in harmony with the spirit and intent of the

ORDER RECEIVED FOR FILING

Date 10-1-14

2

By EW

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 by the absence of County agency opposition, as well as the support of the neighbor which would be most impacted by the encroachment.

PETITION FOR SPECIAL HEARING

In Case No. 2014-0278-SPH, the Petitioner seeks a declaration that Recovermat is operating a junkyard on the property. It is undisputed that a special exception is required to operate a junkyard in the M.H. zone, and Recovermat has not been granted a special exception. Instead, in an earlier zoning case (Case No. 1994-0135-A; Petitioner's Exhibit 8 in Case No. 2014-0278-SPH), Recovermat was permitted to operate a demolition and construction materials recycling business which the Deputy Zoning Commissioner determined to be a "manufacturing use" permitted in the M.H. zone. In the years that followed, Recovermat obtained from Baltimore County two "spirit and intent" letters that permitted, under the auspices of the prior zoning Order, the processing under certain conditions of "white goods" and scrap metal at the site. Petitioner's Exhibit Nos. 9 and 10, Case No. 2014-0278-SPH.

Under the B.C.Z.R., a "junkyard" is defined in pertinent part as "[a]ny land used commercially or industrially for storage or for sale of scrap metal." B.C.Z.R. § 101.1. I believe that Recovermat's operation, as described by witnesses at the hearing, constitutes a "junkyard" under the B.C.Z.R., for which a special exception is required in the M.H. zone. B.C.Z.R. § 256.2.

While Mr. Tharp stressed that no "retail" sales were conducted on site, it is clear from his testimony (as well as the testimony of Edgar Johnson) that "scrap metal" is shredded on site, and then conveyed by rail or truck to steel mills, pursuant to sales contracts entered into by

Recovermat. This "sale" (to the steel mills) of "scrap metal" leads inexorably to the conclusion

ORDER RECEIVED FOR FILING

Date 10-1-14

3

By pw

Recovermat is operating a "junkyard" (as defined by the B.C.Z.R.) on the property.

THEREFORE, IT IS ORDERED, this 1st day of October, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to the Baltimore County Zoning Regulations ("B.C.Z.R.) as follows: (1) to permit a rear yard setback of 10 feet in lieu of the 30 feet required pursuant to §§ 258.1 and 238.2; (2) to permit a rear yard setback of 10 ft. in lieu of the 50 ft. required pursuant to §§ 258.2 and 243.3; and (3) modification of the site plan approved in Case No.: 94-135-A consistent with this Petition and Plan, be and is hereby GRANTED.

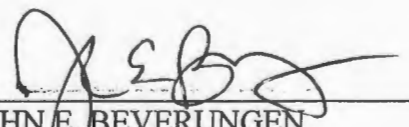
IT IS FURTHER ORDERED that the Petition for Special Hearing, be and is hereby GRANTED, upon finding that Petitioner (i.e., Recovermat) operates a "junkyard" on the premises.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioner must (prior to issuance of permits) obtain a special exception to operate a junkyard, or a final decision from a court of competent jurisdiction reversing the decision in Case No. 2014-0278-SPH.

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

JEB:dlw


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

ORDER RECEIVED FOR FILING

Date 10-1-14

By DW



KEVIN KAMENETZ
County Executive

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

October 1, 2014

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
502 Washington Ave., Ste. 800
Towson, Maryland 21204

Edward J. Gilliss, Esquire
Royston, Mueller, McLean & Reid, LLP
102 West Pennsylvania Ave., Ste. 600
Towson, Maryland 21204

RE: Petitions for Variance and Special Hearing
Property: 2202 Halethorpe Farms Road
Case Nos. 2014-0178-A and 2014-0278-SPH

Dear Counsel:

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

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

Sincerely,

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

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 2202 Halethorpe Farms Road which is presently zoned MH-IM

Deed References: 11184/0619 + 11184/0622 10 Digit Tax Account # 2200018585 + 220014866

Property Owner(s) Printed Name(s) Recovermat Mid-Atlantic

(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

SEE ATTACHED

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

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

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

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

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

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

Aggrieved:

North Point Recycling, LLC

Name- Type or Print

Signature

3000 Vera Street Baltimore MD

Mailing Address City State

21226

Zip Code Telephone # Email Address

Attorney for Petitioner:

Edward J. Gilliss

Name- Type or Print

Signature

102 W. Pennsylvania Ave. Suite 600 Towson MD

Mailing Address City State

21204 / 410-823-1800 / egilliss@mmmr.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Representative to be contacted:

Name - Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

CASE NUMBER 2014-0278-SP4 Filing Date 6/19/2014

Do Not Schedule Dates: _____

Reviewer th

Description
Of the lands of
Recovermat Mid-Atlantic, LLC.

Beginning for the same on the westernmost right of way line of Halethorpe Farms Road, at a common corner between the lands now or formerly of Iron City Sash & Doors, also known as Lot 2-R, as shown in Plat Book 67 Page 54 and lands now or formerly of Recovermat Mid-Atlantic, LLC. as shown in deed Liber 11184 at Folio 622; thence leaving Halethorpe Farms Road and binding on said division line, and referring said courses to the Maryland State Grid Meridian North 83/91 viz.,

1. **South 69°32'06" West 623.46 feet** to a point on the aforesaid division line, and also at the corner of the lands now or formerly of Recovermat Mid-Atlantic, LLC. as shown in deed Liber 11184 at Folio 619; being Lot 3-R as shown on the aforesaid plat; thence running with the division line of Lot 2R by the following two (2) courses,
2. **South 69°32'06" West 210.81 feet** to a point; and thence,
3. **South 20°32'20" East 334.65 feet** to a point between the aforementioned Recovermat and Iron City lands on the northernmost right of way line of Interstate 895; thence leaving said Iron City lands and binding on said Interstate 895 by the following four (4) courses,
4. **South 80°08'13" West 852.90 feet** to a point;
5. **North 54°51'47" West 35.36 feet** to a point;
6. **South 85°16'47" West 50.20 feet** to a point; and thence,
7. **South 84°47'19" West 587.79 feet** to a concrete monument found at a common corner between the aforementioned Recovermat lands and the lands now or formerly of CSX Transportation, Inc. as shown in deed Liber 4903 at Folio 6001; thence leaving the aforesaid Interstate 895 and binding on the division line between Recovermat and CSX lands,
8. **North 62°13'28" East 541.63 feet** to a common corner between the aforementioned Recovermat and CSX lands and also Lot 3 as shown on a plat entitled, "Hollins End" as recorded in Plat Book 78 Page 346; thence leaving the aforesaid CSX lands and binding on the division line between the aforesaid Recovermat lands and Lot 3, and also Lot 2 of said "Hollins" plat,
9. **North 69°32'00" East 923.35 feet** to a point at the corner of the aforesaid Recovermat lands and the aforementioned Recovermat lands in deed Liber 11184 at Folio 622 on the southernmost division line of the aforesaid "Hollins End" Lot 2; thence continuing along Lot 2 and also Lot 1 of said "Hollins End,"
10. **North 69°32'00" East 849.83 feet** to the aforementioned right of way of Halethorpe Farms Road, said point being located approximately 389 feet southeasterly from the centerline of Trident Court; thence leaving "Hollins End" Lot 1 and binding on said right of way,
11. **Southeasterly by a curve to the right with a radius of 1380.24 feet, and arc length of 88.75 feet, and subtended by a chord of South 18°37'29" East 88.73 feet** to the point of beginning,

Containing in all 10.186 acres of land, more or less.

2014-0278-SPH

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

R. TAYLOR McLEAN
WILLIAM F. BLUE
THOMAS F. McDONOUGH
LAUREL PARETTA REESE
KEITH R. TRUFFER*
ROBERT S. HANDZO*
EDWARD J. GILLISS
TIMOTHY J. OURSLER
ROBERT G. BLUE
CRAIG P. WARD
LEANNE M. SCHRECEGOST

JONATHAN M. HERBST
JAMES L. SHEA, JR.
MARTHA K. WHITE
ROBERT F. MILLER
SARAH M. GRABENSTEIN

SUITE 600
THE ROYSTON BUILDING
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4575

TELEPHONE 410-823-1800
FACSIMILE 410-828-7859
www.rmmlr.com

OF COUNSEL
EUGENE W. CUNNINGHAM, JR., P.A.
BRADFORD G.Y. CARNEY
STEPHEN C. WINTER
LISA J. McGRATH

CARROLL W. ROYSTON
1913-1991

H. ANTHONY MUELLER
1913-2000

RICHARD A. REID
1931-2008

* ALSO ADMITTED IN D.C.

June 18, 2014

Via Hand Delivery

Mr. Arnold Jablon
Department of Permits, Approvals and Inspections
111 West Chesapeake Avenue
Suite 105
Towson, MD 21204

Re: Petition for Special Hearing
2202 Halethorpe Farms Road
Case No.: 2014-178-A

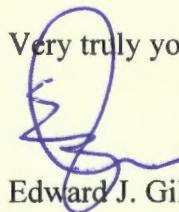
Dear Mr. Jablon:

Enclosed for filing in the above-captioned matter please find the following:

- Three copies of a Petition for Special Hearing with original signatures; and
- A \$500.00 filing fee in the form of a check made payable to "Baltimore County" from my firm's advance account.

Thank you for your cooperation.

Very truly yours,



Edward J. Gilliss

EJG/ajf

Enclosure

cc: Howard Alderman, Esq. (w/encls.) (via hand delivery)

2014-0278-SPH

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

No.

113313

Date:

6/19/14

PAID RECEIPT

BUSINESS ACTUAL TIME IN

6/20/2014 6/19/2014 14:32:39

REG WSD5 MAIL REGS LRB

RECEIPT # 743137 6/19/2014

Dept 5 528 ZONING VERIFICATION

CR NO. 113313

Receipt Tot \$500.00

\$500.00 CK \$1.00 CA

Baltimore County, Maryland

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

Total:

500.00

Rec From:

Royston Mueller McLean & Reid, LLP

For:

Special Hearing for
 2702 Holshouser Farm Rd.

2014-0278-SPH

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

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

No.

94653

Date: 10-22-14

PAID RECEIPT

BUSINESS ACTUAL TIME DCM
10/24/2014 10/22/2014 15:02:20

REG WSD5 WALKIN RDOS LRB
RECEIPT # 768259 10/22/2014 OFLN

Fund	Dept	Unit	Sub Unit	Rev Source/	Sub Rev/	Obj	Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150						520.00

DEPT 5 528 ZONING VERIFICATION
CR NO. 094653

Recpt Tot \$520.00
\$530.00 CK \$1.00 CA
Baltimore County, Maryland

Total: 520.00

Rec From: Howard Alderman, Esq.

For: Appent For Case Nos. 2014-0178A + 0278-BPH

2202 Hollett Rd. Farming Rd.
Recreation / North Point Recycling

DISTRIBUTION

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

CASHIER'S
VALIDATION

The Daily Record

11 East Saratoga Street
Baltimore, MD 21202-2199
(443) 524-8100
<http://www.thedailyrecord.com>

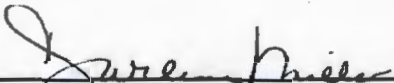
PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in The Daily Record, a daily newspaper published in the State of Maryland 1 times on the following dates:

8/1/2014

Order #: 10586114
Case #:
Description:

CASE NUMBER: **2014-0278-SPH** - Notice of Zoning Hearing



Darlene Miller, Public Notice Coordinator
(Representative Signature)

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: 2014-0278-SPH

2202 Halethorpe Farms Road

W/s Halethorpe Farms Road, 395 ft. SE Trident Court

13th Election District - 1st Councilmanic District

Legal Owner: North Point Recycling, LLC

Special Hearing to determine that the use of the property, zoned MH-IM, as a junk yard illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

Hearing: Tuesday, August 12, 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.

aul



THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

September 11, 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 September 9, 2014

☐ The Jeffersonian

THE BALTIMORE SUN MEDIA GROUP

By: Susan Wilkinson

Susan Wilkinson

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: #2014-0278-SPH

2202 Halethorpe Farms Road
W/s Halethorpe Farms Road, 395 ft. SE Trident Court
13th Election District - 1st Councilmanic District
Legal Owner(s): North Point Recycling, LLC

Special Hearing: to determine that the use of the property, zoned MH-IM, as a junk yard illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

Hearing: Monday, September 29, 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 9/661 September 9

993124

Bruce E. Doak Consulting, LLC

3801 Baker Schoolhouse Road
Freeland, MD 21053
o 443-900-5535 m 410-419-4906
bdoak@bruceedoakconsulting.com

CERTIFICATE OF POSTING

September 10, 2014

Re:

Case No. 2014-0278-SPH

Petitioner / Owner: North Point Recycling, LLC

Date of Hearing: September 29, 2014

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

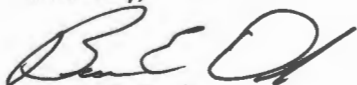
Attention: Kristen Lewis

Ladies and Gentlemen,

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at **2202 Halethorpe Farms Road**.

The sign(s) were posted on **September 6, 2014**.

Sincerely,



Bruce E. Doak

MD Property Line Surveyor #531

See the attached sheet(s) for the photos of the posted sign(s)



Land Use Expert and Surveyor

ZONING NOTICE

CASE NO. 2014-0278-SPH

A PUBLIC HEARING WILL BE HELD BY THE
ADMINISTRATIVE LAW JUDGE IN TOWSON
MARYLAND

PLACE: Room 205 JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MD 21204

DATE&TIME: Monday September 29, 2014, 1:30 PM

REQUEST:
SPECIAL HEARING TO DETERMINE THAT THE USE
OF THE PROPERTY, ZONED MH-1-IM, AS A JUNK
YARD ILLEGAL SINCE JUNK YARDS ARE NOT
PERMITTED WITHOUT A SPECIAL EXCEPTION, AND
THE NOVEMBER 24, 2008 "SPIRIT AND INTENT"
LETTER IS INSUFFICIENT TO GRANT JUNK YARD
USE.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY. TO CANCEL THE HEARING CALL 410-247-9680

DO NOT REMOVE THIS SIGN AND FEE. DATE THE DAY OF THE HEARING
LARGE FINE FOR VIOLATION

THE HEARING IS HANDICAPPED ACCESSIBLE

RECOVERMAT

2202 Halethorpe Farm Road

410-247-9680

Mon-Fri 7:30-4:30

ZONING NOTICE

CASE NO. 2014-0178-A

A PUBLIC HEARING WILL BE HELD BY THE
ADMINISTRATIVE LAW JUDGE IN TOWSON
MARYLAND

PLACE: Room 205 JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MD 21204

DATE&TIME: Monday September 29, 2014, 1:30 PM

REQUEST:
VARIANCE TO PERMIT A REAR YARD SETBACK OF 15
FEET IN LIEU OF THE 25 FEET REQUIRED. TO PERMIT A
REAR YARD SETBACK OF 15 FEET IN LIEU OF THE 25
FEET REQUIRED; ASSIGNMENT OF THE SITE PLAN
THE PETITION AND PLAN; AND FOR SUCH ADDITIONAL
RELIEF AS THE PLAN TO ASSIGNMENT THE PETITION
AND THE NATURE OF THE CASE MAY REQUIRE.

ZONING NOTICE

CASE NO. 2014-0278-SPH

A PUBLIC HEARING WILL BE HELD BY THE
ADMINISTRATIVE LAW JUDGE IN TOWSON
MARYLAND

PLACE: Room 205 JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MD 21204

DATE&TIME: Monday September 29, 2014, 1:30 PM

REQUEST:
SPECIAL HEARING TO DETERMINE THAT THE USE
OF THE PROPERTY, ZONED MH-1-IM, AS A JUNK
YARD ILLEGAL SINCE JUNK YARDS ARE NOT
PERMITTED WITHOUT A SPECIAL EXCEPTION, AND
THE NOVEMBER 24, 2008 "SPIRIT AND INTENT"
LETTER IS INSUFFICIENT TO GRANT JUNK YARD
USE.

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: 2014-0278-SPH
Petitioner: North Point Recycling, LLC
Address or Location: 2202 Halcrope Farms Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Edward J. Gilliss
Address: 102 W. Pennsylvania Ave Ste 600
Towson, MD. 21204
Telephone Number: 410 823-1800

TO: PATUXENT PUBLISHING COMPANY
Thursday, July 24, 2014 Issue - Jeffersonian

Please forward billing to:

Edward Gillis
102 W. Pennsylvania Avenue, Ste. 600
Towson, MD 21204

410-823-1800

NOTICE OF ZONING HEARING

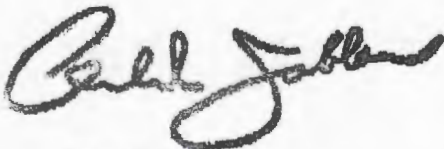
The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2014-0278-SPH

2202 Halethorpe Farms Road
W/s Halethorpe Farms Road, 395 ft. SE Trident Court
13th Election District – 1st Councilmanic District
Legal Owner: North Point Recycling, LLC

Special Hearing to determine that the use of the property, zoned MH-IM, as a junk yard illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

Hearing: Tuesday, August 12, 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.



KEVIN KAMENETZ
County Executive

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

July 9, 2014

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: 2014-0278-SPH

2202 Halethorpe Farms Road
W/s Halethorpe Farms Road, 395 ft. SE Trident Court
13th Election District – 1st Councilmanic District
Legal Owner: North Point Recycling, LLC

Special Hearing to determine that the use of the property, zoned MH-IM, as a junk yard illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

Hearing: Tuesday, August 12, 2014 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

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

Arnold Jablon
Director

AJ:kl

C: Edward Gillis, 102 W. Pennsylvania Avenue, Ste. 600, Towson 21204
North Point Recycling, LLC, 3000 Vera Street, Baltimore 21226

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JULY 24, 2014.**
- (2) **HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.**
- (3) **FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.**

TO: PATUXENT PUBLISHING COMPANY
Tuesday, September 9, 2014 Issue - Jeffersonian

Please forward billing to:

Edward Gillis
102 W. Pennsylvania Avenue, Ste. 600
Towson, MD 21204

410-823-1800

NOTICE OF ZONING HEARING

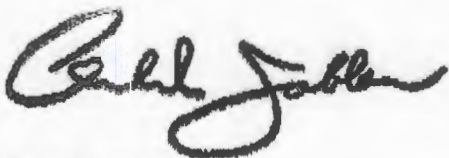
The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2014-0278-SPH

2202 Halethorpe Farms Road
W/s Halethorpe Farms Road, 395 ft. SE Trident Court
13th Election District – 1st Councilmanic District
Legal Owner: North Point Recycling, LLC

Special Hearing to determine that the use of the property, zoned MH-IM, as a junk yard illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

Hearing: Monday, September 29, 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.



KEVIN KAMENETZ
County Executive

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

August 25, 2014

NEW NOTICE OF ZONING HEARING

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

CASE NUMBER: 2014-0278-SPH

2202 Halethorpe Farms Road
W/s Halethorpe Farms Road, 395 ft. SE Trident Court
13th Election District – 1st Councilmanic District
Legal Owner: North Point Recycling, LLC

Special Hearing to determine that the use of the property, zoned MH-IM, as a junk yard illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

Hearing: Monday, September 29, 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: Edward Gillis, 102 W. Pennsylvania Avenue, Ste. 600, Towson 21204
North Point Recycling, LLC, 3000 Vera Street, Baltimore 21226

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, SEPTEMBER 9, 2014.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Board of Appeals of Baltimore County

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

December 2, 2014

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Recovermat Mid-Atlantic, LLC – Legal Owner
2202 Halethorpe Farms Road
14-178-A 13th Election District; 1st Councilmanic District

Re: Petition for Variance from B.C.Z.R. as follows:

- 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and
- 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and
- 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan; and
- 4) for such additional relief as the Plan to accompany this Petition and the nature of this case may require.

10/1/14 Opinion and Order of the Administrative Law Judge wherein the requested relief 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan was GRANTED.

SET WITH-----

14-278-SPH

Recovermat Mid-Atlantic, LLC – Legal Owner
North Point Recycling, LLC – Aggrieved
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

Re: Petition for Special Hearing to determine that the use of the property, zoned MH-IM, as a junk yard is illegal since junk yards are not permitted without a special exception, and the November 24, 2008 “spirit and intent” letter is insufficient to grant junk yard use.

10/1/14 Opinion and Order of the Administrative Law Judge wherein the requested relief was GRANTED, upon finding that Petitioner operates a “junkyard” on the premises. Petitioner must (prior to issuance of permits) obtain a special exception to operate a junkyard, or final decision from a court of competent jurisdiction reversing the decision in Case No. 14-278-SPH.

ASSIGNED FOR: WEDNESDAY, JANUARY 28, 2015, AT 10:00 A.M.

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

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney. Please refer to the Board’s Rules of Practice & Procedure, Appendix B, Baltimore County Code.

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

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

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra “Sunny” Cannington, Administrator

See attached distribution list

Distribution List
Notice of Assignment
December 2, 2014
Page 2

cc: Counsel for Petitioner/Legal Owner: Howard L. Alderman, Jr., Esquire
Petitioner/Legal Owner: Recovermat Mid-Atlantic, LLC

Counsel for Protestant: Edward J. Gilliss, Esquire
Protestant: North Point Recycling, LLC

Robert D. Capalongo, RLA/CNA Engineers
Paul Tharp
Katie Hearn
David Simon
Dale Fields/Motor Vehicle Administration/Business Licensing
Phil Dacey, Esquire/Motor Vehicle Administration
Office of People's Counsel
Arnold Jablon, Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

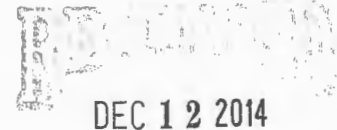
HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

December 12, 2014



BALTIMORE COUNTY
BOARD OF APPEALS

HAND DELIVERED

David L. Thurston, Chairman
County Board of Appeals for Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

RE: Recovermat Mid-Atlantic, LLC
Petition for Variance
Petition for Special Hearing
Case Nos.: 2014-0178-A & 2014-0278-SPH
Hearing: Wednesday, January 28, 2014

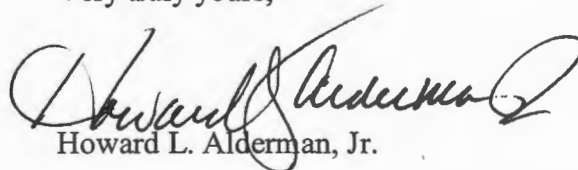
Dear Mr. Thurston:

The enclosed Motion for Postponement is filed in accordance with Board of Appeals Rule 2.c. The extraordinary circumstances justifying this request are set forth in the Motion and specifics related thereto have been discussed with Sunny, Edward Gilliss, Esquire and Peter Max Zimmerman, People's Counsel. Both Ed and Peter have advised verbally that they have no objection to the requested postponement.

Should you or any member of the Board desire any additional information or justification in support of this Motion, please have Sunny give me a call at her convenience.

Thank you for your consideration of this request.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk
Enclosure

c (w/encl.): Edward J. Gilliss, Esquire
People's Counsel for Baltimore County



Board of Appeals of Baltimore County

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

December 15, 2014

NOTICE OF POSTPONEMENT

IN THE MATTER OF:

Recovermat Mid-Atlantic, LLC – Legal Owner
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

14-178-A

Re: Petition for Variance from B.C.Z.R. as follows:

- 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and
- 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and
- 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan; and
- 4) for such additional relief as the Plan to accompany this Petition and the nature of this case may require.

10/1/14

Opinion and Order of the Administrative Law Judge wherein the requested relief 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan was GRANTED.

SET WITH-----

Recovermat Mid-Atlantic, LLC – Legal Owner
North Point Recycling, LLC – Aggrieved
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

14-278-SPH

Re: Petition for Special Hearing to determine that the use of the property, zoned MH-IM, as a junk yard is illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

10/1/14

Opinion and Order of the Administrative Law Judge wherein the requested relief was GRANTED, upon finding that Petitioner operates a "junkyard" on the premises. Petitioner must (prior to issuance of permits) obtain a special exception to operate a junkyard, or final decision from a court of competent jurisdiction reversing the decision in Case No. 14-278-SPH.

This matter was assigned for Wednesday, January 28, 2015 and has been postponed. It will be rescheduled to a later date.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney. Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

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

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

For further information, including our inclement weather policy, please visit our website
www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

Distribution List
Notice of Postponement
December 15, 2014
Page 2

cc:	Counsel for Petitioner/Legal Owner:	Howard L. Alderman, Jr., Esquire
	Petitioner/Legal Owner:	Recovermat Mid-Atlantic, LLC
	Counsel for Protestant:	Edward J. Gilliss, Esquire
	Protestant:	North Point Recycling, LLC

Robert D. Capalongo, RLA/CNA Engineers
Paul Tharp
Katie Heam
David Simon
Dale Fields/Motor Vehicle Administration/Business Licensing
Phil Dacey, Esquire/Motor Vehicle Administration
Office of People's Counsel
Arnold Jablon, Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law



Board of Appeals of Baltimore County

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

December 15, 2014

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

Re: In the Matter of: Recovermat Mid-Atlantic, LLC
Case No: 14-178-A and 14-278-SPH

Dear Mr. Alderman:

I am in receipt of your request for postponement dated December 12, 2014. This letter is to advise you that your request for a postponement of the hearing scheduled for January 28, 2015 has been granted.

As per our discussion, I will follow up with you toward the end of January to discuss the rescheduling of this matter.

A copy of the Notice of Postponement for the January 28, 2015 date is enclosed. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Sunny Cannington

Krysundra "Sunny" Cannington
Administrator

Encl.: Notice of Postponement

c (w/Encl.): Edward J. Gilliss, Esquire
Office of People's Counsel



Board of Appeals of Baltimore County

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

February 20, 2015

NOTICE OF REASSIGNMENT

IN THE MATTER OF: Recovermat Mid-Atlantic, LLC – Legal Owner
2202 Halethorpe Farms Road
14-178-A 13th Election District; 1st Councilmanic District

Re: Petition for Variance from B.C.Z.R. as follows:
1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and
2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and
3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan; and
4) for such additional relief as the Plan to accompany this Petition and the nature of this case may require.

10/1/14 Opinion and Order of the Administrative Law Judge wherein the requested relief 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan was GRANTED.

SET WITH-----

14-278-SPH

Recovermat Mid-Atlantic, LLC – Legal Owner
North Point Recycling, LLC – Aggrieved
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

Re: Petition for Special Hearing to determine that the use of the property, zoned MH-IM, as a junk yard is illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

10/1/14 Opinion and Order of the Administrative Law Judge wherein the requested relief was GRANTED, upon finding that Petitioner operates a "junkyard" on the premises. Petitioner must (prior to issuance of permits) obtain a special exception to operate a junkyard, or final decision from a court of competent jurisdiction reversing the decision in Case No. 14-278-SPH.

ASSIGNED FOR: THURSDAY, APRIL 23, 2015, AT 10:00 A.M.

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

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney. Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

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

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

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington, Administrator

See attached distribution list

Distribution List
Notice of Reassignment
February 20, 2015
Page 2

cc:	Counsel for Petitioner/Legal Owner:	Howard L. Alderman, Jr., Esquire
	Petitioner/Legal Owner:	Recovermat Mid-Atlantic, LLC
	Counsel for Protestant:	Edward J. Gilliss, Esquire
	Protestant:	North Point Recycling, LLC

Robert D. Capalongo, RLA/CNA Engineers
Paul Tharp
Katie Hearn
David Simon
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Office of People's Counsel
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Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law



Board of Appeals of Baltimore County

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

March 3, 2015

NOTICE OF POSTPONEMENT

IN THE MATTER OF:

14-178-A

Recovermat Mid-Atlantic, LLC – Legal Owner
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

Re: Petition for Variance from B.C.Z.R. as follows:

- 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and
- 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and
- 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan; and
- 4) for such additional relief as the Plan to accompany this Petition and the nature of this case may require.

10/1/14

Opinion and Order of the Administrative Law Judge wherein the requested relief 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan was GRANTED.

SET WITH

14-278-SPH

Recovermat Mid-Atlantic, LLC – Legal Owner
North Point Recycling, LLC – Aggrieved
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

Re: Petition for Special Hearing to determine that the use of the property, zoned MH-IM, as a junk yard is illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

10/1/14

Opinion and Order of the Administrative Law Judge wherein the requested relief was GRANTED, upon finding that Petitioner operates a "junkyard" on the premises. Petitioner must (prior to issuance of permits) obtain a special exception to operate a junkyard, or final decision from a court of competent jurisdiction reversing the decision in Case No. 14-278-SPH.

This matter was assigned for Thursday, April 23, 2015 and has been postponed. It will be rescheduled to a later date.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney. Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

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

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

For further information, including our inclement weather policy, please visit our website
www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

Distribution List
Notice of Postponement
March 3, 2015
Page 2

cc:	Counsel for Petitioner/Legal Owner:	Howard L. Alderman, Jr., Esquire
	Petitioner/Legal Owner:	Recovermat Mid-Atlantic, LLC
	Counsel for Protestant:	Edward J. Gilliss, Esquire
	Protestant:	North Point Recycling, LLC

Robert D. Capalongo, RLA/CNA Engineers
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Michael Field, County Attorney, Office of Law



Board of Appeals of Baltimore County

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

March 3, 2015

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

Edward J. Gilliss, Esquire
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Ste 600
Towson, MD 21204

Re: In the Matter of: Recovermat Mid-Atlantic, LLC
Case No: 14-178-A and **14-278-SPH**

Dear Counsel:

I am in receipt of the request for postponement dated February 27, 2015 by Mr. Gilliss. This letter is to advise you that your request for a postponement of the hearing scheduled for April 23, 2015 has been granted. A copy of the Notice of Postponement for the April 23, 2015 date is enclosed.

As you are aware, the Board generally has hearings on Tuesdays, Wednesdays, and Thursdays. The following dates are currently available on the Board's docket. All hearings begin at 10:00 a.m.

Tuesday, April 28, 2015,
Wednesday, April 29, 2015,
Thursday, April 30, 2015,
Tuesday, May 5, 2015, or
Thursday, May 7, 2015.

Please contact this office as soon as possible regarding your availability.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Sunny Cannington
Krysundra "Sunny" Cannington
Administrator

Duplicate Original
Encl.: Notice of Postponement

cc (w/Encl.): Office of People's Counsel



Board of Appeals of Baltimore County

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

April 10, 2015

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Recovermat Mid-Atlantic, LLC – Legal Owner
2202 Halethorpe Farms Road
14-178-A 13th Election District; 1st Councilmanic District

Re: Petition for Variance from B.C.Z.R. as follows:

- 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and
- 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and
- 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan; and
- 4) for such additional relief as the Plan to accompany this Petition and the nature of this case may require.

10/1/14 Opinion and Order of the Administrative Law Judge wherein the requested relief 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan was GRANTED.

SET WITH-----

14-278-SPH

Recovermat Mid-Atlantic, LLC – Legal Owner
North Point Recycling, LLC – Aggrieved
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

Re: Petition for Special Hearing to determine that the use of the property, zoned MH-IM, as a junk yard is illegal since junk yards are not permitted without a special exception, and the November 24, 2008 “spirit and intent” letter is insufficient to grant junk yard use.

10/1/14 Opinion and Order of the Administrative Law Judge wherein the requested relief was GRANTED, upon finding that Petitioner operates a “junkyard” on the premises. Petitioner must (prior to issuance of permits) obtain a special exception to operate a junkyard, or final decision from a court of competent jurisdiction reversing the decision in Case No. 14-278-SPH.

ASSIGNED FOR: TUESDAY, JUNE 2, 2015, AT 10:00 A.M.

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

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney. Please refer to the Board’s Rules of Practice & Procedure, Appendix B, Baltimore County Code.

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

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

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra “Sunny” Cannington, Administrator

See attached distribution list

Distribution List
Notice of Assignment
April 10, 2015
Page 2

cc:	Counsel for Petitioner/Legal Owner:	Howard L. Alderman, Jr., Esquire
	Petitioner/Legal Owner:	Recovermat Mid-Atlantic, LLC
	Counsel for Protestant:	Edward J. Gilliss, Esquire
	Protestant:	North Point Recycling, LLC

Robert D. Capalongo, RLA/CNA Engineers
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Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law



Board of Appeals of Baltimore County

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

May 22, 2015

NOTICE OF POSTPONEMENT

IN THE MATTER OF:

14-178-A

Recovermat Mid-Atlantic, LLC – Legal Owner
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

Re: Petition for Variance from B.C.Z.R. as follows:

- 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and
- 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and
- 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan; and
- 4) for such additional relief as the Plan to accompany this Petition and the nature of this case may require.

10/1/14

Opinion and Order of the Administrative Law Judge wherein the requested relief 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan was GRANTED.

SET WITH-----

14-278-SPH

Recovermat Mid-Atlantic, LLC – Legal Owner
North Point Recycling, LLC – Aggrieved
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

Re: Petition for Special Hearing to determine that the use of the property, zoned MH-IM, as a junk yard is illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

10/1/14

Opinion and Order of the Administrative Law Judge wherein the requested relief was GRANTED, upon finding that Petitioner operates a "junkyard" on the premises. Petitioner must (prior to issuance of permits) obtain a special exception to operate a junkyard, or final decision from a court of competent jurisdiction reversing the decision in Case No. 14-278-SPH.

These matters were assigned for Tuesday, June 2, 2015 and have been postponed by Joint Request of Counsel.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney. Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

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

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

For further information, including our inclement weather policy, please visit our website
www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

Distribution List
Notice of Postponement
May 22, 2015
Page 2

cc:	Counsel for Petitioner/Legal Owner:	Howard L. Alderman, Jr., Esquire
	Petitioner/Legal Owner:	Recovermat Mid-Atlantic, LLC
	Counsel for Protestant:	Edward J. Gilliss, Esquire
	Protestant:	North Point Recycling, LLC

Robert D. Capalongo, RLA/CNA Engineers
Paul Tharp
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Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
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410-887-3180
FAX: 410-887-3182

August 4, 2015

NOTICE OF ASSIGNMENT **ARGUMENT ONLY ON MOTION TO DISMISS**

IN THE MATTER OF: Recovermat Mid-Atlantic, LLC – Legal Owner
2202 Halethorpe Farms Road
14-178-A 13th Election District; 1st Councilmanic District

SET WITH-----
Recovermat Mid-Atlantic, LLC – Legal Owner
North Point Recycling, LLC – Aggrieved
14-278-SPH 2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

ASSIGNED FOR: **THURSDAY, SEPTEMBER 10, 2015, AT 10:00 A.M.**

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

NOTICE: This will be a **MOTION ONLY HEARING** at which time the Board will hear argument only on the subject Motion to Dismiss, with no evidence or testimony as to the merits of the case to be received at that time.

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

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

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For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

c: See attached Distribution List

Distribution List
Notice of Assignment
Argument on Motion to Dismiss
August 4, 2015
Page 2

cc:	Counsel for Petitioner/Legal Owner: Petitioner/Legal Owner:	Howard L. Alderman, Jr., Esquire Recovermat Mid-Atlantic, LLC
	Counsel for Protestant: Protestant:	Edward J. Gilliss, Esquire North Point Recycling, LLC

Robert D. Capalongo, RLA/CNA Engineers
Paul Tharp
Katie Hearn
Dale Fields/Motor Vehicle Administration/Business Licensing
Phil Dacey, Esquire/Motor Vehicle Administration
Office of People's Counsel
Arnold Jablon, Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law



LEVIN & GANN, P.A.
ATTORNEYS AT LAW

Howard L. Alderman, Jr., Esquire | Principal
D: 410.321.4640 | halderman@levingann.com

August 12, 2015

RECEIVED
AUG 14 2015

REGULAR AND EMAIL ATTACHMENT

Krysundra Cannington, Administrator
County Board of Appeals for Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

BALTIMORE COUNTY
BOARD OF APPEALS

RE: Recovermat Mid-Atlantic, LLC, Legal Owner
Case Nos.: 2014-0178-A & 2014-0278-SPH
Request to Reschedule Motions Hearing

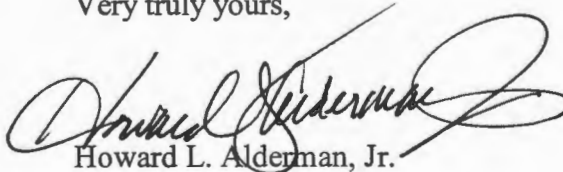
Dear Ms. Cannington:

The enclosed *Notice of Assignment* identifies Thursday, September 10, 2015 as the date that a hearing is scheduled on the Motions that I filed in the above-referenced case. I have a conflict with that date. The second day of a contested development plan hearing, as previously agreed to by counsel and specially set by the County, is scheduled for the same date and time assigned to the hearing before the Board. I therefore must request that this hearing be rescheduled.

The development plan case, captioned as "Vernon Smith Property", PAI No. 10-466, was specially set in early July and then, as reflected on the enclosed email message from Kristen Lewis, Docket Clerk, confirmed on July 24, 2015. The Board's Notice of Assignment is dated August 4, 2015.

I have notified Mr. Gilliss earlier by email of this request. Should you or any member of the Board desire additional information in support of this request to reschedule the hearing, please let me know.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk
Enclosures (2)
c (w/encl.):

Recovermat Mid-Atlantic, LLC
Edward J. Gilliss, Esquire
People's Counsel for Baltimore County



Board of Appeals of Baltimore County

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

August 18, 2015

NOTICE OF POSTPONEMENT AND REASSIGNMENT

IN THE MATTER OF:

14-178-A

Recovermat Mid-Atlantic, LLC – Legal Owner
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

Re: Petition for Variance from B.C.Z.R. as follows:

- 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and
- 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and
- 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan; and
- 4) for such additional relief as the Plan to accompany this Petition and the nature of this case may require.

10/1/14

Opinion and Order of the Administrative Law Judge wherein the requested relief 1) from Section 258.1 and 238.2 to permit a rear yard setback of 10 ft. in lieu of the required 30 ft.; and 2) from Section 258.2 and 243.3 to permit a rear yard setback of 10 ft. in lieu of the required 50 ft.; and 3) modification of the site plan approved in Case No. 94-135-A consistent with this Petition and Plan was GRANTED.

SET WITH-----

14-278-SPH

Recovermat Mid-Atlantic, LLC – Legal Owner
North Point Recycling, LLC – Aggrieved
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

Re: Petition for Special Hearing to determine that the use of the property, zoned MH-IM, as a junk yard is illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

10/1/14

Opinion and Order of the Administrative Law Judge wherein the requested relief was GRANTED, upon finding that Petitioner operates a "junkyard" on the premises. Petitioner must (prior to issuance of permits) obtain a special exception to operate a junkyard, or final decision from a court of competent jurisdiction reversing the decision in Case No. 14-278-SPH.

This matter was assigned for Argument on the Motion to Dismiss on Thursday, September 10, 2015 and has been postponed by request of Counsel. It is hereby rescheduled to the following

DATE AND TIME: WEDNESDAY, OCTOBER 14, 2015 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney. Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

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

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

For further information, including our inclement weather policy, please visit our website
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Krysundra "Sunny" Cannington
Administrator

Distribution List
Notice of Postponement and Reassignment
Argument on Motion to Dismiss
August 18, 2015
Page 2

cc:	Counsel for Petitioner/Legal Owner:	Howard L. Alderman, Jr., Esquire
	Petitioner/Legal Owner:	Recovermat Mid-Atlantic, LLC
	Counsel for Protestant:	Edward J. Gilliss, Esquire
	Protestant:	North Point Recycling, LLC

Robert D. Capalongo, RLA/CNA Engineers
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Board of Appeals of Baltimore County

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SECOND FLOOR, SUITE 203
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TOWSON, MARYLAND, 21204
410-887-3180
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August 18, 2015

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

Re: In the Matter of: Recovermat Mid-Atlantic, LLC
Case No: 14-178-A and 14-278-SPH

Dear Mr. Alderman:

I am in receipt of your request for postponement dated August 12, 2015. This letter is to advise you that your request for a postponement of the argument scheduled for September 10, 2015 has been granted.

Enclosed please find the Notice of Postponement and Reassignment scheduling this matter for Argument on the Motions on Wednesday, October 14, 2015 at 10:00 a.m.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

Encl.: Notice of Postponement and Reassignment

c (w/Encl.): Edward J. Gilliss, Esquire
Office of People's Counsel



Board of Appeals of Baltimore County

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

October 30, 2015

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

Edward J. Gilliss, Esquire
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Ste 600
Towson, MD 21204

Re: In the Matter of: Recovermat Mid-Atlantic, LLC
Case No: 14-178-A and 14-278-SPH

Dear Counsel:

On October 14, 2015, the Board convened for argument on the Motion to Dismiss and Response. At the conclusion of arguments, the Board convened for a public deliberation wherein they decided to deny the Motion to Dismiss. It is my understanding that at this time, a hearing is necessary to proceed with this matter.

As you are aware, the Board generally has hearings on Tuesdays, Wednesdays, and Thursdays. The following dates are currently available on the Board's docket. All hearings begin at 10:00 a.m.

Tuesday, January 5, 2016,
Wednesday, January 6, 2016,
Thursday, January 7, 2016,
Tuesday, January 12, 2016,
Wednesday, January 13, 2016, or
Thursday, January 14, 2016

Please contact this office as soon as possible regarding your availability.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

Duplicate Original



Board of Appeals of Baltimore County

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

December 2, 2015

NOTICE OF PUBLIC DELIBERATION **WITH HEARING TO IMMEDIATELY FOLLOW** **(if necessary)**

IN THE MATTER OF: Recovermat Mid-Atlantic, LLC – Legal Owner
14-278-SPH North Point Recycling, LLC – Aggrieved
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District

A Motion for Reconsideration was filed in this matter on November 11, 2015. A public deliberation in this matter has been

ASSIGNED FOR: THURSDAY, JANUARY 7, 2016, AT 9:30 A.M.

In accordance with the oral ruling on the Motion for Judgment issued October 14, 2015, this matter has been scheduled for a hearing on the merits to immediately follow the public deliberation.

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

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney. Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

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

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

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

cc: Counsel for Legal Owner:
Legal Owner:

Howard L. Alderman, Jr., Esquire
Recovermat Mid-Atlantic, LLC

Counsel for Protestant:
Protestant:

Edward J. Gilliss, Esquire
North Point Recycling, LLC

Robert D. Capalongo, RLA/CNA Engineers Paul Tharp
Dale Fields/Motor Vehicle Administration/Business Licensing
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Nancy West, Assistant County Attorney

Katie Heam
Phil Dacey, Esquire/Motor Vehicle Administration
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law



KEVIN KAMENETZ
County Executive

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

September 24, 2014

North Point Recycling LLC
3000 Vera Street
Baltimore MD 21226

RE: Case Number: 2014-0278 SPH, Address: 2202 Halethorpe Farms Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on June 19, 2014. 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
Edward J Gillis, Esquire, 102 W Pennsylvania Avenue, Suite 600, Towson MD 21204

9/29/14

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: July 29, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 2202 Halethorpe Farms Road

INFORMATION:

Item Number: 14-278

Petitioner: Recovermat Mid-Atlantic LLC

Zoning: MH-IM

Requested Action: Special Hearing

RECEIVED

JUL 30 2014

OFFICE OF ADMINISTRATIVE HEARINGS

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The petitioner is seeking to determine that the use of the property zoned MH-IM, as a junk yard is illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

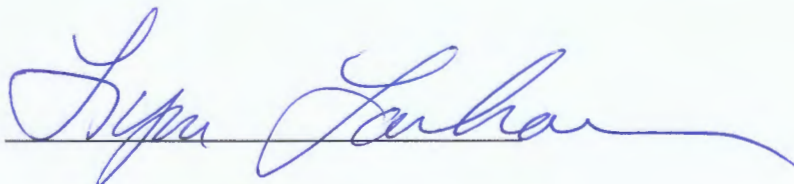
A Spirit and Intent Letter was issued by Timothy M. Kotroco, then Director of Permits and Development Management, on November 24, 2008 approving certain scrap metal processes as within the spirit and intent of his previous zoning decision with certain conditions. Further, there are no outstanding code enforcement violations on the property to staff's knowledge. Planning supports a recycling center that includes the recycling of scrap metal as long as it meets the additional conditions outlined in the November 24, 2008 "spirit and intent" letter for the processing of scrap metal. The Department of Planning does not support a defined junk yard for this location.

Furthermore, there are local community concerns that the processing of scrap metal especially from stripped cars is a nuisance to their community.

In a related case (ZAC 14-178, also being heard on August 12, 2014) the Department of Planning, in written comments dated April 9, 2014, supported a request for setback relief for the construction of a new building to replace the existing warehouse building.

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

Division Chief:
AVA/LL



BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE



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

DATE: July 29, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 2202 Halethorpe Farms Road

INFORMATION:

Item Number: 14-278

Petitioner: Recovermat Mid-Atlantic LLC

Zoning: MH-IM

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The petitioner is seeking to determine that the use of the property zoned MH-IM, as a junk yard is illegal since junk yards are not permitted without a special exception, and the November 24, 2008 "spirit and intent" letter is insufficient to grant junk yard use.

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

Division Chief:
AVA/LL

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: June 30, 2014

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

SUBJECT: Zoning Advisory Committee Meeting
For June 30, 2014
Item No. 2014-0270, 0271 0274, 0275, 0276, 0277 and 0278

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

DAK:CEN
cc:file

G:\DevPlanRev\ZAC -No Comments\ZAC06302014 -.doc

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



Maryland Department of Transportation

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

Date: 6/23/14

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

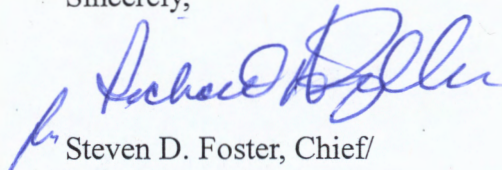
RE: Baltimore County
Item No 2014-0278-SPH
Special Hearing
Recovermat Mid-Atlantic LLC
2202 Halethorpe Farms Road

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2014-0278-SPH.

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

Sincerely,


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

SDF/raz

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

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

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
2202 Halethorpe Farms Road; W/S Halethorpe *
Road, 395' SE of Trident Court * OF ADMINISTRATIVE
13th Election & 1st Councilmanic Districts *
Legal Owner(s): Recovermat Mid-Atlantic LLC* HEARINGS FOR
Petitioner(s) *
* BALTIMORE COUNTY
* 2014-278-SPH

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

RECEIVED

JUN 27 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of June, 2014, a copy of the foregoing Entry of Appearance was mailed to Edward Gilliss, Esquire, 102 West Pennsylvania Avenue, Suite 600, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



RECEIVED
OCT 27 2014

KEVIN KAMENETZ
County Executive

BALTIMORE COUNTY
BOARD OF APPEALS

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

October 27, 2014

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
502 Washington Ave., Ste. 800
Towson, Maryland 21204

Edward J. Gilliss, Esquire
Royston, Mueller, McLean & Reid, LLP
102 West Pennsylvania Ave., Ste. 600
Towson, Maryland 21204

RE: **APPEAL TO BOARD OF APPEALS**
Case Nos. 2014-0178-A and **2014-0278-SPH**
Location: 2202 Halethorpe Farms Road

Dear Counsel:

Please be advised that an appeal of the above-referenced case was filed in this Office on October 22, 2014. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

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

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

Sincerely,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/dlw

c: Baltimore County Board of Appeals
Peter Max Zimmerman, People's Counsel for Baltimore County

APPEAL

**Petition for Special Hearing
(2202 Halethorpe Farms Road)
13th Election District – 1st Councilmanic District
Legal Owner: Recovermat Mid-Atlantic, LLC
Aggrieved: North Point Recycling, LLC
Case No. 2014-0278-SPH**

Petition for Zoning Hearing (June 19, 2014)

Zoning Description of Property

Notices of Zoning Hearings - (2)

Certificates of Publication – (2)

Certificates of Posting (1)

Entry of Appearance by People's Counsel (June 27, 2014)

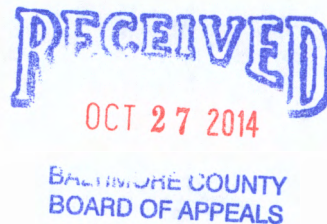
Petitioner(s) Sign-in Sheet – (1)

Citizen(s) Sign-in Sheet – (1)

Zoning Advisory Committee Comments

Petitioner(s) Exhibits -

1. Report – Castle Security
2. DVD of Surveillance
3. November 25, 2013 Letter to M.D.E.
4. Special Exception Application – P.G. County
5. B.C.Z.R. § 101.1 Definition of “junkyard”
6. “My Neighborhood Map”
7. Schedule of Special Exceptions
8. Order in Case No. 94-135-A
9. April 20, 1995 Letter from John Lewis
10. November 24, 2008 Letter from T. Kotroco



Protestants' Exhibits – None

Miscellaneous (Not Marked as Exhibits)

Administrative Law Judge Order and Letter (GRANTED with COND. – October 1, 2014)

Notice & Receipt of Appeal – October 22, 2014 Howard L. Alderman, Esq.

Address List

Aggreived/Petitioner:

North Point Recycling, LLC
3000 Vera Street
Baltimore, MD 21226

Edward J. Gilliss, Esquire
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Ave., Suite 600
Towson, MD 21204

Legal Owner/Appellant:

Recovermat Mid-Atlantic, LLC
2202 Halethorpe Farms Road
Baltimore, MD 21227

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingha Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

Robert D. Capalongo, RLA
CNA Engineers
215 Bynum Road
Forest Hill, MD 21050

Interested Persons:

Dale Fields
Motor Vehicle Administration
Business Licensing
6601 Ritchie Highway, Room 146
Glen Burnie, MD 21062

Phil Dacey, Esquire
Motor Vehicle Administration
6601 Ritchie Highway, Room 200
Glen Burnie, MD 21062

Paul Tharp
8923 Dogwood Road
Baltimore, MD 21244

Katie Heam
509 S. Exeter Street, # 306
Baltimore, MD 21202

David Simon
2723 North Point Blvd.
Baltimore, MD 21222

Interoffice:

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

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Recovermat Mid-Atlantic – LO
North Point Recycling, LLC – Aggrieved party 14-278-SPH

DATE: January 7, 2016

BOARD/PANEL: Jane M. Hanley, Panel Chairman
Benfred B. Alston
James H. West

RECORDED BY: Sunny Cannington/Administrator

PURPOSE: To deliberate the following:

1. Motion (letter) requesting reconsideration filed by Howard Alderman, Esquire on behalf of Recovermat Mid-Atlantic, LLC;
2. Motion to Dismiss filed by James L. Shea, Jr., Esquire on behalf of North Point Recycling, LLC;
and
3. Opposition to Motion to Dismiss filed by Howard Alderman, Jr., Esquire on behalf of Recovermat Mid-Atlantic, LLC.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board reviewed the history of this matter. This matter was heard by the ALJ and appealed to the Board of Appeals. The County Council passed Bill 35-15 which defined Scrap Metal Processing Facilities and revised Section 256 of the Baltimore County Zoning Regulations. Recovermat moved to dismiss this matter and in October 2015 the Board heard argument in this matter. At that time, the Board determined they needed to hold a hearing on the merits of the Variance and Special Hearing matters. Subsequently, Recovermat withdrew their Petition for Variance without prejudice. On November 11, 2015, Recovermat filed a letter requesting that the Board reconsider their decision to hold a hearing on the merits of this matter and arguing that the Petition for Special Hearing should be moot.
- The Board reviewed that the Baltimore County Zoning Regulations provide that zoning matters appealed to the Board are to be heard de novo. The Board determined that Bill 35-15 sets out criteria for determining if a scrap metal recycling facility is permitted by right on a certain property. The Board decided to deny the Motions for reconsideration and dismissal. It is the opinion of the Board that Recovermat should be required to show, through evidence and testimony, that they meet the requirements set forth in Bill 35-15.

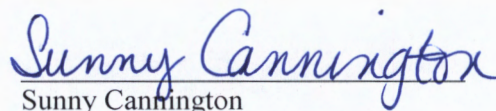
DECISION BY BOARD MEMBERS:

The Board determined that the Motion for Reconsideration and Motion to Dismiss are denied and a hearing will be held.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to DENY THE MOTION FOR RECONSIDERATION AND MOTION TO DISMISS.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Recovermat Mid-Atlantic – LO 14-178-A
North Point Recycling, LLC – Aggrieved party 14-278-SPH

DATE: October 14, 2015

BOARD/PANEL: Jane M. Hanley, Panel Chairman
Benfred B. Alston
James H. West

RECORDED BY: Sunny Cannington/Administrator

PURPOSE: To deliberate the following:

1. Motion to Dismiss filed by Howard Alderman, Esquire on behalf of Recovermat Mid-Atlantic, LLC; and
2. Opposition to Motion to Dismiss filed by Edward Gilliss, Esquire on behalf of North Point Recycling, LLC.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board reviewed the history of this matter. This matter was heard by the ALJ and appealed to the Board of Appeals. Between then and now, the County Council passed Bill 35-15 which defined Scrap Metal Processing Facilities and revised Section 256 of the Baltimore County Zoning Regulations.
- The Board determined that at this time, there are three points at issue. First, whether North Point Recycling has standing in this matter. The Board determined that North Point does have standing.
- Second, whether Recovermat meets the requirements as set forth in Bill 35-15 for Special Exception. And lastly, the appeal filed by Mr. Alderman regarding the variance.
- The Board determined that as for points two and three, there is not enough information for them to decide those issues without taking evidence and testimony at a hearing.

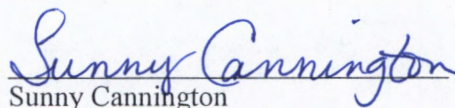
DECISION BY BOARD MEMBERS:

The Board determined that the Motion to Dismiss is denied and a hearing will be scheduled.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to DENY THE MOTION TO DISMISS.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington



Board of Appeals of Baltimore County

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

August 18, 2015

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

Re: In the Matter of: Recovermat Mid-Atlantic, LLC
Case No: 14-178-A and 14-278-SPH

Dear Mr. Alderman:

I am in receipt of your request for postponement dated August 12, 2015. This letter is to advise you that your request for a postponement of the argument scheduled for September 10, 2015 has been granted.

Enclosed please find the Notice of Postponement and Reassignment scheduling this matter for Argument on the Motions on Wednesday, October 14, 2015 at 10:00 a.m.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

Encl.: Notice of Postponement and Reassignment

c (w/Encl.): Edward J. Gilliss, Esquire
Office of People's Counsel

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

SUITE 600

THE ROYSTON BUILDING

102 WEST PENNSYLVANIA AVENUE

TOWSON, MARYLAND 21204-4575

TELEPHONE 410-823-1800

FACSIMILE 410-828-7859

www.rmmr.com

July 20, 2015

R. TAYLOR McLEAN
WILLIAM F. BLUE
THOMAS F. McDONOUGH
KEITH R. TRUFFER*
ROBERT S. HANDZO*
EDWARD J. GILLISS
TIMOTHY J. OURSLER
ROBERT G. BLUE
CRAIG P. WARD
LEANNE M. SCHRECKENGOST
LISA J. McGRATH

JAMES L. SHEA, JR.
MARTHA K. WHITE
ROBERT F. MILLER
SARAH M. GRABENSTEIN

OF COUNSEL

LAUREL PARETTA REESE
EUGENE W. CUNNINGHAM, JR., P.A.
BRADFORD G.Y. CARNEY
STEPHEN C. WINTER
JOHN A. PICA, JR.

CARROLL W. ROYSTON
1913-1991

H. ANTHONY MUELLER
1913-2000

RICHARD A. REID
1931-2008

* ALSO ADMITTED IN D.C.

Via Hand Delivery

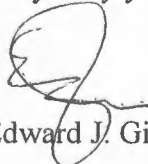
Ms. Krysundra "Sunny" Cannington
Administrator
Board of Appeals for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Recovermat Mid-Atlantic, LLC
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District
Case No. 14-0278-SPH and
Case No. 14-0178-A

Dear Ms. Cannington:

We are in receipt of Recovermat Mid-Atlantic, LLC's July 9, 2015 Motion for Judgment in Case No. 14-0278-SPH and Motion to Dismiss Appeal in Case No. 14-178-A. On behalf of our client, North Point Recycling, LLC, we intend to file oppositions to these Motions. If there is a deadline for such pleading to be filed, please advise.

Very truly yours,



Edward J. Gilliss

RECEIVED
JUL 20 2015

BALTIMORE COUNTY
BOARD OF APPEALS

EJG/ajf

cc: Howard L. Alderman, Jr., Esquire (via e-mail)
North Point Recycling, LLC (via e-mail)

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

SUITE 600

THE ROYSTON BUILDING
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4575

TELEPHONE 410-823-1800

FACSIMILE 410-828-7859

www.rmmr.com

July 2, 2015

R. TAYLOR McLEAN
WILLIAM F. BLUE
THOMAS F. McDONOUGH
KEITH R. TRUFFER*
ROBERT S. HANDZO*
EDWARD J. GILLISS
TIMOTHY J. OURSLER
ROBERT G. BLUE
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LISA J. McGRATH

JAMES L. SHEA, JR.
MARTHA K. WHITE
ROBERT F. MILLER
SARAH M. GRABENSTEIN

OF COUNSEL

LAUREL PARETTA REESE
EUGENE W. CUNNINGHAM, JR., P.A.
BRADFORD G.Y. CARNEY
STEPHEN C. WINTER
JOHN A. PICA, JR.

CARROLL W. ROYSTON
1913-1991

H. ANTHONY MUELLER
1913-2000

RICHARD A. REID
1931-2008

* ALSO ADMITTED IN D.C.

Via Hand Delivery

Ms. Krysundra "Sunny" Cannington
Administrator
Board of Appeals for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
JUL - 2 2015

BALTIMORE COUNTY
BOARD OF APPEALS

Re: Recovermat Mid-Atlantic, LLC
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District
Case No. 14-178-SPH

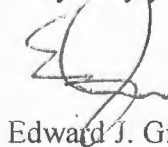
Dear Ms. Cannington:

With this letter, on behalf of North Point Recycling, LLC, I request that this matter be re-set on the Board of Appeals' docket for the de novo hearing of the above-captioned matter.

Should you desire, I will be pleased to coordinate with Mr. Alderman to identify dates that are convenient to counsel for the required hearing.

Thank you for your cooperation.

Very truly yours,



Edward J. Gilliss

EJG/ajf

cc: Howard L. Alderman, Jr., Esquire (via e-mail)



Board of Appeals of Baltimore County

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

March 3, 2015

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

Edward J. Gilliss, Esquire
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Ste 600
Towson, MD 21204

Re: In the Matter of: Recovermat Mid-Atlantic, LLC
Case No: 14-178-A and 14-278-SPH

Dear Counsel:

I am in receipt of the request for postponement dated February 27, 2015 by Mr. Gilliss. This letter is to advise you that your request for a postponement of the hearing scheduled for April 23, 2015 has been granted. A copy of the Notice of Postponement for the April 23, 2015 date is enclosed.

As you are aware, the Board generally has hearings on Tuesdays, Wednesdays, and Thursdays. The following dates are currently available on the Board's docket. All hearings begin at 10:00 a.m.

Tuesday, April 28, 2015,
Wednesday, April 29, 2015,
Thursday, April 30, 2015,
Tuesday, May 5, 2015, or
Thursday, May 7, 2015.

Please contact this office as soon as possible regarding your availability.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Sunny Cannington
Krysundra "Sunny" Cannington
Administrator

Duplicate Original
Encl.: Notice of Postponement

cc (w/Encl.): Office of People's Counsel

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

SUITE 600

THE ROYSTON BUILDING

102 WEST PENNSYLVANIA AVENUE

TOWSON, MARYLAND 21204-4575

TELEPHONE 410-823-1800

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ROBERT F. MILLER
SARAH M. GRABENSTEIN

OF COUNSEL
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BRADFORD G.Y. CARNEY
STEPHEN C. WINTER
JOHN A. PICA, JR.

CARROLL W. ROYSTON
1913-1991

H. ANTHONY MUELLER
1913-2000

RICHARD A. REID
1931-2008

* ALSO ADMITTED IN D.C.

February 27, 2015

Via Hand Delivery

Ms. Kryundra "Sunny" Cannington
Administrator
Board of Appeals for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
FEB 27 2015

BALTIMORE COUNTY
BOARD OF APPEALS

Re: Recovermat Mid-Atlantic, LLC
2202 Halethorpe Farms Road
13th Election District; 1st Councilmanic District
Case No. 14-178-SPH
Appeal Assigned for: Thursday April 23, 2015 at 10:00am

Dear Ms. Cannington:

This letter follows my February 26, 2015 receipt of the Board of Appeals' Notice of Reassignment scheduling this matter for Thursday April 23, 2015.

With this letter I request that the matter be re-set for a date convenient with counsel and witnesses inasmuch as the date unilaterally selected, April 23, 2015, is a date that one of my witnesses will be out-of-the-country.

I understand from our February 27, 2015 telephone conversation that you will be able to circulate available dates to Mr. Alderman and me so that an agreed date can be achieved.

Thank you for your cooperation. Please immediately contact me if you require additional information in order to remove this matter from the April 23, 2015 docket.

Very truly yours,



Edward J. Gilliss

EJG/ajf

cc: Howard L. Alderman, Jr., Esquire (via e-mail)



Board of Appeals of Baltimore County

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

December 15, 2014

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

Re: In the Matter of: Recovermat Mid-Atlantic, LLC
Case No: 14-178-A and 14-278-SPH

Dear Mr. Alderman:

I am in receipt of your request for postponement dated December 12, 2014. This letter is to advise you that your request for a postponement of the hearing scheduled for January 28, 2015 has been granted.

As per our discussion, I will follow up with you toward the end of January to discuss the rescheduling of this matter.

A copy of the Notice of Postponement for the January 28, 2015 date is enclosed. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Sunny Cannington
Krysundra "Sunny" Cannington
Administrator

Encl.: Notice of Postponement

c (w/Encl.): Edward J. Gilliss, Esquire
Office of People's Counsel

11/9/15 Jim Shea 3:26pm

Re: Recovermat

1) 10/14 Decision

2) Variance

3) SPH

message

For Sunny
From Jim Shea
Time 12:05pm Date 11/9/15
Phone (410) 823-1800

☐ URGENT!.....

Re: Recovermat

please call

(he is with Ed Hilliss' office.)





LEVIN & GANN, P.A.
ATTORNEYS AT LAW

Howard L. Alderman, Jr., Esquire | Principal
D. 410.321.0600 | halderman@levingann.com

COPY

August 12, 2015

REGULAR AND EMAIL ATTACHMENT

Krysundra Cannington, Administrator
County Board of Appeals for Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

RE: Recovermat Mid-Atlantic, LLC, Legal Owner
Case Nos.: 2014-0178-A & 2014-0278-SPH
Request to Reschedule Motions Hearing

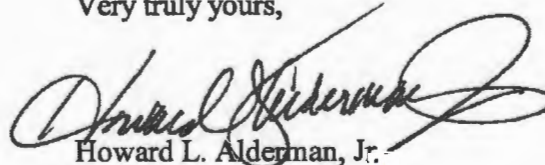
Dear Ms. Cannington:

The enclosed *Notice of Assignment* identifies Thursday, September 10, 2015 as the date that a hearing is scheduled on the Motions that I filed in the above-referenced case. I have a conflict with that date. The second day of a contested development plan hearing, as previously agreed to by counsel and specially set by the County, is scheduled for the same date and time assigned to the hearing before the Board. I therefore must request that this hearing be rescheduled.

The development plan case, captioned as "Vernon Smith Property", PAI No. 10-466, was specially set in early July and then, as reflected on the enclosed email message from Kristen Lewis, Docket Clerk, confirmed on July 24, 2015. The Board's Notice of Assignment is dated August 4, 2015.

I have notified Mr. Gilliss earlier by email of this request. Should you or any member of the Board desire additional information in support of this request to reschedule the hearing, please let me know.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk
Enclosures (2)
c (w/encl.):

Recovermat Mid-Atlantic, LLC
Edward J. Gilliss, Esquire
People's Counsel for Baltimore County

Howard Alderman

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Friday, July 24, 2015 1:00 PM
To: Howard Alderman
Subject: RE: Vernon Property Continued HOH

Yes that date is reserved on the calendar for all day.

Kristen Lewis
PH - Zoning Review
410-887-3391

From: Howard Alderman [mailto:halderman@levinggann.com]
Sent: Friday, July 24, 2015 10:43 AM
To: Kristen L Lewis
Cc: Dwight Little (dwightl@littleassociates.com); John Motsco; Michael McCann
Subject: Vernon Property Continued HOH

Kristen,

Have we locked in September 10th for the continued hearing on the VERNON PROPERTY HOH?

Thanks,
Howard

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Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, Maryland 21204
410-321-0600 (voice)
410-296-2801 (fax)
410-456-8501 (cell)
Email: halderman@LevinGann.com
Website: www.LevinGann.com



Provide Feedback at <http://tinyurl.com/HLA-AVVO>



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Super Lawyers**

Best Lawyers

Krysundra Cannington

From: Howard Alderman <halderman@levingann.com>
Sent: Friday, January 08, 2016 11:49 AM
To: Krysundra Cannington
Cc: Ed Gilliss (egilliss@rmmr.com); James L. Shea
Subject: FW: Draft Order for Review/Approval
Attachments: Draft Order of Dismissal - 0278A.pdf; Northpoint SPH - Recovermat - Dismissal-1.docx

Sunny,

Good morning. Attached is the Order the Board requested after yesterday's Recovermat hearing. Below, you will see that I forwarded it, to Ed Gilliss and Jim Shea, for review and approval and Mr. Shea's approval is indicated.

Thank you and have a great weekend,
Howard

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, Maryland 21204
410-321-0600 (voice)
410-296-2801 (fax)
410-456-8501 (cell)
Email: halderman@LevinGann.com
Website: www.LevinGann.com



Provide Feedback at <http://tinyurl.com/HLA-AVVO>

From: James L. Shea [mailto:jshea@rmmr.com]
Sent: Friday, January 8, 2016 10:37 AM
To: Howard Alderman <halderman@levingann.com>
Cc: Edward J. Gilliss <egilliss@rmmr.com>
Subject: RE: Draft Order for Review/Approval

Howard,

The order is acceptable as drafted.

Very truly yours,

James L. Shea, Jr.
Royston, Mueller, McLean & Reid, LLP
102 West Pennsylvania Ave., Suite 600
Towson, Maryland 21204
(410) 823-1800 (voice)
(410) 828-7859 (fax)
jshea@rmmr.com

From: Howard Alderman [mailto:halderman@levingann.com]
Sent: Thursday, January 07, 2016 12:16 PM
To: Edward J. Gilliss <egilliss@rmmr.com>; James L. Shea <jshea@rmmr.com>
Subject: Draft Order for Review/Approval

Ed/Jim,

As requested by the Board at this morning's hearing, I have prepared the attached Order. It is patterned exactly after the Board's Dismissal of the Petition for Variance in 0178A.

I've attached:

Copy of Board Dismissal of Petition for Variance – 14-0178-A (pdf format);
Draft of Board Dismissal of Petition for Special Hearing – 14-0278-SPH (word format); and
Draft of Board Dismissal of Petition for Special Hearing – 14-0278-SPH (pdf format).

Please review and let me have your comments on anything I forgot.

Thanks,
Howard

~~~~~  
Howard L. Alderman, Jr., Esquire  
Levin & Gann, PA  
Nottingham Centre, 8<sup>th</sup> Floor  
502 Washington Avenue  
Towson, Maryland 21204  
410-321-0600 (voice)  
410-296-2801 (fax)  
410-456-8501 (cell)  
Email: [halderman@LevinGann.com](mailto:halderman@LevinGann.com)  
Website: [www.LevinGann.com](http://www.LevinGann.com)



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Circular 230 Disclosure: Pursuant to recently-enacted U.S. Treasury Department Regulations, we are now required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication, including attachments and enclosures, is not intended or written to be used, and may not be used, for the purpose of either (i) avoiding tax-related penalties under the U.S. Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

## Krysundra Cannington

---

**From:** Edward J. Gilliss <egilliss@rmmr.com>  
**Sent:** Tuesday, December 01, 2015 1:42 PM  
**To:** Krysundra Cannington  
**Cc:** Howard Alderman; James L. Shea  
**Subject:** RE: Recovermat Mid-Atlantic, LLC

Sunny,

Northpoint Recycling prefers the dates of January 5, 6 or 7, 2016 for the appeal of this matter.

Thanks.

Edward J. Gilliss  
Royston, Mueller, McLean & Reid, LLP  
102 W. Pennsylvania Avenue, Suite 600  
Towson, Maryland 21204  
(office) 410-823-1800  
(fax) 410-583-5330  
(email) egilliss@rmmr.com

---

**From:** Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]  
**Sent:** Tuesday, November 24, 2015 8:09 AM  
**To:** Howard Alderman; Edward J. Gilliss  
**Cc:** Alexis Davis  
**Subject:** Recovermat Mid-Atlantic, LLC

Good morning Counsel,

Pursuant to my letter dated November 18, 2015, the Board is treating Mr. Alderman's letter dated November 11, 2015 as a Motion for Reconsideration. In the interests of judicial economy, we intend to schedule a hearing to immediately follow the public deliberation on the Motion for Reconsideration. My letter of October 30<sup>th</sup> provided dates for the hearing in this matter.

Please be advised that I cannot hold these dates indefinitely. Please be advised that if I have not received a response by close of business December 1, 2015, we will schedule this matter at the Board's convenience.

Should you have any questions, please do not hesitate to contact me.

Thank you for your cooperation and attention to this matter.

Sunny

Krysundra "Sunny" Cannington  
Administrator  
Board of Appeals of Baltimore County  
The Jefferson Building, Suite 203  
105 W. Chesapeake Avenue  
Towson, MD 21204  
Phone: 410-887-3180

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## Krysundra Cannington

---

**From:** Howard Alderman <halderman@levingann.com>  
**Sent:** Monday, November 30, 2015 10:11 AM  
**To:** Krysundra Cannington; Ed Gilliss (egilliss@rmmr.com)  
**Cc:** adavis@rmmr.com  
**Subject:** RE: Recovermat Mid-Atlantic, LLC

Sunny,

Good morning; I hope you had a pleasant and safe Holiday.

As for the rescheduling of Recovermat, other than whatever date you assign to the Vernon Smith Development Plan Appeal, Jan 5, 6 or 7, 2015 work for us. Ed, do you have any issue with those dates?

Thanks to all,  
Howard

~~~~~  
Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, Maryland 21204
410-321-0600 (voice)
410-296-2801 (fax)
410-456-8501 (cell)
Email: halderman@LevinGann.com
Website: www.LevinGann.com



Provide Feedback at <http://tinyurl.com/HLA-AVVO>

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Tuesday, November 24, 2015 8:09 AM
To: Howard Alderman <halderman@levingann.com>; Ed Gilliss (egilliss@rmmr.com) <egilliss@rmmr.com>
Cc: adavis@rmmr.com
Subject: Recovermat Mid-Atlantic, LLC

Good morning Counsel,

Pursuant to my letter dated November 18, 2015, the Board is treating Mr. Alderman's letter dated November 11, 2015 as a Motion for Reconsideration. In the interests of judicial economy, we intend to schedule a hearing to immediately follow the public deliberation on the Motion for Reconsideration. My letter of October 30th provided dates for the hearing in this matter.

Please be advised that I cannot hold these dates indefinitely. Please be advised that if I have not received a response by close of business December 1, 2015, we will schedule this matter at the Board's convenience.

Should you have any questions, please do not hesitate to contact me.

Thank you for your cooperation and attention to this matter.

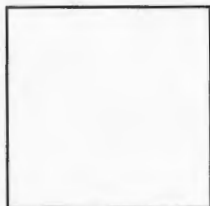
Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

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Krysundra Cannington

From: Krysundra Cannington
Sent: Tuesday, November 24, 2015 8:09 AM
To: 'Howard Alderman'; Ed Gilliss (egilliss@rmmr.com)
Cc: 'adavis@rmmr.com'
Subject: Recovermat Mid-Atlantic, LLC

Good morning Counsel,

Pursuant to my letter dated November 18, 2015, the Board is treating Mr. Alderman's letter dated November 11, 2015 as a Motion for Reconsideration. In the interests of judicial economy, we intend to schedule a hearing to immediately follow the public deliberation on the Motion for Reconsideration. My letter of October 30th provided dates for the hearing in this matter.

Please be advised that I cannot hold these dates indefinitely. Please be advised that if I have not received a response by close of business December 1, 2015, we will schedule this matter at the Board's convenience.

Should you have any questions, please do not hesitate to contact me.

Thank you for your cooperation and attention to this matter.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
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Krysundra Cannington

From: Alexis Davis <adavis@rmmr.com>
Sent: Thursday, November 12, 2015 4:26 PM
To: Krysundra Cannington
Cc: Edward J. Gilliss; James L. Shea
Subject: Recovermat Mid-Atlantic, LLC
Attachments: 20151112150619796.pdf

Ms. Cannington,

The attached letter was slipped under the door of the Board of Appeals today (consistent with your 5/22/2015 e-mail instruction) as the office was closed when our courier attempted to deliver.

Alexis Davis
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Suite 600
Towson, Maryland 21204
Phone (410)823-1800, ext. 124
Fax (410)828-7859
www.rmmr.com

Krysundra Cannington

From: Edward J. Gilliss <egilliss@rmmr.com>
Sent: Friday, May 22, 2015 9:53 AM
To: Krysundra Cannington
Subject: Re: Baltimore Scrap

Sunny,

Thanks for your message. I was not concerned about the office being closed, but, instead wanted you to understand why the letter you receive today is dated yesterday.

Thanks for your good work.

Ed Gilliss

Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Ave., Suite 600
Towson, Maryland 21204
(office) 410-823-1800
(fax) 410-583-5330
(email) egilliss@rmmr.com<mailto:egilliss@rmmr.com>

On May 22, 2015, at 8:19 AM, Krysundra Cannington
<kcannington@baltimorecountymd.gov<mailto:kcannington@baltimorecountymd.gov>> wrote:

Good morning Mr. Gilliss,

Please be advised that our office is open from 8:00 a.m. to 4:00 p.m. Monday through Friday. The building should be open until 5 p.m. Additionally, we have two staff members who are full time. There are occasions when the office closes for the day prior to 4 p.m. and situations where the office is unmanned during the day. If you or your staff try to file anything and our office is closed, you may slide the documents under the door to be processed upon our return; if the office is unmanned, you may leave the documents in the Incoming Mail bin to be processed upon our return.

Mr. Alderman did advise me that the Joint Request for postponement was to be filed. I will review the request with the Board and a Notice will be sent.

Should you have any questions, please do not hesitate to contact me.

Thank you.

Sunny

Krysundra "Sunny" Cannington, Administrator Board of Appeals for Baltimore County
410-887-3180

From: Edward J. Gilliss [mailto:egilliss@rmmr.com]
Sent: Thursday, May 21, 2015 5:35 PM
To: Krysundra Cannington
Cc: Howard Alderman; Alexis Fields

Subject: FW: Baltimore Scrap

Sunny,

The attached joint request for postponement was attempted to be delivered to you this afternoon, but the building was locked before 4:30 pm.

I believe that Mr. Alderman has also spoken to you about this request.

Thanks.

Ed Gilliss

Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Suite 600
Towson, Maryland 21204
(office) 410-823-1800
(fax) 410-583-5330
(email) egilliss@rmmr.com<<mailto:egilliss@rmmr.com>>

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[http://www.baltimorecountymd.gov/sebin/r/z/socialmedia_youtube.jpg]
<<http://www.youtube.com/baltimorecounty>> [<http://www.baltimorecountymd.gov/sebin/x/i/footer-photosicon.png>]
<<http://www.flickr.com/people/baltimorecounty/>>

[<http://www.baltimorecountymd.gov/sebin/h/e/mobile-seal.png>]<<http://www.baltimorecountymd.gov>> When you think Baltimore County, think, www.baltimorecountymd.gov<<http://www.baltimorecountymd.gov>>

Krysundra Cannington

From: Krysundra Cannington
Sent: Thursday, April 09, 2015 1:16 PM
To: 'Edward J. Gilliss'
Subject: RE: Recovermat // 14-178-A & 14-278-SPH

I will. Thank you.

From: Edward J. Gilliss [mailto:egilliss@rmmr.com]
Sent: Thursday, April 09, 2015 1:09 PM
To: Krysundra Cannington
Subject: RE: Recovermat // 14-178-A & 14-278-SPH

Sunny,

Isn't The People's Counsel also involved? Has that Office advised of its availability?

Please do check before sending out a Notice.

Thanks.

Ed Gilliss

Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Suite 600
Towson, Maryland 21204
(office) 410-823-1800
(fax) 410-583-5330
(email) egilliss@rmmr.com

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Thursday, April 09, 2015 1:00 PM
To: Edward J. Gilliss
Subject: RE: Recovermat // 14-178-A & 14-278-SPH

Mr. Gilliss,

I apologize for the delay. I haven't heard any more from Mr. Alderman since the email below. I expect to have the notice out tomorrow. Should I set aside both days for the hearing just in case?

Thank you for following up.

Sunny

Krysundra "Sunny" Cannington, Administrator
Board of Appeals for Baltimore County
410-887-3180

From: Edward J. Gilliss [<mailto:egilliss@rmmr.com>]
Sent: Tuesday, April 07, 2015 4:41 PM
To: Krysundra Cannington
Subject: FW: Recovermat // 14-178-A & 14-278-SPH

Sunny,

Is there any news to report on the June 2 or 3 dates? I have heard nothing from counsel.

Ed Gilliss

Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Suite 600
Towson, Maryland 21204
(office) 410-823-1800
(fax) 410-583-5330
(email) egilliss@rmmr.com

From: Edward J. Gilliss
Sent: Thursday, April 02, 2015 4:28 PM
To: 'Howard Alderman'; 'kcannington@baltimorecountymd.gov' (kcannington@baltimorecountymd.gov)
(kcannington@baltimorecountymd.gov)
Cc: pzimmerman@baltimorecountymd.gov
Subject: RE: Recovermat // 14-178-A & 14-278-SPH

Sunny and Counsel,

I think that June 2 or June 3 may be available on my witness' calendars; I have held the dates on my calendar. Please hold those dates.

The hearing will require less than one day, correct?

Ed Gilliss

Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Suite 600
Towson, Maryland 21204
(office) 410-823-1800
(fax) 410-583-5330
(email) egilliss@rmmr.com

From: Howard Alderman [<mailto:halderman@levingann.com>]
Sent: Monday, March 30, 2015 3:35 PM
To: Edward J. Gilliss; 'kcannington@baltimorecountymd.gov' (kcannington@baltimorecountymd.gov)
(kcannington@baltimorecountymd.gov)

Cc: pzimmerman@baltimorecountymd.gov
Subject: RE: Recovermat // 14-178-A & 14-278-SPH

Sunny/Ed,

My co-counsel (will be entering appearance shortly) advises as follows:

- June 2,3,4 are better for me

I have heard from my expert engineer and all of those dates work for him. While I have not heard back from all other witnesses, if the Board and Ed can make any of these dates work I'll push them. I know the Board needs to get this scheduled.

Please consider this request and advise.

Howard

~~~~~  
Howard L. Alderman, Jr., Esquire  
Levin & Gann, PA  
Nottingham Centre, 8<sup>th</sup> Floor  
502 Washington Avenue  
Towson, Maryland 21204  
410-321-0600 (voice)  
410-296-2801 (fax)  
410-456-8501 (cell)  
Email: [halderman@LevinGann.com](mailto:halderman@LevinGann.com)  
Website: [www.LevinGann.com](http://www.LevinGann.com)



Provide Feedback at <http://tinyurl.com/HLA-AVVO>

**From:** Edward J. Gilliss [<mailto:egilliss@rmmr.com>]  
**Sent:** Monday, March 30, 2015 3:07 PM  
**To:** 'kcannington@baltimorecountymd.gov' ([kcannington@baltimorecountymd.gov](mailto:kcannington@baltimorecountymd.gov))  
([kcannington@baltimorecountymd.gov](mailto:kcannington@baltimorecountymd.gov))  
**Cc:** Howard Alderman; [pzimmerman@baltimorecountymd.gov](mailto:pzimmerman@baltimorecountymd.gov)  
**Subject:** Recovermat // 14-178-A & 14-278-SPH

Sunny,

I suggest May 20 and May 21 as a date or dates for the hearing of this matter.

Ed  
Gilliss

Edward J. Gilliss  
Royston, Mueller, McLean & Reid, LLP  
102 W. Pennsylvania Avenue, Suite 600  
Towson, Maryland 21204  
(office) 410-823-1800  
(fax) 410-583-5330  
(email) [egilliss@rmmr.com](mailto:egilliss@rmmr.com)

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## Krysundra Cannington

---

**From:** Edward J. Gilliss <egilliss@rmmr.com>  
**Sent:** Thursday, April 02, 2015 4:26 PM  
**To:** Howard Alderman; Krysundra Cannington  
**Cc:** Peter Max Zimmerman  
**Subject:** RE: Recovermat // 14-178-A & 14-278-SPH

Sunny and Counsel,

I think that June 2 or June 3 may be available on my witness' calendars; I have held the dates on my calendar. Please hold those dates.

The hearing will require less than one day, correct?

Ed Gilliss

Edward J. Gilliss  
Royston, Mueller, McLean & Reid, LLP  
102 W. Pennsylvania Avenue, Suite 600  
Towson, Maryland 21204  
(office) 410-823-1800  
(fax) 410-583-5330  
(email) egilliss@rmmr.com

---

**From:** Howard Alderman [mailto:halderman@levingann.com]  
**Sent:** Monday, March 30, 2015 3:35 PM  
**To:** Edward J. Gilliss; 'kcannington@baltimorecountymd.gov' (kcannington@baltimorecountymd.gov)  
(kcannington@baltimorecountymd.gov)  
**Cc:** pzimmerman@baltimorecountymd.gov  
**Subject:** RE: Recovermat // 14-178-A & 14-278-SPH

Sunny/Ed,

My co-counsel (will be entering appearance shortly) advises as follows:

- June 2,3,4 are better for me

I have heard from my expert engineer and all of those dates work for him. While I have not heard back from all other witnesses, if the Board and Ed can make any of these dates work I'll push them. I know the Board needs to get this scheduled.

Please consider this request and advise.

Howard

---

Howard L. Alderman, Jr., Esquire  
Levin & Gann, PA  
Nottingham Centre, 8<sup>th</sup> Floor  
502 Washington Avenue

Towson, Maryland 21204  
410-321-0600 (voice)  
410-296-2801 (fax)  
410-456-8501 (cell)  
Email: [halderman@LevinGann.com](mailto:halderman@LevinGann.com)  
Website: [www.LevinGann.com](http://www.LevinGann.com)



Provide Feedback at <http://tinyurl.com/HLA-AVVO>

**From:** Edward J. Gilliss [<mailto:egilliss@rmmr.com>]  
**Sent:** Monday, March 30, 2015 3:07 PM  
**To:** 'kcannington@baltimorecountymd.gov' ([kcannington@baltimorecountymd.gov](mailto:kcannington@baltimorecountymd.gov))  
([kcannington@baltimorecountymd.gov](mailto:kcannington@baltimorecountymd.gov))  
**Cc:** Howard Alderman; [pzimmerman@baltimorecountymd.gov](mailto:pzimmerman@baltimorecountymd.gov)  
**Subject:** Recovermat // 14-178-A & 14-278-SPH

Sunny,

I suggest May 20 and May 21 as a date or dates for the hearing of this matter.

Ed  
Gilliss

Edward J. Gilliss  
Royston, Mueller, McLean & Reid, LLP  
102 W. Pennsylvania Avenue, Suite 600  
Towson, Maryland 21204  
(office) 410-823-1800  
(fax) 410-583-5330  
(email) [egilliss@rmmr.com](mailto:egilliss@rmmr.com)

## Krysundra Cannington

---

**From:** Howard Alderman <halderman@levingann.com>  
**Sent:** Monday, March 23, 2015 9:34 AM  
**To:** Krysundra Cannington; Edward J. Gilliss  
**Cc:** Peoples Counsel  
**Subject:** RE: Recovermat Mid-Atlantic, LLC 14-178-A & 14-278-SPH

Sunny,

Thank you. I will send these dates to my client and witnesses and ask for their prompt response as to availability.

Howard

~~~~~  
Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, Maryland 21204
410-321-0600 (voice)
410-296-2801 (fax)
410-456-8501 (cell)
Email: halderman@LevinGann.com
Website: www.LevinGann.com



Provide Feedback at <http://tinyurl.com/HLA-AVVO>

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Monday, March 23, 2015 9:33 AM
To: Edward J. Gilliss; Howard Alderman
Cc: Peoples Counsel
Subject: RE: Recovermat Mid-Atlantic, LLC 14-178-A & 14-278-SPH

Good morning,

Currently, I can offer May 18, 20, 21, June 2, 3, and 4, 2015. As always, the hearing would be scheduled to begin at 10:00 a.m.

Please advise which date works best for you.

Thank you.

Sunny

Krysundra "Sunny" Cannington, Administrator
Board of Appeals for Baltimore County
410-887-3180

From: Edward J. Gilliss [mailto:egilliss@rmmr.com]
Sent: Thursday, March 19, 2015 3:00 PM
To: Krysundra Cannington; halderman@levingann.com
Cc: Peoples Counsel
Subject: RE: Recovermat Mid-Atlantic, LLC 14-178-A & 14-278-SPH

Sunny,

What dates should I now ask the witnesses to consider?

Thanks.

Ed Gilliss

Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Suite 600
Towson, Maryland 21204
(office) 410-823-1800
(fax) 410-583-5330
(email) egilliss@rmmr.com

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Thursday, March 12, 2015 8:56 AM
To: Edward J. Gilliss; halderman@levingann.com
Cc: Peoples Counsel
Subject: Recovermat Mid-Atlantic, LLC 14-178-A & 14-278-SPH

Good morning Counsel,

Attached please find a pdf copy of a letter sent to you on March 3, 2015 offering dates for the rescheduling of the Recovermat Mid-Atlantic matters. Please be advised that I have received another case which has statutory timeframes which coincide with the dates offered to you. Therefore, if I have not heard from you regarding your availability by the end of business tomorrow, March 13, 2015, I will no longer be able to hold April 28, 29, 30, May 5, and 7th.

Thank you in advance for your prompt response.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

Confidentiality Statement

Krysundra Cannington

From: Edward J. Gilliss <egilliss@rmmr.com>
Sent: Thursday, March 19, 2015 3:00 PM
To: Krysundra Cannington; halderman@levingann.com
Cc: Peoples Counsel
Subject: RE: Recovermat Mid-Atlantic, LLC 14-178-A & 14-278-SPH

Sunny,

What dates should I now ask the witnesses to consider?

Thanks.

Ed Gilliss

Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Suite 600
Towson, Maryland 21204
(office) 410-823-1800
(fax) 410-583-5330
(email) egilliss@rmmr.com

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Thursday, March 12, 2015 8:56 AM
To: Edward J. Gilliss; halderman@levingann.com
Cc: Peoples Counsel
Subject: Recovermat Mid-Atlantic, LLC 14-178-A & 14-278-SPH

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Thank you in advance for your prompt response.

Sunny

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Administrator
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

Krysundra Cannington

From: Edward J. Gilliss <egilliss@rmmr.com>
Sent: Thursday, March 12, 2015 8:57 AM
To: Howard Alderman; Krysundra Cannington
Cc: Peoples Counsel
Subject: RE: Recovermat Mid-Atlantic, LLC 14-178-A & 14-278-SPH

Sunny,

I, too, am waiting for witness availability confirmation.

I will follow up.

Ed Gilliss

Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Suite 600
Towson, Maryland 21204
(office) 410-823-1800
(fax) 410-583-5330
(email) egilliss@rmmr.com

From: Howard Alderman [mailto:halderman@levingann.com]
Sent: Thursday, March 12, 2015 8:58 AM
To: Krysundra Cannington; Edward J. Gilliss
Cc: Peoples Counsel
Subject: RE: Recovermat Mid-Atlantic, LLC 14-178-A & 14-278-SPH

ALL

I'm still waiting on confirmation from 1 representative of my client and 2 witnesses regarding the dates posted.
Howard

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, Maryland 21204
410-321-0600 (voice)
410-296-2801 (fax)
E-Mail Address: halderman@LevinGann.com
Website: www.LevinGann.com

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Thursday, March 12, 2015 8:56 AM
To: Edward J. Gilliss; Howard Alderman

Cc: Peoples Counsel

Subject: Recovermat Mid-Atlantic, LLC 14-178-A & 14-278-SPH

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Sunny

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Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

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Krysundra Cannington

From: Edward J. Gilliss <egilliss@rmmr.com>
Sent: Friday, February 27, 2015 3:11 PM
To: Krysundra Cannington
Subject: FW: Recovermat Mid-Atlantic, LLC
Attachments: 20150227145626795.pdf

Sunny,

The original is being walked over to your office this p.m.

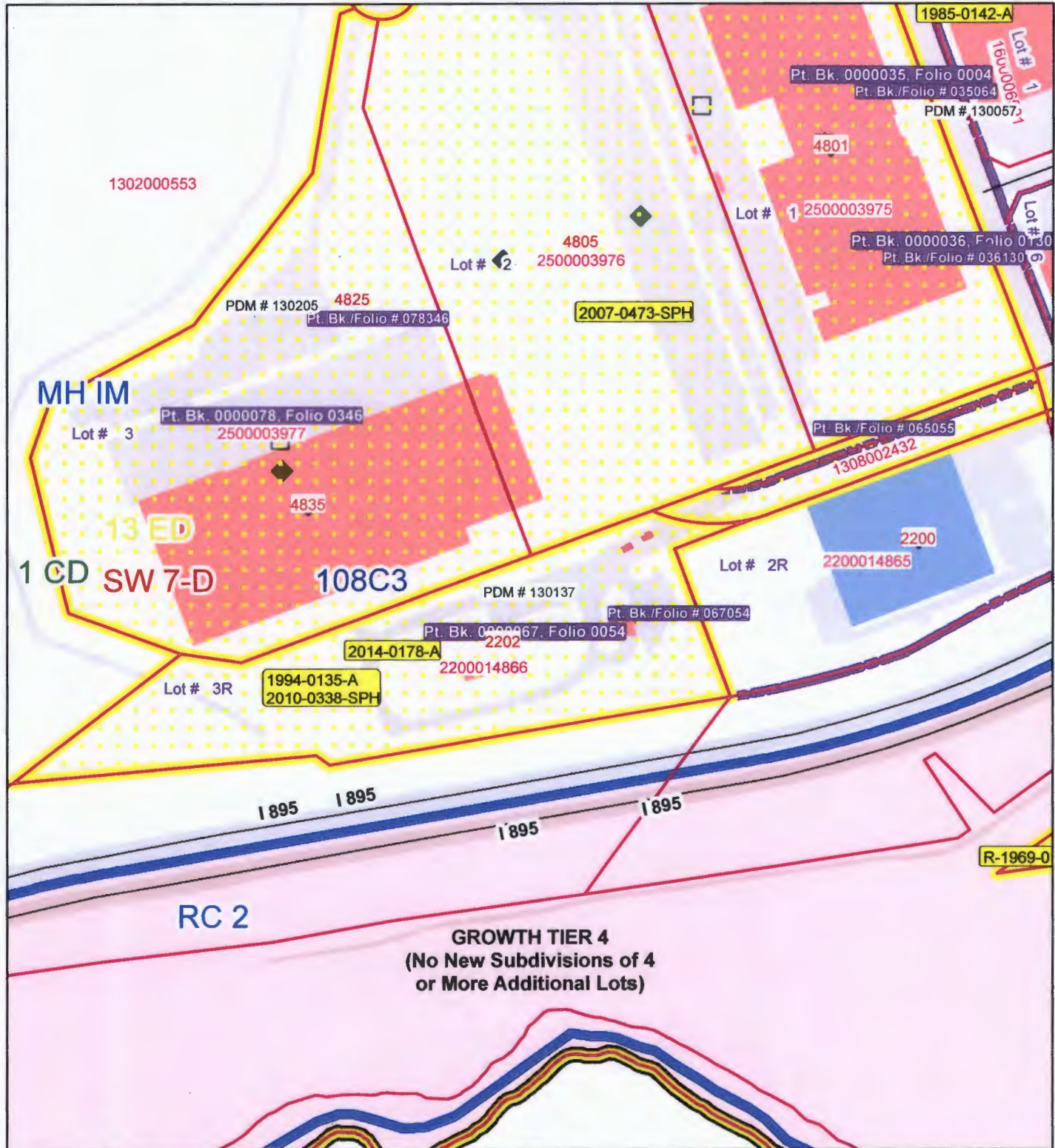
Thanks.

Ed Gilliss

Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Suite 600
Towson, Maryland 21204
(office) 410-823-1800
(fax) 410-583-5330
(email) egilliss@rmmr.com

2/27/15
Ed Gilliss
Recovermat
- Not available 4/23
- will request postpone
- would like to find
agreed date.

2202 Halethorpe Farms Road 2014-0278-SPH



Publication Date: 6/19/2014



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



0 75 150 300 450 600 Feet

1 inch = 300 feet

Real Property Data Search (w3)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration
Account Identifier: District - 13 Account Number - 2200014866		
Owner Information		
Owner Name:	RECOVERMAT MID-ATLANTIC LLC	Use: INDUSTRIAL NO
Mailing Address:	C/O DENNIS BLANCHARD 2202 HALETHORPE FARM RD BALTIMORE MD 21227-4651	Deed Reference: /11184/ 00622
Location & Structure Information		
Premises Address:	2202 HALETHORPE FARMS RD 0-0000	Legal Description: 8.6003 AC 2202 HALETHORPE FRM RD SW IRON CITY SASH AND DOOR
Map:	Grid:	Parcel:
0108	0024	0809
Sub District:	Subdivision:	Section:
	0000	
Block:	Lot:	Assessment Year:
	3R	2014
Plat No:	Plat Ref:	0067/0054
Special Tax Areas:	Town:	NONE
Ad Valorem:	Tax Class:	
Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area
1996	6258	
Property Land Area	County Use	
8.6000 AC	07	
Stories	Basement	Type
		LIGHT MANUFACTURING
Exterior	Full/Half Bath	Garage
Last Major Renovation		
Value Information		
Base Value	Value As of 01/01/2014	Phase-in Assessments As of 07/01/2014
Land:	1,289,300	1,289,300
Improvements	241,700	245,800
Total:	1,531,000	1,535,100
Preferential Land:	0	1,532,367
		1,533,733
		0
Transfer Information		
Seller: MGA INVESTMENT INC	Date: 08/25/1995	Price: \$517,000
Type: ARMS LENGTH VACANT	Deed1: /11184/ 00622	Deed2:
Seller: IRON CITY SASH & DOOR CO & MFG	Date: 02/07/1995	Price: \$505,000
Type: ARMS LENGTH IMPROVED	Deed1: /10934/ 00181	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Exemption Information		
Partial Exempt Assessments:	Class	07/01/2014
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00
Tax Exempt:	Special Tax Recapture:	
Exempt Class:	NONE	
Homestead Application Information		
Homestead Application Status: No Application		

fyi

Companion Case

Case No.:

2014-0178-A

Exhibits in approp. case file.

Exhibit Sheet

Petitioner/Developer

Protestants

No. 1	Capalongo resume	Zoning Correction notice 9-8-2008
No. 2	Site plan	Companion Case
No. 3	Landscape Certification	
No. 4	My Neighborhood Map	
No. 5	April 30, 2014 Md. Food Bank letter.	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

non case
- 278 - SPH
sits in
Exhibit Sheet
Case file

[all exhibits from
2014-0178-A
deemed admitted in
2014-0278-
SPH]

Developer

Protestants

eSecurity	Companion Case 2014-0278-SPH
surveillance	
2013 letter to M.D.E.	
on - PG County	
1 def. of "junkyard"	
od Map"	

CASE NAME 220 2nd Holston Ave Farm Rd
CASE NUMBER 2014-178-A
DATE 9-29-2014
EET End

2014-0278-SPH

[illegible]

CASE NAME 2202 Helethrae Ficus
CASE NUMBER 2014-278-SJP and
DATE 9.29.14 2014-0178-A

CITIZEN'S SIGN - IN SHEET

ADDRESS

CITY, STATE, ZIP

E - MAIL

[illegible]

Start
of
Exhibits
Folder

Page 570
33 Md.App. 570
365 A.2d 600
MARYLAND METALS, INC.

v.
Roy HARBAUGH et al.
No. 96.
Court of Special Appeals of Maryland.
Nov. 8, 1976.

[365 A.2d 601] William P. Young, Jr.,
Hagerstown, for appellant.

John H. Urner, Hagerstown, with whom
were Byron, Moylan & Urner, Hagerstown, on
the brief for appellees.

Argued before GILBERT, C. J., and
MORTON and MASON, JJ.

GILBERT, Chief Judge.

Properly before us, this case would have
presented the interesting question of whether the
appellant, Maryland

Page 571

Metals, Inc., 'is engaged in the '... recycling of
automotive components' or operates a 'junkyard'
as that term is defined by Washington County
Zoning Ordinance, art. 28, § 28.35. The issue,
however, is not before us for the reasons stated
infra.

In 1973, Washington County adopted a
zoning ordinance. One effect of the ordinance
was to place the business of the appellant in a
residential area. Thus, the appellant's business
was, by operation of law, converted into a non-
conforming use. Appellant continued operation
of its 'junkyard.'¹

Desirous of expanding its operation 'by the
installation of an automatic shredding plant and
motor breaking machine,' the appellant made
application on October 3, 1974, to the Board of
Zoning Appeals for permission to do so. The
matter was heard by the Board in late October

1974, and the application was denied on
November 27, 1974, on the basis that the zoning
ordinance proscribed the expansion of a
'junkyard,' notwithstanding the Board's finding'.
... (t) hat the proposed additions would greatly
facilitate recycling of automotive components by
breaking down metals as demanded by the
market, resulting in a more efficient, less
wasteful operation.'

Disappointed by the Board's denial, the
appellant sought relief in the Circuit Court for
Washington County in the form of an appeal. In
that tribunal, the appellant met with no more
success than it had before the Board. The judge
of the circuit court heard argument, viewed the
property, and later wrote an opinion affirming
the Board. The opinion and order thereon was
filed on November 5, 1975. Patently,

Page 572

under Md. Rule 1012 a,² the appellant had thirty
days from November 5, 1975, to appeal to this
Court. No appeal within that time frame was
noted, however.

On December 19, 1975, two full weeks
after the expiration of the time in which an
appeal could be properly noted, the appellant,
purportedly pursuant to Md. Rule 625 a, filed a
'Motion to Set Aside Judgment.' The appellant
contended, in the 'Motion' that, at the hearing of
October 24, 1975, he had orally requested
permission to take additional testimony, but that
the hearing judge '... did not deny ...
(appellant's) motion during the hearing and its
(the court's) order does not dispose of the (oral)
motion.' Appellant further requested the hearing

court '... to exercise its authority under ... Rule 625 a and set aside ...' the judgment affirming the Board on the ground that '(t)he Court [365 A.2d 602] failed to furnish the ... (appellant's) attorney with a copy of its opinion and order, contrary to the long-established rule in this County that the Court furnishes the opinion to attorneys for each side.' Appellant charged that the '... failure to furnish a copy to (appellant's) counsel was a 'mistake or irregularity' within the meaning of those words as employed in Md. Rule 625 a.

Appellees responded that the oral motion to take additional testimony was denied orally. Appellees further asserted that the '... failure to furnish a copy of the Court Order to counsel of record³ is not a 'mistake or irregularity'. ...'

The hearing judge then passed an order dated January 21, 1976, and filed the next day, in which it recited:

'WHEREAS this Court handed down a decision in this case on November 5, 1975 and

Page 573

WHEREAS through an office error, a copy of the decision was not mailed as is customarily done in this County, and

WHEREAS, time for appeal lapsed before counsel in the case had learned of the decision,

NOW, THEREFORE, at the request of the petitioner, the plaintiff, this Court hereby strikes the order of November 5, 1975, and will hand down the same order as of this date for the purpose of the petitioner to appeal (if this power still remains in this Court).'⁴

An appeal was then noted to this Court within thirty days of the January order.

The appellees have moved in their brief, under Md. Rule 1036 d, to dismiss the appeal as not timely. Md. Rule 1035 b (3).

We infer from the hearing judge's use of the words '... if this power still remains in this Court' that the judge had reservations about his authority to grant the motion. Both *Pumphrey v. Grapes*, 215 Md. 573, 138 A.2d 916 (1958) and *Baltimore Luggage Co. v. Ligon*, 208 Md. 406, 118 A.2d 665 (1955) indicate that the court did not possess the power it exercised.

In *Pumphrey*, supra, a trial judge granted a judgment N.O.V. and filed an order with the court clerk. He also supplied the clerk with copies of his order for counsel. One attorney did not receive the copy intended for him and did not learn that the order had been filed until after the appeal time had expired. In affirming the lower court's denial of that counsel's motion to strike out the judgment on the basis of Rule 625 a, the court said:

'In the absence of a general or local rule of court, it is almost universally held that there is no requirement that notice be given. ... The obligation to follow and consult the docket rests

Page 574

upon counsel, who are charged with notice. ... It is not shown that there is any applicable local rule in effect in Howard County. The most that can be claimed is that under the local practice it is customary to supply copies of opinions and orders to counsel. The deputy clerk testified that he usually did this by 'Handing it to them in person. Rarely, I go out and deliver them. ...' There was no practice of mailing copies or giving formal notice. ... We think there was no obligation upon the clerk to serve the copy, and the failure of counsel to learn of the court's action and the entry of the judgment is not chargeable to him (the clerk) under the circumstances.' 215 Md. at 576-77, 138 A.2d at 918 (Emphasis supplied). (Citations omitted).

[365 A.2d 603] A semantic problem exists in applying the above language to the instant case. In his order, the bearing judge vacated the November 5, 1975, order because '... a copy of

the decision was not mailed as is customarily done in this county.' (Emphasis supplied). The Pumphrey Court held that '(t)he most that can be claimed is that under the local practice it is customary to supply copies of opinions and orders to counsel.' 215 Md. at 576, 138 A.2d at 918 (Emphasis supplied). In Pumphrey, the Court had before it testimony showing the procedure followed by the clerk in delivering opinions and orders. The Court noted that '(t)here was no practice of mailing copies or giving formal notice.' In the case presently before us, no testimony was taken on the motion to set aside the judgment. We are left with the motion, the answer thereto, and the hearing judge's statement ' . . . the decision was not mailed as is customarily done in this County.'

We glean from Pumphrey that custom alone falls short of establishing a 'mistake or irregularity' under Rule 625 unless there is a local or general rule authorizing or sanctioning the 'custom.'

Page 575

The Court, in *Baltimore Luggage*, supra, went even further. There it said that notwithstanding a trial judge's statement that he ' . . . was about to enter a judgment nisi' 208 Md. at 421, 118 A.2d at 673, counsel were ' . . . not entitled, as of right to rely entirely on the judge's indicated purpose.' 208 Md. at 421, 118 A.2d at 673.

The Court stated:

'It is settled that a party to litigation, over whom the court has obtained jurisdiction, is charged with the duty of keeping aware of what actually occurs in the case and is affected with notice of all subsequent proceedings and that his actual knowledge is immaterial.' 208 Md. at 421-22, 118 A.2d at 673.

In *Baltimore Luggage*, supra, the trial court, in order to accommodate the appellant, amended the docket in an effort to avoid prejudicing the right of the luggage company to appeal, which

right had expired because of counsel's reliance upon the Court's statement that it would enter the order nisi, and counsel's failure to observe that the court actually entered a final judgment.

When the matter was decided by the Court of Appeals, it pointed out, rather strongly we think, that:

' . . . (T)he judge was attempting to extend the time for appeal which, of course, he could not do. Thus, although the docket mechanically has been altered, the appellant is in the same legal position as it was on the day the appeal was entered . . . (That) was more than thirty days after the entry of the final judgment . . . and the luggage company at that time had no right of appeal.' 208 Md. at 423, 118 A.2d at 674.

In the practice of law, a lawyer is charged with the responsibility of knowing what is entered upon the dockets, from time to time, in the case in which he is counsel. It is his duty to follow the dockets so as to keep himself abreast of

Page 576

the happenings in his case, and absent a local or general rule entitling counsel to rely upon the clerk for notice of particular entries on the docket, counsel will not be heard to exclaim that he was unaware of an entry. Put in another more graphic way, the buck stops with the attorney's appearance as counsel of record.

Lest there be any misconception that an attorney's ignorance of docket entries is not a 'mistake or irregularity' in [365 A.2d 604] the Md. Rule 625 a sense, the Court of Appeals, in a host of cases, has laid that idea to rest. *Cohen v. Investors Funding Corp.*, 267 Md. 537, 541, 298 A.2d 154, 156 (1973); *Ventresca v. Weaver Bros.*, 266 Md. 398, 407, 292 A.2d 656, 661 (1972); *Maggin v. Stevens*, 266 Md. 14, 18, 291 A.2d 440, 442 (1972); *Penn Central v. Buffalo Spring*, 260 Md. 576, 582, 273 A.2d 97, 100 (1971); *Mutual Benefit Society v. Haywood*, 257 Md. 538, 541, 263 A.2d 868, 870 (1970);

Grantham v. Prince George's Co., 251 Md. 28, 36, 246 A.2d 548, 552 (1968); Tasea Investment Corp. v. Dale, 222 Md. 474, 479, 160 A.2d 920, 923 (1960); Pumphrey v. Grapes, *supra*; and Baltimore Luggage v. Ligon, *supra*.

As we see it, appellant's counsel had no right, in the instant case, to rely upon a supposed custom of the court in mailing copies of orders to counsel. One of the very purposes of the rule relative to counsel's duty to follow the docket is to assure counsel that neither he nor his client will be misled or shortchanged by the failure of some court, or court employee, to follow custom as distinguished from a rule of court.

Having decided that the court's failure to notify counsel of its order was neither a 'mistake' nor an 'irregularity,' it logically follows that the court, under the circumstances of this case, was without authority to strike the judgment and then enter a new judgment so as to make an otherwise untimely appeal timely. The rationale of the Baltimore Luggage case clearly is to the contrary.

We hold the appeal entered in the case sub judice was untimely and must be dismissed.

If it be of any solace to the appellant, we observe that the

Page 577

Washington County Zoning ordinance provides in pertinent part:

'28.35 JUNK YARD: Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, parked, stored, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but not including areas where such uses are conducted entirely within a completely enclosed building and not including pawnshops and establishments for the sale, purchase or storage of used furniture and household

equipment, used cars in operable condition, salvaged machinery and the processing of used, discarded or salvaged material as part of manufacturing operations.'

Our review of the record convinces us that the evidence establishes that from the date of the adoption of the county zoning ordinance to the time of hearing before the Board, the county considered the appellant's business as a junkyard. The record shows that in the written communications by the county to the appellant, the county invariably referred to the appellant's business with such characterization. If appellant, prior to the instant case, sought to alter that classification, there is nothing in the record so indicating.

The testimony further demonstrated that while the business currently demolishes and processes sixty to sixty-five cars per day, allowance of the expansion will permit an increase in that number of cars to between two hundred and two hundred fifty cars per day, an increase of at least one hundred forty cars per day.

There was conflicting evidence before the Board as to whether the appellant's business was that of manufacturing and hence without the definition of junkyard as defined by the ordinance or a junkyard and business clearly within the definitions. The Board decided that the business of the

Page 578

appellant was a junkyard. We are persuaded that the evidence was such as to make the Board's finding fairly [365 A.2d 605] debatable. Thus, since it was fairly debatable, the courts are not at liberty to substitute their judgment on the evidence for the judgment of the Board. We think the hearing court was correct when it affirmed the Board. *Luxmanor Citizens v. Burkart*, 266 Md. 631, 296 A.2d 403 (1972); *Neuman v. City of Baltimore*, 23 Md.App. 13, 325 A.2d 146 (1974).

APPEAL DISMISSED. COSTS TO BE
PAID BY APPELLANT.

1 While the appellant objects to the application of the word 'junkyard' to its operation, we note that in October 1973, a letter to the appellant from the Washington County Planning and Zoning Commission contained the following sentence:

'Your business, designated a junkyard and located at 449 Antietam Drive, is in a Residential, Suburban District and is a nonconforming use.'

No objection, at that time, seems to have been interposed by appellant to its business being characterized as a 'junkyard.'

2 The Rule provides:

'Whenever an appeal to this Court is permitted by law, the order for appeal shall be filed within thirty

days from the date of the judgment appealed from except as provided in sections c. and d. of this Rule.'

Neither § c., which concerns appeals from Orphans' Court, nor § d., criminal appeals after a denial of a motion for a new trial, are here applicable.

3 From the use of the phrase 'Counsel of record,' we infer that neither side received a copy of the court's order from the court itself.

4 The question of the alleged oral motion to take additional testimony was not answered by the hearing judge nor was that issue raised before us. We deem it to have been abandoned.

5 The Fourth Judicial Circuit, of which Washington County is a part, has no rules prescribing a procedure for distributing copies of court orders or opinions to counsel.

Case No.:

2014-278-SPH

[all exhibits from
2014-0178-A
deemed admitted in2014-0278-
SPH]

Exhibit Sheet

Petitioner/Developer

PW
10-1-14

Protestants

No. 1	report Castle Security	
No. 2	DVD of surveillance	
No. 3	Nov. 25, 2013 letter to M.D.E.	
No. 4	SX application - PG County	
No. 5	BCZR § 101.1 def. of "junkyard"	
No. 6	"My Neighborhood Map"	
No. 7	Schedule of Special Exceptions	
No. 8	Order No. 94-135-A	
No. 9	April 20, 1995 letter from John Lewis	
No. 10	Nov. 24, 2008 letter from T. Kotroco	
No. 11		
No. 12		

RECOVERMAT

Halethorpe, Maryland

July 22, 2014

34G-5850-M

Tuesday, July 22, 2014 – Surveillance:

On Tuesday, July 22, 2014, at 1:00 p.m., an agent of this office proceeded to the RECOVERMAT scrap yard located at 2202 Halethorpe Farms Road, Halethorpe, Maryland 21227. The purpose of this surveillance was to observe and record the activities at this location. Specifically, the trucks arriving to deliver auto hulks and large amounts of scrap being stored at this location.

Upon arrival at 1:39 p.m., agent established surveillance of this location.

At 2:21 p.m., a large tractor-trailer, full of washers and dryers, dropped the load at this location.

At 2:25 p.m., a rollback tow truck dropped off two cars at this location.

At 2:27 p.m., a large tractor-trailer, full of various scrap metals, dropped the load at this location.

At 2:35 p.m., a large tractor-trailer, full of auto hulks, dropped the load at this location.

At 3:32 p.m., a large tractor-trailer, full of various scrap metals, dropped the load at this location.

At 3:41 p.m., a large tractor-trailer, full of auto hulks, dropped the load at this location.

At 4:25 p.m., a rollback tow truck dropped two cars off at this location.

34G-5850-M

RECOVERMAT

Page 2

Surveillance

Tuesday, July 22, 2014

At 5:30 p.m., no activity to report. Surveillance was terminated at this time.

At 8:24 p.m., agent returned to this location and observed cranes still operating. Agent obtained video footage of the scrap piles at this location. Agent also observed two large piles of shredded scrap.

At 8:30 p.m., surveillance was terminated.

At 9:10 p.m., agent arrived at his final destination.

RECOVERMAT

Halethorpe, Maryland

July 27, 2014

34G-5850-M

Sunday, July 27, 2014 – Surveillance:

On Sunday, July 27, 2014, at 8:00 p.m., an agent of this office proceeded to the RECOVERMAT scrap yard located at 2202 Halethorpe Farms Road, Halethorpe, Maryland 21227. The purpose of this surveillance was to observe and record the large amounts of scrap being stored at this location.

Upon arrival at 8:34 p.m., agent obtained video footage of the scrap piles at this location. Agent also observed the same two large piles of shredded scrap from the previous surveillance detail.

At 8:40 p.m., surveillance was terminated.

At 9:10 p.m., agent arrived at his final destination.



Pet. #2

2014-0278
-SPH

Environmental
Resources
Management

200 Harry S. Truman Pkwy.
Suite 400
Annapolis, MD 21401
(410) 266-0006
(410) 266-8912 (fax)

25 November 2013

Mr. George Ikhinmwini
Air Quality Permits Program
Maryland Department of the Environment
Air & Radiation Management Administration
1800 Washington Boulevard, Suite 715
Baltimore, Maryland 21230-1720



Re: Permit to Construct Modification
Facility Number 005-02238

Dear Mr. Ikhinmwini:

On behalf of Recovermat Mid-Atlantic, LLC (Recovermat) please find one Permit to Construct (PTC) Modification application to modify the wet shredder at the Recovermat facility located at 2202 Halethorpe Farm Road, Halethorpe, MD, located in Baltimore County. The appropriate Maryland Department of the Environment (MDE) Forms 5, 5A, and 5B are included in this submittal.

Recovermat plans to remove its current Newell 98104 shredding system and replace it with a 120-104 SXS Shredder Heavy Duty Hammermill Wet Shredding System. Just like the current system, the new shredding system will be used to process stripped automobiles and scrap metals and will be equipped with a wet suppression system. The only difference in the new 120-104 SXS system is the equipment's larger barrel size (diameter of 120 inches instead of 98 inches), and thereby larger throughput capacity. The new shredder has a capacity of processing 160 to 240 tons per hour (TPH) of low density scrap materials; higher density materials will result in a lower TPH value. The 120-104 SXS Shredder is a horizontal shaft, swing hammer design, powered by a 4,000 hp electric motor, capable of a maximum operating speed of 400 RPM. To control fugitive dust, the wet shredding system is currently equipped with water injection as well as an automated foam dust suppressant.

In addition to the required MDE Forms, supporting documentation has been provided to assist in MDE's review of the permit application. Information provided to MDE includes:

Ret. # 3

- Figures (including site location map and process flow diagram);
- Potential emissions calculations;
- Manufacturer's specification for the replacement 120 SXS Shredder;
- Manufacturer's specification for the existing control equipment; and
- Existing Fugitive Dust Control Plan.

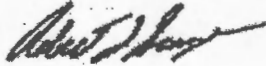
Emissions calculations were estimated using AP-42 and industry-provided emissions factors. Projected actual emissions from the scrap recycling facility are expected to be minimal as the materials are saturated by the dust suppression and water injection equipment in the wet shredding system. To provide conservative estimates, industry damp emissions factors were used to estimate particulate matter (PM) emissions. Emissions for volatile organic compounds (VOC), hazardous air pollutants (HAPs), and toxic air pollutants (TAPs) were also estimated. A compliance demonstration with the TAP requirements under COMAR 26.11.15 and 16 is thus provided.

Short term potential emissions conservatively assumed a feed rate of 240 TPH (maximum capacity of new system). In actual operation, the feed rate is expected to be significantly lower due to the presence of higher density throughput materials. Recovermat is able to demonstrate compliance with the short-term screening levels at the maximum 240 TPH throughput. To demonstrate compliance with the annual screening level for benzene, the maximum annual throughput was set at 876,000 tons per year or an average throughput of 100 TPH (the existing maximum throughput). As such, annual potential emissions will not increase as a result of this change in equipment.

We believe this information is sufficient for MDE to proceed with its review of the PTC Modification application. Please do not hesitate to contact me at (410) 266-0006 or Mr. Paul Tharp, at (301) 651-3904 if you have any questions regarding the provided materials. We appreciate your immediate attention to this application.

Mr. George Ikhinmwini
Maryland Department of the Environment
25 November 2013
Page 3

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Sawyer", with a stylized flourish at the end.

Robert Sawyer
Senior Project Manager

cc: Paul Tharp, Joseph Smith & Sons

Enclosures:
PTC Application and supporting materials

MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Air and Radiation Management Administration • Air Quality Permits Program

APPLICATION FOR PROCESSING/MANUFACTURING EQUIPMENT

Permit to Construct ☒

Registration Update ☐

Initial Registration ☐

1A. Owner of Equipment/Company Name

Recovermat Mid-Atlantic, LLC

Mailing Address

2202 Halethorpe Farm Road

Street Address

Halethorpe

MD

21227

City

State

Zip

Telephone Number

(410) 247-9600

Signature



Rodney Wotring, Vice President of Operations

Print Name and Title

Date

1B. Equipment Location and Telephone Number (if different from above)

Same as above

Street Number and Street Name

City/Town

State

Zip

Telephone Number

Premises Name (if different from above)

3. Status (A= New, B= Modification to Existing Equipment, C= Existing Equipment)

Status

B

15

New Construction

Begun (MM/YY)

0 1 1 4

16-19

New Construction

Completed (MM/YY)

0 3 1 4

20-23

Existing Initial

Operation (MM/YY)

0 6 9 5

20-23

4. Describe this Equipment: Make, Model, Features, Manufacturer (Include Maximum Hourly Input Rate, etc.)
The Shredder Company 120-104 SXS Shredder; 240 TPH; operating speed of 400 RPM via a 4,000 hp electric motor.

5. Workmen's Compensation Coverage 4064103

4/1/2014

Company Harford Mutual Insurance Companies

Binder/Policy Number

Expiration Date

NOTE: Before a Permit to Construct may be issued by the Department, the applicant must provide the Department with proof of worker's compensation coverage as required under Section 1-202 of the Worker's Compensation Act.

6A. Number of Pieces of Identical Equipment Units to be Registered/Permitted at this Time 1

6B. Number of Stack/Emission Points Associated with this Equipment 0

7. Person installing this Equipment (If different from Number 1 on Page 1)

Name Same as above Title _____
Company _____
Mailing Address/Street _____
City/Town _____ State _____ Telephone (____) _____

8. Major Activity, Product or Service of Company at this Location

The major products processed at this scrap material facility are:

- * Sheet Metal;
- * Auto Parts; and
- * Automobiles.

9. Control Devices Associated with this Equipment

None

☐
24-0

Simple/Multiple
Cyclone

☐

24-1

Spray/Adsorb
Tower

☐

24-2

Venturi
Scrubber

☐

24-3

Carbon
Adsorber

☐

24-4

Electrostatic
Precipitator

☐

24-5

Baghouse

☐

24-6

Thermal/Catalytic
Afterburner

☐

24-7

Dry
Scrubber

☐

24-8

Other

☒

Describe Wet system injection of water and automated foam dust suppressant (Dust-Buster)

24-9

10. Annual Fuel Consumption for this Equipment NA

OIL-1000 GALLONS	SULFUR %	GRADE	NATURAL GAS-1000 FT ³	LP GAS-100 GALLONS	GRADE
☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐
28-31	32-33	34	35-41	42-45	
COAL-TONS	SULFUR %	ASH%	WOOD-TONS	MOISTURE %	
☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐
46-52	53-55	56-58	59-63	64-65	

OTHER FUELS	☐	ANNUAL AMOUNT CONSUMED	OTHER FUEL	☐	ANNUAL AMOUNT CONSUMED
(Specify Type)	68-1	(Specify Units of Measure)	(Specify Type)	68-2	(Specify Units of Measure)
1=Coke 2=COG 3=BFG 4=Other					

11. Operating Schedule (for this Equipment)

Continuous Operation	Batch Process	Hours per Batch	Batch per Week	Hours per Day	Days Per Week	Days per Year
☒	☐	☐ ☐	☐	☐ ☐	☐	☐ ☐ ☐
67-1	67-2	68-69		70-71	72	73-75
Seasonal Variation in Operation:						
No Variation	Winter Percent	Spring Percent	Summer Percent	Fall Percent	(Total Seasons= 100%)	
☒	☐ ☐	☐ ☐	☐ ☐	☐ ☐		
76	77-78	79-80	81-82	83-84		



12. Equivalent Stack Information- Is Exhaust through Doors, Windows, etc. Only? (Y/N) ☒ Y

If not, then

Height Above Ground (FT)

Inside Diameter at Top

Exit Temperature (°F)

Exit Velocity (FT/SEC)

86-88

89-91

92-95

96-98

NOTE:

Attach a block diagram of process/process line, indicating new equipment as reported on this form and all existing equipment, including control devices and emission points.

13. Input Materials (for this equipment only)

Is any of this data to be considered confidential? ☒ N (Y or N)

Note: Inputs based on 100 tph input and anticipated percent distribution

NAME	CAS NO. (IF APPLICABLE)	PER HOUR	INPUT RATE		UNITS
			UNITS	PER YEAR	
1. Sheet Metal	NA	40	tons	350,400	tons
2. Auto Parts	NA	10	tons	87,600	tons
3. Whole Automobiles	NA	50	tons	438,000	tons
4.					
5.					
6.					
7.					
8.					
9.					
TOTAL		100	tons	876,000	tons

14. Output Materials (for this equipment)
Process/Product Stream

NAME	CAS NO. (IF APPLICABLE)	PER HOUR	OUTPUT RATE		UNITS
			UNITS	PER YEAR	
1. Ferrous Product ("Frag")	NA	75	tons	657,000	tons
2. Non Ferrous Product ("Fluff")	NA	25	tons	219,000	tons
3.					
4.					
5.					
6.					
7.					
8.					
9.					
TOTAL		100	tons	876,000	tons

15. Waste Streams- Solid and Liquid

NAME	CAS NO. (IF APPLICABLE)	PER HOUR	OUTPUT RATE		UNITS
			UNITS	PER YEAR	
1. None					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
TOTAL					

16. Total Stack Emissions (for this equipment only) in Pounds Per Operating Day

Particulate Matter
N A

99-104

Oxides of Sulfur
N A

105-110

Oxides of Nitrogen
N A

111-116

Carbon Monoxide
N A

177-122

Volatile Organic Compounds
N A

123-128

PM-10
N A

129-134

17. Total Fugitive Emissions (for this equipment only) in Pounds Per Operating Day

Particulate Matter
2 7 . 5

135-139

Oxides of Sulfur
0

140-144

Oxides of Nitrogen
0

145-149

Carbon Monoxide
0

150-154

Volatile Organic Compounds
3 . 2 7

155-159

PM-10
9 . 0 4

160-164

Method Used to Determine Emissions (1= Estimate 2= Emission Factor 3= Stack Test 4= Other)

TSP
2

165

SOX
NA

166

NOX
NA

167

CO
NA

168

VOC
2

169

PM10
2

170

AIR AND RADIATION MANAGEMENT ADMINISTRATION USE ONLY

18. Date Rec'd. Local

Date Rec'd. State

Return to Local Jurisdiction

Date

By

Reviewed by Local Jurisdiction

Date

By

Reviewed by State

Date

By

19. Inventory Date

Month/Year

Equipment Code

SCC Code

171-174

175-177

178-185

20. Annual

Maximum Design

Permit to Operate

Transaction Date

Operating Rate

Hourly Rate

Month

(MM/DD/YR)

186-192

193-199

200-201

202-207

Staff Code

VOC Code

SIP Code

Regulation Code

Confidentiality

208-210

211 212

213 214

215-218

219

Point Description

Action

A: Add

C: Change

220-238

239

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EMISSIONS DATA

[illegible]

1. Number Identifying this Emission Point on Required Plot Plan _____
(If applicable, list company's internal I.D. _____)

3. Emission Schedule (for this stack or emission point)

Seasonal Variation: None X Winter % 25 Spring % 25 Summer % 25 Fall % 25

4. Stack Information	NA	
Height above ground (ft)	Inside Diameter at top of round stack (ft)	Exit Temperature (°F)
Height above structures (ft)	Dimensions at top of rectangular stack (ft)	Exit Velocity (ft/min)
Distance to Nearest Property Line (ft)		Gas Volume (acfm)
Dimensions of Building Stack is on (ft): Height _____ Length _____ Width _____		

5. Control Devices Associated with this Stack or Emission Point

<u>Control Device</u>	<u>Number</u>	<u>Control Device</u>	<u>Number</u>
0. None	_____	7. Elec. Precipitator	_____
1. Simple Cyclone	_____	8. Baghouse	_____
2. Multiple Cyclone	_____	9. Thermal Afterburner	_____
3. Spray Tower	_____	10. Catalytic Afterburner	_____
4. Absorption Tower	_____	11. Other (specify)	_____
5. Venturi Scrubber	_____	Water Injection & Automated Foam Dust	
6. Carbon Adsorber	_____	Suppressant (Dust-Buster)	

6. Criteria Pollutant Emissions (attach supporting documentation)

ESTIMATED EMISSIONS

Criteria Pollutants	Design Capacity (lb/hr)	Projected (lb/hr)	Operations (1) (ton/year)
Particulate Matter	2.75	1.15	5.02
PM10	0.904	0.377	1.65
Oxides of Sulfur	0	0	0
Oxides of Nitrogen	0	0	0
Carbon Monoxide	0	0	0
VOC (total)	0.417	0.136	0.596
Lead	2.84E-4	1.18E-4	5.18E-4

7. Toxic Air Pollutant Emissions (attach supporting documentation)

ESTIMATED EMISSIONS

Toxic Air Pollutant (list all)	CAS Number	Design Capacity (lb/hr)	Projected Operations (1)		Used for Form 5A, Part 3 (2)	
		(lb/hr)	(lb/hour)	(ton/year)	(lb/hour)	(ton/year)
1. See Tables 3 and 4 of Attachment A						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						

(1) Based on the emission schedule reported in Block three of this form.

(2) This column must be filled in with the emission estimates used to demonstrate compliance with the regulations. If continuous emissions at design capacity allow you to demonstrate compliance with all air pollution regulations, then these emissions should be listed here. If the air toxic regulations or any other regulations require you to discharge less than continuously at design capacity, then these emissions should be listed here.



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SUMMARY OF DEMONSTRATIONS FOR MEETING THE AMBIENT IMPACT REQUIREMENT (26.11.15.05) AND THE T-BACT REQUIREMENT (26.11.15.06)

[illegible]

<u>Emission Reduction Option</u>	<u>% Emission Reduction</u>	<u>COSTS</u>	
		<u>Capital</u>	<u>Annual Operating</u>
1. Automated Foam Dust Suppressant (Dust-Buster)	>= 85%	\$15,500	Unknown
2. Water Injection	60% (est.)	Unknown	Unknown
3. Good workplace practices	Unknown	Minimal	Minimal
4.			
5.			

- Page 1 of 2
Recycled Paper

3. List screening levels and highest estimated off-site concentrations ($\mu\text{g}/\text{m}^3$) resulting from premises-wide allowable emissions (1) of each Toxic Air Pollutant that is covered by the regulations and discharged from the installation or source applying for the permit. See the General Instructions for more detail. Supporting documentation must be attached.

Toxic Air Pollutant	CAS Number	SCREENING LEVEL(S)			OFF-SITE CONCENTRATIONS		
		1-HR	8-HR	Annual	1-HR	8-HR	Annual
1 Methylene Chloride	75-09-2	-	1,736.81	2.00	-	4.02	0.14
2 Acetone	67-64-1	17,806.75	11,871.17	-	0.89	0.89	-
3 1,1-Dichloroethylene	75-34-4	-	4047.85	-	-	0.89	-
4 2-Butanone (MEK)	78-93-3	8,846.63	5,897.75	-	0.36	0.36	-
5 1,1,1-Trichloroethane	71-55-6	24,555.83	19,098.98	-	13.39	13.39	-
6 Benzene	71-43-2	79.87	15.97	0.13	3.65	3.65	0.12
7 Tetrachloroethylene	127-18-4	6,781.19	1,695.30	-	0.18	0.18	-
8 Trichloroethylene	79-01-6	1,343.56	537.42	-	4.47	4.47	-
9 Toluene	108-88-3	-	753.62	-	-	22.30	-
10 Ethylbenzene	100-41-4	-	868.38	-	-	4.47	-
11 Styrene	100-42-5	1,704.05	852.02	-	0.89	0.89	-
12 Xylenes	1330-20-7	6,512.88	4,341.92	-	13.37	13.37	-
13 Total PCBs	1336-36-3	-	26.60	0.01	-	0.12	3.93E-3
14 Cadmium	7440-43-9	-	0.02	6.00E-4	-	0.01	4.18E-4
15 Chromium	7440-47-3	-	5.00	-	-	0.01	-
16 Lead	7439-92-1	-	0.50	-	-	0.08	-
17 Ethanol	64-17-5	18,842.54	3,768.51	-	25.15	25.15	-

☐ If unable to use a Screening Analysis, check the box and attach the Second Tier Analysis or Special Permit request to this form.

- (1) Premises is defined as: "all the installations or other sources that are located on contiguous or adjacent properties and that are under the control of one person or under common control of a group of persons" (COMAR 26.11.15.01B(12)).

Allowable Emissions are defined as: "the maximum emissions a source or installation is capable of discharging after consideration of any physical or operational limitations required by this subtitle or by enforceable conditions included in an applicable air quality permit to construct, permit to operate, secretarial order, plan for compliance, consent agreement, or court order" (COMAR 26.11.15.01B(2)).



**RECOVERMAT MID-ATLANTIC, LLC
PERMIT-TO-CONSTRUCT CONDITIONS
PERMIT No. 006-02238-6-2161 M**

INDEX

- Part A – General Provisions
- Part B – Applicable Regulations
- Part C – Construction Conditions
- Part D – Operating Conditions
- Part E – Testing, Monitoring, Record Keeping and Reporting
- Part F – Temporary Permit-to-Operate Conditions

This permit to construct is issued to cover the following registered installation:

Registration No.	Description	Date of Installation
6-2161M	One stripped automobile shredding and screening plant consisting of: One (1) 100 TPH Newell 98104 Super Heavy Duty Wet Shredding System Hammermill with Wet Suppression.	Jan. 1, 1996

Part A – General Provisions

- (1) The following Air and Radiation Management Administration (ARMA) permit-to-construct applications and supplemental information are incorporated into this permit by reference:
 - (a) Application for Processing or Manufacturing Equipment (Form 5) received on September 5, 2008.
 - (b) Supplemental Information necessary to complete the application: received on December 15 (proof of zoning), and December 22, 2008 (description and operating parameters of air pollution control equipment).

**RECOVERMAT MID-ATLANTIC, LLC
PERMIT-TO-CONSTRUCT CONDITIONS
PERMIT No. 005-02238-6-2161 M**

If there are any conflicts between representations in this permit and representations in the applications, the representations in the permit shall govern. Estimates of dimensions, volumes, emissions rates, operating rates, feed rates and hours of operation included in the applications do not constitute enforceable numeric limits beyond the extent necessary for compliance with applicable requirements.

- (2) Upon presentation of credentials, representatives of the Maryland Department of the Environment ("MDE" or the "Department") and the Baltimore County Department of Environmental Protection & Resource Management shall at any reasonable time be granted, without delay and without prior notification, access to the Recovermat Mid-Atlantic, LLC (the "Company") property and permitted to:
 - (a) Inspect any construction authorized by this permit;
 - (b) sample, as necessary to determine compliance with requirements of this permit, any materials stored or processed on-site, any waste materials, and any discharge into the environment;
 - (c) Inspect any monitoring equipment required by this permit;
 - (d) review and copy any records, including all documents required to be maintained by this permit, relevant to a determination of compliance with requirements of this permit; and
 - (e) obtain any photographic documentation or evidence necessary to determine compliance with the requirements of this permit.
- (3) The Company shall notify the Department prior to increasing quantities and/or changing the types of any materials referenced in the application or limited by this permit. If the Department determines that the proposed increases or changes constitute a modification, the Company shall obtain a permit-to-construct prior to implementing the modification.
- (4) The use or installation of any equipment not specified in the Company's permit-to-construct application or this permit constitutes new construction. The Company shall obtain a permit-to-construct for any such equipment prior to installation.
- (5) Nothing in this permit authorizes the violation of any rule or regulation or the creation of a nuisance or air pollution.

**RECOVERMAT MID-ATLANTIC, LLC
PERMIT-TO-CONSTRUCT CONDITIONS
PERMIT No. 005-02238-6-2161 M**

- (6) If any provision of this permit is declared by proper authority to be invalid, the remaining provisions of the permit shall remain in effect.
- (7) This permit supersedes all previous permits-to-construct issued under permit number 005-02238-6-2161 M.

Part B – Applicable Regulations

- (1) This source is subject to all applicable federally enforceable State air pollution control requirements including, but not limited to, the following regulations:
 - (a) COMAR 26.11.01.07C, which requires that the Company report to the Department occurrences of excess emissions.
 - (b) COMAR 26.11.02.09A, which requires that the Company obtain a permit-to-construct for any new hammermill, shredding or screening equipment or if an installation is to be modified in a manner that will cause changes in the quantity, nature, or characteristics of emissions from the installation as referenced in this permit.
 - (c) COMAR 26.11.06.02C (2), which prohibits visible emissions other than uncombined water.
 - (d) COMAR 26.11.06.03C & D, which requires that the Company take reasonable precautions to prevent particulate matter from materials handling, unpaved roadways and construction operations from becoming airborne.
- (2) This source is subject to all applicable State-only enforceable air pollution control requirements including, but not limited to, the following regulations:
 - (a) COMAR 26.11.02.13A (21), which requires that the Company obtain from the Department, and maintain and renew as required, a valid State permit-to-operate.
 - (b) COMAR 26.11.02.19C & D, which require that the Company submit to the Department annual certifications of emissions, and that the Company maintain sufficient records to support the emissions information presented in the submittals.

**RECOVERMAT MID-ATLANTIC, LLC
PERMIT-TO-CONSTRUCT CONDITIONS
PERMIT No. 005-02238-6-2161 M**

- (c) COMAR 26.11.08.08 and 26.11.06.09, which generally prohibit the discharge of emissions beyond the property line in such a manner that a nuisance or air pollution is created.
- (d) COMAR 26.11.15.06, which prohibits the discharge of toxic air pollutants to the extent that such emissions will unreasonably endanger human health.

Part C – Construction Conditions

- (1) Any modification of the existing 100 tph hammermill plant shall be conducted in accordance with the specifications included in the permit-to-construct application.
- (2) This permit only applies to the registered equipment currently covered under registration 005-02238-6-2161M (see table above). Any new or different hammermill, shredding or screening equipment shall first obtain a permit-to-construct from the Department before being installed at the premises.

Part D – Operating Conditions

- (1) The 100 tph hammermill plant shall be operated in accordance with specifications included in the application.
- (2) The Company shall not process any of the following materials:
 - (a) Soils contaminated with petroleum hydrocarbons,
 - (b) Asbestos,
 - (d) Explosives, or
 - (e) Lead acid batteries.
- (3) Wet suppression shall be applied at all transfer points and stockpiles as necessary to keep shredder residue ("fluff") damp and to ensure that the operation is in full and continuous compliance with the prohibition of visible emissions.
- (4) Fugitive dust from plant roads, stockpiles and material handling operations shall be controlled by using water or chemical dust suppressants or a combination thereof.

**RECOVERMAT MID-ATLANTIC, LLC
PERMIT-TO-CONSTRUCT CONDITIONS
PERMIT No. 005-02238-6-2161 M**

- (5) The "luff" generated from shredding stripped automobiles shall be stored, maintained and removed in accordance with the Best Management Practices Dust Control plan submitted as part of the Company's permit application

Part E – Testing, Monitoring, Record Keeping and Reporting

- (1) The Company shall maintain for at least five (5) years, and shall make available to the Department upon request, monthly records of the hours of operation and the amount of stripped automobiles and "white goods" processed in the hammermill.
- (2) The Company shall maintain at the facility for at least five (5) years, and shall make available to the Department upon request, records necessary to support annual certifications of emissions and demonstrations of compliance for toxic air pollutants. Such records shall include:
- (a) mass emissions rates for each regulated pollutant, and the total mass emissions rate for all regulated pollutants for each registered source of emissions;
 - (b) accounts of the methods and assumptions used to quantify emissions;
 - (c) all operating data, including operating schedules and production data, that were used in determinations of emissions;
 - (d) amounts, types, and analyses of all fuels used;
 - (e) Information concerning operation, maintenance, and performance of air pollution control equipment and compliance monitoring equipment, including:
 - (i) identifications and descriptions of all such equipment;
 - (ii) operating schedules for each item of such equipment;
 - (iii) accounts of any significant maintenance performed,
 - (iv) accounts of all malfunctions and outages, and
 - (v) accounts of any episodes of reduced efficiency.

**RECOVERMAT MID-ATLANTIC, LLC
PERMIT-TO-CONSTRUCT CONDITIONS
PERMIT No. 005-02238-6-2161 M**

- (f) limitations on source operation or any work practice standards that significantly affect emissions; and
 - (g) other relevant information as required by the Department.
- (3) The Company shall submit to the Department by April 1 of each year a certification of emissions for the previous calendar year. The certifications shall be prepared in accordance with requirements, as applicable, adopted under COMAR 26.11.01.05 – 1 and COMAR 26.11.02.19D.
- (a) Certifications of emissions shall be submitted on forms obtained from the Department.
 - (b) A certification of emissions shall include mass emissions rates for each regulated pollutant, and the total mass emissions rate for all regulated pollutants for each of the facility's registered sources of emissions.
 - (c) The person responsible for a certification of emissions shall certify the submittal to the Department in the following manner:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- (4) The Company shall submit to the Department by April 1 of each year a written certification of the results of an analysis of emissions of toxic air pollutants from the Company's facility during the previous calendar year. The analysis shall include either:
- (a) a statement that previously submitted compliance demonstrations for emissions of toxic air pollutants remain valid; or

RECOVERMAT MID-ATLANTIC, LLC
PERMIT-TO-CONSTRUCT CONDITIONS
PERMIT No. 005-02238-6-2161 M

- (b) a revised compliance demonstration, developed in accordance with requirements included under COMAR 26.11.15 & 16, that accounts for changes in operations, analytical methods, emissions determinations, or other factors that have invalidated previous demonstrations.
- (5) The Company shall report, in accordance with requirements under COMAR 26.11.01.07, occurrences of excess emissions to the Compliance Program of the Air and Radiation Management Administration.

Part F – Temporary Permit-to-Operate Conditions

- (1) This permit-to-construct shall also serve as a temporary permit-to-operate that confers upon the Company authorization to operate the 100 tph hammermill to process stripped automobiles for a period of up to 180 days from the issuance of this permit.
- (2) The Company shall provide the Department with written or electronic notification of the date on which stripped automobiles will begin being processed through the hammermill. Such notification shall be provided within 10 business days of the date to be reported.
- (3) During the effective period of the temporary permit-to-operate, the Company shall operate the hammermill as required by the applicable terms and conditions of this permit-to-construct, and in accordance with operating procedures and recommendations provided by equipment vendors.
- (4) The Company shall submit to the Department an application for a State permit-to-operate no later than 60 days prior to expiration of the effective period of the temporary permit-to-operate.

Joseph Smith & Son DBA Recovermat Mid-Atlantic, LLC

- In July 2008 MDE received a complaint that Recovermat was processing scrap autos, which would be a violation of its construction and operating permits.
- On July 17, 2008 MDE met with the company at the site. It was found that the Company had begun to receive scrap autos, which is not a permit violation, but no evidence was found that Recovermat had processed automobiles through the hammermill. Recovermat was told then that there was a need to have the permit restriction removed through either a modification to the existing permit or the issuance of a new permit.
- On September 5, 2008, MDE received a Permit to Construct application for a modification to the existing installation to allow auto recycling. The application contained very little information. There was no information regarding emissions, and the pollution control equipment section simply stated that a "wet system" would be used to control emissions. The application also stated that the existing (not new or modified) equipment was to be used to process automobiles. No information was provided as to whether the existing wet suppression system on the hammermill would be able to provide enough dust suppression to avoid creating a nuisance dust problem, which had been an issue at other auto processing operations.
- MDE met with Recovermat on September 11th at MDE and discussed and provided the company with a permit application package, which contained application submittal guidelines and issuance procedures. MDE sent a follow-up letter to Recovermat on September 18, 2008. The letter put in writing what was stated at the meeting, which was that we required certain additional information before the application could be processed, including proof that the site was properly zoned for the requested activity. Zoning information was important at that point because evidence of zoning is required for processing permit applications for sources such as crushers/shredders/hammermills, as they are subject to public review, unless the proposed project meets an exemption requirement in the statute (no increase in emissions). There was not enough information in the application to determine if the public review exclusion provision in the Environment Article would apply. The letter also asked for details on the existing hammermill (size, capacity, vendor specs, etc.) and the "wet system" and whether there would be any modifications needed to the existing hammermill or its operation to allow automobiles to be processed. Also, about that time, Baltimore County issued (on September 8, 2008) a zoning code correction notice to Recovermat requiring the company to cease the operation of an illegal junk yard and gave the company one month to come into compliance.
- At some point after September 11th, MDE received a call from the company inquiring about the status of the permit. When we mentioned the need for additional information and the letter of September 18th, we were told that MDE already has this information and that it was submitted in July. Upon searching, we found that the company was referring to information submitted to our Waste Management Administration regarding a refuse disposal matter at Recovermat. The information submitted to WAS was not useful for air permitting purposes.
- Via letter dated November 14th from an attorney representing the company, MDE was provided some additional air-related information. The information better described the process of how automobiles would be delivered, loaded into the hammermill and

transported off the property once shredded, but it lacked any details about emissions, equipment size or the "wet system." Zoning remained an issue.

- Via letter dated December 5th from the company's attorney, MDE was notified that the zoning approval had been issued and that the Recovermat operation in Halethorpe is simply a smaller version of the operation in Capitol Heights. Although the letter mentioned a zoning approval, a copy was not attached.
- Via letter dated December 15th, the company's attorney provided a letter dated November 24, 2008 from the Baltimore County Department of Permits and Development Management, stating that the site was appropriately zoned for shredding stripped (engines removed) automobiles and auto parts.
- On December 15th, prior to receiving the zoning approval notice, MDE sent a letter to the company stating once again the need for more specific information. The specific information needs were stated in the letter.
- Additional specific information relating to the equipment itself and its ability to process automobiles was submitted by the company via letter dated December 22, 2008. At that point MDE had all the information needed to make a determination on issuing a permit and on the matter of public review.
- On January 16, 2009 sent a letter to the company notifying them of our decision that public review would not be required assuming the company provided MDE with a plan on how fluff would be controlled after shredding occurs.
- On January 23, 2009 MDE received an acceptable dust control plan.
- On January 26th MDE invoiced the company for the permit fee. The company paid the fee on January 29th.
- On February 2nd, MDE sent a letter to a citizen who alleged earlier to MDE that workers at Recovermat were being exposed to asbestos. MDE informed MOSH of the issue.
- On February 3rd MDE received a letter from an attorney (client not named) alleging that Recovermat processed automobiles and had removed pollution control equipment without prior authorization.
- On February 6th MDE conducted an inspection at the facility and could find no evidence of cars being processed. MDE also found no evidence of any control devices being removed. What had been removed were screens used to classify material size when the facility was processing construction and demolition material. The screens are not needed when processing metal, which the facility now processes (white goods).
- On February 9th MDE received a letter and three photographs from an attorney (client not named). The letter and photographs were submitted as evidence to support a prior allegation that automobiles were being processed at the facility. The photos were stated to have been taken during the Fall of 2008. Two of the photos showed a stockpile of scrap autos. When the county initially informed the company of the zoning issue, the company removed the stockpile by sending the scrap to a P.G. County shredding

APPLICATION FOR SPECIAL EXCEPTION
Prince George's County, Maryland

TO BE FILED IN TRIPLICATE

MARYLAND-NATIONAL CAPITAL PARK AND
PLANNING COMMISSION
PLANNING ADMINISTRATION DIVISION
RIVERDALE, MARYLAND

DO NOT WRITE IN THIS SPACE

Special Exception Number 1939
Zoning Map Page/Sheet 51
Filing Date January 9 1969
Accepted By Ruth D. Jones

Owner ☒

I/We JOSEPH SMITH & SONS

Agent ☐

hereby make application for permission to use for the purpose of (PROCESSING PLANT FOR OLD & ABANDONED AUTOMOBILES, OLD REFRIGERATORS & APPLIANCES & VARIOUS SCRAP IRON MATERIALS) JUNK YARD

Intended Use

28.327B

in accordance with Section(s) of the Zoning Ordinance.

NOTE: This is presently a legal non-conforming use.

DESCRIPTION OF PROPERTY

<u>2001 KENILWORTH AVE.</u>	<u>NONE</u>	<u>2nd, TUXEDO AREA</u>
Address, if Any	Incorporated Area	ASSESSMENT District <u>15.6</u>
<u>NOT PLATTED OF RECORD</u>	<u>NONE</u>	<u>NO RECORD OF ZONING</u>
<u>ZONING MAP (51) (44)</u>	<u>Subdivision</u>	<u>Total Area (Ac/Sq Ft)</u>
<u>Plat Book</u>	<u>1367</u>	<u>52</u>
<u>Page Number</u>	<u>Liber</u>	<u>Folio</u>
<u>2001 KENILWORTH AVE.</u>		

Location of Property

TAX ACCOUNT #66550-00-000(11.2400A)
66550-01-000(3.0790A)

currently zoned 1-2

PHILIP SMITH

Name

2801 NEW MEXICO AVE. N.W.
WASHINGTON, D.C. 20007

5609 APPLETON STREET N.W.
WASHINGTON, D.C. 20008

WILLIAM SMITH

Name

5604 BERT BRANCH RD.
WASHINGTON, D.C. 200016

MARCUS S. SMITH

Name

Address

Correspondent

Address

Telephone

[Signature]
Owner's Signature
[Signature]
Owner's Signature
[Signature]
Owner's Signature

DO NOT WRITE IN THIS SPACE

Staff Recommendation Date

Planning Board Action Date

District Council Action App - waived facing & screening Date 2/19/69

REFERRALS

Parks Highways OK 2-23-69 Planning Admin. Community Plans SE 193

SIGN POSTED 2-4-69 BY RAM

Pet #4

Feb. 19, 1969

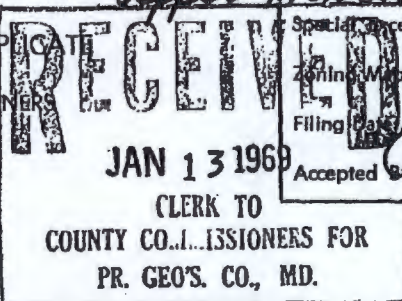
APPLICATION FOR SPECIAL EXCEPTION

Prince George's County, Maryland

DO NOT WRITE IN THIS SPACE

TO BE FILED IN TRIPlicate

PRINCE GEORGE'S COUNTY COMMISSIONERS
COURT HOUSE
UPPER MARLBORO, MARYLAND



Special Exception Number 1939
Zoning Map Page/Sheet 51
Filing Date January 9 1969
Accepted by Ruth D. Jones

Prop. & Resolution
93-1969

I/We JOSEPH SMITH & SONS

Owner ☒ Agent ☐

hereby make application for permission to use for the purpose of (PROCESSING PLANT FOR OLD & ABANDONED AUTOMOBILES, OLD REFRIGERATORS & APPLIANCES & VARIOUS SCRAP IRON MATERIALS) JUNK YARD
Intended Use

in accordance with Section(s) 28.327B of the Zoning Ordinance.

NOTE: This is presently a legal non-conforming use.
DESCRIPTION OF PROPERTY

<u>2001 KENILWORTH AVE.</u> Address, If Any	<u>NONE</u> Incorporated Area	<u>2nd. TUXEDO AREA</u> Election District
<u>NOT PLATTED OF RECORD</u> ZONING MAP (51) (44) Plat Book	<u>NONE</u> Subdivision	<u>ASSESSED AT 15.829 Ac.</u> XXXXXXXXXXXXXXX Total Area (Ac/Sq Ft)
<u>2001 KENILWORTH AVE.</u> Location of Property	<u>1367</u> Liber	<u>52</u> Folio

TAX ACCOUNT #66550-00-000(11.2400A)
66550-01-000(3.0399A)

currently zoned 1-2

PHILIP SMITH
Name
WILLIAM SMITH
Name
MARCUS S. SMITH
Name

2801 NEW MEXICO AVE. N.W.
Address
WASHINGTON, D.C. 20007
3609 APPLETON STREET N.W.
Address
WASHINGTON, D.C. 20008
5604 BENT BRANCH RD.
Address
WASHINGTON, D.C. 20016

[Signature]
Owner's Signature
[Signature]
Owner's Signature
[Signature]
Owner's Signature

Correspondent

Address

513-1266
Telephone

DO NOT WRITE IN THIS SPACE

Staff Recommendation Date
Planning Board Action Date
District Council Action Date

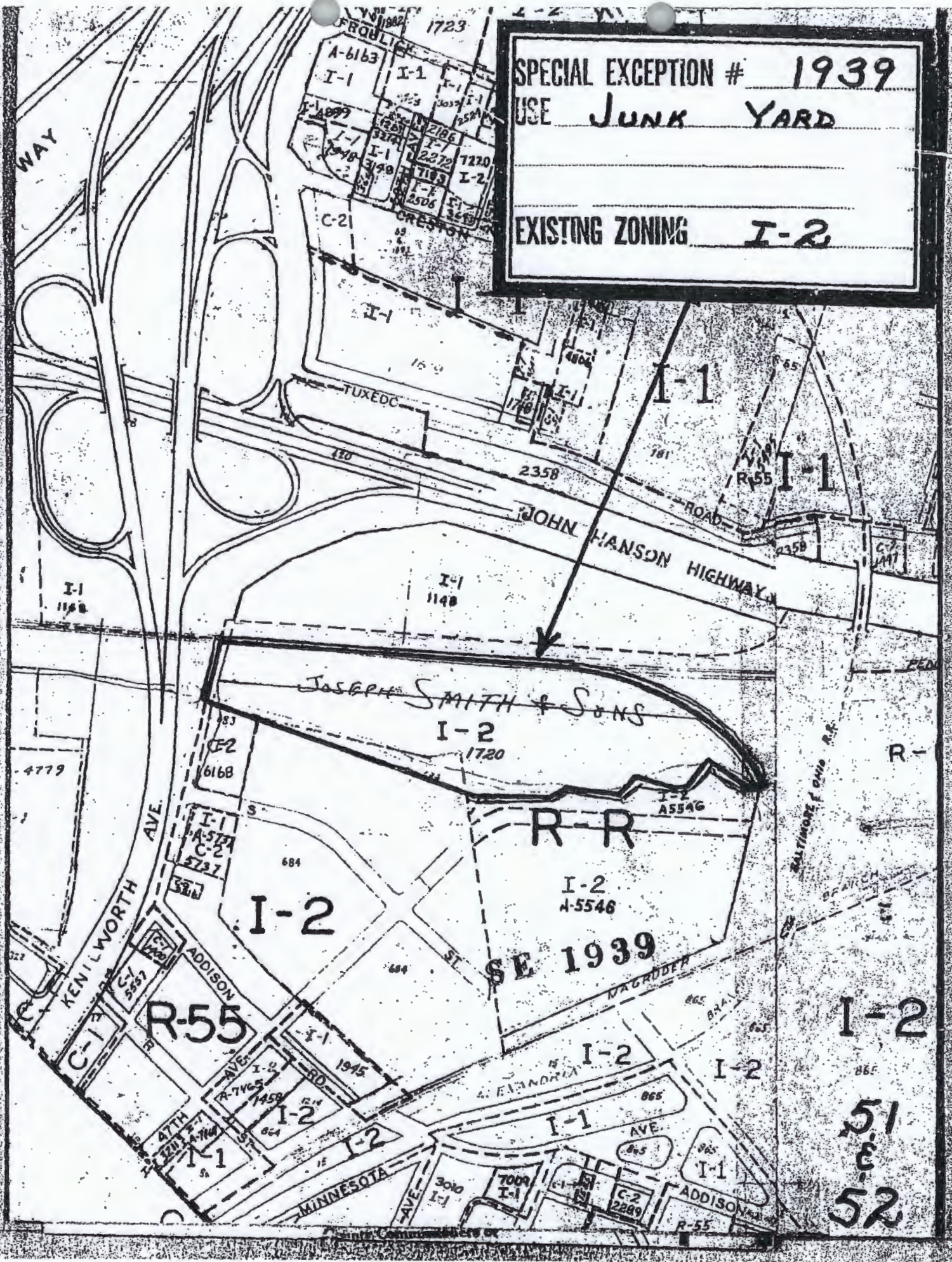
REFERRALS

Perks Highways Planning Admin. Community Plans **SE 1939**

SIGN POSTED BY

SPECIAL EXCEPTION # 1939
USE JUNK YARD

EXISTING ZONING I-2



ZONING PROPOSAL NO. 93 - 1969

ZONING RESOLUTION NO. 93 - 1969

To grant a special exception to the Zoning Regulations for the Maryland-Washington Regional District of Prince George's County.

WHEREAS a petition for a special exception to the Zoning Regulations has been filed by Joseph Smith & Sons, Owners, (Application No. 1939).

to use the property known as 2001 Kenilworth Avenue, containing 15.839± acres, 2nd Election District,

in the I-2 zone for the purpose of a junk yard (processing plant for old and abandoned automobiles, old refrigerators and appliances and various scrap iron materials),

WHEREAS after public hearing the County Commissioners for Prince George's County, sitting as the District Council of the Maryland-National Capital Park and Planning Commission, has found that the proposed use is in harmony with the purpose and intent of the general plan for the physical development of the District, and will not affect adversely the health and safety of the residents or workers in the area and will not be detrimental to the use of development of adjacent properties or the general neighborhood,

SECTION 1. Be it resolved by the County Commissioners for Prince George's County, sitting as the District Council of the

Maryland-National Capital Park and Planning Commission. That the

special exception as requested be and it is hereby granted, with waiver of the fencing requirement, as it does not face anything, the site is below the highway and the fence would not hide anything; there is nothing (SEE

SECTION 2. And be it further resolved, That this resolution BELOW)* shall take effect from date of its adoption.

ADOPTED THIS 19th DAY OF February 1969

COUNTY COMMISSIONERS FOR PRINCE GEORGE'S COUNTY,
MARYLAND.

ATTEST:

James M. Schumacher
CLERK

BY

Joseph Smith
PRESIDENT

* abutting the property and no need for screening in this area.

SE 1939



Approved

PRINCE GEORGE'S COUNTY

Courthouse, Upper Marlboro, Maryland 20870

TELEPHONE: 827-3000 (AREA CODE 301)

COUNTY COMMISSIONERS

FRANCIS J. ALUIBI, CHAIRMAN
FRANCIS B. FRANCOIS, VICE CHAIRMAN
JESSE S. BAGGETT
M. BAYNE BROOKE
GLADYS NOON SPELLMAN

OFFICE OF CLERK TO
COUNTY COMMISSIONERS
UPPER MARLBORO
JEAN M. SCHMUHL, CLERK

NO. **S.E. #1939** ✓
SMITH

**NOTICE OF FINAL DECISION
OF DISTRICT COUNCIL**

Pursuant to Section 79 (e), Chapter 780, Laws of Maryland, 1959, as amended by Chapter 898 of the Laws of Maryland, 1965, requiring service of the final decision of the District Council, you will find enclosed herewith a copy of the Board Order setting forth the action taken by the District Council in your case on February 19, 1969.

CERTIFICATE OF SERVICE

This is to certify that on March 10, 1969, the above notice and attached Board Order were mailed, postage prepaid, to the following named persons of record at the District Council's Hearing:

William Smith
Applicant or Applicant's Representative

MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

pw

Jean M. Schmuhl
Jean M. Schmuhl, clerk
Board of County Commissioners

SE 1939

X

6. PROPOSAL NO. 93 - 1969, RESOLUTION NO. 93 - 1969

Upon motion of Commissioner Baggett, seconded by Commissioner Brooke, and unanimously passed, it was Ordered that Application No. 1939, JOSEPH SMITH & SONS, Owners, for a SPECIAL EXCEPTION to use the premises now known as 2001 Kenilworth Avenue, containing 15.839± acres, 2nd Election District, property now zoned I-2, for the purpose of a JUNK YARD (PROCESSING PLANT FOR OLD AND ABANDONED AUTOMOBILES, OLD REFRIGERATORS AND APPLIANCES AND VARIOUS SCRAP IRON MATERIALS), be APPROVED, with waiver of the fencing requirement, as it does not face anything, the site is below the highway and the fence would not hide anything; there is nothing abutting the property and no need for screening in this area.

Commissioners Aluisi, Baggett, and Brooke voted in the affirmative.

7. PROPOSAL NO. 94 - 1969, RESOLUTION NO. 94 - 1969

Upon motion of Commissioner Brooke, seconded by Commissioner Baggett, and unanimously passed, it was Ordered that Application No. 1784, ALBERT STRAUSS, Owner, William L. Kahler, Attorney, for a SPECIAL EXCEPTION to use the premises located on the west side of U. S. Route 301, approximately 700 feet north of its intersection with Maryland Route 214, containing 30,448± square feet, 7th Election District, property now zoned C-1, for the purpose of an AUTOMOBILE FILLING STATION, be APPROVED, subject to its being built in conformance with the rendering submitted, and a revised site plan, yet to be submitted, which will comply with the new regulations.

Commissioners Aluisi, Baggett, and Brooke voted in the affirmative.

8. PROPOSAL NO. 95 - 1969, RESOLUTION NO. 95 - 1969

Upon motion of Commissioner Baggett, seconded by Commissioner Brooke, and unanimously passed, it was Ordered that Application No. 1921, STEAMSHIP ENTERPRISES CORP., Owner, T. Hammond Welsh, Jr., Attorney, for a SPECIAL EXCEPTION to use the premises located on Mitchellville-Queen Anne Road, being Parcel B, Pointer Ridge at Belair Village Subdivision, containing 5.2565± acres, 7th Election District, property now zoned R-R, for the purpose of a COMMUNITY SWIMMING POOL (SWIM CLUB), be APPROVED, subject to:

1. The erection of a six-foot security fence to enclose the pool for safety purposes;
2. Construction to be in accordance with the revised site plans which have been submitted.

Commissioners Aluisi, Baggett, and Brooke voted in the affirmative.

9. PROPOSAL NO. 96 - 1969, RESOLUTION NO. 96 - 1969

Upon motion of Commissioner Baggett, seconded by Commissioner Brooke, and unanimously passed, it was Ordered that Application No. 1931, SIAMACK BAHRAMI, M. D., AND EILEEN SCHALLER BAHRAMI, Owners, for a SPECIAL EXCEPTION to use the premises located on Laurel-Bowie Road, Adkins Road and Dub Drive, being Lot 10, Block A.,

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Prince George's County Regional Office
6600 Kenilworth Avenue
Riverdale, Maryland 20840

APpleton 7-2200

January 10, 1969

William Smith
3609 Appleton Street, N. W.
Washington, D. C. 20008

Re: Special Exception Application No. 1939

Philip Smith
William Smith
Marcus S. Smith
Owners

This is to notify you that the above-numbered Application for Special Exception, requesting permission to use for the purposes of Junk Yard

in accordance with Section(s) 28 327B of the Zoning Ordinance, for 15.839 acres of land described as being located on the South side of P.B. & W. Railroad, East of Kenilworth Avenue, known as 2001 Kenilworth Avenue.

currently zoned 1-2, has been received in proper form, as required by the Zoning Ordinance for the Maryland-Washington Regional District in Prince George's County, Maryland. Please be advised that the filing date of this application is January 9, 1969.

If we can be of any further service to you, please do not hesitate to contact this office.

Very truly yours,

Ruth A. Senes

(Mrs.) Ruth A. Senes
Planning Assistant

RS:sb
Enclosure

SE 1939

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Prince George's County Regional Office
6600 Kenilworth Avenue
Riverdale, Maryland 20840
Appleton 7-2200
January 13, 1969

William Smith
3609 Appleton Street, N. W.
Washington, D. C. 20008

Re: Special Exception Application No. 1939

Date Filed: January 9, 1969

Applicants: Philip, William, and Marcus S. Smith for
Joseph Smith & Sons, Owner

Requested Use: Junk Yard

Currently Zoned: I-2

This is to inform you that the above-mentioned Application for Special Exception does not comply with the conditions specified in the provisions set forth in Section(s) 20.3278 of the Zoning Ordinance for the Maryland-Washington Regional District in Prince George's County, Maryland, pertaining to the proposed use. Therefore, a variance must be granted by the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, when and if the application is approved by the District Council. The nature of the necessary variance is as follows:

No indication has been made that the proposed use will be enclosed by a solid, light-tight, slightly fence at least eight (8) feet in height.

Should you desire any further information regarding this matter, we would suggest that you contact Mr. Louis Pohoryles, Attorney for the Board of Zoning Appeals, County Service Building, Hyattsville, Maryland.

Very truly yours,

Ruth A. Sanes

(Mrs.) Ruth A. Sanes
Planning Assistant

SE 1939

SPECIAL EXCEPTION #1939

Junk Yard

COMMENTS BY THE DEPARTMENT OF INSPECTIONS AND PERMITS TO THE
PLANNING BOARD AND THE DISTRICT COUNCIL

January 28, 1969

1. OBSERVATIONS:

- a. This special exception is a request to enlarge a junk yard (legal non-conforming use) by the addition of a processing plant for junk automobiles, refrigerators and various iron and steel items. The site contains over 15 acres east of Kenilworth Avenue and south of John Hanson Highway in the Tuxedo area. (photos #1 and #6)
- b. There are three masonry buildings located near the center of the property and a ten ton capacity overhead crane. (photos #2 and #3) One building is used for an office and for warehousing new and used auto parts. Other buildings contain hydraulic pumps, electrical controls and locker rooms. (photo #4)
- c. All of the land surrounding this tract is zoned industrial. There are two other auto junk yards across a creek to the south of this property. (photo #5)
- d. There is a parking space next to the office building for approximately twenty cars.
- e. The access road to this tract is a two lane, concrete, one-way road from Kenilworth Avenue. There is heavy traffic on this spur which also serves heavy industry establishments south of this tract. (photo #7)

2. COMMENTS:

- a. The District Council gave tacit approval to this proposal at a public hearing several months ago.
- b. The proposed processing plant will aid in the disposal of up to 300 junk cars per day. Since the plant will accept unburned cars, air pollution resulting from burning prior to scrapping will be eliminated.

SE 1939

3. RECOMMENDATION:

In view of the topography whereby this property is situated well below the right-of-way of Kenilworth Avenue, fencing the western lot line would not screen the view from the roadway. Since the site is otherwise surrounded by industrial properties, it is recommended that the requirements for fencing be waived entirely.



Alan Ray
Chief Zoning Inspector

cc: Joseph Smith & Sons
2001 Kenilworth Avenue
Washington, D.C.

SE 1939

PRINCE GEORGE'S COUNTY

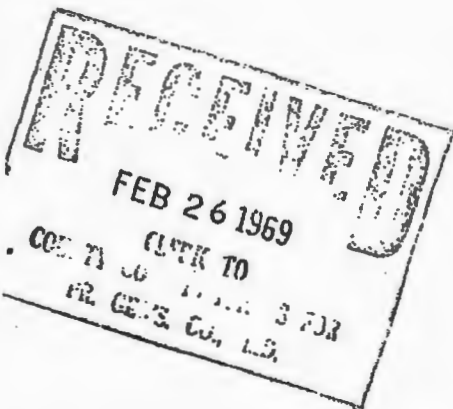
ZONING HEARING

Application of:

JOSEPH SMITH AND SONS, Owner

S. E. # 1939

SE 1939



February 19, 1969

BOARD OF COUNTY COMMISSIONERS
FOR PRINCE GEORGE'S COUNTY
SITTING AS THE DISTRICT COUNCIL

ZONING HEARING

----- x
Application of:

JOSEPH SMITH AND SONS, Owner

S.E. # 1939

----- x
Wednesday, February 19, 1969
Court House, Upper Marlboro,
Maryland.

The application of Joseph Smith and Sons, Owner, for a special exception for a JUNK YARD (PROCESSING PLANT FOR OLD AND ABANDONED AUTOMOBILES, OLD REFRIGERATORS AND APPLIANCES AND VARIOUS SCRAP IRON MATERIALS), located on an area of 15 acres east of Kenilworth Avenue and South of John Hanson Highway, Tuxedo, came on for hearing before the District Council at 2:03 p.m., Chairman Francis J. Aluisi presiding.

SE 1939

PRESENT:

FRANCIS J. ALUISI, Chairman
 JESSE S. BAGGETT, Commissioner
 M. BAYNE BROOKE, Commissioner

STAFF:

JEAN M. SCHMUHL, Clerk
 BARRY S. CRAMP, Esq., Asst. County Attorney
 ALAN RAY, Chief Zoning Inspector
 MRS. E. SHEPHERD, Secretary

APPEARING ON BEHALF OF THE APPLICANT:

WILLIAM SMITH

ALSO PRESENT:

JAMES E. REDMOND
 On behalf of the Maryland National
 Capital Park and Planning Commission.

- - -

P R O C E E D I N G S

CHAIRMAN ALUISI: Application No. 1939, Joseph
 Smith and Sons, Owner, for a special exception for a JUNK
 YARD (PROCESSING PLANT FOR OLD AND ABANDONED AUTOMOBILES, OLD
 REFRIGERATORS AND APPLIANCES AND VARIOUS SCRAP IRON MATERIALS).

Is there any objection? Apparently there is not.

MR. SMITH: I am William Smith, Vice-President of
 Joseph Smith and Sons, the applicants.

SE 1939

COMMISSIONER BAGGETT: We have been all through this with Mr. Smith several times. He is bringing something down here that we certainly need.

I note that Mr. Ray recommends approval and that the requirement as to fencing be waived entirely because it does not face anything and, because the site is below the highway, the fence would not hide anything; there is nothing abutting the property and no need for screening in this area.

Accordingly, I move that Application No. 1939, Joseph Smith and Sons, Owner, for a special exception for a JUNK YARD (PROCESSING PLANT FOR OLD AND ABANDONED AUTOMOBILES, OLD REFRIGERATORS AND APPLIANCES AND VARIOUS SCRAP IRON MATERIALS) be approved, with waiver of the fencing requirement.

COMMISSIONER BROOKE: I second the motion.

CHAIRMAN ALUISI: It has been moved and seconded that the application be approved and that the requirement as to fencing be waived.

The Chair voting in the affirmative, the Ayes have it. It is so ordered.

(Thereupon, at 2:06 p.m., the hearing in the above-entitled matter was concluded.)

S F 1939

OFFICE OF
COUNTY COMMISSIONERS

No. 1939

Prince George's County

UPPER MARLBORO, MARYLAND

January 23, 1969

PUBLIC HEARING on APPLICATION FOR SPECIAL EXCEPTION of

Joseph Smith & Sons

JUNK YARD (PROCESSING PLANT FOR OLD & ABANDONED
for AUTOMOBILES, OLD REFRIGERATORS & APPLIANCES &
VARIOUS SCRAP IRON MATERIALS
has been set for

WEDNESDAY, FEBRUARY 19, 1969.

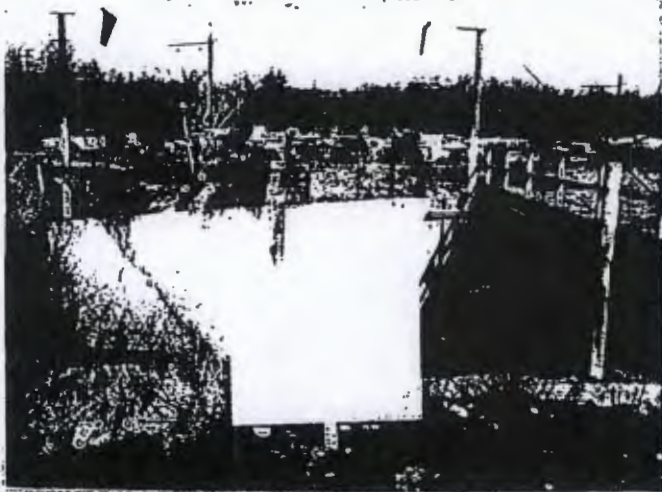
at 1:30 P.M., at the County Commissioners' Hearing Room, County

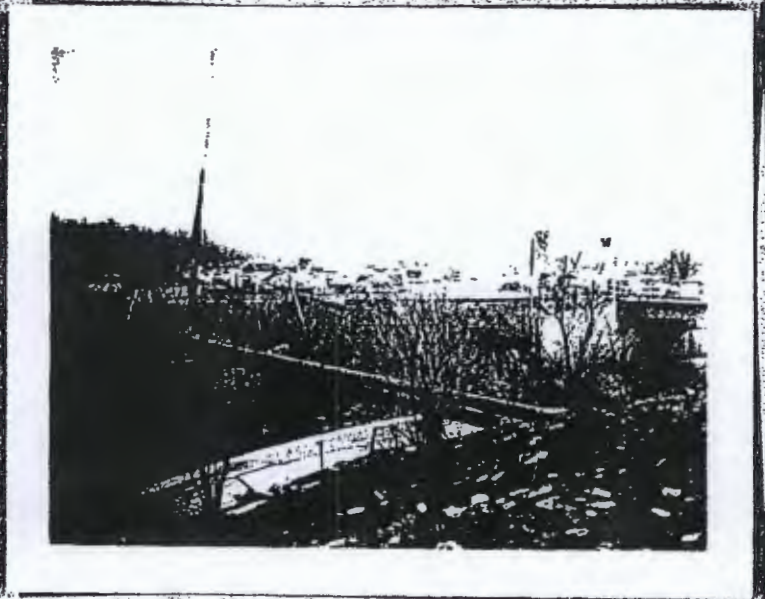
Service Building, Hyattsville, Maryland Courthouse,
Upper Marlboro, Maryland.

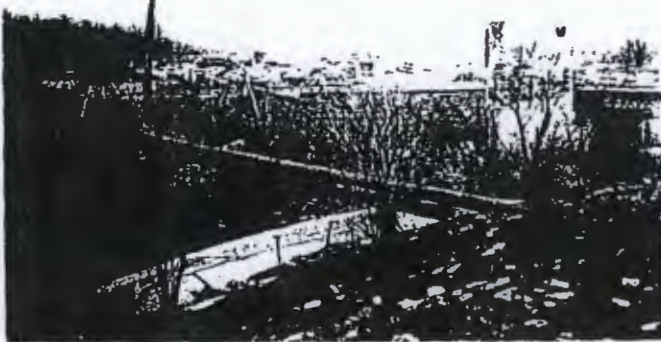
JEAN M. SCHUHL

PLEASE BE PRESENT
AT THIS HEARING

Clerk. jb







BCZR § 101.1 Word usage; definitions.

JUNKYARD

Any land used commercially or industrially for storage or for sale of scrap metal, wastepaper, rags or other junk, and any land, except as provided for by Section 428, used for the storage of unlicensed or inoperative motor vehicles, dismantling or storage of such vehicles or parts thereof, or used machinery, regardless of whether repair or any other type of commercial operation occurs, but excluding scrap for use in manufacturing processes on the premises or waste materials resulting from such processes or resulting from the construction or elimination of facilities for such processes. The term does not include unlicensed motor vehicles located at automotive service stations, service garages or new or used motor vehicle outdoor sales areas, or any vehicle stored pursuant to Section 405A. [Bill No. 135-1986]



My Neighborhood Map

Created By
Baltimore County
My Neighborhood



This data is only for general information purposes only. This data may be inaccurate or contain errors or omissions. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and disclaims all warranties with regard to the data, including but not limited to, all warranties, express or implied, of merchantability and fitness for any particular purpose. Baltimore County, Maryland disclaims all obligation and liability for damages, including but not limited to, actual, special, indirect, and consequential damages, attorneys' and experts' fees, and court costs incurred as a result of, arising from or in connection with the use of or reliance upon this data.

Printed 7/19/2014

ZONE AND DISTRICT REGULATIONS

SCHEDULE OF SPECIAL EXCEPTIONS

S.E. Use Permitted by Special Exception Only.
 -- Use Permitted Without Special Exception.
 X Use Prohibited.

USE	R.40 ³	R.20 ³	R.10 ³	R.6 ³	R.G. ³	R.A. ³	B.L.	B.M.	B.R.	M.L.	M.H.	M.L.R. ²
Hotel	X	X	X	X	X	X	S.E.	--	--	X ³⁰	X	
Junkyard	X	X	X	X	X	X	X	X	X	X	S.E.	
Kennel	-- ⁶	S.E.	S.E.	S.E.	X	X	X	X	--	S.E. ⁶	S.E. ⁶	X ⁶
Laboratory	S.E. ³¹	X ³¹	X ³¹	X ³¹	X ³¹	X ³¹	S.E.	S.E.	--	--	--	
Living quarters in a commercial building	X	X	X	X	X	X	S.E. ²²	S.E. ²²	S.E. ²²	X ³²	X ³²	
Marina ¹⁴	S.E. ³³	S.E. ³³	S.E. ³³	S.E. ³³	X	S.E. ³³	S.E.	--	--	--	--	
Marine railway	S.E. ³⁴	S.E. ³⁴	S.E. ³⁴	S.E. ³⁴	X ³⁴	X ³⁴	X ³⁵	X ³⁵	S.E. ³⁵	--	-- ³⁶	
Motel or motor court	X	X	X	X	X	X	S.E.	S.E.	--	X ³⁰	X	
Offices and office buildings	X	X	X	X	X	S.E.	--	--	--	--	--	
Pet shop ⁶	X	X	X	X	X	X	--	--	--	X	X	X
Poultry, commercial killing of	S.E.*	S.E.*	S.E.*	S.E.*	S.E.*	X ³⁷	X	X	S.E.	--	--	
Private colleges, nursery or dancing schools, dormitories, fraternity and sorority houses, but excluding business and trade schools ^{19,38}	S.E.	S.E.	S.E.	S.E.	S.E.	S.E.	--	--	--	X	X	
Public utility uses in Section 200.15, excluding service centers and storage yards ³⁹	S.E.	S.E.	S.E.	S.E.	S.E.	S.E.	S.E.	S.E.	S.E.	-- ¹⁸	--	

(All notes appear at end of table.)

Exhibit 3

IN RE: PETITION FOR VARIANCE
W/S Halethorpe Farm Road, 600'S
of the c/l of Trident Court
(2202 Halethorpe Farm Road)
13th Election District
1st Councilmanic District

Iron City Sash and Door
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-135-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owner of the subject property, Iron City Sash and Door, by Paul T. Slaysman, and the Contract Purchaser, Percontee, Inc., by Medda Gudelsky. The Petitioners seek relief from Section 256.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a manufacturing use within 150 feet of a residential zone (said residential zone property being part of the Patapsco State Park) and extending to the centerline of the abutting Harbor Tunnel Thruway, in lieu of the required 1,000 feet; from Section 256.5 of the B.C.Z.R. to permit said manufacturing use to be located 0 feet from the street abutting a residential zone boundary, in lieu of the required 150 feet; and from Section 256.5 of the B.C.Z.R. to permit said manufacturing use to be located within 0 feet of the Harbor Tunnel Thruway right-of-way adjacent to the site and without the necessity of screening same from the motorway, all as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Claude E. Vannoy and Jonathan Genn on behalf of Percontee, Inc., the Contract Purchaser. Also appearing on behalf of the Petitioner were Donald S. Hawkins, on behalf of the Halethorpe Civic Association, Mark Weber, Professional Engineer who prepared the site plan for the subject property, William Bukevich with

RECEIVED
1994
JAN 13 1994
BY
DATE

Exhibit 6A

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 20, 1995

Mr. Robert Cannon
Weinberg & Green, L.L.C.
100 South Charles Street
Baltimore, MD 21201

RE: Zoning Review for S & I of
Proposed Cases
2202 Malethorpe Farms Road
Percontee Manufacturing
Facility
Zoning Case 94-135A

Dear Mr Cannon:

This letter responds to your latest letter dated March 11, 1995 in which you request a zoning determination that the proposed inclusion of land clearing debris and white goods be approved by this office as being within the spirit and intent of Zoning Case 94-135-A.

The proposal has been reviewed in detail by the zoning staff and the deputy zoning commissioner and it has been determined that the inclusion of land clearing debris and white goods can be approved subject to compliance with the following:

1. No stockpiling of debris or white goods will occur.
2. A meritorious challenge to this decision will result in a withdrawal of this approval and require that a zoning special hearing be held at the owner's expense to allow the use.
3. Document this response and restrictions on all future SUFF Permit Plans.

Should you have any questions, please contact me at 887-3391.

Sincerely,

John J. Lewis
Planner II

JJL:am

Tim



if new st & letter
a new schedule
has to be
needs sp/H

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management

November 24, 2008

Mr. Howard L. Alderman, Esq.
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, Maryland 21204

Re: Recovermat Mid-Atlantic, LLC Property
Sprit & Intent Letter dated November 11, 2008
Zoning Case No. 94-135A

Dear Mr. Alderman:

Thank you for your very detailed letter dated November 11, 2008. You have requested my interpretation of both, the Baltimore County Zoning Regulations as well as my previous zoning decision in case No. 94-135A rendered when I was Deputy Zoning Commissioner.

In 1993, this office approved the use of this property, by your client, as "any other industrial or manufacturing use", as that use is listed and permitted in the MH zone pursuant to section 256.3 of the BCZR. At that time, I approved a variance to allow said use to be located within 150 feet of a residential zone and 0 feet from the street abutting a residential zone boundary. The use has continued on this property for the past 15 years.

On May 16, 1995, this office approved the introduction of "white goods" into the manufacturing process that was occurring on the property. This approval was given to your client by way of a spirit and intent letter written to this office and approved by Mr. John J. Lewis on behalf of Mr. Arnold Jablon, then Director. This approval was issued after consultation with me in my previous position as Deputy Zoning Commissioner.

At this time, your client is requesting approval to introduce into the manufacturing process, additional scrap metal in the form of stripped automobile bodies. You have described the manner by which these materials are processed in your letter dated November 11, 2008. I have also gained a better understanding of this scrap metal processing by my site visits to the property and through a meeting held in my office between members of my staff, yourself and representatives from Recovermat Mid-Atlantic, LLC.

It is my opinion, based on the aforementioned, that the introduction of additional scrap metal in the form of stripped automobile bodies, (as described in your letter) is within the spirit and intent of my previous zoning decision and falls within the category of "Any other industrial

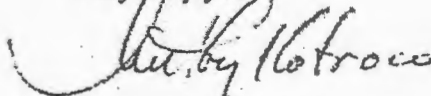
or manufacturing use", as specified in section 256.3 of the Baltimore County Zoning Regulations.

The introduction of this additional type of scrap material, given its size and bulk, causes me to impose additional conditions and restrictions upon this use. I shall require that all automobile bodies/hulks shall be processed within 48 hours from the time they arrive on site. Any scrap bodies/hulks not so processed within that time frame shall be removed from the premises. There shall also be a height limitation on the stockpiling of the scrap bodies/hulks. In no event shall the stacking of this material exceed 35 feet.

Finally, there needs to be additional landscaping and screening on the property, particularly in the area of the property where there once existed a row of mature willow trees. This area of the property, which is now devoid of natural vegetation, is the northern property line of the property and which has its common boundary line with property recently being developed into a new industrial park. Given the bulk and size of this new material, simple pine trees will not provide an appropriate screen. This applicant will have to provide a substantial landscape screen such as tall fencing in conjunction with evergreen trees. Over time, the trees will fill in to provide a nice visual barrier. However, at this time I believe it is appropriate to provide both a fence and evergreen plantings. Accordingly, the applicant shall meet with Avery Harden of my office to work out the details and timing for the installation of this screening.

In addition to the aforementioned, the applicant shall be required to obtain any and all other necessary Federal, State and local permits as are required to perform this function on their property. Should you have any question regarding the contents of this letter, please feel free to contact my office.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Timothy M. Kotroco", written over a horizontal line.

Timothy M. Kotroco, Director

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

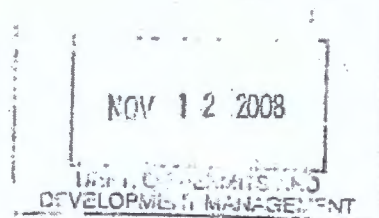
LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
302 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

November 11, 2008

HAND - DELIVERED

Timothy M. Kotroco, Director
Baltimore County Department of Permits
and Development Management
111 West Chesapeake Avenue, Suite 105
Towson, Maryland 21204



RE: Recovermat Mid-Atlantic, LLC Property
2202 Halethorpe Farms Road
Spirit and Intent Determination

Dear Mr. Kotroco:

I represent Recovermat Mid-Atlantic, LLC, owner and operator of the above-referenced property which is presently zoned MH-IM. Recovermat is the continuing legal entity that grew out of Percontee, Inc. The purpose of this letter is to request an informal determination by your Department that the continuing manufacturing uses, including processing and recycling of materials, conform with prior approvals for this property and the *Baltimore County Zoning Regulations* as now adopted.

In 1993, when you were sitting as the Deputy Zoning Commissioner for Baltimore County, you approved a variance to permit a manufacturing use located on this property within 150 feet of a residential zone and 0 feet from the street abutting a residential zone boundary. Your Order, in Case No. 94-135-A, described the proposed use as taking construction and demolition debris earmarked for landfills and convert them into useable materials "thereby saving landfill space and preserving our environment." The issue in that case was whether or not a variance from otherwise applicable setback requirements from residential areas should be granted for a manufacturing use on the subject property. That variance was granted, was not appealed and runs with the land on which it was granted.

Several years later, the owner requested a similar informal determination that the stream of products to be processed and recycled include land clearing debris and metal, described as "white goods." A favorable determination was given, subject to the condition that white goods and/or debris not be stored on the property for more than five (5) days and that the condition be reflected on all future SWPF Permit Plans.

Timothy M. Kotroco, Director
November 11, 2008
Page 2

Since 1995 construction/demolition and land clearing debris, as well as a wide variety of metals have been processed at the subject property in accordance with the limited storage condition and all applicable permits. Those permits have included a Baltimore County Solid Waste Processing Facility Permit, a MDE Refuse Disposal Permit, and a MDE State Permit to Operate. MDE was the applicable State regulating authority as no automobiles were being processed.

All materials are delivered to the site by truck or individual automobile. The materials are processed by loading them onto a conveyor belt which leads to a super heavy duty wet system, hammermill shredder. After shredding the debris and metals, the ferrous metals are shipped by truck to mills that purchased the shredded metal and the shredder residue shipped by truck for daily cover at landfills. Materials that are not processed pursuant to specific MDE permit conditions included but were not limited to controlled dangerous substances, infectious or special medical wastes, radioactive materials and oil contaminated soil. Additionally, MDE did not permit the processing of automobiles as the processing of those materials is governed strictly by the Motor Vehicle Administration of the State Department of Transportation.

With the decreasing availability of construction/demolition and land clearing debris, the owner requested a modification of the existing permits for the processing of only scrap metals including automobiles. The MVA has strict controls in place for acceptance and processing of automobiles. Unless an automobile is more than eight years old, the person presenting the automobile must have evidence of title, satisfactory to the owner and the MVA. The automobiles must be free from gasoline tanks, refrigerant and batteries, etc.; in other words, a scrap automobile hulk.

The MDE Refuse Disposal Permit has been placed on hold due to the issuance of the Scrap Processor permit by the MVA. The MDE State Permit to Operate is being reviewed for compliance regarding air quality emissions associated with automobiles being introduced into the feedstock. The owner's experience has proved at its other processing facilities that associated noise and air emissions are far less when processing predominantly metal than with the processing of construction/demolition and land clearing debris.

The automobile hulks and acceptable metals are delivered to the property by individuals and corporate vendors, in exactly the same manner as the construction/demolition and land clearing debris and white metals. They are then loaded onto the conveyor and processed through the same hammermill shredder, with the shredder output separated into ferrous materials and the nonferrous materials. The nonferrous materials, from shredding predominantly metals and automobiles, will be trucked to another facility to extract the valuable nonferrous metals from the residue before taking it to landfills. At present, the ferrous materials are shipped via trucks or rail cars for delivery to steel mills. The owner is presently working with CSX Transportation to reactivate the pre-existing rail spur to the subject property. If those efforts are successful, railroad cars owned by Recovermat's parent company will be loaded with the ferrous materials for shipment from the property.

Mr. Kotroco, you have visited the property and viewed, first-hand, the existing processing

Timothy M. Kotroco, Director

November 11, 2008

Page 3

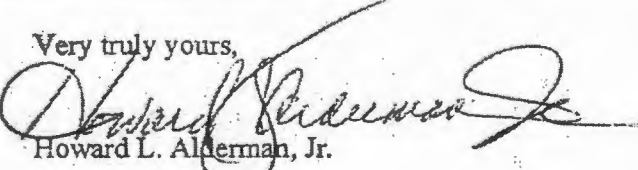
operations, other than the processing of automobile hulks. The surface of the property, specifically all areas of the storage/stacking of materials and the processing operations, is impervious, directing all water to an on-site collection area which is then used in the processing operation. Subsequently, in a meeting in your offices, our client described how the material processing operation would continue in the same manner, but including automobile hulks. Automobile hulks will not remain on the property for more than 48 hours. If, due to machine maintenance or repair that processing time cannot be maintained, those automobile hulks will be removed to the owner's other processing facility in Capitol Heights, Maryland.

It has been suggested by some of our client's competitors that a "junkyard" is being operated on the property. The property is not used for the storage or retail sale of scrap, junk or unlicensed/inoperative motor vehicles or parts. There is no dismantling of vehicles; our client receives the hulk of already dismantled vehicles for processing into reusable materials. No retail sales are conducted on the property. Rather, materials are purchased by our client for use in its processing operations. As noted above and described in our recent meeting, that purchasing is done selectively and excludes materials such as metal funeral urns, beer kegs, catalytic converters, etc. The scrap materials purchased by our client for use in its processing operations are specifically excluded from the BCZR definition of junkyard.

We are, therefore, requesting your informal determination that the long-term processing operations that have been employed on the property since 1994 and the proposed processing of automobile hulks and similar metals as permitted and approved by the State of Maryland conform with prior approvals for this property and the *Baltimore County Zoning Regulations* as now adopted.

In preparing your response to this request, should you or your staff need any additional information or further clarification of any aspect of the processing operations that have and will continue to occur on this property, please do not hesitate to contact me.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk

c: Recovermat Mid-Atlantic, LLC

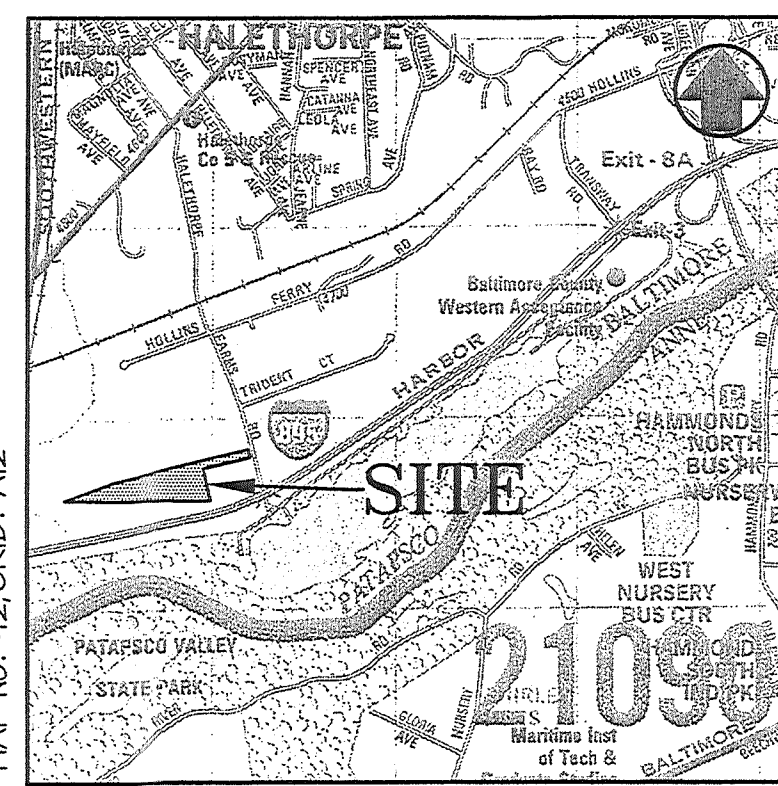
GENERAL NOTES:

1. OWNER AND DEVELOPER: RECOVERMAT MID-ATLANTIC, LLC
2202 HALETHORPE FARMS ROAD
BALTIMORE, MD 21227
ATTN: PAUL THARPE
2. PLAN PREPARED BY: CNA, INC.
215 BYNUM ROAD
FOREST HILL, MD 21050
PHONE: (410) 874-7200
3. PROPERTY ADDRESS: 2202 HALETHORPE FARMS ROAD
BALTIMORE, MD 21227
4. TAX MAP, PARCEL AND LOTS: 108, 804, LOT 3R AND OTHER
LAND FOR PRIVATE ACCESS TO HALETHORPE FARMS ROAD.
5. DEED REFERENCES: III84/619 AND III84/622.
6. TOTAL PROPERTY AREA: LOT 3R = 8.60 ACRES, PLUS OTHER
LAND = 1.54 ACRES, FOR A TOTAL OF 10.14 ACRES.
7. PLAT REFERENCE: 67/54
8. ZONING: MH-IM. ZONING MAP NUMBER: 108C3.
9. COUNTY COUNCIL DISTRICT: 1ST
10. ELECTION DISTRICT: 13TH
11. TAX ACCOUNT NUMBERS: 2200014866 AND 2200018585
12. BUILDING SETBACKS:

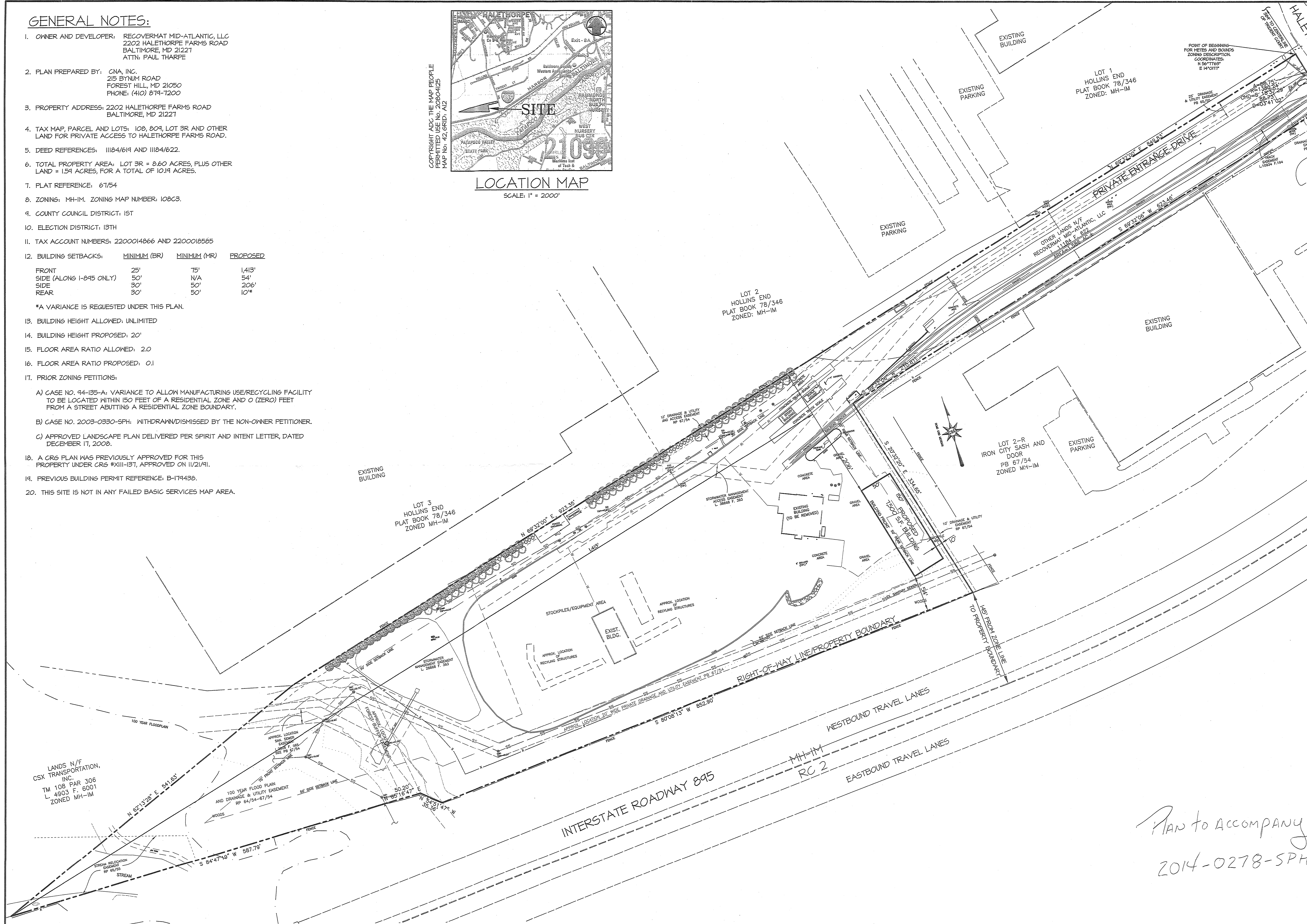
	MINIMUM (BR)	MINIMUM (MR)	PROPOSED
FRONT	25'	75'	1,413'
SIDE (ALONG I-895 ONLY)	50'	N/A	54'
SIDE	30'	50'	206'
REAR	30'	50'	10'

*A VARIANCE IS REQUESTED UNDER THIS PLAN.
13. BUILDING HEIGHT ALLOWED: UNLIMITED
14. BUILDING HEIGHT PROPOSED: 20'
15. FLOOR AREA RATIO ALLOWED: 2.0
16. FLOOR AREA RATIO PROPOSED: 0.1
17. PRIOR ZONING PETITIONS:
 - A) CASE NO. 94-135-A: VARIANCE TO ALLOW MANUFACTURING USE/RECYCLING FACILITY
TO BE LOCATED WITHIN 150 FEET OF A RESIDENTIAL ZONE AND 0 (ZERO) FEET
FROM A STREET ABUTTING A RESIDENTIAL ZONE BOUNDARY.
 - B) CASE NO. 2003-0330-SPH: WITHDRAWN/DISMISSED BY THE NON-OWNER PETITIONER.
 - C) APPROVED LANDSCAPE PLAN DELIVERED PER SPIRIT AND INTENT LETTER, DATED
DECEMBER 17, 2008.
18. A CR6 PLAN WAS PREVIOUSLY APPROVED FOR THIS
PROPERTY UNDER CR6 #XIII-137, APPROVED ON 11/21/91.
19. PREVIOUS BUILDING PERMIT REFERENCE: B-174438.
20. THIS SITE IS NOT IN ANY FAILED BASIC SERVICES MAP AREA.

COPYRIGHT AND THE MAP PEOPLE
PERMITTED USE: 11/2004/125
MAP NO. 42, GRID: A12



LOCATION MAP
SCALE: 1" = 2000'



Plan to accompany
2014-0278-SPH