



KEVIN KAMENETZ  
*County Executive*

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

May 4, 2015

Aidan F. Jones  
5217 Glenthorne Ct.  
Baltimore, Maryland 21237

RE: Petition for Variance  
Property: 5112 Forge Road  
Case No. 2015-0197-A

Dear Mr. Jones:

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

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

Sincerely,

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

JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln  
Enclosure

**IN RE: PETITION FOR VARIANCE**

**(5112 Forge Road)**  
11th Election District  
5<sup>th</sup> Council District  
Aiden F. Jones  
*Legal Owner*  
Petitioner

\*

\*

\*

\*

\*

BEFORE THE OFFICE

OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

**CASE NO. 2015-0197-A**

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of the legal owner of the subject property. The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B01.2.3.C.1: (1) to permit a proposed single family dwelling with a lot width of 86 ft. in lieu of the permitted 150 ft.; and (2) to permit side yard setbacks of 9 ft. and 10 ft. in lieu of the required 20 ft. minimum and a total of side yards of 19 ft. in lieu of the permitted 50 ft. The subject property and requested relief is more fully depicted on the site plan that was marked as Petitioner's Exhibit 1.

Owner Aiden F. Jones appeared in support of the petition. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. There were no substantive Zoning Advisory Committee (ZAC) comments received.

The subject property is approximately 1 acre and is zoned DR-1H. The property is improved with a modest single family dwelling constructed in 1940. Petitioner proposes to raze the existing dwelling and construct a slightly larger home on the site. To do so, variance relief is required.

ORDER RECEIVED FOR FILING

Date

5/4/15

By

Den

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).

Petitioner has met this test. As shown on the site plan, the property is narrow (86 feet) and extremely deep (i.e., approximately 500 ft.). Thus, it is unique and certainly imposes building constraints. If the B.C.Z.R. were strictly interpreted, Petitioner would experience a practical difficulty, given he would be unable to construct a new dwelling on the site. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the lack of County and/or community opposition.

THEREFORE, IT IS ORDERED, this 4<sup>th</sup> day of May, 2015, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") §1B01.2.3.C.1: (1) to permit a proposed single family dwelling with a lot width of 86 ft. in lieu of the required 150 ft.; and (2) to permit side yard setbacks of 9 ft. and 10 ft. in lieu of the required 20 ft. minimum and a total of side yards of 19 ft. in lieu of the required 50 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

ORDER RECEIVED FOR FILING

Date 5/4/15

By DLN

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

  
\_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB: sln

ORDER RECEIVED FOR FILING

Date 5/4/15

By sln



# 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 5112 Forge Road which is presently zoned DR-1H  
Deed References: 35092/326 10 Digit Tax Account # 1111001921  
Property Owner(s) Printed Name(s) Aidan F. Jones

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

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

1.        a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve
2.        a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
3.   X   a **Variance** from Sections: 1B01.2.3.C.1

To permit a proposed single family dwelling with a lot width of 86 feet in lieu of the permitted 150 feet and to permit side yard setbacks of 9 feet and 10 feet in lieu of the required 20 feet minimum and a total of side yards of 19 feet in lieu of the permitted 50 feet.

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

To be presented at Hearing

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

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

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

## Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

## Attorney for Petitioner

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

## Legal Owners (Petitioners):

Aidan F. Jones

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

5217 Glenthorne Ct Balto. MD

Mailing Address

City

State

21237

Zip Code

443-250-0632

Telephone #

AFTCONSTRUCTION@GMAIL

Email Address

.COM

## Representative to be contacted:

Name - Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

CASE NUMBER 2015-0197-A Filing Date 3/10/2015 Do Not Schedule Dates: \_\_\_\_\_ Reviewer W

# MERRITT DEVELOPMENT CONSULTANTS, INC

~~~~~Engineering~~~~~Land Planning~~~~~Surveying~~~~~

9831 Magledt Road  
Baltimore, MD 21234  
Phone: 410-925-4061  
Fax: 410-661-1297  
merrittdc@verizon.net

## LOT DESCRIPTION 5112 FORGE ROAD

Beginning on the North side of Forge Road 50' wide

Point of beginning: 1. N23 38'00" E 41.32'  
2. N 05 20'00 " W 449.74'  
3. N 84 40' 00" E 85.20'  
4. S 05 20' 00" E 542.51'  
5. N 59 50' 00" W 129.19'

Back to the point of beginning, as recorded in Deed Liber 35092, Folio 326. Containing 44.867 Sf or 1.03 Ac.. Located in the 11<sup>th</sup> Election District, 5<sup>th</sup> Council District Baltimore County Maryland.

2015-0197-A

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

No. **121525**

Date: **3/10/15**

| Fund | Dept | Unit | Sub Unit | Rev Source/<br>Obj | Sub Rev/<br>Sub Obj | Dept Obj | BS Acct | Amount |
|------|------|------|----------|--------------------|---------------------|----------|---------|--------|
| 001  | 806  |      | 0000     |                    | 6150                |          |         | 75.00  |
|      |      |      |          |                    |                     |          |         |        |
|      |      |      |          |                    |                     |          |         |        |
|      |      |      |          |                    |                     |          |         |        |
|      |      |      |          |                    |                     |          |         |        |
|      |      |      |          |                    |                     |          |         |        |

Total: **75.00**

Rec

From:

For:

**5112 Forge Rd**

**2015-0197-A**

**DISTRIBUTION**

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**PAID RECEIPT**

BUSINESS ACTUAL TIME DWN

3/11/2015 3/10/2015 10:17:06 2

REC WIDE WALKIN JEW JEE

RECEIPT # 914061 3/10/2015 OFLN

Dept 5 325 ENGINE VERIFICATION

CR NO. 121525

Receipt Tot **75.00**

**3.00** CA **100.00** CA

**25.00** CS

Baltimore County, Maryland

**CASHIER'S  
 VALIDATION**

**BALTIMORE COUNTY, MARYLAND**  
**INTEROFFICE CORRESPONDENCE**

3/22/15  
WCF  
MAR 24 2015

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

**FROM:** Dennis A. Kennedy<sup>DAK</sup>, Supervisor  
Bureau of Development Plans Review

**SUBJECT:** Zoning Advisory Committee Meeting  
For March 23, 2015  
Item No. 2015-0197, 0198, 0199 and 0201

**DATE:** March 18, 2015

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\ZAC03232015.doc

# CERTIFICATE OF POSTING

RE: Case No. 2015-0197-A

Petitioner: Aiden Jones

Hearing / Closing Date: 5/1/15

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

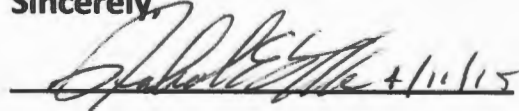
This letter is to confirm, under penalties of perjury, that the necessary sign(s)  
were posted conspicuously on the property located at \_\_\_\_\_

5112 Forge Road

on

4/11/15

Sincerely,

 4/11/15

Richard E. Hoffman

904 Dellwood Drive

Fallston, Md. 21047

443-243-7360

# Certificate of Posting

Case No. 2015-0197-A



5112 Forge Road

(posted 4/11/15)

*Richard E. Hoffman* 4/11/15

Richard E. Hoffman

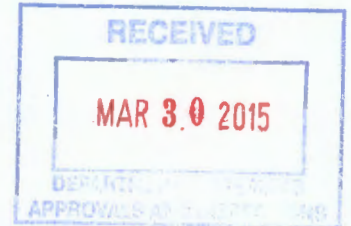
904 Dellwood Drive

Fallston, Md. 21047

(443-243-7360)

3/31/15  
WCR

**BALTIMORE COUNTY, MARYLAND**  
**INTER-OFFICE CORRESPONDENCE**



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

**DATE:** March 27, 2015

**FROM:** Andrea Van Arsdale  
Director, Department of Planning

**SUBJECT:** 5112 Forge Road

**INFORMATION:**

**Item Number:** 15-197

**Petitioner:** Aiden F. Jones

**Zoning:** DR 1H

**Requested Action:** Variance

**SUMMARY OF RECOMMENDATIONS:**

The Department of Planning has reviewed the variance petition with accompanying site plan to allow a single family dwelling on a lot having a width of 86 feet, side yard setbacks of 9 and 10 feet a sum of side yards of 19 feet in lieu of the permitted 150 feet, 20 feet and 50 feet respectively.

The Department of Planning has no objection to the granting of the petitioned variance relief.

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

**Division Chief:**  
AVA/LTM

*Katrina Schaback*



501 N. Calvert St., P.O. Box 1377  
Baltimore, Maryland 21278-0001  
tel: 410/332-6000  
800/829-8000

WE HEREBY CERTIFY, that the annexed advertisement of Order No 3182804

**Sold To:**

Aidan Jones - CU00433768  
5217 Glenthorne Ct  
Rosedale, MD 21237

**Bill To:**

Aidan Jones - CU00433768  
5217 Glenthorne Ct  
Rosedale, MD 21237

Was published in "Jeffersonian", "Bi-Weekly", a newspaper printed and published in Baltimore County on the following dates:

Apr 09, 2015

The Baltimore Sun Media Group

By *S. Wilkinson*  
Legal Advertising

**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: # 2015-0197-A**

5112 Forge Road  
N/s Forge Road, 510 ft. s/e of Randall Avenue  
11th Election District - 5th Councilmanic District  
Legal Owner(s) Aidan Jones

**Variance:** to permit a proposed single family dwelling with a lot width of 86 feet in lieu of the permitted 150 feet and to permit side yard setbacks of 9 feet and 20 feet in lieu of the required 20 feet minimum and a total of side yards of 19 feet in lieu of the permitted 50 feet.

**Hearing:** Friday, May 1, 2015 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

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

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

4/14/15 April 9

3182804

## CERTIFICATE OF POSTING

RE: Case No. 2015-0197-A

Petitioner: Alden Jones

Hearing / Closing Date: 5/1/15

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

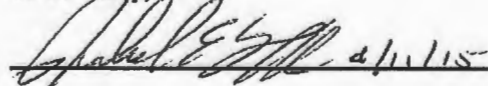
This letter is to confirm, under penalties of perjury, that the necessary sign(s)  
were posted conspicuously on the property located at \_\_\_\_\_

5112 Forge Road

on \_\_\_\_\_

4/11/15

Sincerely,

 4/11/15

Richard E. Hoffman

904 Dellwood Drive

Fallston, Md. 21047

443-243-7360

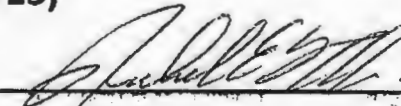
# Certificate of Posting

Case No. 2015-0197-A



5112 Forge Road

(posted 4/11/15)

 4/11/15

**Richard E. Hoffman**

**904 Dellwood Drive**

**Fallston, Md. 21047**

**(443-243-7360)**



KEVIN KAMENETZ  
County Executive

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

March 23, 2015

## 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: 2015-0197-A**

5112 Forge Road

N/s Forge Road, 510 ft. s/e of Randall Avenue

11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District

Legal Owners: Aidan Jones

Variance to permit a proposed single family dwelling with a lot width of 86 feet in lieu of the permitted 150 feet and to permit side yard setbacks of 9 feet and 10 feet in lieu of the required 20 feet minimum and a total of side yards of 19 feet in lieu of the permitted 50 feet.

Hearing: Friday, May 1, 2015 at 10:00 a.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: Aidan Jones, 5217 Glenthorne Court, Baltimore 21237

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, APRIL 11, 2015.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY  
Thursday, April 9, 2015 Issue - Jeffersonian

Please forward billing to:

Aidan Jones  
5217 Glenthorne Court  
Baltimore, MD 21237

443-250-0632

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## NOTICE OF ZONING HEARING

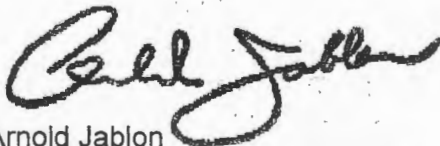
The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

**CASE NUMBER: 2015-0197-A**

5112 Forge Road  
N/s Forge Road, 510 ft. s/e of Randall Avenue  
11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District  
Legal Owners: Aidan Jones

Variance to permit a proposed single family dwelling with a lot width of 86 feet in lieu of the permitted 150 feet and to permit side yard setbacks of 9 feet and 10 feet in lieu of the required 20 feet minimum and a total of side yards of 19 feet in lieu of the permitted 50 feet.

Hearing: Friday, May 1, 2015 at 10:00 a.m. in Room 205, Jefferson Building,  
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon  
Director of Permits, Approvals and Inspections for Baltimore County

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

RE: PETITION FOR VARIANCE  
5112 Forge Road; N/S Forge Road, 510' SE  
of c/line of Randall Avenue  
11<sup>th</sup> Election & 5<sup>th</sup> Councilmanic Districts  
Legal Owner(s): Aiden F. Jones  
Petitioner(s)

\* BEFORE THE OFFICE  
\* OF ADMINISTRATIVE  
\* HEARINGS FOR  
\* BALTIMORE COUNTY  
\* 2015-197-A

\* \* \* \* \*

**ENTRY OF APPEARANCE**

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

RECEIVED

M 2015



*Peter Max Zimmerman*

PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

*Carole S. Demilio*

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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 24<sup>th</sup> day of March, 2015, a copy of the foregoing Entry of Appearance was mailed to Aiden F. Jones, 5217 Glenthorne Court, Baltimore, Maryland 21237, Petitioner(s).

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS  
ZONING REVIEW OFFICE**

**ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS**

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighbor 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 legal owner/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 legal owner/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.**

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**For Newspaper Advertising:**

Case Number: 2015-0197-A

Property Address: 5112 Forge Road

Property Description: \_\_\_\_\_

Legal Owners (Petitioners): Aidan F. Jones

Contract Purchaser/Lessee: \_\_\_\_\_

**PLEASE FORWARD ADVERTISING BILL TO:**

Name: Aidan F. Jones

Company/Firm (if applicable): \_\_\_\_\_

Address: 5217 Glenthorne Court  
Baltimore, MD 21237

Telephone Number: 443-250-0632

# CERTIFICATE OF POSTING

RE: Case No. 2015-0197-A

Petitioner: Aiden Jones

Hearing / Closing Date: 5/1/15

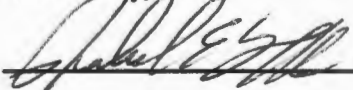
Baltimore County Department of  
Permits and Development Management  
Room 111, County Office Building  
111 W. Chesapeake Ave.  
Towson, Md. 21204

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

\_\_\_\_\_ 5112 Forge Road \_\_\_\_\_

\_\_\_\_\_ on 4/11/15 \_\_\_\_\_

Sincerely,

 4/11/15

\_\_\_\_\_ Richard E. Hoffman \_\_\_\_\_

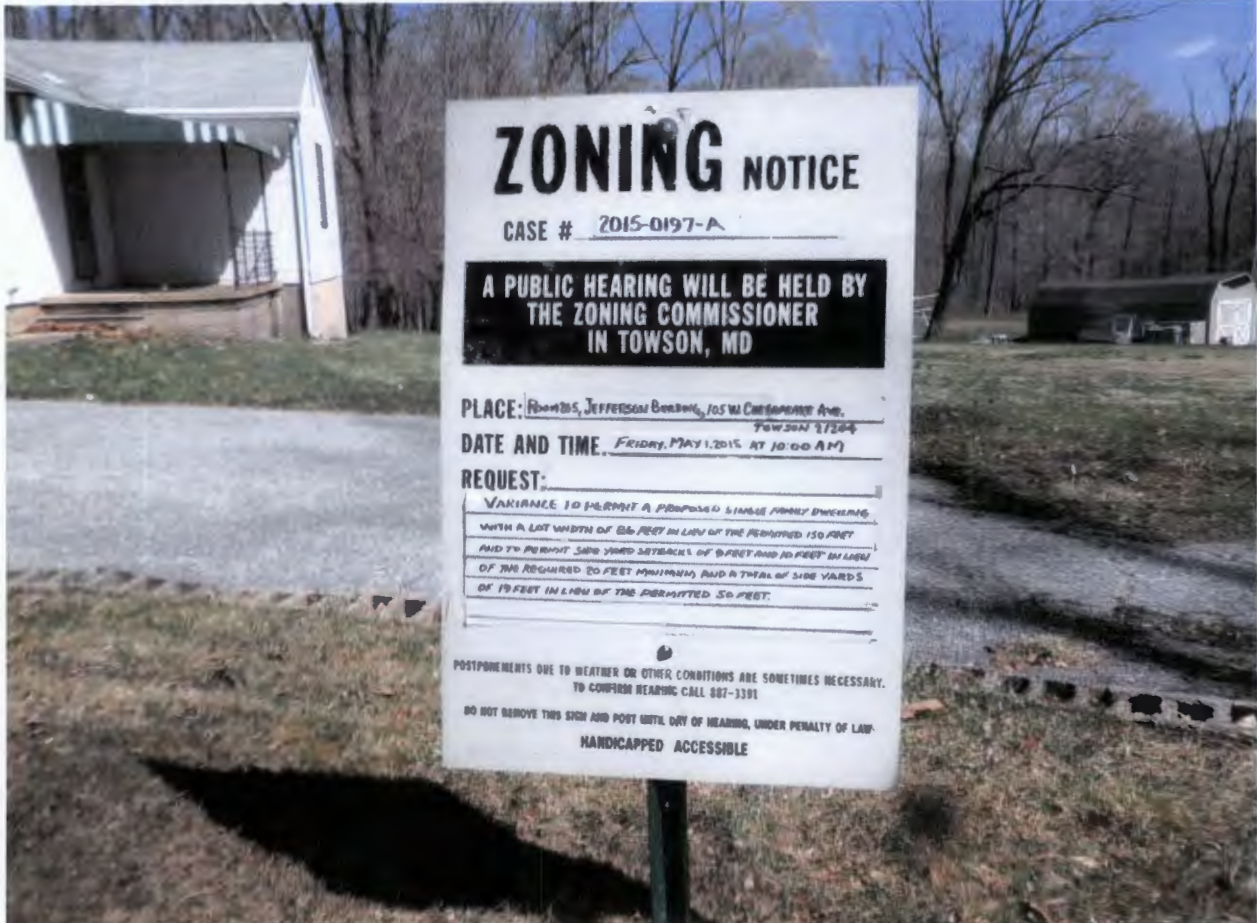
\_\_\_\_\_ 904 Dellwood Drive \_\_\_\_\_

\_\_\_\_\_ Fallston, Md. 21047 \_\_\_\_\_

\_\_\_\_\_ 443-243-7360 \_\_\_\_\_

# Certificate of Posting

Case No. 2015-0197-A



5112 Forge Road

(posted 4/11/15)

*Richard E. Hoffman* 4/11/15

Richard E. Hoffman

904 Dellwood Drive

Fallston, Md. 21047

(443-243-7360)

Case No.: 2015-0197-A

Exhibit Sheet

DW  
6-10-15

SN  
5-4-15

Petitioner/Developer

Protestants

|        |           |  |
|--------|-----------|--|
| No. 1  | Sitz plan |  |
| No. 2  |           |  |
| No. 3  |           |  |
| No. 4  |           |  |
| No. 5  |           |  |
| No. 6  |           |  |
| No. 7  |           |  |
| No. 8  |           |  |
| No. 9  |           |  |
| No. 10 |           |  |
| No. 11 |           |  |
| No. 12 |           |  |

**M E M O R A N D U M**

DATE: June 10, 2015  
TO: Zoning Review Office  
FROM: Office of Administrative Hearings  
RE: Case No. 2015-0197-A – Appeal Period Expired

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The appeal period for the above-referenced case expired on June 3, 2015. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: ✓ Case File  
Office of Administrative Hearings

10 AM

CASE NAME Forge Rd.  
CASE NUMBER 2015-0197A  
DATE 5/1/15

## PETITIONER'S SIGN-IN SHEET

[illegible]

CASE NO. 2015- 0197-A

**CHECKLIST**

| <u>Comment Received</u>         | <u>Department</u>                                                     | <u>Support/Oppose/ Conditions/ Comments/ No Comment</u> |
|---------------------------------|-----------------------------------------------------------------------|---------------------------------------------------------|
| <u>3/18/15</u>                  | DEVELOPMENT PLANS REVIEW<br>(if not received, date e-mail sent _____) | <u>N/C</u>                                              |
| _____                           | DEPS<br>(if not received, date e-mail sent _____)                     | _____                                                   |
| _____                           | FIRE DEPARTMENT                                                       | _____                                                   |
| <u>3/27/15</u>                  | PLANNING<br>(if not received, date e-mail sent _____)                 | <u>no Obj</u>                                           |
| <u>3/16/15</u>                  | STATE HIGHWAY ADMINISTRATION                                          | <u>no Obj</u>                                           |
| _____                           | TRAFFIC ENGINEERING                                                   | _____                                                   |
| _____                           | COMMUNITY ASSOCIATION                                                 | _____                                                   |
| _____                           | ADJACENT PROPERTY OWNERS                                              | _____                                                   |
| <hr/>                           |                                                                       |                                                         |
| ZONING VIOLATION                | (Case No. _____)                                                      |                                                         |
| PRIOR-ZONING                    | (Case No. _____)                                                      |                                                         |
| <hr/>                           |                                                                       |                                                         |
| NEWSPAPER ADVERTISEMENT         | Date: <u>4/9/15</u>                                                   |                                                         |
| SIGN POSTING                    | Date: <u>4/11/15</u> by <u>Hoffman</u>                                |                                                         |
| <hr/>                           |                                                                       |                                                         |
| PEOPLE'S COUNSEL APPEARANCE     | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>   |                                                         |
| PEOPLE'S COUNSEL COMMENT LETTER | Yes <input type="checkbox"/> No <input type="checkbox"/>              |                                                         |

Comments, if any: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Real Property Data Search ( w4)

Guide to searching the database

## Search Result for BALTIMORE COUNTY

| View Map                                     |          | View GroundRent Redemption                |                  |                        |                      | View GroundRent Registration          |                                                    |                       |           |
|----------------------------------------------|----------|-------------------------------------------|------------------|------------------------|----------------------|---------------------------------------|----------------------------------------------------|-----------------------|-----------|
| Account Identifier:                          |          | District - 11 Account Number - 1111001921 |                  |                        |                      |                                       |                                                    |                       |           |
| Owner Information                            |          |                                           |                  |                        |                      |                                       |                                                    |                       |           |
| Owner Name:                                  |          | JONES AIDAN F                             |                  |                        | Use:                 |                                       | RESIDENTIAL                                        |                       |           |
| Mailing Address:                             |          | 5217 GLENTHORNE CT<br>BALTIMORE MD 21237- |                  |                        | Principal Residence: |                                       | NO                                                 |                       |           |
|                                              |          |                                           |                  |                        | Deed Reference:      |                                       | /35092/ 00326                                      |                       |           |
| Location & Structure Information             |          |                                           |                  |                        |                      |                                       |                                                    |                       |           |
| Premises Address:                            |          | 6112 FORGE RD<br>0-0000                   |                  |                        | Legal Description:   |                                       | 1.03 AC<br>5112 FORGE RD<br>500 FT E OF RANDALL RD |                       |           |
| Map:                                         | Grid:    | Parcel:                                   | Sub District:    | Subdivision:           | Section:             | Block:                                | Lot:                                               | Assessment Year:      | Plat No:  |
| 0064                                         | 0019     | 0241                                      |                  | 0000                   |                      |                                       |                                                    | 2015                  | Plat Ref: |
| Special Tax Areas:                           |          |                                           |                  |                        | Town:                |                                       | NONE                                               |                       |           |
|                                              |          |                                           |                  |                        | Ad Valorem:          |                                       |                                                    |                       |           |
|                                              |          |                                           |                  |                        | Tax Class:           |                                       |                                                    |                       |           |
| Primary Structure Built                      |          | Above Grade Enclosed Area                 |                  | Finished Basement Area |                      | Property Land Area                    |                                                    | County Use            |           |
| 1940                                         |          | 1,060 SF                                  |                  |                        |                      | 1.0300 AC                             |                                                    | 04                    |           |
| Stories                                      | Basement | Type                                      | Exterior         |                        | Full/Half Bath       |                                       | Garage                                             | Last Major Renovation |           |
| 1                                            | YES      | STANDARD UNIT                             | ASBESTOS SHINGLE |                        | 1 full               |                                       |                                                    |                       |           |
| Value Information                            |          |                                           |                  |                        |                      |                                       |                                                    |                       |           |
|                                              |          | Base Value                                |                  | Value As of 01/01/2015 |                      | Phase-in Assessments As of 07/01/2014 |                                                    | As of 07/01/2015      |           |
| Land:                                        |          | 95,200                                    |                  | 95,200                 |                      |                                       |                                                    |                       |           |
| Improvements                                 |          | 57,200                                    |                  | 66,200                 |                      |                                       |                                                    |                       |           |
| Total:                                       |          | 152,400                                   |                  | 161,400                |                      | 152,400                               |                                                    | 155,400               |           |
| Preferential Land:                           |          | 0                                         |                  |                        |                      |                                       |                                                    | 0                     |           |
| Transfer Information                         |          |                                           |                  |                        |                      |                                       |                                                    |                       |           |
| Seller: JONES AIDAN                          |          |                                           |                  | Date: 06/20/2014       |                      | Price: \$0                            |                                                    |                       |           |
| Type: NON-ARMS LENGTH OTHER                  |          |                                           |                  | Deed1: /35092/ 00326   |                      | Deed2:                                |                                                    |                       |           |
| Seller: SHIFFLETT LORRAINE K                 |          |                                           |                  | Date: 08/11/2006       |                      | Price: \$265,000                      |                                                    |                       |           |
| Type: ARMS LENGTH IMPROVED                   |          |                                           |                  | Deed1: /24296/ 00492   |                      | Deed2:                                |                                                    |                       |           |
| Seller: KAHL ANDREW G                        |          |                                           |                  | Date: 09/04/1986       |                      | Price: \$32,250                       |                                                    |                       |           |
| Type: ARMS LENGTH IMPROVED                   |          |                                           |                  | Deed1: /08008/ 00184   |                      | Deed2:                                |                                                    |                       |           |
| Exemption Information                        |          |                                           |                  |                        |                      |                                       |                                                    |                       |           |
| Partial Exempt Assessments:                  |          | Class                                     |                  | 07/01/2014             |                      | 07/01/2015                            |                                                    |                       |           |
| County:                                      |          | 000                                       |                  | 0.00                   |                      |                                       |                                                    |                       |           |
| State:                                       |          | 000                                       |                  | 0.00                   |                      |                                       |                                                    |                       |           |
| Municipal:                                   |          | 000                                       |                  | 0.00 0.00              |                      | 0.00 0.00                             |                                                    |                       |           |
| Tax Exempt:                                  |          | Special Tax Recapture:                    |                  |                        |                      |                                       |                                                    |                       |           |
| Exempt Class:                                |          | NONE                                      |                  |                        |                      |                                       |                                                    |                       |           |
| Homestead Application Information            |          |                                           |                  |                        |                      |                                       |                                                    |                       |           |
| Homestead Application Status: No Application |          |                                           |                  |                        |                      |                                       |                                                    |                       |           |

**New Search (<http://sdat.resiusa.org/RealProperty>)**

U.S. GOV. TRANSMISSION LINE

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P.582  
HILLENDALE CHAPEL

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P.232

P.284

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MAP 64  
P.460

MAP 72  
P.1004

FORGE  
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Order the **TAX MAP** [click here...](#)

(<http://imsweb05.mdp.state.md.us/website/mosp/>)

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KEVIN KAMENETZ  
County Executive

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

April 21, 2015

Aidan F Jones  
5217 Glenthorne Court  
Baltimore MD 21237

RE: Case Number: 2015-0197 A, Address: 5112 Forge Road

Dear Mr. Jones:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on March 10, 2015. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.  
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel

Larry Hogan, Governor  
Boyd Rutherford, Lt. Governor



Maryland Department of Transportation

Pete K. Rahn, Secretary  
Melinda Peters, Administrator

Date: 3/16/15

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

RE: Baltimore County  
Item No. 2015-0197-A  
Variance  
Alden F. Jones  
5112 Forge 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. 2015-0197-A.

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-545-5598 or 1-800-876-4742 (in Maryland only) extension 5598, or by email at (rzeller@sha.state.md.us).

Sincerely,

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

Steven D. Foster, Chief  
Development Manager  
Access Management Division

SDF/raz

5/1/15

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

**DATE:** March 27, 2015

**FROM:** Andrea Van Arsdale  
Director, Department of Planning

RECEIVED

**SUBJECT:** 5112 Forge Road

MAR 30 2015

**INFORMATION:**

**Item Number:** 15-197

OFFICE OF ADMINISTRATIVE HEARINGS

**Petitioner:** Aiden F. Jones

**Zoning:** DR 1H

**Requested Action:** Variance

**SUMMARY OF RECOMMENDATIONS:**

The Department of Planning has reviewed the variance petition with accompanying site plan to allow a single family dwelling on a lot having a width of 86 feet, side yard setbacks of 9 and 10 feet a sum of side yards of 19 feet in lieu of the permitted 150 feet, 20 feet and 50 feet respectively.

The Department of Planning has no objection to the granting of the petitioned variance relief.

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

**Division Chief:**  
AVA/LTM

*Katmy Schrader*



## *Baltimore County, Maryland*

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN  
People's Counsel

CAROLE S. DEMILIO  
Deputy People's Counsel

January 6, 2016

### HAND DELIVERED

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

RECEIVED

JAN 06 2016

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Timberline Properties, LLC – Harvey Salt Company  
1325-1335 Mohrs Lane  
Case No.: 2015-096-XA  
&  
Corner Properties, LLC – Harvey Salt Company  
10001 Pulaski Highway  
Case No.: 2015-097-X

Dear Judge Beverungen,

We previously wrote to you regarding these companion cases on November 21, 2014 raising a number of concerns. A copy of the letter (without attachments) is enclosed for reference.

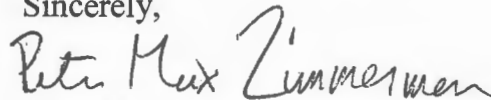
We have since been in touch with C. William Clark, attorney for Petitioners, and with community representatives. According to Mr. Clark, Petitioners are working on a revised site plan with Planning Department staff. The hope is that this would upgrade the corner of Pulaski Highway and Mohrs Lane, involving also the impending extension of Campbell Boulevard in this area. The hope would also be that there would be some upgrade in traffic control and environmental protection – stormwater management – in light of the proximity of the existing trucking facility to residences and wetlands, and the SWM issues in the Whitemarsh Run and Bird River watersheds.

It will be recalled the existing trucking facility was established without compliance with the 1976 trucking facilities law. Bill 18-76; BCZR Sec. 410A. If Petitioners can achieve a revised plan which satisfies all the departments and affected communities, we could potentially adjust our legal concerns in the public interest.

However, it has now been over a year without any discernible progress. Robert Bendler, President of the Essex-Middle River Civic Council (and coincidentally former Deputy County Planning Director and Recreation and Parks Director) has been asking me for updates on the situation. Despite Petitioners' repeated assurances of work being done with the county staff, there has been no product.

I request, therefore, that the case be set in for a hearing or perhaps a scheduling conference so that we can progress to some resolution.

Sincerely,

A handwritten signature in dark ink that reads "Peter Max Zimmerman". The signature is written in a cursive style with a large, stylized "Z".

Peter Max Zimmerman  
People's Counsel for Baltimore County

---

cc: C. William Clark, Esquire, Petitioners' attorney  
Andrea Van Arsdale, Director of Planning  
Greg Carski, Bureau Chief of Traffic Engineering  
Vincent Gardina, Director of DEPS  
Linda Felts, Bird River Community Association  
Robert Bendler, Essex-Middle River Civic Council



## Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN  
People's Counsel

CAROLE S. DEMILIO  
Deputy People's Counsel

November 21, 2014

RECEIVED

HAND DELIVERED

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

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Timberline Properties, LLC – Harvey Salt Company

~~1325-1335 Mohrs Lane~~

Case No.: 2015-096-XA

Hearing scheduled December 2, 2014, 1:30 P.M., Jefferson Building Room 205  
&

Corner Properties, LLC – Harvey Salt Company  
10001 Pulaski Highway

Case No.: 2015-097-X

Hearing scheduled December 8, 2014, 10 A.M., Jefferson Building Room 205

Dear Judge Beverungen,

These cases with different corporate property owners (Timberline Properties, LLC; Corner Properties, LLC), relate to adjacent properties in the Pulaski Highway corridor controlled by Harvey Salt Company (HSC) and represented by C. William Clark, Esquire. While the zoning classifications, uses, and situations are different, it seems sensible to discuss them concurrently.

The first case (096) involves a three-acre property on the north side of Mohrs Lane. Based on the site plan scale, it begins about forty yards east of Pulaski Highway and stretches another 190 yards eastward to its boundary with the Sleepy Hollow residential community. The zoning here is mainly Manufacturing-Light (M.L.-I.M., M.L.-A.S.) with a modest B.R.-A.S. segment at its westerly end.

The purpose of the petition is to legitimize HSC's existing trucking facility. The history is complicated. HSC's owner acquired and assembled the various lots which comprise the facility by deeds dated 1977, 1982, and 1986. Unfortunately, there was no attention paid to the

zoning law. BCZR Sec. 410A. HSC never sought the required special exception and multiple variances before commencing operations. The requested variances are significant qualitatively and quantitatively. They fall well short of the minimum 5-acre size (BCZR (410A.3.B.1); minimum 200/300 feet setbacks from wetlands and dwellings/residential zones respectively (BCZR 410A.2); minimum curb tangent length; and minimum front and rear yards (BCZR 255.1/238). HSC seeks these zoning approvals now.

There are also zoning provisions in BCZR 410A.3 relating to access points (public industrial service road, arterial, or collector); layout or convenient movement of vehicles; percentage of site trucking operations area devoted to parking; security fencing, wheel stops, paving, drainage, landscaping and screening. Even now, the site plan does not appear to address any of these requirements. There is also a provision in BCZR 253.4 pertaining to setbacks for properties within 100 feet of specified roadways. This should be checked.

The second case (097) involves the .57 acre property at the southeast corner of Pulaski Highway and Mohrs Lane. The zoning here is B.R.-A.S. HSC, via Corner Properties, LLC, acquired this property in 2013.. HSC razed the existing building(s). The proposal is for a new contractor's equipment storage yard. This requires a special exception. BCZR 236.2.

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To assist in an understanding of the area, we enclose an ADC Road Map 29 excerpt and a Google Earth aerial view accessible from the Baltimore County My Neighborhood Map website.

Our office has historically paid great attention to trucking facility zoning petitions, especially with locational variances. In the brief time available to review the present petitions, we have had occasion to visit the site and converse with Linda Felts, President of the Bird River Community Association, and Robert Bendler, President of the Essex-Middle River Civic Council umbrella group. At this writing, they are reviewing the situation.

We have also had a professional and courteous meeting and discussion with Mr. Clark. We expressed some of our concerns and indicated we would set them down in a letter, with ample time for him to prepare to address them at the hearing. It is fair to say that Mr. Clark, in his former role as County Board of Appeals panel member in the 1990s, was already familiar with our office's attention to trucking facility cases.

HSC operates a substantial trucking business. Based on a google search, we found the enclosed current link at Quick Transport Solutions, Inc., which we also provided to Mr. Clark. The data show a substantial trucking operation, with USDOT and MC certifications or numbers. The truck/tractor/trailer numbers are not identical to those on the site plan, but that may be due to the different categories.

Several questions initially present themselves. The first is: Why did HSC not seek proper zoning approval at least by the mid-1980s, when they had assembled the various lots for this significant regulated business? We don't know. When zoning petitions come in to legitimize noncompliant existing businesses, this adds a complication. We shall deal with it below.

The second question is: Why now? There was never any zoning enforcement. There were no complaints which have been brought to our attention. To be sure, area citizens may have assumed there was no legal issue or available relief.

Our impression is that acquisition of the corner property, the desire for zoning relief there, and a possible concern about future financing/refinancing or other transactions on either or both properties led to an identification of the zoning issues and the present strategy to try to obtain zoning approval. It is unclear whether there are any plans to expand the trucking business as it evolves further, or if there will be any integration of the use of the two properties.

This brings us to the legal analysis. The trucking facility petition is plainly the most troublesome. But we shall begin with a brief word on the special exception for the corner contractor's equipment storage yard. The ALJ is familiar with the standards under such cases as People's Counsel v. Loyola College 406 Md. 54 (2008), People's Counsel v. Mangione 85 Md. App. 738 (1991) Board of County Comm'rs v. Holbrook 314 Md. 210 (1988); and Schultz v. Pritts 291 Md. 1 (1981). The initial comment here would be that the site plan is not informative. While it shows the razing of the buildings onsite, it does not show clearly the dimensions or parameters of the proposed use. There should also be consideration of the planned extension of Campbell Boulevard here, of which more below.

Let us now turn to HSC's trucking facility. Variances are always difficult to prove from a legal point of view, whether the uses are existing or proposed. Cromwell v. Ward 102 Md. App. 691 (1995); Trinity Assembly of God v. People's Counsel 407 Md. 53 (2008). Moreover, when combined with special exceptions, better described as conditional uses, they arguably displace whatever advantage may be attributed to the "presumption" in favor of special exceptions.

When it comes to trucking facilities, the Baltimore County trucking facilities law adds a major dimension of its own to basic special exception and variance law.

**1. The Trucking Facilities law.** On April 19, 1976, County Executive Theodore Venetoulis signed enclosed Bill 18-76, an act "to regulate truck oriented uses ...." This legislation grew out of the work of a Citizens Task Force on Truck Terminals (as they were previously called), appointed by the county executive and chaired by Councilman John W. O'Rourke. Their work led to the enclosed Planning Board Report dated February 19, 1976.

As reflected in this report, a point of emphasis was to safeguard residential areas. Furthermore, in what often has been called "the environmental decade," the decision was also made to safeguard wetlands. There are many other provisions in the legislation, but the M.L. Zone BCZR 253.2 special exception standards and BCZR 410A.2 locational minimum setback standards in BCZR 410A.2 were at the heart of it.

Within BCZR Article 4, "Special Regulations," the trucking facilities law stands out as probably the most comprehensive legislation devoted to a single use. It has remained intact, without significant amendment, for the last 38 years. Because of the strong legislative intent, our office has typically challenged zoning petitions for trucking facilities which fail to satisfy locational standards, whether new, existing, and/or expansion.

In 1976, the framers of the law did recognize that many existing facilities did not meet the locational standards. While it was too harsh to close them down, the law set up a procedure for existing nonconforming facilities to file site plans, subject to upgraded site development standards and review by the zoning office. Many facilities obtained nonconforming status. HSC, even in its earliest incarnation, came too late to qualify as a nonconforming use. Its operation has thus been noncompliant since its inception and in its later expanded modes.

**2. Proximity to dwellings.** HSC operates directly adjacent to the Sleepy Hollow residential neighborhood. While this neighborhood is zoned M.L., it has been established that the law plainly protects dwellings, regardless of the zoning. Laskey v. Bethlehem Steel Corp., Court of Special Appeals No. 18, Sept. Term, 1979, enclosed. The Laskey decision is also helpful because it reviews the history of the transition from the previous "truck terminal" provisions to Bill 18-76 and places reliance on the plain language of the law as well as the Planning Board report to confirm that the trucking facilities must not be located near dwellings, even if the dwellings are in an industrial zone.

**3. The magnitude of the variances.** The HSC site is three acres, not the minimum five; 75 feet from the nearest dwelling, not the minimum 300 (and not an isolated single dwelling); and 50 feet from the nearest wetland, not the minimum 200. The other deviations are also significant. To add to this, there is uncertainty about many of the site development standards.

**4. The Umerley case.** Barely a half mile away, on Philadelphia Road, not far from Mohrs Lane, directly across from the Nottingham residential neighborhood, there evolved in the 1990s the well-publicized litigation over Leo Umerley's trucking facility. The ADC map excerpt shows the proximity of Nottingham to the HSC property. The litigation led to the enclosed Umerley v. People's Counsel 108 Md. App. 497, cert. denied 342 Md. 584 (1996).

The Umerley case resonates here not only because it involved a major case in a nearby M.L. Zone, but also because the requested special exception and variances essentially parallel the requests here, particularly as to locational setbacks pertinent to residential zone or dwellings and to wetlands. Umerley did have a sizable lot, 8.5 acres; and he did have a nonconforming use for his original facility. But he had expanded without obtaining the proper zoning approval. As a result, he had to file the zoning petition for special exception and variances.

The County Board of Appeals granted the petitions by 2-1 panel majority. Circuit Court Judge Norris Byrnes reversed. The Court of Special Appeals affirmed the Circuit Court.

Other than the usual spin that there was something "unique" about the property, Umerley focused on the economic benefits of his business, including his contractual relationship hauling for Baltimore County. He argued that the legislative reference, among other things, of the purpose "to accommodate trucking facilities, in recognition of their importance to the economy of the County and the nation" effectively trumped the legal standards or justified the variances. The CSA rejected this argument.

We could go into Umerley in more detail, but believe it unnecessary as it plainly shows the path to review and control of the present case.

**5. The Campbell Boulevard extension; the gateway.** Traffic issues are usually among the factors in these cases. One of the several purposes of assuring a distance from residential areas is to alleviate the adverse impacts of truck traffic. At the present time, Mohrs Lane stops at a dead end just east of Sleepy Hollow and the Home Depot. So, there is already the impact to the Sleepy Hollow residents, who must use Mohrs Lane to get out to Pulaski Highway.

Meanwhile, as I have been alerted or reminded, the Campbell Boulevard extension is planned to run along the present Mohrs Lane here. I found the enclosed County website link. This will open up the area to new uses, some of the residential. I am told that a townhouse development called Ravenhurst is planned to the east.

There is also the factor that the Pulaski Road/Campbell Boulevard intersection may be viewed as a gateway to this area. This is not just my idea or name for it. There has been work on a Pulaski Highway Redevelopment Study. While this has not come to fruition in any official plan, study reports have logically identified this intersection as a future gateway.

**6. The Whitemarsh Run restoration.** It has been brought to my attention that environmental work in the Bird Run watershed includes a multimillion dollar restoration project for Whitemarsh Run. The County website links are enclosed. To citizens concerned with the environment, it appears anomalous to have a variance to get closer to wetlands. While environmental issues are complicated, and it may be difficult to prove the precise impact of any single use, the purpose of the wetlands setback is to provide some margin of safety.

Our understanding is that the Department of Environment will not issue any comment. If our understanding is correct, this reflects only that they do not do a field or in-depth wetlands review at this time. Their silence is not to be taken as an affirmative endorsement.

**7. What is to be done in consideration that HSC exists?** It is sometimes said that a zoning petitioner should not be penalized for noncompliance. This is invoked where the petition has merit. But this does not translate to a justification to grant a petition which lacks merit. The main thing is that the law does not encourage noncompliance. There is no justification to reward noncompliance by relaxing legal standards for the sake of business convenience. At the end of the day, is the rule of law to be taken seriously?

If this zoning petition were filed (as it should have before commencement) as a petition for a new trucking facility, it could not reasonably be approved consistent with the legislative purpose and standards. Even without the current factors involving Campbell Boulevard and Whitmarsh Run, the site falls so far short of meeting the legislative tests that it does not qualify as a matter of law. The Cromwell and Trinity Assembly of God cases pale in comparison.

The fact that the site falls short, or is shaped a certain way, does not translate to the "uniqueness" resulting in practical difficulty required to satisfy the variance test, especially where a special exception is also involved. There are many sites in the Pulaski Highway and other industrial corridors which are zoned M.L. and vary in size. There is nothing unusual about a 3-acre site (or now 3.6 acres, including the corner). There appear to be 112 listed uses permitted by right in the M.L. Zone and 18 by special exception. Some of the listed uses include a variety of uses. BCZR 253.

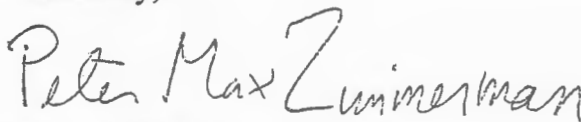
HSC has enjoyed the use of a noncompliant trucking facility for many years. There is not in this proceeding any question of seeking to impose a penalty, retribution, sanction, or moral blame. The dispassionate objective question is whether to perpetuate a use which does not satisfy legal standards in a major way.

---

The CSA in Umerley rejected Leo Umerley's position that the special exception and variances should be granted in order to permit an economically significant business. Remarkably, such a position is analogous to the "Too Big to Fail" mantra in the financial world. Essentially, Leo Umerley argued that his business was too valuable and too entrenched to be denied. The implicit message of the Umerley case is that there is not one zoning law implemented for the ordinary individual citizen and another for businesses based on economic significance.

We transmit this letter in advance of the hearing to provide your office with a view of our thought process and to provide petitioner and other parties the opportunity to respond to our concerns, without undue surprise.

Sincerely,



Peter Max Zimmerman  
People's Counsel for Baltimore County

cc: C. William Clark, Esquire, Petitioners' attorney (first class mail and e-mail)  
Andrea Van Arsdale, Director of Planning  
Vincent Gardina, Director of DEPS  
Linda Felts, Bird River Community Association  
Robert Bendler, Essex-Middle River Civic Council



## *Baltimore County, Maryland*

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN  
People's Counsel

CAROLE S. DEMILIO  
Deputy People's Counsel

January 6, 2016

HAND DELIVERED

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

RECEIVED

JAN 08 2016

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Timberline Properties, LLC – Harvey Salt Company  
1325-1335 Mohrs Lane  
Case No.: 2015-096-XA  
&  
Corner Properties, LLC – Harvey Salt Company  
10001 Pulaski Highway  
Case No.: 2015-097-X

Dear Judge Beverungen,

We previously wrote to you regarding these companion cases on November 21, 2014 raising a number of concerns. A copy of the letter (without attachments) is enclosed for reference.

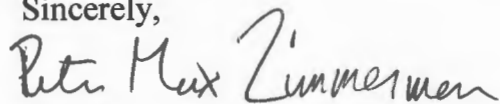
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However, it has now been over a year without any discernible progress. Robert Bendler, President of the Essex-Middle River Civic Council (and coincidentally former Deputy County Planning Director and Recreation and Parks Director) has been asking me for updates on the situation. Despite Petitioners' repeated assurances of work being done with the county staff, there has been no product.

I request, therefore, that the case be set in for a hearing or perhaps a scheduling conference so that we can progress to some resolution.

Sincerely,

A handwritten signature in black ink that reads "Peter Max Zimmerman". The signature is written in a cursive, flowing style.

Peter Max Zimmerman

People's Counsel for Baltimore County

cc: C. William Clark, Esquire, Petitioners' attorney  
Andrea Van Arsdale, Director of Planning  
Greg Carski, Bureau Chief of Traffic Engineering  
Vincent Gardina, Director of DEPS  
Linda Felts, Bird River Community Association  
Robert Bendler, Essex-Middle River Civic Council



## *Baltimore County, Maryland*

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building  
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Towson, Maryland 21204

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

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November 21, 2014

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Hearing scheduled December 2, 2014, 1:30 P.M., Jefferson Building Room 205  
&  
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zoning law. BCZR Sec. 410A. HSC never sought the required special exception and multiple variances before commencing operations. The requested variances are significant qualitatively and quantitatively. They fall well short of the minimum 5-acre size (BCZR (410A.3.B.1); minimum 200/300 feet setbacks from wetlands and dwellings/residential zones respectively (BCZR 410A.2); minimum curb tangent length; and minimum front and rear yards (BCZR 255.1/238). HSC seeks these zoning approvals now.

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To assist in an understanding of the area, we enclose an ADC Road Map 29 excerpt and a Google Earth aerial view accessible from the Baltimore County My Neighborhood Map website.

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HSC operates a substantial trucking business. Based on a google search, we found the enclosed current link at Quick Transport Solutions, Inc., which we also provided to Mr. Clark. The data show a substantial trucking operation, with USDOT and MC certifications or numbers. The truck/tractor/trailer numbers are not identical to those on the site plan, but that may be due to the different categories.

Several questions initially present themselves. The first is: Why did HSC not seek proper zoning approval at least by the mid-1980s, when they had assembled the various lots for this significant regulated business? We don't know. When zoning petitions come in to legitimize noncompliant existing businesses, this adds a complication. We shall deal with it below.



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Fax: 410-823-4236

PETER MAX ZIMMERMAN  
People's Counsel

CAROLE S. DEMILIO  
Deputy People's Counsel

February 18, 2016

RECEIVED

FEB 18 2016

OFFICE OF ADMINISTRATIVE HEARINGS

HAND DELIVERED

John Beverungen, Administrative Law Judge  
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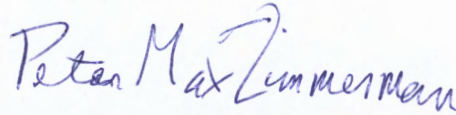
On January 6, 2016, we wrote the attached letter to describe the long delay in this case occasioned by Petitioners' desire for more time, Petitioners' ostensible reasons, and the need now to move forward.

At that time, we also attached our office's previous detailed letter dated November 21, 2014, outlining the history and our legal concerns and objections to the petitions.

We have not received any response from Petitioners' attorney, C. William Clark, Esquire. At this juncture, we request that the case be scheduled for hearing, whether that is processed by the zoning office scheduling staff or by the Office of Administrative Hearings. Under the circumstances, we intend to be at the hearing.

John Beverungen, Administrative Law Judge  
February 18, 2016  
Page 2

Sincerely,



Peter Max Zimmerman  
People's Counsel for Baltimore County

cc: C. William Clark, Esquire, Petitioners' attorney  
Andrea Van Arsdale, Director of Planning  
Greg Carski, Bureau Chief of Traffic Engineering  
Vincent Gardina, Director of DEPS  
Linda Felts, Bird River Community Association  
Robert Bendler, Essex-Middle River Civic Council  
Kristen Lewis, Zoning Office  
Carl Richards, Zoning Supervisor



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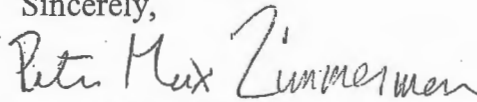
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Vincent Gardina, Director of DEPS  
Linda Felts, Bird River Community Association  
Robert Bendler, Essex-Middle River Civic Council

Attention!  
Kristen

## Debra Wiley

---

**From:** John E. Beverungen  
**Sent:** Monday, March 28, 2016 11:59 AM  
**To:** Bud Clark (cwclark@nolanplumhoff.com); cwclark@cwilliamclarklaw.com; Peter Max Zimmerman  
**Cc:** Debra Wiley; Kristen L Lewis  
**Subject:** 2015-96-X and 2015-97-X

Gentlemen,

This is in response to Mr. Zimmerman's correspondence dated February 18, 2016 regarding the above cases. Therein, he urges that these cases have languished and should be scheduled for hearing. Having reviewed the Zoning Commissioner's Rules, I do not believe there is any particular rule that addresses this scenario; i.e., the cases have both been "opened" and were continued upon grant of Petitioner's request for postponement. There does not appear to be an administrative rule akin to Md. R. 2-507, allowing for dismissal for lack of prosecution.

In any event, the files were long ago returned to PAI, and I will forward Mr. Zimmerman's letters to Kristen's attention for inclusion in the case files. I would suggest that counsel contact the Director of PAI concerning whether or not this case can/should be scheduled for hearing.

John Beverungen  
ALJ



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If this zoning petition were filed (as it should have before commencement) as a petition for a new trucking facility, it could not reasonably be approved consistent with the legislative purpose and standards. Even without the current factors involving Campbell Boulevard and Whitemarsh Run, the site falls so far short of meeting the legislative tests that it does not qualify as a matter of law. The Cromwell and Trinity Assembly of God cases pale in comparison.

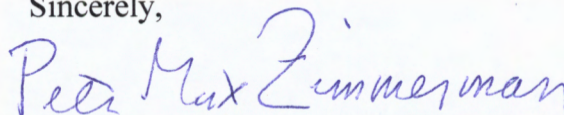
The fact that the site falls short, or is shaped a certain way, does not translate to the "uniqueness" resulting in practical difficulty required to satisfy the variance test, especially where a special exception is also involved. There are many sites in the Pulaski Highway and other industrial corridors which are zoned M.L. and vary in size. There is nothing unusual about a 3-acre site (or now 3.6 acres, including the corner). There appear to be 112 listed uses permitted by right in the M.L. Zone and 18 by special exception. Some of the listed uses include a variety of uses. BCZR 253.

HSC has enjoyed the use of a noncompliant trucking facility for many years. There is not in this proceeding any question of seeking to impose a penalty, retribution, sanction, or moral blame. The dispassionate objective question is whether to perpetuate a use which does not satisfy legal standards in a major way.

The CSA in Umerley rejected Leo Umerley's position that the special exception and variances should be granted in order to permit an economically significant business. Remarkably, such a position is analogous to the "Too Big to Fail" mantra in the financial world. Essentially, Leo Umerley argued that his business was too valuable and too entrenched to be denied. The implicit message of the Umerley case is that there is not one zoning law implemented for the ordinary individual citizen and another for businesses based on economic significance.

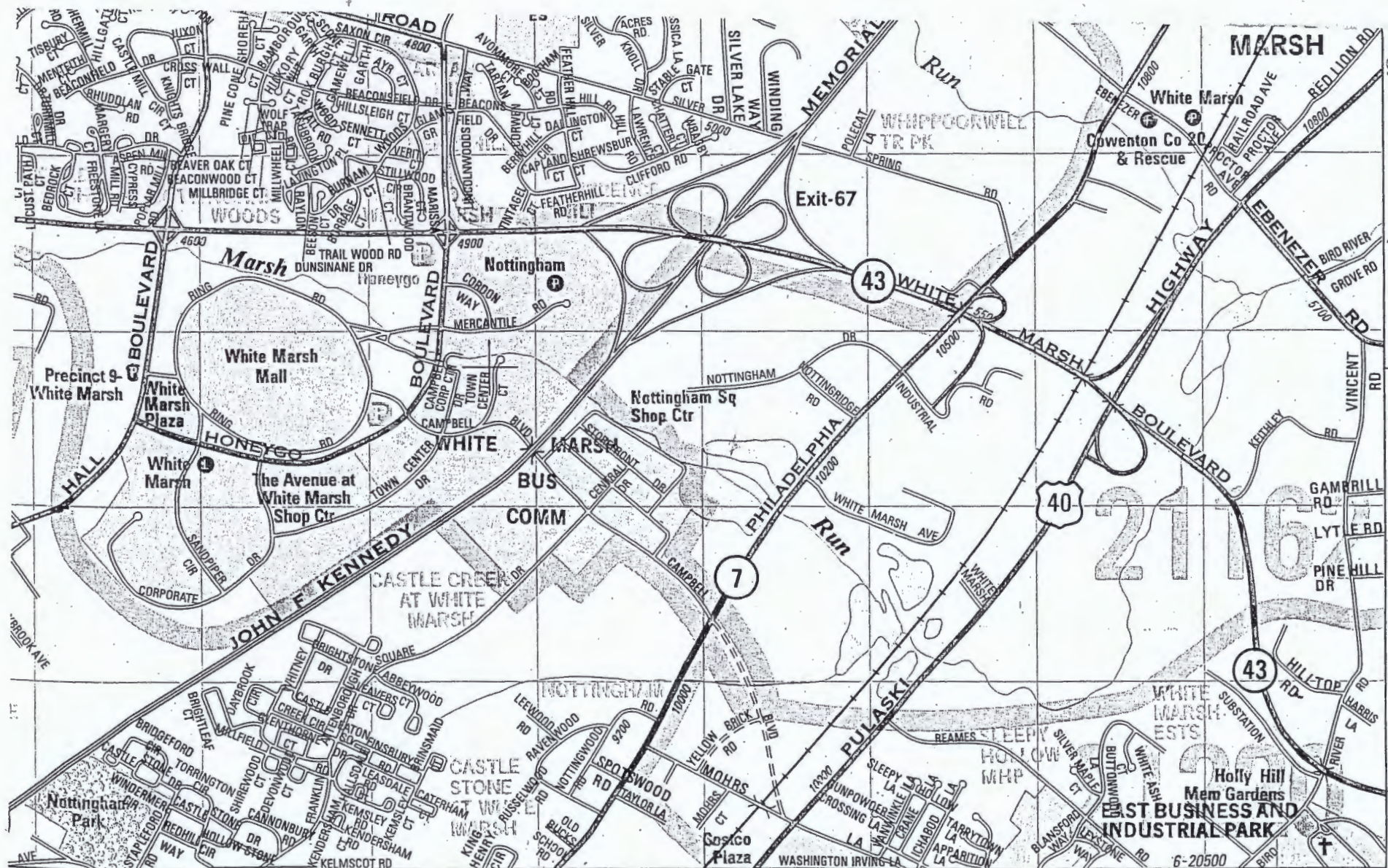
We transmit this letter in advance of the hearing to provide your office with a view of our thought process and to provide petitioner and other parties the opportunity to respond to our concerns, without undue surprise.

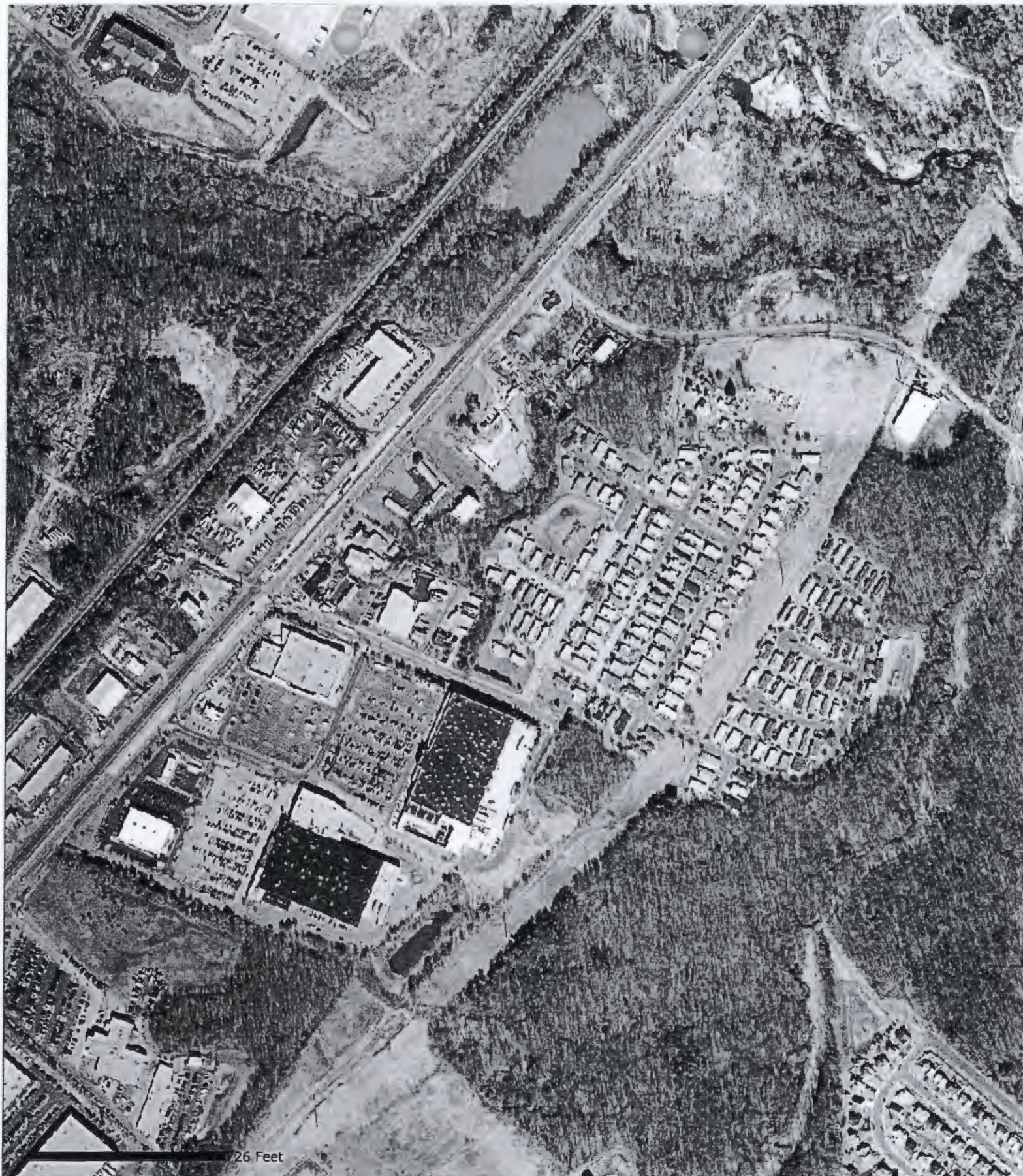
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Andrea Van Arsdale, Director of Planning  
Vincent Gardina, Director of DEPS  
Linda Felts, Bird River Community Association  
Robert Bendler, Essex-Middle River Civic Council





## 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 11/20/2014

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# Harvey Salt Co Inc

## Maryland Transport Company

### Company Overview

Harvey Salt Co Inc is an active carrier operating under USDOT Number 6931 and MC Number 165700.

|                                                       |           |
|-------------------------------------------------------|-----------|
| Total Trucks                                          | 19        |
| Tractors Owned                                        | 21        |
| Trailer Owned                                         | 25        |
| Total Drivers                                         | 17        |
| USDOT                                                 | 6931      |
| MC NUMBER                                             | 165700    |
| MCS-150 Mileage Year                                  |           |
| MCS-150 Date                                          |           |
| MCS-150 Mileage                                       |           |
| Does Harvey Salt Co Inc transport Hazardous Material? | No        |
| Carrier Operation                                     | N/A       |
| D&B D-U-N-S Number                                    | 077410389 |

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And you should too."**

Ken Fisher  
CEO, Fisher Investments

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Get 15-Page Annuity Insights

**Click Here for  
FREE Download Now**

FISHER INVESTMENTS



### Company Contact Info

Harvey Salt Co Inc  
1325 Mohrs Ln  
Baltimore, MD 21220  
☎ 410-391-9100  
☎ 410-391-9104

### Cargo Hauled by Harvey Salt Co Inc

General Freight  
Salt Products

### Do you operate Harvey Salt Co Inc business?

QuickTSI will provide this website/profile as a **marketing platform for Harvey Salt Co Inc.** Let potential shippers learn more about Harvey Salt Co Inc. QuickTSI will publish Harvey Salt Co Inc. business information here.

[Submit Information](#)

|                                                                      |
|----------------------------------------------------------------------|
| <a href="#">Add Your Trucking Com</a>                                |
| <a href="#">Add Freight Broker Com</a>                               |
| <a href="#">Find Loads/Trucks</a>                                    |
| <a href="#">Search Trucking Comp</a>                                 |
| <a href="#">Refrigerated Trucking Con</a>                            |
| <a href="#">FMCSA Certified Medical Ex<br/>CDL Physical Exam Loc</a> |
| <a href="#">Freight Factoring Comp</a>                               |
| <a href="#">Truck Driving School</a>                                 |
| <a href="#">Truck Stops</a>                                          |
| <a href="#">Truck &amp; Trailer Wash Loc</a>                         |
| <a href="#">Daily Fuel Prices</a>                                    |
| <a href="#">Freight Forwarders</a>                                   |
| <a href="#">Process Agents</a>                                       |
| <a href="#">Need Cash Now!<br/>Ready to grow your Busi</a>           |
| <a href="#">Truck Service &amp; Repair Cor</a>                       |
| <a href="#">Cargo Insurance</a>                                      |
| <a href="#">Transport News</a>                                       |
| <a href="#">Trucking Resources</a>                                   |
| <a href="#">Green Transport</a>                                      |
| <a href="#">Trucking Freight Gloss</a>                               |
| <a href="#">A/R Collection Compar</a>                                |
| <a href="#">Truck Decal Wrap Comp</a>                                |

# 24/7 DOT Permits/Licenses

Temporary Permits, IRP,  
UCR And IFTA Services

## Bad Cr Upda

People with a F  
Annuity, Struct  
Settlement, or  
Disability Incom  
\$300 per month  
total income ov  
\$1,500 per mon  
qualify for a Lu  
Advance up to

### Harvey Salt Co Inc. Safety Measurement System Data

Last Updated Nov 2014

#### Safety Rating

Total Number of Inspections for the measurement period (24 months)

Total Number of Driver Inspections for the measurement period

Total Number of Driver Inspections containing at least one Driver Out-of-Service Violation

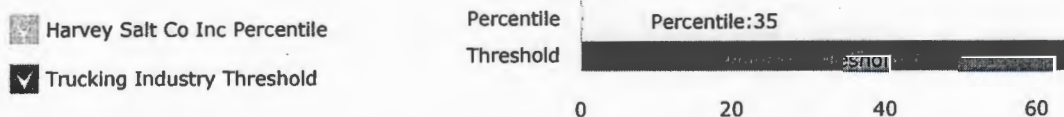
Total Number of Vehicle Inspections for the measurement period

Total Number of Vehicle Inspections containing at least one Vehicle Out-of-Service violation

#### Find Out More

#### Harvey Salt Co Inc Unsafe Truck Driving Data

|                                                                        |      |
|------------------------------------------------------------------------|------|
| Number of inspections with at least one Unsafe Driving BASIC violation | 8    |
| Unsafe Driving BASIC Roadside Performance Measure Value                | 3.33 |
| Unsafe Truck Driving BASIC Roadside Performance                        | 35   |



|                                                                                                                                                      |   |
|------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| Unsafe Truck Driving BASIC Roadside Performance Over Threshold Indicator (Y = Over Intervention Threshold)                                           | N |
| Unsafe Truck Driving BASIC Serious Violation Indicator (Y = Serious Violation from investigation within previous 12 months)                          | N |
| Unsafe Truck Driving Overall BASIC Indicator (Y - Roadside Performance Percentile over threshold and/or Serious Violation within previous 12 months) | N |

AdChoices [D]

► Salt

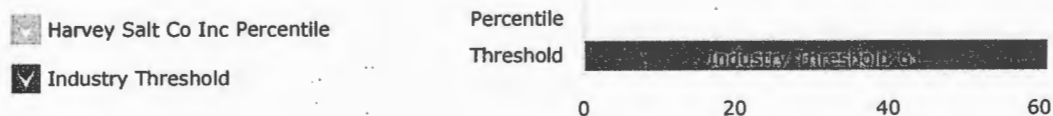
► Jobs Trucking

► Trucking Company

► Trucking Claims

#### Harvey Salt Co Inc Fatigued Truck Driving Data

|                                                                            |     |
|----------------------------------------------------------------------------|-----|
| Number of inspections with at least one Hours-of-Service BASIC violation   | 3   |
| Hours-of-Service (HOS) Compliance BASIC Roadside Performance measure value | .17 |
| Fatigued Truck Driving BASIC Roadside Performance                          | 10  |



|                                                                                                                                                                   |   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| Fatigued Truck Driving (Hours-of-Service) BASIC Roadside Performance Over Threshold Indicator (Y = Over Intervention Threshold)                                   | N |
| Fatigued Truck Driving (Hours-of-Service) BASIC Serious Violation Indicator (Y = Serious Violation within previous 12 months)                                     | N |
| Fatigued Truck Driving (Hours-of-Service) BASIC Indicator (Y - Roadside Performance Percentile over threshold and/or Serious Violation within previous 12 months) | N |

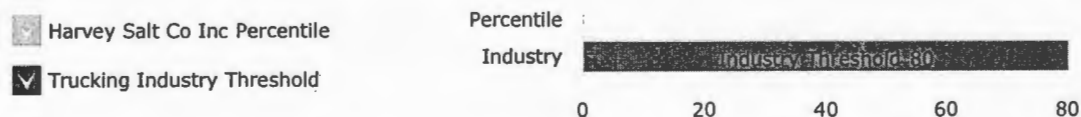
#### Harvey Salt Co Inc Truck Driver Fitness Data

|                                                                                                                                              |     |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Number of inspections with at least one Driver Fitness BASIC violation                                                                       | 3   |
| Driver Fitness BASIC Roadside Performance measure value                                                                                      | .21 |
| Truck Driver Fitness BASIC Roadside Performance Percentile                                                                                   | 0   |
| Truck Driver Fitness BASIC Roadside Performance Over Threshold Indicator (Y = Over Intervention Threshold)                                   | N   |
| Truck Driver Fitness BASIC Serious Violation Indicator (Y = Serious Violation from investigation within previous 12 months)                  | N   |
| Truck Driver Fitness BASIC Indicator (Y - Roadside Performance Percentile over threshold and/or Serious Violation within previous 12 months) | N   |

AdChoices [Jobs Trucking](#) [Trucking Company](#) [Trucking Claims](#) [Insurance Company](#)

#### Harvey Salt Co Inc Controlled Substances and Alcohol Data

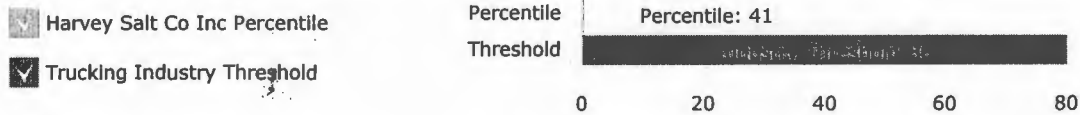
|                                                                                           |   |
|-------------------------------------------------------------------------------------------|---|
| Number of inspections with at least one Controlled Substances and Alcohol BASIC violation | 0 |
| Number of inspections with at least one Controlled Substances and Alcohol BASIC violation | 0 |
| Controlled Substances and Alcohol BASIC Roadside Performance                              | 0 |



|                                                                                                                                                           |   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| Controlled Substances and Alcohol BASIC Roadside Performance Over Threshold Indicator (Y = Over Intervention Threshold)                                   | N |
| Controlled Substances and Alcohol BASIC Serious Violation Indicator (Y = Serious Violation from investigation within previous 12 months)                  | N |
| Controlled Substances and Alcohol BASIC Indicator (Y - Roadside Performance Percentile over threshold and/or Serious Violation within previous 12 months) | N |

## Harvey Salt Co Inc Vehicle Maintenance Data

|                                                                             |      |
|-----------------------------------------------------------------------------|------|
| Number of inspections with at least one Vehicle Maintenance BASIC violation | 24   |
| Vehicle Maintenance BASIC Roadside Performance measure value                | 3.64 |
| Vehicle Maintenance BASIC Roadside Performance                              | 41   |



|                                                                                                                                             |   |
|---------------------------------------------------------------------------------------------------------------------------------------------|---|
| Vehicle Maintenance BASIC Roadside Performance Over Threshold Indicator (Y = Over Intervention Threshold)                                   | N |
| Vehicle Maintenance BASIC Serious Violation Indicator (Y = Serious Violation from investigation within previous 12 months)                  | N |
| Vehicle Maintenance BASIC Indicator (Y - Roadside Performance Percentile over threshold and/or Serious Violation within previous 12 months) | N |

AdChoices [▶](#) [▶ Trucking Claims](#) [▶ Insurance Company](#) [▶ Truck Insurance](#) [▶ Mutual Company](#)

## Harvey Salt Co Inc Insurance History

| Insurance Form | Insurance Type | Insurance Carrier                 | Policy/Surety        | Coverage Amount From | Coveri  |
|----------------|----------------|-----------------------------------|----------------------|----------------------|---------|
| 91X            | BIPD/Primary   | Greenwich Insurance Company       | AEC000362801         | \$0                  | \$1,000 |
| 91X            | BIPD/Primary   | Erie Insurance Exchange           | Q07 0140430 M        | \$0                  | \$1,000 |
| 91X            | BIPD/Primary   | Erie Insurance Exchange           | Q07 0140430 M        | \$0                  | \$1,000 |
| 91X            | BIPD/Primary   | Harleysville Insurance Company    | BA 9G 71 79          | \$0                  | \$1,000 |
| 91X            | BIPD/Primary   | Harleysville Insurance Company    | BA 9G 71 79 (FAX-TG) | \$0                  | \$1,000 |
| 91X            | BIPD/Primary   | Harleysville Mutual Insurance Co. | BA9G7179             | \$0                  | \$1,000 |
| 91X            | CARGO          | Harleysville Mutual Insurance Co. | MPA9G7179            | \$0                  | \$5,000 |

| Insurance Form | Insurance Type | Insurance Carrier                                     | Policy/Surety     | Coverage Amount From | Cover:  |
|----------------|----------------|-------------------------------------------------------|-------------------|----------------------|---------|
| 91X            | BIPD/Primary   | Greenwich Insurance Company                           | AEC000362803      | \$0                  | \$1,000 |
| 91X            | BIPD/Excess    | Greenwich Insurance Company                           | UEC000362902      | \$1,000,000          | \$4,000 |
| 91X            | BIPD/Excess    | Greenwich Insurance Company                           | UEC000362902      | \$1,000,000          | \$4,000 |
| 91X            | BIPD/Primary   | Greenwich Insurance Company                           | AEC000362803      | \$0                  | \$1,000 |
| 91X            | BIPD/Primary   | Liberty Mutual Fire Insurance Co.                     | AS2-131-488272-02 | \$0                  | \$1,000 |
| 91X            | CARGO          | Liberty Mutual Insurance Co.                          | KO1-131-488272-04 | \$0                  | \$5,000 |
| 91X            | BIPD/Primary   | United Pacific Insurance Co                           | PB 8542308        | \$0                  | \$1,000 |
| 91X            | BIPD/Primary   | Pma Group<br>(chage To Acct<br>4110 Penn Manuf<br>Ass | 1596003385218     | \$0                  | \$1,000 |
| 91X            | BIPD/Primary   | The Employers' Fire Insurance Co.                     | FP AC 28431       | \$0                  | \$1,000 |
| 91X            | BIPD/Primary   | The Employers' Fire Insurance Co.                     | FP AC 28431       | \$0                  | \$1,000 |

\* If a carrier is in compliance, the amount of coverage will always be shown as the required Federal minimum (\$5,000 per vehicle, \$10,000 per occurrence for cargo insurance and \$75,000 for bond/trust fund). The carrier may actually have higher levels of coverage.;

#### Harvey Salt Co Inc. Insurance Companies Information

**United Pacific Insurance Co**  
4 PENN CENTER  
PLAZA 4TH FL  
PHILADELPHIA, PA  
Fax:(215)864 - 4955

**Greenwich Insurance Company**  
505 EAGLEVIEW BLVD  
EXTON, PA  
Fax:(610)458 - 8667

**Liberty Mutual Insurance Co.**  
PO BOX 8095  
WAUSAU, WI

**Liberty Mutual Fire Insurance Co.**  
175 BERKELEY ST, PO  
BOX 140  
BOSTON, MA

**The Employers' Fire Insurance Co.**  
44 WHIPPANY RD  
MORRISTOWN, NJ

**Erie Insurance Exchange**  
100 ERIE INSURANCE  
PLACE  
ERIE, PA  
Fax: (814) 870 - 4345

**Harleysville Mutual Insurance Co.**  
355 MAPLE AVENUE  
HARLEYSVILLE, PA  
Fax: (866) 220 - 6530

**Harleysville Insurance Company**  
355 MAPLE AVE  
HARLEYSVILLE, PA  
Fax: (866) 220 - 6350

**Pma Group (chage To Acct 4110 Penn Manuf Ass**  
380 SENTURY  
PARKWAY  
BLUE BELL, PA

### Harvey Salt Co Inc Location on Google Map

1325 Mohrs Ln  
Middle River, MD 21220  
[View Larger Map](#)  
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[Directions](#)

[Save](#)

[Sign in](#)

Google  
Map data ©2014 Google

### About QuickTSI

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### Contact Us

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**Quick Transport Solutions, Inc.**

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Hayward, CA 94544-3686

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# County Council of Baltimore County Maryland

Legislative Session 1976, Legislative Day No. 7

BILL NO. 18-76

Introduced by Mr. O'Rourke, Councilman

(By request of County Executive)

By the County Council, March 15, 1976

A BILL

Entitled

AN ACT to amend the Baltimore County Zoning Regulations to regulate truck oriented uses of property in Baltimore County, to designate the zoning classifications under which such uses shall be permitted as of right, allowed by special exception or prohibited both in terms of control over the development of new facilities as well as remedial measures applicable to existing ones, by adding certain definitions to Section 101 of said zoning regulations and revising certain existing ones, by repealing and re-enacting with amendments Section 104 thereof, by redesignating the subtitle "Statement of Purpose" under Article 4 thereof, by repealing and re-enacting with amendments subsections 233.2, 236.4, 241.1, 253.2A, 256.2, 256.4, 409.2b and 500.7 thereof and by adding new sections B400, 410 and 410A to said zoning regulations:

SECTION 1. Be it enacted by the County Council of Baltimore County, Maryland, that the following definitions be and they are hereby added, in alphabetical order, to Section 101 of the Baltimore County zoning regulations.

## Section 101 Definitions

Collector street, major: A street, or part of one, that is intended for travel between neighborhoods or between neighborhoods and other places, but not for travel within neighborhoods; it is not an arterial street; and has been designated as a major collector street by the Planning Board by the same method used to designate freeways, expressways, and arterial streets.

(Page 2-Bill No. 18-76)

County trucking facilities development officials: The Directors of Planning, Public Works, and Traffic Engineering and of the Industrial Development Commission. COUNTY TRUCKING-FACILITIES-DEVELOPMENT OFFICIALS: A COMMITTEE CONSISTING OF THE COUNTY ADMINISTRATIVE OFFICER, AS CHAIRMAN; THE DIRECTORS OF PLANNING, PUBLIC WORKS, PERMITS AND LICENSES, AND TRAFFIC ENGINEERING; AND THE DIRECTOR OF THE INDUSTRIAL DEVELOPMENT COMMISSION; OR THEIR RESPECTIVE DESIGNEES.

Trucking facility: A structure or land used or intended to be used primarily for trucking operations or truck or truck trailer parking or storage, other than a warehouse, moving and storage establishment, truck stop. A trucking facility may include, as incidental uses only, sleeping quarters and other facilities for trucking personnel; facilities for the service or repair of vehicles, or necessary space for the transitory storage of goods or chattels. PRIMARILY A) TO ACCOMMODATE THE TRANSFER OF GOODS OR CHATTELS FROM TRUCKS OR TRUCK TRAILERS TO OTHER TRUCKS OR TRUCK TRAILERS OR TO VEHICLES OF OTHER TYPES, IN ORDER TO FACILITATE THE TRANSPORTATION OF SUCH GOODS OR CHATTELS; OR B) FOR TRUCK OR TRUCK-TRAILER PARKING OR STORAGE. A TRUCKING FACILITY MAY INCLUDE, AS INCIDENTAL USES ONLY, SLEEPING QUARTERS AND OTHER FACILITIES FOR TRUCKING PERSONNEL, FACILITIES FOR THE SERVICE OR REPAIR OF VEHICLES OR NECESSARY SPACE FOR THE TRANSITORY STORAGE OF GOODS OR CHATTELS. THE TERM "TRUCKING FACILITIES" DOES NOT INCLUDE A WAREHOUSE, MOVING AND STORAGE ESTABLISHMENT, OR TRUCK STOP. LAND USED FOR THE PARKING, STORAGE OR REPAIR OF TRUCKS USED AS AN ACCESSORY TO A LAWFUL BUSINESS OR INDUSTRIAL USE OF THE LAND THAT SUCH PARKING OR STORAGE AREA FORMS A PART OF SHALL NOT BE CONSIDERED A TRUCKING FACILITY WITHIN THE MEANING OF THIS DEFINITION. As used in this definition, neither the terms "trucks", nor the term "truck trailers", AND "TRUCK TRACTORS" DO NOT include any vehicle whose maximum gross weight is 10,000 pounds or less, as rated by the State Motor Vehicle Administration.

Trucking facility, Class I (truck terminal): A trucking facility whose primary purpose is to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels.

Trucking facility, Class II: A trucking facility other than a Class I trucking facility, including a truck yard (the primary purpose of which is to accommodate the parking or storage of trucks, or truck trailers, OR TRUCK TRACTORS).

**Truck stop:** A structure or land used or intended to be used primarily for the sale of fuel for trucks and, usually, incidental service or repair of trucks; or a group of facilities consisting of such a use and attendant eating, sleeping, or truck-parking facilities. As used in this definition, the term "trucks" does not include any vehicle whose maximum gross weight is 10,000 pounds or less, as rated by the State Motor Vehicle Administration.

**Warehouse:** A building or part of a building used or intended to be used primarily for the storage of goods or chattels that are to be sold retail or wholesale from other premises or sold wholesale from the same premises; for the storage of goods or chattels to be shipped on mail order; for the storage of equipment or materials to be used or installed at other premises by the owner or operator of the warehouse; or for similar storage purposes. (The term "warehouse" does not include a retail establishment whose primary purpose is for the sale of goods or chattels stored on the premises; however, nothing in this definition is meant to exclude purely incidental retail sales in warehouses. Further, the term does not include a truck terminal, at which any storage is minor, transitory, and merely incidental to the purpose of facilitating transportation of goods or chattels.)

**Wetland:** A private wetland or a state wetland as defined in Section 9-101 of the Natural Resources article of the Annotated Code of Maryland, 1974, and, if a private wetland, as delineated under Section 9-301 of that article.

SECTION 2. *Be it further enacted*, that the definition of "automotive service station" in Section 101 of said regulations be and it is hereby repealed and re-enacted with amendments, to read as follows:

**Automotive service station:** A structure [and/or site] or land used or [part thereof] intended to be used primarily for the retail sale [to the public] of automotive [fuels] fuel, but not a truck stop. [and other automotive energy or power sources.]

SECTION 3. *Be it further enacted*, that the definition of "nonconforming use" in Section 101 of said regulations, be and it is hereby repealed and re-enacted with amendments, to read as follows:

**Nonconforming Use:** A legal use [of a building or of land that antedates the adoption of these regulations and does not conform to the use regulations for the zone in which it is located.] that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use.

SECTION 4. *Be it further enacted*, that the definition of "Truck Terminal" in Section 101 of said regulations, be and it is hereby repealed.

SECTION 5. *Be it further enacted*, that Section 104 of said regulations, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

#### Section 104 NONCONFORMING USES

104.1 [A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue;] A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75) per cent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used.

SECTION 6. *Be it further enacted*, that the use "Warehouse-sales and storage" set forth in subsection 233.2 of said regulations is hereby repealed and re-enacted, with amendments, to read as follows:

[Warehouses sales and storage.] Warehouses.

SECTION 7. *Be it further enacted*, that the use "Truck terminal as set forth in subsection 236.4 of said regulations, be and it is hereby repealed.

SECTION 8. *Be it further enacted*, that the following uses are hereby added in alphabetical order to subsection 236.4, of said regulations:

Moving and storage establishments

Truck stops

SECTION 9. *Be it further enacted*, that the use "Warehouse, storage" set forth in subsection 241.1 of said regulations, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

[Warehouse, storage] Warehouses

SECTION 10. *Be it further enacted*, that the following use be and it is hereby added in alphabetical order to AT THE END OF subsection 41.1 of said regulations.

Accessory uses

SECTION 11. *Be it further enacted*, that the use "Truck terminals" set forth as Item no. 8 of subsection 253.2 A of said regulations be and it is hereby repealed.

SECTION 12. *Be it further enacted*, that the following uses be and they are hereby added in numerical order to subsection 253.2A of said regulations:

- 3A. Moving and storage establishments
- 6. Trucking facilities (see Sections 410 and 410A)
- 6A. Truck stops

SECTION 13. *Be it further enacted*, that the use "Truck terminal" set forth in subsection 256.2 of said regulations, be and it is hereby repealed.

SECTION 14. *Be it further enacted*, that the following uses be and they are hereby added in alphabetical order to subsection 256.2 of said regulations.

- Moving and storage establishments
- Trucking facilities (see Sections 410 and 410A)

SECTION 15. *Be it further enacted*, that the following use be and it is hereby added in alphabetical order to subsection 256.4 of said regulations:

- Truck stops

SECTION 16. *Be it further enacted*, that the subheading "Statement of Purpose" under Article 4 of said regulations, be and it is hereby repealed and a new Section designation and subtitle is hereby enacted in lieu thereof, to read as follows:

Section A400 PURPOSE

SECTION 17. *Be it further enacted*, that a new section is hereby added to said regulations under Article 4 thereof to immediately precede Section 400, to read as follows:

Section B400 APPLICATION OF THIS ARTICLE'S PROVISIONS

The provisions of this article apply only to principal uses except as otherwise specified (as in Item 405.4.C.12) or unless the provision implicitly relates to accessory usage (as in Section 405A)

SECTION 18. *Be it further enacted*, that subsection 409.2.b. of said regulations, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

b. Parking space for [buildings] uses other than dwellings — In all zones, permanently maintained offstreet parking spaces shall be provided as follows:

| USE                                                                                                                                                         | PARKING SPACES                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| (1) High school, college, or university auditorium; theatre, church, general auditorium, stadium or similar place of assembly                               | 1 for each 6 seats                                                                                                    |
| (2) Hospital, Class A                                                                                                                                       | 1 for each 4 beds                                                                                                     |
| Hospital, Class B and convalescent home                                                                                                                     | 1 for each 10 beds                                                                                                    |
| (3) Dance hall, night club, restaurant or                                                                                                                   | 1 for each 50 square feet of total floor area                                                                         |
| (3-a) Bowling Alley                                                                                                                                         | three per individual alley                                                                                            |
| (4) Medical or dental offices and clinics                                                                                                                   | 1 for each 300 square feet of total floor area                                                                        |
| (5) Other institutional, office, and non retail commercial buildings (excluding garage structures) having a total floor area of more than 5,000 square feet | 1 for each 300 square feet of total ground floor area and 1 for each 500 square feet of total area of upper floors    |
| (6) Buildings devoted to retail trade                                                                                                                       | 1 of each 200 square feet of total floor area                                                                         |
| (7) Industry, wholesale or warehouse type of commercial use, except trucking facilities                                                                     | 1 for each 3 employees in the numerically largest shift, except that the Zoning Commissioner may reduce the number of |

(8) Trucking facilities, Class I

spaces required where employment conditions are such as to make the above requirement clearly excessive.

5 plus 1 for each 2 employees in the largest shift EXCEPT THAT THE ZONING COMMISSIONER, PURSUANT TO A PUBLIC HEARING, MAY REDUCE THE NUMBER OF SPACES REQUIRED WHERE EMPLOYMENT CONDITIONS ARE SUCH AS TO MAKE THE ABOVE REQUIREMENTS CLEARLY EXCESSIVE

(9) Trucking facilities, Class II

1 for each 2 employees in the largest shift, or 1 for each 3000 square feet of total area devoted to parking of truck tractors, truck trailers, or tractor-trailers (not including truck maneuvering area or loading area), but in no case less than 10 EXCEPT THAT THE ZONING COMMISSIONER, PURSUANT TO A PUBLIC HEARING, MAY REDUCE THE NUMBER OF SPACES REQUIRED WHERE EMPLOYMENT CONDITIONS ARE SUCH AS TO MAKE THE ABOVE REQUIREMENTS CLEARLY EXCESSIVE

Parking space as required above shall be either on the same lot with the principal use to which it is accessory or within 500 feet of the building it is intended to serve.

SECTION 19. *Be it further enacted*, that new Section 410 be and it is hereby added to said regulations, to read as follows:

Section 410 CLASS I TRUCKING FACILITIES (TRUCK TERMINALS)

410.1 Nonconforming and other existing Class I trucking facilities. The provisions of this subsection apply to Class I trucking facilities existing on the effective date of this section.

A. Plans.

1. In the case of any Class I trucking facility for which approved plans are not on file with the Office of Planning and Zoning or the Department of Permits and Licenses on the effective date of this section, the owner or authorized agent for the trucking facility must file plans of the facility with the Zoning Commissioner within one year after that date. (See Subparagraph 410.3.C.1. for requirements. See also Subparagraph 2, below.) Where the plans for a Class I trucking facility are on file with the Office of Planning and Zoning or the Department of Permits and Licenses but, in the judgment of the Zoning Commissioner, are in insufficient detail to afford the proper administration of these Regulations with respect to that facility, the Zoning Commissioner may require that the owner or authorized agent file sufficiently detailed plans within the 1 year period. (The mere submission of plans under the subparagraph will not establish the legality of any Class I trucking facility.)

2. Within 30 days after the effective date of this section, the Zoning Commissioner shall publish a checklist of requirements for plans submitted pursuant to Subparagraph 1, above. The checklist must indicate, among other things, 1 or more acceptable scales to which plans must be drawn.

B. Rulings etc. as to nonconformance with respect to certain provisions.

1. Within 1 year after the date the Zoning Commissioner accepts plans for a trucking facility as required under Subparagraph 410.1.A.1, he shall review them and issue a ruling whether or not the facility conforms with the provisions listed in Subparagraph 2 and, if not conforming with any such provision, whether the nonconformance may be allowed to stand under the provisions of Subparagraph 3. If the provision requires the recommendation or approval of authorities other than the Zoning Commissioner, the ruling with respect to conformance with that the provision may be made only upon such recommendation or approval.

1. IF THE OWNER OR OR AUTHORIZED AGENT FOR A CLASS I TRUCKING FACILITY BELIEVES THAT APPROVED PLANS OF THAT TRUCKING FACILITY ARE ON FILE WITH THE OFFICE OF PLANNING AND ZONING OR DEPARTMENT OF PERMITS AND LICENSES ON THE EFFECTIVE DATE OF THIS SECTION, HE MUST SO NOTIFY THE ZONING COMMISSIONER, IN WRITING, WITHIN 6 MONTHS AFTER THAT DATE, UNLESS HE HAS FILED OR WILL FILE PLANS AS PROVIDED IN SUBPARAGRAPH 2, BELOW, WITHIN 30 DAYS AFTER HE RECEIVES THE WRITTEN NOTICE. THE ZONING COMMISSIONER SHALL INFORM THE OWNER OR AGENT WHETHER THE PLANS ARE, IN FACT, ON FILE AND, IF THEY ARE ON FILE, WHETHER THEY MEET THE REQUIREMENTS OF SUBPARAGRAPH 410.3.C.1. IF

F. With the exception of plans for conforming Class 1 I trucking facilities in M.H. zones, plans approved under this subsection may be amended only by special exception.

G. Public information program on provisions of this section and Section 410A. For the period from the beginning of the 2nd month to the end of the 12th month after the date of enactment of this section, the Zoning Commissioner shall implement a program of public information regarding the provisions of this section and Section 410A, with emphasis on the provisions of this subsection and Subsection 410A.1. In particular, he shall endeavor to ensure that any party responsible for complying with these sections is informed of the provisions therein. (However, the failure of the Zoning Commissioner to inform any party of the provisions of these sections will not constitute a legal justification for that party's failure to comply with them.)

410.2 Location. No Class  $\pm$  I trucking facility or part thereof (including any access point or driveway) established on or after the effective date of this section may be located within 200 feet of a wetland or, with the exception of accessory passenger-automobile parking areas, within 300 feet of a dwelling or a residential zone. No passenger-automobile parking area or part thereof accessory to a Class  $\pm$  I trucking facility may be located within 25 feet of a dwelling or a residential zone.

410.3 Site and development standards; plans; operation. The standards of this subsection apply to Class  $\pm$  I trucking facilities established on or after the effective date hereof, to conforming Class  $\pm$  I trucking facilities established before that date and hereafter expanded or otherwise changed, and, to the extent specified in Subsection 410.1, to nonconforming Class  $\pm$  I trucking facilities.

A. Access points.

1. Any point of access to a public street must be on a public industrial service road, on an arterial street, or on a major collector street, except that—

a. No access point on a public industrial service road is permitted unless the service road has direct access to an arterial street, an expressway, or a freeway, and unless the place of that access is closer to the use in question than any point of access the service road may have to a motorway other than an arterial street, an expressway, or a freeway; and

b. No access point on a major collector street is permitted unless the access point is within a travel distance of  $\frac{1}{4}$  mile from the major collector street's access to an arterial street, an expressway, or a freeway.

2. The curb tangent length between access points must be at least 100 feet, except that a shorter length may be allowed or greater length required by the Zoning Commissioner on recommendation of the County trucking-facilities-development officials. The number, widths, and channelization (if any) of access points shall be as required by the Zoning Commissioner, after recommendation of the County trucking-facilities-development officials and, in the case of access points on a State-maintained highway, recommendation of the State Highway Administration.

B. Other site and development standards.

1. Unless the lot on which the facility is situated lies within a planned industrial park, the net area of the lot must be at least 3 acres and its diametral dimension must be at least 150 feet. (This subparagraph does not limit the number of trucking facilities that may be situated on a lot of the minimum size.)

2. Contrary provisions of these regulations notwithstanding, the trucking facility's floor area ratio may not exceed 0.1.

3. The layout of improvements must be such as to provide for convenient forward movement of vehicles leaving or entering the site and such as to preclude any likelihood that trucks will be unable to gain immediate access onto the site at any time, as determined by the Zoning Commissioner after recommendation by the County trucking-facilities-development officials.

4. The minimum area of the surface that must be provided for parking of truck tractors and trailers on the site, not including maneuvering area, is 1,320 square feet per loading berth. However, a lesser area may be allowed or greater area required by the Zoning Commissioner after recommendation by the County trucking-facilities-development officials. (See Section 409 for automobile-parking requirements.)

5. That part of the site devoted to trucking operations (not including the automobile-parking area) must be surrounded by security fencing at least 6 feet high. Further, except for approved access points, the site as a

5. EXCEPT IN AN M.H. ZONE, THAT PART OF THE SITE DEVOTED TO TRUCKING OPERATIONS (NOT INCLUDING THE AUTOMOBILE-PARKING AREA) MUST BE SURROUNDED BY SECURITY FENCING AT LEAST 6 FEET HIGH. IN ANY ZONE, EXCEPT FOR APPROVED ACCESS POINTS, THE SITE AS A whole must be enclosed or partially enclosed by opaque fencing, walls, or living screen planting to visually screen the use and its accessory uses from residential zones, from residential premises, or from churches, schools, hospitals, or other, similar institutional uses, and to prevent possible extension of uses beyond the site boundaries. The height of the

visual screening must be at least 6 feet, except that screen planting may be as low as 3 feet from the ground at the time of planting if it is of such a variety that it can reasonably be expected to be at least 6 feet high no more than 2 years after it is planted. In any case, planting must be such as to provide full screening effect within 2 years after it is planted and must be maintained in good condition. Further, all fencing and screening must be in accordance with adopted design provisions (as defined in Section 101).

6. Wheel stops or other means must be provided to protect walls, fencing, or screen planting.

7. All parking, loading, and maneuvering areas must be paved in accordance with adopted design provisions (as defined in Section 101), FORMULATED AFTER CONSULTATION WITH AND RECOMMENDATION BY THE COUNTY TRUCKING - FACILITIES - DEVELOPMENT OFFICIALS. Curbing at the edges of paved areas must be provided if required by the Zoning Commissioner, on recommendation of the County trucking-facilities-development officials.

8. Proper drainage of the entire site must be provided for. On-site storm-water-detention or controlled-release facilities may be required by the Department of Public Works.

9. Adequate rest-room facilities (for both sexes), a drivers' room, and telephone service for the truck drivers and other personnel must be provided on the site.

C. Plans and operation.

1. The plans for a Class  $\pm$  I trucking facility submitted in or with an application to Baltimore County for any permit to establish or alter such a facility, or submitted in pursuance of any provision of these Zoning Regulations, must show the layout and operation of the use in detail that is sufficient for the Zoning Commissioner to determine whether and in what manner the facility will meet the requirements of these Zoning Regulations and must be certified by a professional engineer (registered as such under the provisions of Article 75 $\frac{1}{2}$  of the Annotated Code of Maryland, 1957, 1975 Replacement Volume 7A ) or by a professional who is not an engineer but who is registered under law as competent to certify the accuracy of the plans. The operation, as well as the development, of the use must be in accord with the approved plans. In particular, the number of vehicles (including trailers) on the site must not at any time exceed the number provided for by the plans.

2. Automotive parts must be concealed from off-site view. Junk vehicles may not be stored or otherwise situated on the site.

3. In the granting of a special exception authorizing the establishment of a Class  $\pm$  I trucking facility, the Zoning Commissioner may impose (in addition to any other reasonable restriction) reasonable limitations on hours of operation.

410.4 ACTIONS OF COUNTY OFFICIALS TO BE CONSISTENT WITH CERTAIN PURPOSES.

A. CONSISTENCY OF ACTIONS WITH PURPOSES. WHENEVER THE ZONING COMMISSIONER, THE COUNTY TRUCKING-FACILITIES-DEVELOPMENT OFFICIALS, OR ANY OTHER COUNTY OFFICIAL OR OFFICIALS TAKE AN ACTION PURSUANT TO THE PROVISIONS OF THIS SECTION, THAT ACTION MUST, WHERE APPLICABLE, BE AS CONSISTENT AS IS FEASIBLE WITH THE PURPOSES OF THIS SECTION, AS SET FORTH IN PARAGRAPH B, BELOW, AND ELSEWHERE IN THIS SECTION, AND WITH THE OTHER PURPOSES OF THESE REGULATIONS, IN GENERAL (INCLUDING THE PURPOSES SET FORTH IN TITLE 22 OF THE BALTIMORE COUNTY CODE 1968).

B. PURPOSES. IN ADDITION TO OTHER PURPOSES IMPLIED OR EXPRESSED IN OTHER PROVISIONS, THE PURPOSES OF THIS SECTION ARE --

1. TO PROMOTE THE SPATIAL CONSOLIDATION OF TRUCKING FACILITIES, SUCH AS JOINT USE OF LARGER SITES, SO THAT THE NUMBER OF LOCATIONS OR TRUCKING FACILITIES WILL NOT BE EXCESSIVE WITH RESPECT TO THE PUBLIC INTEREST AND SO AS TO PROVIDE FOR GREATER FLEXIBILITY IN THE LAYOUT OF INDIVIDUAL SITES.

2. TO ASSURE THAT THE IMPROVEMENTS ON THE SITES OF EXISTING AND FUTURE CLASS I TRUCKING FACILITIES ARE OF SUCH DESIGN, QUALITY, OR CHARACTER THAT THEY WILL NOT BE LIKELY TO DETERIORATE IN SUCH A WAY THAT A PUBLIC NUISANCE WOULD BE CREATED OR THAT THE PUBLIC INTEREST WOULD OTHERWISE BE ADVERSELY AFFECTED.

3. TO MINIMIZE HEAVY-TRUCK TRAFFIC ON MOTORWAYS OTHER THAN FREEWAYS, EXPRESSWAYS, OR ARTERIAL STREETS.

4. TO MINIMIZE THE OFF-PREMISES PARKING OR STORAGE OF VEHICLES ASSOCIATED WITH EXISTING AND FUTURE CLASS I TRUCKING FACILITIES.

5. TO PROMOTE THE ON-SITE PROVISION OF IMPORTANT CONVENIENCES SO THAT EMPLOYEES OR OTHERS ASSOCIATED WITH EXISTING AND FUTURE CLASS I TRUCKING FACILITIES

ITIES NEED NOT SEEK SUCH CONVENIENCES IN OR ABOUT THE HOMES OR BUSINESS ESTABLISHMENTS OF OTHERS OR IN OTHER INAPPROPRIATE PLACES.

6. TO PROVIDE THE COUNTY GOVERNMENT WITH PLANS AND OTHER RECORDS THAT ARE SUFFICIENTLY DETAILED TO AFFORD PROPER ADMINISTRATION OF THIS SECTION AND RELATED PROVISIONS.

7. IN GENERAL, TO ACCOMMODATE TRUCKING ACTIVITIES, IN RECOGNITION OF THEIR IMPORTANCE TO THE ECONOMY OF THE COUNTY AND THE NATION, WHILE MINIMIZING THE IMPACT OF EXISTING AND FUTURE CLASS I TRUCKING FACILITIES ON THE ENVIRONMENT AND ACHIEVING AN OPTIMUM LEVEL OF COMPATIBILITY BETWEEN SUCH FACILITIES AND NEARBY USES, ESPECIALLY DWELLINGS AND INSTITUTIONAL USES.

SECTION 20. *Be it further enacted*, that new Section 410A be and it is hereby added to said regulations, to read as follows:

Section 410A CLASS II TRUCKING FACILITIES (TRUCK YARDS ETC.)

Section 410A.1 Nonconforming and other existing Class II trucking facilities. The provisions of this subsection apply to Class II trucking facilities existing on the effective date of this section.

A. Plans.

1. In the case of any Class II trucking facility for which approved plans are not on file with the Office of Planning and Zoning or the Department of Permits and Licenses on the effective date of this section, the owner of or authorized agent for the trucking facility must file plans of the facility with the Zoning Commissioner within 1 year after that date. (See Subparagraph 410A.3.C.1 for requirements. See also Subparagraph 2, below.) Where the plans for a Class II trucking facility are on file with the Office of Planning and Zoning or the Department of Permits and Licenses but, in the judgment of the Zoning Commissioner, are in insufficient detail to afford the proper administration of these Regulations with respect to that facility the Zoning Commissioner may require that the owner or authorized agent file sufficiently detailed plans within the 1 year period. (The mere submission of plans under this subparagraph will not establish the legality of any Class II trucking facility.)

2. Within 30 days after the effective date of this section, the Zoning Commissioner shall publish a checklist of requirements for plans submitted pursuant to Subparagraph 1, above. The checklist must

indicate, among other things, 1 or more acceptable scales to which plans must be drawn.

3. Rulings etc. as to nonconformance with respect to certain provisions.

1. Within 1 year after the date the Zoning Commissioner accepts plans for a trucking facility as required under Subparagraph 410A.1.A.1, he shall review them and issue a ruling whether or not the facility conforms with the provisions listed in Subparagraph 2 and, if not conforming with any such provision, whether the nonconformance may be allowed to stand under the provisions of Subparagraph 3. If the provision requires the recommendation or approval of authorities other than the Zoning Commissioner, the ruling with respect to conformance with that provision may be made only upon such recommendation or approval.

1. IF THE OWNER OF OR AUTHORIZED AGENT FOR A CLASS II TRUCKING FACILITY BELIEVES THAT APPROVED PLANS OF THAT FACILITY ARE ON FILE WITH THE OFFICE OF PLANNING AND ZONING OR DEPARTMENT OF PERMITS AND LICENSES ON THE EFFECTIVE DATE OF THIS SECTION, HE MUST SO NOTIFY THE ZONING COMMISSIONER, IN WRITING, WITHIN 6 MONTHS AFTER THAT DATE, UNLESS HE HAS FILED OR WILL FILE PLANS AS PROVIDED IN SUBPARAGRAPH 2, BELOW, WITHIN 30 DAYS AFTER HE RECEIVES THE WRITTEN NOTICE, THE ZONING COMMISSIONER SHALL INFORM THE OWNER OR AGENT WHETHER THE PLANS ARE, IN FACT, ON FILE AND, IF THEY ARE ON FILE, WHETHER THEY MEET THE REQUIREMENTS OF SUBPARAGRAPH 410A.3.C.1. IF THE PLANS DO NOT MEET THOSE REQUIREMENTS, THE OWNER OR AGENT SHALL FILE PLANS THAT DO MEET THE REQUIREMENTS WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION.

2. IF APPROVED PLANS OF A CLASS II TRUCKING FACILITY ARE NOT ON FILE WITH THE OFFICE OF PLANNING AND ZONING OR THE DEPARTMENT OF PERMITS AND LICENSES ON THE EFFECTIVE DATE OF THIS SECTION OR IF THE ZONING COMMISSIONER IS NOT NOTIFIED IN ACCORDANCE WITH SUBPARAGRAPH 1, THE OWNER OF OR AUTHORIZED AGENT FOR THE TRUCKING FACILITY MUST FILE PLANS OF THE FACILITY, MEETING THE REQUIREMENTS OF SUBPARAGRAPH 410A.3.C.1, WITHIN 1 YEAR AFTER THAT DATE.

3. WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE ZONING COMMISSIONER SHALL PUBLISH A CHECKLIST OF REQUIREMENTS FOR PLANS SUBMITTED

PURSUANT TO SUBPARAGRAPH 2. THE CHECKLIST MUST INDICATE, AMONG OTHER THINGS, 1 OR MORE ACCEPTABLE SCALES TO WHICH PLANS MUST BE DRAWN.

4. THE MERE SUBMISSION OF PLANS UNDER THIS PARAGRAPH WILL NOT ESTABLISH THE LEGALITY OF ANY CLASS II TRUCKING FACILITY.

B. RULINGS ETC. AS TO NONCONFORMANCE WITH RESPECT TO CERTAIN PROVISIONS.

1. WITHIN 1 YEAR AFTER THE DATE THE ZONING COMMISSIONER ACKNOWLEDGES THE ADEQUACY OF PREVIOUSLY FILED PLANS OF A TRUCKING FACILITY OR ACCEPTS NEW PLANS FOR THE FACILITY, AS PROVIDED UNDER PARAGRAPH A, HE SHALL REVIEW THE PLANS AND ISSUE A RULING WHETHER OR NOT THE FACILITY CONFORMS WITH THE PROVISIONS LISTED IN SUBPARAGRAPH 2 (BELOW) AND, IF NOT CONFORMING WITH ANY SUCH PROVISION, WHETHER THE NONCONFORMANCE MAY BE ALLOWED TO STAND UNDER THE PROVISIONS OF SUBPARAGRAPH 3. IF THE PROVISION REQUIRES THE RECOMMENDATION OR APPROVAL OF AUTHORITIES OTHER THAN THE ZONING COMMISSIONER, THE RULING WITH RESPECT TO CONFORMANCE WITH THAT PROVISION MAY BE MADE ONLY UPON SUCH RECOMMENDATION OR APPROVAL.

2. The provisions with respect to which the Zoning Commissioner shall issue rulings under Subparagraph 1 are the following:

- Subparagraph 409.2.b(9) (automobile parking)
- ~~Subparagraph 410.3.A.1~~ 410A.3.A.1 (access to streets)
- Subparagraph 410A.3.B.2 (layout such as not to cause congestion)
- Subparagraph 410A.3.B.4 (fencing etc.)
- Subparagraph 410A.3.B.5 (wheel stops etc.)
- Subparagraph 410A.3.B.6 (paving and curbing)
- Subparagraph 410A.3.B.7 (drainage)
- Subparagraph 410A.3.B.8 (rest rooms and other conveniences)
- Subparagraph 410A.3.C.2 (concealment of automotive parts; JUNK VEHICLES)

3. A trucking facility's nonconformance with Subparagraph 409.2.b(9) shall be allowed to stand if a variance to that subparagraph is granted pursuant to Section 307 of these Regulations and Section 22-23 of the Baltimore County Code 1968, as amended by Bill No. 72.

1969. Nonconformance with Subparagraph 410A.3.A.1 shall be allowed to stand if the site of the trucking facility does not abut a street on which access is permitted under that subparagraph or, if it does abut such a street, the County trucking-facilities-development officials determine that the length of the coextensive street line and site boundary is insufficient to permit proper access from that street. However, in any case where access that is not in accordance with Subparagraph 410A.3.A.1 is allowed to remain, the Zoning Commissioner shall have the power to prescribe the route that trucks must use in reaching or on leaving the site, in accordance with a recommendation of the County trucking-facilities-development officials.

C. Procedure etc. in case of nonconformance with respect to certain provisions. If the Zoning Commissioner, under Subparagraph 410A.1.B.1, rules that a trucking facility does not conform with a provision listed in Subparagraph 410A.1.B.2 and if the nonconformance with that provision is not allowed to stand under Subparagraph 410A.1.B.3, 1 or both of the courses of action set forth in Subparagraphs 1 and 2, below, must be followed.

1. Within 90 days of the date of the Zoning Commissioner's ruling, the owner or agent must file with the Zoning Commissioner an acceptable program of compliance, showing that conformance with each provision in question will be achieved within 27 months after the date of the ruling. The program must include, among other things that the Zoning Commissioner may reasonably require, a) a plan of the trucking facility as it will be upon conformance as required and b) the schedule under which conformance will be achieved. The Zoning Commissioner may refuse to accept any such program that, in his judgment, does not show that approximately half of all the work to be completed under the program will be done by the end of the 15th month after the date of the ruling or does not meet other requirements of these Zoning Regulations. The trucking facility covered by a program of compliance submitted pursuant to this subparagraph must be in partial compliance with the provisions in question by the end of the 15th month after the date of the ruling, as shown in the program, and must be in full compliance with all such provisions at the end of the 27th month after the date of the ruling. Or,

2. Within 90 days after the date of the Zoning Commissioner's ruling, the owner or agent must file with the Zoning Commissioner a petition requesting that the facility not be required to conform with a provision in question, the petition to be advertised and heard in accordance with the provisions of Subsection 500.7. No relief may be granted under this subparagraph, however, unless the petitioner shows that conformance with the provision would cause undue hardship and would not be in the interest of the general welfare of the community, with particular consideration given to any dwellings within 300 feet of the facility. Such relief may be granted to the extent necessary to eliminate

undue hardship, and only to that extent, and only in keeping with the intent of these Zoning Regulations in general and this section in particular; relief may not be granted to an extent detrimental to the general welfare of the community. Where relief is sought but not granted under this subparagraph, the Zoning Commissioner shall require a program of compliance such as that provided for under Subparagraph 1, above, and shall provide for enforcement of that program. In any case, the trucking facility must conform with any provision from which relief is not granted under this subparagraph within 27 months of the date of the Zoning Commissioner's ruling pursuant to Subparagraph 410A.1.B.1.

D. Effects of failure to comply.

1. The failure of an owner or authorized agent for a Class  $\pm$  II trucking facility to comply with an applicable requirement of Paragraph A or C, above, or failure to comply with an order by the Zoning Commissioner prescribing a truck route as provided in Subparagraph 3 of Paragraph B, shall constitute a violation of these Zoning Regulations.

2. The right to continue any Class  $\pm$  II trucking facility that was established before the effective date of this section and whose owner or agent has failed to comply with an applicable requirement of Paragraph A shall cease 3 years after that date, unless the facility conforms or has been changed to conform with all provisions of these Zoning Regulations, as if it were a new use.

3. The right to continue any Class  $\pm$  II trucking facility that was established before the effective date of this section and whose owner or agent has complied with the applicable requirements of Paragraph A but has failed to comply with an applicable requirement of Paragraph C shall cease 3 years after the date of the Zoning Commissioner's ruling issued pursuant to Subparagraph 1 of Paragraph B, unless the facility conforms or has been changed to conform with all provisions of these Zoning Regulations, as if it were a new use.

~~E. Expansion of nonconforming Class II trucking facilities. Any contrary provision of Section 104 notwithstanding, the site, structures, and paved areas of a nonconforming Class II trucking facility may not be expanded unless the use is made to conform in all respects with these Zoning Regulations, except that expansion to the minimum extent necessary to comply with the standards of Subsection 410A.3 may be allowed by the Zoning Commissioner, under an order issued pursuant to Paragraph B, C, or D of this subsection, provided that the expansion is not in excess of that allowed under Section 104 and that in the judgment of the Zoning Commissioner, the expansion would be in the interest of the general welfare of the community.~~

~~E. EXPANSION OF NONCONFORMING CLASS II TRUCKING FACILITIES. THE SITE, STRUCTURES, AND PAVED AREAS OF A NONCONFORMING CLASS II TRUCKING FACILITY MAY NOT BE EXPANDED UNLESS THE USE IS MADE TO CONFORM IN ALL RESPECTS WITH THESE ZONING REGULATIONS OR EXCEPT AS FOLLOWS:~~

~~1. EXPANSION TO THE MINIMUM EXTENT NECESSARY TO COMPLY WITH THE STANDARDS OF SUBSECTION 410A.3 MAY BE ALLOWED BY THE ZONING COMMISSIONER, AFTER PUBLIC HEARING, PROVIDED THAT THE EXPANSION IS NOT IN EXCESS OF THAT ALLOWED UNDER SECTION 104 AND THAT, IN THE JUDGMENT OF THE ZONING COMMISSIONER, THE EXPANSION WOULD BE IN THE INTEREST OF THE GENERAL WELFARE OF THE COMMUNITY, WITH PARTICULAR CONSIDERATION GIVEN TO ANY DWELLINGS WITHIN 300 FEET OF THE TRUCKING FACILITY.~~

~~2. OPERATIONS OF THE TRUCKING FACILITY MAY BE ENCLOSED WITHIN BUILDINGS, EVEN THOUGH THE CONSTRUCTION OF BUILDINGS OR ENLARGEMENT OF EXISTING BUILDINGS NECESSARY TO DO SO WOULD RESULT IN AN EXPANSION BEYOND THE LIMIT PROPOSED UNDER SECTION 104, PROVIDED THAT THE TRUCKING FACILITY IS IN AN M.L. OR M.H. ZONE AND THAT THE ZONING COMMISSIONER FINDS, AFTER PUBLIC HEARING, THAT THE ENCLOSURE WOULD LESSEN THE NET OVERALL ENVIRONMENTAL IMPACT OF THE FACILITY AND WOULD OTHERWISE BE IN THE INTEREST OF THE GENERAL WELFARE OF THE COMMUNITY.~~

~~F. With the exception of plans for conforming Class II trucking facilities in M.H. zones, plans approved under this subsection may be amended only by special exception.~~

~~410A.2 Location. Proximity to residential zone or wetland. No Class II trucking facility or part thereof (including any access point or driveway) established on or after the effective date of this section may be located within 200 feet of a wetland or, with the exception of accessory passenger-automobile parking areas, within 300 feet of a dwelling or a residential zone. No passenger-automobile parking area or part thereof accessory to a Class  $\pm$  II trucking facility may be located within 25 feet of a dwelling or a residential zone.~~

~~410A.3 Site and development standards; plans; operation. The standards of this subsection apply to Class  $\pm$  II trucking facilities established on or after the effective date hereof, to conforming Class II trucking facilities established before that date and hereafter expanded or otherwise changed, and, to the extent specified in Subsection 410A.1, to nonconforming Class  $\pm$  II trucking facilities.~~

A. Access points.

1. Any point of access to a public street must be on a public industrial service road, on an arterial street, or on a major collector street, except that —

a. No access point on a public industrial service road is permitted unless the service road has direct access to an arterial street, an expressway, or a freeway, and unless the place of that access is closer to the use in question than any point of access the service road may have to a motorway other than an arterial street, an expressway, or a freeway; and

b. No access point on a major collector street is permitted unless the access point is within a travel distance of  $\frac{1}{4}$  mile from the major collector street's access to an arterial street, an expressway, or a freeway.

2. The curb tangent length between access points must be at least 100 feet, except that a shorter length may be allowed or greater length required by the Zoning Commissioner on recommendation of the County trucking-facilities-development officials. The number, widths, and channelization (if any) of access points shall be as required by the Zoning Commissioner, after recommendation of the County trucking-facilities-development officials and, in the case of access points on a State-maintained highway, recommendation of the State Highway Administration.

B. Other site and development standards.

1. Unless the lot on which the facility is situated lies within a planned industrial park, the net area of the lot must be at least 5 acres and its diametral dimension must be at least 150 feet. (This subparagraph does not limit the number of trucking facilities that may be situated on a lot of the minimum size.)

2. The layout of improvements must be such as to provide for convenient forward movement of vehicles leaving or entering the site and such as to preclude any likelihood that trucks will be unable to gain immediate access onto the site at any time, as determined by the Zoning Commissioner after recommendation by the County trucking-facilities-development officials.

3. At least 75 per cent of that part of the site devoted to trucking operations must be devoted to parking of truck tractors and trailers, not including maneuvering area. (See Section 409 for automobile-parking requirements.)

4. That part of the site devoted to trucking operations (not including the automobile-parking area) must be surrounded by security fencing at least 6 feet high. Further, except for approved access points, the site

4. EXCEPT IN AN M.H. ZONE, THAT PART OF THE SITE DEVOTED TO TRUCKING OPERATIONS (NOT INCLUDING THE AUTOMOBILE-PARKING AREA) MUST BE SURROUNDED BY SECURITY FENCING AT LEAST 6 FEET HIGH. IN ANY ZONE, EXCEPT FOR APPROVED ACCESS POINTS, THE SITE as a whole must be enclosed or partially enclosed by opaque fencing, walls, or living screen planting to visually screen the use and its accessory uses from residential zones, from residential premises or from churches, schools, hospitals, or other, similar institutional uses, and to prevent extension of uses beyond the site boundaries. The height of the visual screening must be at least 6 feet, except that screen planting may be as low as 3 feet from the ground at the time of planting if it is of such a variety that it can reasonably be expected to be at least 6 feet high no more than 2 years after it is planted. In any case, planting must be such as to provide full screening effect within 2 years after it is planted and must be maintained in good condition. Further, all fencing and screening must be in accordance with adopted design provisions (as defined in Section 101).

5. Wheel stops or other means must be provided to protect walls, fencing, or screen planting.

6. All parking, loading, and maneuvering areas must be paved in accordance with adopted design provisions (as defined in Section 101), FORMULATED AFTER CONSULTATION WITH AND RECOMMENDATION BY THE COUNTY TRUCKING-FACILITIES-DEVELOPMENT OFFICIALS. Curbing at the edges of paved areas must be provided if required by the Zoning Commissioner, on recommendation of the County trucking-facilities-development officials.

7. Proper drainage of the entire site must be provided for. On-site storm-water-detention or controlled-release facilities may be required by the Department of Public Works.

8. Adequate rest-room facilities (for both sexes), a drivers' room, and telephone service for the truck drivers and other personnel must be provided on the site.

C. Plans and operation.

1. The plans for a Class II trucking facility submitted in or with an application to Baltimore County for any permit to establish or alter such a facility, or submitted in pursuance of any provision of these Zoning Regulations, must show the layout and operation of the use in detail that is sufficient for the Zoning Commissioner to determine whether and in what manner the facility will meet the requirements of

these Zoning Regulations and must be certified by a professional engineer or other competent professional (as described in Subparagraph 410.3.C.1). The operation, as well as the development, of the use must be in accord with the approved plans. In particular, the number of vehicles (including trailers) on the site must not at any time exceed the number provided for by the plans.

2. Automotive parts must be concealed from off-site view. Junk vehicles may not be stored or otherwise situated on the site.

3. In the granting of a special exception authorizing the establishment of a Class II trucking facility, the Zoning Commissioner may impose (in addition to any other reasonable restriction) reasonable limitations on hours of operation.

401A.4 - ACTIONS OF COUNTY OFFICIALS TO BE CONSISTENT WITH CERTAIN PROVISIONS.

A. CONSISTENCY OF ACTIONS WITH PURPOSES. WHENEVER THE ZONING COMMISSIONER, THE COUNTY TRUCKING-FACILITIES-DEVELOPMENT OFFICIALS, OR ANY OTHER COUNTY OFFICIAL OR OFFICIALS TAKE AN ACTION PURSUANT TO THE PROVISIONS OF THIS SECTION, THAT ACTION MUST, WHERE APPLICABLE, BE AS CONSISTENT AS IS FEASIBLE WITH THE PURPOSES OF THIS SECTION, AS SET FORTH IN PARAGRAPH B, BELOW, AND ELSEWHERE IN THIS SECTION, AND WITH THE OTHER PURPOSES OF THESE REGULATIONS, IN GENERAL (INCLUDING THE PURPOSES SET FORTH IN TITLE 22 OF THE BALTIMORE COUNTY CODE 1968).

B. PURPOSES. IN ADDITION TO OTHER PURPOSES IMPLIED OR EXPRESSED IN OTHER PROVISIONS, THE PURPOSES OF THIS SECTION ARE -

1. TO PROMOTE THE SPATIAL CONSOLIDATION OF TRUCKING FACILITIES, SUCH AS JOINT USE OF LARGER SITES, SO THAT THE NUMBER OF LOCATIONS OF TRUCKING FACILITIES WILL NOT BE EXCESSIVE WITH RESPECT TO THE PUBLIC INTEREST AND SO AS TO PROVIDE FOR GREATER FLEXIBILITY IN THE LAYOUT OF INDIVIDUAL SITES.

2. TO ASSURE THAT THE IMPROVEMENTS ON THE SITES OF EXISTING AND FUTURE CLASS II TRUCKING FACILITIES ARE OF SUCH DESIGN, QUALITY, OR CHARACTER THAT THEY WILL NOT BE LIKELY TO DETERIORATE IN SUCH A WAY THAT A PUBLIC NUISANCE WOULD BE CREATED OR THAT THE PUBLIC INTEREST WOULD OTHERWISE BE ADVERSELY AFFECTED.

3. TO MINIMIZE HEAVY-TRUCK TRAFFIC ON MOTORWAYS OTHER THAN FREEWAYS, EXPRESSWAYS, OR ARTERIAL STREETS.

4. TO MINIMIZE THE OFF-PREMISES PARKING OR STORAGE OF VEHICLES ASSOCIATED WITH EXISTING AND FUTURE CLASS II TRUCKING FACILITIES.

5. TO PROMOTE THE ON-SITE PROVISION OF IMPORTANT CONVENIENCES SO THAT EMPLOYEES OR OTHER ASSOCIATED WITH EXISTING AND FUTURE CLASS II TRUCKING-FACILITIES NEED NOT SEEK SUCH CONVENIENCES IN OR ABOUT THE HOMES OR BUSINESS ESTABLISHMENTS OF OTHERS OR IN OTHER INAPPROPRIATE PLACES.

6. TO PROVIDE THE COUNTY GOVERNMENT WITH PLANS AND OTHER RECORDS THAT ARE SUFFICIENTLY DETAILED TO AFFORD PROPER ADMINISTRATION OF THIS SECTION AND RELATED PROVISIONS.

7. IN GENERAL, TO ACCOMMODATE TRUCKING ACTIVITIES, IN RECOGNITION OF THEIR IMPORTANCE TO THE ECONOMY OF THE COUNTY AND THE NATION, WHILE MINIMIZING THE IMPACT OF EXISTING AND FUTURE CLASS II TRUCKING FACILITIES ON THE ENVIRONMENT AND ACHIEVING AN OPTIMUM LEVEL OF COMPATIBILITY BETWEEN SUCH FACILITIES AND NEARBY USES, ESPECIALLY DWELLINGS AND INSTITUTIONAL USES.

SECTION 21. *Be it further enacted*, that Subsection 500.7 of said regulations, be and it is hereby repealed and re-enacted with amendments, to read as follows:

500.7 The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the COUNTY Board of Zoning Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these Regulations.

*With respect to any zoning petition other than a petition for a special exception, variance, or reclassification, the Zoning Commissioner shall schedule a public hearing for a date not less than 30 days after the petition is accepted for filing. If the petition relates to a specific*

property, notice of the time and place of the hearing shall be conspicuously posted on the property for a period of least 15 days before the time of the hearing. Whether or not a specific property is involved, notice shall be given for the same period of time in at least two newspapers of general circulation in the County. The notice shall describe the property, if any, and the action requested in the petition. Upon establishing a hearing date for the petition, the Zoning Commissioner shall promptly forward a copy thereof to the Director of Planning (or his deputy) for his consideration and for a written report containing his findings thereon with regard to planning factors.

~~SECTION 23. And be it further enacted, that this Act shall take effect forty-five days after its enactment.~~

SECTION 22. AND BE IT FURTHER ENACTED, THAT THIS ACT IS HEREBY DECLARED TO BE AN EMERGENCY MEASURE AFFECTING THE PUBLIC HEALTH, SAFETY OR WELFARE, AND, HAVING BEEN PASSED BY THE AFFIRMATIVE VOTE OF FIVE MEMBERS OF THE COUNTY COUNCIL, THE SAME SHALL TAKE EFFECT FROM THE DATE OF ITS ENACTMENT.

READ AND PASSED this 13th day of April, 1976.

By Order:

Thomas Toporovich, Secretary

PRESENTED to the County Executive, for his approval this 14th day of April, 1976.

Thomas Toporovich, Secretary

APPROVED AND ENACTED: April 19, 1976.

Theodore G. Venetoulis,  
County Executive

I HEREBY CERTIFY THAT BILL NO. 18 IS TRUE AND CORRECT AND TOOK EFFECT ON APRIL 19, 1976.

John W. O'Rourke,  
Chairman, County Council

EXPLANATION: *Italics indicate new matter added to existing law.*  
*[Brackets] indicate matter stricken from existing law.*  
CAPITALS indicate amendments to bill.  
~~Strike-out~~ indicates matter stricken out of bill.

Final Report of the  
Baltimore County Planning Board  
Adopted February 19, 1976

PROPOSED ZONING AMENDMENTS:  
TRUCKING FACILITIES

Baltimore County Office of Planning and Zoning  
Towson, Maryland 21204

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PROPOSED ZONING AMENDMENTS:  
TRUCKING FACILITIES

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A Final Report of the Baltimore County Planning Board\*

DISCUSSION

At this point in history, the trucking industry might be described as the life-blood system of American commerce. Trucks move goods with flexibility unmatched by any other present mode of transportation.

Unfortunately, the facilities that serve and are served by the trucking industry are frequently incompatible with other business and industrial establishments. And, needless to say, they are totally inappropriate in or near residential areas: while most citizens have probably come to accept the noise and fumes of large tractor-trailers driving along major highways, they cannot find it so easy to accept the concentration of these factors at a truck terminal or truck yard operating day and night close to their homes.

The fact is, however, that a number of trucking facilities have been established too close to the homes of Baltimore County citizens over the years, especially in communities near major industrial areas. And it is not only the on-premise truck operations that have caused problems, for the facilities are frequently so situated that trucks must gain access to them by way of small, residential streets.

By and large, the trucking facilities causing these problems have been established in accordance with present zoning regulations. It has become apparent that those regulations are inadequate in many respects—not just in their lack of safeguards for the welfare of residential areas adjacent to trucking-facility sites, but also in their failure to prescribe modern development standards.

It is the purpose of the regulations proposed here to remedy those deficiencies, both in terms of control over the development of new facilities and in terms of remedial measures applicable to existing ones.

The proposed regulations are based to a large extent on recommendations of the special Citizens Task Force on Truck Terminals, appointed by County Executive Theodore G. Venetoulis and chaired by Councilman John W. O'Rourke. The Planning Board has reviewed the Task Force proposal over a period of several months, has revised it, and has held a public hearing on the revised proposal. Now the Board has again revised the recommendations and offers them, in this final report, for consideration by the County Council.

\* \* \*

NOTE: The appendix to this report indicates the zoning classifications under which various truck-oriented uses would be permitted as of right, allowable by special exception, or prohibited under the proposed legislation.

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\*Adopted February 19, 1976.

## RECOMMENDATIONS

It is recommended that the Baltimore County Zoning Regulations\* be amended as set forth below:

1. In Section 101, insert the following definitional entries, in alphabetical order:

Collector street, major: A street, or part of one, that: is intended for travel between neighborhoods or between neighborhoods and other places, but not for travel within neighborhoods; is not an arterial street; and has been designated as a major collector street by the Planning Board by the same method used to designate freeways, expressways, and arterial streets.

County trucking-facilities-development officials: The Directors of Planning, Public Works, and Traffic Engineering and of the Industrial Development Commission.

Trucking facility: A structure or land used or intended to be used primarily for trucking operations or truck or truck-trailer parking or storage, other than a warehouse, moving and storage establishment, or truck stop. A trucking facility may include, as incidental uses only, sleeping quarters and other facilities for trucking personnel, facilities for the service or repair of vehicles, or necessary space for the transitory storage of goods or chattels. As used in this definition, neither the term "trucks" nor the term "truck trailers" includes any vehicle whose maximum gross weight is 10,000 pounds or less, as rated by the State Motor Vehicle Administration.

Trucking facility, Class I (truck terminal): A trucking facility whose primary purpose is to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels.

Trucking facility, Class II: A trucking facility other than a Class I trucking facility, including a truck yard (the primary purpose of which is to accommodate the parking or storage of trucks or truck trailers).

Truck stop: A structure or land used or intended to be used primarily for the sale of fuel for trucks and, usually, incidental service or repair of trucks; or a group of facilities consisting of such a use and attendant eating, sleeping, or truck-parking facilities. As used in this definition, the term "trucks" does not include any vehicle whose maximum gross weight is 10,000 pounds or less, as rated by the State Motor Vehicle Administration.

Warehouse: A building or part of a building used or intended to be used primarily for the storage of goods or chattels that are to be sold retail or wholesale from other premises or sold wholesale from the same premises; for the storage of goods or chattels to be shipped on mail order; for the storage of equipment or materials to be used or installed at other premises by the owner or operator of the warehouse; or for similar storage purposes. (The term "warehouse" does not include a retail establishment whose primary purpose is for the sale of goods or chattels stored on the premises; however, nothing in this definition is meant to exclude purely incidental retail sales in warehouses. Further, the term does not include a truck terminal, at which any storage is minor, transitory, and merely incidental to the purpose of facilitating transportation of goods or chattels.)

\*Latest edition: 1975.

Wetland: A private wetland or a state wetland as defined in Article 21 of the Natural Resources article of the Annotated Code of Maryland, 1974, and, if a private wetland, as delineated under Section 9-301 of that article.

2. In Section 101, revise the definitional entry beginning "Automotive service station" to read as follows:

Automotive service station: A structure or land used or intended to be used primarily for the retail sale of automotive fuel, but not a truck stop.

3. In Section 101, revise the definitional entry beginning "Nonconforming Use" to read as follows:

Nonconforming use: A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use.

4. Delete the definitional entry beginning "Truck Terminal" from Section 101.
5. Revise that part of Section 104 that precedes the semicolon to read as follows:

#### Section 104—NONCONFORMING USES

A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations

6. Revise the final entry of Subsection 233.2 to read as follows:

Warehouses

7. In Subsection 236.4, delete the entry "Truck terminal;" and insert the following entries in alphabetical order:

Moving and storage establishments  
Truck stops

8. Delete the final entry in Subsection 241.1 and substitute the following entries therefor:

Warehouses  
Accessory uses

9. In Paragraph 253.2.A, delete Item 6 and insert the following in numerical order:

3A. Moving and storage establishments  
6. Trucking facilities (see Sections 410 and 410A)  
6A. Truck stops

10. In Subsection 256.2, delete the entry "Truck terminal." and insert the following entries in alphabetical order:

Moving and storage establishments  
Trucking facilities (see Sections 410 and 410A)

11. In Subsection 256.4, immediately after the entry "Trailer Park (see Section 405.4.C.12)", add the following entry:

Truck stops

12. In Article 4, immediately after the title of the article, substitute the following section designation and title for the present subtitle, "Statement of Purpose":

Section A400—PURPOSE

13. In Article 4, immediately preceding Section 400, add the following new section:

Section B400—APPLICATION OF THIS ARTICLE'S PROVISIONS

The provisions of this article apply only to principal uses except as otherwise specified (as in Item 405.4.C.12) or unless the provision implicitly relates to accessory usage (as in Section 405A).

14. In Paragraph 409.2.b, immediately after the third word, substitute "uses" for "buildings".
15. In Subparagraph 409.2.b(7), immediately after the words "commercial use", add a comma and the words "except trucking facilities".
16. In Paragraph 409.2.b, immediately after Subparagraph (7), insert the following new subparagraphs:

(8) Trucking facilities, Class I.....5 plus 1 for each 2 employees in the largest shift

(9) Trucking facilities, Class II ..... 1 for each 2 employees in the largest shift, or 1 for each 3000 square feet of total area devoted to parking of truck tractors, truck trailers, or tractor-trailers (not including truck maneuvering area or loading area), but in no case less than 10

17. In Article 4, immediately after Section 409, add the following new sections:

Section 410—CLASS I TRUCKING FACILITIES (TRUCK TERMINALS)

410.1—Nonconforming and other existing Class I trucking facilities. The provisions of this subsection apply to Class I trucking facilities existing on the effective date of this section.

A. Plans.

1. In the case of any Class I trucking facility for which approved plans are not on file with the Office of Planning and Zoning or the

1. No amendment of Section 270 is recommended in this report. That section appears to be superfluous and, in view of that and of the fact that numerous entries in Section 270 conflict with other, more-specific provisions of the Zoning Regulations, the Planning Board has recommended its repeal.

Department of Planning and Zoning. The owner of or authorized agent for the facility must file plans of the facility with the Zoning Commissioner within one year after that date. (See Subparagraph 410.3.C.1 for requirements. See also Subparagraph 2, below.) Where the plans for a Class I trucking facility are on file with the Office of Planning and Zoning or the Department of Permits and Licenses but, in the judgment of the Zoning Commissioner, are in insufficient detail to afford the proper administration of these Regulations with respect to that facility, the Zoning Commissioner may require that the owner or authorized agent file sufficiently detailed plans within the 1-year period. (The mere submission of plans under this subparagraph will not establish the legality of any Class I trucking facility.)

2. Within 30 days after the effective date of this section, the Zoning Commissioner shall publish a checklist of requirements for plans submitted pursuant to Subparagraph 1, above. The checklist must indicate, among other things, 1 or more acceptable scales to which plans must be drawn.

B. Rulings etc. as to nonconformance with respect to certain provisions.

1. Within 1 year after the date the Zoning Commissioner accepts plans for a trucking facility as required under Subparagraph 410.1.A.1, he shall review them and issue a ruling whether or not the facility conforms with the provisions listed in Subparagraph 2 and, if not conforming with any such provision, whether the nonconformance may be allowed to stand under the provisions of Subparagraph 3. If the provision requires the recommendation or approval of authorities other than the Zoning Commissioner, the ruling with respect to conformance with that provision may be made only upon such recommendation or approval.

2. The provisions with respect to which the Zoning Commissioner shall issue rulings under Subparagraph 1 are the following:

- Subparagraph 409.2.b(8) (automobile parking)
- Subparagraph 410.3.A.1 (access to streets)
- Subparagraph 410.3.B.3 (layout such as not to cause congestion)
- Subparagraph 410.3.B.5 (fencing etc.)
- Subparagraph 410.3.B.6 (wheel stops etc.)
- Subparagraph 410.3.B.7 (paving and curbing)
- Subparagraph 410.3.B.8 (drainage)
- Subparagraph 410.3.B.9 (rest rooms and other conveniences)
- Subparagraph 410.3.C.2 (concealment of automotive parts)

3. A trucking facility's nonconformance with Subparagraph 409.2.b(8) shall be allowed to stand if a variance to that subparagraph is granted pursuant to Section 307 of these Regulations and Section 22-23 of the Baltimore County Code 1968, as amended by Bill No. 72, 1969. Nonconformance with Subparagraph 410.3.A.1 shall be allowed to stand if the site of the trucking facility does not abut a street on which access is

permitted under that subparagraph or, if it does abut such a street, the County trucking-facilities-development officials determine that the length of the coextensive street line and site boundary is insufficient to permit proper access from that street. However, in any case where access that is not in accordance with Subparagraph 410.3.A.1 is allowed to remain, the Zoning Commissioner shall have the power to prescribe the route that trucks must use in reaching or on leaving the site, in accordance with a recommendation of the County trucking-facilities-development officials.

C. Procedure etc. in case of nonconformance with respect to certain provisions. If the Zoning Commissioner, under Subparagraph 410.1.B.1, rules that a trucking facility does not conform with a provision listed in Subparagraph 410.1.B.2 and if the nonconformance with that provision is not allowed to stand under Subparagraph 410.1.B.3, one or both of the courses of action set forth in Subparagraphs 1 and 2, below, must be followed.

1. Within 90 days of the date of the Zoning Commissioner's ruling, the owner or agent must file with the Zoning Commissioner an acceptable program of compliance, showing that conformance with each provision in question will be achieved within 27 months after the date of the ruling. The program must include, among other things that the Zoning Commissioner may reasonably require, a) a plan of the trucking facility as it will be upon conformance as required and b) the schedule under which conformance will be achieved. The Zoning Commissioner may refuse to accept any such program that, in his judgment, does not show that approximately half of all the work to be completed under the program will be done by the end of the 15th month after the date of the ruling or does not meet other requirements of these Zoning Regulations. The trucking facility covered by a program of compliance submitted pursuant to this subparagraph must be in partial compliance with the provisions in question by the end of the 15th month after the date of the ruling, as shown in the program, and must be in full compliance with all such provisions at the end of the 27th month after the date of the ruling. Or,
2. Within 90 days after the date of the Zoning Commissioner's ruling, the owner or agent must file with the Zoning Commissioner a petition requesting that the facility not be required to conform with a provision in question, the petition to be advertised and heard in accordance with the provisions of Subsection 500.7. No relief may be granted under this subparagraph, however, unless the petitioner shows that conformance with the provision would cause undue hardship and would not be in the interest of the general welfare of the community, with particular consideration given to any dwellings within 300 feet of the facility. Such relief may be granted to the extent necessary to eliminate undue hardship, and only to that extent, and only in keeping with the intent of these Zoning Regulations in general and this section in particular; relief may not be granted to an extent detrimental to the general welfare of the community. Where relief is sought but not

granted under this subparagraph, the Zoning Commissioner shall... a program of compliance such as that provided for under Subparagraph 1, above, and shall provide for enforcement of that program. In any case, the trucking facility must conform with any provision from which relief is not granted under this subparagraph within 27 months of the date of the Zoning Commissioner's ruling pursuant to Subparagraph 410.1.B.1.

D. Effects of failure to comply.

1. The failure of an owner of or authorized agent for a Class I trucking facility to comply with an applicable requirement of Paragraph A or C, above, or failure to comply with an order by the Zoning Commissioner prescribing a truck route as provided in Subparagraph 3 of Paragraph B, shall constitute a violation of these Zoning Regulations.
2. The right to continue any Class I trucking facility that was established before the effective date of this section and whose owner or agent has failed to comply with an applicable requirement of Paragraph A shall cease 3 years after that date, unless the facility conforms or has been changed to conform with all provisions of these Zoning Regulations, as if it were a new use.
3. The right to continue any Class I trucking facility that was established before the effective date of this section and whose owner or agent has complied with the applicable requirements of Paragraph A but has failed to comply with an applicable requirement of Paragraph C shall cease 3 years after the date of the Zoning Commissioner's ruling issued pursuant to Subparagraph 1 of Paragraph B, unless the facility conforms or has been changed to conform with all provisions of these Zoning Regulations, as if it were a new use.

E. Expansion of nonconforming Class I trucking facilities. Any contrary provision of Section 104 notwithstanding, the site, structures, and paved areas of a nonconforming Class I trucking facility may not be expanded unless the use is made to conform in all respects with these Zoning Regulations, except that expansion to the minimum extent necessary to comply with the standards of Subsection 410.3 may be allowed by the Zoning Commissioner provided that the expansion is not in excess of that allowed under Section 104 and that, in the judgment of the Zoning Commissioner, the expansion would be in the interest of the general welfare of the community, with particular consideration given to any dwellings within 300 feet of the trucking facility.

F. With the exception of plans for conforming Class I trucking facilities in M.H. zones, plans approved under this subsection may be amended only by special exception.

G. Public information program on provisions of this section and Section 410A. For the period from the beginning of the 2nd month to the end of the 12th month after the date of enactment of this section, the Zoning Commissioner shall implement a program of public information regarding

the provisions of this section and Section 410A with emphasis on the provisions of this subsection and Subsection 410A.1. In particular, he shall endeavor to ensure that any party responsible for complying with these sections is informed of the provisions therein. (However, the failure of the Zoning Commissioner to inform any party of the provisions of these sections will not constitute a legal justification for that party's failure to comply with them.)

410.2—Location. No Class I trucking facility or part thereof (including any access point or driveway) established on or after the effective date of this section may be located within 200 feet of a wetland or, with the exception of accessory passenger-automobile parking areas, within 300 feet of a dwelling or a residential zone. No passenger-automobile parking area or part thereof accessory to a Class I trucking facility may be located within 25 feet of a dwelling or a residential zone.

410.3—Site and development standards; plans; operation. The standards of this subsection apply to Class I trucking facilities established on or after the effective date hereof, to conforming Class I trucking facilities established before that date and hereafter expanded or otherwise changed, and, to the extent specified in Subsection 410.1, to nonconforming Class I trucking facilities.

A. Access points.

1. Any point of access to a public street must be on a public industrial service road, on an arterial street, or on a major collector street, except that—
  - a. No access point on a public industrial service road is permitted unless the service road has direct access to an arterial street, an expressway, or a freeway, and unless the place of that access is closer to the use in question than any point of access the service road may have to a motorway other than an arterial street, an expressway, or a freeway; and
  - b. No access point on a major collector street is permitted unless the access point is within a travel distance of  $\frac{1}{4}$  mile from the major collector street's access to an arterial street, an expressway, or a freeway.
2. The curb tangent length between access points must be at least 100 feet, except that a shorter length may be allowed or greater length required by the Zoning Commissioner on recommendation of the County trucking-facilities-development officials. The number, widths, and channelization (if any) of access points shall be as required by the Zoning Commissioner, after recommendation of the County trucking-facilities-development officials and, in the case of access points on a State-maintained highway, recommendation of the State Highway Administration.

B. Other site and development standards.

1. Unless the lot on which the facility is situated lies within a planned industrial park, the net area of the lot must be at least 3 acres and its diametral dimension must be at least 150 feet. (This subparagraph does not limit the number of trucking facilities that may be situated on a lot of the minimum size.)
2. Contrary provisions of these regulations notwithstanding, the trucking facility's floor area ratio may not exceed 0.1.
3. The layout of improvements must be such as to provide for convenient forward movement of vehicles leaving or entering the site and such as to preclude any likelihood that trucks will be unable to gain immediate access onto the site at any time, as determined by the Zoning Commissioner after recommendation by the County trucking-facilities-development officials.
4. The minimum area of the surface that must be provided for parking of truck tractors and trailers on the site, not including maneuvering area, is 1,320 square feet per loading berth. However, a lesser area may be allowed or greater area required by the Zoning Commissioner after recommendation by the County trucking-facilities-development officials. (See Section 409 for automobile-parking requirements.)
5. That part of the site devoted to trucking operations (not including the automobile-parking area) must be surrounded by security fencing at least 6 feet high. Further, except for approved access points, the site as a whole must be enclosed or partially enclosed by opaque fencing, walls, or living screen planting to visually screen the use and its accessory uses from residential zones, from residential premises, or from churches, schools, hospitals, or other, similar institutional uses, and to prevent possible extension of uses beyond the site boundaries. The height of the visual screening must be at least 6 feet, except that screen planting may be as low as 3 feet from the ground at the time of planting if it is of such a variety that it can reasonably be expected to be at least 6 feet high no more than 2 years after it is planted. In any case, planting must be such as to provide full screening effect within 2 years after it is planted and must be maintained in good condition. Further, all fencing and screening must be in accordance with adopted design provisions (as defined in Section 101).
6. Wheel stops or other means must be provided to protect walls, fencing, or screen planting.
7. All parking, loading, and maneuvering areas must be paved in accordance with adopted design provisions (as defined in Section 101). Curbing at the edges of paved areas must be provided if required by the Zoning Commissioner, on recommendation of the County trucking-facilities-development officials.

8. Proper drainage of the entire site must be provided for. On-site storm-water-detention or controlled-release facilities may be required by the Department of Public Works.
9. Adequate rest-room facilities (for both sexes), a drivers' room, and telephone service for the truck drivers and other personnel must be provided on the site.

C. Plans and operation.

1. The plans for a Class I trucking facility submitted in or with an application to Baltimore County for any permit to establish or alter such a facility, or submitted in pursuance of any provision of these Zoning Regulations, must show the layout and operation of the use in detail that is sufficient for the Zoning Commissioner to determine whether and in what manner the facility will meet the requirements of these Zoning Regulations and must be certified by a professional engineer (registered as such under the provisions of Article 75 $\frac{1}{2}$  of the Annotated Code of Maryland, 1957, 1975 Replacement Volume 7A) or by a professional who is not an engineer but who is registered under law as competent to certify the accuracy of the plans. The operation, as well as the development, of the use must be in accord with the approved plans. In particular, the number of vehicles (including trailers) on the site must not at any time exceed the number provided for by the plans.
2. Automotive parts must be concealed from off-site view. Junk vehicles may not be stored or otherwise situated on the site.
3. In the granting of a special exception authorizing the establishment of a Class I trucking facility, the Zoning Commissioner may impose (in addition to any other reasonable restriction) reasonable limitations on hours of operation.

Section 410A—CLASS II TRUCKING FACILITIES (TRUCK YARDS ETC.)

Section 410A.1—Nonconforming and other existing Class II trucking facilities. The provisions of this subsection apply to Class II trucking facilities existing on the effective date of this section.

A. Plans.

1. In the case of any Class II trucking facility for which approved plans are not on file with the Office of Planning and Zoning or the Department of Permits and Licenses on the effective date of this section, the owner or authorized agent for the trucking facility must file plans of the facility with the Zoning Commissioner within 1 year after that date. (See Subparagraph 410A.3.C.1 for requirements. See also Subparagraph 2, below.) Where the plans for a Class II trucking facility are on file with the Office of Planning and Zoning or the Department of Permits and Licenses but, in the judgment of the Zoning Commissioner, are in insufficient detail to afford the proper administration of these Regulations with respect to that facility, the Zoning Commissioner may require that the owner or authorized agent file

sufficiently detailed plans within the 1-year period. (The mere submission of plans under this subparagraph will not establish the legality of any Class II trucking facility.)

2. Within 30 days after the effective date of this section, the Zoning Commissioner shall publish a checklist of requirements for plans submitted pursuant to Subparagraph 1, above. The checklist must indicate, among other things, 1 or more acceptable scales to which plans must be drawn.

B. Rulings etc. as to nonconformance with respect to certain provisions.

1. Within 1 year after the date the Zoning Commissioner accepts plans for a trucking facility as required under Subparagraph 410A.1.A.1, he shall review them and issue a ruling whether or not the facility conforms with the provisions listed in Subparagraph 2 and, if not conforming with any such provision, whether the nonconformance may be allowed to stand under the provisions of Subparagraph 3. If the provision requires the recommendation or approval of authorities other than the Zoning Commissioner, the ruling with respect to conformance with that provision may be made only upon such recommendation or approval.
2. The provisions with respect to which the Zoning Commissioner shall issue rulings under Subparagraph 1 are the following:

- Subparagraph 409.2.b(9) (automobile parking)
- Subparagraph 410A.3.A.1 (access to streets)
- Subparagraph 410A.3.B.2 (layout such as not to cause congestion)
- Subparagraph 410A.3.B.4 (fencing etc.)
- Subparagraph 410A.3.B.5 (wheel stops etc.)
- Subparagraph 410A.3.B.6 (paving and curbing)
- Subparagraph 410A.3.B.7 (drainage)
- Subparagraph 410A.3.B.8 (rest rooms and other conveniences)
- Subparagraph 410A.3.C.2 (concealment of automotive parts)

3. A trucking facility's nonconformance with Subparagraph 409.2.b(9) shall be allowed to stand if a variance to that subparagraph is granted pursuant to Section 307 of these Regulations and Section 22-23 of the Baltimore County Code 1968, as amended by Bill No. 72, 1969. Nonconformance with Subparagraph 410A.3.A.1 shall be allowed to stand if the site of the trucking facility does not abut a street on which access is permitted under that subparagraph or, if it does abut such a street, the County trucking-facilities-development officials determine that the length of the coextensive street line and site boundary is insufficient to permit proper access from that street. However, in any case where access that is not in accordance with Subparagraph 410A.3.A.1 is allowed to remain, the Zoning Commissioner shall have the power to prescribe the route that trucks must use in reaching or on leaving the site, in accordance with a recommendation of the County trucking-facilities-development officials.

C. Procedure etc. in case of nonconformance with respect to certain provisions. If the Zoning Commissioner, under Subparagraph 410A.1.B.1, rules that a trucking facility does not conform with a provision listed in Subparagraph 410A.1.B.2 and if the nonconformance with that provision is not allowed to stand under Subparagraph 410A.1.B.3, 1 or both of the courses of action set forth in Subparagraphs 1 and 2, below, must be followed.

1. Within 90 days of the date of the Zoning Commissioner's ruling, the owner or agent must file with the Zoning Commissioner an acceptable program of compliance, showing that conformance with each provision in question will be achieved within 27 months after the date of the ruling. The program must include, among other things that the Zoning Commissioner may reasonably require, a) a plan of the trucking facility as it will be upon conformance as required and b) the schedule under which conformance will be achieved. The Zoning Commissioner may refuse to accept any such program that, in his judgment, does not show that approximately half of all the work to be completed under the program will be done by the end of the 15th month after the date of the ruling or does not meet other requirements of these Zoning Regulations. The trucking facility covered by a program of compliance submitted pursuant to this subparagraph must be in partial compliance with the provisions in question by the end of the 15th month after the date of the ruling, as shown in the program, and must be in full compliance with all such provisions at the end of the 27th month after the date of the ruling. Or,
2. Within 90 days after the date of the Zoning Commissioner's ruling, the owner or agent must file with the Zoning Commissioner a petition requesting that the facility not be required to conform with a provision in question, the petition to be advertised and heard in accordance with the provisions of Subsection 500.7. No relief may be granted under this subparagraph, however, unless the petitioner shows that conformance with the provision would cause undue hardship and would not be in the interest of the general welfare of the community, with particular consideration given to any dwellings within 300 feet of the facility. Such relief may be granted to the extent necessary to eliminate undue hardship, and only to that extent, and only in keeping with the intent of these Zoning Regulations in general and this section in particular; relief may not be granted to an extent detrimental to the general welfare of the community. Where relief is sought but not granted under this subparagraph, the Zoning Commissioner shall require a program of compliance such as that provided for under Subparagraph 1, above, and shall provide for enforcement of that program. In any case, the trucking facility must conform with any provision from which relief is not granted under this subparagraph within 27 months of the date of the Zoning Commissioner's ruling pursuant to Subparagraph 410A.1.B.1.

D. Effect of failure to comply.

1. The failure of an owner of or authorized agent for a Class II trucking facility to comply with an applicable requirement of Paragraph A or C, above, or failure to comply with an order by the Zoning Commissioner prescribing a truck route as provided in Subparagraph 3 of Paragraph B, shall constitute a violation of these Zoning Regulations.
  2. The right to continue any Class II trucking facility that was established before the effective date of this section and whose owner or agent has failed to comply with an applicable requirement of Paragraph A shall cease 3 years after that date, unless the facility conforms or has been changed to conform with all provisions of these Zoning Regulations, as if it were a new use.
  3. The right to continue any Class II trucking facility that was established before the effective date of this section and whose owner or agent has complied with the applicable requirements of Paragraph A but has failed to comply with an applicable requirement of Paragraph C shall cease 3 years after the date of the Zoning Commissioner's ruling issued pursuant to Subparagraph 1 of Paragraph B, unless the facility conforms or has been changed to conform with all provisions of these Zoning Regulations, as if it were a new use.
- E. Expansion of nonconforming Class II trucking facilities. Any contrary provision of Section 104 notwithstanding, the site, structures, and paved areas of a nonconforming Class II trucking facility may not be expanded unless the use is made to conform in all respects with these Zoning Regulations, except that expansion to the minimum extent necessary to comply with the standards of Subsection 410A.3 may be allowed by the Zoning Commissioner, under an order issued pursuant to Paragraph B, C, or D of this subsection, provided that the expansion is not in excess of that allowed under Section 104 and that, in the judgment of the Zoning Commissioner, the expansion would be in the interest of the general welfare of the community.
- F. With the exception of plans for conforming Class II trucking facilities in M. H. zones, plans approved under this subsection may be amended only by special exception.

410A.2—Location. Proximity to residential zone or wetland. No Class II trucking facility or part thereof (including any access point or driveway) established on or after the effective date of this section may be located within 200 feet of a wetland or, with the exception of accessory passenger-automobile parking areas, within 300 feet of a dwelling or a residential zone. No passenger-automobile parking area or part thereof accessory to a Class II trucking facility may be located within 25 feet of a dwelling or a residential zone.

410A.3—Site and development standards; plans; operation. The standards of this subsection apply to Class II trucking facilities established on or after the effective date hereof, to conforming Class II trucking facilities established before that date and hereafter expanded or otherwise changed, and, to the extent specified in Subsection 410A.1, to nonconforming Class II trucking facilities.

A. Access points.

1. Any point of access to a public street must be on a public industrial service road, on an arterial street, or on a major collector street, except that—
  - a. No access point on a public industrial service road is permitted unless the service road has direct access to an arterial street, an expressway, or a freeway, and unless the place of that access is closer to the use in question than any point of access the service road may have to a motorway other than an arterial street, an expressway, or a freeway; and
  - b. No access point on a major collector street is permitted unless the access point is within a travel distance of  $\frac{1}{4}$  mile from the major collector street's access to an arterial street, an expressway, or a freeway.
2. The curb tangent length between access points must be at least 100 feet, except that a shorter length may be allowed or greater length required by the Zoning Commissioner on recommendation of the County trucking-facilities-development officials. The number, widths, and channelization (if any) of access points shall be as required by the Zoning Commissioner, after recommendation of the County trucking-facilities-development officials and, in the case of access points on a State-maintained highway, recommendation of the State Highway Administration.

B. Other site and development standards.

1. Unless the lot on which the facility is situated lies within a planned industrial park, the net area of the lot must be at least 5 acres and its diametral dimension must be at least 150 feet. (This subparagraph does not limit the number of trucking facilities that may be situated on a lot of the minimum size.)
2. The layout of improvements must be such as to provide for convenient forward movement of vehicles leaving or entering the site and such as to preclude any likelihood that trucks will be unable to gain immediate access onto the site at any time, as determined by the Zoning Commissioner after recommendation by the County trucking-facilities-development officials.
3. At least 75 per cent of that part of the site devoted to trucking operations must be devoted to parking of truck tractors and trailers, not including maneuvering area. (See Section 409 for automobile-parking requirements.)

4. That part of the site devoted to trucking operations (not including the automobile-parking area) must be surrounded by security fencing at least 6 feet high. Further, except for approved access points, the site as a whole must be enclosed or partially enclosed by opaque fencing, walls, or living screen planting to visually screen the use and its accessory uses from residential zones, from residential premises, or from churches, schools, hospitals, or other, similar institutional uses, and to prevent possible extension of uses beyond the site boundaries. The height of the visual screening must be at least 6 feet, except that screen planting may be as low as 3 feet from the ground at the time of planting if it is of such a variety that it can reasonably be expected to be at least 6 feet high no more than 2 years after it is planted. In any case, planting must be such as to provide full screening effect within 2 years after it is planted and must be maintained in good condition. Further, all fencing and screening must be in accordance with adopted design provisions (as defined in Section 101).
5. Wheel stops or other means must be provided to protect walls, fencing, or screen planting.
6. All parking, loading, and maneuvering areas must be paved in accordance with adopted design provisions (as defined in Section 101). Curbing at the edges of paved areas must be provided if required by the Zoning Commissioner, on recommendation of the County trucking-facilities-development officials.
7. Proper drainage of the entire site must be provided for. On-site storm-water-detention or controlled-release facilities may be required by the Department of Public Works.
8. Adequate rest-room facilities (for both sexes), a drivers' room, and telephone service for the truck drivers and other personnel must be provided on the site.

#### C. Plans and operation.

1. The plans for a Class II trucking facility submitted in or with an application to Baltimore County for any permit to establish or alter such a facility, or submitted in pursuance of any provision of these Zoning Regulations, must show the layout and operation of the use in detail that is sufficient for the Zoning Commissioner to determine whether and in what manner the facility will meet the requirements of these Zoning Regulations and must be certified by a professional engineer or other competent professional (as described in Subparagraph 410.3.C.1). The operation, as well as the development, of the use must be in accord with the approved plans. In particular, the number of vehicles (including trailers) on the site must not at any time exceed the number provided for by the plans.

2. Automotive parts must be concealed from off-site view. Junk vehicles may not be stored or otherwise situated on the site.
3. In the granting of a special exception authorizing the establishment of a Class II trucking facility, the Zoning Commissioner may impose (in addition to any other reasonable restriction) reasonable limitations on hours of operation.

18. In Subsection 500.7, add the following paragraph immediately after the second sentence:

With respect to any zoning petition other than a petition for a special exception, variance, or reclassification, the Zoning Commissioner shall schedule a public hearing for a date not less than 30 days after the petition is accepted for filing. If the petition relates to a specific property, notice of the time and place of the hearing shall be conspicuously posted on the property for a period of at least 15 days before the time of the hearing. Whether or not a specific property is involved, notice shall be given for the same period of time in at least two newspapers of general circulation in the County. The notice shall describe the property, if any, and the action requested in the petition. Upon establishing a hearing date for the petition, the Zoning Commissioner shall promptly forward a copy thereof to the Director of Planning (or his deputy) for his consideration and for a written report containing his findings thereon with regard to planning factors.

\* \* \*

NOTE: The Planning Board agrees with the Citizens Task Force on Truck Terminals that a zoning code is not an appropriate context for provisions such as the following, which, nevertheless, have been suggested by the Task Force.<sup>2</sup> The Board neither recommends nor opposes the enactment of these provisions. The Board does recommend, however, that the County Council consult with the Department of Traffic Engineering, the Industrial Development Commission, the Office of Law, and the Office of Planning and Zoning to determine how the objectives of the provisions can best be met—whether through law, administrative regulation, or a combination of the two.

#### Use of Streets and Property by Large Trucks

- A. Truck parking. No truck tractor, truck trailer, or tractor-trailer may be parked off-site within 1,000 feet of a trucking facility, as defined in the Baltimore County Zoning Regulations, 1955, as amended, except that a tractor-trailer may be parked off-site within that distance for the sole principal purpose of loading or unloading goods at other premises and only for the time necessary for that purpose.
- B. Truck operation limited to certain streets. Except as provided below or for the purposes described in Paragraph A, no truck tractor or tractor-trailer may be driven on any street other than an arterial street or a major collector street, as those terms are defined in the Baltimore County Zoning Regulations, 1955, as amended, or a public industrial service road. However, such a vehicle may be driven on a street other than one of those if it must do so, and only to the extent that it must do so, to gain access to a trucking facility or other establishment at which such vehicles are normally and legally stationed and which does not abut one of those streets.

<sup>2</sup>. They have been somewhat modified by the Board.

# A P P E N D I X

## ALLOWANCE OF TRUCK-ORIENTED USES UNDER PRESENT ZONING REGULATIONS AND REGULATIONS PROPOSED BY BALTIMORE COUNTY PLANNING BOARD

Symbols: + Allowed as of right  
 +C Allowed subject to conditions of development-plan approval  
 S. E. Allowable by special exception  
 (X) Prohibited

|                                                 | B. L.                                                                                                   | B. M. | B. R. | M. R. | M. L. R. | M. L.              | M. H.          |
|-------------------------------------------------|---------------------------------------------------------------------------------------------------------|-------|-------|-------|----------|--------------------|----------------|
| Present regulations:                            |                                                                                                         |       |       |       |          |                    |                |
| Moving and storage establishments               | (X)                                                                                                     | +     | +     | +C    | +        | +                  | +              |
| Truck stops                                     | Treated as automotive service stations (allowance depends on district classification and other factors) |       |       |       |          |                    |                |
| Truck terminals (Class I trucking facilities)   | (X)                                                                                                     | (X)   | S. E. | (X)   | (X)      | S. E.              | + <sup>1</sup> |
| Truck yards etc. (Class II trucking facilities) | (X)                                                                                                     | (X)   | S. E. | (X)   | (X)      | S. E.              | + <sup>1</sup> |
| Warehouses                                      | (X)                                                                                                     | +     | +     | +C    | +        | +                  | +              |
| Proposed regulations:                           |                                                                                                         |       |       |       |          |                    |                |
| Moving and storage establishments               | (X)                                                                                                     | (X)   | S. E. | (X)   | (X)      | S. E.              | + <sup>1</sup> |
| Truck stops                                     | (X)                                                                                                     | (X)   | S. E. | (X)   | (X)      | S. E.              | S. E.          |
| Truck terminals (Class I trucking facilities)   | (X)                                                                                                     | (X)   | (X)   | (X)   | (X)      | S. E. <sup>2</sup> | + <sup>2</sup> |
| Truck yards etc. (Class II trucking facilities) | (X)                                                                                                     | (X)   | (X)   | (X)   | (X)      | S. E. <sup>2</sup> | + <sup>2</sup> |
| Warehouses                                      | (X)                                                                                                     | +     | +     | +C    | +        | +                  | +              |

1. Distances of 300 feet from a residential zone and 200 feet from a business zone required.
2. Distances of 300 feet from a dwelling or a residential zone and 200 feet from a wetland required.



UNREPORTED

IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

September Term, 1979

No. 18

JOHN J. LASKEY, et al.,

v.

BETHLEHEM STEEL  
CORPORATION, et al.

Gilbert, C.J.  
Wilner  
Couch,  
JJ.

PER CURIAM

Filed: September 26, 1979

This appeal generally involves the matter of statutory construction and the recognized rules to be followed in such an exercise by a zoning board of appeals, a trial court, and this Court.

The factual background of the case is simple and straightforward. Appellee Bethlehem Steel Corporation (Ernest J. Kern, contract purchaser) filed a petition for special exception for a truck terminal on property east of North Point Boulevard near its intersection with Wise Avenue. The subject property is located in a mixed residential, commercial, and industrial neighborhood in the southeastern section of Baltimore County, and is zoned M.L. - I.M. (manufacturing, light industrial - major district). There are residences in the vicinity of this property which constitute non-conforming uses since these properties are not zoned residential but have various classifications of business, commercial, or manufacturing-light. Several of the occupants of these residences opposed the petition for special exception.

Following a hearing before the Zoning Commissioner of Baltimore County the petition was denied. Appellees noted an appeal to the County Board of Appeals which, after hearing, granted the petition with restrictions. From this action appellants appealed to the circuit court, which affirmed the action of the Board of Appeals. From the circuit court's order appellants bring the matter to us, presenting two questions:

1. Whether the proximity of residences to the proposed trucking facility clearly was a bar to approval pursuant to Section 410A.2 of the Baltimore County Zoning Regulations, by plain language and legislative history?

2. Whether the failure of the Petitioner to contradict probative evidence of adverse environmental impact from noise, fumes, and congested access associated with the proposed trucking facility clearly was a bar to approval pursuant to Section 502.1 of the Baltimore County Zoning Regulations?

The Baltimore County Zoning Regulations (hereinafter BCZR) existing at the time of the filing of the instant petition, BCZR 253.2A.6 (1975), provided that "truck terminals" would be permitted by special exception only. The former regulation made no mention of restrictions relative to a truck terminal's proximity to a dwelling or residential zone. By the time the hearing was held before the Board of Appeals, the County Council enacted a bill (Bill No. 18, 1976) amending the Zoning Regulations which by definition in present BCZR § 101 divided the former "truck terminals" into two classifications, "Class I trucking facility" and "Class II trucking facility". The parties agree that the petition for special exception here concerns a Class II trucking facility which is defined as, "A trucking facility other than a Class I trucking facility, including a truck yard (the primary purpose of which is to accommodate the parking or storage of trucks, truck trailers, or truck tractors)". Far more relevant to the present inquiry was the amendment's placement of restrictions on the establishment of trucking facilities, the most notable of which was a requirement that a Class II trucking facility be located 300 feet from a dwelling or a residential zone. It appears uncontradicted that under the Board of Appeals' order

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1. "Trucking facility, Class I (truck terminal): A trucking facility whose primary purpose is to accommodate the transfer of goods or chattels from trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels. BCZR § 101 (1976). [Bill No. 18, 1976]

at least one of the protestants' dwellings is within this distance. Whether the other protestants' homes are within this distance is not clear from the record.

Both the Board of Appeals and the circuit court, in making their respective determinations, interpreted the pertinent section of the new Zoning Ordinance as meaning that a dwelling must be in a residential zone for the restriction to apply; we believe both erred in this construction.

The relevant section of the Zoning Ordinance (BCZR 410A.2) provides:

"Location. Proximity to residential zone or wetland. No Class II trucking facility or part thereof (including any access point or driveway) established on or after the effective date of this section may be located within 200 feet of a wetland or, with the exception of accessory passenger-automobile parking areas, within 300 feet of a dwelling or a residential zone. No passenger-automobile parking area or part thereof accessory to a Class II trucking facility may be located within 25 feet of a dwelling or a residential zone."

Section 101 of the Zoning Regulations defines dwelling as "a building or portion thereof which provides living facilities for one or more families."

The resolution of this appeal will depend upon an examination of BCZR 410A.2 to determine the legislative intent. Appellants contend that it was the intent of the County Council to allow a Class II trucking facility, under circumstances such as exist in this case, only if such facility is located more than 300 feet from a dwelling. They contend the evidence demonstrated that this restriction was not met, and that both the Board of Appeals and the circuit court erred in concluding otherwise. On the other hand, appellees urge that the Board of Appeals and the circuit court were correct in interpreting the pertinent section to mean, in effect, that the dwellings must be within a residential zone for the restriction to apply. We disagree with appellees' position and shall reverse.

A cardinal rule of statutory construction is to ascertain and carry out the real legislative intention. See Wheeler v. State, 281 Md. 593, 596, 380 A.2d 1052 (1977), cert. den., 435 U.S. 997, 98 S. Ct. 1650, 56 L.Ed.2d 86. It is also well settled that a statute should not be construed to lead to an unreasonable or illogical result. See Curtis v. State, 284 Md. 132, 149, 395 A.2d 464 (1978), and cases cited therein. Furthermore, a statute is to be read so no word is rendered surplusage or meaningless. Mazor v. St. Dept. of Corrections, 279 Md. 355, 360, 369 A.2d 82 (1977). We also recognize that the legislature is presumed to have full knowledge and information as to prior and existing law on the subject of a statute it has enacted. Bowers v. State, 283 Md. 115, 127, 389 A.2d 341 (1978). Additionally, where statutory language is plain and free from ambiguity and expresses a definite and sensible meaning, courts are not at liberty to disregard the natural meaning of words with a view toward making the statute express an intention which is different from its plain meaning. Wheeler, supra.

Keeping these principles in mind, we conclude that BCZR 410A.2 is unambiguous and the intent of the legislature is clear - the County Council intended to provide that no trucking facility, or part thereof, could be located any closer than 300 feet from a dwelling. The appellees, in contending otherwise, state that since BCZR § 101 defines the word "OR: [as] The word 'or' shall mean 'and/or' unless the context otherwise clearly indicates another meaning." (emphasis supplied), the language should be read to mean that a residential zone must be involved. Such an interpretation, even if one were to read BCZR 410A.2 as "a dwelling and/or a residential zone", would render the use of the term "dwelling" surplusage. Mazor

v. St. Dept. of Corrections, supra. Clearly, there would be no necessity for the use of the term "dwelling" if a dwelling had to be in a residential zone for the restriction to apply. Further support for this conclusion can be found in the fact that "dwelling" was specifically added in the new regulation, it having been absent in the repealed regulation. Additional evidence of this intention can be found in the Baltimore County Planning Board's final report which accompanied the proposed trucking facilities zoning amendment<sup>2</sup> and was before the Council during its deliberations. The report concluded that trucking facilities are "totally inappropriate in or near residential areas .... The fact is ... that a number of trucking facilities have been established too close to the homes of Baltimore County citizens over the years, especially in communities near major industrial areas." It is evident from a consideration of all these factors, the lack of ambiguity, the mere presence of the term "dwelling", the specific addition of the term to the new regulation, and the Planning Board's final report, that the real legislative intent behind BCZR 410A.2 is to protect those dwellings which are not located in a residential zone.

The appellees, of course, look for support for their position in the opinion of the circuit court, where it is stated: "It is noted that while not controlling, the title to the particular section is 'proximity' to residential zone or wetland." According to appellees, if the drafters of the legislation or the County Council intended that the existence of a "dwelling" was the crucial element in the phrase "within 300 feet of a dwelling or a residential zone", the <sup>caption</sup> should have used the word "dwelling" by itself, or at the very least included the word "dwelling" concomitantly with "residential zone". We reject this argument. As the lower court

2. The new regulations were based to a large extent on recommendations of the special Citizens Task Force on Truck Terminals, appointed by the County Executive. The Planning Board held a hearing on the recommendations and revised them.

properly observed, though we disagree with the conclusion it reached on the merits, the caption to BCZR 410A.2 is not controlling. The caption to this section plays no part in ascertaining its intent, purpose, or effect, since we find no ambiguity in the body of the regulation.

We believe the Board of Appeals and the circuit court both erred in construing the Ordinance as they did. In view of this conclusion we find it unnecessary to reach appellants' second question.

ORDER REVERSED. CASE REMANDED  
FOR THE ENTRY OF AN ORDER NOT  
INCONSISTENT WITH THIS OPINION.

COSTS TO BE PAID BY APPELLEES.

108 Md.App. 497  
Court of Special Appeals of Maryland.

Leo J. UMERLEY, et ux.

v.

PEOPLE'S COUNSEL FOR  
BALTIMORE COUNTY, et al.

No. 802, Sept. Term, 1995. | March 1, 1996.

Residents, neighborhood improvement association, and others appealed decision of county board of appeals that granted special exception and variances to landowners. The Circuit Court, Baltimore County, J. Norris Byrnes, J., reversed, and landowners appealed. The Court of Special Appeals, Bishop, J., held that landowners' trucking facility was not unique and thus was not entitled to variances.

Affirmed.

West Headnotes (9)

[1] Zoning and Planning

↔ Decisions of boards or officers in general  
Order of county zoning authority must be upheld on review if it is not premised on error of law and if its conclusions reasonably may be based upon facts proven.

1 Cases that cite this headnote

[2] Administrative Law and Procedure

↔ Particular Questions, Review of  
Administrative Law and Procedure  
↔ Substantial evidence

Administrative Law and Procedure

↔ Law questions in general

When reviewing agency order, court first determines whether agency recognized and applied correct principles of law governing case, next examines agency's factual findings to determine if they are supported by substantial evidence, and finally examines how agency applied law to facts.

1 Cases that cite this headnote

[3] Administrative Law and Procedure

↔ Particular Questions, Review of  
Administrative Law and Procedure  
↔ Rational basis for conclusions

In reviewing how agency has applied law to facts, court accords great deference to agency; test is whether reasoning mind could reasonably have reached conclusion reached by agency, consistent with proper application of controlling legal principles.

3 Cases that cite this headnote.

[4] Appeal and Error

↔ Grounds for Sustaining Decision Not  
Considered

Reviewing court may search record for evidence to support trial court's judgment and may sustain that judgment for a reason plainly appearing on record, even if that reason was not relied on by trial court.

2 Cases that cite this headnote

[5] Administrative Law and Procedure

↔ Theory and grounds of administrative  
decision

Administrative Law and Procedure

↔ Fact Questions

Court of Special Appeals may not uphold agency's decision unless it is sustainable on agency's findings and for reasons stated by agency.

2 Cases that cite this headnote

[6] Zoning and Planning

↔ Unique or peculiar hardship in general

Variance may only be granted after two-step inquiry: first, zoning authority must determine whether subject property is unique and unusual in a manner different from nature of surrounding properties such that uniqueness or peculiarity of property causes zoning provision to have

disproportionate impact upon property; if such finding is made, zoning authority must then determine whether unreasonable hardship results from disproportionate impact of ordinance.

3 Cases that cite this headnote

[7] Zoning and Planning

↔ Business, commercial, and industrial uses in  
general

Trucking facility was not unique, and thus owners of facility were not entitled to variances to legalize their use of land, which had been in violation of zoning regulations for 17 years; only evidence presented by landowners was that their operations predated regulations that they had violated, that their facility had always been in violation of those regulations, that their operations could not comply with those regulations, and that their operation was important to economy of county and state, but landowners failed to take advantage of window of opportunity opened by exemptions to regulations. Baltimore County, Md., Zoning Regulations, § 307.1.

2 Cases that cite this headnote

[8] Zoning and Planning

↔ Nature and necessity in general

"Special use exception" grants permission to engage in use that appropriate legislative authority has sanctioned under certain conditions; special exception is an acknowledgement by appropriate zoning authority that those conditions have been met.

1 Cases that cite this headnote

[9] Zoning and Planning

↔ Nature and necessity in general

A "variance" grants permission to engage in use that appropriate legislative authority has otherwise proscribed; it represents a determination by appropriate zoning authority that adherence to letter of applicable zoning regulations would result in extreme hardship to property owner.

Cases that cite this headnote

Attorneys and Law Firms

\*\*174 \*499 Robert L. Hanley, Jr. (Stephen J. Nolan and Nolan, Plumbhoff & Williams, Chtd. on the brief), Towson, for appellants.

Peter Max Zimmerman (Carole S. Demilio, on the brief), Towson, for appellees.

Argued before MOYLAN, BISHOP and EYLER, JJ.

Opinion

BISHOP, Judge.

Appellants, Leo and Wanda Umerley, filed a petition requesting that the zoning commissioner of Baltimore County grant a special exception for a Class II Trucking Facility and certain variances. The Commissioner denied the petition for a special exception and dismissed the variances.

The Umerleys filed a timely appeal to the Board of Appeals of Baltimore County. After a *de novo* hearing, the Board of Appeals granted the requested special exception and variances.

Appellees, the People's Counsel for Baltimore County, the Nottingham Improvement Association, residents of the Nottingham neighborhood, and Gary Hoffman, owner of a business property adjacent to that of the Umerleys, filed an appeal of the Board of Appeals's decision to the Circuit Court for Baltimore County. Following oral argument, the circuit court reversed the Board of Appeals's decision, and the Umerleys noted an appeal to this Court.

ISSUE

The Umerleys raise a single issue on appeal, which we subdivide and rephrase:

\*500 I. Did the Board of Appeals properly grant the variances?

II. Did the Board of Appeals properly grant the special exception?

## FACTS

The subject of this appeal consists of 8.5 acres that were acquired by the Umerleys over a period of thirty-one years. The property lies northeast of Baltimore City, and is bordered by Philadelphia Road to the north, by a line of the Baltimore & Ohio Railroad to the south, and by unimproved, wooded property to the east and west. The property is primarily zoned Manufacturing Light, Industrial Major ("ML-LM"), and lies directly across Philadelphia Road from the residential neighborhood of Nottingham. Philadelphia Road itself is a two-lane artery that lies between U.S. Interstate 95 and U.S. Route 40 (Pulaski Highway); the land to its north is generally zoned for residential use, while the land to its south is zoned for industrial use.

The Umerleys acquired the first part of the 8.5 acre parcel in the mid-1950s. That lot, which consists of 2.5 acres, was improved by a two-bay garage in 1958. In 1961, the garage was expanded to four bays, and in 1982, an office complex was constructed next to the garage. The lot is mostly paved and is used for "employee automobile parking, truck parking, and frontage landscaping."

In 1982, the Umerleys acquired the second part of the 8.5 acre parcel. That lot, which consists of 2.8 acres, is almost entirely paved and is used for truck and trailer parking.

In 1989, the Umerleys acquired the third part of the 8.5 acre parcel. That lot consists of 3.2 acres and is vacant and wooded.

In 1976, the Baltimore County Council passed regulations designed to minimize the impact of trucking facilities on environmentally sensitive and residential areas. Recognizing the adverse effect of the regulations on existing trucking facilities, the council included provisions that allowed such \*501 trucking facilities to exempt themselves from the new \*175 laws. We paraphrase these exemptions as follows:

1) All existing Class II trucking facilities had to file plans demonstrating their "layout and operation of use" with the county within one year of the passage of the law. (BCZR 410A.1.A.1, 410A.1.A.2, 410A.3.C.1).

2) Within one year of the date those plans were filed, the Zoning Commissioner was required to determine if they complied with selected provisions of the new

regulations, or whether they were permissibly exempt from those regulations. (BCZR 410A.1.B.1, 410A.1.B.2, 410A.1.B.3).

3) If the Zoning Commissioner determined that the filed plans did not comply with the appropriate regulations, and were not permissibly exempt from those regulations, the trucking facility was required to file:

a) a program of compliance showing that the appropriate regulations would be met within twenty-seven months (BCZR 410A.1.C.1); or

b) a petition requesting that the facility not be required to meet the appropriate regulations because "conformance with the provision would cause undue hardship and would not be in the general interest of the community...." (BCZR 410A.1.C.2).

4) Failure of a trucking facility to file plans with the county at all (in conformance with BCZR 410A.1.B.1 or 410A.1.B.2) meant that the facility lost the right to exist as a trucking facility three years from the date the new law was passed. (BCZR 410A.1.D.1 and 410A.1.D.2). Failure of a nonconforming trucking facility to file either a program of compliance or a petition for noncompliance (in conformance with BCZR 410A.1.C.1 or 410A.1.C.2) meant that the facility lost its right to exist as a trucking facility three years after the determination of noncompliance by the Zoning Commissioner. (BCZR 410A.1.D.3). If a trucking facility failed to comply with the applicable exemption provisions and thus lost the right to exist as a trucking facility, it could only continue operations by qualifying as a new use.

\*502 The Umerleys operated a trucking facility on the original 2.5 acre parcel at the time the 1976 regulations were passed; and their facility violated those regulations. The Umerleys never complied with the exemption provisions of the new law, and lost the right to maintain a trucking facility on the property. In spite of this fact, the Umerleys never shut down their facility; they actually expanded it in 1982 and 1988. For the 1982 expansion, the Umerleys obtained a permit from the county's Department of Permits and Licenses. On the application for that permit, the Umerleys represented that the land was to be used for the operation of a contracting business, rather than a trucking facility.

In the late 1980s, as a result of complaints from nearby businesses and residents, the county authorities finally noted

the Umerleys' zoning violations. In response, the Umerleys moved to legalize the use of their land by filing a petition for the following:

1) A special exception to allow a Class II trucking facility in the ML-LM zone. (BCZR 253.2.A.6, 410, 410A).

2) A variance to allow a trucking facility within 300 feet of residential zones or residences. (BCZR 410A.2).

3) A variance to allow a trucking facility within 200 feet of wetlands. (BCZR 410A.2).

4) A variance to allow a trucking facility within 200 feet of Philadelphia Road. (BCZR 253.4).

5) A variance to allow automobile parking within 25 feet of a residential zone. (BCZR 410A.2).

6) A variance to allow the percentage of the facility devoted to truck and trailer parking to be 35.5 percent of the site used for trucking operations as opposed to the required 75 percent. (BCZR 410A.3.B.3).

7) A variance requesting a reduction of the sideyard building setback from fifty feet to seven feet within the increased setback area. (BCZR 243.2).

As stated *supra*, the zoning commissioner denied the Umerleys' petition, but the Board of Appeals of Baltimore County reversed that decision after a *de novo* hearing, and the Circuit \*503 Court for Baltimore County reversed the Board of Appeals's decision.

## \*176 DISCUSSION

### Standard of Review

[1] The order of a county zoning authority "must be upheld on review if it is not premised upon an error of law and if [its] conclusions 'reasonably may be based upon the facts proven.'" *Ad & Soll, Inc. v. County Commissioners of Queen Anne's County*, 307 Md. 307, 338, 513 A.2d 893 (1986) (citing *Annapolis v. Annapolis Waterfront Co.*, 284 Md. 383, 399, 396 A.2d 1080 (1979)). See also *Montgomery County v. Merlands Club, Inc.*, 202 Md. 279, 287, 96 A.2d 261 (1953) (zoning authority must properly construe controlling law); *Northampton Corp. v. Prince George's County*, 273 Md. 93, 101, 327 A.2d 774 (1974) (action of zoning authority is "fairly debatable" if based on substantial evidence); *Board of County*

*Commissioners v. Holbrook*, 314 Md. 210, 218, 550 A.2d 664 (1988) (fairly debatable test "accords with the general standard for judicial review of the ruling of an administrative agency, which [is] defined as 'whether a reasoning mind reasonably could have reached the factual conclusion the agency reached; this need not and must not be either judicial fact-finding or a substitution of judicial judgment for agency judgment.'"); *Ocean Hideaway Condominium Ass'n v. Boardwalk Plaza Venture*, 68 Md.App. 650, 665, 515 A.2d 485 (1986) (no substantial evidence to support factual findings of zoning authority; because of the lack of substantial evidence, zoning authority's decision was not fairly debatable, and thus was "arbitrary, capricious and a denial of due process of law.").

[2] [3] An application of the above standard requires that we undertake the three-step analysis set forth by this Court in *Comptroller v. World Book Childcraft*, 67 Md.App. 424, 508 A.2d 148 (1986):

1. First, the reviewing court must determine whether the agency recognized and applied the correct principles of law \*504 governing the case. The reviewing court is not constrained to affirm the agency where its order "is premised solely upon an erroneous conclusion of law."

2. Once it is determined that the agency did not err in its determination or interpretation of the applicable law, the reviewing court next examines the agency's factual findings to determine if they are supported by substantial evidence, *i.e.*, by such relevant evidence as a reasonable mind might accept as adequate to support a conclusion....

3. Finally, the reviewing court must examine how the agency applied the law to the facts. This, of course, is a judgmental process involving a mixed question of law and fact, and great deference must be accorded to the agency. The test of appellate review of this function is "whether ... a reasoning mind could reasonably have reached the conclusion reached by the [agency], consistent with a proper application of the [controlling legal principles]."

*Id.* at 438-39, 508 A.2d 148 (citations omitted).

[4] [5] Also, unlike our review of a trial court's judgment, we will only uphold the decision of an agency on the basis of the agency's reasons and findings. *United Steelworkers of America AFL-CIO v. Bethlehem Steel Corp.*, 298 Md. 665, 679, 472 A.2d 62 (1984). We may search the record for evidence to support a trial court's judgment; and we may

sustain that judgment for a reason plainly appearing on the record, even if the reason was not relied on by the trial court. *Id.* But we may not uphold an agency's decision "unless it is sustainable on the agency's findings and for the reasons stated by the agency." *Id.*

#### I. Variances

The zoning commissioner of Baltimore County and the Board of Appeals of Baltimore County are given the power to grant variances by BCZR 307.1, which provides as follows:

The zoning commissioner of Baltimore County and County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and \*505 area regulations, from off-street parking regulations and from sign regulations, only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and \*\*177 where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the zoning regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare. They shall have no power to grant any other variances. Before granting any variance, the zoning commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for

reclassification. Any order by the zoning commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.

In the appeal before the circuit court, the parties clashed over the following question: whether the regulations from which the Umerleys seek variances are "height and area" regulations or "use" regulations. Under BCZR 307.1, a variance may only be granted from "height and area" regulations. "Height and area" regulations establish "area, height, density, setback, or sideline restrictions," while "use" regulations restrict the use to which a piece of property may be put. *Anderson v. Board of Appeals*, 22 Md.App. 28, 37-38, 322 A.2d 220 (1974). The circuit court ruled that there was substantial evidence to support a finding by the Board of Appeals that the regulations from which the Umerleys seek variances are "height and area" regulations. An examination of the requested variances reveals that there is substantial evidence to support the Board of Appeals's conclusion that the subject \*506 regulations are "height and area" regulations. Thus, we turn to the question of whether the Board of Appeals properly granted the requested variances.

[6] A variance may only be granted after a two-step inquiry. First, the zoning authority must determine whether the subject property is unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to have a disproportionate impact on the property. *Cromwell v. Ward*, 102 Md.App. 691, 721, 651 A.2d 424 (1995). If such a finding is made, the zoning authority must then determine whether an unreasonable hardship results from the disproportionate impact of the ordinance. *Id.* These general rules are recognized by BCZR 307.1, which provides that a variance may only be granted if there are "special circumstances or conditions ... peculiar to the land ... and [if] strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship."

The "uniqueness" requirement has a rather specialized meaning. As this Court established in *North v. St. Mary's County*, 99 Md.App. 502, 638 A.2d 1175 (1994),

the "unique" aspect of a variance requirement does not refer to

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

*Id.* at 514, 638 A.2d 1175.

A reading of the Board of Appeals's opinion shows that it failed to apply properly the law governing variances. On \*507 pages sixteen and seventeen, the Board sets forth, verbatim, the requirements of BCZR 307.1—the regulation governing the granting of variances in Baltimore County. But then the Board goes on to ignore the first prong of the variance test—whether the subject property \*\*178 is unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to have a disproportionate effect on the property. For each of the requested variances, the Board only addresses whether the Umerleys' compliance with the applicable regulation would cause them practical difficulty or undue hardship—the second prong of the variance test.

Ordinarily, the Board of Appeals's failure to consider the first prong of the regulation would mandate that we vacate and remand for further proceedings. We shall assume, however, that the Board of Appeals did find, implicitly, that there was sufficient evidence to support uniqueness, and, for that reason, moved on to consider the second prong of the variance test. Our review of the evidence that was produced before the Board and the considerable amount of argument presented by the parties in this appeal on the issue of uniqueness convinces us, as a matter of law, that there is no substantial evidence to support a finding of uniqueness; and, therefore, it cannot be said that such a finding would be "fairly debatable." As this Court said in *Ocean Hideaway Condominium Ass'n. v. Boardwalk Plaza Venture*, 68 Md.App. 650, 515 A.2d 485

(1986), "[W]hen a Board's finding cannot be said to be 'fairly debatable,' it is arbitrary, capricious and a denial of due process of law." *Id.* at 665, 515 A.2d 485. As in *Ocean Hideaway*, in which the record clearly indicated that the special exception should not have been granted, we hold that the requirements of Maryland law on variances were not met, and the circuit court was correct in reversing the Board's decision.

[7] As the Umerleys correctly assert, our inquiry on this issue focuses on whether there is substantial evidence in the record to support a finding that the subject property is \*508 "unique." See *Cromwell*, 102 Md.App. at 726, 651 A.2d 424 (zoning authority held to have erred in granting variance when no evidence submitted to indicate that subject property was "unique"). In their briefs, the Umerleys fail to point to any evidence that would support a finding that their property is "unique" within the meaning of Maryland case law and BCZR 307.1. The Umerleys only point to evidence that shows that their operations predate the 1976 trucking facility regulations, that their facility has always been in violation of those regulations, that their operations cannot comply with those regulations, and that their operation is important to the economy of both Baltimore County and the State of Maryland. Because the uniqueness requirement mandates that the subject property "have an inherent characteristic not shared by other properties in the area," such evidence cannot support a finding that the Umerleys' property is unique within the meaning of Maryland law. A review of the record fails to reveal any other evidence that would support such a finding.

The Umerleys make much of the fact that their operation contributes substantially to the area economy, and that they will be forced to close their business if the requested variances and special exception are not granted. They also make much of the fact that the Baltimore County Council explicitly stated that part of the purpose of the 1976 trucking facility regulations is to "accommodate trucking activities, in recognition of their importance to the economy of the County and the nation." BCZR 410A.4.B.7. The Umerleys argue that this provision shows that the Baltimore County Council did not intend to force trucking operations out of business with the 1976 regulations, and that we should effectuate that intent by upholding the Board of Appeals's ruling.

We agree that the Baltimore County Council did not intend to drive legitimate trucking operations out of business with the 1976 trucking regulations. That is why it included the exemption provisions in those regulations. The Umerleys

failed to take advantage of the window of opportunity opened by those exemption provisions; as a result, their operation has been in violation of the law for the past seventeen years. The "509 only way for them to comply with the law is to petition for variances and a special exception. Because the Umerleys failed to produce substantial evidence showing that their property is "unique" within the meaning of applicable Maryland law, their variance requests must be denied.

\*\*179 As a final matter, we note that the Umerleys might have been able to undertake their 1980s expansion activities legally had they properly complied with the exemption provisions of the 1976 regulations. Under BCZR 410A.1.E.1, a nonconforming trucking facility that existed at the time the 1976 regulations were passed and that properly complied with the applicable exemption provisions is allowed to expand its activities "to the minimum extent necessary to comply with the standards of Subsection 410A.3" as long as the zoning commissioner determines that "the expansion would be in the interest of the general welfare of the community...." Regulation 410A.3 provides, in relevant part, that all trucking facilities must be located on lots that are at least five acres (BCZR 410A.3.B.1), and that all trucking facilities must contain "adequate rest-room facilities, a drivers' room, and telephone service for the truck drivers and other personnel...." BCZR 410A.3.B.8. In the 1980s, the Umerleys: 1) expanded their lot on which they conducted their trucking operations from 2.5 acres to 5.3 acres; and 2) constructed a two-story office building on the original 2.5 acre site. Given the provisions of BCZR §§ 410A.1.E.1, 410A.3.B.1, and 410A.1.B, such activities might have been proper had the Umerleys properly complied with the exemption provisions of the 1976 regulations.

## II. Special Exception

When a use district is established, applicable regulations allow two types of uses: 1) those permitted as of right; and 2) those permitted only on a showing that certain conditions have been met. *Schultz v. Pritts*, 291 Md. 1, 20-21, 432 A.2d 1319 (1981). A person wishing to engage in the latter type of use must petition the appropriate zoning authority in order to do so, and the petition must show that all of the applicable conditions are met. *Id.* If all of the required conditions are \*510 satisfied, the petitioner is given permission, otherwise known as a special exception, to engage in the conditional use. *Id.*

[8] [9] The difference between a special exception and a variance lies in the legislative approval of the underlying use. A special exception grants permission to engage in a use that the appropriate legislative authority has sanctioned under certain conditions. The special exception is an acknowledgement by the appropriate zoning authority that those conditions have been met. A variance, by contrast, grants permission to engage in a use that the appropriate legislative authority has otherwise proscribed. It represents a determination by the appropriate zoning authority that adherence to the letter of the applicable zoning regulations would result in extreme hardship to the property owner. *See Cromwell, supra*, 102 Md.App. at 699-703, 651 A.2d 424.

In the case *sub judice*, the Umerleys petitioned for a special exception to operate a Class II trucking facility on the subject property. For such a special exception to be granted, the Umerleys must show that all of the conditions established by the Baltimore County Council for operation of a Class II trucking facility are met.

The Umerleys cannot meet several of the applicable conditions. Accordingly, they have applied for variances from those conditions. As noted in the preceding section, however, the petition for those variances will not be successful. As stated *supra*, because the Umerleys failed to produce substantial evidence showing that the subject property is "unique," their variance requests must fail.

Whether the Umerleys could have obtained the special exception had they succeeded in obtaining the variances is an interesting question, and one that we recently noted. *See Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County*, 103 Md.App. 324, 336, 653 A.2d 532 (1995) (asking, "Does the legislative intent that the [conditional] use be permitted remain if the conditions are not met but are eliminated by an administrative body granting a variance?"; also noting that, under such circumstances, "the presumption \*511 that a conditional use is permitted may well fall by the wayside."). In *Chester Haven*, however, we did not reach that question because the petitioner was unable to acquire the requested variances. We said that, once "the variance process fails, the entire application fails." *Id.*

\*\*180 In the case *sub judice*, the Umerleys have failed in their attempt to acquire variances from the restrictions that must be met in order to operate a Class II trucking facility. Accordingly, their petition for a special exception to operate such a facility must also fail.

JUDGMENT AFFIRMED. APPELLANTS TO PAY  
THE COSTS.

Parallel Citations

672 A.2d 173

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[Public Works Overview](#)

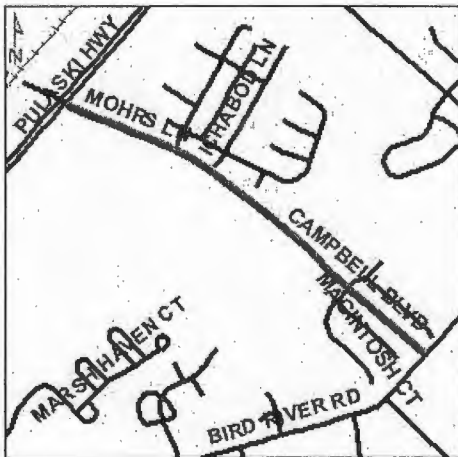
Department of Public Works



[Home](#) > [Agency Directory](#) > [Public Works](#) > [Bureau of Engineering and Construction](#) > [Project Lists](#) > [Campbell Boulevard Phase Two](#)

## Campbell Boulevard Phase Two

Campbell Boulevard, which will connect the existing road off Bird River Road to the existing Mohrs Lane off Pulaski Highway, is under construction and should be completed in 2015. This three lane road, with sidewalks, will be almost one mile long and cost \$6 million.



For more information contact the Bureau of Engineering and Construction at [enginrng@baltimorecountymd.gov](mailto:enginrng@baltimorecountymd.gov).

*Revised September 26, 2014*

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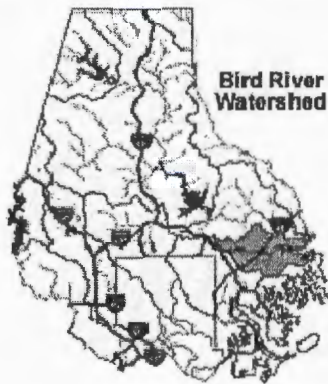
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Environmental Protection and Sustainability

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## Bird River Watershed



The Bird River watershed is located in Eastern Baltimore County and encompasses the communities of White Marsh, Perry Hall and Chase. The watershed's major tributary, White Marsh Run, begins at Harford Road and 695 and continues east, parallel to Rt. 43; it enters Bird River just east of Rt. 40 at Ebenezer Road. Other tributaries include Honeygo Run and Windlass Run. The tidal portion of Bird River is about 20,000 linear feet that includes Bird River and Railroad Creek and the waterfront communities of Harewood Park, Loreley Beach, Bird River Beach and Bird River Grove.

This watershed includes one of the original designated growth areas of Baltimore County – White Marsh. Under a managed growth plan established in 1983 to protect areas outside the urban/rural demarcation line (URDL) and the reservoir watersheds in Northern Baltimore County, the area was targeted for intensive residential, commercial and industrial development. Today, clusters of financial, insurance and health care operations, light manufacturing, technology and distribution surround a vibrant town center that includes the White Marsh Mall and The Avenue, a "Main Street" retail and entertainment center.

The area also boasts the recently refurbished Honeygo Run Regional Park. This 149-acre stream valley park features ball diamonds, athletic fields, an indoor recreation center, playgrounds, picnic pavilions and a wooded trail system for hiking and biking. In addition, the watershed is home to the Days Cove area of Gunpowder Falls State Park which features hiking, biking, fishing, boating and wildlife viewing, as well as an environmental education center.

The Bird River watershed was also targeted for the County's first comprehensive watershed plan, which was completed in 1995. To date, over five miles of stream restoration have been completed on the main stem and tributaries of White Marsh Run and Honeygo Run. In addition, numerous water quality retrofit projects have been implemented in this

watershed as well as the dredging of Bird River and Railroad Creek.

## Small Watershed Action Plan (SWAP)

A small watershed action plan (SWAP) for the Bird River watershed is being developed. This planning area includes the communities of White Marsh, Perry Hall and Chase. For more information, contact Nathan Forand at [nforand@baltimorecountymd.gov](mailto:nforand@baltimorecountymd.gov).

On June 24, 2013, Baltimore County EPS hosted the first of two community meetings for the Bird River SWAP. The purpose of the meeting was to introduce the SWAP to the public, describe the next steps in the process, and gather input from the Bird River community.

- [What is a SWAP presentation \(PDF\)](#): Describes the basics of the SWAP and what is involved with its preparation.
- [Bird River SWAP presentation \(PDF\)](#): Presents the progress made on the SWAP so far, as of the date of the meeting.

On March 25, 2014 EPS hosted the second community meeting for the Bird River SWAP. The purpose of this second meeting was to detail the completed SWAP, introduce the local watershed association, the Gunpowder Valley Conservancy and to describe the restoration actions that will be used to implement the SWAP.

- [Follow-ups from first meeting presentation \(PDF\)](#): Details the Baltimore County follow up on citizen concerns raised at the first meeting.
- [Draft Bird River SWAP plan presentation \(PDF\)](#): Presents the draft Bird River SWAP Plan.
- [Gunpowder Valley Conservancy Outreach presentation \(PDF\)](#): Presents an overview of the work of the Gunpowder Valley Conservancy
- [SWAP K Actions presentation \(PDF\)](#): Describes some of the different municipal and citizen actions recommended by the SWAP.

## Watershed Management Plan

The Bird River Watershed Management Plan was completed in February of 1995. The executive summary includes an evaluation and discussion of the water quality problems and an identification of stream based and source based water quality control measures. The [executive summary \(PDF\)](#) is available for download from this web site.

## Volunteer Activities

To participate in volunteer activities contact the [Gunpowder Valley Conservancy](#).

### Contact Information

#### Watershed Management Program

Phone: 410-887-5683

Fax: 410-887-4804

Email: [watersheds@baltimorecountymd.gov](mailto:watersheds@baltimorecountymd.gov)

Revised April 11, 2014

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**Baltimore County starts work on White Marsh Run**

By: Ray Frager September 29, 2014

(AP) Baltimore County has launched a \$13 million effort to clean a polluted stream that flows into the Ches Bay. Years of flooding have caused the banks of White Marsh Run to erode. That storm water has chipped nearby sewage pipes, causing them to burst repeatedly and send waste into White Marsh Run, which flows bay. WJZ-TV reported that crews recently began bulldozing dirt and rocks near the run to relocate the sew and rebuild the stream. County officials say smaller tributaries, like the Bird River, also will see improved w quality and reduced pollutants. The project is part of 10 this year aimed at restoring streams and reducing Most will be funded by Maryland's storm water remediation fee, also called the rain tax.

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26°  
Clear



@PerryHallPatch

## \$13 Million White Marsh Run Infrastructure Project Breaks Ground

Baltimore County began effort to fix sewage issue in stream near White Marsh Boulevard.

By Elizabeth Janney (Patch Staff) (/users/elizabeth-janney)  
© Updated September 25, 2014 at 10:15 am  
(<http://contribute.patch.com/moderation/24251570>)



Baltimore County officially broke ground Wednesday on a \$13 million infrastructure investment to correct a recurring sewage overflow problem in White Marsh Run, a tributary of Bird River and the Chesapeake Bay, according to a [statement from Baltimore County](http://www.baltimorecountymd.gov/News/releases/0924remedia.htm) (<http://www.baltimorecountymd.gov/News/releases/0924remedia.htm> utm\_source=County+News&utm\_campaign=31b545def-countynews140924sewerline9\_24\_2014&utm\_medium=email&utm\_31b545def-3ct= (countynews140924sewerline9\_24\_2014)).

### ACROSS AMERICA

- 1 ▶ Patch Voice: Long Island Family Needs Help After Tragic Loss Of Young Son  
(<http://new-york/kingspark/kings-park-family-needs-help-after-tragic-loss-young-son>)
- 2 ▶ Deer Crashes Into Office Window At Ocean County Church  
(<http://new-jersey/tomsriver/deer>)
- 3 ▶ Plane Crashes Just 8 inches Away from Sleeping Couple Near Midway Airport  
(<http://illinois/beverly-milgreenwood/small-plane-crashes-house-near-midway-airport-0>)
- 4 ▶ Jane Byrne Made the Best Scenes in 'The Blues Brothers' Possible  
(<http://illinois/northcenter-roscoe-village/jane-byrne-made-best-scenes-blues-brothers-possible>)
- 5 ▶ Coming Soon: 'Hillary Clinton: The Coloring Book' ... Just in Time for 'Hillary Clinton: The Presidential Campaign'  
(<http://illinois/parkridge/hillary-clinton-coloring-book-joy-kids-and-friends-hillary-alike>)

### STATE NEWS

**Maryland Surgeon Is America's Second Ebola Death**  
(<http://maryland/bowie/maryland-surgeon-americas-second-ebola-death-0>)



Dr. Martin Salia lived in Prince George's County, but spent much of his time working in Sierra Leone, where he contracted the **Man Found Dead in Car Near Odenton** (<http://maryland/odenton/man-found-dead-car-near-odenton>)



The man died of trauma to his upper body, but was not involved in a car crash, Anne Arundel County Police say.

**Fallston House Fire Caused \$500,000 in Damage, Officials**

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stream, the statement said. White Marsh Run travels parallel to White Marsh Boulevard, according to the statement.

"When it rains—especially in a place like White Marsh with a lot of buildings and paved areas—the rain rushes down storm drains into our streams," County Executive Kevin Kamenetz said, creating a "torrent of pollution" that impacts waterways.

The project will include the following measures, according to the county:

- Replacing 800 feet of sewer pipeline with a 30-inch diameter pipe
- Stabilizing bed and banks of White Marsh Run
- Relocating 6,300 feet of severely eroded stream channel
- Creating and protecting wetlands

The remediation work will transform the stream's banks "from virtual cliffs of dirt into more natural floodplains that hold the water and absorb nutrients and pollution," Kamenetz said.

As a result, pollutants will be reduced in the Bird River and Chesapeake Bay, the statement from the county said.

The \$13 million project is being financed using bonds and funds from Baltimore County's Metropolitan District budget, which supports improvements to public water and wastewater infrastructure.

Work is expected to be completed by the end of 2015.

Photo Credit: Baltimore County Government.  
County Executive Kevin Kamenetz, County Council Chair Cathy Bevin and community leaders Bob Bendler and Dot Hinnant joined Baltimore County staff and community members on Wednesday, Sept. 24, to officially break ground on the White Marsh Run restoration initiative.

**Report: Maryland/Belair/Fallston house fire caused \$500,000 in damage, officials report**



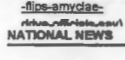
The blaze drew more than 70 firefighters to Beechwood Lane Sunday afternoon, the fire marshal said.

**Will Open in Three Weeks**  
(<http://maryland/belair/new-express-toll-lanes-i-95-will-open-three-weeks>)



Drivers can use the lanes for free during the first week they are open.

**myclae Drive, flips-amyclae-drive-officials-say**  
(<http://maryland/belair/flips-amyclae-drive-officials-say>)



At least one person was injured, according to the Bel Air Volunteer Fire Company.

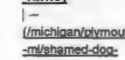
**Watch: World's Tallest Roller Coaster Will Tower Over Orlando**  
(<http://florida/brandon/watch-worlds-tallest-roller-coaster-will-tower-over-orlando-0>)

A new animation shows the vision for the Skywrecker, which is anticipated to open in 2017.

**Coming Soon: 'Hillary Clinton: The Coloring Book' ... Just in Time for 'Hillary Clinton: The Presidential Campaign'** (<http://illinois/parkridge/hillary-clinton-coloring-book-joy-kids-and-friends-hillary-alike>)

Plenty of opportunities to color in an array of Clinton portraits in this 30-page retrospective on the Park Ridge native's life.

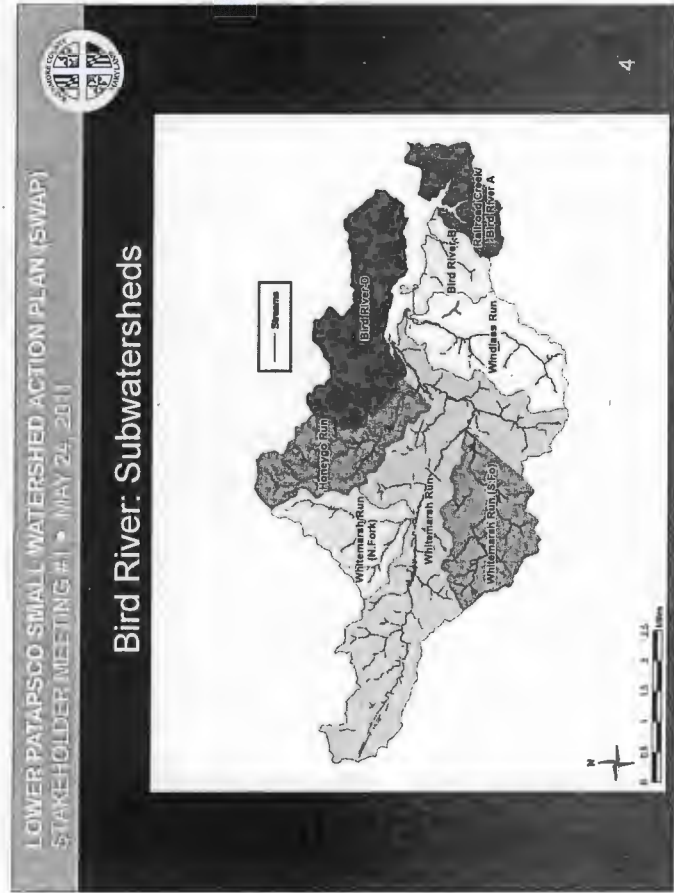
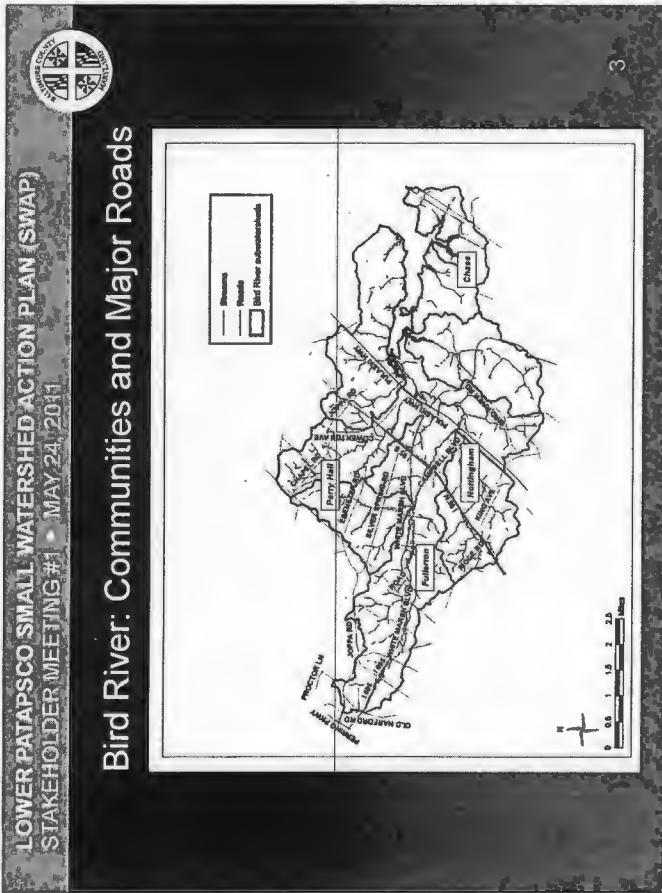
**Shamed Dog Gets His Moment of Fame** (<http://michigan/plymouth-mi/shamed-dog-gets-his-moment-of-fame>)



Gordie eats whatever is in his path — his master's lunch, some kids' crayons, you name it — and now he's a naughty-dog cover boy.

**UCSD Researchers Successfully Use Experimental Drugs on Ebola Patients** (<http://california/la/jolla/ucsd-researchers-successfully-use-experimental-drugs-ebola-patients>)

Researchers using an imaging technique called "electron microscopy" found that two ZMapp



BAKERS COUNTY  
QUINCY

## Slides for BIRD RIVER SMALL WATERSHED ACTION PLAN (SWAP)

### COMMUNITY MEETING #1

June 24, 2013

LOWER PATAPSCO SMALL WATERSHED ACTION PLAN (SWAP)  
STAKEHOLDER MEETING #1 • MAY 24, 2011

## Overview: Conditions in the Bird River Watershed

- 26 square miles
- Est. population: 60,895
- Includes White Marsh and portions of Perry Hall, Fullerton, Nottingham, Chase
- Major transportation corridors: I-95, Rts. 40, 43

2



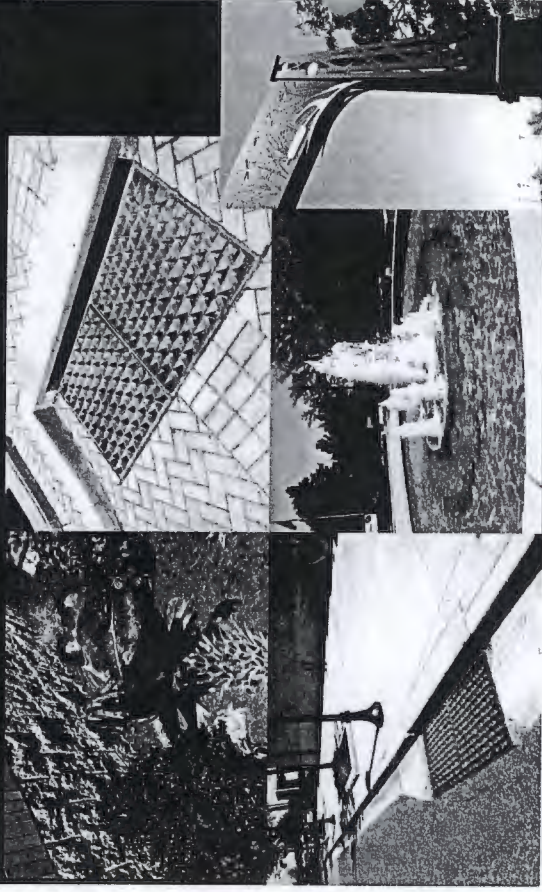


## Bird River: Land Uses

| Land Use                   | Acres  | % of Watershed Area |
|----------------------------|--------|---------------------|
| Low-density Residential    | 1182.6 | 7.2                 |
| Medium-density Residential | 3210.7 | 19.6                |
| High-density Residential   | 1474.4 | 9.0                 |
| Commercial                 | 1116.7 | 6.8                 |
| Industrial                 | 766.0  | 4.7                 |
| Institutional              | 436.9  | 2.7                 |
| Extractive                 | 158.6  | 1.0                 |
| Transportation             | 331.6  | 2.0                 |
| Open Urban Land            | 297.6  | 1.8                 |
| Agricultural               | 1801.0 | 11.0                |
| Forest                     | 5051.6 | 30.8                |
| Water                      | 29.7   | 0.2                 |
| Wetlands                   | 270.7  | 1.5                 |
| Barren                     | 270.2  | 1.5                 |

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## A Tour of Bird River



## Background: How Does the Watershed Affect Bird River and Its Tributary Streams?

- Land uses in a watershed impact streams
  - point source pollution** - industrial facilities, landfills, wastewater treatment plants - sometimes from a pipe
  - nonpoint source pollution** - runoff carried off the land ("stormwater"), includes a variety of urban pollutants
  - Increased force and volume of stormwater** - Urban areas contain more hard ("impervious") surfaces that prevent rain from soaking into the ground

### The Watershed and Pollution Sources



## Bird River: Land Use



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## Problems: Loss of Streamside Vegetation

- Natural forest vegetation along streams ("**Riparian Buffer**") provides many key functions
  - Acts as buffer to filter pollutants and sediment
  - Provides shade and cover
  - Roots stabilize stream banks
  - Leaves feed aquatic organisms
  - Wood provides habitat
- Loss of riparian buffer common in developed urban/suburban areas



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## Problems: Stormwater Runoff

- Adding more hard ("**impervious**") surface to watershed keeps rain from soaking in, causing greater and more rapid runoff
- "Flashy" stormflows – water runs off land with more force, higher volume
  - can cause flooding
- Causes streambank erosion and threatens channel stability
  - loss of trees
  - harms fish and other animals
  - degrades water quality and habitat
  - changes the stream hydrology, channel shape
  - can threaten infrastructure
- Older development does not include modern stormwater controls



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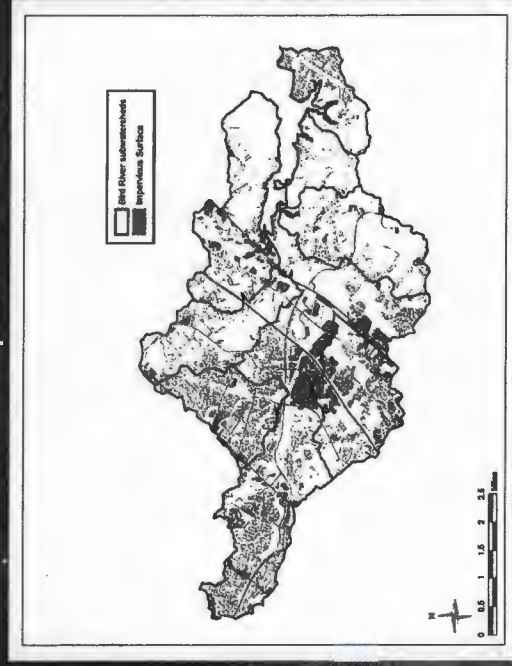


## Problems: Water Quality Degradation

- Excess sediment - particularly during storms
- Nutrients
- Toxic pollutants – such as metals, oil and grease, pesticides – runoff from urban areas
- Bacteria



## Bird River: Impervious Surface



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## Example Solutions: Watershed Restoration

- Prevent problems at the source:
  - Improve control of stormwater runoff, with new or upgraded stormwater management facilities
- Restore degraded areas:
  - Improve poor stream conditions



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## Examples: Types of Stormwater Controls

### Traditional Controls



Wet Pond



Dry Detention Pond

### Innovative Controls



Rain Garden



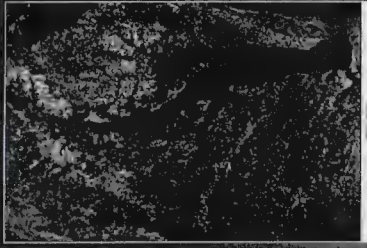
Rain Barrel or Cistern

20



## Problems: Excess Nutrients

- Excess nutrient loads to Chesapeake Bay - a major region-wide concern
- Sources of nitrogen and phosphorus include
  - sewage
  - fertilizers
  - animal waste
  - soil erosion
- Too many nutrients, not enough oxygen for fish and other critters



➤ The Bay is on a "Pollution Diet" with limits set by EPA



## Problems: Trash in Streams

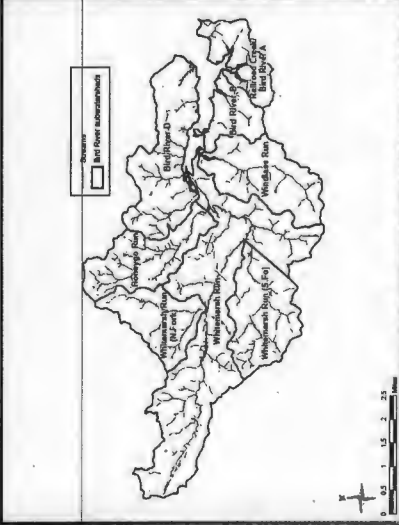
- Streams sometimes used as dumpsites
- Trash from streets and parking lots is washed into storm drains and flows directly to streams

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## Status of the Bird River SWAP Development

- Field Work
- Analysis
- Reports



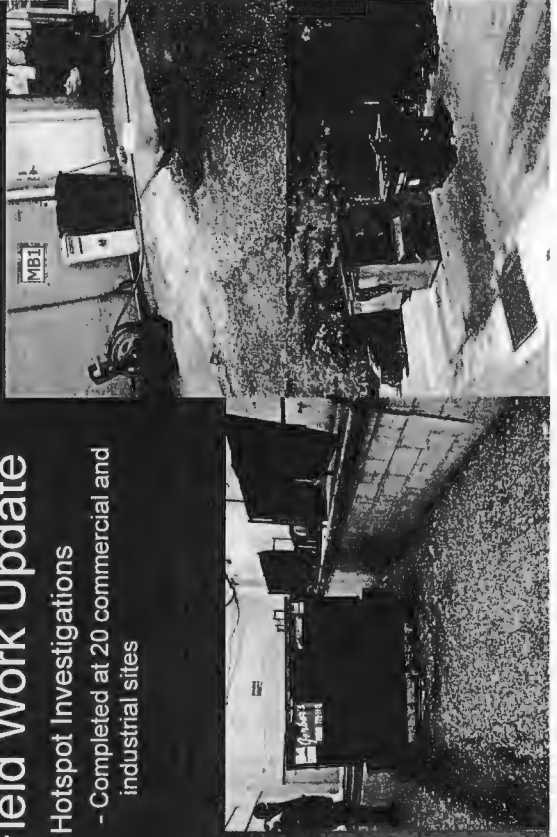
## Solutions: Stream Restoration

- Can restore streams that have been impacted by erosion
- Stream restoration and riparian planting can
  - Stabilize banks
  - Reduce sediment and erosion
  - Improve habitat and aesthetics
  - Improve water quality



## Field Work Update

- Hotspot Investigations
  - Completed at 20 commercial and industrial sites



## Individual and Community Actions to Improve Water Quality

### Individual Actions

- Bay wise landscaping
- Planting native trees, shrubs, & perennials
- Picking up after pets
- Slowing down the rain: rain barrels & rain gardens
- Practicing greener lifestyles, e.g. composting, natural lawn care (minimizing fertilizer), natural household cleaners, "Low salt" diet for waterways, etc.
- Reducing auto trips



### Community Restoration Actions

- Stream cleanups
- Creating demonstration rain gardens
- Planting native shrubs, trees or grasses along streams and drainages
- Reducing hard surfaces
- Developing areas to catch and filter water coming from parking lots
- Retrofitting old storm water management structures





## Field Work Update

- Institutional Site Investigations
  - "Where can we plant trees and improve water management at schools, churches, and parks?"
  - Completed, 40 sites



## Field Work Update

- Pervious Area Assessments
  - "Where are the best places to plant trees?"
  - Completed, 25 sites
- Evaluations of Stormwater Management Facilities
  - "Where can we upgrade older facilities?"
  - Completed, 20 sites



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## Field Work Update

- Neighborhood Source Assessments
  - "Where are the best opportunities to plant trees or improve stormwater management?"
  - 100 neighborhoods assessed
- Stream Assessments
  - "Where are the best locations for stream restoration?"
  - 15 miles of stream assessed



25



## Schedule and Next Steps

- Review and analyze field data
- Characterization Report
- Ongoing coordination with Steering Committee
- Community meeting in fall 2013 to review findings and recommended actions for SWAP
- Final SWAP Report

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## Analysis

- Compilation of field results
- GIS mapping
- Water quality data collected by Baltimore County EPS and others

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## Thank you...for your participation!

For further information, contact:

Nathan Forand

Baltimore County Department of  
Environmental Protection and  
Sustainability

410-887-7695

[nforand@baltimorecountymd.gov](mailto:nforand@baltimorecountymd.gov)

[www.baltimorecountymd.gov/birdriver](http://www.baltimorecountymd.gov/birdriver)

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## Reports

- Watershed Characterization report
  - will include results of all field, GIS and data analysis to characterize conditions
- SWAP
  - plan will be focused on meeting goals and objectives specific to Bird River
  - will recommend actions for each subwatershed

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Bird River SWAP Community Meeting #2

March 25, 2014

# Bird River

## Small Watershed Action Plan

### (SWAP)

### Community Meeting #2

March 25, 2014

Bird River SWAP Community Meeting #2

March 25, 2014

# Welcome/Meeting Purpose

- Hear details about the completed SWAP and what comes next
- Learn about your local watershed group the Gunpowder Valley Conservancy
- Hear about different restoration actions that we use to implement the SWAP

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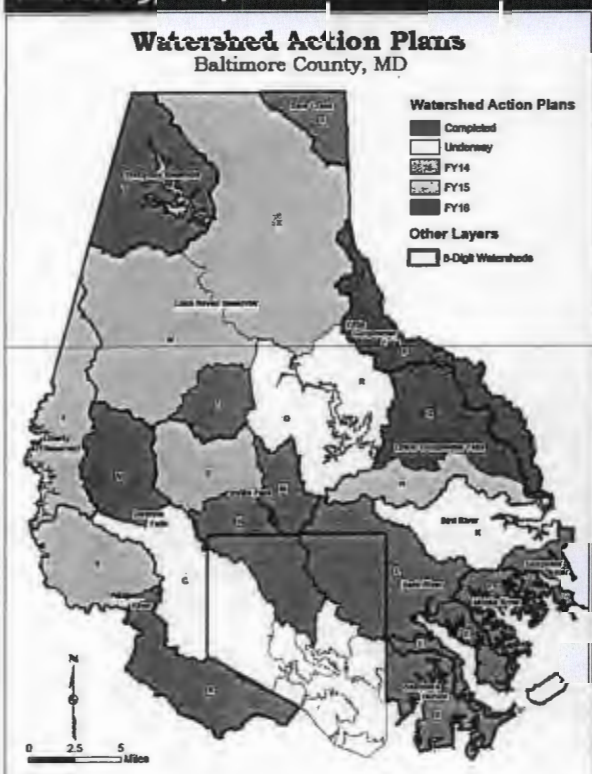


# What is a SWAP?

## Small Watershed Action Plan

A SWAP is a strategy that outlines how we will improve our streams and rivers within a specific watershed planning area and contribute healthier water to the Chesapeake Bay.

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## Small Watershed Action Planning Areas

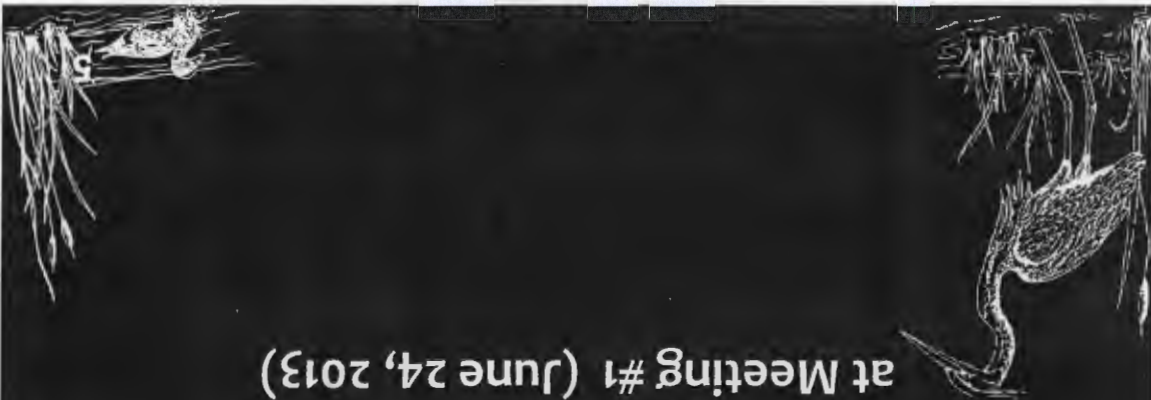
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# Bird River Small Watershed Action Plan (SWAP)

Follow Ups to Issues Raised  
at Meeting #1 (June 24, 2013)



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## Follow Ups to Issues From Meeting #1

Riparian Erosion White Marsh Run

Repairs scheduled  
for area between RR  
bridge and 40 for  
existing SHA stream  
restoration project.  
New SHA project  
planned for area  
east of 40.



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## Follow Ups to Issues From Meeting #1

### Rust Colored Algae

This was investigated and it is actually a naturally occurring bacteria that is reacting to the presence of minerals in the water. In this case the mineral is iron and this particular bacteria is referred to as "iron floc".



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## Follow Ups to Issues From Meeting #1

### Sewage Issue

This pumping station has no recorded overflows. Stream sense signage due to overflows upstream at Reames Rd but no overflows from here since 2008 upgrade. To report problems contact Baltimore County Emergency Sewer Service Group: 410-887-7415.



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## Follow Ups to Issues From Meeting #1

Irrigation Pump



Irrigating farm  
fields with river  
water is legal with a  
permit from MDE.  
For info contact  
MDE Water Supply  
Program: 410-537-  
3073.

For noise  
complaints contact  
Baltimore County  
Police Dept.: 410-  
887-2214.

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## Follow Ups to Issues From Meeting #1

Limited Buffer, Erosion & Nutrients



Ag land in critical  
area is only required  
to have a 25' buffer.  
Ag issues should be  
referred to the  
Baltimore County  
Soil Conservation  
District: 410-527-5920  
ext. 107

See COMAR sections  
27.01.06 and  
27.01.09.01-6  
[http://www.dsd.state.md.us/comar/subtitle\\_chapters/27\\_Chapters.aspx](http://www.dsd.state.md.us/comar/subtitle_chapters/27_Chapters.aspx)

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## Follow Ups to Issues From Meeting #1

Illicit Littering Large Dump



Posted "No  
trespassing" signs.  
Trash viewed from  
the road was likely  
not enough for  
enforcement.

Baltimore County  
Code Enforcement:  
410-887-3351



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## Follow Ups to Issues From Meeting #1

Illicit Littering Large Dump



Inspector visited the  
site on 11/8/13 and  
saw nothing in the  
water. Site had been  
visited earlier in the  
year and trash clean  
up order was issued  
for junk in the  
woods.

Contact Baltimore  
County Code  
Enforcement: 410-  
887-3351.



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## Follow Ups to Issues From Meeting #1

Public Works Issues

High tide  
flooding:  
start with  
storm drain  
design: 410-  
887-3711.



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## Follow Ups to Issues From Meeting #1

Public Works Issues

Questionable  
Public Sewer  
Connections:  
contact Kevin  
Koepenick at  
EPS:  
410-887-5856



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# 5112 Forge Road 2015-0197-A



Publication Date: 3/10/2015



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



0 25 50 100 150 200 Feet

1 inch = 100 feet



THOMAS RAINES  
TAX ID #1700017517

N84°40'00"E  
85.20'

44,867 S.F.  
OR  
1.03 AC.±

N05°20'00"W  
449.74'

S05°20'00"E  
542.51'

VYACHESLAV BORISEVICH  
TAX ID #1107090260  
(VACANT)

THOMAS RAINES  
TAX ID #1700014316  
(VACANT)

PROPOSED  
DWLG.

EXISTING HOUSE

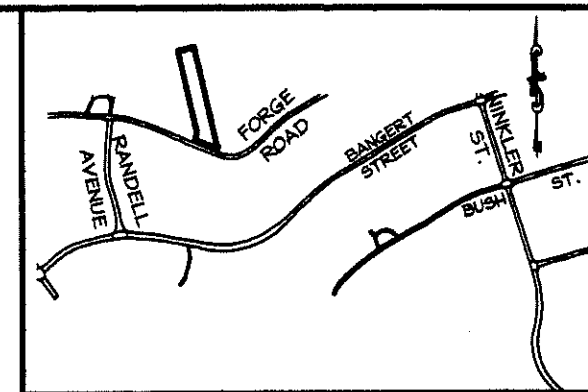
N23°38'00"E  
41.32'

N59°50'00"W  
129.19'

FORGE ROAD  
50' RIGHT OF WAY

POINT OF  
BEGINNING

OWNER  
AIDAN F. JONES  
5217 GLENTHORNE CT.  
BALTIMORE, MD. 21234  
DEED REF. 35092 / 326



VICINITY MAP  
SCALE: 1"=1000'

- NOTES:
1. THIS PROPERTY HAS NO PRIOR ZONING CASES.
  2. THIS PROPERTY HAS NO CURRENT ZONING VIOLATIONS.
  3. THIS PROPERTY IS NOT LOCATED WITHIN A 100 YEAR FLOODPLAIN.
  4. PROPERTY IS ZONED DR-IH.
  5. PROPERTY IS NOT IN THE CBCA.
  6. PROPERTY IS NOT HISTORIC.
  7. PROPERTY LOCATED ON MAPS 064A3 AND 073A1.

PETITIONER'S

EXHIBIT NO. 1

MERRITT DEVELOPMENT  
CONSULTANTS, INC.  
9831 MAGLEDT ROAD  
BALTIMORE, MARYLAND 21234  
PHONE: 410-925-4061 FAX: 410-661-1297

PLAN TO ACCOMPANY ZONING REQUEST

CASE NO. 20105-0197-A  
5112 FORGE ROAD

11TH ELEC. DISTRICT 5TH COUNCILMANIC DISTRICT  
BALTIMORE COUNTY, MARYLAND  
SCALE: 1"=60' MARCH 10, 2015



THOMAS RAINES  
TAX ID #1700017517

N84°40'00"E  
85.20'

44,867 S.F.  
OR  
1.03 AC.±

N05°20'00"W  
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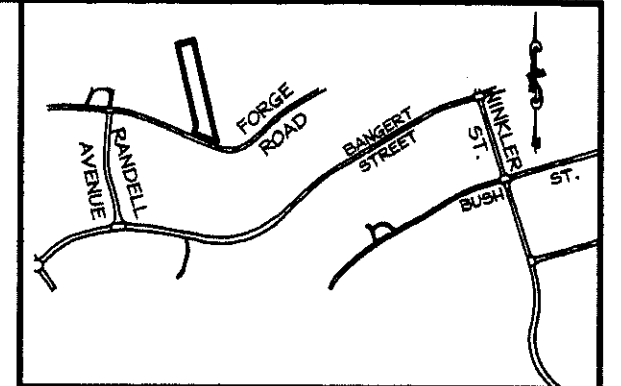
N89°50'00"W  
129.19'

FORGE ROAD  
50' RIGHT OF WAY

POINT OF  
BEGINNING

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