

M E M O R A N D U M

DATE: August 18, 2016
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2016-0285-SPH – Appeal Period Expired

The appeal period for the above-referenced case expired on August 15, 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: **PETITION FOR SPECIAL HEARING** *

(10101 Grand Central Avenue)

4th Election District *

4th Council District *

Owings Mills Transit, LLC

Legal Owner *

Petitioner *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2016-0285-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Owings Mills Transit, LLC, legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve a waiver of the Department of Public Works Standards (Design Plate DR-1) to allow a 13 ft. setback in lieu of the required 20 ft. from the line which is created by adding the required freeboard to the 100 year water surface elevation.

Professional engineer Stephen Warfield, whose firm prepared the site plan appeared in support of the petition. David H. Karceski, Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (DEPS) and the Department of Public Works (DPW). The comments submitted by those agencies will be attached to the Order which follows.

The subject property is 33.847 acres and zoned BM-CT. The Metro Center at Owings Mills is located at the site. This project is known as a transit-oriented development and features offices, retail, apartments and a branch of the Baltimore County Public Library (BCPL) and

ORDER RECEIVED FOR FILING

Date

By

7/15/16

sen

Community College of Baltimore County (CCBC). At present, the Petitioner is proposing to construct a full-service hotel at the site, and the waiver is sought in connection with that project.

Mr. Warfield prepared an Exhibit (Petitioner's 1B) which shows in green the location of the 100 year riverine floodplain at the subject property. That exhibit also shows in yellow a line representing the 20 ft. setback from the floodplain, as dictated by County regulations. No portion of the hotel will be constructed within the floodplain. As such, strictly speaking this is not a floodplain waiver, as described in various sections of the County Code. B.C.C. §32-8-301 *et. seq.*; §32-4-414.

Instead, it is only a portion of a cantilevered second floor of the hotel which would encroach upon the 20 ft. setback. Mr. Warfield opined that granting the request would not result in the increase in flood levels and would be consistent with sound floodplain management. In addition, the DPW indicated it had no objection to granting the request. Based on this testimony and the evidence in the record, I believe granting the request would not result in an increased risk to life and/or property.

THEREFORE, IT IS ORDERED this 15th day of **July, 2016** by this Administrative Law Judge, that the Petition for Special Hearing pursuant to B.C.Z.R. § 500.7 to approve a waiver of the Department of Public Works Standards (Design Plate DR-1) to allow a 13 ft. setback in lieu of the required 20 ft. from the line which is created by adding the required freeboard to the 100 year water surface elevation, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

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

ORDER RECEIVED FOR FILING

Date 7/15/16
By sen

2. Petitioner must comply with the ZAC comments of DPW and DEPS, copies of which are attached.

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



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln

ORDER RECEIVED FOR FILING

Date 7/15/16

By sln

F1001



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 10101 GRAND CENTRAL AVENUE which is presently zoned BM-CT
Deed References: 12445-682 10 Digit Tax Account # 2500008976
Property Owner(s) Printed Name(s) Owings Mills Transit, LLC

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

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

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

SEE ATTACHED SHEET

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

3. ☐ a Variance from Section(s)

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

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:

David H. Karceski, Esquire

Name- Type or Print

Signature Venable LLP

210 W. Pennsylvania Ave., Ste. 500 Towson MD

Mailing Address City State

21204 410-494-6285 dhkarceski@venable.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

SEE ATTACHED SHEET /

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be contacted:

David H. Karceski, Esquire

Name - Type or Print

Signature Venable LLP

210 W. Pennsylvania Ave., Ste. 500 Towson MD

Mailing Address City State

21204 410-494-6285 dhkarceski@venable.com

Zip Code Telephone # Email Address

CASE NUMBER

2016-0285-SPH

Filing Date

5/13/16

Do Not Schedule Dates:

Reviewer

JMP

ORDER RECEIVED FOR FILING

REV. 10/4/11

Date

7/15/16

By

Sen

(10017)

OWINGS MILLS TRANSIT, LLC

ATTACHMENT

PETITION FOR SPECIAL HEARING

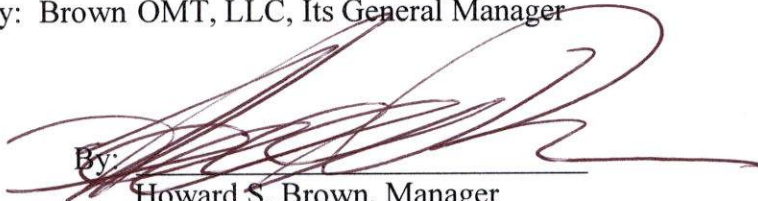
1. Special Hearing to approve a waiver of Department of Public Works Standards (Design Plate DF-1) to allow a 13-foot setback in lieu of the required 20 feet from the line which is created by adding the required freeboard to the 100-year water surface elevation.

OWINGS MILLS TRANSIT, LLC
ATTACHMENT
PETITION FOR SPECIAL HEARING

Legal Owners (Petitioners):

OWINGSMILLS TRANSIT, LLC

By: Brown OMT, LLC, Its General Manager

By: 

Howard S. Brown, Manager
100 Painters Mill Road
Suite 900
Owings Mills, MD 21117
(410) 363-3434

**ZONING DESCRIPTION to Accompany Petition For Variance &
Special Hearing Request**

Beginning at a point on the west side of Painters Mill Road which has a variable width, at the distance of 1,500(+/-)-feet north of the centerline of the nearest improved intersecting street, Red Run Blvd, which is 85(+/-)-feet wide. Thence the following courses and distances:

N 67° 16' 04" W 120.64';
S 68° 58' 16" W 318.20';
N 89° 27' 28" W 163.48';
N 72° 22' 09" W 226.38';
S 72° 06' 58" W 322.22';
N 21° 32' 10" W 399.53';
N 18° 18' 10" W 445.98';
N 22° 27' 54" W 486.10';
S 63° 09' 53" E 110.37';
N 23° 58' 16" E 201.40';
N 81° 59' 06" E 20.99';
S 66° 01' 44" E 724.19';
S 47° 15' 03" E 105.62';
S 79° 01' 25" E 80.05';
S 66° 01' 44" E 647.00';
S 66° 01' 44" E 183.63';
R=1,232.24 L=457.18 CHD=S 12° 58' 23" W 454.56';
S 41° 31' 53" W 164.87';
to the place of beginning,

Containing 32.957-acres±, and being parcel 505 on Baltimore County Tax Map #67. Also known the Metro Center at Owings Mills (south parcel), and located in the 4th Election District of Baltimore County, Maryland.



THIS DESCRIPTION COMPILED FOR ZONING PURPOSES ONLY AND IS NOT
INTENDED TO BE USED FOR CONVEYANCES OR AGREEMENTS

2016-0285-SHA



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 4263099

Sold To:

VENABLE LLP - CU00174151
210 W Pennsylvania Ave Ste 500
TOWSON, MD 21204-5304

Bill To:

VENABLE LLP - CU00174151
210 W Pennsylvania Ave Ste 500
TOWSON, MD 21204-5304

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

Jun 21, 2016

The Baltimore Sun Media Group

By S. Wilkinson

Legal Advertising

NOTICE OF ZONING HEARING

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

Case: # 2016-0285-SPH

10101 Grand Central Avenue
W/s Painters Mill Road, 1500 ft. N/of Red Run Boulevard
4th Election District - 4th Councilmanic District
Legal Owner(s) Owings Mills Transit, LLC

SPECIAL HEARING: to approve a waiver of Department of Public Works Standards (Design Plate DF-1) to allow a 13 ft. setback in lieu of the required 20 ft. from the line which is created by adding the required freeboard to the 100 year water surface elevation.

Hearing: Monday, July 11, 2016 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

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

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

JT 6/748 June 21

4263099

CERTIFICATE OF POSTING

2016-0285-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Owings Mills Transit, LLC

July 11, 2016

Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

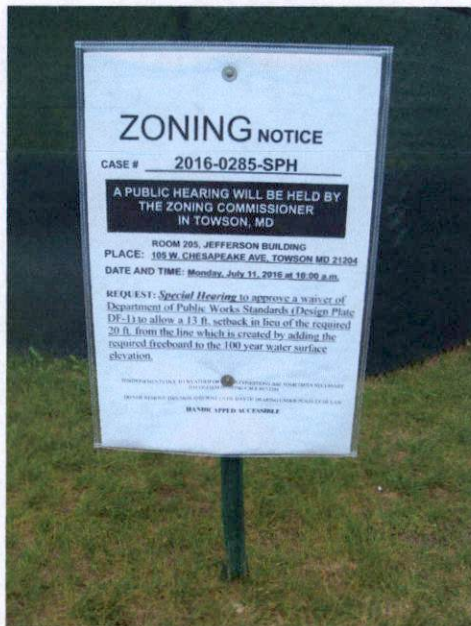
Ladies and Gentlemen:

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

10101 Grand Central Avenue

June 21, 2016

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,

June 21, 2016

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



KEVIN KAMENETZ
County Executive

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

May 23, 2016

NOTICE OF ZONING HEARING

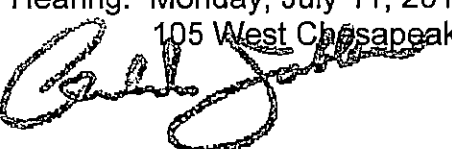
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10101 Grand Central Avenue
W/s Painters Mill road, 1500 ft. N/of Red Run Boulevard
4th Election District – 4th Councilmanic District
Legal Owners: Owings Mills Transit, LLC

Special Hearing to approve a waiver of Department of Public Works Standards (Design Plate DF-1) to allow a 13 ft. setback in lieu of the required 20 ft. from the line which is created by adding the required freeboard to the 100 year water surface elevation.

Hearing: Monday, July 11, 2016 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204


Arnold Jablon
Director

AJ:kl

C: David Karceski, 210 W. Pennsylvania Avenue, Ste. 500, Towson 21204
Howard S. Brown, 100 Painters Mill Road, Ste. 900, Owings Mills 21117

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JUNE 21, 2016**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, June 21, 2016 Issue - Jeffersonian

Please forward billing to:

Adam Rosenblatt

410-494-6285

Venable, LLP

210 W. Pennsylvania Avenue, Ste. 500

Towson, MD 21204

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: 2016-0285-SPH

10101 Grand Central Avenue

W/s Painters Mill road, 1500 ft. N/of Red Run Boulevard

4th Election District – 4th Councilmanic District

Legal Owners: Owings Mills Transit, LLC

Special Hearing to approve a waiver of Department of Public Works Standards (Design Plate DF-1) to allow a 13 ft. setback in lieu of the required 20 ft. from the line which is created by adding the required freeboard to the 100 year water surface elevation.

Hearing: Monday, July 11, 2016 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



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

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

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
10101 Grand Central Avenue; W/S of Painters *
Mill Road, 1500' N of Red Run Boulevard * OF ADMINISTRATIVE
4th Election & 4th Councilmanic Districts *
Legal Owner(s): Owings Mills Transit LLC, * HEARINGS FOR
Brown OMT, LLC, Howard Brown, Manager *
Petitioner(s) * BALTIMORE COUNTY
* 2016-285-SPH

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

RECEIVED

MAY 25 2016

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of May, 2016, a copy of the foregoing Entry of Appearance was mailed to David Karceski, Esquire, Venable, LLP, 210 W. Pennsylvania Avenue, Suite 500, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/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 legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

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

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

For Newspaper Advertising:

Case Number: 2016 - 0285-SPM
Property Address: 10101 GRAND CENTRAL AVENUE
Property Description: W/S OF PAINTERS MILL RD., 1,500±
FEET NORTH OF C/L INT. WITH RED
OWNERS MILLS TRANSIT, LLC RUN BLVD
Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: ADAM ROSENBLATT
Company/Firm (if applicable): VENABLE LLP
Address: 210 W. PENN. AVE.
SUITE 500
TOWSON MD 21201
Telephone Number: (410) 494 6285

Revised 5/20/2014

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

No. **139267**
 Date: **5/13/2016**

Fund	Dept	Unit	Sub Unit	Rev Source/	Sub Rev/	Obj	Sub Obj	Dept Obj	BS Acct	Amount
001	826	0000		6150						100.00

Total: **\$ 100.00**

Rec From: **Vonable, LLC**
 For: **Special Hearing - 10101 Grand Central Ave.**
Onwings Mall Transit, LLC (2016-2785-SPH)

DISTRIBUTION

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

PAID RECEIPT

BUSINESS ACTUAL TIME DAY
 5/13/2016 5/13/2016 14:09:11 1

100000 000000 000000
 RECEIPT # 201605 5/13/2016 0000

100 100 100000 100000

100 139267

100 100 100000

100000 100 100 100

Baltimore County, Maryland

**CASHIER'S
 VALIDATION**



KEVIN KAMENETZ
County Executive

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

July 6, 2016

Owings Mills Transit LLC
Howard Brown, Manager
100 Painters Mill Road
Suite 900
Owings Mills MD 21117

RE: Case Number: 2016-0285 SPH, Address: 10101 Grand Central Avenue

Dear Mr. Brown:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on May 13, 2016. 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
David H Karceski, Esquire, 210 W Pennsylvania Avenue, Suite 500, Towson MD 21204

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



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

Date: 5/23/16

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

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. 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 Case No. 2016-0285-SPH.

*Special Hearing
Owing Mills Transit LLC, Brown OMT, LLC
Howard Brown, Manager
10101 Grand Central Avenue*

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 blue ink, appearing to read 'Richard Zeller', is written over a horizontal line.

Wendy Wolcott, PLA
Acting Metropolitan District Engineer – District 4
Baltimore & Harford Counties

WW/RAZ

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: June 13, 2016

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 16-285

RECEIVED
JUN 15 2016
OFFICE OF ADMINISTRATIVE HEARINGS

INFORMATION:

Property Address: 10101 Grand Central Avenue
Petitioner: Owings Mills Transit, LLC
Zoning: BM-CT
Requested Action: Special Hearing

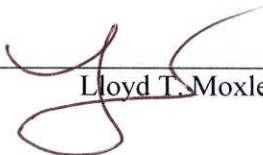
The Department of Planning has reviewed the petition for a special hearing to determine whether or not the Administrative Law Judge should approve a waiver of Department of Public Works (DPW) Standards (Design Plate DF-1) to allow a 13' setback in lieu of the required 20' from the line which is created by adding the required freeboard to the 100-year water surface elevation.

A site visit was conducted on June 1, 2016.

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

For further information concerning the matters stated herein, please contact Bill Skibinski at 410-887-3480.

Prepared by:


Lloyd T. Moxley

Division Chief:


Kathy Schlabach

AVA/KS/LTM/ka

c: Bill Skibinski
David H. Karceski, Esquire
Office of the Administrative Hearings
People's Counsel for Baltimore County

**BALTIMORE COUNTY, MARYLAND
INTER OFFICE CORRESPONDENCE**

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

ATTN: Kristen Lewis
MS 1105

FROM: Steven A. Walsh, Director
Department of Public Works

SAW

DATE: May 27, 2016

SUBJECT: Case No: 2016-0285-A
10101 Grand Central Avenue, Owings Mills, Maryland 21117

Special Hearing to approve a waiver to the Department of Public Works Design Manual Plate DF-1 to allow a 13 foot setback in lieu of the required 20 feet from the line which is created by adding the required freeboard to the 100-year water surface elevation.

The Special Hearing involves a proposed commercial facility to be built within 20 feet of the 100-year riverine floodplain.

The plans and documents submitted were reviewed and the Department of Public Works takes no exception to the approval of the waiver. The lowest floor to the proposed building is a basement and it must also meet the requirements according to Plate DF-1.

SAW/TWC/s

CC: Dennis Kennedy, Chief, Development Plans Review and Building Plan Review
Peter M. Zimmerman, People's Council

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

MAY 26 2016



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: May 26, 2016

SUBJECT: EPS Comment for Zoning Item # 2016-0285-SPH
Address 10101 Grand Central Avenue
(Owings Mills Transit, LLC
Property)

Zoning Advisory Committee Meeting of **May 30, 2016**.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

Additional Comments:

The development of the site must comply with the conditions of the administrative variance to the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains recently granted by the EPS director on March 2, 2016, especially that no encroachment by construction or other activities may occur in the 100-year floodplain. A retaining wall and any other means shall be utilized to maintain this setback width.

Reviewer: Glenn Shaffer Date: May 24, 2016

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 May 30, 2016
Item No. 2016-0285

DATE: May 27, 2016

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

The Director of Public works will comment on this request

* * * * *

DAK:CEN
cc:file

ZAC-ITEM NO 16-0285-05302016.doc

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

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

DATE: June 13, 2016

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 16-285

INFORMATION:

Property Address: 10101 Grand Central Avenue
Petitioner: Owings Mills Transit, LLC
Zoning: BM-CT
Requested Action: Special Hearing

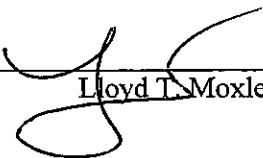
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Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

AVA/KS/LTM/ka

c: Bill Skibinski
David H. Karceski, Esquire
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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: May 26, 2016

SUBJECT: EPS Comment for Zoning Item # 2016-0285-SPH
Address 10101 Grand Central Avenue
(Owings Mills Transit, LLC
Property)

Zoning Advisory Committee Meeting of **May 30, 2016**.

 X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

 X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

Additional Comments:

The development of the site must comply with the conditions of the administrative variance to the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains recently granted by the EPS director on March 2, 2016, especially that no encroachment by construction or other activities may occur in the 100-year floodplain. A retaining wall and any other means shall be utilized to maintain this setback width.

Reviewer: Glenn Shaffer Date: May 24, 2016

BALTIMORE COUNTY, MARYLAND
INTER OFFICE CORRESPONDENCE

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

ATTN: Kristen Lewis
MS 1105

FROM: Steven A. Walsh, Director
Department of Public Works

SAW

DATE: May 27, 2016

SUBJECT: Case No: 2016-0285-A
10101 Grand Central Avenue, Owings Mills, Maryland 21117

Special Hearing to approve a waiver to the Department of Public Works Design Manual Plate DF-1 to allow a 13 foot setback in lieu of the required 20 feet from the line which is created by adding the required freeboard to the 100-year water surface elevation.

The Special Hearing involves a proposed commercial facility to be built within 20 feet of the 100-year riverine floodplain.

The plans and documents submitted were reviewed and the Department of Public Works takes no exception to the approval of the waiver. The lowest floor to the proposed building is a basement and it must also meet the requirements according to Plate DF-1.

SAW/TWC/s

CC: Dennis Kennedy, Chief, Development Plans Review and Building Plan Review
Peter M. Zimmerman, People's Council

ORDER RECEIVED FOR FILING

Date 7/15/16

By Sen

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

MAY 26 2016



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: May 26, 2016

SUBJECT: EPS Comment for Zoning Item # 2016-0285-SPH
Address 10101 Grand Central Avenue
(Owings Mills Transit, LLC
Property)

Zoning Advisory Committee Meeting of **May 30, 2016**.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

Additional Comments:

The development of the site must comply with the conditions of the administrative variance to the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains recently granted by the EPS director on March 2, 2016, especially that no encroachment by construction or other activities may occur in the 100-year floodplain. A retaining wall and any other means shall be utilized to maintain this setback width.

Reviewer: Glenn Shaffer

Date: May 24, 2016

ORDER RECEIVED FOR FILING

Date 7/15/16

By SEN

C H E C K L I S TSupport/Oppose/
Conditions/
Comments/
No CommentDPW will
comment

C

no obj

no obj

COMMENT

Comment
ReceivedDepartment

5/27

DEVELOPMENT PLANS REVIEW

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

5/24

DEPS

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

FIRE DEPARTMENT

6/13

PLANNING

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

5/23

STATE HIGHWAY ADMINISTRATION

TRAFFIC ENGINEERING

5/27

DPW

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. _____)

PRIOR ZONING

(Case No. 05-607-SPHA)

NEWSPAPER ADVERTISEMENT

Date:

6/21/16

SIGN POSTING

Date:

6/21/16

by SSG. Black

PEOPLE'S COUNSEL APPEARANCE

Yes



No



PEOPLE'S COUNSEL COMMENT LETTER

Yes



No



Comments, if any: _____

IN RE: DEVELOPMENT PLAN HEARING and
PETITIONS FOR VARIANCE AND
SPECIAL HEARING
W/S PAINTERS MILL ROAD
N & S I-795
(Metro Center at Owings Mills)
4th Election District
4th Councilmanic District

State of Maryland, Legal Owner
Owings Mills Transit, LLC,
Contract Lessee/Developer

* BEFORE THE HEARING
* OFFICER/ZONING
* COMMISSIONER FOR
* BALTIMORE COUNTY
*
* PDM No. IV-652
* Case No. 05-607-SPHA
*

* * * * *

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before the Hearing Officer/Zoning Commissioner of Baltimore County for a combined public hearing, pursuant to Section 32-4-230 of the Baltimore County Code (B.C.C.), for development plan approval and approval of a Petition for Variance and Petition for Special Hearing filed by Owings Mills Transit, LLC ("Developer"). The subject property, a total of 47.5± acres, comprised of two separate lots of record, is located on the west side of Painters Mills Road, north and south of I-795. Currently owned by the State of Maryland (Maryland Transit Administration), it is the site of the Owings Mills Metro station and related parking lots. The property is zoned BM-CT with a small amount of ML-IM zoning. On this site, Developer proposes a mixed-use, transit-oriented development containing a 40,000 square foot public library, 60,000 square foot community college center, 1.2 million square feet of office, 227,500 square feet of retail, 75,000 square feet of restaurants, a hotel, and 495 residential units.

In addition to development plan approval, Developer has requested approval of a Petition for Variance, seeking a variance related to building height and certain building setback variances. Specifically, Developer sought the following variances: (1) variance

from Baltimore County Zoning Regulations ("B.C.Z.R.") Sections 231, 234, and 235B.5 to permit Building MS-RPGA-1, as shown on the accompanying site plan, to have a building height along the Public Road A facade of 115 feet measured at the vertical measure plane; (2) variance from B.C.Z.R. Section 235.1 to permit front building setbacks as close as 8 feet and 28 feet along Public Roads A and B in lieu of the minimum permitted 15 feet and 40 feet; and (3) variance from B.C.Z.R. Section 235B.2 to permit a minimum distance between centers of facing windows of different apartments on the same lot to be as close as 40 feet for Building MS-RPGA-1, as shown on the accompanying site plan, in lieu of the minimum permitted 50 feet.

Developer also filed a Petition for Special Hearing, pursuant to B.C.Z.R. Section 500.6; Section 517.2 (510.2), Building Code; and B.C.C. Sections 32-4-107, 32-4-414, and 32-8-301, for a waiver to allow grading, installation of utilities, and construction (corner of Building NS-PG-1) within a riverine floodplain.

The proposed development and requested zoning relief are more particularly described on the red-lined Development Plan submitted and marked into evidence as Developer's Exhibit 2A-E and the red-lined Plan to Accompany Variance and Special Hearing submitted and marked into evidence as Developer's Exhibit 3A-3E.

As to the history of the project, after a Concept Plan was filed, a Concept Plan Conference was held on March 21, 2005. A Community Input Meeting was held on April 13, 2005. The Development Plan was then filed, and a Development Plan Conference was held on June 8, 2005. Following the Development Plan Conference, a Hearing Officer's Hearing for this development was scheduled and held on June 30, 2005. Certifications contained within the case file indicate that the property was properly posted with a sign providing public notice of the hearing and that the matter was also advertised in *The*

Jeffersonian newspaper. Having met these requirements, I find that proper public notice was provided.

At the hearing, attorneys Robert A. Hoffman and Patricia A. Malone appeared on behalf of the Developer. Also appearing were Arthur Adler and Skip Antonucci on behalf of Owings Mills Transit, LLC; Stephen Warfield, professional engineer with Matis Warfield, Inc., who prepared the Development Plan; John Canoles, an environmental consultant with Eco-Science Professionals, Inc.; Charlie Bailey, landscape architect and land planner with Mahan Rykiel Associates, Inc.; Robert Berry, architect with RTKL Associates, Inc.; and Wes Guckert, traffic engineer and President of The Traffic Group, Inc.

Numerous representatives of the various Baltimore County agencies who reviewed the Development Plan attended the hearing, including the following individuals: Colleen Kelly (Development Management); Mark Cunningham (Office of Planning); John Lewis and Jeffrey Perlow (Zoning Review); Bruce Seeley (DEPRM); Rahee Famili (Development Plans Review); David Thomas (Public Works); Eric Rockel (Land Acquisition); and Jan Cook (Recreation and Parks). Susan Dubin, Assistant County Attorney, also appeared. The Fire Department submitted only written comments.

The following individuals appeared on behalf of the State of Maryland's Department of Transportation: Del Adams (Maryland Transit Administration), Steven Foster (State Highway Administration), Larry Gredlein (State Highway Administration), and Mary Deitz (State Highway Administration).

Two area residents attended the hearing and expressed some concerns about the development: Calvin Reter and Michael Collins.

At the Hearing Officer's Hearing, I attempted to determine what, if any, issues or comments remain unresolved as of the date of the hearing before me. Initially, Mr.

Hoffman, on behalf of Developer, identified three issues, each of which could be described as a difference of opinion between Developer and the County or the State agency with regard to the interpretation of certain County or State requirements. The first related to Zoning's conclusion that handicapped parking spaces could not be counted for purposes of the Shared Parking Analysis. The second related to DEPRM's conclusion that the "North Parcel" and the "South Parcel" should be considered as one property for purposes of the application of the Forest Conservation Act. Lastly, Mr. Hoffman expressed some concern over SHA's comment of June 6, 2005, regarding "offsite improvements." None of these "issues," however, would impact the approvability of the Development Plan as presented to the Hearing Officer. As Mr. Hoffman explained, Developer had prepared the plan in satisfaction of the applicable requirements based on the particular agency's interpretation rather than Mr. Hoffman's interpretation, and, thus, the plan was in compliance with all County and State requirements.

After hearing from Mr. Hoffman, I questioned the representatives of each of the County agencies regarding the existence of any outstanding issues. Having reviewed the red-lined modifications made to the Development Plan (Developer's Exhibit 2A-2E), each of the representatives from the reviewing County agencies identified no outstanding or unresolved issues and reported that his or her agency recommended plan approval.

Del Adams (Maryland Transit Administration), with Mr. Foster and Mr. Gredlein (State Highway Administration) also in attendance, spoke on behalf of the Maryland Department of Transportation and indicated that the SHA and MTA had no objection to approval of the Development Plan. With regard to the State Highway Administration's June 6, 2005, comment, Mr. Adams confirmed that Developer's responsibility for any "offsite improvements" would be limited to those State roads that provide direct access to the site.

Mr. Adams confirmed that only the ramps directly connecting the site to I-795 would be subject to further possible improvement.

Following confirmation from the various County and State agencies that there were no outstanding issues and that the plan was acceptable as presented, Mr. Hoffman informed this Hearing Officer that he was withdrawing his request for an interpretation by the Hearing Officer on the three issues outlined above and would not object to approval of the plan as submitted.¹

As for the citizens who appeared, Mr. Reter described his participation in a focus group organized to ensure that the site would be developed in a "community-oriented" manner. Over the last several years, he and other community members spent many hours working towards this goal. Although Mr. Reter is, apparently, happy about the library and community college, he would liked to have seen more community-oriented uses including, as he mentioned, a skating rink. He offered an exhibit related to this issue as Protestants' Exhibit 1. Mr. Reter also expressed a concern over the additional traffic that would be created from this development, and he questioned whether the development would put more pressure on emergency services. A second citizen, Mr. Collins, appeared and expressed generalized concerns over the impact that the 495 residential units would have on schools and on traffic.

In response, Susan Dubin, Assistant County Attorney, attempted to reassure Mr. Reter that the community's desires had, in fact, been considered, and Baltimore County fully

¹ Mr. Hoffman withdrew from consideration the handicapped parking issue and the offsite improvements at the hearing. With regard to the Forest Conservation issue, Mr. Hoffman delivered a letter to me on July 1, 2005, stating his intention to withdraw this issue from consideration.

expected the development to enhance the community. As Ms. Dubin explained, the library and community college would have "community space" for the community to gather and meet. She, further, confirmed that the issue of emergency services had been considered and, for example, the County was in discussions with the State regarding sharing the responsibility for policing. On the issue of traffic, Ms. Dubin stated that discussions were ongoing and that Baltimore County would continue to monitor the situation. Mr. Adams also offered additional comment on traffic and stated that the SHA and MTA, along with Baltimore County, would, indeed, continue to monitor the status of the roads surrounding the site, and he stated that he did not anticipate any problems.

On the issue of school overcrowding, Mr. Cunningham of the Office of Planning explained that Developer had prepared and submitted a School Impact Analysis as part of the development plan review and approval process. Mr. Cunningham confirmed that Planning had reviewed the analysis and had determined the proposed development to be in compliance with Title 26, Article IX of the Baltimore County Code. The issue of school capacity is more fully explained in Planning's Comment of June 8, 2005, but, in short, despite overcrowding at New Town Elementary School, because adjacent schools have extra capacity, this development meets the adequate public facility requirement for schools.

In addition to the County and State agencies that reviewed the Development Plan and found it acceptable, Developer also presented the testimony of Stephen Warfield, the professional engineer responsible for the preparation of the plan. Mr. Warfield, first, gave a brief introduction of the plan and, then, confirmed that, with the zoning relief sought, the plan meets all County, State, and Federal requirements. On the issue of impacts to schools, Mr. Warfield stated that his firm prepared the School Impact Analysis to which Mr.

Cunningham referred, and he confirmed that the development meets the requirements of the County Code with regard to schools.

On the issues of traffic, Mr. Warfield also testified that, according to Baltimore County's Basic Services Transportation Area Map, there are no failing intersections in the surrounding vicinity and the property does not lie within a failing traffic shed. Therefore, the County's growth management legislation (B.C.Z.R. Section 4A02) would not restrict development in the area. Although it was deemed not necessary for him to testify, I would note that Mr. Guckert, a noted traffic expert, was available to provide additional testimony on behalf of Developer on the issue of traffic.

Having concluded testimony and evidence on the Development Plan, the hearing moved on to the relevant zoning issues. As previously noted, in addition to development plan approval, Developer has also requested zoning relief in the form of a Petition for Variance and Petition for Special Hearing. This relief was detailed in the petitions that were filed and also on the Plan to Accompany Variance and Special Hearing, which I accepted into evidence as Developer's Exhibit 3A-3E. Specifically, Developer sought the following variances: (1) variance from B.C.Z.R. Sections 231, 234, and 235B.5 to permit Building MS-RPGA-1 to have a building height along the Public Road A façade of 115 feet measured at the vertical measure plane; (2) variance from B.C.Z.R. Section 235.1 to permit front building setbacks as close as 8 feet and 28 feet along Public Roads A and B in lieu of the minimum permitted 15 feet and 40 feet; and (3) variance from B.C.Z.R. Section 235B.2 to permit a minimum distance between centers of facing windows of different apartments on the same lot to be as close as 40 feet for Building MS-RPGA-1 in lieu of the minimum permitted 50 feet.

It should be noted that the variance requests are confined to the South Parcel. Mr. Warfield testified regarding the variances and explained where the variances occur. As Mr. Warfield explained, each of the buildings has been located close to Public Roads A and B in order to create a "Main Street" atmosphere with some on-street parking provided. This concept is evident from the architectural renderings found in the Pattern Book submitted by Developer and approved by the Planning Office. Pushing the buildings closer to the public roads has generated the need for the first two variances.

The first variance relates to the height of Building MS-RPGA-1 along Public Road A. *See* Developer's Exhibit 3E. Because of the way building height is calculated in the BM zone, based on a flexible height "tent," the further a building is from the building line, the taller the building is permitted to be. This statement is an oversimplification of the concept of "height tent," which is more completely outlined in B.C.Z.R. Sections 231, 234. Building MS-RPGA-1 contains retail on the first story and residential units above the first story with related parking and is proposed to have a building height along the Public Road A facade of 115 feet measured at the vertical measure plane. This measurement is not a maximum building height because the building gets taller as it moves away from Public Road A.

The second variance relates to the spatial relationship of certain buildings to Public Roads A and B. This request is to allow certain buildings, as shown on Developer's 3A-3E, to have reduced front building setbacks along Public Roads A and B, again to create that "Main Street" feel. *See* Developer's Exhibit 3C.

The third variance, once more for Building MS-RPGA-1, is to allow apartments facing each other to have windows located closer together than would otherwise be permitted. The design of this mixed-use, multi-level building has created situations where

the centers of facing windows of different apartments will be 40 feet apart instead of the required 50 feet apart. *See* Developer's Exhibit 3C.

The Zoning Commissioner is permitted to grant variances, pursuant to B.C.Z.R. Section 307, upon finding that special circumstances exist and that requiring strict compliance with the regulations would result in a practical difficulty for the petitioner. Having heard the testimony and considered the requests, I find that sufficient evidence and justification exists to grant the requested variances. The "Main Street" concept envisioned for this development would not be possible without the granting of the variances. This site, with the existing Metro station, presents a unique opportunity to create a truly special project with its mix of private and public uses. This transit-oriented development will not only encourage the use of public transportation, but also will become a gathering place for the community to work, live, shop, and learn. I find the design of this project to be superior, and I find that a practical difficulty will result if the variances are not granted. Therefore, I will grant the requested variances.

Lastly, Developer filed a Petition for Special Hearing, seeking a waiver to allow grading, installation of utilities, and construction within a riverine floodplain. As Mr. Warfield explained, there are two areas on the North Parcel that require such relief, and these areas are identified on Developer's Exhibit 3B. The Gwynns Falls and the resulting 100 year riverine floodplain impacts the North Parcel at the northeast corner of the site and along its eastern boundary. In the area identified as Floodplain Area #1 on Developer's Exhibit 3B, Developer proposes to perform grading and construction within the riverine floodplain. Due to various site limitations and other constraints related to the design and layout of this transit-oriented development, a corner of Building NS-PG-1, a parking garage on the North Site, will be constructed within the floodplain. Mr. Warfield testified that, at

its widest point, the encroachment will be 20 feet wide, tapering down from that point on either side, with a total encroachment of approximately 1,000 square feet.

In the area identified Floodplain Area #2, on Developer's Exhibit 3B, Developer proposes to perform work related to the installation of a proposed sewer line in the existing paving of Painters Mill Road. Although encompassed in the relief requested, Mr. Warfield also pointed out that both the North Parcel and the South Parcel will have reduced setbacks to floodplain areas (of as little as 2 feet). Finally, Mr. Warfield explained that Developer will be performing grading and the installation of Building NS-RPG-1 and a new entrance to Painters Mill Road within the freeboard area, which work requires no special relief.

On the issue of the waiver request, David Thomas appeared on behalf of the Department of Public Works and presented a Zoning Advisory Committee comment from Mr. Edward Adams, Director, dated June 28, 2005. In this comment, Mr. Adams suggests that, if I grant the requested waiver, the relief should be conditioned on the addition of certain notes to the plan to ensure that there will be no adverse impact from the work and/or construction in the floodplain. At the hearing, Mr. Warfield and Mr. Thomas confirmed that the red-lined Development Plan addresses Notes 1, 3, and 4 of Public Works' comment. Mr. Warfield, during the hearing, placed Note 2 on the red-lined Development Plan and, subsequent to the hearing, conformed the Plan to Accompany Variance and Special Hearing to the Development Plan on this issue. With the addition of these notes, the Department of Public Works, although not advocating approval, has no objection to the granting of the waiver.

Having considered all of the evidence and testimony on this issue, I am persuaded to grant the Petition for Special Hearing and the requested waiver. In my judgment, Developer has satisfied the requirements for such relief as set out in Section 32-4-107 of the Baltimore

County Code. The waiver is justified in light of the circumstances involved in this case, the waiver is within the scope, purpose, and intent of Title 4 of the B.C.C., and I find that all other county laws and regulations have been met.

With the granting of the zoning petitions, based on the cumulative testimony and evidence presented by Developer, with no evidence to the contrary being offered, I find that the Development Plan is in compliance with all applicable County, State, and Federal Regulations. Therefore, having identified no unresolved or outstanding issues, the Development Plan shall be approved.

Pursuant to the Zoning and Development Regulations of Baltimore County as contained within the Baltimore County Zoning Regulations and in Article 32, Title 4 of the Baltimore County Code, the advertising and posting of the property, and public hearing held thereon, the Development Plan shall be approved consistent with the comments contained herein and the restrictions set forth hereinafter, if any, and, for the reasons set forth above, the Petition for Variance and the Petition for Special Hearing shall be granted.

THEREFORE, IT IS ORDERED by this Zoning Commissioner/Hearing Officer for Baltimore County this 6th day of July, 2005, that the five-page, revised redlined development plan for the Metro Center at Owings Mills, identified herein as Developer's Exhibit 2A-2E, be and is hereby APPROVED; and,

IT IS FURTHER ORDERED, that the Petition for Variance, seeking relief, as shown on the redlined Plan to Accompany Variance and Special Hearing, entered into evidence as Developer's Exhibit 3A-3E, from: 1) B.C.Z.R. Sections 231, 234, and 235B.5 to permit Building MS-RPGA-1 to have a building height along the Public Road A façade of 115 feet measured at the vertical measure plane; (2) B.C.Z.R. Section 235.1 to permit front building setbacks as close as 8 feet and 28 feet along Public Roads A and B in lieu of the minimum

permitted 15 feet and 40 feet; and (3) B.C.Z.R Section 235B.2 to permit a minimum distance between centers of facing windows of different apartments on the same lot to be as close as 40 feet for Building MS-RPGA-1 in lieu of the minimum permitted 50 feet, is hereby GRANTED; and

IT IS FURTHER ORDERED, that the Petition for Special Hearing seeking relief from B.C.Z.R. Section 500.6; Section 517.2 (510.2), Building Code; and B.C.C. Sections 32-4-107, 32-4-414, and 32-8-301, for a waiver to allow grading, installation of utilities, and construction within a riverine floodplain, is hereby GRANTED.

Any appeal of this decision must be taken in accordance with Section 32-4-281 of the Baltimore County Code.



WILLIAM L. WISEMAN/III
Zoning Commissioner/Hearing Officer
for Baltimore County

John E. Beverungen

From: Karceski, David H. <DKarceski@Venable.com>
Sent: Thursday, July 14, 2016 9:04 AM
To: John E. Beverungen
Subject: RE: Case # 2016-285-SPH

Judge Beverungen,

Thank you for the opportunity to respond. I am addressing your questions in the order listed below.

1. You are correct. The sections you reference below relate to development within the floodplain. The request in this case relates solely to improvements within the 20 foot setback from a floodplain. As such, the standards and burden of proof for a waiver contained in Sections 32-8-301 and 303 are not applicable.
2. Steve Warfield, the professional engineer who signed and sealed the site plan in this case, and I are not aware of any reference in the County Code, Building Code or other County regulations to the Department of Public Works Design Plate (DF-1). The design plate is contained in the Department of Public Works Baltimore County Design Manual, adopted in August in 2010 by the County Council (County Resolution 63-10). My understanding from conversations with Mr. Warfield is that Dave Thomas with the Department of Public Works concurs.
3. These provisions are not inconsistent. The County Code does not permit basements in the floodplain area. All of the proposed work associated with the hotel building is located outside of the floodplain area, including the basement of the hotel. The elevation of the basement is allowed to be built below the floodplain elevation, per Design Plate DF-1, as long as the requirements of the Building Code are met. The final design and construction of the proposed hotel will, therefore, conform to the requirements contained in the Building Code.
4. Thank you for alerting us to the typo. We will correct it on future submissions to the County.

Please let me know if I can provide any additional information.

David

David Karceski, Esq. | Venable LLP
t 410.494.6285 | f 410.821.0147 | m 443.956.7425
Towson: 210 W. Pennsylvania Avenue, Ste. 500, Towson, MD 21204
Baltimore: 750 East Pratt Street, Ste. 900, Baltimore, MD 21201

From: John E. Beverungen [mailto:jbeverungen@baltimorecountymd.gov]
Sent: Wednesday, July 13, 2016 12:19 PM
To: Karceski, David H. <DKarceski@Venable.com>
Subject: Case # 2016-285-SPH

Mr. Karceski,

I am preparing the order in the above case and wanted your input on a few questions I had after reviewing the exhibits. As discussed at the hearing, floodplain cases are out of the ordinary in the context of a zoning hearing, and I just wanted to be sure I understood the issues.

- 1. As a general matter, your request seeks a "waiver," but this is not strictly speaking the same type of "waiver" envisioned in BCC 32-8-301 and 303, where one needs to show "exceptional hardship," etc.? Is it correct that in those cases the petitioner is seeking to develop within the floodplain while in the above case the petitioner seeks a relaxation (or "waiver") of the 20 ft. setback from the floodplain?
- 2. Mr. Warfield described the 20 ft. setback shown on Ex. 5 submitted at the hearing. Other than that drawing, is the 20 ft. setback specified in the County Code, Building Code or other regulation?
- 3. Ex. 1B contains a note stating the basement area would be below the floodplain elevation, but cites note #4 on the DPW drawing (Ex. 5) which permits that condition provided certain building code standards are met. But BCC 32-8-207(d)(3) states "basements are not permitted in the floodplain area." Are these provisions inconsistent? Or does the drawing refer to elevation while the Code section is applicable to the floodplain proper; i.e., inside the green line shown on Ex. 1B?
- 4. FYI, Ex. 1B contains a typo where it shows the second story overhang to the floodplain....the plan says "flooplain." No need to correct that for purposes of this hearing, but wanted to let you know in case Mr. Warfield wants to make the change on his plans.

John Beverungen
ALJ



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CASE NAME 10101 Grand Central Ave
CASE NUMBER 2016-205-5114
DATE 7/11/16

CASE NAME 10101 Grand Central Ave
CASE NUMBER 2016-205-5114
DATE 7/11/16

[illegible]

Case No.: 2016-0285-SPH

Exhibit Sheet

Petitioner/Developer

EW 8-18-16

Protestants

7/15/16
Sen

No. 1	IA } IB } 2 sheet site plan	
No. 2	Warfield CV	
No. 3	Aerial photo exhibit	
No. 4	4A-4E Photos w/ Key sheet	
No. 5	Storm Drain Design Plate	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Stephen A. Warfield, P.E.

10540 York Road, Suite M
Hunt Valley, Maryland 21030
(410) 683-7004

Professional Registration

Registered Professional Engineer - Civil Engineering 1995 - Maryland P.E. # 21162

Education

B.S. Civil Engineering - 1990 - University of Maryland, College Park
Master of Environmental Engineering - 1994- Johns Hopkins University

Professional Experience

- 12/94-Present Matis Warfield, Inc.; 10540 York Road, Suite M; Hunt Valley, Maryland 21030:
Currently employed as a principal at Matis Warfield, Inc. Responsible for civil engineering services for the development community. Responsibilities include; planning, design, development, and permitting for site development projects. Responsibilities include; feasibility studies, concept plans, development plans, zoning plans, expert witness testimony, floodplain studies, open channels, stormwater management facilities, storm drain systems, erosion and sediment control plans, highways, pumping stations, utilities, specification development, cost estimating, grading, alternatives analysis, critical area analysis, project management, marketing, administration, client relations, etc.
- 5/91-12/94 Gannett Fleming, Inc.; Suite 200; East Quadrangle; The Village of Cross Keys; Baltimore, Maryland 21210: Supervisors: Fred Wagner-Project Manager, and Dave Ross-Office Manager
Employed as a project engineer by Gannett Fleming, Inc., Baltimore Maryland. Responsible for design and specification development for water treatment plant process design, wastewater treatment plant process and site design, pumping station design, open channel design, stormwater management design, erosion and sediment control design, drainage studies, alternatives analysis, and highway designs.
- 6/90-5/91 George William Stephens, & Associates, Inc.; 658 Kenilworth Drive; Towson, Maryland 21204: Supervisor: Tapobrata Chakrabarti, Partner
Employed as a design engineer by George William Stephens Jr. & Associates, Inc., Towson, Maryland. Performed floodplain studies, designed stormwater management facilities, and designed open channel flow systems for residential, commercial, and industrial development projects. Responsibilities also included development of computer programs to aid stormwater management design.

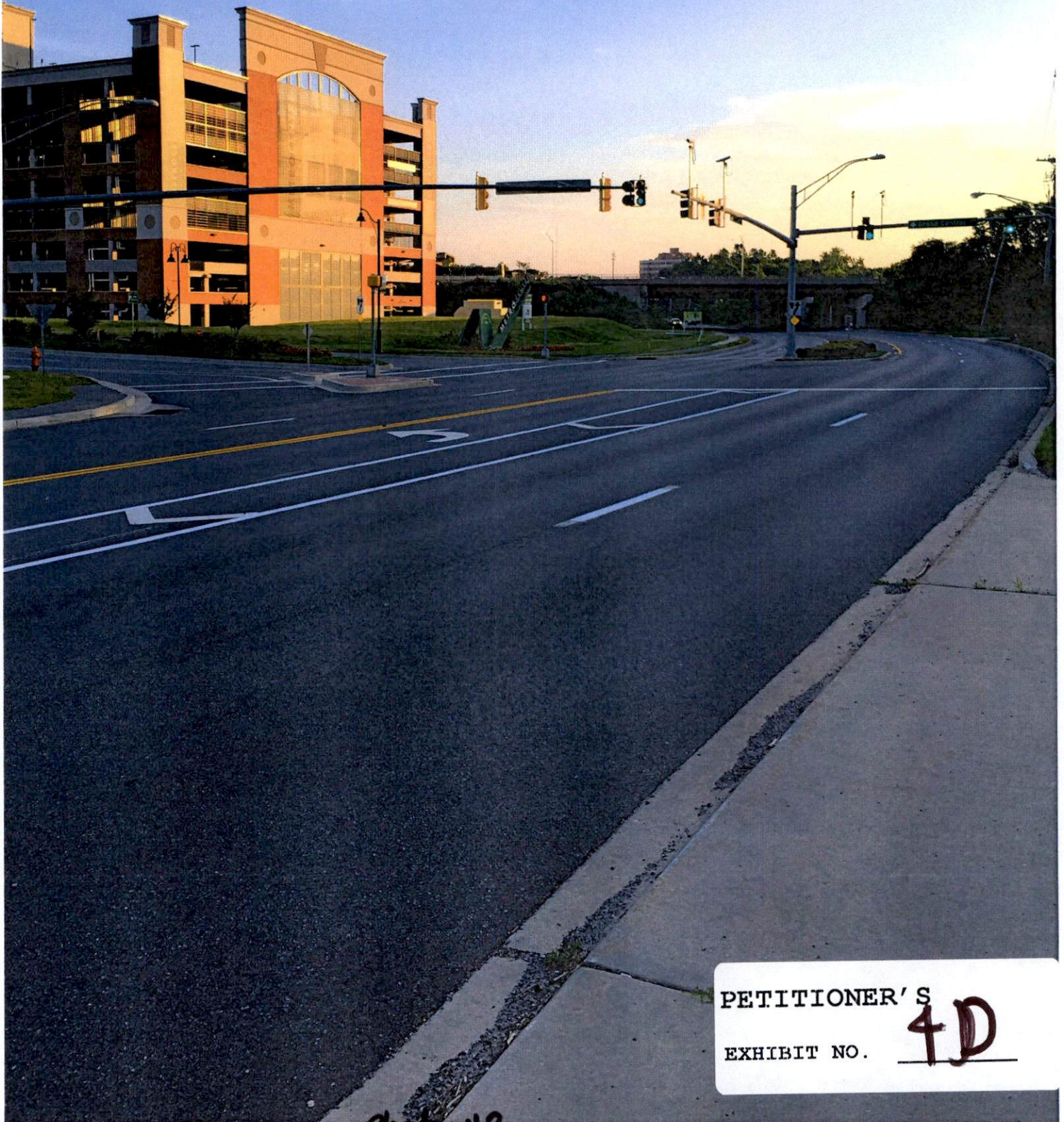
Professional Affiliations

Baltimore County Engineers Association
Home Builders Association of Maryland
Maryland Society of Professional Engineers

PETITIONER'S

EXHIBIT NO. 

3



PETITIONER'S

EXHIBIT NO.

4D

Photo #3

4

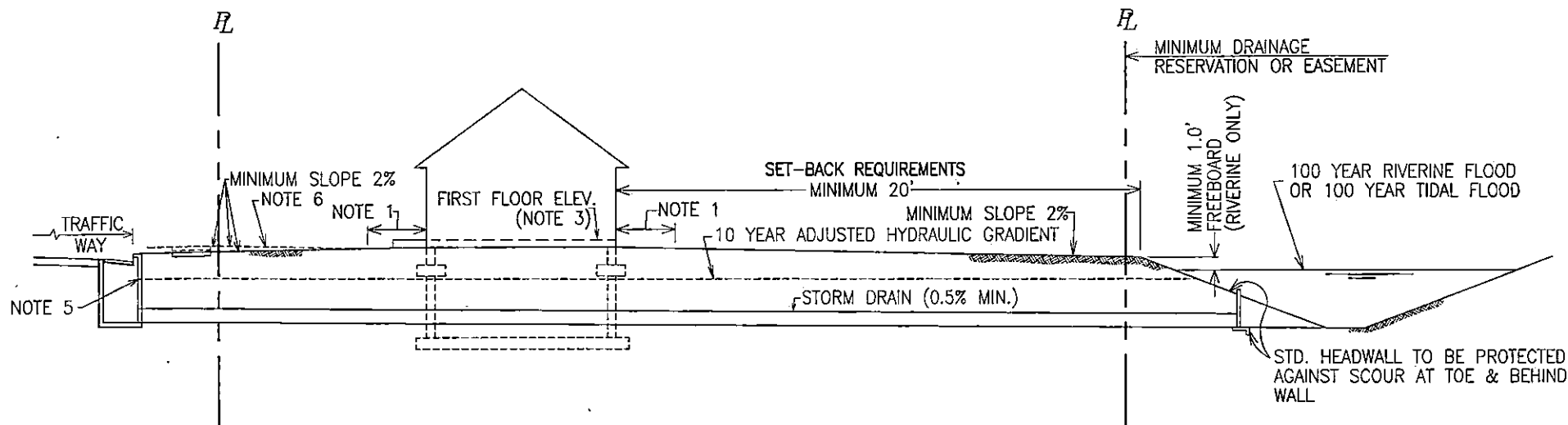


Photo #4

PETITIONER'S

EXHIBIT NO.

4C



NOTES

NEW STRUCTURES OR ADDITIONS ADJACENT TO FLOODPLAIN

1. DESIRED SLOPE OF GROUND FOR 10' ADJACENT TO BUILDING IS 5% (ALL SIDES OF BUILDING).
2. THE 20' MINIMUM BUILDING SETBACK SHALL APPLY TO THE FRONT, REAR AND SIDES OF ALL RESIDENTIAL, COMMERCIAL, INDUSTRIAL OR INSTITUTIONAL STRUCTURES.
3. FIRST FLOOR ELEVATION TO BE 2 FEET ABOVE MAXIMUM FLOOD LEVEL OF 100-YEAR STORM (RIVERINE OR TIDAL).
4. BASEMENT CONSTRUCTION BELOW THE MAXIMUM FLOOD SHALL BE IN ACCORDANCE WITH ALL REQUIREMENTS OF THE CURRENT BALTIMORE COUNTY BUILDING CODE.
5. STORM DRAIN SHALL BE SIZED SO THAT 10 YEAR ADJUSTED HYDRAULIC GRADIENT IS 1'-6" MINIMUM BELOW THE ESTABLISHED GRADE (TOP OF CURB).
6. WHEN GROUND SLOPES TOWARD BUILDING, FLOW SHALL BE DIRECTED AROUND SIDES OF BUILDING USING ADEQUATELY SIZED SWALES OR DRAINS.
7. SEE SET-BACK REQUIREMENTS ABOVE. SET-BACK IS MEASURED FROM 100 YEAR FLOODPLAIN PLUS ONE-FOOT VERTICAL FREEBOARD.

PETITIONER'S

EXHIBIT NO. 5



DEPARTMENT OF PUBLIC WORKS
STORM DRAINAGE DESIGN

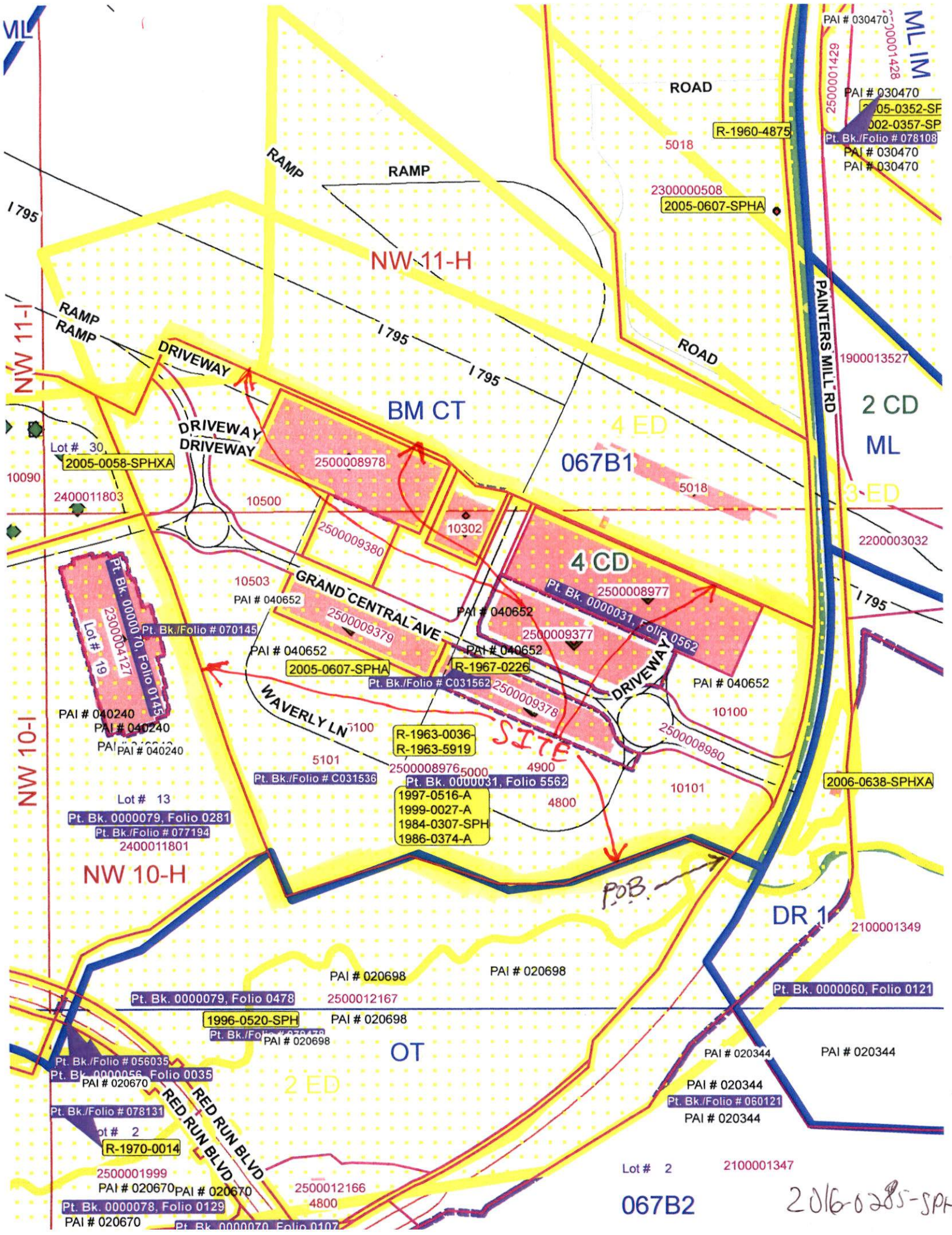
TYPICAL SECTION THROUGH LOT SHOWING MINIMUM DRAINAGE REQUIREMENTS

ISSUED: _____
REVISED: FEBRUARY, 1985
REVISED: MARCH, 2005

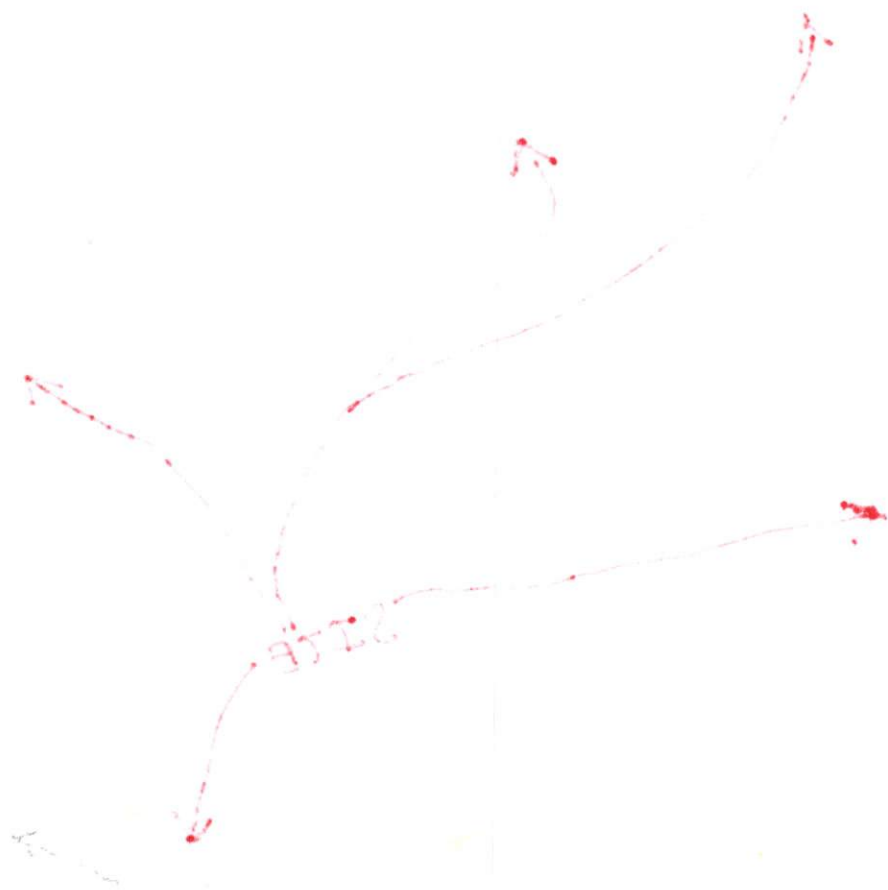
PLATE

DF-1

— 14 —



2016-0285-SPH



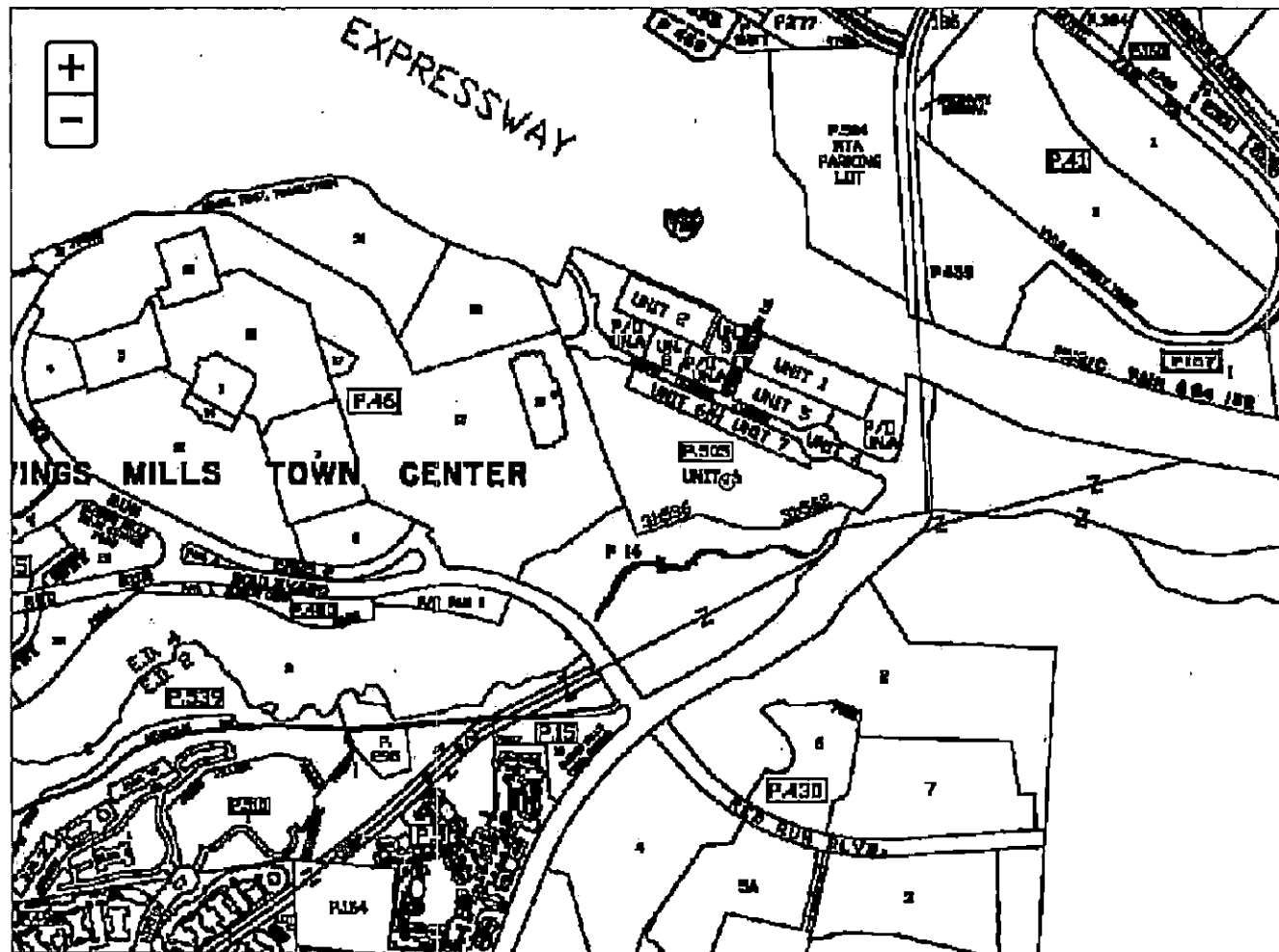
Real Property Data Search (w1)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration
Account Identifier: District - 04 Account Number - 2500008976		
Owner Information		
Owner Name:	MASS TRANSIT ADMINISTRATION DEPT OF TRANSPORTATION	Use: Principal Residence:
Mailing Address:	100 PAINTERS MILL RD STE 900 OWINGS MILLS MD 21117-	EXEMPT COMMERCIAL NO
Deed Reference:		
Location & Structure Information		
Premises Address:	GRAND CENTRAL AVE OWINGS MILLS MD 21117-	Legal Description: UNIT A 19.6701 AC N & SS GRAND CENTRAL OWINGS MILLS TOWN CENTER LAND CONDO
Map:	Grid:	Parcel:
0067	0009	0505
Sub District:	Subdivision:	Section:
Block:	Lot:	Assessment Year:
		2016
Plat No:	Plat Ref:	31/5562
Special Tax Areas:	Town:	NONE
	Ad Valorem:	
	Tax Class:	
Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area
Property Land Area	County Use	
19.6701 AC	01	
Stories	Basement	Type
Exterior	Full/Half Bath	Garage
Last Major Renovation		
Value Information		
	Base Value	Value As of 01/01/2016
Land:	3,162,000	3,162,000
Improvements	0	0
Total:	3,162,000	3,162,000
Preferential Land:	0	0
Phase-in Assessments As of 07/01/2015	As of 07/01/2016	
3,162,000	3,162,000	
Transfer Information		
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Exemption Information		
Partial Exempt Assessments:	Class	07/01/2015
County:	360	3,162,000.00
State:	360	3,162,000.00
Municipal:	360	0.00 0.00
Tax Exempt:	Special Tax Recapture:	
Exempt Class:	NONE	
Homestead Application Information		
Homestead Application Status: No Application		

Baltimore County

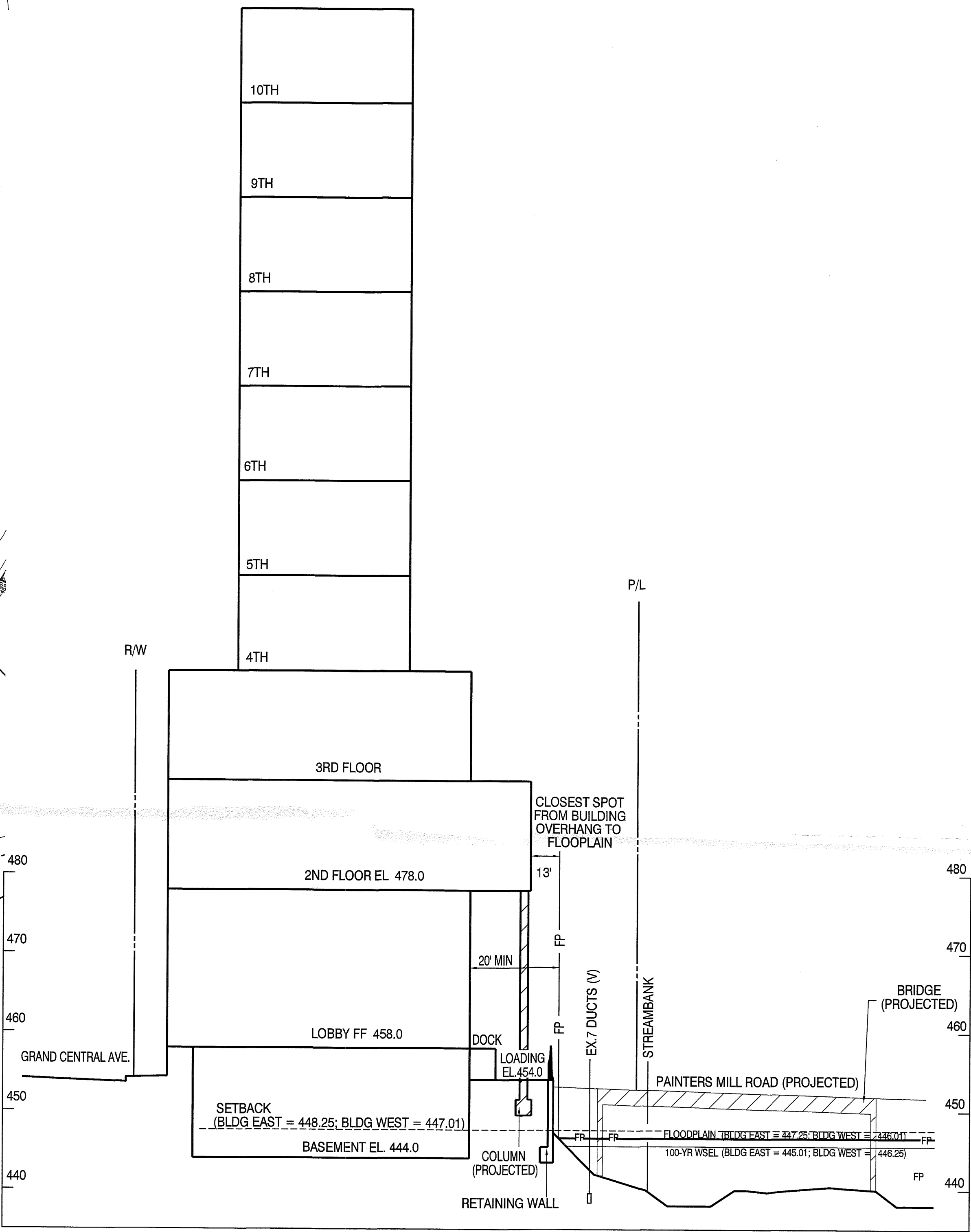
New Search (<http://sdat.dat.maryland.gov/RealProperty/>)District: **04** Account Number: **2500008976**

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

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

Property maps provided courtesy of the Maryland Department of Planning.

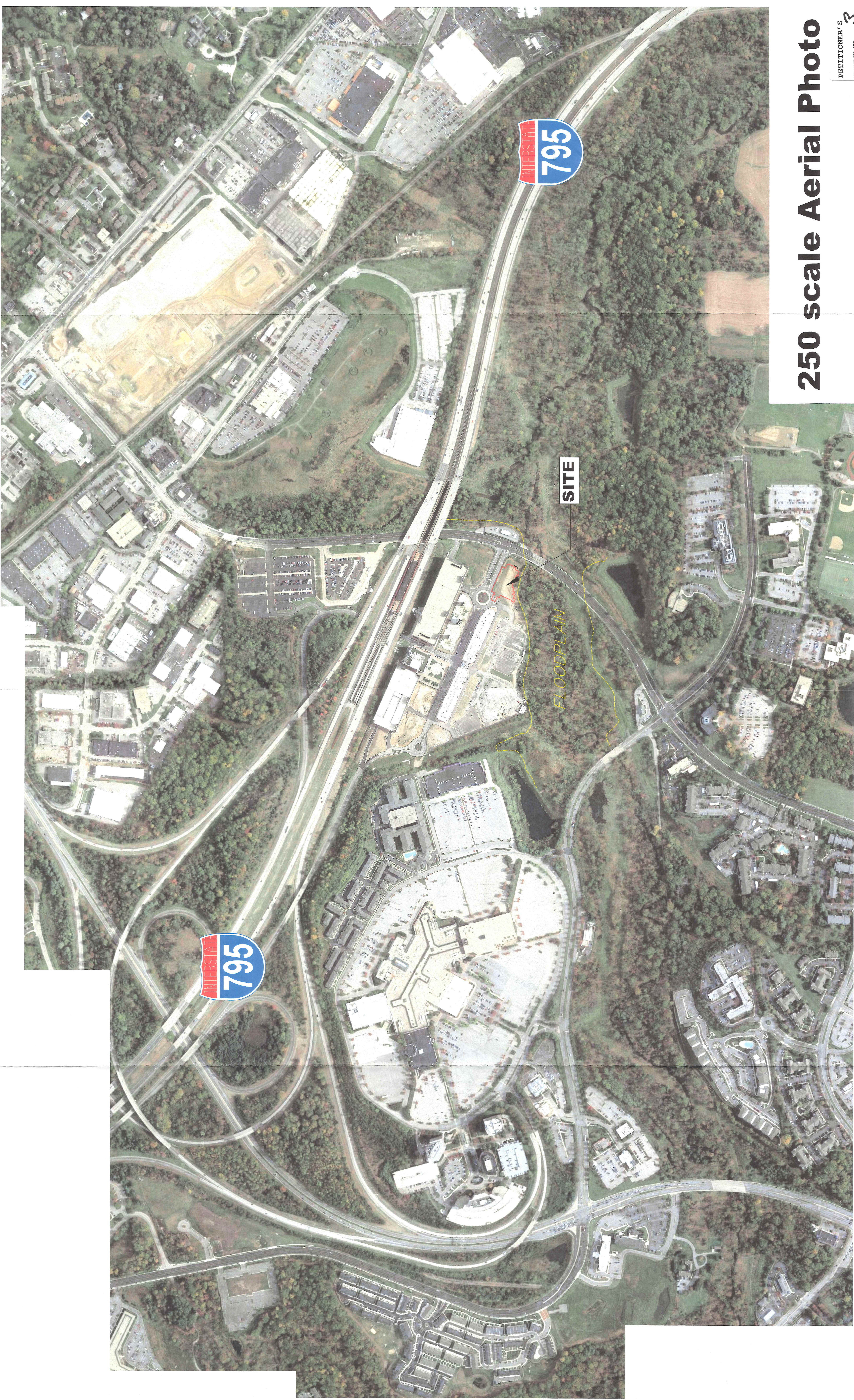
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (<http://www.mdp.state.md.us/OurProducts/OurProducts.shtml>).



SCALE: 1" = 30' HOR.; 1"=10' VERT.

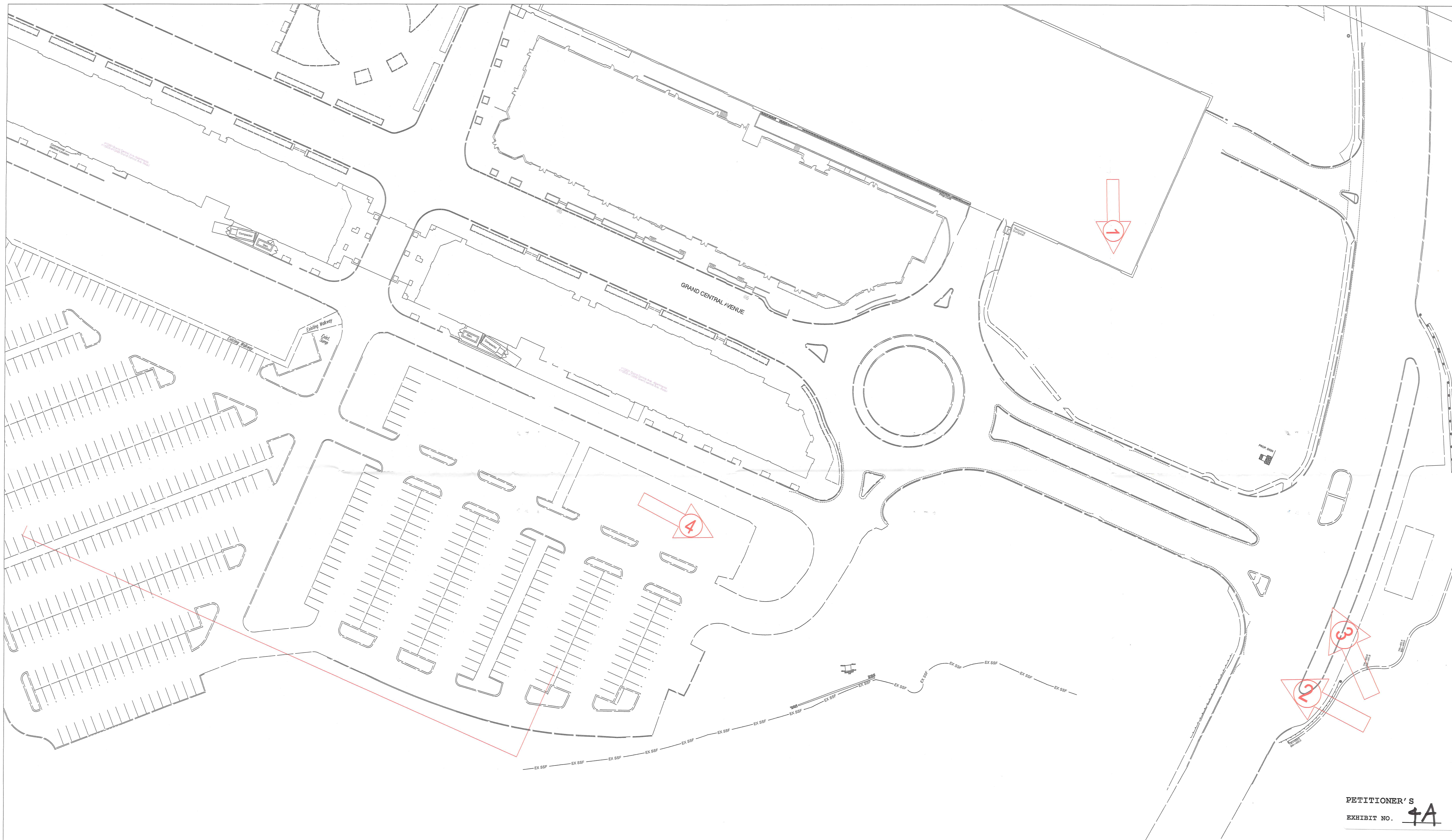
DRAWING NO.
Zon-2
SHEET NO.
2 OF 2

SCALE: 1"=30'



250 scale Aerial Photo

Case No: 2016-0285-SPH
Case Name: Metro Center at Owings Mills
10101 Grand Central Ave
Date of Hearing: July 11, 2016



PETITIONER'S
EXHIBIT NO. **4A**

Photo Location and Direction 

Design and Drawing based on
Maryland Coordinate System
Horizontal - NAD83/91
Vertical - NAVD 88

MATISWARFIELD
Consulting Engineers



10540 York Road Suite M Hunt Valley, Maryland 21030
410.683.7004 PHONE 410.683.1798 FAX
www.matiswarfield.com

PROFESSIONAL CERTIFICATION:
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR
APPROVED BY ME AND THAT I AM A DULY LICENSED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND.
LICENSE NO. 2162
EXPIRATION DATE: 05-20-2016

REVISIONS			
NO.	DESCRIPTION	BY	DATE

#10101 Grand Central Ave
Existing Site Photo Plan

DATE: 06-23-2016

SCALE: 1"=40'

DRAWING NO.

PH-01

SHEET NO.

1 OF 1



Photo #1

2



photo #2

PETITIONER'S

EXHIBIT NO.

4C