

Carl Richards Jr

From: Arnold Jablon
Sent: Monday, February 06, 2017 2:15 PM
To: Carl Richards Jr
Subject: FW: 8930 Liberty Road; Denial of Zoning Petition; Approval of Building Permit; Conflict
Attachments: Joetrin, LLC Case No. 2016-117-SPHXA ALJ Opinion.pdf; Joetrin email.pdf

? can you look into this today and let me know?

*Petition for 100% medical use
Class B - Office Bldgs. SE.*

From: Peter Max Zimmerman
Sent: Monday, February 06, 2017 2:09 PM
To: Arnold Jablon <ajablon@baltimorecountymd.gov>
Subject: 8930 Liberty Road; Denial of Zoning Petition; Approval of Building Permit; Conflict

*Denial
Permits Issued?*

February 6, 2017

Confidential Work Product

Re: 8930 Liberty Road Zoning and Building Issues; Conflict

Dear Arnold,

I hope this background is helpful on one of the matters I would like to discuss, but which involves a fair amount of detail.

Pat Clark, President of the Fieldstone Community Group called me recently to raise concerns about building activity at 8930 Liberty Road, at the northeast corner of the McDonogh Road intersection.

Ms. Clark was concerned because just last year ALJ Beverungen denied Joetrin, LLC's zoning petition for medical offices on January 6, 2016. Case No.: 2016-117-SPHXA. The opinion is attached. As reflected by the opinion, Joetrin consisted of Dr. Joseph Nkwanyuwo and Trinity Tumban, represented by Lawrence Schmidt.

There was no appeal, so the decision became final on February 5, 2016.

We had worked very hard with Ms. Clark (after being referred by Councilman Jones) to challenge Joetrin, LLC's zoning petition brought for approval of a 100% medical office building on the split zoned R.O./D.R.3.5 site which backs up to residences in this historic area. The petition involved a special exception for the 100% medical office building, a use permit (special exception standards also) for business parking in a residential zone, parking variances for number, and RTA variances for parking, landscaping and buffer. I am also attaching the email I filed in this case, which discussed the legal problems at length. ALJ Beverungen denied the variances and dismissed the special exception request as moot.

After Ms. Clark called us recently, we checked with the building permit records. We were able to obtain computer printouts but not the actual documents. We learned shortly after the zoning denial, Joetrin nevertheless applied for a building permit for medical and other office use in April, 2016. B911043.

The building permit application apparently focused on interior alternations, The printout indicates, albeit cryptically, the zoning case number and that it was denied. This did not appear to spark an inquiry. The PAI computer printout indicates that the department issued a permit on June 2, 2016.

So, while the permit application listed 25% medical offices, it still in my view would require a special exception for a new office building use in the R.O. Zone, a use permit approval for business parking in a residential zone, and many variances. Another point is that the parking requirements for medical office use are stricter than for general office use.

This is still a new use, the only difference with the previous zoning petition being the modification from 100% to a listing of 25%. As reflected by the 2016-117 petition, there is no nonconforming use entitlement. Has there been a shadow of an argument for same, they would have had to make it in the earlier zoning petition.

Moreover, Ms. Clark told me that the property has been the site of the Maryland Farm Bureau, but it has been vacant for several years.

The bottom line is that Joetrin did not file a new zoning petition to obtain zoning approval prerequisite to its new use. This appears to me inexcusable unless I am overlooking something.

Under these circumstances, based on my review so far, based on the lack of zoning approval, it appears to me that the building permit conflicts with the zoning law. Moreover, the law does not afford an applicant a claim for allowance based on "equitable estoppel." There is abundant case law on the subject. Anyway, there does not appear to be an equity here.

At the very least, whatever your view as to building permit status, it looks to me like a new zoning petition is required. There is also a solid basis to consider that the building permit is subject to revocation for conflict with the zoning law. There is ample precedent. City of Hagerstown v. Longmeadow Shopping Center 264 Md. 482 (1972) and cases cited.

We also received a copy of Ms. Clark's email to you dated January 25, 2017. This also provides good background information. The community is not opposed to some positive use on the property. However, they understandably have concerns. The fact that Joetrin applied for a building permit shortly after denial of their petition for variances without filing a new zoning petition or meeting with the community raises the question as to whether their intent is still to have a major medical office building, which the community opposes. In the absence of agreement or consensus with the community, it seems likely that any new petition involving variances would have to be denied again.

This is one of the matters I would like to discuss with you and have your thoughts. I hope that this background is helpful to our discussion of this particular situation.

Sincerely, Peter Max Zimmerman (Peter)

M E M O R A N D U M

DATE: February 10, 2016
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2016-0117-SPH- Appeal Period Expired

The appeal period for the above-referenced case expired on February 8, 2016. 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

IN RE: PETITIONS FOR SPECIAL HEARING, *

SPECIAL EXCEPTION & VARIANCE

(8930 Liberty Road) *

2nd Election District

4th Council District *

Joetrin, LLC, *Legal Owner* *

Petitioner *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2016-0117-SPHXA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of Petitions for Special Hearing, Special Exception and Variance filed on behalf of Joetrin, LLC, the legal owner ("Petitioner").

The Petition for Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows: (1) to approve a modified parking plan to allow the number of spaces shown on the site plan (10 spaces) in lieu of the 24 required and to allow their configuration and layout as more particularly shown on the Site Plan to accompany the Petition; (2) to allow business parking in a residential zone; and (3) to confirm that the existing site is in compliance with the RTA requirements in B.C.Z.R. 1B01.1.B.

A Petition for Special Exception was filed pursuant to B.C.Z.R. §204.3.B.2 to permit a Class B office building containing medical offices. Finally, a Petition for Variance as follows: (1) to allow medical offices to occupy up to 100% of the total adjusted gross floor area of an existing office building in lieu of the maximum permitted 25% of the total adjusted gross floor area; and (2) to permit existing landscaping and buffering in lieu of the required buffers and screening.

Appearing at the public hearing in support of the requests was Trinity Tumban and Dr.

Joseph Nkwanyuo. Lawrence E. Schmidt, Esq., represented the Petitioner. Several area residents
ORDER RECEIVED FOR FILING

Date 1-8-16

By DW

attended the hearing and opposed the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

The subject property is approximately 0.41 acres in size and is zoned DR 3.5 & RO. The property is improved with a commercial building constructed in 1960. The site was used for many years as the headquarters for the Maryland Farm Bureau. Petitioner purchased the property last year, and Dr. Nkwanyuo proposes to operate a medical office at the site. Dr. Nkwanyuo explained he is a family practitioner, and that most of his patients live in or near the Randallstown area. He would be the only physician at the clinic, which would have three additional employees. No exterior construction or enlargement of the commercial building is proposed. Petitioner would construct interior improvements to accommodate the needs of the medical practice.

Members of the community agree Dr. Nkwanyuo would be an asset to the neighborhood, but they feared that granting zoning relief would set a dangerous precedent by allowing 100% medical use in the R.O. zone. They also believe the site has insufficient parking and would cause congestion and additional traffic along already over-burdened roadways. The Office of People's Counsel also submitted correspondence outlining their objections to the petitions.

With regard to the 100% medical use issue, counsel submitted several orders from prior zoning cases wherein such relief was granted, and it may be that such a request is an area variance, not a use variance, which is prohibited under the B.C.Z.R. Even so, Petitioner would nonetheless need to satisfy the requirements for variance relief, which I do not believe it can. I was impressed by Dr. Nkwanyuo's credentials and commendations, and I too believe he would be an asset to this

ORDER RECEIVED FOR FILING

Date 1-8-16

By DW

community. But I am obliged to evaluate the requests under the pertinent legal standards, which (at least with regard to the petition for variance) require the petition to be denied.

While I believe Petitioner is entitled to special exception and special hearing relief based on the evidence presented at the hearing, the petition for variance is subject to a more stringent standard and will be denied.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995). The Cromwell court stressed that variances should be "granted sparingly" and only in "rare instances and under peculiar and exceptional circumstances." Id. at 700.

Under Maryland law, uniqueness involves the size, shape, topography, grade or accessibility of a site. Id. at 707. The site plan reveals the subject property is rectangular in shape and is similar in size and topography to surrounding properties. No testimony or evidence was introduced to establish that the subject property is peculiar or unlike other properties in the area. In these circumstances, I believe the petition for variance must be denied.

THEREFORE, IT IS ORDERED this 8th day of **January, 2016**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to §500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R"): (1) to approve a modified parking plan to allow the number of spaces shown on the site plan (10 spaces) in lieu of the 24 required and to allow their configuration and layout as more particularly shown on the Site Plan to accompany the Petition; (2) to allow

ORDER RECEIVED FOR FILING

Date 1-8-16

By [Signature]

business parking in a residential zone; and (3) to confirm that the existing site is in compliance with the RTA requirements in B.C.Z.R. 1B01.1.B, be and is hereby DISMISSED as Moot.

IT IS FURTHER ORDERED that the Petition for Special Exception filed pursuant to B.C.Z.R. §204.3.B.2 to permit a Class B office building containing medical offices, be and is hereby DISMISSED as Moot.

IT IS FURTHER ORDERED that the Petition for Variance pursuant to the B.C.Z.R. as follows: (1) to allow medical offices to occupy up to 100% of the total adjusted gross floor area of an existing office building in lieu of the maximum permitted 25% of the total adjusted gross floor area; and (2) to permit existing landscaping and buffering in lieu of the required buffers and screening, be and is hereby DENIED.

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



JOHNE. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw

ORDER RECEIVED FOR FILING

Date 1-8-16

By EW



KEVIN KAMENETZ
County Executive

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

January 8, 2016

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland, 21204

RE: Petitions for Special Hearing, Special Exception and Variance
Case No. 2016-0117-SPHXA
Property: 8930 Liberty Road

Dear Mr. Schmidt:

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

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

Sincerely,

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

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

c: Jeff and Shirley Supik, 3525 N. Rolling Road, Windsor Mill, MD 21244
Tim and Pat Clark, 3603 Stoneybrook Road, Randallstown, MD 21133
Nan Sherman and Susan Gayer, 8825 Liberty Road, Randallstown, MD 21133

C H E C K L I S TSupport/Oppose/
Conditions/
Comments/
No CommentComment
ReceivedDepartment11/16DEVELOPMENT PLANS REVIEW
(if not received, date e-mail sent _____)C11/18DEPS
(if not received, date e-mail sent _____)N/c

FIRE DEPARTMENT

12/23PLANNING
(if not received, date e-mail sent _____)no obj w/ comment11/12

STATE HIGHWAY ADMINISTRATION

no Obj

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT

Date:

12/17/15

SIGN POSTING

Date:

12/14/15by O'Heefe

PEOPLE'S COUNSEL APPEARANCE

Yes



No



PEOPLE'S COUNSEL COMMENT LETTER

Yes



No



Comments, if any: _____

Real Property Data Search (w3)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 02 Account Number - 0213201280			
Owner Information					
Owner Name:	JOETRIN LLC		Use:	COMMERCIAL	
Mailing Address:	9524 LYONSWOOD DR OWINGS MILLS MD 21117-		Principal Residence:	NO	
			Deed Reference:	/36316/ 00449	
Location & Structure Information					
Premises Address:	8930 LIBERTY RD RANDALLSTOWN 21133-4295		Legal Description:	PT LT 111 .3488 AC NE COR MCDONOUGH RD FIELDSTONE	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section: Block: Lot: Assessment Year: Plat No: 3
0077	0008	0272		0000	111 2016 Plat Ref: 0008/0098
Special Tax Areas:			Town: NONE		
			Ad Valorem:		
			Tax Class:		
Primary Structure Built	Above Grade Enclosed Area		Finished Basement Area	Property Land Area	County Use
1960	2565			0.3488 AC	15
Stories	Basement	Type	Exterior	Full/Half Bath	Garage Last Major Renovation
		OFFICE BUILDING			
Value Information					
		Base Value	Value As of 01/01/2016	Phase-in Assessments As of 07/01/2015 As of 07/01/2016	
Land:		203,000	203,000		
Improvements		127,000	129,700		
Total:		330,000	332,700	330,000	330,900
Preferential Land:		0			0
Transfer Information					
Seller: MD FARM BUREAU INC		Date: 06/18/2015		Price: \$360,000	
Type: ARMS LENGTH MULTIPLE		Deed1: /36316/ 00449		Deed2:	
Seller:		Date:		Price: \$0	
Type:		Deed1: /03414/ 00437		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2015		07/01/2016	
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.dat.maryland.gov/RealProperty>)

A detailed street map of a residential area in Chicago, showing streets like P.130, P.1436, P.1447, P.264, P.270, P.272, P.236, P.999, P.889, P.177, P.1214, P.857, P.179, P.1381, P.248, P.250, P.251, P.252, P.245, P.247, P.243, P.242, P.241, P.240, P.239, P.238, P.237, P.236, P.235, P.234, P.233, P.232, P.231, P.230, P.229, P.228, P.227, P.226, P.225, P.224, P.223, P.222, P.221, P.220, P.219, P.218, P.217, P.216, P.215, P.214, P.213, P.212, P.211, P.210, P.209, P.208, P.207, P.206, P.205, P.204, P.203, P.202, P.201, P.200, P.199, P.198, P.197, P.196, P.195, P.194, P.193, P.192, P.191, P.190, P.189, P.188, P.187, P.186, P.185, P.184, P.183, P.182, P.181, P.180, P.179, P.178, P.177, P.176, P.175, P.174, P.173, P.172, P.171, P.170, P.169, P.168, P.167, P.166, P.165, P.164, P.163, P.162, P.161, P.160, P.159, P.158, P.157, P.156, P.155, P.154, P.153, P.152, P.151, P.150, P.149, P.148, P.147, P.146, P.145, P.144, P.143, P.142, P.141, P.140, P.139, P.138, P.137, P.136, P.135, P.134, P.133, P.132, P.131, P.130, P.129, P.128, P.127, P.126, P.125, P.124, P.123, P.122, P.121, P.120, P.119, P.118, P.117, P.116, P.115, P.114, P.113, P.112, P.111, P.110, P.109, P.108, P.107, P.106, P.105, P.104, P.103, P.102, P.101, P.100, P.99, P.98, P.97, P.96, P.95, P.94, P.93, P.92, P.91, P.90, P.89, P.88, P.87, P.86, P.85, P.84, P.83, P.82, P.81, P.80, P.79, P.78, P.77, P.76, P.75, P.74, P.73, P.72, P.71, P.70, P.69, P.68, P.67, P.66, P.65, P.64, P.63, P.62, P.61, P.60, P.59, P.58, P.57, P.56, P.55, P.54, P.53, P.52, P.51, P.50, P.49, P.48, P.47, P.46, P.45, P.44, P.43, P.42, P.41, P.40, P.39, P.38, P.37, P.36, P.35, P.34, P.33, P.32, P.31, P.30, P.29, P.28, P.27, P.26, P.25, P.24, P.23, P.22, P.21, P.20, P.19, P.18, P.17, P.16, P.15, P.14, P.13, P.12, P.11, P.10, P.9, P.8, P.7, P.6, P.5, P.4, P.3, P.2, P.1.

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



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 8930 Liberty Road which is presently zoned DR 3.5 & RO
 Deed References: 36316/00449 10 Digit Tax Account # 0213201280
 Property Owner(s) Printed Name(s) Joelrin, LLC

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

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

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

Please see attached.

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

3. ☒ **a Variance** from Section(s)

Please see attached.

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

TO BE PRESENTED AT HEARING

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

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

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

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

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

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Trinity Tumban

Authorized Representative of Joelrin, LLC

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

9524 Lyonswood Dr Owings Mills MD

Mailing Address City State

21117 (443) 983-7333 TTumban@yahoo.com

Zip Code Telephone # Email Address

Representative to be contacted:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name - Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

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

Zip Code Telephone # Email Address

CASE NUMBER 2016-0117 SP44 Filing Date 11/5/15 Do Not Schedule Dates: Review: GA

ATTACHMENT TO PETITION FOR VARIANCE

8930 Liberty Road

Special Exception Relief:

1. Pursuant to BCZR § 204.3.B.2, to permit a Class B office building containing medical offices.
2. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Variance Relief:

1. To allow medical offices to occupy up to 100% of the total adjusted gross floor area of an existing office building in lieu of the maximum permitted 25% of the total adjusted gross floor area;
2. From BCZR § 204.4.C.9 to permit existing landscaping and buffering in lieu of required buffers and screening; and
3. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Special Hearing Relief:

1. Pursuant to BCZR § 409.12.B, to approve a modified parking plan to allow the number of spaces shown on the site plan (10 spaces) in lieu of the 24 required and to allow their configuration and layout as more particularly shown on the Site Plan to accompany the Petition; and,
2. To allow business parking in a residential zone per BCZR 409.8.B; and,
3. To confirm that the existing site is in compliance with the RTA requirements in BCZR 1B01.1.B; and,
4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

J.S. DALLAS, INC.

Surveying & Engineering

P.O. Box 26
Baldwin, MD 21013
(410)817-4600
FAX (410)817-4602

ZONING DESCRIPTION OF #8930 LIBERTY ROAD

BEGINNING at a the intersection of the northeast side of Liberty Road, 85 feet wide and the southeast side of McDonough Road (width varies) as shown on State Roads Commission of Maryland Plat No. 25148 thence running with and binding on said northeast side of Liberty Road **(1)** South 57 degrees 41 minutes 18 seconds East 69.59 feet thence leaving said Liberty Road **(2)** North 29 degrees 44 minutes 53 seconds East 180.08 feet thence **(3)** North 77 degrees 29 minutes 00 seconds West 77.37 feet to said southeast side of McDonough Road thence running with and binding thereon **(4)** South 28 degrees 07 minutes 11 seconds West 154.11 feet to the place of beginning.

CONTAINING 12,001 square feet (or 0.28 acres) of land, more or less.

ALSO known as **#8930 Liberty Road** and located in the 2nd Election District, 4th Councilmanic District.

Note: above description is based on existing deed, plats and plans by others and is for zoning purposes only.



2016-0117-SPHXA

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 2016-0117-SPHXA
Petitioner: Joetrin, LLC
Address or Location: 8930 Liberty Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Lawrence E. Schmidt, Esquire
Address: Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
Telephone Number: 410-821-0070

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 12/14/2015

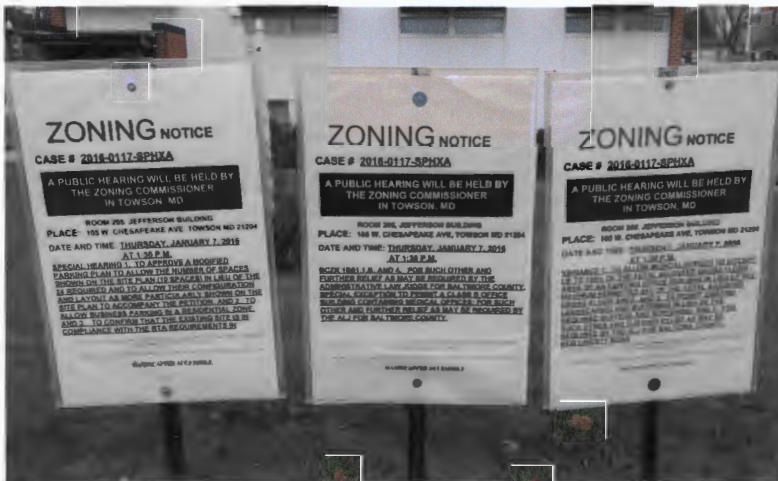
Case Number: 2016-0117-SPHXA

Petitioner / Developer: LAWRENCE SCHMIDT, ESQ. of SMITH, GILDEA & SCHMIDT, LLC ~ TRINITY TUMBAN

Date of Hearing (Closing): JANUARY 7, 2016

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
8930 LIBERTY ROAD

The sign(s) were posted on: DECEMBER 14, 2015



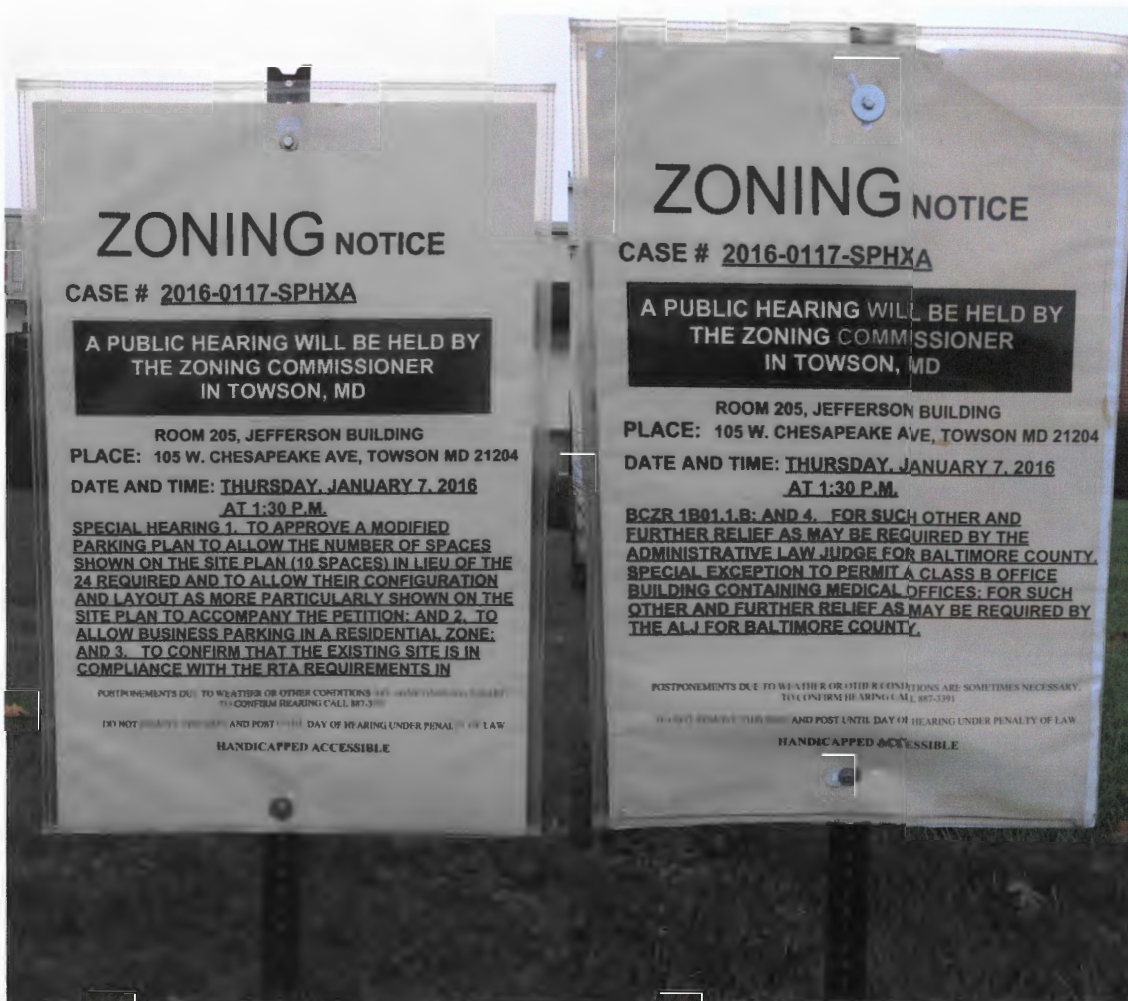
Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)



Sign # 1 Liberty Rd.

Sign # 2 Liberty Rd.

ZONING NOTICE

CASE # 2016-0117-SPHXA

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

ROOM 205, JEFFERSON BUILDING
PLACE: 105 W. CHESAPEAKE AVE, TOWSON MD 21204
DATE AND TIME: THURSDAY, JANUARY 7, 2016

AT 1:30 P.M.

VARIANCE 1. TO ALLOW MEDICAL OFFICES TO OCCUPY
UP TO 100% OF THE TOTAL ADJUSTED GROSS FLOOR
AREA OF AN EXISTING OFFICE BUILDING IN LIEU OF THE
MAXIMUM PERMITTED 25% OF THE TOTAL ADJUSTED
GROSS FLOOR AREA; AND 2. TO PERMIT EXISTING
LANDSCAPING AND BUFFERING IN LIEU OF THE
REQUIRED BUFFERS AND SCREENING; AND 3. FOR
SUCH OTHER AND FURTHER RELIEF AS MAY BE
REQUIRED BY THE ALJ FOR BALTIMORE COUNTY.

8930 LIBERTY ROAD

INSTRUMENT IS DUE TO WEATHER OR OTHER CIRCUMSTANCES AND SHALL BE RECONSIDERED BY THE ZONING COMMISSIONER ON THE DAY OF THE PUBLIC HEARING.

HANDICAPPED ACCESSIBLE

Sign # 3 Liberty Rd.

TO: PATUXENT PUBLISHING COMPANY
Thursday, December 17, 2015 Issue - Jeffersonian

Please forward billing to:

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

410-821-0070

NOTICE OF ZONING HEARING

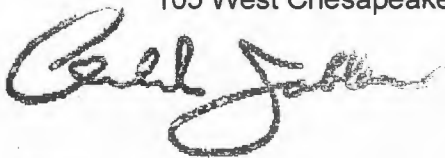
The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2016-0117-SPHXA

8930 Liberty Road
N/east corner of Liberty Road and McDonough Road
2nd Election District – 4th Councilmanic District
Legal Owners: Trinity Tumban

Special Hearing 1. To approve a modified parking plan to allow the number of spaces shown on the site plan (10 spaces) in lieu of the 24 required and to allow their configuration and layout as more particularly shown on the Site Plan to accompany the Petition; and 2. To allow business parking in a residential zone; and 3. To confirm that the existing site is in compliance with the RTA requirements in BCZR 1B01.1.B; and 4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County. **Special Exception** to permit a Class B office building containing medical offices; for such other and further relief as may be required by the ALJ for Baltimore County. **Variance** 1. To allow medical offices to occupy up to 100 % of the total adjusted gross floor area of an existing office building in lieu of the maximum permitted 25 % of the total adjusted gross floor area; and 2. To permit existing landscaping and buffering in lieu of the required buffers and screening; and 3. For such other and further relief as may be required by the ALJ for Baltimore County.

Hearing: Thursday, January 7, 2016 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



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

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

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE OFFICE
SPECIAL EXCEPTION AND VARIANCE		
8930 Liberty Road; NE corner of Liberty Road*		OF ADMINSTRATIVE
& McDonough Road		
2 nd Election & 4 th Councilmanic Districts	*	HEARINGS FOR
Legal Owners: Joetrin, LLC by Trinity Tumban	*	BALTIMORE COUNTY
Petitioner(s)	*	
	*	2016-117-SPHXA

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

RECEIVED

NOV 10 2015

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of November, 2015, a copy of the foregoing Entry of Appearance was mailed to Lawrence Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



THE BALTIMORE SUN MEDIA GROUP

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 3816561

Sold To:

Smith Gildea & Schmidt LLC - CU00433777
600 Washington Ave Ste 200
TOWSON, MD 21204

Bill To:

Smith Gildea & Schmidt LLC - CU00433777
600 Washington Ave Ste 200
TOWSON, MD 21204

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

Dec 17, 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: # 2016-0117-SPHXA
8930 Liberty Road
N/east corner of Liberty Road and McDonough Road
2nd Election District - 4th Councilmanic District
Legal Owner(s) Trinity Tumban

Special Hearing: 1. To approve a modified parking plan to allow the number of spaces shown on the site plan (10 spaces) in lieu of the 24 required and to allow their configuration and layout as more particularly shown on the Site Plan to accompany the Petition; and 2. To allow business parking in a residential zone; and 3. To confirm that the existing site is in compliance with the RTA requirements in BCZR 1B01.1.B; and 4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Special Exception: to permit a Class B office building containing medical offices; for such other and further relief as may be required by the ALJ for Baltimore County.

VARIANCE: 1. To allow medical Offices to occupy up to 100% of the total adjusted gross floor area of an existing office building in lieu of the maximum permitted 25 % of the total adjusted gross floor area; and 2. To permit existing landscaping and buffering in lieu of the required buffers and screening; and 3. For such other and further relief as may be required by the ALJ for Baltimore County.

Hearing: Thursday, January 7, 2016 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

12/148 Dec. 17 3816561

The Baltimore Sun Media Group

By S. Wilkinson
Legal Advertising



KEVIN KAMENETZ
County Executive

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

December 30, 2015

Trinity Tumban
9524 Lyonswood Drive
Owings Mills MD 21117

RE: Case Number: 2016-0117 SPHXA, Address: 8930 Liberty Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on November 5, 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
Lawrence E Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson MD 21204

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor



Pete K. Rahn, Secretary
Gregory C. Johnson, P.E., Administrator

Date: 11/12/15

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

RE: Baltimore County
Item No. 2016-0117-SPHXA
Special Exception Variance Special Hearing
Trinity Tumbau
8930 Liberty 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. 2016-0117-SPHXA.

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard A. Zeller".

for David W. Peake
Metropolitan District Engineer – District 4
Baltimore & Harford Counties

DWP/RAZ

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: December 23, 2015

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 16-117

RECEIVED

DEC 23 2015

OFFICE OF ADMINISTRATIVE HEARINGS

INFORMATION:

Property Address: 8930 Liberty Road
Petitioner: Trinity Tumban
Zoning: RO, DR 3.5
Requested Action: Special Exception, Variance, and Special Hearing

The Department of Planning has reviewed the petition for Special Exception for a Class B office building containing medical offices. Variance relief is requested to allow 100% of the total adjusted gross floor area to be occupied as medical office in lieu of the maximum 25%; and to permit existing landscape and buffers in lieu of required buffering and screening. Special Hearing relief is requested to approve a modified parking plan to allow 10 spaces in lieu of the required 24; to allow business parking in residential zone; and to confirm compliance with Residential Transition Area (RTA) requirements.

This property is located within the Liberty Road Commercial Revitalization District. The purpose of the district is to foster the health and vitality of Liberty Road commercial areas. The Department of Planning does not oppose the requests if the conditions outlined below are made part of the order.

Pursuant to Section 32-4-402.1(a) of the Baltimore County Code, the Director of the Department of Planning is required to provide a recommendation on whether the proposed office development in an RO zone, as well as the modification of the RTA, meet the compatibility objectives contained in BCC Section 32-4-402.1(b). The property has been previously used as an office building, and no changes to the building, and only minor changes to the parking lot, are proposed. However, a new, more intensive use of the site is proposed, and so the compatibility objectives are examined in this light.

It is a recommendation of the Department of Planning that the compatibility objectives can be met by eliminating the parking space labeled "1" to allow for maintaining the existing vegetation and augmenting the screening of the office building from the adjoining residential building with additional landscaping and a screen fence, as approved by the County Landscape Architect. Additionally, lighting shall be of a directional type to ensure excessive glare does not spill into the surrounding residentially used properties, and be no higher than 16 feet. No additional signage shall be provided.

The Department of Planning is not opposed to the variance request for the modified parking plan with the condition that the medical office use be limited to one practitioner at a time. Multiple practices operating simultaneously will likely overburden the limited parking spaces available, cause traffic congestion, and lead to patients or staff parking in unauthorized areas.

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

NOV 18 2015



OFFICE OF ADMINISTRATIVE HEARINGS

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: November 18, 2015

SUBJECT: DEPS Comment for Zoning Item # 2016-0117-SPHXA
Address 8930 Liberty Road
(Tumban Property)

Zoning Advisory Committee Meeting of November 9, 2015.

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

Reviewer: Steve Ford

Date: 11-18-2015

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For November 9, 2015
Item No. 2016-0117

DATE: November 16, 2015

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

A final landscape plan addressing Conditions A, B, E and H shall be submitted for approval.

* * * * *

DAK
cc:file

ZAC-ITEM NO 16-0117-110⁹22015.doc

Case No.: 2016-0117-SPHXA

Exhibit Sheet

Petitioner/Developer

DW
2-10-16

Protestant

DW
1-8-16

No. 1	site plan	
No. 2	2A-2I photos	
No. 3	zoning map	
No. 4	aerial maps/photos	
No. 5	5A-5D Commendations	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

let 2A



Ref 213





Ref 2c

lot 2-D



Post 2E



Ret 2-15





Lot 24





lot 2 I



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 1/5/2016



My Neighborhood Map

Plot 413

Created By
Baltimore County
My Neighborhood



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Printed 1/5/2016

5A



CITY OF BALTIMORE

Certificate of Recognition

*On behalf of the citizens of Baltimore, I am pleased
to present this certificate to*

Dr. Joseph Nkwanyuo

*in recognition of your being honored by the
Bureau of Economic Analysis for your 30 years of
outstanding contributions and dedication to the
enrichment of our community. As mayor and
personally, I offer my commendation and gratitude
for the service you have rendered.*



Presented this 3rd day of April, two thousand ten.

Stephen J. Blane

MAYOR



The Honorable John P. Sarbanes

*3rd Congressional District
Maryland*

Certificate of Special Recognition

Presented to

Dr. Joseph A. Nkwanyuo

*For 35 years you have been a tireless servant in the community and
your outstanding commitment to the public good is truly inspiring;
congratulations on being honored with the Lifetime Achievement in
Community Service Award.*

April 3, 2010

Date

John P. Sarbanes

Member of Congress

3rd District, Maryland



This Certificate Is Presented to

Joseph A. Nkwanyuo, MD, MPH

In Recognition of your receiving

*The 2010 Lifetime Achievement Award
in Community Service*

On the Occasion of

*The African Communities in the Diaspora
Award Ceremony*

Barbara A Mikulski

*Barbara A. Mikulski
United States Senator*

On This Day

The Third of April, Two Thousand and Ten



P

HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

ELIJAH E. CUMMINGS
SEVENTH DISTRICT
MARYLAND

April 3, 2010

Joseph Nkwanyuo, M.D., M.P.H.

Dear Dr. Nkwanyuo:

I am writing to extend my congratulations to you for being named the recipient of the 2010 Lifetime Achievement Award in Community Service.

I applaud your selfless efforts to take care of the medical needs of those in our communities who are less fortunate and are medically underserved. It is important to note that you are willing to give of your many talents to help others without regard to their economic status.

For years, I have been an advocate for eliminating disparities in receiving quality health care. As you well know, there are many individuals and families in our communities who are unable to pay for quality medical care, especially during these challenging economic times. You saw that need and began to address it.

Dr. Nkwanyuo, you are an excellent physician, mentor and friend. People are proud to say that they know you and that you are their doctor. I am so glad that you decided to bless Maryland with your superb knowledge, skill, and dedication. Thank you for being actively involved in our lives and in the sustainability of our communities.

It is my pleasure to thank you for your leadership and your unwavering commitment to providing quality health care for those in need. Please continue your outstanding work on our behalf.

Sincerely,

A handwritten signature in blue ink that reads "Elijah E. Cummings".

Elijah E. Cummings
Member of Congress

John E. Beverungen

From: Peter Max Zimmerman
Sent: Wednesday, December 30, 2015 10:08 AM
To: John E. Beverungen
Cc: Lawrence Schmidt; Troy Leftwich; patclark07@verizon.net; Andrea Van Arsdale
Subject: Zoning Case No. 2016-117-SPHXA, 8930 Liberty Road, Joetrin, Inc, Petitioner, Lawrence Schmidt, attorney for Petitioner
Attachments: Bill 37-88.pdf; Bill 151-88- R.O. Zone.pdf; Planning Board Report May, 1988 R-O Zones.pdf; Holt Candice 2015-001-SPHA ALJ Hearing.pdf

Dear Judge Beverungen,

This zoning case is scheduled for January 7, 2016 at 1:30 P.M. Upon preliminary review, and including the letter dated December 21, 2015 e-mailed from Pat Clark, President of the Fieldstone Community Group, I find it necessary and appropriate to communicate the following legal analysis. Please accept this December 30, 2015 e-mail as our office's view that, as a matter of law, the petition is disqualified. A separate hard copy of this e-mail and attachments will be hand-delivered to the Office of Administrative Hearings.

The petition includes (1) a request for special exception for a Class B office building in an R.O. (Residential Office) Zone; (2) variances to allow 100% medical offices instead of the maximum 25% of adjusted gross floor area (BCZR Sec. 204.3.B.2), and existing landscaping and buffering instead of required buffers and screening (BCZR Sec. 204.4.C.9); and (3) special hearing relief, a modified parking plan for 10 spaces instead of the required 24 (BCZR Sec. 409.6.A.2, 409.12), equivalent to a variance), business parking in a residential zone, and to confirm compliance with RTA requirements.

The property is part of the historic Fieldstone subdivision in Randallstown (lot 111, Amended Plat No. 3, 1927). It is located at the northeast corner of Liberty and McDonogh Roads. The property is zoned mostly R.O. but with a rear area zoned D.R. 3.5.

1. The request for 100% medical office use translates as a use variance, which is impermissible.

BCZR Sec. 307.1 authorizes height and area, offstreet parking, and sign variances, but not use variances. See McLean v. Soley 270 Md. 208 (1973). Any use not specifically permitted is prohibited. BCZR Sec. 102.1; Kowalski v. Lamar 25 Md.App. 493, 496-99 (1975); People's Counsel v. Surina 400 Md. 662, 688 (2007).

The BCZR Sec. 204.3.B.2 R.O Zone Class B office building medical office 25% limit is linguistically, logically, and structurally a use restriction, as contrasted with the bulk (area) restrictions in BCZR Sec. 204.4. There is a similar restriction for Class A office buildings (converted residences). BCZR Sec. 204.3.A.2.

The medical office limit originated with Bill 37-88 (March, 1988) for Class B office buildings and was elaborated in Bill 151-88 (October, 1988), with the inclusion also of Class A office buildings. The introductory purpose clause reflects the emphasis on use limits. Bill 151-88 also included a grandfather provision for existing medical office buildings. The Bills are attached.

Bill 151-88 also amended the County Code with reference to compatibility review for Class B office buildings. Current County Code Sec. 32-4-402 includes the R.O. Zone for compatibility review of developments. The May 19, 1988 Planning Board Report, attached, reflects concerns for compatibility generally with adjacent residential areas and specifically overflow parking (enumerating the very high trip generation for medical offices compared to most offices), and buffers, including landscaping. It is also noteworthy that the parking requirements for general offices are 3.3 per 1000 per square feet, compared to 4.5 per 1000 for medical offices.

2. Even if misnamed as an area variance, the request does not qualify.

It would be rare case that a property's "uniqueness" could ever make any difference as to percentage of medical offices. Perhaps if the property were located on a medical center campus, but then it might be part of the medical center and not zoned R-O.. Here, the property is Lot 111 of Fieldstone Amended Plat No. 3 of Fieldstone, circa 1927. The lot is similar in size to the other lots, about .35 acres (SDAT) -- .41 gross, .28 net on the site plan -- with a good shape, not quite a perfect rectangle. It has 69 feet frontage on Liberty Road, about average of the lots fronting Liberty Road. It has the advantage of being a corner lot, but this poses the concern for overflow parking spreading into adjacent residential areas.

As for any resulting "practical difficulty," the property has had an office use for many years and could be used for other permitted uses. The SDAT data indicates the building (previously used by the Farm Bureau) was built in 1960. It can reused for general office use. The proposed change would likely impact the neighborhood adversely, as to overflow parking and intensity. The property is part of the Fieldstone district, which Pat Clark cites as a historic district. The property backs up to the residential area.

Maryland case law, from Cromwell v. Ward 102 Md. App. 691 (1995) forward, emphasizes the law is very restrictive as to variances. When contested, it is a rare situation which justifies approval. The deviations here, however named, are extreme and not justified.

3. The Administrative Law Judge recently has recognized that the R.O. Zone medical office percentage limit is a use restriction.

In Case No. 2015-0001-SPHA, 8613 Harford Road, Candace Holt, Petitioner, attached, there was a somewhat similar petition. The September 12, 2014 decision denied the request for 100% medical offices in the R.O. Zone on the basis that it is a use restriction. We agree with this decision. It has been our office's view for many years that this is a use restriction. Our updated research and analysis corroborates and confirms this conclusion.

4. The requests for 10 parking spaces instead of 24 and to be excused from landscaping and screening requirements are aggravating factors.

Whether considered as variances or, in the case of parking a modified parking plan (subject to undue hardship review), these just magnify the problems with the proposal. There does not appear to be any legal justification for these deviations.

5. The special exception for the modified office building loses any presumption and, as a conditional use, is unsatisfactory because of the major failure to meet so many conditions.

It is often emphasized (sometimes predominantly) that there is a "presumption" in favor of special exceptions. But the burden of proof is still on the applicant to satisfy legislative standards elucidated in detail in the case law. Special exceptions are not automatic or routine. Schultz v. Pritts 291 Md. 1 (1981); Board of County Comm'rs v. Holbrook 314 Md. 210 (1988); Montgomery County v. Butler 417 Md. 271 (2010). Mills v. Godlove 200 Md. App. 213 (2011). The Court of Special Appeals has also indicated meanwhile that the "presumption" may well fall by the wayside where the request fails to satisfy other conditions of the law. Chester Haven Beach Partnership v. Board of Appeals 103 Md. App. 324, 336 (1995); Umerley v. People's Counsel 108 Md. App. 497, 510-11, cert. denied 342 Md. 584 (1996).

6. There is a residential transition area (RTA) conflict and the requirement of a another variance.

Because the rear area is zoned D.R. 3.5, with an adjacent single-family dwelling, there is an RTA issue. The rear parking area conflicts with the RTA. The property is less than two acres in size and occupied by an office. So, in our view, BCZR Sec. 1B01.1.B.1.c does not apply. Therefore, the Planning Director may not recommend a modification of the RTA in just any case. A variance is required here too.

7. It is immaterial whether petitioner suggests a condition to mitigate potential or probable problems.

The law simply does not permit a deviation from the 25% medical office use limit, with other variances being aggravating factors without justification. Petitioner may frame this particular use to appear modest and inoffensive. Nevertheless, per City of Baltimore v. Poe 224 Md. 428, 433 (1961),

"It is settled law in this State that the zoning ordinance is concerned with the use of property and not with ownership thereof nor with the purposes of the owners or occupants."

Moreover, any approval to suit a particular owner's plan is usually fraught with implementation and enforcement issues, including potential expansion and successor ownership.

There is also the matter of precedent. The Court quoted this in Easter v. Mayor & City Council of Baltimore 195 Md. 395, 401 (1950),

"It is by these gradual encroachments, individually of relative insignificance, that the integrity of the general scheme is undermined and ultimately shattered. One departure serves as justification for another ***. Dubin v. Wich 120 N.J.L. 469."

Correlatively, in Village of Euclid v. Ambler Realty Co. 272 U.S. 365, 388-89 (1926), the Supreme Court underlined the legislature may decide to include a reasonable margin to insure effective enforcement,

"Here, however, the exclusion is in general terms of all industrial establishments, and it may thereby happen that not only offensive or dangerous industries will be excluded, but those which are neither offensive nor dangerous will share the same fate. But this is no more than happens in respect of many practice-forbidding laws which this court has upheld, although drawn in general terms so as to include individual cases that may turn out to be innocuous in themselves. Hebe Co. v. Shaw, 248 U. S. 297, 303, 39 S. Ct. 125, 63 L. Ed. 255; Pierce Oil Corp. v. City of Hope, 248 U. S. 498, 500, 39 S. Ct. 172, 63 L. Ed. 381. The inclusion of a reasonable margin, to insure effective enforcement, will not put upon a law, otherwise valid, the stamp of invalidity. Such laws may also find their justification in the fact that, in some fields, the bad fades into the good by such insensible degrees that the two are not capable of being readily distinguished and separated in terms of legislation. In the light of these considerations, we are not prepared to say that the end in view was not sufficient to justify the general rule of the ordinance, although some industries of an innocent character might fall within the proscribed class. It cannot be said that the ordinance in this respect 'passes the bounds of reason and assumes the character of a merely arbitrary fiat.' Purity Extract Co. v. Lynch, 226 U. S. 192, 204, 33 S. Ct. 44, 47 (57 L. Ed. 184). Moreover, the restrictive provisions of the ordinance in this particular may be sustained upon the principles applicable to the broader exclusion from residential districts of all business and trade structures, presently to be discussed."

The above being said, our intention is to submit on the record.

Sincerely, Peter Max Zimmerman, People's Counsel for Baltimore County 410 887-2188
December 30, 2015

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1988, LEGISLATIVE DAY NO. 6
BILL NO. 37-88

MS. BARBARA F. BACHUR, COUNCILWOMAN

BY THE COUNTY COUNCIL, MARCH 21, 1988

A BILL ENTITLED

AN ACT concerning

Zoning Regulations - Hospitals and Nursing Homes

FOR the purpose of revising the definitions of certain types of health care facilities; permitting nursing homes in all types of Planned Unit Developments; exempting the reconstruction of certain nursing homes from RTA requirements; providing a definition of a medical office and of a medical clinic; authorizing the location of a medical clinic in business and manufacturing zones; prohibiting their location in residential or residential office zones; and generally relating to the regulation of health care facilities in Baltimore County.

BY repealing

Section 101 - Definitions, the definition of "Hospital" and
"Convalescent Home" and Section 407

Baltimore County Zoning Regulations, as amended

BY adding

Section 101 - Definitions, the definition of "Hospital",
"Nursing Home", "Medical Clinic", "Medical
Office", and "Medical Practitioner"

BY repealing and re-enacting, with amendments,

Section 101 - Definitions, the definition of "office" and
"Office Building, Class B", and
Sections 1A01.2.C.12., 1A02.2.B.16., 1A02.2.B.17., 1A04.2.A.5.,
1A04.2.B.10., 1B01.1.A.9., 1B01.B.1.c.12., 200.2.A.3.,
200.2.B.2., 201.2.A.3., 201.2.B.2., 203.3.A.2, 203.3.B.2.,
204.3.A.2., 205.3.A.1., 207.3.A.4, 230.9, 236.4, 241.1, 253.1,
430.2.D.4., 430.3.D.4., and 430.4.D.4.

Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.



WHEREAS, the Baltimore County Council has received a final report from the Planning Board concerning the subject legislation and has held a public hearing thereon, now therefore

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Section 101-Definitions, the definitions of "Hospital" and "Convalescent Home" and Section 407 of the Baltimore County Zoning Regulations, as amended, be and they are hereby repealed.

SECTION 2. AND BE IT FURTHER ENACTED, that Section 101 - Definitions, the definitions of "Hospital", "Nursing Home", "Medical clinic", "Medical office", and "Medical Practitioner", be and they are hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

Section 101 - Definitions

HOSPITAL: AN INSTITUTION WHICH IS LICENSED AS A HOSPITAL BY THE STATE AND WHICH RECEIVES INPATIENTS AND PROVIDES MEDICAL, SURGICAL, PSYCHIATRIC OR OBSTETRICAL CARE. THIS TERM INCLUDES ANY HEALTH-RELATED FACILITIES WHICH ARE ESTABLISHED IN CONNECTION WITH A HOSPITAL AND ARE LOCATED ON THE SAME SITE AS THE HOSPITAL. SUCH HEALTH-RELATED FACILITIES SHALL INCLUDE, BUT NOT BE LIMITED TO, DIAGNOSTIC FACILITIES, REHABILITATION CENTERS, LABORATORIES, TRAINING FACILITIES, OUTPATIENT CARE FACILITIES, FACILITIES FOR CHRONIC OR CONVALESCENT CARE AND ELDERLY HOUSING FACILITIES.

NURSING HOME: (FORMERLY CONVALESCENT HOME): A FACILITY WHICH PROVIDES BOARD, SHELTER, AND NURSING CARE TO CHRONIC OR CONVALESCENT PATIENTS. THIS TERM ALSO INCLUDES FACILITIES WHICH PROVIDE DOMICILIARY CARE WITHIN A NURSING HOME.

MEDICAL CLINIC: A PLACE FOR THE TREATMENT OF OUTPATIENTS BY ONE OR MORE MEDICAL PRACTITIONERS, INCLUDING, BUT NOT LIMITED TO, SURGICAL CENTERS, AMPULATORY CARE CENTERS, DIAGNOSTIC CENTERS, BIRTHING CENTERS AND DIALYSIS SATELLITE UNITS.

1. MEDICAL OFFICE: A PLACE FOR THE TREATMENT OF OUTPATIENTS BY
2. ONE OR MORE MEDICAL PRACTITIONERS. THIS TERM DOES NOT INCLUDE A
3. VETERINARIAN'S OFFICE, MEDICAL CLINIC, SURGICAL CENTER, AMBULATORY CARE
4. CENTER, DIAGNOSTIC CENTER, BIRTHING CENTER, OR DIALYSIS SATELLITE UNIT.

5. MEDICAL PRACTITIONER: A PHYSICIAN, DENTIST, OPTOMETRIST,
6. CHIROPRACTOR, PODIATRIST, PSYCHOLOGIST, PHYSICAL THERAPIST, NURSE, OR
7. OTHER SIMILAR HEALTH PROFESSIONAL LICENSED BY THE STATE.

8. SECTION 3. AND BE IT FURTHER ENACTED, that Section 101 -
9. Definitions, the definition of "office" and "Office Building, Class B",
10. and Sections 1A01.2.C.12., 1A02.2.B.16., 1A02.2.B.17., 1A04.2.A.5.,
11. 1A04.2.B.10., 1B01.B.1.C.12., 200.2.A.3., 200.2.B.2., 201.2.A.3,
12. 201.2.B.2., 203.3.A.2., 203.3.B.2, 204.3.A.2., 205.3.A.1, 207.3.A.4,
13. 230.9, 236.4., 241.1, 253.1, 430.2.D.4., 430.3.D.4., and 430.4.D.4. of
14. the Baltimore County Zoning Regulations, as amended, be and they are
15. hereby repealed and re-enacted, with amendments, to read as follows:

16. OFFICE: The term "office" does not include a bank, a post
17. office, a veterinarian's office, nor an establishment where merchandise
18. is stored on or sold from the premises. THE TERM DOES INCLUDE A
19. MEDICAL OFFICE.

20. Office building, Class B: A principal building that-

21. 1. Is devoted primarily to office use (, clinic or
22. group-medical-center use (including the practice of dentistry),) or
23. opticians' (or optometrists') establishments;

24. 2. Is not attached to any other building;

25. 3. Is the only building on the lot on which it is situated;
26. other than accessory storage for maintenance buildings, or, if a
27. conversion from a Class A office building, those existing buildings
28. which were accessory to the Class A office building;

1. 4. Together with any accessory buildings, has a floor area
2. ratio of no more than 0.5; and
3. 5. Is no higher than 35 feet. (Bill No. 13, 1980.)
4. Section 1A01 - R.C. 2 Zones
5. 1A01.2 - Use Regulations
6. C. Uses permitted by Special Exception.
7. 12. Offices for agriculture - related uses (;
8. physicians' or dentists' offices as principal uses)
9. Section 1A02 - R.C. 3 Zones
10. 1A02.2 - Use Regulations
11. B. Uses permitted by Special Exception.
12. 16. (Nursing homes,) Convalescent homes (or
13. sanitariums)
14. (17. Physicians' or dentists' offices)
15. Section 1A04 - R.C. 5 Zone
16. 1A04.2 - Use Regulations
17. A. Uses permitted as of right.
18. (5. Hospitals)
19. B. Uses permitted by Special Exception.
20. (10. Office of doctor or dentist)

1. Section 1B00 - D.R. Zones
2. 1B01.1.A. Uses Permitted as of Right
3. 9. Hospitals {(see Section 407)}
4. 1B01.1.B.1.c. Exceptions to residential transition.
5. 12. NOTWITHSTANDING THE PROVISIONS OF SECTION 104, THE
6. RECONSTRUCTION OF AN EXISTING NURSING HOME WHICH IS DESTROYED BY FIRE
7. OR OTHER CASUALTY. HOWEVER, SUCH RECONSTRUCTION MAY NOT INCREASE THE
8. SIZE OR GROUND FLOOR AREA OF THE STRUCTURE OR ALTER THE LOCATION OR USE
9. OF THE STRUCTURE.
10. Section 200 - R.A.E.1 Zones
11. 200.2
12. A. Uses Permitted
13. 3. The following retail or service uses, in any
14. apartment building of 50 or more dwelling units, subject to the
15. limitations of Paragraph B:
16. {4. Chiropodists' offices
17. 5. Clinics or group medical centers (including the
18. practice of dentistry)}
19. 13. Opticians' (or optometrists') offices
20. B. Supplementary Use Regulations.

1. 2. No individual use permitted under Subparagraph A.3
2. shall occupy more than 600 square feet of gross floor area; except,
3. however, that this limitation shall not apply to the following:

4. (Clinics or group medical centers;)

5. Food stores, which shall not, however, occupy more than
6. 5,000 square feet of floor area in any building;

7. Restaurants.

8. Section 201 - R.A.E.2 Zones

9. 201.2

10. A. Uses Permitted

11. 3. The following retail or service uses, in any
12. apartment building of 50 or more dwelling units, subject to the
13. limitations of Paragraph B:

14. {7. Chiropodists' offices

15. 8. Clinics or group medical centers (including the
16. practice of dentistry))

17. 18. Opticians' (or optometrists') offices

18. B. Supplementary Use Regulations.

19. 2. No individual use permitted under Subparagraph A.3
20. shall occupy more than 1000 square feet of gross floor area; except,
21. however, that this limitation shall not apply to the following:

22. Banks, building and loan associations, and similar
23. chartered financial institutions;

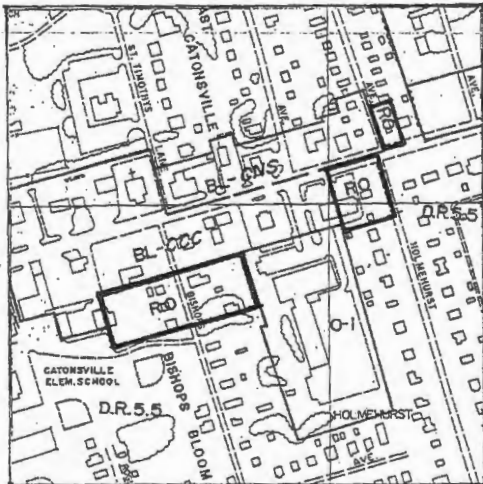
1. (Clinics and group medical centers; Food stores, which
2. shall not, however, occupy more than 5000 square feet of floor area;
3. Restaurants.
4. Section 203 - R0 Zones
5. 203.3 Use Regulations
6. A. Uses Permitted As of Right.
7. 2. Class A office buildings CONTAINING OFFICES OR
8. MEDICAL OFFICES and their accessory uses including parking.
9. B. Uses Permitted by Special Exception
10. 2. Class B office buildings CONTAINING OFFICES OR
11. MEDICAL OFFICES, EXCEPT THAT NO MORE THAN 25% OF THE TOTAL ADJUSTED
12. GROSS FLOOR AREA OF THE OFFICE BUILDING MAY BE OCCUPIED BY MEDICAL
13. OFFICES.
14. Section 204 - O-1 Zones
15. 204.3 Use Regulations
16. A. Uses permitted as of right
17. 2. Class A, Class B, or Class C office buildings
18. CONTAINING OFFICES, MEDICAL OFFICES, OR MEDICAL CLINICS.
19. Section 205 - O-2 Zones
20. 205.3 Use Regulations
21. A. Uses permitted as of right

1. 1. Class A, Class B or Class C[,] office buildings
2. CONTAINING OFFICES, MEDICAL OFFICES, OR MEDICAL CLINICS
3. Section 207 - O.T. Zone
4. 207.3 Permitted Uses
5. A. Principal Uses
6. 4. Hospital [, clinics, or group medical centers
7. (including the practice of dentistry)]
8. B.L. Zone - Business, Local
9. Section 230
10. The following uses only are permitted (See section 230.12):
11. 230.9
12. MEDICAL CLINIC
13. B.R. Zone - Business, Roadside
14. Section 236 - Use Regulations
15. 236.4 - Special Exceptions
16. (Hospital, Class B (see Section 407));
17. M.R. Zone - Manufacturing Restricted
18. 241.1 - The following uses are permitted, provided their
19. operations are entirely within enclosed buildings except where approval
20. of the development plan indicates otherwise:

1. Office and office buildings AND MEDICAL CLINIC;
2. M.L. Zone - Manufacturing, Light
3. 253.1 - Uses permitted as of right. The uses listed in this
4. subsection, only, shall be permitted as of right in M.L. zones, subject
5. to any conditions hereinafter prescribed.
6. 33. Offices or Office Buildings OR MEDICAL CLINICS
7. Section 430 - Unit Developments
8. 430.2 - Neighborhood Development
9. D. Uses permitted.
10. 4. Institutions; churches; private schools; NURSING
11. HOMES.
12. 430.3 - Community Developments
13. D. Uses permitted.
14. 4. The following institutional uses:
15. 4. NURSING HOMES.
16. 430.4 - Town Developments
17. D. Use Regulations
18. 4. The following institutional uses:
19. 4. NURSING HOMES.
20. Section 4. And be it further enacted, that this Act shall take
21. effect forty-five days after its enactment.

RESIDENTIAL-OFFICE ZONES

MAY 19, 1988



FINAL REPORT OF THE BALTIMORE COUNTY PLANNING BOARD
REGARDING THE RESIDENTIAL-OFFICE ZONE

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING



Douglas P. Rasmussen
County Executive

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PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS
AND DEVELOPMENT REGULATIONS CONCERNING R-O ZONES

A Final Report of the Baltimore County Planning Board
(May 19, 1988)

PROJECT DESCRIPTION

Subject: Resolution No. 7-87
Resolution to consider amendments to the
Baltimore County Zoning Regulations in order to
restrict or eliminate Class B Office Buildings as
a permitted use in RO zones.

Attachments: Attachment A - Resolution
Attachment B - Proposed Regulations
Attachment C - Comparative Analysis
Attachment D - Comparative Site Plan

INTRODUCTION

In 1980, County Council Bill No. 13 established the various
office zoning classifications in the Baltimore County Zoning
Regulations. The intent of the Residential-Office (R.O.) zone is
stated in the legislation as follows.

203.2 - Statement of Legislative Policy. The R.O. zoning
classification is established, pursuant to the findings
stated above, to accommodate houses converted to office
buildings and some small Class B office buildings in
predominantly residential areas on sites that, because of
adjacent commercial activity, heavy commercial traffic, or
other, similar factors, can not longer reasonably be
restricted solely to uses allowable in moderate-density
residential zones. It is intended that buildings and uses in
R-O zones shall be highly compatible with the present or
prospective uses of nearby residential property. It is not
the R-O classification's purpose to accommodate a substantial
part of the demand for office space, it being the intent of
these Zoning Regulations that office-space demand should be
met primarily in C.T. districts, C.C.C. districts, and, to a
lesser extent, in other commercial areas.

The R-O zone permits two types of office buildings. Class A
office buildings which are the results of conversions of existing
residences to office use, are permitted as of right. Class B
office buildings are new buildings or expansions of existing
Class A office buildings and are limited in size by definition.
Class B office buildings are permitted by special exception.

The Office of Planning and Zoning submitted a preliminary
report to the Planning Board in December, 1987. A public hearing
was held by the Planning Board in February. Based on comments
received at the public hearing and subsequent to it, the
preliminary recommendations were revised and are contained in
this report.

ANALYSIS

An analysis of the R.O. zone as currently written identified
a basic conflict between the stated intent of the zone regarding
"compatibility" and the actual regulations that permit develop-
ment at a size and scale which is in conflict with adjoining
residential uses.

Low parking standards, especially for medical offices, have
caused difficulties for development in the R.O. zone. Class A
office buildings have generally not caused significant problems
as discussed below. For Class B office buildings, problems have
arisen due to the lack of building setbacks, inadequate land-
scaped buffers (as exist in D.R. zones for residential transition
areas), no limit to R.O. lot size and a floor area ratio which
permits buildings far larger than most adjacent residential uses.

In addition, the control of development by the CRG and Zoning
Commissioner through a finding of "compatibility" has been
difficult to achieve because of the absence of a precise
definition of "compatibility".

The provision of 25% of the site area as amenity open space
(A.O.S.) has proved an ineffective way of controlling site design
and the granting of variances for A.O.S. and parking has usually
only exacerbated the problem, with off-site parking intruding
into adjacent residential streets.

In cases where residential land is no longer suitable for
housing, but where the location is not appropriate for business
use, there is a need for a "transitional" zone, such as the R.O.
zone, but with far more stringent building and site design
controls.

The proposed amendments to the R.O. zone, together with
County Council Bill No. 26-88 which establishes higher standards
for off-street parking and County Council Bill No. 37-88 which
restricts medical offices to no more than 25% of the total built
floor space should ensure that the original intent of the R.O.
zoning is effectively met.

PROPOSALS

CLASS A OFFICE BUILDINGS

The conversion of existing residences does not generally pose a major problem except for a tendency to replace existing lawn and gardens with asphalt areas for parking. This should be effectively addressed at CRG, and no legislative changes are proposed.

A growing problem with Class A office buildings is where existing residential buildings are enlarged ostensibly for residential use, and only then is an office use requested under Class A requirements. This circumvents the need for a special exception, which would have been required if the expansion had been requested for office use.

The proposed legislation set out below addresses this issue by proposing that a special exception be required for all Class A buildings which have been enlarged within 5 years of the request for office use.

CLASS B OFFICE BUILDINGS

Floor Area Ratio

The R.O. zone provides for a transition between residential and non-residential uses. By definition, it should permit an intensification of use, while at the same time, ensuring that adjacent residences are not disturbed. It is proposed that the floor area ratio in an R.O. zone be reduced from 0.50 to 0.33 and that the maximum lot size be limited to 1 acre, except for lots directly adjacent to principal commercial arterials, where a 2 acre maximum is considered more appropriate.

In discussion with representatives of the development community it became clear that the initial 0.25 F.A.R. proposed by this office would make the development of R.O. lots difficult and that the proposed limits on lot size together with the other changes in site design set out in this document would ensure the degree of compatibility envisaged in the original legislation, with an FAR of 0.33.

Building Setbacks

Building setbacks are an important element that has been added to the proposed R.O. zone. Building setbacks assist in ensuring that building location on a parcel is compatible with adjoining residences. In most instances residential structures are located at the front of lots with parking provided at the side or rear of the lot. Setbacks identical to the D.R. 5.5 are being proposed for the R.O. zone.

Buffer Yards

Extensively landscaped buffer yards that cannot be used for stormwater management, buildings, parking, driveways (except for site access) or dumpsters are proposed to provide effective open space and replace the 25% amenity open space in the current regulations. In addition a minimum of 7% of the paved on-site parking and driveway area must be pervious and landscaped.

"Compatibility" of the R.O. zone with residential zones necessitates the provision of minimum landscaped green areas between buildings and parking in the R.O. zone and adjoining residences. Buffer yards create the area necessary to truly justify the transitional nature of the R.O. zone and assist in preventing adjacent residences from having the need to apply for non-residential zoning in the future.

Building Height

The height limit of thirty-five feet in the existing R.O. zone is a reasonable and adequate standard. In addition to this height requirement the provision of roof treatments similar to those of adjacent buildings was added to ensure that the overall building form in the R.O. zone would be compatible with nearby residences.

Design Review

The proposed legislation sets out a list of elements to be included in the Baltimore County Development Regulations, by which the CRG and the Zoning Commissioner can judge the "appropriateness" of a proposed building in an R.O. zone. In the past, too great an emphasis was placed on a building design being "compatible" and not enough on site design. The proposed R.O. legislation, if adopted, will ensure that the R.O. Class B building, and its site, will "fit" into its residential area context, both in terms of site layout and building design. It is recommended that CRG approval be obtained prior to the submittal of a petition for special exception to the Zoning Commissioner. In R-O zones site design and design review are particularly critical and should be decided upon before a special exception is granted.

Signage

In addition to the eight square foot sign requirement which currently applies in the R-O zone it is proposed that office buildings located adjacent to principal commercial arterials be permitted an additional fifteen square feet per side on a free standing sign located along the arterial road. The existing requirement is too restrictive for sites located along major roads and have resulted in many variance requests.

Guidelines for Granting of Variances

In addition to the proposed amendments to the Zoning Regulations and Development Regulations, the Planning Board recommends that the Zoning Commissioner adopt guidelines for the granting of variances in the R-O zone to assure that the spirit and intent of the legislation is met. Legislative action is not required for these policy guidelines.

SUMMARY

It is hoped that these revisions to the regulations for development in Residential/Office zones, when taken together with the new standards for parking and the 25% maximum limit for medical offices will effectively address the problems which have arisen in the development of Class B office buildings in the past and will enable Baltimore County to retain the R.O. zone as an effective, useful and generally "fair" form of development in areas of transition between residential and commercial uses.

ATTACHMENT A
COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1987, LEGISLATIVE DAY NO. 3
RESOLUTION NO. 7-87

BY THE COUNTY COUNCIL, MARCH 16, 1987

A Resolution to the Planning Board to consider proposing amendments to the Baltimore County Zoning Regulations in order to restrict or eliminate Class B Office Buildings as a permitted use in RD zones.

WHEREAS, the Baltimore County Planning Board from time to time considers certain revisions to the Baltimore County Zoning Regulations; and

WHEREAS, the Baltimore County Zoning Regulations currently provide for the RD zoning classification in order to accommodate houses converted to office buildings and ~~from small~~ Class B office buildings in predominantly residential areas; and

WHEREAS, it is intended that buildings and uses in RD zones should be highly compatible with the present or prospective uses of nearby residential property; and

WHEREAS, it is not the purpose of the RD zoning classification to accommodate a substantial part of the demand for office space; and

WHEREAS, the Class B office building is a use which is not always consistent with the predominantly residential nature of the RD zone; and

WHEREAS, the County Council believes that a review of the RD zone is necessary in order to address the issue of the Class B office building.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland, that the Baltimore County Planning Board be and it is hereby requested to consider proposing amendments to the Baltimore County Zoning Regulations in order to either eliminate the Class B office building as a use permitted in RD zones or to require certain setbacks for Class B office buildings when permitted in RD zones in order that such office buildings may be compatible with surrounding residential uses.

ATTACHMENT B

Recommendations

The Baltimore County Planning Board recommends that the Baltimore County Zoning Regulations, 1955, and the Baltimore County Development Regulations as amended, be further amended as set forth below. Wherever utilized, dashes indicate text to be deleted, and underlining indicates text to be added.

1. Revise the definitions of "Medical Office" and "Office building, Class B" in Section 101 of the Zoning Regulations and add a definition for "Principal Arterial" as follows:

Medical Office: A place for the treatment of outpatients by one or more medical practitioners. This term does not include a veterinarian's office, medical clinic, ambulatory care center, diagnostic center, birthing center, or dialysis satellite unit. The term does not include ambulatory surgical facilities. This term does include a pathology laboratory.

Office building, Class B: A principal building that:

1. Is devoted primarily to office use or opticians' establishments; (Bill No. 37, 1988)
2. Is not attached to any other building;
3. Is the only building on the lot on which it is situated; other than accessory storage or maintenance buildings, or, if a conversion from a Class A office building, those existing buildings which were accessory to the Class A office building.

~~4. Together with any accessory buildings, has a floor area ratio of no more than 0.5; and~~

~~5. Is no higher than 25 feet.~~

Principal Arterial - A motorway, or portion thereof which is or is intended for travel to or from major activity centers, which has predominantly commercial frontage, and which is designated as such on the most recently approved federal highway functional classification map for the Baltimore Urbanized Area.

2. In Section 203 of the Zoning Regulations, Residential-Office Zone, revise paragraph 203.2, 203.3 and 203.6 as follows:

203.2-Statement of Legislative Policy. The R-0 zoning classification is established, pursuant to the findings stated above, to accommodate houses converted to office buildings and some small Class B office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors, can no longer reasonably be restricted solely to uses allowable in moderate-density residential zones. It is intended that buildings and uses in R-0 zones shall be highly compatible with the not intrude upon or disturb present or prospective uses of nearby residential property. It is not the R-0 classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these Zoning Regulations that office-space demand should be met primarily in C.T. districts, C.C.C. districts, and, to a lesser extent, in other commercial areas. [Bill No. 13, 1980.]

203.3--Use Regulations

- B. Uses Permitted by Special Exception. The following uses, only, may be permitted by special exception in an R-0 zone providing such use has an approved CRG plan prior to the granting of a special exception:

C. Signs and Off-Street Parking Requirements.

1. Off-Street Signs and Displays. In addition to signs permitted under Subsection 413.1.1 stationary outside identification sign is permitted, provided that the sign is not illuminated, does not project more than 6 inches from the building, and does not have a surface area exceeding 8 square feet. No other signs or displays of any kind visible from outside the buildings are permitted except that along a principal arterial an additional free-standing sign with a surface area of no more than 15 square feet per side is also allowed;

2. Off-street parking spaces shall be provided in accordance with Section 409 except that to the extent possible parking shall be located in the side or rear yards of the lot.

203.6 - Conversion of Dwellings to Office Buildings. Any one- or two-family detached dwelling or apartment building which is under application for either a change in zoning classification to R-0, or for a conversion from a residential use to an office use shall require a special exception if the dwelling has been enlarged in floor area by ten percent or more within a period of one-year five (5) years prior to the date of application for change or conversion.

3. In Section 203 of the Zoning Regulations, delete paragraph 203.4, Bulk Regulations and add a new paragraph to read as follows:

203.4--Bulk Regulations--Uses permitted under item 203.3.1.1; uses permitted under item 203.3.2.1; and new structures accessory to Class A office buildings are governed by the bulk regulations of R-0, R-5 zones. (Class A office buildings themselves, which by definition may not be enlarged, are not subject to bulk regulations, nor are unenlarged structures accessory to the original houses.) For uses permitted under item 203.3.2.2, the area devoted to amenity open space must be at least 25 percent of the gross site area.

203.4 - Bulk Regulations of R-0 Zones. Uses permitted as of right or by special exception are governed by the following bulk regulations:

- A. Residential uses are governed by the bulk regulations of D.R. 5.5 zones.
- B. Class A office buildings themselves, which by definition may not be enlarged, are not subject to bulk regulations, nor are unenlarged structures accessory to the original building.

C. Class B office buildings.

1. Maximum floor area ratio: 0.33
2. Maximum height of structure: 35 feet to the ridge line of a pitched roof;
3. Minimum front yard setback: 25 feet or the average of the setbacks of the adjacent structures, whichever is less;
4. Minimum side yard setbacks: 10 feet, except if the adjacent use is predominantly residentially zoned, in which case the setback shall be 20 feet;
5. Minimum rear yard setback: 30 feet;
6. Amenity open space: seven (7) percent of the interior of the parking lot not including setback and buffer area requirements shall be pervious land area in association with plantings;
7. Maximum lot size: one (1) acre or two (2) acres if located on a principal arterial;
8. Landscape requirements. In addition to the requirements set forth in the Baltimore County Landscape Manual:
 - a. All parking and dumpster areas which abut a residential zone shall be screened by an opaque fence, wall or berm in association with plantings;
 - b. The minimum screening height shall be five (5) feet;
 - c. The following buffers, which shall not be encroached upon by stormwater management, parking or dumpster areas, shall be provided:
 1. Property lines which abut any property which is predominantly residentially zoned must have a 20 foot landscape buffer;
 2. Property lines which abut any residential street must have a 15 foot landscape buffer;
 3. Property lines which abut any commercially zoned property must have a 10 foot landscape buffer;
4. In Section 22-104 of the Development Regulations, modify paragraph (a) Development of property in R-0 zones as follows:
 - (a) Development of property in an R-0 zone shall be designed to achieve
 - (1) Compatibility of the proposed development with Development shall be appropriate to the specific circumstances of the site taking

into account surrounding uses; tree preservation; protection of watercourses and bodies of water from erosion and siltation; and safety, convenience, and amenity for the neighborhoods.

5. In Section 22-10 of the Development Regulations, Development in R-0 zones add a new subparagraph (2) to read as follows:

- (2) In determining the appropriateness of Class B office buildings, design elements of proposed buildings shall be evaluated in relation to existing adjacent or surrounding buildings. In most cases, to be considered appropriate, new buildings shall be similar to existing ones in the following respects:

- (i) Height
- (ii) Bulk and general massing
- (iii) Major divisions or rhythms of the facade
- (iv) Proportion of openings (window-wall-relation)
- (v) Roof treatment
- (vi) Materials, colors, textures
- (vii) General architectural character
 - a) horizontal or vertical emphasis
 - b) scale
 - c) stylistic features and themes - porches, colonades, pediments, cupolas, cornices, coins, detail and ornament
- (viii) Relation to street
- (ix) Exterior lighting. Buildings shall not be lighted on the exterior and any lighting provided for safety reasons should be minimized and directed away from adjoining residential property.

PROPOSED SUPPLEMENTAL ZONING AMENDMENTS

In addition to the recommended substantive changes to the Baltimore County Zoning Regulations, the Planning Board recommends the following "housekeeping amendments":

1. In Subsection 204.4.8, Bulk Regulations for Class B Office Buildings in O-1 zones, ~~add a new subparagraph 5 and a new subparagraph 6 as follows:~~
 5. Maximum floor area ratio: 0.50
 6. Maximum height of structures: 35 feet
2. In Subsection 205.4, add a new subparagraph 5 and a new subparagraph 6 as follows:
 5. Maximum floor area ratio: 0.50
 6. Maximum height of structures: 35 feet
3. In Section 502, Special Exceptions, add a new paragraph 502.8:

502.8 Bill No. _____ does not affect the validity of any order granting a special exception for a Class B office building pursuant to Subsection 203.3.8. Any such special exception may be used in accordance with the applicable provisions of these regulations in effect at the time of the grant of such special exception provided construction is started prior to the date of adoption of this bill.

The Planning Board recommends that the following criteria for the review of variances be adopted by the Zoning Commissioner as policy.

CLASS B OFFICE BUILDINGS
IN R-O ZONES

Because of the transitional nature of the R-O zone, variances from height, area, off-street parking and sign regulations shall generally not be considered. When a variance is requested, the proposed project shall be reviewed for general layout and configuration based upon but not limited to the following criteria:

1. Parking. Parking should be provided in sufficient quantity in order to prevent overflow parking on adjacent residential streets. Parking lots and driveways should be located in such a manner to provide distance separation between buildings, and adjoining residences. Park areas should be extensively landscaped and buffered to minimize negative automotive impacts on adjoining residential properties. Parking areas should be sufficiently landscaped internally to separate long stretches of parking, provide shade and screening and assist in reducing negative automotive impacts;
2. Building Setbacks. The building setbacks should assure that the structure is situated in such a manner so that the structure does not encroach or impact adjoining residential property, or obstruct air and light;
3. Building Location. Buildings should be generally located near the front of the site and in a manner similar to adjoining residential structures while allowing the office to function on the lot. The types and nature of adjoining uses and road usage should also be considered in determining building location;
4. Building Bulk. The building bulk should be maintained in accordance with the provisions of the zone. The building bulk for this type of use will be at a larger scale than adjoining residential uses, however, the scale should be maintained as provided in the zone;
5. Buffer Yards. The provision of natural, extensively landscaped buffer yards planted in scale with adjoining residences is critical to the functioning of this zone. In certain instances where natural or unique site features should be preserved, some flexibility may be appropriate;
6. Natural Features. To the greatest extent feasible or possible unique or natural features should be preserved on the site. Flexibility in site design may be provided to preserve unique or natural features;
7. Signs. Signage should be provided at appropriate scale and location in order to minimize visual impact on adjoining residences. Signage should be limited to the greatest extent possible and constructed in an unobstructive manner;

ATTACHMENT C

RESIDENTIAL OFFICE ZONE
COMPARATIVE ANALYSIS

	<u>D.R. 5.5</u>	<u>R.O. Existing</u>	<u>R.O. Proposed</u>
<u>SETBACKS</u>			
Front	25 feet	Not required	25 feet
Side	10 feet	Not required	10 feet, 20 feet if residential
Rear	30 feet	Not required	30 feet
HEIGHT	50 feet	35 feet	35 feet, appropriate roof form
SIGNAGE		8 sq. ft.	8 sq. ft. 15 sq. ft. per side free- standing along major arterials
LOT SIZE			
Minimum	Not required	Not required	Not required
Maximum	Not required	Not required	1 acre 2 acres if located adjacent to major arterial
BUFFER YARDS/ AREAS			
	Not required	8' planting strip between parking and street	20 feet between residential use or zone
	Not required		10 feet between street, non- residential use or zone
	Not required		10 feet between arterial street
	Not required		15 feet between residential street
OPEN SPACE		25% amenity open space	7% internal landscaping in parking area in addition to landscaped buffers

PARKING

OLD PARKING STANDARDS

NEW PARKING STANDARDS

Office Use	general office-ground floor 1/300 sq.ft.	all offices 3.3/1000 sq. ft.
	medical office 1/300 sq.ft.	medical offices 4.5/1000 sq. ft.
	general office-upper floors 1/500 sq.ft.	

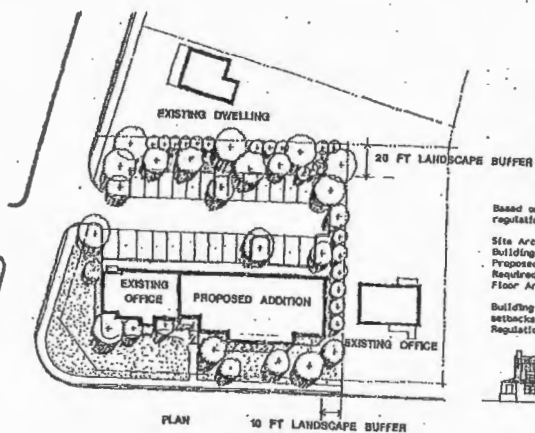
TRIP GENERATION

USE	TRIP GENERATION RATES	
Residential	Single-family, 5 dwelling units per acre	9.1*
	Town-house, 5 dwelling units per acre	7 "
Office	General	11.7+
	Medical	63.5+

*Trips per dwelling unit
+Trips per 1,000 sq. ft. of gross floor area

The reduction in medical offices allowed in an R.O. zone to 25% of total floor area built has a significant impact on parking provision and trip generation.

SOURCE: Institute of Transportation Engineers



RECOMMENDED CRS PLAN REVISION

Based on proposed R.O. regulations and new parking regulations,

Site Area	27,835
Building Size	18,000
Proposed Parking	10
Required Parking	28
Floor Area Ratio	0.29

Building Design - as per new R.O. design guidelines setbacks and landscaped area as per proposed R.O. Regulations.

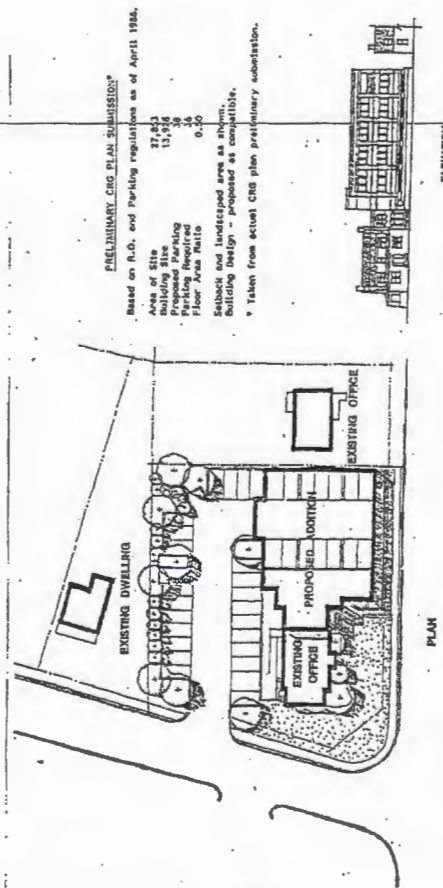


ELEVATION

COMPARATIVE SITE PLAN
PROPOSED RESIDENTIAL OFFICE ZONE.

ATTACHMENT D

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING



PRELIMINARY CRG PLAN SUBMISSION*

Based on R.O. and Parking regulations as of April 1986.

Area of Site	27,453
Proposed Building	13,750
Proposed Parking	36
Parking Required	36
Floor Area Ratio	0.50

Setback and landscaped area as shown.

Building design - proposed as compatible.

* Taken from actual CRG plan preliminary submission.

COMPARATIVE SITE PLAN
EXISTING RESIDENTIAL OFFICE ZONE

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1988, Legislative Day No. 18
BILL NO. 151-88

MS. BARBARA F. BACHUR, COUNCILWOMAN

BY THE COUNTY COUNCIL, OCTOBER 3, 1988

A BILL ENTITLED

AN ACT concerning

Residential - Office Zone

FOR the purpose of amending the Baltimore County Zoning Regulations and the Baltimore County Development Regulations in order to generally revise the R-O Zoning classification relating to the conditions and requirements imposed upon the conversion of certain types of buildings, and generally relating to the permitted uses, conditions, restrictions, limitations, and requirements imposed upon uses in R-O Zones in Baltimore County.

BY repealing and re-enacting, with amendments,

Section 101 - the definitions of "Building Height" and "Office Building, Class B"

Baltimore County Zoning Regulations, as amended.

BY adding

Section 101 - alphabetically, the definition of "Principal Arterial"

Baltimore County Zoning Regulations, as amended.

BY repealing and re-enacting, with amendments,

Sections 203.2, 203.3, 203.4, 203.6, 204.4.B., 205.4.C.,
and 409.7B

Baltimore County Zoning Regulations, as amended.

BY adding

Section 502.8

Baltimore County Zoning Regulations, as amended.

BY repealing and re-enacting, with amendments,

Section 22-104(a)

Title 22 - Planning, Zoning and Subdivision Control

Baltimore County Code, 1978, 1986 Supplement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
Strike-out indicates matter stricken from bill.
Underlining indicates amendments to bill.

WHEREAS, the Baltimore County Council has received a final report from the Planning Board concerning the subject legislation and has held a public hearing thereon, now, therefore,

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the definitions of "Building Height" and "Office Building, Class B" in Section 101 of the Baltimore County Zoning Regulations, as amended, be and they are hereby repealed and re-enacted, with amendments, to read as follows:

Section 101 - Definitions

Building Height: [The vertical distance measured from the average grade to the average elevation of the roof of the highest story.] THE HEIGHT OF THE HIGHEST POINT ON A BUILDING OR OTHER STRUCTURE AS MEASURED BY THE VERTICAL DISTANCE FROM THE HIGHEST POINT ON THE STRUCTURE TO THE HORIZONTAL PROJECTION OF THE CLOSEST POINT AT EXTERIOR GRADE. IN INSTANCES WHERE IT IS OBVIOUS THAT THE EXTERIOR GRADE HAS BEEN ARTIFICIALLY BUILT UP ABOVE NATURAL OR SURROUNDING FINISHED GRADE, THE VERTICAL DISTANCE WILL BE MEASURED BY PROJECTING THE NATURAL OR SURROUNDING FINISHED EXTERIOR GRADE TO THE CLOSEST POINT (FOUNDATION WALL).

Office Building, Class B: A principal building that

[1.] Is devoted primarily to office use or opticians' establishments[;].

[2. Is not attached to any other building;

3. Is the only building on the lot on which it is situated;

4. Has a floor area ratio of no more than 0.5; and

5. Is no higher than 35 feet.]

SECTION 2. And be it further enacted, that the definition of "Principal Arterial" be and it is hereby added to Section 101 of the Baltimore County Zoning Regulations, as amended, to read as follows:

Section 101 - Definitions

1. PRINCIPAL ARTERIAL: A MOTORWAY, OR PORTION THEREOF WHICH:
2. 1) IS OR IS INTENDED FOR TRAVEL TO OR FROM MAJOR ACTIVITY CENTERS;
3. AND 2) WHICH IS DESIGNATED AS SUCH ON THE MOST RECENTLY APPROVED
4. FEDERAL HIGHWAY FUNCTIONAL CLASSIFICATION MAP FOR THE BALTIMORE
5. URBANIZED AREA.

6. SECTION 3. And be it further enacted, that Sections 203.2,
7. 203.3, 203.4, 203.6, 204.4.B., 205.4.C., and 409.7B of the Baltimore
8. County Zoning Regulations, as amended, be and they are hereby
9. repealed and re-enacted, with amendments, to read as follows:

10. 203.2 - Statement of Legislative Policy. The R-O zoning
11. classification is established, pursuant to the findings stated above,
12. to accommodate houses converted to office buildings and some small
13. class B office buildings in predominantly residential areas on sites
14. that, because of adjacent commercial activity, heavy commercial
15. traffic, or other, similar factors, can no longer reasonably be
16. restricted solely to uses allowable in moderate-density residential
17. zones. It is intended that buildings and uses in R-O zones shall [be
18. highly compatible with the] NOT INTRUDE UPON OR DISTURB present or
19. prospective uses of nearby residential property. It is not the R-O
20. classification's purpose to accommodate a substantial part of the
21. demand for office space, it being the intent of these Zoning
22. Regulations that office-space demand should be met primarily in C.T.
23. districts, C.C.C. districts, and, to a lesser extent, in other
24. commercial areas.

25. 203.3 - Use Regulations.

26. A. Uses Permitted as of Right. The following uses,
27. only, are permitted as of right in any R-O zone:

28. 1. Uses permitted as of right and as limited in
29. D.R. 5.5 zones or

1. 2. Class A office buildings containing offices
2. or medical offices and their accessory uses including parking, except
3. that no more than 25% of the total adjusted gross floor area of the
4. office building may be occupied by medical offices.

5. B. Uses Permitted by Special Exception. The
6. following uses, only, may be permitted by special exception in an R-O
7. zone, IF SUCH USE HAS AN APPROVED CRG PLAN PRIOR TO THE GRANTING OF A
8. SPECIAL EXCEPTION:

9. 1. Uses permitted by special exception and as
10. limited in D.R. 5.5 zones or

11. 2. (A) Class B office buildings containing
12. offices or medical offices, except that no more than 25% of the total
13. adjusted gross floor area of the office building may be occupied by
14. medical offices. A Class B office building in existence prior to the
15. effective date of this legislation with medical offices in excess of
16. 25% of the adjusted gross floor area is a conforming use if it is in
17. compliance with the terms of its special exception. Such an office
18. building may be expanded if the expansion meets the current parking
19. requirements for medical offices.

20. (B) UP TO 100% OF THE TOTAL ADJUSTED GROSS
21. FLOOR AREA OF A CLASS B OFFICE BUILDING MAY BE OCCUPIED BY MEDICAL
22. OFFICES IF:

23. (1) THE FLOOR AREA RATIO OF THE
24. PROPOSED CLASS B OFFICE BUILDING IS NOT GREATER THAN 0.20;

25. (2) A DOCUMENTED SITE PLAN AND A
26. SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING HAVE BEEN APPROVED BY
27. THE ZONING COMMISSIONER OR THE BOARD OF APPEALS, EITHER ON APPEAL OR
28. AS A RESULT OF ITS ORIGINAL JURISDICTION, PRIOR TO THE EFFECTIVE DATE
29. OF BILL 151-88;

30. (3) CONSTRUCTION OF THE CLASS B
31. BUILDING IS STARTED PRIOR TO THE EXPIRATION DATE OF THE SPECIAL
32. EXCEPTION AS REQUIRED BY SECTION 502.3; AND

33. (4) PARKING REQUIREMENTS SHALL BE
34. CALCULATED BY REQUIRING THE MAXIMUM NUMBER OF PARKING SPACES AS

1. DETERMINED BY SECTION 409 OF THESE REGULATIONS, THE REQUIREMENTS OF
2. THE DOCUMENTED SITE PLAN, OR THE REQUIREMENTS OF THE ORDER GRANTING
3. THE SPECIAL EXCEPTION, WHICHEVER SHALL YIELD THE GREATEST NUMBER OF
4. SPACES.

5. C. [Signs and Display.] SIGNS AND OFF-STREET
6. PARKING REQUIREMENTS.

7. 1. In addition to signs permitted under
8. Subsection 413.1, 1 stationary outside identification sign is
9. permitted, provided that the sign is not illuminated, does not
10. project more than 6 inches from the building, and does not have a
11. surface area exceeding 8 square feet. No other signs or displays of
12. any kind visible from outside the building are permitted, EXCEPT THAT
13. ALONG A PRINCIPAL ARTERIAL AN ADDITIONAL FREE-STANDING SIGN WITH A
14. SURFACE AREA OF NO MORE THAN 15 SQUARE FEET PER SIDE IS ALSO ALLOWED
15. IF THERE IS ADJACENT NON-RESIDENTIALLY USED OR NON-RESIDENTIALLY
16. ZONED FRONTAGE.

17. 2. OFF-STREET PARKING SPACES SHALL BE PROVIDED IN
18. ACCORDANCE WITH SECTION 409. TO THE EXTENT POSSIBLE PARKING SHALL BE
19. LOCATED IN THE SIDE OR REAR YARDS OF THE LOT. ALL REQUIRED PARKING
20. SPACES SHALL BE PROVIDED ON THE SAME LOT AS THE STRUCTURE OR USE TO
21. WHICH THEY ARE ACCESSORY.

22. [203.4 - Bulk Regulations. Uses permitted under Item
23. 203.3.A.1, uses permitted under Item 203.3.B.1, and new structures
24. accessory to Class A office buildings are governed by the bulk
25. regulations of D.R. 5.5 zones. (Class A office buildings themselves,
26. which by definition may not be enlarged, are not subject to bulk
27. regulations, nor are unenlarged structures accessory to the original
28. houses.) For uses permitted under Item 203.3.B.2, the area devoted
29. to amenity open space must be at least 25 per cent of the gross site
30. area.]

1. 203.4 - BULK REGULATIONS OF R-O ZONES. USES PERMITTED AS OF
2. RIGHT OR BY SPECIAL EXCEPTION ARE GOVERNED BY THE FOLLOWING BULK
3. REGULATIONS:
4. A. USES PERMITTED UNDER 203.3.A.1., USES PERMITTED UNDER
5. 203.3.B.1. AND NEW STRUCTURES ACCESSORY TO CLASS A OFFICE BUILDINGS
6. ARE GOVERNED BY THE BULK REGULATIONS OF D.R. 5.5 ZONES.
7. B. CLASS A OFFICE BUILDINGS THEMSELVES, WHICH BY
8. DEFINITION MAY NOT BE ENLARGED, ARE NOT SUBJECT TO BULK REGULATIONS,
9. NOR ARE UNENLARGED STRUCTURES ACCESSORY TO THE ORIGINAL BUILDING.
10. C. CLASS B OFFICE BUILDINGS.
11. 1. MAXIMUM FLOOR AREA RATIO: 0.33;
12. 2. MAXIMUM HEIGHT OF STRUCTURE: 35 FEET
13. 3. MINIMUM FRONT YARD SETBACK: 25 FEET OR THE
14. AVERAGE OF THE SETBACKS OF THE ADJACENT STRUCTURES, WHICHEVER IS LESS;
15. 4. MINIMUM SIDE YARD SETBACKS: 10 FEET, EXCEPT IF
16. THE ADJACENT PROPERTY IS PREDOMINANTLY RESIDENTIALLY ZONED OR
17. RESIDENTIALLY USED, OR IS ADJACENT TO A RESIDENTIAL STREET, IN WHICH
18. CASE THE SETBACK SHALL BE 20 FEET;
19. 5. MINIMUM REAR YARD SETBACK: 30 FEET;
20. 6. AMENITY OPEN SPACE: SEVEN (7) PERCENT OF THE
21. INTERIOR OF THE PARKING LOT NOT INCLUDING SETBACK AND BUFFER AREA
22. REQUIREMENTS SHALL BE PERVIOUS LAND AREA IN ASSOCIATION WITH
23. PLANTINGS;
24. 7. MAXIMUM LOT SIZE: ONE (1) ACRE EXCEPT THAT IF
25. LOCATED ON A PRINCIPAL ARTERIAL, AND IF THERE IS ADJACENT
26. NON-RESIDENTIALLY USED OR NON-RESIDENTIALLY ZONED FRONTAGE, THE
27. MAXIMUM LOT SIZE MAY BE TWO ACRES.
28. 8. LANDSCAPE REQUIREMENTS. IN ADDITION TO THE
29. REQUIREMENTS SET FORTH IN THE BALTIMORE COUNTY LANDSCAPE MANUAL:

1. a. ALL PARKING AND DUMPSTER AREAS WHICH ABUT A
2. RESIDENTIAL ZONE SHALL BE SCREENED BY AN OPAQUE FENCE, WALL OR BERM
3. IN ASSOCIATION WITH PLANTINGS;

4. b. THE MINIMUM SCREENING HEIGHT SHALL BE FIVE
5. (5) FEET;

6. c. THE FOLLOWING BUFFERS, WHICH SHALL NOT BE
7. ENCROACHED UPON BY ABOVE GROUND STORMWATER MANAGEMENT, PARKING OR
8. DUMPSTER AREAS, BUT WHICH MAY BE BROKEN BY THE ENTRANCEWAY, SHALL BE
9. PROVIDED:

10. 1. PROPERTY LINES WHICH ABUT ANY PROPERTY
11. WHICH IS PREDOMINANTLY RESIDENTIALLY ZONED OR RESIDENTIALLY USED OR
12. WHICH ABUT ANY RESIDENTIAL STREET, MUST HAVE A 20 FOOT LANDSCAPE
13. BUFFER;

14. 2. PROPERTY LINES WHICH ABUT ANY
15. NON-RESIDENTIALLY ZONED PROPERTY MUST HAVE A 10 FOOT LANDSCAPE
16. BUFFER.

17. 203.6 - Conversion of Dwellings to Office Buildings. Any one-
18. or two-family [detached] dwelling OR APARTMENT BUILDING which is
19. under application for EITHER A CHANGE IN ZONING CLASSIFICATION TO
20. R.O. OR FOR A conversion from a residential use to an office use
21. shall require a special exception if the dwelling has been enlarged
22. in floor area by ten per cent or more within a period of [one year]
23. FIVE YEARS prior to the date of application for CHANGE OR
24. conversion.

25. 204.4 - Bulk Regulations of O-1 Zones

26. B. Class B Office Buildings. The following bulk
27. regulations apply to any Class B office building and its lot.

28. 1. Minimum setback from any lot line other than a
29. street line: 20 feet or equal to the height of the buildings
30. whichever is greater;

31. 2. Minimum setback from any street line: 35 feet;

1. 3. Minimum area devoted to amenity open space: 20
2. per cent of net lot area.

3. 4. New structures accessory to Class B office
4. buildings are governed by the bulk regulations of D.R. 5.5 zones for
5. accessory buildings.

6. 5. MAXIMUM FLOOR AREA RATIO: 0.50

7. 6. MAXIMUM HEIGHT OF STRUCTURES: 35 FEET

8. 205.4 - Bulk Regulations of O-2 Zones

9. C. Class B office buildings. The following bulk
10. regulations apply to any Class B office building and its lot.

11. 1. Minimum setback from any lot line other than a
12. street line: 20 feet or equal to the height of the building
13. whichever is greater;

14. 2. Minimum setback from any street line: 35 feet;

15. 3. Minimum area devoted to amenity open space: 25
16. per net lot area.

17. 4. New structures accessory to Class B office
18. buildings are governed by the bulk regulations of D.R. 10.5 zones for
19. accessory buildings.

20. 5. MAXIMUM FLOOR AREA RATIO: 0.50

21. 6. MAXIMUM HEIGHT OF STRUCTURES: 35 FEET

22. 409.7 Location of Parking.

23. B. Except in C.T. Districts AND R-O ZONES, off-site
24. parking spaces for uses other than residential and lodging shall be
25. located within 500 feet walking distance of a building entrance to
26. the use that such spaces serve. In C.T. districts, such spaces shall
27. be permitted within 1000 feet walking distance of the building
28. entrance. In the C.T. district of Towson, such spaces shall be
29. permitted within 1500 feet walking distance of the building entrance,
30. provided they are located within the town center boundary. IN R-O

1. ZONES, SUCH SPACES SHALL BE PROVIDED ON THE SAME LOT AS THE STRUCTURE
2. OR USE TO WHICH THEY ARE ACCESSORY.

3. SECTION 4. And be it further enacted, that Section 502.8 be
4. and it is hereby added to the Baltimore County Zoning Regulations, as
5. amended, to read as follows:

6. Section 502 - Special Exceptions

7. 502.8 BILL NO. 151-88 DOES NOT AFFECT THE VALIDITY OF ANY
8. ORDER GRANTING A SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING
9. PURSUANT TO SUBSECTION 203.3.B. PRIOR TO THE EFFECTIVE DATE OF THE
10. BILL. ANY SUCH SPECIAL EXCEPTION MAY BE USED IN ACCORDANCE WITH THE
11. APPLICABLE PROVISIONS OF THESE REGULATIONS IN EFFECT AT THE TIME OF
12. THE GRANT OF SUCH SPECIAL EXCEPTION AND IN ACCORDANCE WITH THE TERMS
13. THEREOF, PROVIDED CONSTRUCTION IS STARTED PRIOR TO THE EXPIRATION
14. DATE OF THE SPECIAL EXCEPTION AS REQUIRED BY SECTION 502.3.

15. SECTION 5. And be it further enacted, that Section 22-104(a)
16. of Title 22 - Planning, Zoning and Subdivision Control, of the
17. Baltimore County Code, 1978, 1986 Supplement, be and it is hereby
18. repealed and re-enacted, with amendments, to read as follows:

19. Section 22-104 - Development in R-O, O-1, O-2, or OT
20. zone.

21. (a) (1) Development of property in an R-O zone shall be
22. [designed to achieve compatibility of the proposed development with]
23. APPROPRIATE TO THE SPECIFIC CIRCUMSTANCES OF THE SITE TAKING INTO
24. ACCOUNT surrounding uses; tree preservation; protection of
25. watercourses and bodies of water from erosion and siltation; and
26. safety, convenience, and amenity for the neighborhoods.

27. (2) IN DETERMINING THE APPROPRIATENESS OF CLASS B
28. OFFICE BUILDINGS, DESIGN ELEMENTS OF PROPOSED BUILDINGS SHALL BE
29. EVALUATED IN RELATION TO EXISTING ADJACENT OR SURROUNDING BUILDINGS.

1. UNLESS DETERMINED OTHERWISE BY THE DIRECTOR OF THE OFFICE OF PLANNING
2. AND ZONING TO BE CONSIDERED APPROPRIATE, NEW BUILDINGS SHALL BE
3. SIMILAR TO EXISTING ONES IN THE FOLLOWING RESPECTS:
4. (i) HEIGHT
5. (ii) BULK AND GENERAL MASSING
6. (iii) MAJOR DIVISIONS OR RHYTHMS OF THE FACADE
7. (iv) PROPORTION OF OPENINGS
8. (WINDOW-WALL-RELATION)
9. (v) ROOF TREATMENT
10. (vi) MATERIALS, COLORS, TEXTURES
11. (vii) GENERAL ARCHITECTURAL CHARACTER
12. a) HORIZONTAL OR VERTICAL EMPHASIS
13. b) SCALE
14. c) STYLISTIC FEATURES AND THEMES
15. -PORCHES, COLONNADES, PEDIMENTS, CUPOLAS, CORNICES, COINS, DETAIL AND
16. ORNAMENT
17. (viii) RELATION TO STREET
18. (ix) EXTERIOR LIGHTING. BUILDINGS SHALL NOT
19. BE LIGHTED ON THE EXTERIOR AND ANY LIGHTING PROVIDED FOR SAFETY
20. REASONS SHOULD BE MINIMIZED AND DIRECTED AWAY FROM ADJOINING
21. RESIDENTIAL PROPERTY.
22. SECTION 6. And be it further enacted, that this Act shall
23. take effect forty-five days after its enactment.

John E. Beverungen

From: Shirley Supik at the Emmart Pierpont Safe House <epsafehousesupik@verizon.net>
Sent: Monday, January 04, 2016 1:20 PM
To: John E. Beverungen
Cc: epsafehousesupik@verizon.net
Subject: Zoning case #2016-117-SPHXA (the old Farm Bureau Property at 8930 Liberty Road)

Good Afternoon Judge Beverungen,

I am writing this to you because I broke my ankle while volunteering to help plant trees at the Randallstown HS and todate I am not allowed to put any weight on it at all. I go to the doctor tomorrow and if things change, I will attend the hearing, however, if I can't attend the hearing, the Liberty Road Community Council has some concerns and I wanted to make sure you heard them.

The first thing that worries LRCC is the precedent it would set if the exception from 25% to 100% medical designation in a residential zone is granted. Although this is a corner property, it is abutted on the side and the rear by residential homes and that brings up another problem. The new owners do not want to add any new buffers (landscaping). First off, the landscaping there is minimal at best and years old. You would think a doctor would have more pride in his setting. Secondly, as I stated, that property has residences on two sides and there should be buffers on those sides. The parking really worries us. There are 9 spaces there now and if the doctor and two employees park there, that leaves 7 spaces. The Farm Bureau didn't need many spaces because they rarely had visitors, but a doctor's office is a busy place indeed. That building is too big for one doctor, and I believe in the future, he will want to rent out the upstairs and 10 spaces is not enough for one floor let alone two. We believe that the overflow traffic will end up on other people's property and that is not acceptable.

It is the hope of LRCC and the communities they represent that when a new business comes to the Liberty Road Corridor, that it will be an improvement and an asset. We do not believe that this would be the case if the zoning regulations are not followed. With this many rules being cast aside LRCC was worried that a medical marijuana clinic was going in there, however, zoning explained that the rules prohibit that type of business there near a school or church. This proves how important it is to maintain the rules. If a precedent can be set on this issue, it becomes easier in the future to suspend other rules.

The Liberty Road Community Council will gladly welcome this new patron if he is willing to abide by the rules and improve the property, not try to get away with the least amount of improvements as possible. We know he spent \$360,000.00 for the property, but his responsibility does not stop there.

Thank you for hearing our concerns in this issue.

Shirley Supik, President
410-655-7821

John E. Beverungen

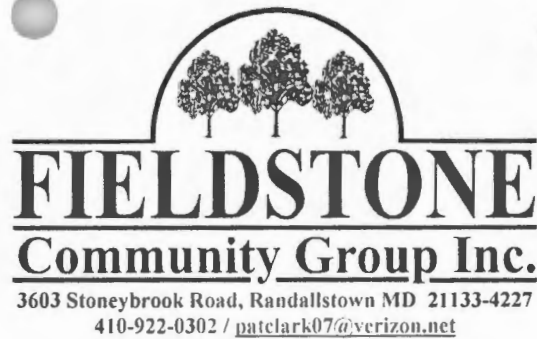
From: Pat Clark <patclark07@verizon.net>
Sent: Monday, December 21, 2015 10:30 AM
To: John E. Beverungen
Cc: Peter Max Zimmerman; tleftwick@baltimorecountymd.gov; Pat Clark
Subject: Joetrin, LLC - 8930 Liberty Road - Case No.: 2016-117-SPHXA Variance Hearing, January 7, 2016
Attachments: letter to Judge Beverungen.doc

Dear Judge Beverungen,

Please see attached letter from the Fieldstone Community Group, Inc., in regard to the Variance Hearing scheduled for January 7, 2016, for Joetrin, LLC – 8930 Liberty Road – Case No.: 2016-117-SPHXA.

We appreciate your attention to this matter.

Pat Clark, President
Fieldstone Community Group, Inc.
3603 Stoneybrook Road
Randallstown, MD 21133
410-922-0302
patclark07@verizon.net



December 21, 2015

Judge John E. Beverungen
Administrative Law Judge for Baltimore County
Room 203 Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

Dear Judge Beverungen:

Subject: Joetrin, LLC – 8930 Liberty Road – Case No.: 2016-117-SPHXA – Variance Hearing January 7, 2016

In reference to Joetrin, LLC – 8930 Liberty Road – Case No.: 2016-117-SPHXA, the Fieldstone Community Group, Inc., which is a Baltimore County Historic District, opposes the Petition for Special Relief and Variance.

The property at 8930 Liberty Road is located within the Fieldstone Historic District although the building on the property is not historic. The parking lot has only 10 spaces available. We note that zoning regulations require 24 parking spaces in order for this property to be used as a 100% medical facility, which is the proposed use. There is absolutely no availability for parking along Liberty and McDonogh Roads, which are the streets adjacent to the building. We strongly oppose the request for Special Relief to establish a 100% medical building with only 10 parking spaces. Overflow parking would crowd our narrow residential streets.

The other two sides of 8930 Liberty Road border Fieldstone historic residential properties. We strongly oppose the requested Variance to permit landscaping and buffering in lieu of the required buffers and screening called for in BCZR 204.4.C.9 to minimize negative automotive impact on adjoining residential properties.

We are not opposed to the office building, but we believe that any use of the building must be one that requires no more than the available 10 parking spaces. We strongly oppose the request for Special Relief and Variance so that we can maintain the character of our historic community, prevent the negative impact of this proposed use, and maintain the health, safety, and general welfare of our community, as set forth in Baltimore County Zoning Regulation 409.8.B 1 e (2) and (4).

Thank you for considering our concerns.

Sincerely yours,

Pat Clark, President
Fieldstone Community Group, Inc.

Peter Max Zimmerman

DEC 30 2015

OFFICE OF ADMINISTRATIVE HEARINGS

To: John E. Beverungen
Cc: Lawrence Schmidt; Troy Leftwich; patclark07@verizon.net; Andrea Van Arsdale
Subject: Zoning Case No. 2016-117-SPHXA, 8930 Liberty Road, Joetrin, Inc, Petitioner, Lawrence Schmidt, attorney for Petitioner
Attachments: Bill 37-88.pdf; Bill 151-88- R.O. Zone.pdf; Planning Board Report May, 1988 R-O Zones.pdf; Holt Candice 2015-001-SPHA AU Hearing.pdf

Dear Judge Beverungen,

This zoning case is scheduled for January 7, 2016 at 1:30 P.M. Upon preliminary review, and including the letter dated December 21, 2015 e-mailed from Pat Clark, President of the Fieldstone Community Group, I find it necessary and appropriate to communicate the following legal analysis. Please accept this December 30, 2015 e-mail as our office's view that, as a matter of law, the petition is disqualified. A separate hard copy of this e-mail and attachments will be hand-delivered to the Office of Administrative Hearings.

The petition includes (1) a request for special exception for a Class B office building in an R.O. (Residential Office) Zone; (2) variances to allow 100% medical offices instead of the maximum 25% of adjusted gross floor area (BCZR Sec. 204.3.B.2), and existing landscaping and buffering instead of required buffers and screening (BCZR Sec. 204.4.C.9); and (3) special hearing relief, a modified parking plan for 10 spaces instead of the required 24 (BCZR Sec. 409.6.A.2, 409.12), equivalent to a variance), business parking in a residential zone, and to confirm compliance with RTA requirements.

The property is part of the historic Fieldstone subdivision in Randallstown (lot 111, Amended Plat No. 3, 1927). It is located at the northeast corner of Liberty and McDonogh Roads. The property is zoned mostly R.O. but with a rear area zoned D.R. 3.5.

1. The request for 100% medical office use translates as a use variance, which is impermissible.

BCZR Sec. 307.1 authorizes height and area, offstreet parking, and sign variances, but not use variances. See McLean v. Soley 270 Md. 208 (1973). Any use not specifically permitted is prohibited. BCZR Sec. 102.1; Kowalski v. Lamar 25 Md.App. 493, 496-99 (1975); People's Counsel v. Surina 400 Md. 662, 688 (2007).

The BCZR Sec. 204.3.B.2 R.O Zone Class B office building medical office 25% limit is linguistically, logically, and structurally a use restriction, as contrasted with the bulk (area) restrictions in BCZR Sec. 204.4. There is a similar restriction for Class A office buildings (converted residences). BCZR Sec. 204.3.A.2.

The medical office limit originated with Bill 37-88 (March, 1988) for Class B office buildings and was elaborated in Bill 151-88 (October, 1988), with the inclusion also of Class A office buildings. The introductory purpose clause reflects the emphasis on use limits. Bill 151-88 also included a grandfather provision for existing medical office buildings. The Bills are attached.

Bill 151-88 also amended the County Code with reference to compatibility review for Class B office buildings. Current County Code Sec. 32-4-402 includes the R.O. Zone for compatibility review of developments. The May 19, 1988 Planning Board Report, attached, reflects concerns for compatibility generally with adjacent residential areas and specifically overflow parking (enumerating the very high trip generation for medical offices compared to most offices), and buffers, including landscaping. It is also noteworthy that the parking requirements for general offices are 3.3 per 1000 per square feet, compared to 4.5 per 1000 for medical offices.

2. Even if misnamed as an area variance, the request does not qualify.

It would be rare case that a property's "uniqueness" could ever make any difference as to percentage of medical offices. Perhaps if the property were located on a medical center campus, but then it might be part of the medical center and not zoned R-O.. Here, the property is Lot 111 of Fieldstone Amended Plat No. 3 of Fieldstone, circa 1927. The lot is similar in size to the other lots, about .35 acres (SDAT) -- .41 gross, .28 net on the site plan -- with a good shape, not quite a perfect rectangle. It has 69 feet frontage on Liberty Road, about average of the lots fronting Liberty Road. It has the advantage of being a corner lot, but this poses the concern for overflow parking spreading into adjacent residential areas.

As for any resulting "practical difficulty," the property has had an office use for many years and could be used for other permitted uses. The SDAT data indicates the building (previously used by the Farm Bureau) was built in 1960. It can be reused for general office use. The proposed change would likely impact the neighborhood adversely, as to overflow parking and intensity. The property is part of the Fieldstone district, which Pat Clark cites as a historic district. The property backs up to the residential area.

Maryland case law, from Cromwell v. Ward 102 Md. App. 691 (1995) forward, emphasizes the law is very restrictive as to variances. When contested, it is a rare situation which justifies approval. The deviations here, however named, are extreme and not justified.

3. The Administrative Law Judge recently has recognized that the R.O. Zone medical office percentage limit is a use restriction.

In Case No. 2015-0001-SPHA, 8613 Harford Road, Candace Holt, Petitioner, attached, there was a somewhat similar petition. The September 12, 2014 decision denied the request for 100% medical offices in the R.O. Zone on the basis that it is a use restriction. We agree with this decision. It has been our office's view for many years that this is a use restriction. Our updated research and analysis corroborates and confirms this conclusion.

4. The requests for 10 parking spaces instead of 24 and to be excused from landscaping and screening requirements are aggravating factors.

Whether considered as variances or, in the case of parking a modified parking plan (subject to undue hardship review), these just magnify the problems with the proposal. There does not appear to be any legal justification for these deviations.

5. The special exception for the modified office building loses any presumption and, as a conditional use, is unsatisfactory because of the major failure to meet so many conditions.

It is often emphasized (sometimes predominantly) that there is a "presumption" in favor of special exceptions. But the burden of proof is still on the applicant to satisfy legislative standards elucidated in detail in the case law. Special exceptions are not automatic or routine. Schultz v. Pritts 291 Md. 1 (1981); Board of County Comm'rs v. Holbrook 314 Md. 210 (1988); Montgomery County v. Butler 417 Md. 271 (2010). Mills v. Godlove 200 Md. App. 213 (2011). The Court of Special Appeals has also indicated meanwhile that the "presumption" may well fall by the wayside where the request fails to satisfy other conditions of the law. Chester Haven Beach Partnership v. Board of Appeals 103 Md. App. 324, 336 (1995); Umerley v. People's Counsel 108 Md. App. 497, 510-11, cert. denied 342 Md. 584 (1996).

6. There is a residential transition area (RTA) conflict and the requirement of a another variance.

Because the rear area is zoned D.R. 3.5, with an adjacent single-family dwelling, there is an RTA issue. The rear parking area conflicts with the RTA. The property is less than two acres in size and occupied by an office. So, in our view, BCZR Sec. 1B01.1.B.1.c does not apply. Therefore, the Planning Director may not recommend a modification of the RTA in just any case. A variance is required here too.

7. It is immaterial whether petitioner suggests a condition to mitigate potential or probable problems.

The law simply does not permit a deviation from the 25% medical office use limit, with other variances being aggravating factors without justification. Petitioner may frame this particular use to appear modest and inoffensive. Nevertheless, per City of Baltimore v. Poe 224 Md. 428, 433 (1961),

"It is settled law in this State that the zoning ordinance is concerned with the use of property and not with ownership thereof nor with the purposes of the owners or occupants."

Moreover, any approval to suit a particular owner's plan is usually fraught with implementation and enforcement issues, including potential expansion and successor ownership.

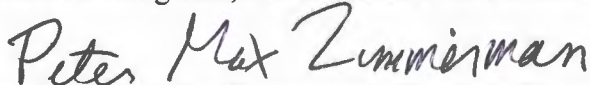
There is also the matter of precedent. The Court quoted this in Easter v. Mayor & City Council of Baltimore 195 Md. 395, 401 (1950),

"It is by these gradual encroachments, individually of relative insignificance, that the integrity of the general scheme is undermined and ultimately shattered. One departure serves as justification for another ***. Dubin v. Wich 120 N.J.L. 469."

Correlatively, in Village of Euclid v. Ambler Realty Co. 272 U.S. 365, 388-89 (1926), the Supreme Court underlined the legislature may decide to include a reasonable margin to insure effective enforcement,

"Here, however, the exclusion is in general terms of all industrial establishments, and it may thereby happen that not only offensive or dangerous industries will be excluded, but those which are neither offensive nor dangerous will share the same fate. But this is no more than happens in respect of many practice-forbidding laws which this court has upheld, although drawn in general terms so as to include individual cases that may turn out to be innocuous in themselves. Hebe Co. v. Shaw, 248 U. S. 297, 303, 39 S. Ct. 125, 63 L. Ed. 255; Pierce Oil Corp. v. City of Hope, 248 U. S. 498, 500, 39 S. Ct. 172, 63 L. Ed. 381. The inclusion of a reasonable margin, to insure effective enforcement, will not put upon a law, otherwise valid, the stamp of invalidity. Such laws may also find their justification in the fact that, in some fields, the bad fades into the good by such insensible degrees that the two are not capable of being readily distinguished and separated in terms of legislation. In the light of these considerations, we are not prepared to say that the end in view was not sufficient to justify the general rule of the ordinance, although some industries of an innocent character might fall within the proscribed class. It cannot be said that the ordinance in this respect 'passes the bounds of reason and assumes the character of a merely arbitrary fiat.' Purity Extract Co. v. Lynch, 226 U. S. 192, 204, 33 S. Ct. 44, 47 (57 L. Ed. 184). Moreover, the restrictive provisions of the ordinance in this particular may be sustained upon the principles applicable to the broader exclusion from residential districts of all business and trade structures, presently to be discussed."

The above being said, our intention is to submit on the record.


Sincerely, Peter Max Zimmerman, People's Counsel for Baltimore County 410 887-2188
December 30, 2015

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1988, LEGISLATIVE DAY NO. 6
BILL NO. 37-88

MS. BARBARA F. BACHUR, COUNCILMAN

BY THE COUNTY COUNCIL, MARCH 21, 1988

A BILL ENTITLED

AN ACT concerning

Zoning Regulations - Hospitals and Nursing Homes

FOR the purpose of revising the definitions of certain types of health care facilities; permitting nursing homes in all types of Planned Unit Developments; exempting the reconstruction of certain nursing homes from RTA requirements; providing a definition of a medical office and of a medical clinic; authorizing the location of a medical clinic in business and manufacturing zones; prohibiting their location in residential or residential office zones; and generally relating to the regulation of health care facilities in Baltimore County.

BY repealing

Section 101 - Definitions, the definition of "Hospital" and "Convalescent Home" and Section 407

Baltimore County Zoning Regulations, as amended

BY adding

Section 101 - Definitions, the definition of "Hospital", "Nursing Home", "Medical Clinic", "Medical Office", and "Medical Practitioner"

BY repealing and re-enacting, with amendments,

Section 101 - Definitions, the definition of "office" and "Office Building, Class B", and

Sections 1A01.2.C.12., 1A02.2.B.16., 1A02.2.B.17., 1A04.2.A.5., 1A04.2.B.10., 1B01.1.A.9., 1B01.B.1.C.12., 200.2.A.3., 200.2.B.2., 201.2.A.3., 201.2.B.2., 203.3.A.2, 203.3.B.7., 204.3.A.2., 205.3.A.1., 207.3.A.4, 230.9, 236.4, 241.1, 253.1, 430.2.D.4., 430.3.D.4., and 430.4.D.4.

Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
Strike-out indicates matter stricken from bill.
Underlining indicates amendments to bill.



WHEREAS, the Baltimore County Council has received a final report from the Planning Board concerning the subject legislation and has held a public hearing thereon, now therefore

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Section 101-Definitions, the definitions of "Hospital" and "Convalescent Home" and Section 407 of the Baltimore County Zoning Regulations, as amended, be and they are hereby repealed.

SECTION 2. AND BE IT FURTHER ENACTED, that Section 101 - Definitions, the definitions of "Hospital", "Nursing Home", "Medical clinic", "Medical office", and "Medical Practitioner", be and they are hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

Section 101 - Definitions

HOSPITAL: AN INSTITUTION WHICH IS LICENSED AS A HOSPITAL BY THE STATE AND WHICH RECEIVES INPATIENTS AND PROVIDES MEDICAL, SURGICAL, PSYCHIATRIC OR OBSTETRICAL CARE. THIS TERM INCLUDES ANY HEALTH-RELATED FACILITIES WHICH ARE ESTABLISHED IN CONNECTION WITH A HOSPITAL AND ARE LOCATED ON THE SAME SITE AS THE HOSPITAL. SUCH HEALTH-RELATED FACILITIES SHALL INCLUDE, BUT NOT BE LIMITED TO, DIAGNOSTIC FACILITIES, REHABILITATION CENTERS, LABORATORIES, TRAINING FACILITIES, OUTPATIENT CARE FACILITIES, FACILITIES FOR CHRONIC OR CONVALESCENT CARE AND ELDERLY HOUSING FACILITIES.

NURSING HOME: (FORMERLY CONVALESCENT HOME): A FACILITY WHICH PROVIDES BOARD, SHELTER, AND NURSING CARE TO CHRONIC OR CONVALESCENT PATIENTS. THIS TERM ALSO INCLUDES FACILITIES WHICH PROVIDE DOMICILIARY CARE WITHIN A NURSING HOME.

MEDICAL CLINIC: A PLACE FOR THE TREATMENT OF OUTPATIENTS BY ONE OR MORE MEDICAL PRACTITIONERS, INCLUDING, BUT NOT LIMITED TO, SURGICAL CENTERS, AMPUTATORY CARE CENTERS, DIAGNOSTIC CENTERS, BIRTHING CENTERS AND DIALYSIS SATELLITE UNITS.

1. MEDICAL OFFICE: A PLACE FOR THE TREATMENT OF OUTPATIENTS BY
2. ONE OR MORE MEDICAL PRACTITIONERS. THIS TERM DOES NOT INCLUDE A
3. VETERINARIAN'S OFFICE, MEDICAL CLINIC, SURGICAL CENTER, AMBULATORY CARE
4. CENTER, DIAGNOSTIC CENTER, BIRTHING CENTER, OR DIALYSIS SATELLITE UNIT.

5. MEDICAL PRACTITIONER: A PHYSICIAN, DENTIST, OPTOMETRIST,
6. CHIROPRACTOR, PODIATRIST, PSYCHOLOGIST, PHYSICAL THERAPIST, NURSE, OR
7. OTHER SIMILAR HEALTH PROFESSIONAL LICENSED BY THE STATE.

8. SECTION 3. AND BE IT FURTHER ENACTED, that Section 101 -
9. Definitions, the definition of "office" and "Office Building, Class B",
10. and Sections 1A01.2.C.12., 1A02.2.B.16., 1A02.2.B.17., 1A04.2.A.5.,
11. 1A04.2.B.10., 1B01.B.1.C.12., 200.2.A.3., 200.2.B.2., 201.2.A.3.,
12. 201.2.B.2., 203.3.A.2., 203.3.B.2., 204.3.A.2., 205.3.A.1., 207.3.A.4.,
13. 230.9, 236.4., 241.1, 253.1, 430.2.D.4., 430.3.D.4., and 430.4.D.4. of
14. the Baltimore County Zoning Regulations, as amended, be and they are
15. hereby repealed and re-enacted, with amendments, to read as follows:

16. OFFICE: The term "office" does not include a bank, a post
17. office, a veterinarian's office, nor an establishment where merchandise
18. is stored on or sold from the premises. THE TERM DOES INCLUDE A
19. MEDICAL OFFICE.

20. Office building, Class B: A principal building that-

21. 1. Is devoted primarily to office use (, clinic or
22. group-medical-center use (including the practice of dentistry),) or
23. opticians' (or optometrists') establishments;

24. 2. Is not attached to any other building;

25. 3. Is the only building on the lot on which it is situated,
26. other than accessory storage for maintenance buildings, or, if a
27. conversion from a Class A office building, those existing buildings
28. which were accessory to the Class A office building;

1. 4. Together with any accessory buildings, has a floor area
2. ratio of no more than 0.5; and

3. 5. Is no higher than 35 feet. (Bill No. 13, 1980.)

4. Section 1A01 - R.C. 2 Zones

5. 1A01.2 - Use Regulations

6. C. Uses permitted by Special Exception.

7. 12. Offices for agriculture - related uses (;
8. physicians' or dentists' offices as principal uses)

9. Section 1A02 - R.C. 3 Zones

10. 1A02.2 - Use Regulations

11. R. Uses permitted by Special Exception.

12. 16. (Nursing homes,) Convalescent homes (or
13. sanitariums)

14. (17. Physicians' or dentists' offices)

15. Section 1A04 - R.C. 5 Zone

16. 1A04.2 - Use Regulations

17. A. Uses permitted as of right.

18. (5. Hospitals)

19. B. Uses permitted by Special Exception.

20. (10. Office of doctor or dentist)

1. Section 1800 - D.R. Zones

2. 1801.1.A. Uses Permitted as of Right

3. 9. Hospitals ((see Section 407))

4. 1801.1.B.1.c. Exceptions to residential transition.

5. 12. NOTWITHSTANDING THE PROVISIONS OF SECTION 104, THE
6. RECONSTRUCTION OF AN EXISTING NURSING HOME WHICH IS DESTROYED BY FIRE
7. OR OTHER CASUALTY. HOWEVER, SUCH RECONSTRUCTION MAY NOT INCREASE THE
8. SIZE OR GROUND FLOOR AREA OF THE STRUCTURE OR ALTER THE LOCATION OR USE
9. OF THE STRUCTURE.

10. Section 200 - R.A.E.1 Zones

11. 200.2

12. A. Uses Permitted

13. 3. The following retail or service uses, in any
14. apartment building of 50 or more dwelling units, subject to the
15. limitations of Paragraph B:

16. (4. Chiropodists' offices

17. 5. Clinics or group medical centers (including the
18. practice of dentistry))

19. 13. Opticians' (or optometrists') offices

20. B. Supplementary Use Regulations.

1. 2. No individual use permitted under Subparagraph A.3
2. shall occupy more than 600 square feet of gross floor area; except,
3. however, that this limitation shall not apply to the following:

4. (Clinics or group medical centers;)
5. Food stores, which shall not, however, occupy more than
6. 5,000 square feet of floor area in any building;

7. Restaurants.

8. Section 201 - R.A.E.2 Zones

9. 201.2

10. A. Uses Permitted

11. 3. The following retail or service uses, in any
12. apartment building of 50 or more dwelling units, subject to the
13. limitations of Paragraph B:

14. (7. Chiropodists' offices

15. 8. Clinics or group medical centers (including the
16. practice of dentistry))

17. 18. Opticians' (or optometrists') offices

18. B. Supplementary Use Regulations.

19. 2. No individual use permitted under Subparagraph A.3
20. shall occupy more than 1000 square feet of gross floor area; except,
21. however, that this limitation shall not apply to the following:

22. Banks, building and loan associations, and similar
23. chartered financial institutions;

1. (Clinics and group medical centers;) Food stores, which
2. shall not, however, occupy more than 5000 square feet of floor area;

3. Restaurants.

4. Section 203 - RO Zones

5. 203.3 Use Regulations

6. A. Uses Permitted As of Right.

7. 2. Class A office buildings CONTAINING OFFICES OR
8. MEDICAL OFFICES and their accessory uses including parking.

9. B. Uses Permitted by Special Exception

10. 2. Class B office buildings CONTAINING OFFICES OR
11. MEDICAL OFFICES, EXCEPT THAT NO MORE THAN 25% OF THE TOTAL ADJUSTED
12. GROSS FLOOR AREA OF THE OFFICE BUILDING MAY BE OCCUPIED BY MEDICAL
13. OFFICES.

14. Section 204 - O-1 Zones

15. 204.3 Use Regulations

16. A. Uses permitted as of right

17. 2. Class A, Class B, or Class C office buildings
18. CONTAINING OFFICES, MEDICAL OFFICES, OR MEDICAL CLINICS.

19. Section 205 - O-2 Zones

20. 205.3 Use Regulations

21. A. Uses permitted as of right

1. 1. Class A, Class B or Class C(,) office buildings
2. CONTAINING OFFICES, MEDICAL OFFICES, OR MEDICAL CLINICS

3. Section 207 - O.T. Zone

4. 207.3 Permitted Uses

5. A. Principal Uses

6. 4. Hospital (, clinics, or group medical centers
7. (including the practice of dentistry))

8. B.L. Zone - Business, Local

9. Section 230

10. The following uses only are permitted (See section 230.12):

11. 230.9

12. MEDICAL CLINIC

13. B.R. Zone - Business, Roadside

14. Section 236 - Use Regulations

15. 236.4 - Special Exceptions

16. (Hospital, Class B (see Section 407));

17. M.R. Zone - Manufacturing Restricted

18. 241.1 - The following uses are permitted, provided their
19. operations are entirely within enclosed buildings except where approval
20. of the development plan indicates otherwise:

1. Office and office buildings AND MEDICAL CLINIC;
2. M.L. Zone - Manufacturing, Light
3. 253.1 - Uses permitted as of right. The uses listed in this
4. subsection, only, shall be permitted as of right in M.L. zones, subject
5. to any conditions hereinafter prescribed.
33. Offices or Office Buildings OR MEDICAL CLINICS
Section 430 - Unit Developments
8. 430.2 - Neighborhood Development
9. D. Uses permitted.
10. 4. Institutions; churches; private schools; NURSING
11. HOMES.
12. 430.3 - Community Developments
13. D. Uses permitted.
14. 4. The following institutional uses:
15. 4. NURSING HOMES.
- 430.4 - Town Developments
17. D. Use Regulations
18. 4. The following institutional uses:
19. 4. NURSING HOMES.
20. Section 4. And be it further enacted, that this Act shall take
21. effect forty-five days after its enactment.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1988, Legislative Day No. 18

BILL NO. 151-88

MS. BARBARA F. BACTUR, COUNCILMAN

BY THE COUNTY COUNCIL, OCTOBER 3, 1988

A BILL ENTITLED

AN ACT concerning

Residential - Office Zone

FOR the purpose of amending the Baltimore County Zoning Regulations and the Baltimore County Development Regulations in order to generally revise the R-O Zoning classification relating to the conditions and requirements imposed upon the conversion of certain types of buildings, and generally relating to the permitted uses, conditions, restrictions, limitations, and requirements imposed upon uses in R-O Zones in Baltimore County.

BY repealing and re-enacting, with amendments,

Section 101 - the definitions of "Building Height" and "Office Building, Class B"

Baltimore County Zoning Regulations, as amended.

BY adding

Section 101 - alphabetically, the definition of "Principal Arterial"

Baltimore County Zoning Regulations, as amended.

BY repealing and re-enacting, with amendments,

Sections 203.2, 203.3, 203.4, 203.6, 204.4.B., 205.4.C., and 409.7B

Baltimore County Zoning Regulations, as amended.

BY adding

Section 502.8

Baltimore County Zoning Regulations, as amended.

BY repealing and re-enacting, with amendments,

Section 22-104(a)

Title 22 - Planning, Zoning and Subdivision Control

Baltimore County Code, 1978, 1986 Supplement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
Strike-out indicates matter stricken from bill.
Underlining indicates amendments to bill.

WHEREAS, the Baltimore County Council has received a final report from the Planning Board concerning the subject legislation and has held a public hearing thereon, now, therefore,

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the definitions of "Building Height" and "Office Building, Class B" in Section 101 of the Baltimore County Zoning Regulations, as amended, be and they are hereby repealed and re-enacted, with amendments, to read as follows:

Section 101 - Definitions

Building Height: [The vertical distance measured from the average grade to the average elevation of the roof of the highest story.] THE HEIGHT OF THE HIGHEST POINT ON A BUILDING OR OTHER STRUCTURE AS MEASURED BY THE VERTICAL DISTANCE FROM THE HIGHEST POINT ON THE STRUCTURE TO THE HORIZONTAL PROJECTION OF THE CLOSEST POINT AT EXTERIOR GRADE. IN INSTANCES WHERE IT IS OBVIOUS THAT THE EXTERIOR GRADE HAS BEEN ARTIFICIALLY BUILT UP ABOVE NATURAL OR SURROUNDING FINISHED GRADE, THE VERTICAL DISTANCE WILL BE MEASURED BY PROJECTING THE NATURAL OR SURROUNDING FINISHED EXTERIOR GRADE TO THE CLOSEST POINT (FOUNDATION WALL).

Office Building, Class B: A principal building that

[1.] Is devoted primarily to office use or opticians' establishments[;].

[2. Is not attached to any other building;

3. Is the only building on the lot on which it is situated;

4. Has a floor area ratio of no more than 0.5; and

5. Is no higher than 35 feet.]

SECTION 2. And be it further enacted, that the definition of "Principal Arterial" be and it is hereby added to Section 101 of the Baltimore County Zoning Regulations, as amended, to read as follows:

Section 101 - Definitions

1. PRINCIPAL ARTERIAL: A MOTORWAY, OR PORTION THEREOF WHICH:
2. 1) IS OR IS INTENDED FOR TRAVEL TO OR FROM MAJOR ACTIVITY CENTERS;
3. AND 2) WHICH IS DESIGNATED AS SUCH ON THE MOST RECENTLY APPROVED
4. FEDERAL HIGHWAY FUNCTIONAL CLASSIFICATION MAP FOR THE BALTIMORE
5. URBANIZED AREA.

6. SECTION 3. And be it further enacted, that Sections 203.2,
7. 203.3, 203.4, 203.6, 204.4.B., 205.4.C., and 409.7B of the Baltimore
8. County Zoning Regulations, as amended, be and they are hereby
9. repealed and re-enacted, with amendments, to read as follows:

10. 203.2 - Statement of Legislative Policy. The R-O zoning
11. classification is established, pursuant to the findings stated above,
12. to accommodate houses converted to office buildings and some small
13. class B office buildings in predominantly residential areas on sites
14. that, because of adjacent commercial activity, heavy commercial
15. traffic, or other, similar factors, can no longer reasonably be
16. restricted solely to uses allowable in moderate-density residential
17. zones. It is intended that buildings and uses in R-O zones shall [be
18. highly compatible with the] NOT INTRUDE UPON OR DISTURB present or
19. prospective uses of nearby residential property. It is not the R-O
20. classification's purpose to accommodate a substantial part of the
21. demand for office space, it being the intent of these Zoning
22. Regulations that office-space demand should be met primarily in C.T.
23. districts, C.C.C. districts, and, to a lesser extent, in other
24. commercial areas.

25. 203.3 - Use Regulations.

26. A. Uses Permitted as of Right. The following uses,
27. only, are permitted as of right in any R-O zone:

28. 1. Uses permitted as of right and as limited in
29. D.R. 5.5 zones or

1. 2. Class A office buildings containing offices
2. or medical offices and their accessory uses including parking, except
3. that no more than 25% of the total adjusted gross floor area of the
4. office building may be occupied by medical offices.

5. B. Uses Permitted by Special Exception. The
6. following uses, only, may be permitted by special exception in an R-O
7. zone, IF SUCH USE HAS AN APPROVED CPG PLAN PRIOR TO THE GRANTING OF A
8. SPECIAL EXCEPTION:

9. 1. Uses permitted by special exception and as
10. limited in D.R. 5.5 zones or

11. 2. (A) Class B office buildings containing
12. offices or medical offices, except that no more than 25% of the total
13. adjusted gross floor area of the office building may be occupied by
14. medical offices. A Class B office building in existence prior to the
15. effective date of this legislation with medical offices in excess of
16. 25% of the adjusted gross floor area is a conforming use if it is in
17. compliance with the terms of its special exception. Such an office
18. building may be expanded if the expansion meets the current parking
19. requirements for medical offices.

20. (B) UP TO 100% OF THE TOTAL ADJUSTED GROSS
21. FLOOR AREA OF A CLASS B OFFICE BUILDING MAY BE OCCUPIED BY MEDICAL
22. OFFICES IF:

23. (1) THE FLOOR AREA RATIO OF THE
24. PROPOSED CLASS B OFFICE BUILDING IS NOT GREATER THAN 0.20;

25. (2) A DOCUMENTED SITE PLAN AND A
26. SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING HAVE BEEN APPROVED BY
27. THE ZONING COMMISSIONER OR THE BOARD OF APPEALS, EITHER ON APPEAL OR
28. AS A RESULT OF ITS ORIGINAL JURISDICTION, PRIOR TO THE EFFECTIVE DATE
29. OF BILL 151-88;

30. (3) CONSTRUCTION OF THE CLASS B
31. BUILDING IS STARTED PRIOR TO THE EXPIRATION DATE OF THE SPECIAL
32. EXCEPTION AS REQUIRED BY SECTION 502.3; AND

33. (4) PARKING REQUIREMENTS SHALL BE
34. CALCULATED BY REQUIRING THE MAXIMUM NUMBER OF PARKING SPACES AS

1. DETERMINED BY SECTION 409 OF THESE REGULATIONS, THE REQUIREMENTS OF
2. THE DOCUMENTED SITE PLAN, OR THE REQUIREMENTS OF THE ORDER GRANTING
3. THE SPECIAL EXCEPTION, WHICHEVER SHALL YIELD THE GREATEST NUMBER OF
4. SPACES.

5. C. [Signs and Display.] SIGNS AND OFF-STREET
6. PARKING REQUIREMENTS.

7. 1. In addition to signs permitted under
8. Subsection 413.1, 1 stationary outside identification sign is
9. permitted, provided that the sign is not illuminated, does not
10. project more than 6 inches from the building, and does not have a
11. surface area exceeding 8 square feet. No other signs or displays of
12. any kind visible from outside the building are permitted, EXCEPT THAT
13. ALONG A PRINCIPAL ARTERIAL AN ADDITIONAL FREE-STANDING SIGN WITH A
14. SURFACE AREA OF NO MORE THAN 15 SQUARE FEET PER SIDE IS ALSO ALLOWED
15. IF THERE IS ADJACENT NON-RESIDENTIALLY USED OR NON-RESIDENTIALLY
16. ZONED FRONTAGE.

17. 2. OFF-STREET PARKING SPACES SHALL BE PROVIDED IN
18. ACCORDANCE WITH SECTION 409. TO THE EXTENT POSSIBLE PARKING SHALL BE
19. LOCATED IN THE SIDE OR REAR YARDS OF THE LOT. ALL REQUIRED PARKING
20. SPACES SHALL BE PROVIDED ON THE SAME LOT AS THE STRUCTURE OR USE TO
21. WHICH THEY ARE ACCESSORY.

22. [203.4 - Bulk Regulations. Uses permitted under Item
23. 203.3.A.1, uses permitted under Item 203.3.B.1, and new structures
24. accessory to Class A office buildings are governed by the bulk
25. regulations of D.R. 5.5 zones. (Class A office buildings themselves,
26. which by definition may not be enlarged, are not subject to bulk
27. regulations, nor are unenlarged structures accessory to the original
28. houses.) For uses permitted under Item 203.3.B.2, the area devoted
29. to amenity open space must be at least 25 per cent of the gross site
30. area.]

1. 203.4 - BULK REGULATIONS OF R-O ZONES. USES PERMITTED AS OF
2. RIGHT OR BY SPECIAL EXCEPTION ARE GOVERNED BY THE FOLLOWING BULK
3. REGULATIONS;

4. A. USES PERMITTED UNDER 203.3.A.1., USES PERMITTED UNDER
5. 203.3.B.1. AND NEW STRUCTURES ACCESSORY TO CLASS A OFFICE BUILDINGS
6. ARE GOVERNED BY THE BULK REGULATIONS OF D.R. 5.5 ZONES.

7. B. CLASS A OFFICE BUILDINGS THEMSELVES, WHICH BY
8. DEFINITION MAY NOT BE ENLARGED, ARE NOT SUBJECT TO BULK REGULATIONS,
9. NOR ARE UNENLARGED STRUCTURES ACCESSORY TO THE ORIGINAL BUILDING.

10. C. CLASS B OFFICE BUILDINGS.

11. 1. MAXIMUM FLOOR AREA RATIO: 0.33;

12. 2. MAXIMUM HEIGHT OF STRUCTURE: 35 FEET

13. 3. MINIMUM FRONT YARD SETBACK: 25 FEET OR THE
14. AVERAGE OF THE SETBACKS OF THE ADJACENT STRUCTURES, WHICHEVER IS LESS;

15. 4. MINIMUM SIDE YARD SETBACKS: 10 FEET, EXCEPT IF
16. THE ADJACENT PROPERTY IS PREDOMINANTLY RESIDENTIALLY ZONED OR
17. RESIDENTIALLY USED, OR IS ADJACENT TO A RESIDENTIAL STREET, IN WHICH
18. CASE THE SETBACK SHALL BE 20 FEET;

19. 5. MINIMUM REAR YARD SETBACK: 30 FEET;

20. 6. AMENITY OPEN SPACE: SEVEN (7) PERCENT OF THE
21. INTERIOR OF THE PARKING LOT NOT INCLUDING SETBACK AND BUFFER AREA
22. REQUIREMENTS SHALL BE PREVIOUS LAND AREA IN ASSOCIATION WITH
23. PLANTINGS;

24. 7. MAXIMUM LOT SIZE: ONE (1) ACRE EXCEPT THAT IF
25. LOCATED ON A PRINCIPAL ARTERIAL, AND IF THERE IS ADJACENT
26. NON-RESIDENTIALLY USED OR NON-RESIDENTIALLY ZONED FRONTAGE, THE
27. MAXIMUM LOT SIZE MAY BE TWO ACRES.

28. 8. LANDSCAPE REQUIREMENTS. IN ADDITION TO THE
29. REQUIREMENTS SET FORTH IN THE BALTIMORE COUNTY LANDSCAPE MANUAL;

a. ALL PARKING AND DUMPSTER AREAS WHICH ADJUT A RESIDENTIAL ZONE SHALL BE SCREENED BY AN OPAQUE FENCE, WALL OR BERM IN ASSOCIATION WITH PLANTINGS;

b. THE MINIMUM SCREENING HEIGHT SHALL BE FIVE (5) FEET;

c. THE FOLLOWING BUFFERS, WHICH SHALL NOT BE ENCRONCHED UPON BY ABOVE GROUND STORMWATER MANAGEMENT, PARKING OR DUMPSTER AREAS, BUT WHICH MAY BE BROKEN BY THE ENTRANCEWAY, SHALL BE PROVIDED:

1. PROPERTY LINES WHICH ADJUT ANY PROPERTY WHICH IS PREDOMINANTLY RESIDENTIALLY ZONED OR RESIDENTIALLY USED OR WHICH ADJUT ANY RESIDENTIAL STREET, MUST HAVE A 20 FOOT LANDSCAPE BUFFER;

2. PROPERTY LINES WHICH ADJUT ANY NON-RESIDENTIALLY ZONED PROPERTY MUST HAVE A 10 FOOT LANDSCAPE BUFFER.

203.6 - Conversion of Dwellings to Office Buildings. Any one- or two-family [detached] dwelling OR APARTMENT BUILDING which is under application for EITHER A CHANGE IN ZONING CLASSIFICATION TO R.O. OR FOR A conversion from a residential use to an office use shall require a special exception if the dwelling has been enlarged in floor area by ten per cent or more within a period of [one year] FIVE YEARS prior to the date of application for CHANGE OR conversion.

204.4 - Bulk Regulations of O-1 Zones

B. Class B Office Buildings. The following bulk regulations apply to any Class B office building and its lot.

1. Minimum setback from any lot line other than a street line: 20 feet or equal to the height of the buildings whichever is greater;

2. Minimum setback from any street line: 35 feet;

3. Minimum area devoted to amenity open space: 20 per cent of net lot area.

4. New structures accessory to Class B office buildings are governed by the bulk regulations of D.R. 5.5 zones for accessory buildings.

5. MAXIMUM FLOOR AREA RATIO: 0.50

6. MAXIMUM HEIGHT OF STRUCTURES: 35 FEET

205.4 - Bulk Regulations of O-2 Zones

C. Class B office buildings. The following bulk regulations apply to any Class B office building and its lot.

1. Minimum setback from any lot line other than a street line: 20 feet or equal to the height of the building whichever is greater;

2. Minimum setback from any street line: 35 feet;

3. Minimum area devoted to amenity open space: 25 per net lot area.

4. New structures accessory to Class B office buildings are governed by the bulk regulations of D.R. 10.5 zones for accessory buildings.

5. MAXIMUM FLOOR AREA RATIO: 0.50

6. MAXIMUM HEIGHT OF STRUCTURES: 35 FEET

409.7 Location of Parking.

B. Except in C.T. Districts AND R-O ZONES, off-site parking spaces for uses other than residential and lodging shall be located within 500 feet walking distance of a building entrance to the use that such spaces serve. In C.T. districts, such spaces shall be permitted within 1000 feet walking distance of the building entrance. In the C.T. district of Tamson, such spaces shall be permitted within 1500 feet walking distance of the building entrance, provided they are located within the town center boundary. IN R-O

1. ZONES, SUCH SPACES SHALL BE PROVIDED ON THE SAME LOT AS THE STRUCTURE
2. OR USE TO WHICH THEY ARE ACCESSORY.

3. SECTION 4. And be it further enacted, that Section 502.8 be
4. and it is hereby added to the Baltimore County Zoning Regulations, as
5. amended, to read as follows:

6. Section 502 - Special Exceptions

7. 502.8 BILL NO. 151-88 DOES NOT AFFECT THE VALIDITY OF ANY
8. ORDER GRANTING A SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING
9. PURSUANT TO SUBSECTION 203.3.B. PRIOR TO THE EFFECTIVE DATE OF THE
10. BILL. ANY SUCH SPECIAL EXCEPTION MAY BE USED IN ACCORDANCE WITH THE
11. APPLICABLE PROVISIONS OF THESE REGULATIONS IN EFFECT AT THE TIME OF
12. THE GRANT OF SUCH SPECIAL EXCEPTION AND IN ACCORDANCE WITH THE TERMS
13. THEREOF, PROVIDED CONSTRUCTION IS STARTED PRIOR TO THE EXPIRATION
14. DATE OF THE SPECIAL EXCEPTION AS REQUIRED BY SECTION 502.3.

15. SECTION 5. And be it further enacted, that Section 22-104(a)
16. of Title 22 - Planning, Zoning and Subdivision Control, of the
17. Baltimore County Code, 1978, 1986 Supplement, be and it is hereby
18. repealed and re-enacted, with amendments, to read as follows:

19. Section 22-104 - Development in R-O, O-1, O-2, or OT
20. zone.

21. (a) (i) Development of property in an R-O zone shall be
22. (designed to achieve compatibility of the proposed development with)
23. APPROPRIATE TO THE SPECIFIC CIRCUMSTANCES OF THE SITE TAKING INTO
24. ACCOUNT surrounding uses; tree preservation; protection of
25. watercourses and bodies of water from erosion and siltation; and
26. safety, convenience, and amenity for the neighborhoods.

27. (2) IN DETERMINING THE APPROPRIATENESS OF CLASS B
28. OFFICE BUILDINGS, DESIGN ELEMENTS OF PROPOSED BUILDINGS SHALL BE
29. EVALUATED IN RELATION TO EXISTING ADJACENT OR SURROUNDING BUILDINGS.

1. UNLESS DETERMINED OTHERWISE BY THE DIRECTOR OF THE OFFICE OF PLANNING
2. AND ZONING TO BE CONSIDERED APPROPRIATE, NEW BUILDINGS SHALL BE
3. SIMILAR TO EXISTING ONES IN THE FOLLOWING RESPECTS:

- 4. (i) HEIGHT
- 5. (ii) BULK AND GENERAL MASSING
- 6. (iii) MAJOR DIVISIONS OR RHYTHMS OF THE FACADE
- 7. (iv) PROPORTION OF OPENINGS
- 8. (WINDOW-WALL-RELATION)
- 9. (v) ROOF TREATMENT
- 10. (vi) MATERIALS, COLORS, TEXTURES
- 11. (vii) GENERAL ARCHITECTURAL CHARACTER

12. a) HORIZONTAL OR VERTICAL EMPHASIS

13. b) SCALE

14. c) STYLISTIC FEATURES AND THEMES

15. -PORCHES, COLONNADES, PEDIMENTS, CUPOLAS, CORNICES, COINS, DETAIL AND
16. ORNAMENT

17. (viii) RELATION TO STREET

18. (ix) EXTERIOR LIGHTING. BUILDINGS SHALL NOT

19. BE LIGHTED ON THE EXTERIOR AND ANY LIGHTING PROVIDED FOR SAFETY
20. REASONS SHOULD BE MINIMIZED AND DIRECTED AWAY FROM ADJOINING
21. RESIDENTIAL PROPERTY.

22. SECTION 6. And be it further enacted, that this Act shall
23. take effect forty-five days after its enactment.

READ AND PASSED this 3rd day of October, 1988

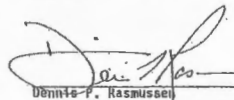
BY ORDER


Thomas Toporovich
Secretary

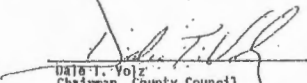
PRESENTED to the County Executive for his approval this 4th day
of October, 1988


Thomas Toporovich
Secretary

APPROVED AND ENACTED:

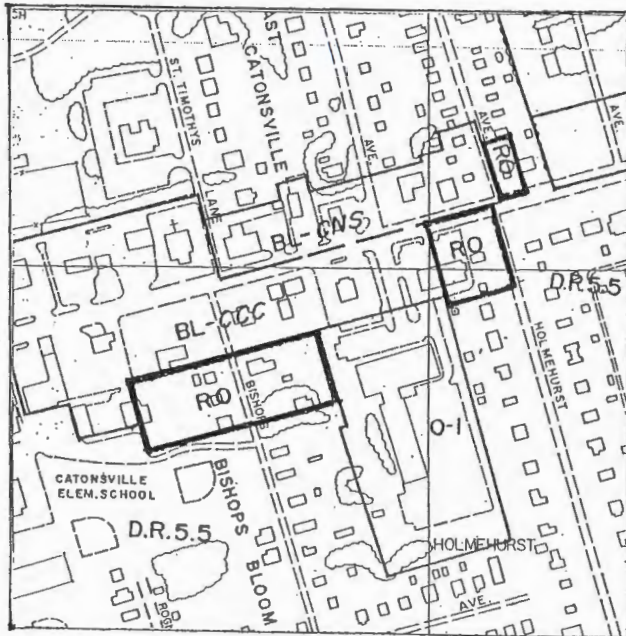
10/13/88

Dennis P. Rasmussen
County Executive

I HEREBY CERTIFY THAT BILL NO. 151-88 IS TRUE AND CORRECT AND TOOK
EFFECT ON November 27, 1988


Dale T. Volz
Chairman, County Council

RESIDENTIAL-OFFICE ZONES

MAY 19, 1988



FINAL REPORT OF THE BALTIMORE COUNTY PLANNING BOARD
REGARDING THE RESIDENTIAL-OFFICE ZONE

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING



Dennis F. Rasmussen
County Executive

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PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS
AND DEVELOPMENT REGULATIONS CONCERNING R-O ZONES

A Final Report of the Baltimore County Planning Board
(May 19, 1988)

PROJECT DESCRIPTION

Subject: Resolution No. 7-87
Resolution to consider amendments to the
Baltimore County Zoning Regulations in order to
restrict or eliminate Class B Office Buildings as
a permitted use in RO zones.

Attachments: Attachment A - Resolution
Attachment B - Proposed Regulations
Attachment C - Comparative Analysis
Attachment D - Comparative Site Plan

INTRODUCTION

In 1980, County Council Bill No. 13 established the various office zoning classifications in the Baltimore County Zoning Regulations. The intent of the Residential-Office (R.O.) zone is stated in the legislation as follows.

203.2 - Statement of Legislative Policy. The R.O. zoning classification is established, pursuant to the findings stated above, to accommodate houses converted to office buildings and some small Class B office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors, can not longer reasonably be restricted solely to uses allowable in moderate-density residential zones. It is intended that buildings and uses in R-O zones shall be highly compatible with the present or prospective uses of nearby residential property. It is not the R-O classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these Zoning Regulations that office-space demand should be met primarily in C.T. districts, C.C.C. districts, and, to a lesser extent, in other commercial areas.

The R-O zone permits two types of office buildings. Class A office buildings which are the results of conversions of existing residences to office use, are permitted as of right. Class B office buildings are new buildings or expansions of existing Class A office buildings and are limited in size by definition. Class B office buildings are permitted by special exception.

The Office of Planning and Zoning submitted a preliminary report to the Planning Board in December, 1987. A public hearing was held by the Planning Board in February. Based on comments received at the public hearing and subsequent to it, the preliminary recommendations were revised and are contained in this report.

ANALYSIS

An analysis of the R.O. zone as currently written identified a basic conflict between the stated intent of the zone regarding "compatibility" and the actual regulations that permit development at a size and scale which is in conflict with adjoining residential uses.

Low parking standards, especially for medical offices, have caused difficulties for development in the R.O. zone. Class A office buildings have generally not caused significant problems as discussed below. For Class B office buildings, problems have arisen due to the lack of building setbacks, inadequate landscaped buffers (as exist in D.R. zones for residential transition areas), no limit to R.O. lot size and a floor area ratio which permits buildings far larger than most adjacent residential uses.

In addition, the control of development by the CRG and Zoning Commissioner through a finding of "compatibility" has been difficult to achieve because of the absence of a precise definition of "compatibility".

The provision of 25% of the site area as amenity open space (A.O.S.) has proved an ineffective way of controlling site design and the granting of variances for A.O.S. and parking has usually only exacerbated the problem, with off-site parking intruding into adjacent residential streets.

In cases where residential land is no longer suitable for housing, but where the location is not appropriate for business use, there is a need for a "transitional" zone, such as the R.O. zone, but with far more stringent building and site design controls.

The proposed amendments to the R.O. zone, together with County Council Bill No. 26-88 which establishes higher standards for off-street parking and County Council Bill No. 37-88 which restricts medical offices to no more than 25% of the total built floor space should ensure that the original intent of the R.O. zoning is effectively met.

PROPOSALS

CLASS A OFFICE BUILDINGS

The conversion of existing residences does not generally pose a major problem except for a tendency to replace existing lawn and gardens with asphalt areas for parking. This should be effectively addressed at CRG, and no legislative changes are proposed.

A growing problem with Class A office buildings is where existing residential buildings are enlarged ostensibly for residential use, and only then is an office use requested under Class A requirements. This circumvents the need for a special exception, which would have been required if the expansion had been requested for office use.

The proposed legislation set out below addresses this issue by proposing that a special exception be required for all Class A buildings which have been enlarged within 5 years of the request for office use.

CLASS B OFFICE BUILDINGS

Floor Area Ratio

The R.O. zone provides for a transition between residential and non-residential uses. By definition, it should permit an intensification of use, while at the same time, ensuring that adjacent residences are not disturbed. It is proposed that the floor area ratio in an R.O. zone be reduced from 0.50 to 0.33 and that the maximum lot size be limited to 1 acre, except for lots directly adjacent to principal commercial arterials, where a 2 acre maximum is considered more appropriate.

In discussion with representatives of the development community it became clear that the initial 0.25 F.A.R. proposed by this office would make the development of R.O. lots difficult and that the proposed limits on lot size together with the other changes in site design set out in this document would ensure the degree of compatibility envisaged in the original legislation, with an FAR of 0.33.

Building Setbacks

Building setbacks are an important element that has been added to the proposed R.O. zone. Building setbacks assist in ensuring that building location on a parcel is compatible with adjoining residences. In most instances residential structures are located at the front of lots with parking provided at the side or rear of the lot. Setbacks identical to the D.R. 5.5 are being proposed for the R.O. zone.

Buffer Yards

Extensively landscaped buffer yards that cannot be used for stormwater management, buildings, parking, driveways (except for site access) or dumpsters are proposed to provide effective open space and replace the 25% amenity open space in the current regulations. In addition a minimum of 7% of the paved on-site parking and driveway area must be pervious and landscaped.

"Compatibility" of the R.O. zone with residential zones necessitates the provision of minimum landscaped green areas between buildings and parking in the R.O. zone and adjoining residences. Buffer yards create the area necessary to truly justify the transitional nature of the R.O. zone and assist in preventing adjacent residences from having the need to apply for non-residential zoning in the future.

Building Height

The height limit of thirty-five feet in the existing R.O. zone is a reasonable and adequate standard. In addition to this height requirement the provision of roof treatments similar to those of adjacent buildings was added to ensure that the overall building form in the R.O. zone would be compatible with nearby residences.

Design Review

The proposed legislation sets out a list of elements to be included in the Baltimore County Development Regulations, by which the CRG and the Zoning Commissioner can judge the "appropriateness" of a proposed building in an R.O. zone. In the past, too great an emphasis was placed on a building design being "compatible" and not enough on site design. The proposed R.O. legislation, if adopted, will ensure that the R.O. Class B building, and its site, will "fit" into its residential area context, both in terms of site layout and building design. It is recommended that CRG approval be obtained prior to the submittal of a petition for special exception to the Zoning Commissioner. In R-O zones site design and design review are particularly critical and should be decided upon before a special exception is granted.

Signage

In addition to the eight square foot sign requirement which currently applies in the R-O zone it is proposed that office buildings located adjacent to principal commercial arterials be permitted an additional fifteen square feet per side on a free standing sign located along the arterial road. The existing requirement is too restrictive for sites located along major roads and have resulted in many variance requests.

Guidelines for Granting of Variances

In addition to the proposed amendments to the Zoning Regulations and Development Regulations, the Planning Board recommends that the Zoning Commissioner adopt guidelines for the granting of variances in the R-O zone to assure that the spirit and intent of the legislation is met. Legislative action is not required for these policy guidelines.

SUMMARY

It is hoped that these revisions to the regulations for development in Residential/Office zones, when taken together with the new standards for parking and the 25% maximum limit for medical offices will effectively address the problems which have arisen in the development of Class B office buildings in the past and will enable Baltimore County to retain the R.O. zone as an effective, useful and generally "fair" form of development in areas of transition between residential and commercial uses.

ATTACHMENT A

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1987, LEGISLATIVE DAY NO. 3
RESOLUTION NO. 7-87

EVANS & BACKUS, COUNCILMEMBERS

BY THE COUNTY COUNCIL, MARCH 16, 1987

A Resolution to the Planning Board to consider proposing amendments to the Baltimore County Zoning Regulations in order to restrict or eliminate Class B Office Buildings as a permitted use in RO zones.

WHEREAS, the Baltimore County Planning Board from time to time considers certain revisions to the Baltimore County Zoning Regulations; and

WHEREAS, the Baltimore County Zoning Regulations currently provide for the RO zoning classification in order to accommodate houses converted to office buildings and some small Class B office buildings in predominantly residential areas; and

WHEREAS, it is intended that buildings and uses in RO zones should be highly compatible with the present or prospective uses of nearby residential property; and

WHEREAS, it is not the purpose of the RO zoning classification to accommodate a substantial part of the demand for office space; and

WHEREAS, the Class B office building is a use which is not always consistent with the predominantly residential nature of the RO zone; and

WHEREAS, the County Council believes that a review of the RO zone is necessary in order to address the issue of the Class B office building.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland, that the Baltimore County Planning Board be and it is hereby requested to consider proposing amendments to the Baltimore County Zoning Regulations in order to either eliminate the Class B office building as a use permitted in RO zones or to require certain setbacks for Class B office buildings when permitted in RO zones in order that such office buildings may be compatible with surrounding residential uses.

ATTACHMENT B

Recommendations

The Baltimore County Planning Board recommends that the Baltimore County Zoning Regulations, 1955, and the Baltimore County Development Regulations as amended, be further amended as set forth below. Wherever utilized, dashes indicate text to be deleted, and underlining indicates text to be added.

1. Revise the definitions of "Medical Office" and "Office building, Class B" in Section 101 of the Zoning Regulations and add a definition for "principal arterial" as follows:

Medical Office: A place for the treatment of outpatients by one or more medical practitioners. This term does not include a veterinarian's office, medical clinic, ambulatory care center, diagnostic center, birthing center, or dialysis satellite unit. The term does not include ambulatory surgical facilities. This term does include a pathology laboratory.

Office building, Class B: A principal building that:

1. Is devoted primarily to office use or opticians' establishments; (Bill No. 37, 1988)
2. Is not attached to any other building;
3. Is the only building on the lot on which it is situated; other than accessory storage or maintenance buildings, or, if a conversion from a Class A office building, those existing buildings which were accessory to the Class A office building.

~~-4. Together with any accessory buildings, has a floor area ratio of no more than 0.5; and~~

~~5. Is no higher than 35 feet.~~

Principal Arterial - A motorway, or portion thereof which is or is intended for travel to or from major activity centers, which has predominantly commercial frontage, and which is designated as such on the most recently approved federal highway functional classification map for the Baltimore Urbanized Area.

2. In Section 203 of the Zoning Regulations, Residential-Office Zone, revise paragraph 203.2, 203.3 and 203.6 as follows:

203.2-Statement of Legislative Policy. The R-0 zoning classification is established, pursuant to the findings stated above, to accommodate houses converted to office buildings and some small Class B office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors, can no longer reasonably be restricted solely to uses allowable in moderate-density residential zones. It is intended that buildings and uses in R-0 zones shall be highly compatible with the not intrude upon or disturb present or prospective uses of nearby residential property. It is not the R-0 classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these Zoning Regulations that office-space demand should be met primarily in C.T. districts, C.C.C. districts, and, to a lesser extent, in other commercial areas. [Bill No. 13, 1980.]

203.3--Use Regulations

- B. Uses Permitted by Special Exception. The following uses, only, may be permitted by special exception in an R-0 zone: providing such use has an approved CRG plan prior to the granting of a special exception:

C. Signs and Off-Street Parking Requirements.

1. ~~6. Signs and Displays.~~ In addition to signs permitted under Subsection 413.1, 1 stationary outside identification sign is permitted, provided that the sign is not illuminated, does not project more than 6 inches from the building, and does not have a surface area exceeding 8 square feet. No other signs or displays of any kind visible from outside the buildings are permitted, except that along a principal arterial an additional free-standing sign with a surface area of no more than 15 square feet per side is also allowed;

2. Off-street parking spaces shall be provided in accordance with Section 409 except that to the extent possible parking shall be located in the side or rear yards of the lot;

203.6 - Conversion of Dwellings to Office Buildings. Any one- or two-family detached dwelling or apartment building which is under application for either a change in zoning classification to R-0, or for a conversion from a residential use to an office use shall require a special exception if the dwelling has been enlarged in floor area by ten percent or more within a period of one-year five (5) years prior to the date of application for change or conversion.

3. In Section 203 of the Zoning Regulations, delete paragraph 203.4, Bulk Regulations and add a new paragraph to read as follows:

~~203.4--Bulk Regulations--Uses permitted under item 203.3.A.1, uses permitted under item 203.3.B.1, and new structures accessory to Class A office buildings are governed by the bulk regulations of R-0, 5.5 zones--(Class A office buildings themselves, which by definition may not be enlarged, are not subject to bulk regulations, nor are unenlarged structures accessory to the original houses)--For uses permitted under item 203.3.B.2, the area devoted to amenity open space must be at least 25 percent of the gross site area.~~

203.4 - Bulk Regulations of R-0 Zones. Uses permitted as of right or by special exception are governed by the following bulk regulations:

- A. Residential uses are governed by the bulk regulations of D.R. 5.5 zones.
- B. Class A office buildings themselves, which by definition may not be enlarged, are not subject to bulk regulations, nor are unenlarged structures accessory to the original building.

C. Class B office buildings.

1. Maximum floor area ratio: 0.33
2. Maximum height of structure: 35 feet to the ridgeline of a pitched roof;
3. Minimum front yard setback: 25 feet or the average of the setbacks of the adjacent structures, whichever is less;
4. Minimum side yard setbacks: 10 feet, except if the adjacent use is predominantly residentially zoned, in which case the setback shall be 20 feet;
5. Minimum rear yard setback: 30 feet;
6. Amenity open space: seven (7) percent of the interior of the parking lot not including setback and buffer area requirements shall be pervious land area in association with plantings;
7. Maximum lot size: one (1) acre or two (2) acres if located on a principal arterial;
8. Landscape requirements. In addition to the requirements set forth in the Baltimore County Landscape Manual:
 - a. All parking and dumpster areas which abut a residential zone shall be screened by an opaque fence, wall or berm in association with plantings;
 - b. The minimum screening height shall be five (5) feet;
 - c. The following buffers, which shall not be encroached upon by stormwater management, parking or dumpster areas, shall be provided:
 1. Property lines which abut any property which is predominantly residentially zoned must have a 20 foot landscape buffer;
 2. Property lines which abut any residential street must have a 15 foot landscape buffer;
 3. Property lines which abut any commercially zoned property must have a 10 foot landscape buffer;

4. In Section 22-104 of the Development Regulations, modify paragraph (a) Development of property in R-0 zones as follows:

(a) Development of property in an R-0 zone: ~~shall be designed to achieve~~

- (1) ~~Compatibility of the proposed development with Development shall be appropriate to the specific circumstances of the site taking~~

into account surrounding uses; tree preservation; protection of watercourses and bodies of water from erosion and siltation; and safety, convenience, and amenity for the neighborhoods.

5. In Section 22-10 of the Development Regulations, Development in R-0 zones add a new subparagraph (2) to read as follows:

- (2) In determining the appropriateness of Class B office buildings, design elements of proposed buildings shall be evaluated in relation to existing adjacent or surrounding buildings. In most cases, to be considered appropriate, new buildings shall be similar to existing ones in the following respects:

- (i) Height
- (ii) Bulk and general massing
- (iii) Major divisions or rhythms of the facade
- (iv) Proportion of openings (window-wall-relation)
- (v) Roof treatment
- (vi) Materials, colors, textures
- (vii) General architectural character
 - a) horizontal or vertical emphasis
 - b) scale
 - c) stylistic features and themes - porches, colonades, pediments, cupolas, cornices, coins, detail and ornament
- (viii) Relation to street
- (ix) Exterior lighting. Buildings shall not be lighted on the exterior and any lighting provided for safety reasons should be minimized and directed away from adjoining residential property.

PROPOSED SUPPLEMENTAL ZONING AMENDMENTS

In addition to the recommended substantive changes to the Baltimore County Zoning Regulations, the Planning Board recommends the following "housekeeping amendments":

1. In Subsection 204.4.B, Bulk Regulations for Class B Office Buildings in O-1 zones, ~~add a new subparagraph 5 and a new subparagraph 6 as follows:~~

5. Maximum floor area ratio: 0.50

6. Maximum height of structures: 35 feet

2. In Subsection 205.4, add a new subparagraph 5 and a new subparagraph 6 as follows:

5. Maximum floor area ratio: 0.50

6. Maximum height of structures: 35 feet

3. In Section 502, Special Exceptions, add a new paragraph 502.8:

502.8 Bill No. ____ does not affect the validity of any order granting a special exception for a Class B office building pursuant to Subsection 203.3.B. Any such special exception may be used in accordance with the applicable provisions of these regulations in effect at the time of the grant of such special exception provided construction is started prior to the date of adoption of this bill.

The Planning Board recommends that the following criteria for the review of variances be adopted by the Zoning Commissioner as policy.

CLASS B OFFICE BUILDINGS
IN R-O ZONES

Because of the transitional nature of the R-O zone, variances from height, area, off-street parking and sign regulations shall generally not be considered. When a variance is requested, the proposed project shall be reviewed for general layout and configuration based upon but not limited to the following criteria:

1. Parking. Parking should be provided in sufficient quantity in order to prevent overflow parking on adjacent residential streets. Parking lots and driveways should be located in such a manner to provide distance separation between buildings, and adjoining residences. Parking areas should be extensively landscaped and buffered to minimize negative automotive impacts on adjoining residential properties. Parking areas should be sufficiently landscaped internally to separate long stretches of parking, provide shade and screening and assist in reducing negative automotive impacts;
2. Building Setbacks. The building setbacks should assure that the structure is situated in such a manner so that the structure does not encroach or impact adjoining residential property, or obstruct air and light;
3. Building Location. Buildings should be generally located near the front of the site and in a manner similar to adjoining residential structures while allowing the office to function on the lot. The types, and nature of adjoining uses and road usage should also be considered in determining building location;
4. Building Bulk. The building bulk should be maintained in accordance with the provisions of the zone. The building bulk for this type of use will be at a larger scale than adjoining residential uses, however, the scale should be maintained as provided in the zone;
5. Buffer Yards. The provision of natural, extensively landscaped buffer yards planted in scale with adjoining residences is critical to the functioning of this zone. In certain instances where natural or unique site features should be preserved, some flexibility may be appropriate;
6. Natural Features. To the greatest extent feasible or possible unique or natural features should be preserved on the site. Flexibility in site design may be provided to preserve unique or natural features;
7. Signs. Signage should be provided at appropriate scale and location in order to minimize visual impact on adjoining residences. Signage should be limited to the greatest extent possible and constructed in an unobstructive manner;

RESIDENTIAL OFFICE ZONE COMPARATIVE ANALYSIS

ATTACHMENT C

	D.R. 5.5	R.O. Existing	R.O. Proposed
SETBACKS			
Front	25 feet	Not required	25 feet
Side	10 feet	Not required	10 feet, 20 feet if residential
Rear	30 feet	Not required	30 feet
HEIGHT	50 feet	35 feet	35 feet, appropriate roof form
SIGNAGE		8 sq. ft.	8 sq. ft. 15 sq. ft. per side free- standing along major arterials
LOT SIZE			
Minimum	Not required	Not required	Not required
Maximum	Not required	Not required	1 acre 2 acres if located adjacent to major arterial
BUFFER YARDS/ AREAS			
	Not required	8' planting strip between parking and street	20 feet between residential use or zone
	Not required		10 feet between street, non- residential use or zone
	Not required		10 feet between arterial street
	Not required		15 feet between residential street
OPEN SPACE		25% amenity open space	7% internal landscaping in parking area in addition to landscaped buffers

PARKING

OLD PARKING STANDARDS

NEW PARKING STANDARDS

Office Use	general office-ground floor 1/300 sq.ft. medical office 1/300 sq.ft. general office-upper floors 1/500 sq.ft.	all offices 3.3/1000 sq. ft. medical offices 4.5/1000 sq. ft.
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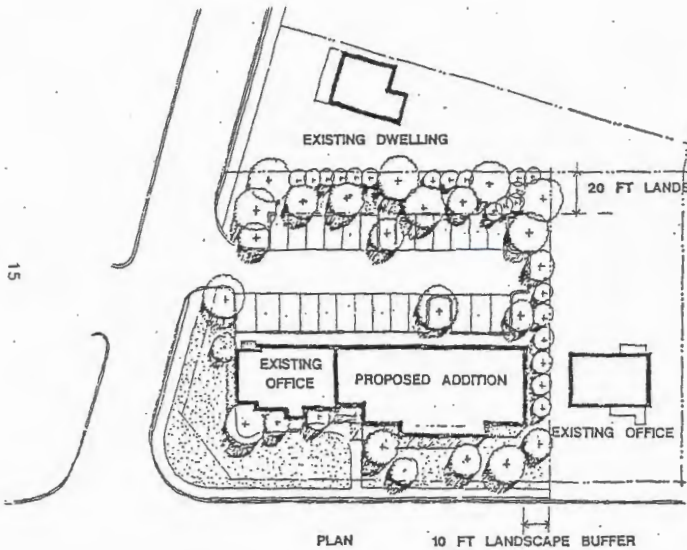
TRIP GENERATION

USE	TRIP GENERATION RATES	
Residential	Single-family, 5 dwelling units per acre Town-house, 5 dwelling units per acre	9.1* 7 *
Office	General Medical	11.7+ 63.5+

*Trips per dwelling unit
+Trips per 1,000 sq. ft. of gross floor area

The reduction in medical offices allowed in an R.O. zone to 25% of total floor area built has a significant impact on parking provision and trip generation.

SOURCE: Institute of Transportation Engineers

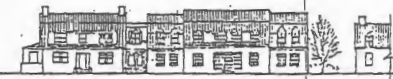


RECOMMENDED CRG PLAN REVISION

Based on proposed R.O. regulations and new parking regulations.

Site Area	27,853
Building Size	+8,000
Proposed Parking	26
Required Parking	26
Floor Area Ratio	0.29

Building Design - as per new R.O. design guidelines setbacks and landscaped area as per proposed R.O. Regulations.



ELEVATION

ATTACHMENT D

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

COMPARATIVE SITE PLAN
PROPOSED RESIDENTIAL OFFICE ZONE

9/12

IN RE: PETITIONS FOR SPECIAL HEARING *
AND VARIANCE
(8613 Old Harford Road) *
9th Election District *
6th Council District *
Candice M. Holt, *Legal Owner* *
Petitioner *
Case No. 2015-0001-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Candice M. Holt, Legal Owner ("Petitioner").¹ The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to determine whether or not the Administrative Law Judge should approve a commercial parking lot in a residential zone, and to approve 100% medical office use in lieu of the permitted 25% medical office use. The Variance petition seeks relief from the Residential Transition Area standards (RTA), B.C.Z.R. § 1B01.1.B.1.e(5), to permit a 5 ft. landscape buffer and a 5 ft. setback to the property line in lieu of the required 50 ft. and 75 ft. setbacks, respectively. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 4.

Appearing at the public hearing in support of the requests was Candice Holt and Brian Dietz, from Dietz Surveying Co., whose firm prepared the site plan. Bruce Covahey, Esquire, represented the Petitioner. Ruth Baisdon, President of the Greater Parkville Community Council, and Thomas Wedge, who owns the property at 8611 Old Harford Road, attended and opposed the requests.

¹ Since the petition was filed, Ms. Holt has purchased the property from Mr. Baumgartner; as such, she is the sole Petitioner.

The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was submitted by the Department of Planning (DOP), indicating that agency does not support the requests. In addition, a ZAC comment was received from the Bureau of Development Plans Review (DPR) indicating that parking spaces must be 10 ft. from the road right-of-way, and that the Landscape Manual requires a 10 ft. strip of class 'A' screening adjacent to residences.

The subject property is approximately 7,050 square feet and is zoned R.O. and DR 5.5. The RO zoned portion of the property is improved with a small single family dwelling and one-story detached garage. The DR 5.5 zoned portion of the site is unimproved. Petitioner, a licensed acupuncturist and massage therapist, proposes to operate her office at the property, which as shown on the plan would require zoning relief.

The Petitioner recently purchased the property from Mr. Baumgartner, who operated an HVAC business from the site. Petitioner previously leased space for her practice at 8611 Old Harford Road (next door), and the owner of that property was granted zoning relief in Case No. 2012-0218-SPHA to have 100% medical use in an R.O. zone. Petitioner's Exhibit 8. Having reviewed this Order and the B.C.Z.R., I do not believe that variance relief can be granted to permit 100% medical use. I think this would constitute a "use" variance, since the 25% limitation is found in the "use regulations" for the R.O. zone. B.C.Z.R. § 204.3. Section 307 of the B.C.Z.R. permits variances of height, area, parking and sign standards only, and to grant the requested relief would be changing the use of the property to a medical office building, which is antithetical to the goals the R.O. zone.

But even though the special hearing will be denied, that does not mean the Petitioner cannot operate her practice from the site. The regulations permit 25% of the floor area to be

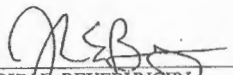
used for medical offices. The plan shows the office building as a "1 story building" with 770 sq. ft. But the Petitioner testified there is a second floor of the building that is not currently in use, and the state tax records show that the "office building" was constructed in 1954 and contains 1,110 sq. ft. of "above grade enclosed area." As such, the Petitioner is entitled to utilize 277.5 sq. ft. of the building for treatment rooms to provide acupuncture and massage therapy services. Petitioner noted she has a bathroom for patients and a reception/waiting area, and neither of these constitutes a "medical" use, as opposed to a feature found in virtually all office buildings. As such, these areas shall not count against the 277.5 sq. ft. allotment.

The Petitioner testified she treats 1-2 patients per hour, and thus the three parking spaces shown on the plan (in the R.O. zone) should suffice. In addition, the plan shows a 1 story garage also located in the R.O. zone, and that too could be used for parking. In these circumstances, I am not inclined to grant the special hearing request for commercial parking in a D.R. zone. To do so would require additional impervious surfaces and the parking (whether now or in the future with a different user) could encroach upon the residential character of the properties on Edgewood Avenue. In light of the above, the RTA variance is not required, and that request will be dismissed.

THEREFORE, IT IS ORDERED this 12th day of September, 2014, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to determine whether or not the Administrative Law Judge should approve a commercial parking lot in a residential zone, and to approve 100% medical office use in lieu of the permitted 25% medical office use, be and is hereby DENIED.

IT IS FURTHER ORDERED that the Petition for Variance pursuant to the Residential Transition Area standards (RTA) from B.C.Z.R. § 1B01.1.B.1.e(5), to permit a 5 ft. landscape buffer and a 5 ft. setback to the property line in lieu of the required 50 ft. and 75 ft. setbacks, respectively, be and is hereby DISMISSED WITHOUT PREJUDICE.

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:slm

IT IS FURTHER ORDERED that the Petition for Variance pursuant to the Residential Transition Area standards (RTA) from B.C.Z.R. § 1B01.1.B.1.e(5), to permit a 5 ft. landscape buffer and a 5 ft. setback to the property line in lieu of the required 50 ft. and 75 ft. setbacks, respectively, be and is hereby DISMISSED WITHOUT PREJUDICE.

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:slh

TK
4-24-12

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
N side of Old Harford Road; NE corner	*	OFFICE OF
of Old Harford and Edgewood		
9 th Election District	*	ADMINISTRATIVE HEARINGS
6 th Council District		
	*	BALTIMORE COUNTY
(8611 Old Harford Road)		
Ravenette Realty LLC, Legal Owner	*	
Candice Holt, Contract Purchaser		
<i>Petitioners</i>	*	Case No. 2012-0218-SPHA

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings for consideration of Petitions for Special Hearing and Variance filed by Ravenette Realty LLC, the owner of the subject property, and Candice Holt, the contract purchaser. The Petitioners request a special hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit 100% medical office use in lieu of the required 25%. In addition, variance relief is requested from Section 409.8.4 of the B.C.Z.R. to permit a 0 foot setback in lieu of the required 10 feet from a street right-of-way line for parking spaces. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the request were Thomas Wedge for Ravenette Realty LLC and Candice Holt, the contract purchaser. Representing the Petitioners was Andrew G. Bailey, Esquire. Also appearing was Scott Dallas, property line surveyor, who prepared the site plan. Appearing as interested citizens were Mr. and Mrs. John Disney who reside at 2903 Manns Avenue. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The Zoning Advisory Committee (ZAC) comments were received and are made a part of the record of this case. Comments were received from the Department of Planning dated April 13, 2012 which state:

"The Department of Planning has reviewed the petitioner's request for a Special Hearing to permit 100% Medical Office use in the subject building in lieu of the permitted 25%, a Variance to permit parking spaces zero feet from the right-of-way in lieu of the required 10 feet and accompanying site plan.

This department does not oppose the petitioner's special hearing.

As to the variance request, the following conditions are necessary to meet the intent of the RO zone:

1. Remove 2 parking spaces adjacent to Old Harford Road and provide landscaping in the subject area.
2. Remove 2 parking spaces adjacent to 2401 Edgewood Avenue and provide landscaping in the subject area.

Overall, prepare and submit a landscape plan for review and approval that provides visual screening of the parking area from the adjacent residential dwelling, Edgewood Avenue and Old Harford Road. The landscaping should also serve as site beautification to improve visual aesthetics."

Testimony and evidence offered revealed that the subject property consists of 0.293 acres, more or less, and is zoned RO. The property is improved with a one story brick and vinyl sided commercial building which contains offices for the owner of the property, Ravenette Realty, LLC and the contract purchaser, Candice Holt. The property is also improved with a macadam parking lot containing a total of 10 parking spaces with two additional parking spaces being located on a small parking pad located along Edgewood Avenue.

Candice Holt appeared and testified regarding the special hearing and variance request. She stated that she grew up in the Parkville area and currently operates her wellness center from within the subject building. She is a licensed massage therapist and a licensed acupuncturist. Submitted into evidence as Petitioners' Exhibit 2 were copies of her licenses. For the past two years, Ms. Holt has been operating her business from within the subject building. Also located toward the rear of the building are the offices of Ravenette Realty and the owner of the subject property, Tom Wedge.

Mr. Wedge is interested in selling the building to Ms. Holt assuming that she would be able to operate her business within the entire building. Massage therapy and acupuncture are considered medical uses and therefore the special hearing is requested to allow those uses to occur within the entire building. At the present time, only 25% of the building should be used for medical offices. Ms. Holt would not be interested in purchasing the building if she were not able to operate and expand her business within the entire office building. Accordingly, the special hearing request has been filed to approve the building for 100% medical office use. In addition to the special hearing relief, a variance is also requested to allow the parking spaces located on the existing parking lot to remain as they have been which is 0 feet from a street right-of-way line.

It should be noted and the testimony presented at the hearing demonstrated that there will be no physical changes to the property whatsoever. The parking configuration will remain the same and there are no additions or changes proposed to the existing structure. Ms. Holt is simply requesting to be able to purchase the building and expand her business into the entire building.

Appearing as interested citizens in the matter were Mr. and Mrs. John Disney. The Disneys have been long time residents of Parkville and reside a short distance from this property on Manns Avenue. Mr. Disney attended the hearing in order to gain more information regarding this property. He passes by this property as he travels to and from his residence. He was satisfied after hearing that there are no physical changes proposed to the building and that Ms. Holt is simply requesting approval to expand her business and hopefully purchase the property. He had no opposition to that request. However, he was concerned that there are too many signs on the property. Ms. Holt indicated that she would verify with the Zoning Office what signage is permitted and will conform to the regulations. I shall impose upon the Petitioners that the property be brought into compliance with the sign regulations as a condition of approval of the special hearing and variance.

As to the special hearing relief, I find that the use of the subject property for 100% medical offices, massage therapy and acupuncture is appropriate, and will not adversely affect the surrounding and neighboring properties. Accordingly, the special hearing shall be granted.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request.

I further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare. Therefore, in all manner and form, I find that the variance can be granted in accordance with the requirements of Section 307 of the B.C.Z.R. as articulated in *Cromwell v. Ward*, 102 Md. App. 691 (1995). The parking lot has existed in this configuration for many years and functions perfectly. There is no need to alter or interfere with its design and layout at this time. Therefore, it shall not be necessary to eliminate any of the existing parking spaces as suggested in the Planning Department's comment. Furthermore, the Petitioner will need all available parking as there is no parking available on Old Harford or Edgewood Avenue.

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

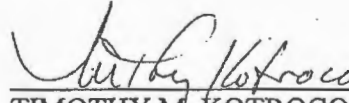
THEREFORE, IT IS ORDERED by this Administrative Law Judge for Baltimore County this 27th day of April, 2012 that the Petition for Special Hearing filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit 100% medical office use in lieu of the required 25%, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Variance seeking relief from Section 409.8.4 of the B.C.Z.R. to permit a 0 foot setback in lieu of the required 10 feet from a street right-of-way line for parking spaces, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioners may apply for their building permit and may be granted same upon receipt of this Order, however the Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason, this Order is reversed, the Petitioners will be required to return and be responsible for returning said property to its original condition.
2. The Petitioner shall be required to bring all signage on the property into compliance with the zoning regulations within 45 days from the date of this Order.

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


TIMOTHY M. KOTROCO
Zoning Commissioner
for Baltimore County

TMK:pz

IN RE: PETITIONS FOR SPECIAL EXCEPTION, *
SPECIAL HEARING & VARIANCE
NW/corner of York Road and *
Rose Street
8th Election District *
3rd Councilmanic District *
(2326 York Road) *

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO. 05-204-SPHXA

Dr. Tracy Bowden
Legal Owner and Petitioner *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Exception, Special Hearing and Variance filed by the owner of the subject property, 2326 York Road LLC by Dr. Tracy Bowden, member. The Petitioner is requesting zoning relief for property located at 2326 York Road. The Petitioner originally requested a special exception, special hearing and variance relief. The case was scheduled for December 2004 but continued by agreement to allow the Petitioner and community more time to discuss the proposal.

Subsequently the Petitioner amended its request eliminating the request for special hearing for commercial parking in a residential zone and amending its request for variance. The Petitioner continues to request a Special Exception for construction of a Class B office building in a RO zone per Section 204.3.B.2. In addition the Petitioner amended the Variance request as follows:

1. From Section 204.3.B.2.a to permit medical offices to occupy up to 100% of the adjusted gross floor area in lieu of the 25% permitted;
2. From Section 204.4.C.4 to permit a side yard setback of 7 feet in lieu of the required 20 feet;
3. From Section 204.4.C.4 to permit a front yard setback of 13 feet in lieu of the required 24.7 feet;
4. From Section 409.6.A.2 to permit 32 parking spaces in lieu of the required 34 parking spaces;
5. From Section 408.8.A.4 to permit a 0 foot setback from the right-of-way line in lieu of the required 10 feet.

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The property was posted with Notice of Hearing on August 31, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on August 31, 2006, to notify any interested persons of the scheduled hearing date.

Second Amended Petition

Mr. Gontrum explained that Petitioner proposes to have 100% medical offices in the new building and that the parking requirements for medical offices are 4.5 spaces per 100 square feet of gross leasable area of the building. The definition of "gross leasable area" given in the BCZR indicates that only leasable space and not common space is to be used in the calculation. As a result of refinement of the building layout, the Petitioner no longer requires the variance for two parking spaces.

Applicable Law

Section 502.1 of the B.C.Z.R. *Special Exceptions*

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

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

Section 500.7 of the B.C.Z.R. *Special Hearings*

The 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

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regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Section 307 of the B.C.Z.R. Variances

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and 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 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 the 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."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment letter was received from the Bureau of Development Plans Review dated August 15, 2006 which contains restrictions. ZAC comment letter was received from the Planning Office dated November 22, 2004 which indicated the Planning Office support for certain provisions and opposition to other relief. The Planning Office indicated that the comment applied to the revised plan as well. Copies are attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the variance and special exception requests was Dr. Tracy Bowden, Petitioner. John Gontrum, Esquire, represented the Petitioner. Eric Rockel and Louis Miller from the Greater Timonium Community Council, Ed Covahey, an adjacent property

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owner, and John Smith appeared at the hearing as an interested citizens. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Mr. Gontrum gave a short summary of the history of this project which included a hearing scheduled for December 2004 at which time the Petitioner discovered opposition from the GTCC and the Planning Office to parking in the DR 3.5 zone behind the proposed office. Subsequently the Petitioner purchased property so as to provide parking in the RO zone only. This resulted in a revised site plan and different variance requests. He noted that the Petitioner has worked for the past almost two years with the community and Planning Office to resolve concerns regarding this project.

Testimony and evidence indicated that the subject property now contains 0.570 acres zoned RO and DR 3.5 and is improved by a small cottage and garage. The Petitioner proposes to raze the existing structures on the property and erect a Class B Office building which will have 100% medical offices. See Petitioner's exhibit 1, the redline Plat to Accompany, and photographs of the existing cottage in exhibit 2. The property is located at the intersection of Rose Avenue and York Road (State Rt 45), the latter which Mr. Gontrum pointed out is a major thoroughfare and public transit route..

Dr. Bowden indicated that his dental practice would occupy the second floor of the new building and he planned to lease the first floor to compatible medical tenants provided the variance from Section 204.3.B.2.a to permit medical offices to occupy up to 100% of the adjusted gross floor area in lieu of the 25% permitted is granted. In this regard Mr. Rockel and Mr. Miller from the GTCC opined that 100% medical offices were most welcome and needed in the community and fully supported this request. See exhibit 4, the elevation of the proposed building. In fact they requested and the Petitioner agreed that having 100% medical offices should be a condition of approval and not just a maximum allowed.

Mr. Gontrum noted that the site is severely constrained by a public alley containing a sewer line which transects the property north to south and an easement for a major public storm drain pipe east to west. As a result the new office has to be located as shown on redline exhibit 1. Mr. Miller questioned the location of handicapped parking and why the new building could not be moved away from York Road so as to reduce the front yard variance request. The Petitioner admitted that he could remove the southwest corner of the rectangular building to avoid the storm drain easement and alley, but that the property falls away from York Road. In addition his dental practice has a number of wheelchair bound patients who need access to the elevator planned for the rear of the building. Considering the grades of the property and need for handicapped access in the rear, he opined that the best design was as presented even though a front yard variance was required. All agreed that even if the building were moved back from York Road some variance for front yard setback would be needed.

In regard to the side yard variance, Mr. Gontrum pointed out that the existing cottage is 7 feet from the north property line and the new building would hold this line. As a result the Petitioner requests a variance from Section 204.4.C.4 to permit a side yard setback of 7 feet in lieu of the required 20 feet.

Finally Mr. Gontrum pointed out another odd feature of the property in that the State has constructed a formal entrance to the storm water easement from York Road as shown on exhibit 1. As a result the Petitioner requests a variance from Section 408.8.A.4 to permit parking 0 foot from the right-of-way line of York Road in lieu of the required 10 feet. He opined that from his research the State actually owns this "entrance" in fee and not as a right way as might ordinarily be expected.

Mr. Rockel and Mr. Miller agreed that the site is severely constrained by the alley, storm drain easement and "entrance" on York Road and presented a practical difficulty for the Petitioner such that the variance requests are fully justified.

In regard to the request for special exception for the Class B office building in an RO zone, Mr. Gontrum proffered that the request met the criteria of Section 502.1 of the BCZR, would not adversely impact the community and was within the spirit and intent of the RO regulations. He pointed out that the proposal meets all parking regulations as 31 spaces are required and 31 spaces are provided. He explained that Petitioner proposes to have 100% medical offices in the new building and that the parking requirements for medical offices are 4.5 spaces per 100 square feet of gross leasable area of the building. The definition of "gross leasable area" given in the BCZR indicates that only leasable space and not common space is to be used in the calculation. As a result of refinement of the building layout, as shown in exhibit 3, the Petitioner is required to provide 33 parking spaces. However the subject property is located on York Road which has public transportation and therefore is entitled to a discount of 5% of required parking spaces. As a final result 31 spaces are required and 31 are provided.

Mr. Gontrum opined that the new medical office building would provide needed medical facilities for the community, the existing cottage which the new office building will replace is not in good repair, and that there are several all medical office buildings in the immediate area on York Road. He noted again that there is significant buffering of the residential community to the west of the site by leaving the DR 3.5 lots in the rear vacant.

Mr. Miller noted that the proposed parking field along Rose Avenue ended in a concrete structure which would block persons wanting access to Rose Avenue via the alley. Mr. Richardson agreed to redesign the end of the parking field in a redline revision to the site plan which is shown in the redline Plat to Accompany, exhibit 1. In addition the Petitioner has changed the plat to accommodate the ZAC comment from the Bureau of Development Plans Review to widen the alley entrance to 24 feet. Finally Mr. Richardson noted that storm water runoff generated by the new building and parking lot will be channeled to the large storm drain pipe in the easement which transects the property.

Findings of Fact and Conclusions of Law

Variances

In regard to the requested variances, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. This property is severely constrained by the alley which transects the property north to south, the storm drain easement which transects the property east to west and the "entrance" to the storm drain easement on York Road. Each of these features directly cause the requested variances. I find the imposition of zoning on this property disproportionably impacts the subject property as compared to others in the zoning district.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. As articulated by the community representatives, the site constraints cause the practical difficulties described by the Petitioner.

Residential density is not an issue in this case.

Finally, I find these variances can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. The facility will provide needed medical services for the community which fully support these requests. There are several medical offices along York Road in this area. There will be no change to the character of the neighborhood.

Consequently I will grant the requested variances again noting that there is no need for parking variance as I am satisfied the Petitioner's plan provides the required parking spaces.

Special Hearing

The Petitioner having withdrawn this request, I will deny the request as moot.

RECEIVED FOR FILING
10-4-06
Bj

Special Exception

I find that the proposed Class B office on this site as proposed meets the criteria of Section 502.1 of the BCZR, will not adversely affect the community and is within the spirit and intent of the RO regulations for the reasons given above. The community fully supports this use.

THEREFORE, IT IS ORDERED, this 4th day of October, 2006, by the Deputy Zoning Commissioner, that the Special Hearing request to permit business parking in a residential zone per Section 409.8.B subject to compliance with Section 409.7.B.2 be and is hereby DENIED as moot, the Petitioner having withdrawn this request; and

IT IS FURTHER ORDERED, that the Petitioner's variance requests as follows:

1. From Section 204.3.B.2.a to permit medical offices to occupy up to 100% of the adjusted gross floor area in lieu of the 25% permitted;
2. From Section 204.4.C.4 to permit a side yard setback of 7 feet in lieu of the required 20 feet;
3. From Section 204.4.C.4 to permit a front yard setback of 13 feet in lieu of the required 24.7 feet;
4. From Section 408.8.A.4 to permit a 0 foot setback from the right-of-way line in lieu of the required 10 feet

are hereby GRANTED; and

THEREFORE, IT IS FURTHER ORDERED, that the special exception relief for construction of a Class B office building in a RO zone per Section 204.3.B.2 is hereby GRANTED subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Pavement widening, curb and cutter and drainage issues will be addressed in the development process. The entrance off of Rose Street must be at least 24 feet wide.
3. The office building shall have only medical offices and closely related businesses.

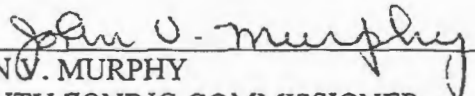
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PJ

IT IS FURTHER ORDERED that the Petitioner's request for variance from Section 409.6.A.2 to permit 32 parking spaces in lieu of the required 32 parking spaces is hereby DENIED as moot, the Petitioner having withdrawn this request.

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



JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

ORDER RECEIVED FOR FILING
10-4-06
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pz

IN RE: PETITIONS FOR SPECIAL EXCEPTION
& VARIANCE

SW/Corner Dorsey Avenue and
Marlyn Avenue
15th Election District
7th Councilmanic District
(4 Marlyn Avenue)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 03-537-XA

Howard S. Henninger, *Legal Owner and*
Care Management, Inc., *Contract Purchaser*
Petitioners

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

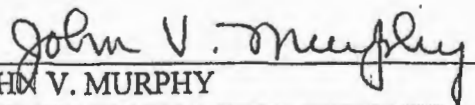
WHEREAS, this matter came before this Deputy Zoning Commissioner as petitions for special exception and variance. An Order was issued the 30th day of July, 2003 granting the Petitioners' relief.

WHEREAS, a typographical error was found on page 1 of the Order in paragraph 1, line 2 wherein it should read "Howard S. Henninger" instead of "John S. Henninger".

THEREFORE, IT IS ORDERED, this 12 day of August, 2003, by this Deputy Zoning Commissioner, that my previous decision dated the 31st day of July, 2003 shall be amended to read as follows:

"This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception and Variance filed by the legal owner of the subject property, Howard S. Henninger and Care Management, Inc., the Contract Purchaser."

IT IS FURTHER ORDERED that all other terms and conditions of my previous decision shall remain in full force and effect.


JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

CHOW
Date 8/12/03
By J. J. J. J.

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
 & VARIANCE
 SW/Corner Dorsey Avenue and * DEPUTY ZONING COMMISSIONER
 Marlyn Avenue * OF BALTIMORE COUNTY
 15th Election District *
 7th Councilmanic District * CASE NO. 03-537-XA
 (4 Marlyn Avenue) *
 Howard S. Henninger, *Legal Owner and* *
 Care Management, Inc., *Contract Purchaser*
Petitioners

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception and Variance filed by the legal owner of the subject property, John S. Henninger and Care Management, Inc., the Contract Purchaser. The property, which is the subject of this request, is located at 4 Marlyn Avenue in the Essex area of Baltimore County and is zoned RO. The Petitioners are requesting special exception relief for a Class "B" office building with up to 100% of the total adjusted floor area occupied by medical offices. In addition, the Petitioners have requested variance relief as follows:

1. From §204.3.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow parking in the front yard;
2. From §204.4.C.4 of the B.C.Z.R., to allow a side yard setback of 10 ft. in lieu of the required 20 ft.;
3. From §204.4.C.5 of the B.C.Z.R., to allow a rear yard setback of 10 ft. in lieu of the required 30 ft.;
4. From §204.4.C.6 of the B.C.Z.R., to allow amenity open space of 0% of the interior of the parking lot in lieu of the required 7%;
5. From §204.4.C.9.c.(1) of the B.C.Z.R., to allow a landscape buffer of 10 ft. in lieu of the required 20 ft.;
6. From §409.8.A.1 of the B.C.Z.R. and the Landscape Manual, to allow the parking lot edge to be 3 ft. from the face of the building in lieu of the required 6 ft.

ORDER RESCINDED FOR 03-537-XA
 Date 7/30/03
 By R. G. [Signature]

The property was posted with Notice of Hearing on July 13, 2003, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on June 12, 2003 to notify any interested persons of the scheduled hearing date. Notice was taken that the subject of this request consists of 0.27 acres of land, more or less, zoned RO.

Applicable Law

Section 502.1 of the B.C.Z.R. - *Special Exceptions*

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

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

Section 307 of the B.C.Z.R. - *Variances*.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and 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 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 the 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

ORDER REC'D
DEC 2 13 2003
BY: R. Gumbert

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."

Zoning Advisory Committee (ZAC) Comments

There were no ZAC comments opposing these petitions. However, ZAC comments were received by this office from the Office of Planning dated June 25, 2003 requesting building elevations, landscape plan and removing two parking spaces. In addition, revised comments were then received from Planning dated July 25, 2003 which eliminated the need to remove the two parking spaces while keeping the other comments. The Bureau of Development Plans Review also submitted comments requesting the entrance be widen slightly and comply with County standards. These comments shall be incorporated herein as conditions and restrictions of the relief granted.

Interested Persons

Thomas Hoff, registered Landscape Architect, and Denise LaScola appeared and testified for the contract purchaser. Mr. Furgan Siddiqi, President of Care Management, Inc. appeared on behalf of Care Management, Inc., the Contract Purchaser, but did not testify.. Anthony J. DiPaula, Esquire appeared as counsel for the Petitioners. People's Counsel entered their appearance in the case but did not participate in the hearing.

Nearby residents of Dorsey Avenue, Ronald Welsh, Darlene Welsh and Grace Dunkle, appeared and testified as interested citizens.

Findings of fact and conclusions of law

Mr. Hoff testified that the property is now improved with a vacant dwelling in great need of repair. He indicated that the contract purchaser wanted to renovate the vacant dwelling and build a Class B office building behind and attached to the dwelling by a breezeway. The intent

ORDER
Date 7/30/03
By [Signature]

was to provide 2,230 sq. ft of medical offices on the premises. He described the surrounding community, presented photographs of the area and reviewed the calculation of floor area ratio showing that it met the requirement of the B.C.Z.R. allowing 100 % medical offices. He opined that the proposed use would not violate the "do no harm" provisions of B.C.Z.R. Section 502.1. The essence of his testimony was that this was a small medical office with only 12 parking spaces and that the impact on the neighborhood would be minimal.

Citizens Grace Dunkle and Darlene Welsh testified of their concerns about traffic on Dorsey Avenue which runs parallel to Eastern Boulevard and can become an alternate route should trouble develop on this heavily troubled route. They also were concerned about vehicles turning from Marlyn Avenue onto Dorsey Avenue and then onto the site as they may stack up on Dorsey waiting for parking. However, they both testified that the proposed medical offices would be a big improvement to the neighborhood.

It is clear that the Baltimore County Zoning Regulations permit the Petitioners' use in a RO zone by special exception. It is equally clear from the testimony and exhibits that the proposed use of this property as medical offices in the renovated dwelling and in the new Class "B" office building will not be detrimental to the primary uses in the vicinity considering each of the factors delineated in Section 502.1. However it is also clear from the photographs of Exhibit 4 that the surrounding properties contain modest dwellings. The nearest commercial use is a Seven Eleven some distance away. The plan shows a new single story office building added behind the existing dwelling and as such changes the visual and architectural look of the immediate area. The Petitioners agree to submit building elevation drawings of the new office building to the Office of Planning for the purpose of architectural compatibility with the surrounding modest single family structures. This should mitigate this impact if the project is

COPIES TO BE MADE
DATE 7/30/03
BY R. J. Jernigan

specifically limited to renovation of and maintaining of the existing dwelling and the one story class B office shown on Petitioners' Exhibit No. 1.

Mr. Hoff also testified at length regarding the six variances requested by the Petitioners. The central driving force for these requests is that the existing dwelling is already in violation of the setback requirements of the B.C.Z.R. and adding the new building will not significantly make this worse. Also, the County requested the front of the building be changed from facing Marlyn Avenue to Dorsey Avenue. This is a reasonable request but triggers or contributes to the need for several variances. Finally, Mr. Hoff testified as to the conflicting requirements of interior amenity open space and that providing such space would be extremely difficult on such a small lot. He opined that the County Landscape Planner, Avery Harden, agreed with this analysis and will approve a landscaped plan without interior amenity open space.

Denise LaScola, who is the office manager for the present medical practice, testified that moving the practice to this site would eliminate hardship and practical difficulty that present patients' face when trying to visit doctors on the second floor of their present office space. She testified that the present office hours were 7 a.m. to 7 p.m.. five days a week. and would not be changed for the new location.

The citizens did not contest the variance requests specifically.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the property which is the subject of this request and that the requirements from which the Petitioners seek relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

02922
Date 7/30/03
By [Signature]

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

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 30th day of July, 2003, that the following requested variance relief:

1. from §204.3.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow parking in the front yard;
2. from §204.4.C.4 of the B.C.Z.R., to allow a side yard setback of 10 ft. in lieu of the required 20 ft.;
3. from §204.4.C.5 of the B.C.Z.R., to allow a rear yard setback of 10 ft. in lieu of the required 30 ft.;
4. from §204.4.C.6 of the B.C.Z.R., to allow amenity open space of 0% of the interior of the parking lot in lieu of the required 7%;
5. from §204.4.C.9.c.(1) of the B.C.Z.R., to allow a landscape buffer of 10 ft. in lieu of the required 20 ft; and
6. from §409.8.A.1 of the B.C.Z.R. and the Landscape Manual, to allow the parking lot edge to be 3 ft. from the face of the building in lieu of the required 6 ft.

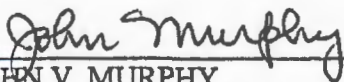
be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. Any building on the property must comply strictly with the proposed design shown on Petitioners' Exhibit 1 renovating and preserving the existing dwelling and adding a single story new structure for medical offices.
2. Compliance with the Zoning Advisory Committee (ZAC) comments submitted by the Bureau of Development Plans Review dated May 30, 2003, a copy of which is attached hereto and made a part hereof.
3. Compliance with the Zoning Advisory Committee (ZAC) comments submitted by the Office of Planning dated July 25, 2003, a copy of which is attached hereto and made a part hereof.
4. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

ORDER RECEIVED FOR PLANNING
Date 7/30/03
By R. J. [Signature]

IT IS FURTHER ORDERED, that the special exception request, for a Class "B" office building with up to 100% of the total adjusted floor area occupied by medical offices, be and is hereby GRANTED.

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



JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

ORDER RECEIVED
Date 7/30/03
By: R. Gmison

IN THE MATTER OF
THE APPLICATION OF
BETTY HENNINGER - P.R. OF HOWARD
HENNINGER; CARE MANAGEMENT INC.
FOR SPECIAL EXCEPTION AND VARIANCE*
ON PROPERTY LOCATED AT
4 MARLYN AVENUE
15TH ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
OF
* BALTIMORE COUNTY
* Case No. 03-537-XA

* * * * *

ORDER OF DISMISSAL OF PETITIONS

This case comes to the Board on appeal filed by Peter Max Zimmerman, People's Counsel for Baltimore County, from the Order of the Deputy Zoning Commissioner dated July 30, 2003 in which the Petitions for Special Exception and Variance were granted with restrictions.

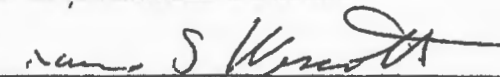
WHEREAS, the Board is receipt of a letter of withdrawal of the Petition for Special Exception and Petition for Variance filed October 23, 2003 by Anthony J. DiPaula, Esquire, Counsel for Petitioner in this matter, (a copy of which is attached hereto and made a part hereof); and

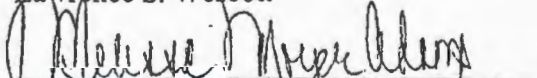
WHEREAS, said Counsel for Petitioner requests that the Petitions filed in the above-referenced matter be withdrawn as of October 23, 2003,

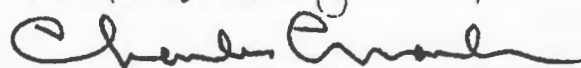
IT IS THEREFORE, this 30th day of October, 2003, by the County Board of Appeals of Baltimore County

ORDERED that said Petition for Special Exception and Petition for Variance filed in Case No. 01-431-XA are **WITHDRAWN AND DISMISSED**, rendering moot the appeal filed in this matter, and that the Deputy Zoning Commissioner's Order of July 30, 2003 and Amended Order of August 12, 2003, including any and all relief granted to Petitioner therein, are rendered null and void.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott


Melissa Moyer Adams


Charles L. Marks

ABRAMOFF, NEUBERGER AND LINDER, LLP

ATTORNEYS AT LAW
SUITE 800
250 WEST PRATT STREET
BALTIMORE, MARYLAND 21201

DAVID B. ABRAMOFF
PATRICK K. AREY
NANCY HAAS
ANILKUMAR J. HOFFBERG
RICHARD S. LEHMANN
RITA A. LINDER
YAAKOV S. NEUBERGER
STEVEN M. ROSEN

COUNSEL
STEPHEN F. BISBEE

(410) 539-8300
TELECOPIER (410) 539-8304

Sender's E-mail address:
srosen@abrneu.com

February 27, 2001

VIA FACSIMILE (410) 887-3182
AND FIRST CLASS MAIL

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204
Attention: Kathleen C. Bianco

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COUNTY BOARD OF APPEALS
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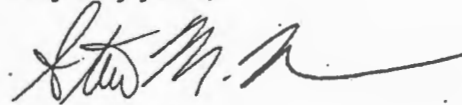
Re: In the Matter of: Karl Pick - 409 Main Street, Reisterstown, Maryland
Case No. 00-481-XA

Dear Ms. Bianco:

In accordance with our discussions, on behalf of our client, Karl Pick, we hereby withdraw the Petition for Special Exception and Variance in the above referenced matter. Accordingly, it will not be necessary to hold a hearing for the appeal of the Zoning Commissioner's Order in this case.

Please do not hesitate to call me if you have any questions or require any further information. Thank you for your cooperation and assistance.

Very truly yours,



Steven M. Rosen

SMR:lrb

cc: Karl Pick, D.D.S.
Richard E. Matz, P.E.
Peter Max Zimmerman, Esquire

1441lrb

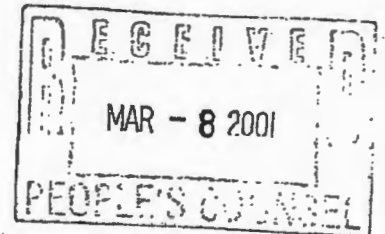


County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

CPH

March 7, 2001



Peter Max Zimmerman
People's Counsel for
Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: In the Matter of Karl Pick – 409 Main Street, Reisterstown, MD
Case No. 00-481-XA /Withdrawal of Petitions

Dear Mr. Zimmerman:

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

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

Enclosure

cc: Steven M. Rosen, Esquire
Karl Pick
Richard E. Matz /Colbert, Matz, Rosenfelt, Inc.
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney



IN THE MATTER OF
THE APPLICATION OF
KARL PICK -LEGAL OWNER
FOR SPECIAL EXCEPTION AND VARIANCE
ON PROPERTY LOCATED ON THE E/S
MAIN ST, 120' S OF C/L GLYNDON DRIVE
(409 MAIN STREET)
4TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 00-481-XA

* * * * *

ORDER OF DISMISSAL OF PETITIONS

This case comes to the Board on appeal filed by Peter Max Zimmerman, People's Counsel for Baltimore County, from the July 28, 2000 Order of the Zoning Commissioner in which the instant Petitions for Special Exception and Variance were granted in part and dismissed in part as moot.

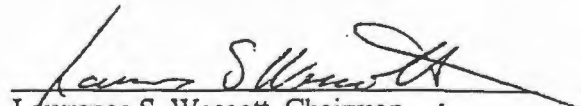
WHEREAS, the Board is receipt of a letter of withdrawal of the Petition for Special Exception and Petition for Variance filed February 28, 2001 by Steven M. Rosen, Esquire, Counsel for Karl Pick, Petitioner, (a copy of which is attached hereto and made a part hereof); and

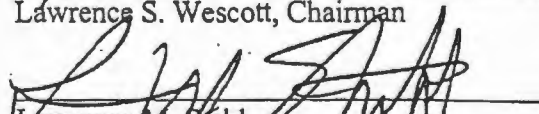
WHEREAS, said Counsel for Petitioner requests that the Petitions filed in the above-referenced matter be withdrawn as of February 27, 2001,

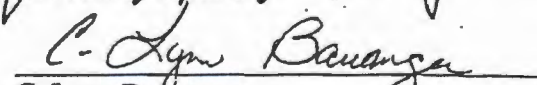
IT IS THEREFORE, this 7th day of March, 2001, by the County Board of Appeals of Baltimore County

ORDERED that said Petition for Special Exception and Petition for Variance filed in Case No. 00-481-XA are **WITHDRAWN AND DISMISSED**, and that the Zoning Commissioner's Order of July 28, 2000, including any and all relief granted to Petitioner therein, is rendered null and void.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott, Chairman


Lawrence M. Stahl


C. Lynn Barranger

IN RE: PETITIONS FOR SPECIAL EXCEPTION *	BEFORE THE
AND VARIANCE – E/S Reisterstown Road,	
120' S of the c/l of Glyndon Drive	* ZONING COMMISSIONER
(409 Main Street)	
4 th Election District	* OF BALTIMORE COUNTY
3 rd Councilmanic District	
	* Case No. 00-481-XA
Karl Pick	
Petitioner	*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Exception and Variance filed by the owner of the subject property, Karl Pick. The Petitioner requests a special exception for a Class B office building in an R.O. zone with up to 100% of the total adjusted floor area occupied by medical offices, pursuant to Section 204.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.); or, in the alternative, a special exception for a Class B office building with medical offices in excess of 25% of the adjusted gross floor area, pursuant to Section 204.3.B.2.a of the B.C.Z.R. In addition to the special exception, the Petitioner requests variance relief from the B.C.Z.R. as follows: From Section 204.3.B.2(a) to permit a Class B office building containing 100% medical offices in lieu of the maximum allowed 25%; or, from Section 204.3.B.2(b) to permit 100% medical offices under this Section; from Section 204.4.C.6 to permit Amenity Open Space (AOS) of 0% in lieu of the required 7%; from Section 204.4.C.9 to permit landscape buffer of 0 feet in lieu of the required 20 feet and 10 feet required, and to permit any landscaping deficiencies existing in lieu of those set forth in the Baltimore County Landscape Manual; from Section 409.4 to permit parking spaces along a driveway in lieu of an aisle and to allow a 16-foot wide two-way movement in lieu of the required 20-foot width; and from Section 409.6 to permit 18 parking spaces in lieu of the required 15. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing on behalf of the Petition were Karl Pick, property owner, Richard E. Matz, Professional Engineer who prepared the site plan for this property, and Steve Rosen, Esquire, attorney for the Petitioner. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel, containing approximately 0.42 acres in area, zoned R.O. The property has frontage on the east side of Main Street (Maryland Route 140) in Reisterstown and is improved with a one-story stucco office building. Presently, the building contains 2,872 sq.ft. in area and is used entirely for medical offices. In addition to the building, the site features a driveway leading from Reisterstown Road, and a macadam-paved parking area to the rear of the property. Adjacent properties feature similar retail/business/office uses. The U.S. Post Office owns adjacent property to the south and east of the subject site and its post office building is located to the rear of the subject property. Another medical office building is located on the north side of the subject site.

Dr. Pick testified that he has owned the property since 1984 and at the time of his purchase, the existing building was used for storage purposes. Previously, the building was used as a single family dwelling. Subsequent to his purchase of the property, Dr. Pick converted the building to accommodate his dental practice. Presently, he practices at the site with another professional partner. Additionally, a pediatric dentist leases a portion of the building. In order to make better use of the property and accommodate these various medical practices, the Petitioner proposes the construction of a small addition to the rear of the existing building to provide a separate treatment area for one of the practitioners. The proposed addition will measure 420 sq.ft. in area. A floor plan was submitted at the hearing (Petitioner's Exhibit 3) which displays the existing and proposed office layout. Dr. Pick explained that there will be no increase in the number of practitioners using the building and that the proposed addition is necessary to accommodate the professionals who currently practice on site and foster a better environment for these professionals.

The term "office" is defined in Section 101 of the B.C.Z.R. as "A building or portion of a building used for conducting the affairs of a business, profession, service, industry, or

government, including a medical office." Surely, this structure falls within that definition. Moreover, "Office Building, Class A" is defined as "A principal building that was originally constructed as a one-family, or two-family detached dwelling, and that is converted by proper permit, to office use without any external enlargement for the purpose of creating office space or otherwise accommodating the office use." Surely, the building, in its present configuration, is a Class A office building. There were no external changes to the structure when originally converted to office use by Dr. Pick in approximately 1985. An "Office Building, Class B" is defined in the B.C.Z.R. as "A principal building used for offices and which is not a Class A Office Building." Presently, the existing building is considered a Class A office building; however, the proposed addition will make the building become a Class B office building.

Under the Petition for Special Exception, the Petitioner seeks alternative relief. First, approval is requested for a Class B office building in accordance with Section 204.3.B.2(b) of the B.C.Z.R. That Section allows up to 100% of the total adjusted gross floor area of a Class B Office building to be occupied by medical offices, if four conditions are met. They are that the floor area ratio of the use is not greater than 25% of the total floor area of the building; that a documented site plan and a special exception for a Class B office building have been approved by the Zoning Commissioner or Board of Appeals prior to the effective date of Bill No. 151-88; that construction of a Class B office building is started prior to the expiration date that a special exception was granted, pursuant to Section 502.3; and, that the parking requirements, as determined therein, have been satisfied. In the alternative, the Petitioner requests relief under Section 204.3.B.2(a) of the B.C.Z.R. That Section allows a Class B office building with medical offices in excess of 25% of the total adjusted gross floor area, if the building is in compliance with the terms of its special exception, and if the proposed expansion meets the current parking requirements for medical offices.

In addition to the special exception relief, variances as outlined above are being requested. In support of these requests, Mr. Matz offered testimony regarding the site and existing and proposed use. He indicated that 13 parking spaces are provided on site and that the Petitioner

has an arrangement with the Post Office to utilize areas of the adjacent property when necessary for overflow parking. Pursuant to Section 409.6 of the B.C.Z.R., 15 parking spaces are required for this site. By utilizing the existing and off-site parking spaces, the Petitioner can provide the required 15 parking spaces. Mr. Matz also described the existing driveway, which is slightly undersized. Notwithstanding its dimension, it apparently functions adequately for the site. In this regard, patients are seen by appointment only, and it was indicated that the existing driveway and parking area sufficiently accommodates the existing use. As noted above, the proposed addition is not being constructed to accommodate an additional professional person or to expand the existing practices, only to assist the current practitioners on the site with more space and flexibility.

Based upon the undisputed testimony and evidence offered, I am persuaded to grant the special exception relief, pursuant to Section 204.3.B.2(a). It is significant that there were no Protestants or other interested persons at the hearing. The absence of any Protestants is a persuasive factor to the finding that the existing use of the property for medical offices is not detrimental to the health, safety or general welfare of the surrounding neighborhood. Since the use of the building will not change, rather, only the building will be enlarged, I find that the requirements of Section 502.1 have been met. Photographs submitted at the hearing show that the property is attractively maintained and it appears that the existing parking arrangement is satisfactory. Thus, I find that the Petitioner meets the requirements of Section 502.1 of the B.C.Z.R. as it relates to special exception relief. Thus, the alternative relief sought within the Petition for Special Exception shall be granted.

The requested variances will also be granted. A variance from Section 204.3.B.2a will be granted to allow 100% of the site to contain medical offices in lieu of the maximum allowed 25%. This variance will be restricted, however, to the existing Practitioners. I am satisfied that these medical professionals have operated their respective practices without detrimental impacts to the surrounding neighborhood. Perhaps if other medical personnel were on site, there would be increased detrimental impacts. Thus, the relief granted will be specific to these individuals. A

variance from Section 204.3.B.2.b is moot in that special exception relief is not granted under that Section.

The other variance requests will also be granted. These relate to amenity open space issues, landscape buffers, driveway width, and the location and number of parking spaces. It is significant that all of these variances relate to existing conditions. I am persuaded that the Petitioner has met the requirements of Section 307 of the B.C.Z.R. for variance relief to be granted. Moreover, there were no adverse Zoning Advisory Committee comments submitted by any Baltimore County reviewing agency. Thus, it appears that relief can be granted without any detriment to the surrounding locale.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons set forth herein, the special exception and variance relief shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 29th day of July, 2000 that the alternative relief requested in the Petition for Special Exception, to permit a Class B office building with medical offices in excess of 25% of the adjusted gross floor area, pursuant to Section 204.3.B.2.a of the B.C.Z.R., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the B.C.Z.R. as follows: From Section 204.3.B.2(a) to permit a Class B office building containing 100% medical offices in lieu of the maximum allowed 25%; from Section 204.4.C.6 to permit Amenity Open Space (AOS) of 0% in lieu of the required 7%; from Section 204.4.C.9 to permit landscape buffer of 0 feet in lieu of the required 20 feet and 10 feet required, and to permit any landscaping deficiencies existing in lieu of those set forth in the Baltimore County Landscape Manual; from Section 409.4 to permit parking spaces along a driveway in lieu of an aisle and to allow a 16-foot wide two-way movement in lieu of the required 20-foot width; and from Section 409.6 to permit 18 parking spaces in lieu of the required 15, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The special exception relief granted herein is limited to the Petitioner and the Practitioners who presently occupy the building. In the event different tenants (physicians, dentists, etc.) would occupy the site, the Petitioner must file a Petition for Special Hearing seeking approval to continue the use and insure that different medical professionals would not cause detrimental impacts to adjacent properties.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Special Exception for a Class B office building in an R.O. zone with up to 100% of the total adjusted floor area occupied by medical offices, pursuant to Section 204.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) and the Petition for Variance seeking relief from Section 204.3.B.2(b) to permit 100% medical offices under this Section, be and are hereby DISMISSED as moot.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

IN RE: PETITIONS FOR SPECIAL HEARING
AND VARIANCE – E/S York Road,
93' S of the c/l Gorsuch Road
(1909 York Road)
8th Election District
4th Council District

Haiyang Li, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 03-292-SPHA

*

* * * * *

ORDER ON THE MOTION FOR RECONSIDERATION

This matter comes before the Zoning Commissioner on a Motion for Reconsideration filed by the Office of People's Counsel for Baltimore County of the Order issued by me in the above-captioned matter on August 8, 2003. By way of background, the owners of the subject property, Haiyang Li, and his wife, Hui L. Li, filed Petitions for Special Hearing and Variance relief for a proposed Class A Office Building on the subject property.

Pursuant to my Order of August 8, 2003, the requested relief was granted, subject to certain terms and conditions. Specifically, Restriction 2 required compliance with the terms of a written agreement entered into by and between the Petitioners and the Greater Timonium Community Council and the Yorkshire/Haverford Community Association, Inc., dated June 11, 2003, a copy of which was attached thereto and made a part thereof. The Office of People's Counsel seeks a modification of the Order to specifically limit the use of the officer building to one professional person and one employee, which is not part of the agreement, but is referenced in my Order. In addition, the Office of People's Counsel requests that the Order explicitly identify the terms and conditions set forth in Paragraph 3A through 3E of the Agreement, even though the Agreement and the terms and conditions thereof were already incorporated as a condition to the relief granted by my Order. Finally, the Office of People's Counsel requests that the Order state that any modification of the relief granted in the Order or other use of this property is subject to further review, public hearing, and approval by the Zoning commissioner to insure public participation in same.

Upon due consideration of the Motion,

IT IS THEREFORE ORDERED by the Zoning Commissioner of Baltimore County this 23rd day of September, 2003 that the Order issued August 8, 2003 be and the same is hereby AMENDED to add the following restrictions:

"4) The use granted herein is limited to only one (1) professional person and one (1) employee.

5) No exterior lights, other than the existing exterior lighting and any exterior lights installed for security purposes and approved by the Landscape Architect for Baltimore County, are permitted on the land.

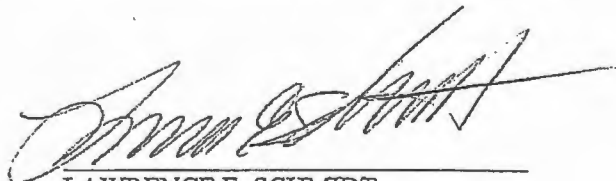
6) A 10-foot wide landscape buffer shall be installed in the rear yard of the property as shown on Exhibit B attached to the Agreement.

7) Only Mr. & Mrs. Li may park on the D.R.3.5 portion of the property. The agreed parking layout is shown on Exhibit C attached to the Agreement.

8) For so long as Mr. & Mrs. Li are utilizing any or all of the building for their medical practice, no other use may take place on the property.

9) Any modification of the Order issued in this case or any other proposed use of the property shall be subject to review, public hearing and approval by the Zoning Commissioner."

IT IS FURTHER ORDERED that all other terms and conditions of the Order issued August 8, 2003 shall remain in full force and effect.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: David Karceski, Esquire, Venable, Baetjer & Howard
210 Allegheny Avenue, Towson, Md. 21204
Mr. & Mrs. Haiyang Li, 1111 Greenway Road, Cockeysville, Md. 21030
Mr. Vincent Moskunus, Site Rite Surveying, Inc.
200 E. Joppa Road, Towson, Md. 21286
Mr. Louis Miller, 44 E. Timonium Road, Timonium, Md. 21093
Mr. Richard Jarvis Hoffman, 35 Cinder Road, Timonium, Md. 21093
Mr. Frank Regan, 302 Ridgely Road, Lutherville, Md. 21093
People's Counsel; Case File

IN RE: PETITIONS FOR SPECIAL HEARING
AND VARIANCE – E/S York Road,
93' S of the c/l Gorsuch Road
(1909 York Road)
8th Election District
4th Council District

Haiyang Li, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 03-292-SPHA

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, Haiyang Li, and his wife, Hui L. Li, through their attorney, David Karceski, Esquire. The Petitioners request a special hearing to allow commercial parking in a residential zone (D.R.3.5); to permit a portion of a commercial building (Class A Office Building) to be located in a residential zone (D.R.3.5); and, a determination that Residential Transition Area (RTA) requirements are not applicable to the proposed parking or building. In addition, the Petitioners request variance relief from Section 204.3.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 100% of the adjusted gross floor area of a Class A office building to be occupied by medical offices in lieu of the maximum allowed 25%; from Section 409.3 and 409.6.A.1 of the B.C.Z.R. to permit 7 parking spaces, 8' x 16' in dimension for a medical office, in lieu of the required 9 parking spaces, 8'6" x 18' in dimension; and from Section 409.4.A of the B.C.Z.R. to permit a two-way driveway aisle width of 9 feet in lieu of the required 20 feet. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Haiyang and Hui Li, property owners; Vincent J. Moskunus, the consultant who prepared the site plan, and David Karceski, Esquire, attorney for the Petitioners. Appearing as interested citizens from the

surrounding community were Louis W. Miller and Frank Regan, who appeared on behalf of the Greater Timonium Community Council, and Richard Jarvis Hoffman, a representative of the Yorkshire/Haverford Community Association. There were no Protestants or other interested persons present.

At the onset of the hearing, the Petitions were amended to conform to an agreement that was reached between the Petitioners and adjoining community associations. A copy of that agreement, which has been incorporated into the case file, was attached to the Zoning Advisory Committee (ZAC) comment submitted by the Office of Planning and marked as Petitioner's Exhibit 8A. The amendments are more particularly set forth on copies of the respective Petitions filed and marked into evidence as Petitioner's Exhibit 2. Specifically, the Petitioners have amended the special hearing request, seeking only to allow commercial parking in a residential zone (D.R.3.5). In addition, the Petition for Variance was amended to add two additional requests and to modify the second variance. Apparently, the Petitioners can now comply with the dimension requirements for the parking spaces and seek relief only as to the number of spaces to be provided. In addition, relief is requested from Section 1B01.1.B of the B.C.Z.R. to permit an RTA buffer and setback of 10 feet each in lieu of the required 50 feet and 75 feet, respectively; and from Section 204.3.C.2 to permit off-street parking in the front yard in lieu of the required side or rear yards.

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel located near the southeast corner of the intersection of Gorsuch Road and York Road in Timonium. The property contains a gross area of 0.073 acres, more or less, and is split zoned R.O. (0.185 acres) and D.R.3.5 (0.073 acres). As shown on the site plan, the property is improved with a 1½-story building, which features two one-story wings, and a detached garage. In addition, the bulk of the property, but for a narrow strip along the northern property line is macadam paved. Mr. Li is an Acupuncturist and Herbalist by profession and has been licensed by the State of Maryland since 1988 to perform acupuncture and administer herbal medicine. Copies of supporting documents and an impressive resume were submitted into evidence as Petitioner's

Exhibits 4, 7A and 7B. Apparently Mr. Li and his wife have operated their practice in the Timonium area for several years and recently relocated to the subject property in November 2002. Subsequent to relocating to the subject site, the Petitioners obtained a conditional permit from the Department of Permits and Development Management (DPDM) pending approval of the special hearing and variance relief set forth above. This is a solo practice and about 8 to 10 patients are seen daily by appointment, only. Testimony indicated that Mr. Li usually sees no more than 4 patients at the site at any given time. The hours of operation are limited and shown on the site plan; however, generally the office hours are from 9:00 AM to 6:30 PM, Monday through Friday, Saturdays from 9:00 AM to 12:00 PM, and no Sunday hours.

Turning first to the variance relief requested, Section 204.3.A.2 of the B.C.Z.R. limits medical office use in a Class A office building to 25%. As noted above, Mr. Li is a sole practitioner and has no employees other than his wife, who serves as the receptionist. Additionally, the zoning line bisects the rear of the building through two one-story wings that were added to the dwelling. Testimony indicated that one of the wings serves as a laundry room and the other contains a bathroom. The Petitioners agreed that neither of those limited areas of the building would be used in connection with the business and that only the main portion of the building will be used for medical office space. However, variance relief is necessary in view of the fact that the entire building, but for the two wings to the rear, will be used to support the medical office use.

As to the parking variances requested, testimony revealed that there are 7 parking spaces located in front of the building on that portion of the site zoned R.O. Testimony indicated that parking was provided in the front portion of the site so as not to disturb the residential community to the rear of the property. However, as shown on the site plan, 2 parking spaces are provided in the rear of the property in the D.R.3.5 zone. It was indicated that only Mr. Li and his wife would occupy those spaces. In addition, there is a 9-foot wide driveway that has existed on the property for many years. Presently, this driveway leads from York Road along the south side of the property to the rear of the site and the existing garage and parking area. As shown on the site

plan, a portion of the driveway and parking area in the rear of the property will be removed to provide a 10' landscape buffer along the rear property line. Due to the split zoning of the property, the narrow width of the lot, and the location of existing improvements thereon, the required parking and RTA setback requirements cannot be met. Thus, the requested variance relief is necessary.

After due consideration of the testimony and evidence presented, and the agreement entered into between the community associations and the Petitioners, I am persuaded to grant the requested relief. It is clear that strict compliance with the zoning regulations would result in a practical difficulty and unreasonable hardship for the Petitioners and that the use proposed will not be detrimental to the surrounding locale. Moreover, the agreement entered into with the neighboring community associations to address their concerns shall be incorporated herein and made a part hereof.

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

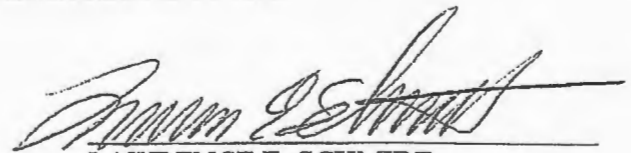
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 8th day of August, 2003 that the Petition for Special Hearing (as amended) to approve commercial parking in a residential zone (D.R.3.5), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance (as amended) seeking relief from Section 204.3.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 100% of the adjusted gross floor area of a Class A office building to be occupied by medical offices in lieu of the maximum allowed 25%; from Section 409.3 and 409.6.A.1 of the B.C.Z.R. to permit 7 parking spaces in lieu of the required 9 spaces; from Section 409.4.A of the B.C.Z.R. to permit a two-way driveway aisle width of 9 feet in lieu of the required 20 feet; from Section 1B01.1.B of the B.C.Z.R. to permit an RTA buffer and setback of 10 feet each in lieu of the required 50 feet and 75 feet, respectively; and from Section 204.3.C.2 to permit off-street parking in the front yard

in lieu of the required side or rear yards, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Compliance with the agreement entered into by and between the Petitioners and the Greater Timonium Community Council and the Yorkshire/Haverford Community Association, Inc., dated June 11, 2003, a copy of which is attached hereto and made a part hereof.
- 3) When applying for any permits, the site plan and/or landscape plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Special Hearing to permit a portion of a commercial building (Class A Office Building) to be located in a residential zone (D.R.3.5) and a finding that Residential Transition Area (RTA) requirements are not applicable to the proposed parking or building, be and is hereby DISMISSED AS MOOT.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

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

PETER MAX ZIMMERMAN
People's Counsel

RECEIVED

AUG 27 2003

ZONING COMMISSIONER
Deputy People's Counsel

August 26, 2003

Lawrence Schmidt, Zoning Commissioner
County Courts Building
401 Bosley Avenue, 4th Floor
Towson, Maryland 21204

Re: Haiyang Li, et ux. - Petitioners
Case No.: 03-292-SPHA

Dear Mr. Schmidt:

This letter is a Motion for Reconsideration under Rule 2K of the Zoning Commissioner's Rules of Practice and Procedure. It concerns the Order dated August 8, 2003.

We respectfully request that the Order include specifically the condition that the approved use is limited to one professional person and one employee. This condition, (which is not in the agreement between Petitioner, Yorkshire/Haverford Community Association, and GTCC but is referenced in your Opinion), is in our view necessary in the public interest to justify a deviation from the standard 25% maximum area for medical offices.

We also request that the Order include explicitly the conditions listed in Paragraph 3 a through e of the agreement:

- "a. No exterior lights, other than the existing exterior lighting and any exterior lights installed for security purposes and approved by the Landscape Architect for Baltimore County, are permitted on the Land.
- b. A ten (10) foot wide landscape buffer shall be installed in the rear yard of the property as shown on Exhibit B attached hereto.
- c. Only the LIS may park on the D.R. 3.5 portion of the property. The agreed parking layout is shown on Exhibit C attached hereto.
- d. For so long as the LIS are utilizing any or all of the building for their medical practice, no other use may take place on the property.

e. No further RTA exceptions will be requested."

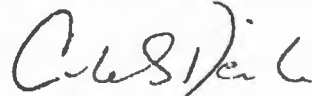
Finally, we request that the Order state that any modification of this Order or other use of this property is subject to further review, public hearing, and approval by the Zoning Commissioner. This will clarify that the Order is not subject to change by agreement of private parties, but rather is based on the spirit of the law and the public safety, health and welfare.

Thank you for your consideration.

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S Demilio
Deputy People's Counsel for Baltimore County

PMZ/CSD/rmw

cc: David Karceski, Esquire
Louis Miller
Lawrence Townsend

CASE NAME _____
CASE NUMBER 2016-117-SPHXA
DATE 1-7-2016

[illegible]

CASE NAME Joe Triv
CASE NUMBER 2016-117-SP6A
DATE 1-7-2016

NAME _____

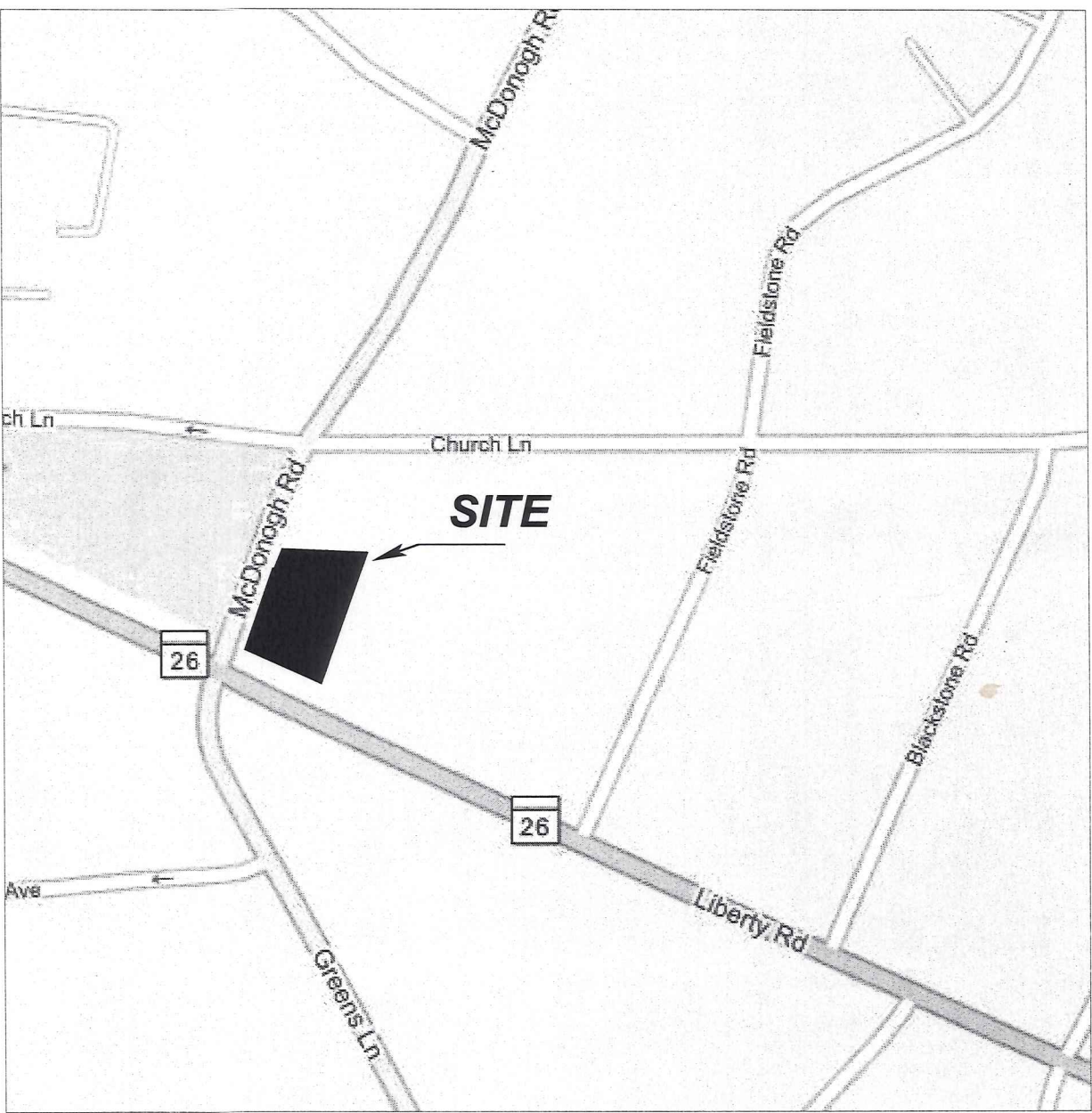
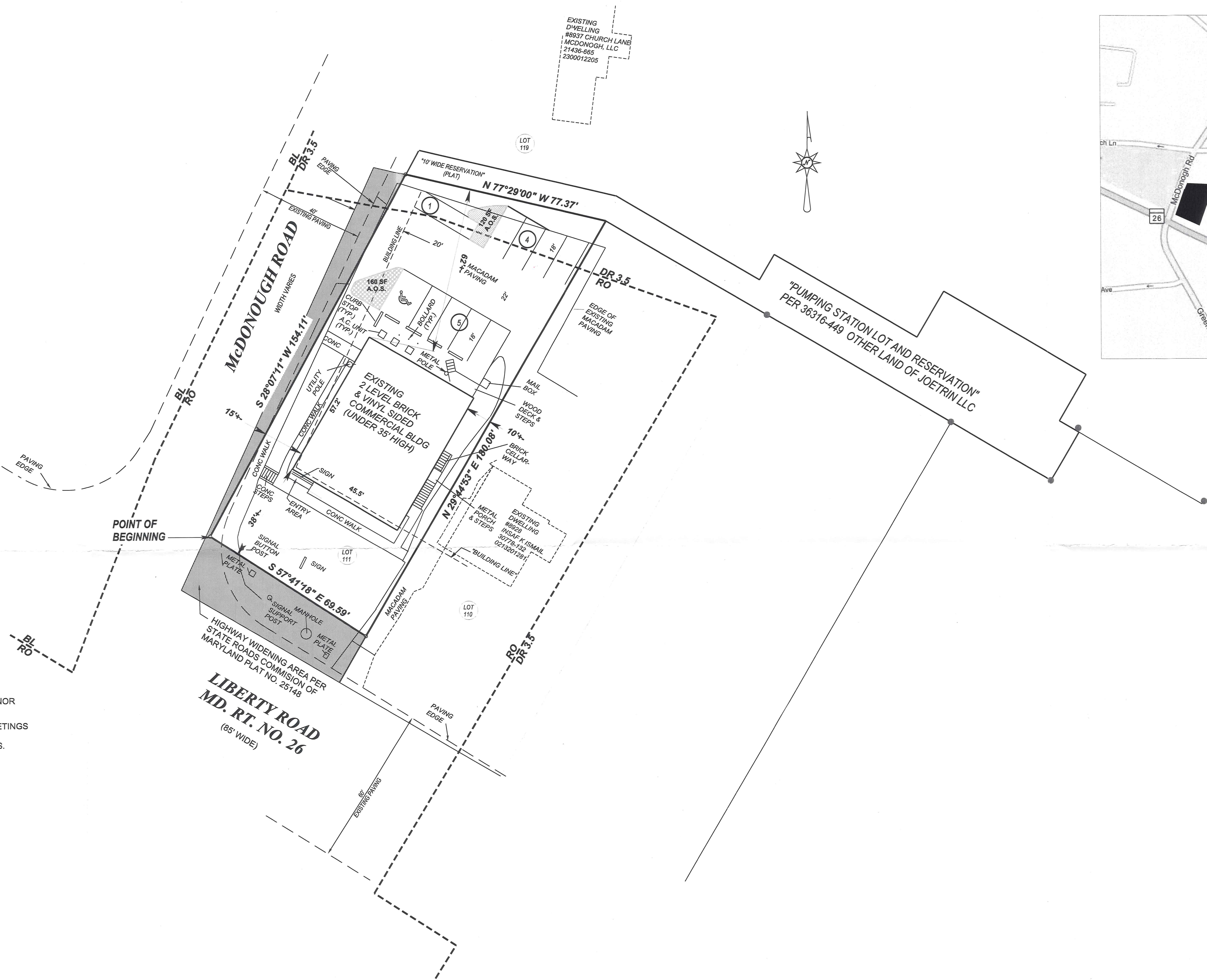
CITY, STATE, ZIP

[illegible]



GENERAL NOTES:

1. OWNER: JOETRIN L.L.C.
9524 LYONSWOOD DRIVE
OWINGS MILLS, MD. 21117
(TRINITY TUMBAN)
2. ATTORNEY: LAWRENCE SCHMIDT
SMITH, GILDEA & SCHMIDT, LLC
600 WASHINGTON AVE
TOWSON, MD 21204
410-821-0070
3. BUILDING AREA (FOOTPRINT): 2603 Sq. Ft.
4. UTILITIES:
PUBLIC SEWER
PUBLIC WATER
PUBLIC STORM DRAIN
5. THE SITE LIES WITHIN ZONE "X" AS SHOWN
ON F.I.R.M. 2400100360F DATED SEPTEMBER 26, 2008.
6. LOT AREA = 12001 SF NET (0.28 AC)
17776 SF GROSS (0.41 AC)
7. PARKING CALCULATIONS: (MEDICAL OFFICES)
2 FLOORS X 2603 SF = 5206 SF
5206 X 4.5/1000 = 24 SPACES REQUIRED
10 SPACES PROVIDED
8. AMENITY OPEN SPACE CALCULATIONS:
PARKING AREA = 2650 SF
A.O.S. PROVIDED = 280 SF (11%)
9. DEED REF.: JLE 36316-449
10. TAX ACCOUNT: #0213201280
11. COUNCILMANIC DISTRICT: 4TH. ELECTION DISTRICT: 2ND
12. CENSUS TRACT: 402604
13. WATERSHED: PATAPSCO RIVER
14. ZONING: RO AND DR 3.5
(PER BALT. CO. "MY NEIGHBORHOOD" WEBSITE)
15. TAX MAP: #0077, PARCEL 0272, LOT 111, WPC 08-98/99
16. NO KNOWN PREVIOUS ZONING CASES ON FILE.
17. NO KNOWN PERMITS ON FILE.
18. FLOOR AREA FOR RO:
FLOOR AREA RATIO; 2 X 2603/17776 = 0.29
19. THE SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY
CRITICAL AREA.
20. THERE ARE NO KNOWN HISTORIC FEATURES ON THE SITE NOR
IS THE SITE ITSELF HISTORIC.
21. NO KNOWN PREVIOUS ZONING CASE HISTORY OR DRC MEETINGS
22. THERE ARE NO EXISTING PARKING LOT LIGHTING FIXTURES.



VICINITY MAP

PLAN TO ACCOMPANY
ZONING PETITIONS
#8930 LIBERTY ROAD

BEING A PART OF LOT 111
AMENDED PLAT NO. 3
"FIELDSTONE" (8:98)
2ND ELECTION DISTRICT
BALTIMORE COUNTY, MD.

J.S. DALLAS, INC.
SURVEYING & ENGINEERING
P.O. BOX 26
BALDWIN, MD. 21013
(410) 817-4600



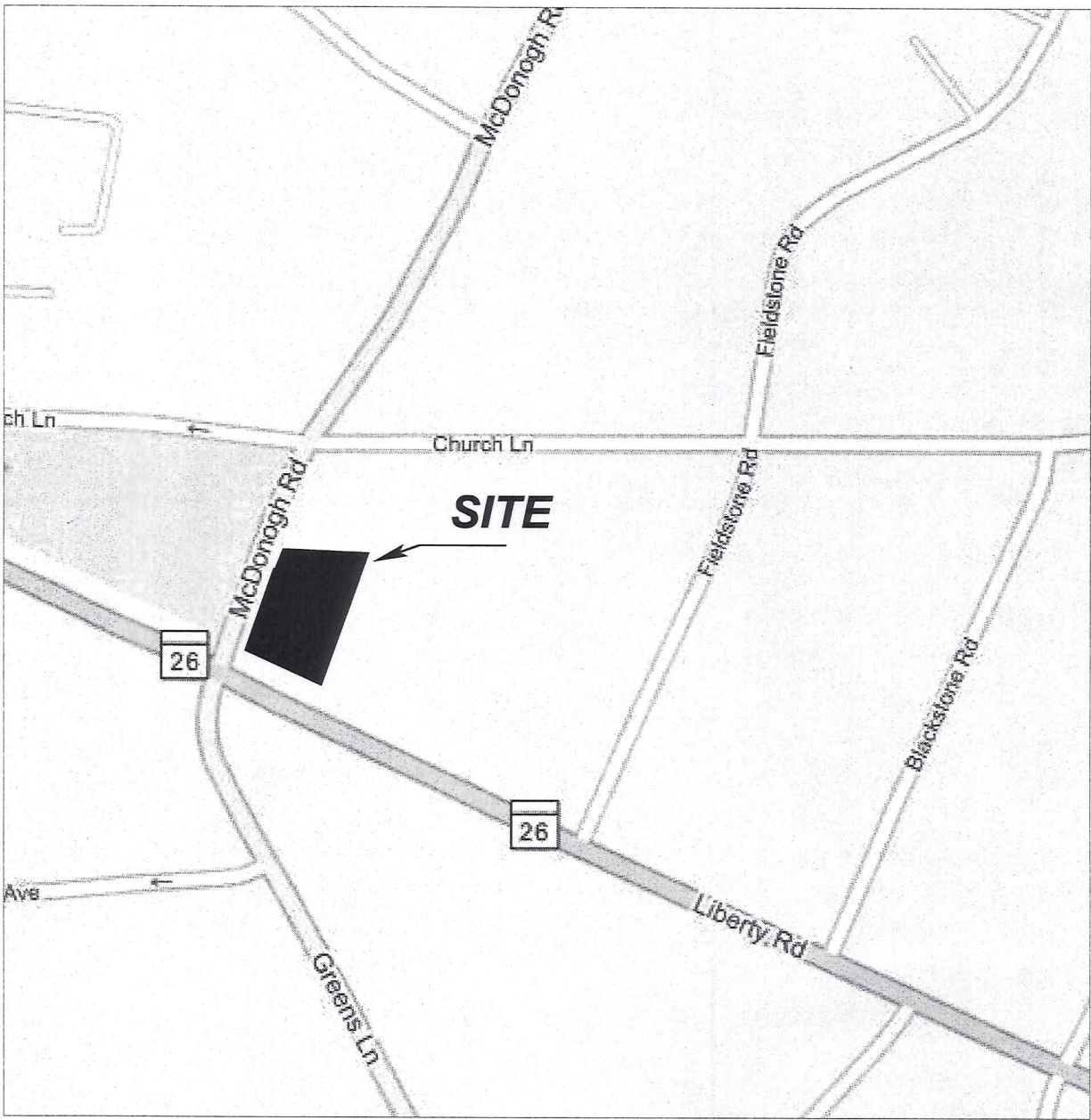
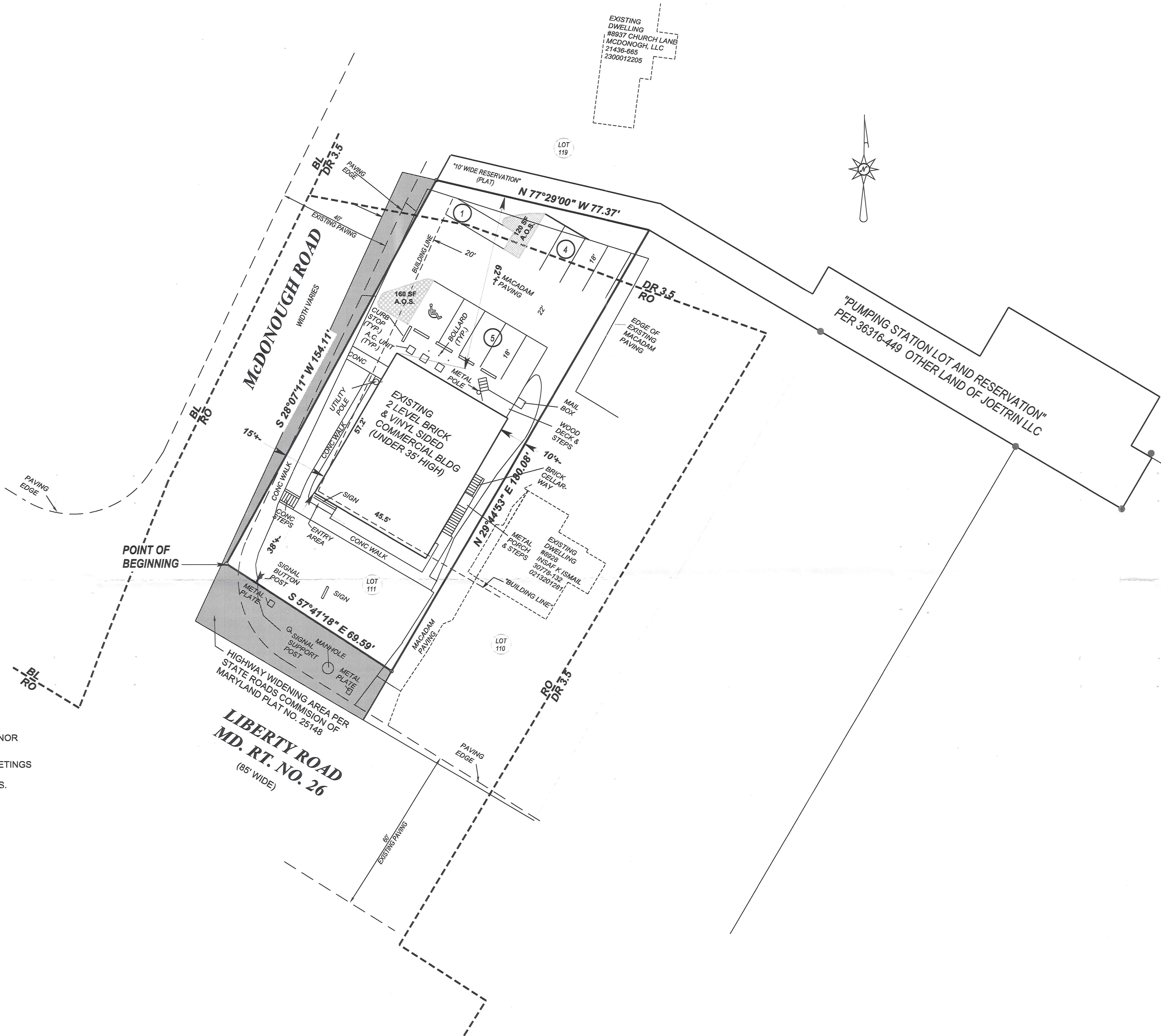
11-05-2015
DATE

FILE NAME	15-1544.TRV	DATE	DRAWN BY
SCALE	20 FV/in	11-5-2015	R.N.G.
JOB	8930 LIBERTY RD	REVISION	SHEET
		1/1	1/1

2016-017-SDAXA

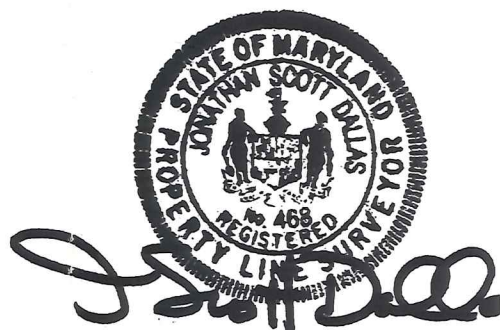
GENERAL NOTES:

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9524 LYONSWOOD DRIVE
OWINGS MILLS, MD. 21117
(TRINITY TUMBAN)
- ATTORNEY: LAWRENCE SCHMIDT
SMITH, GILDEA & SCHMIDT, LLC
600 WASHINGTON AVE
TOWSON, MD 21204
410-821-0070
- BUILDING AREA (FOOTPRINT): 2603 Sq. Ft.
- UTILITIES:
PUBLIC SEWER
PUBLIC WATER
PUBLIC STORM DRAIN
- THE SITE LIES WITHIN ZONE "X" AS SHOWN
ON F.I.R.M. 2400100360F DATED SEPTEMBER 26, 2008.
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17776 SF GROSS (0.41 AC)
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2 FLOORS X 2603 SF = 5206 SF
5206 X 4.5/1000 = 24 SPACES REQUIRED
10 SPACES PROVIDED
- AMENITY OPEN SPACE CALCULATIONS:
PARKING AREA = 2650 SF
A.O.S. PROVIDED = 280 SF (11%)
- DEED REF.: JLE 36316-449
- TAX ACCOUNT: #0213201280
- COUNCILMANIC DISTRICT: 4TH. ELECTION DISTRICT: 2ND
- CENSUS TRACT: 402604
- WATERSHED: PATAPSCO RIVER
- ZONING: RO AND DR 3.5
(PER BALT. CO. "MY NEIGHBORHOOD" WEBSITE)
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- FLOOR AREA FOR RO:
FLOOR AREA RATIO: 2 X 2603/17776 = 0.29
- THE SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY
CRITICAL AREA.
- THERE ARE NO KNOWN HISTORIC FEATURES ON THE SITE NOR
IS THE SITE ITSELF HISTORIC.
- NO KNOWN PREVIOUS ZONING CASE HISTORY OR DRC MEETINGS
- THERE ARE NO EXISTING PARKING LOT LIGHTING FIXTURES.



VICINITY MAP

J.S. DALLAS, INC.
SURVEYING & ENGINEERING
P.O. BOX 26
BALDWIN, MD. 21013
(410) 817-4600



11-05-2015
DATE

PLAN TO ACCOMPANY
ZONING PETITIONS
#8930 LIBERTY ROAD

BEING A PART OF LOT 111
AMENDED PLAT NO. 3
"FIELDSTONE" (8:98)
2ND ELECTION DISTRICT
BALTIMORE COUNTY, MD.

PETITIONER'S

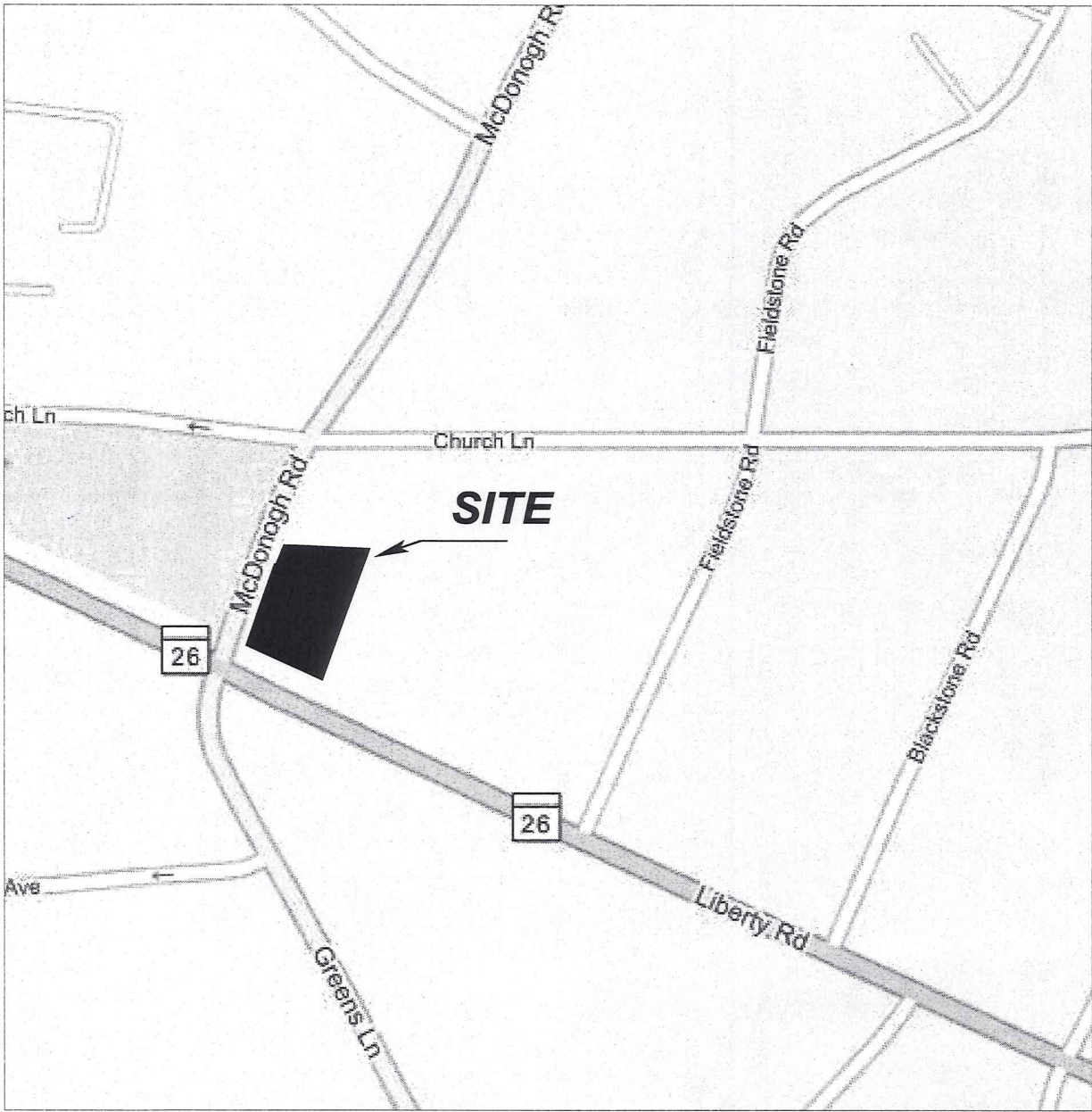
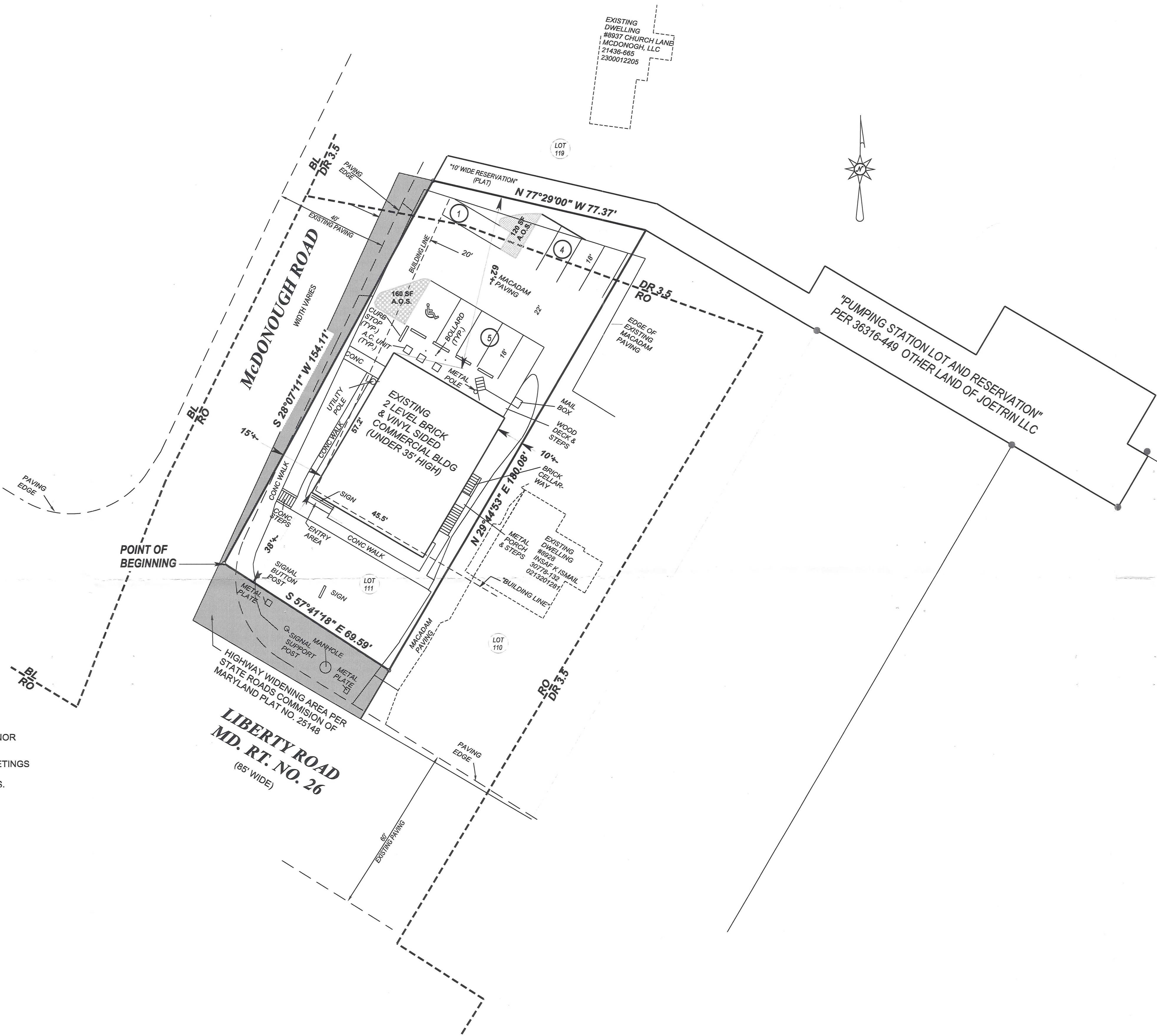
EXHIBIT NO. 1

FILE NAME			
15-1544.TRV			
SCALE	DATE	DRAWN BY	
20 FT/IN	11-5-2015	R.N.G.	
JOB	REVISION	SHEET	
8930 LIBERTY RD	1/1	1/1	

2016-0117-SPHXA

GENERAL NOTES:

- OWNER: JOETRIN L.L.C.
9524 LYONSWOOD DRIVE
OWINGS MILLS, MD. 21117
(TRINITY TUMBAN)
- ATTORNEY: LAWRENCE SCHMIDT
SMITH, GILDEA & SCHMIDT, LLC
600 WASHINGTON AVE
TOWSON, MD 21204
410-821-0070
- BUILDING AREA (FOOTPRINT): 2603 Sq. Ft.
- UTILITIES:
PUBLIC SEWER
PUBLIC WATER
PUBLIC STORM DRAIN
- THE SITE LIES WITHIN ZONE "X" AS SHOWN
ON F.I.R.M. 2400100360F DATED SEPTEMBER 26, 2008.
- LOT AREA = 12001 SF NET (0.28 AC)
17776 SF GROSS (0.41 AC)
- PARKING CALCULATIONS: (MEDICAL OFFICES)
2 FLOORS X 2603 SF = 5206 SF
5206 X 4.5/1000 = 24 SPACES REQUIRED
10 SPACES PROVIDED
- AMENITY OPEN SPACE CALCULATIONS:
PARKING AREA = 2650 SF
A.O.S. PROVIDED = 280 SF (11%)
- DEED REF.: JLE 36316-449
- TAX ACCOUNT: #0213201280
- COUNCILMANIC DISTRICT: 4TH. ELECTION DISTRICT: 2ND
- CENSUS TRACT: 402604
- WATERSHED: PATAPSCO RIVER
- ZONING: RO AND DR 3.5
(PER BALT. CO. "MY NEIGHBORHOOD" WEBSITE)
- TAX MAP: #0077, PARCEL 0272, LOT 111, WPC 08-98/99
- NO KNOWN PREVIOUS ZONING CASES ON FILE.
- NO KNOWN PERMITS ON FILE.
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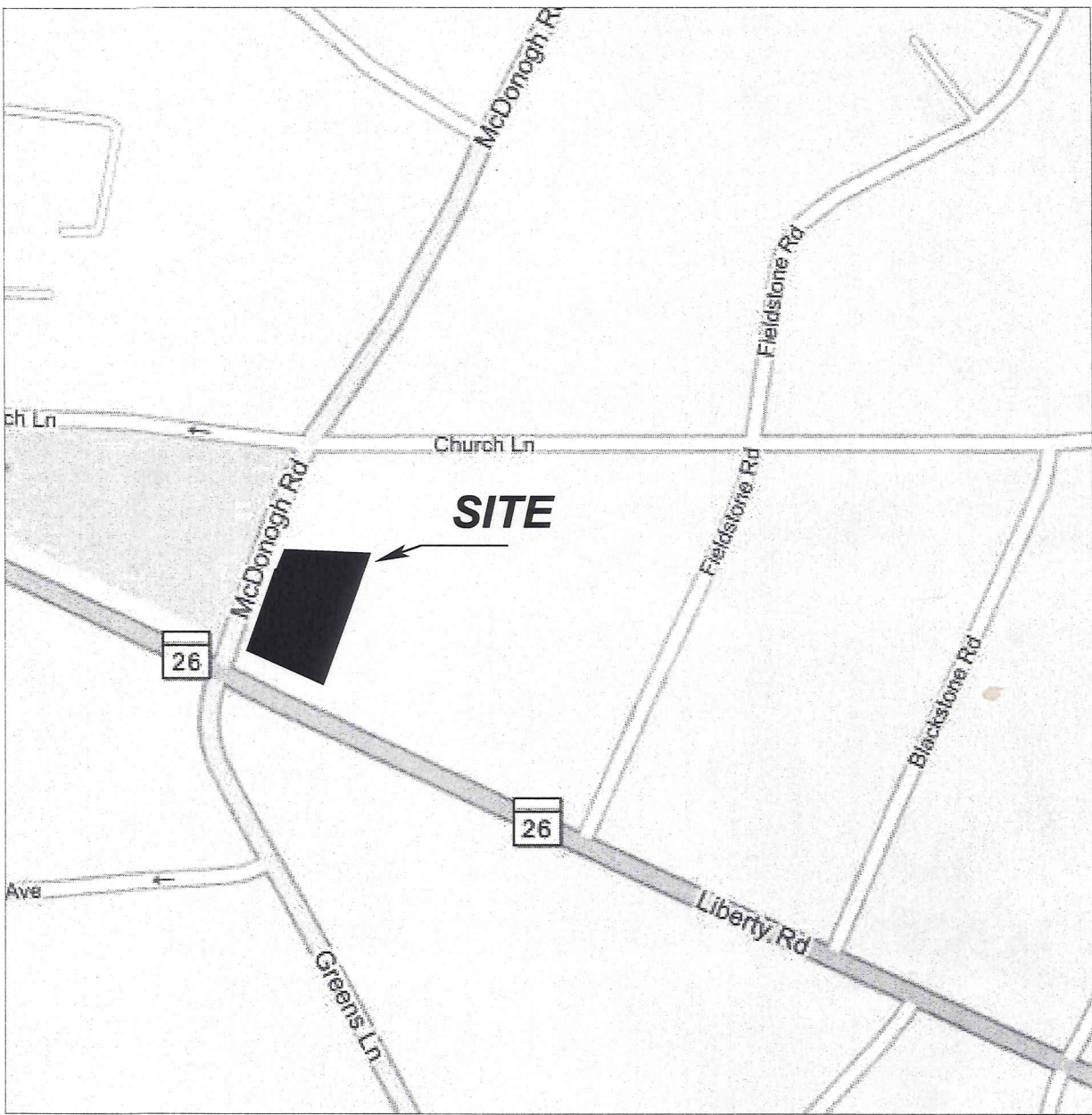
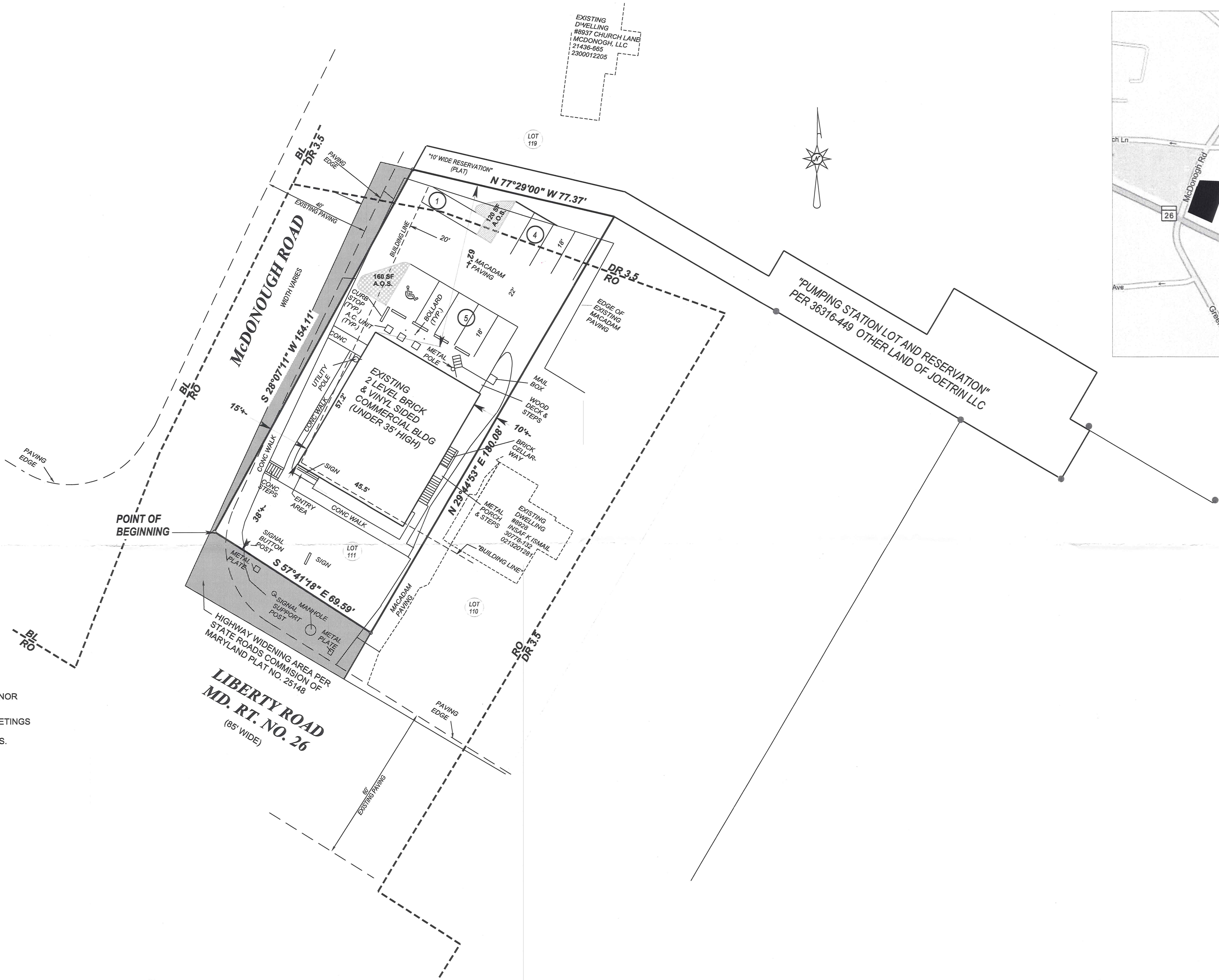


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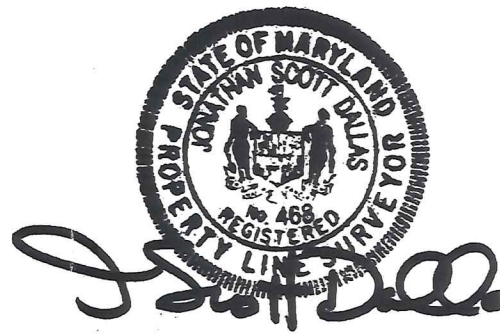


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8930 LIBERTY RD	1/1	1/1	

2016-017-SDHXK