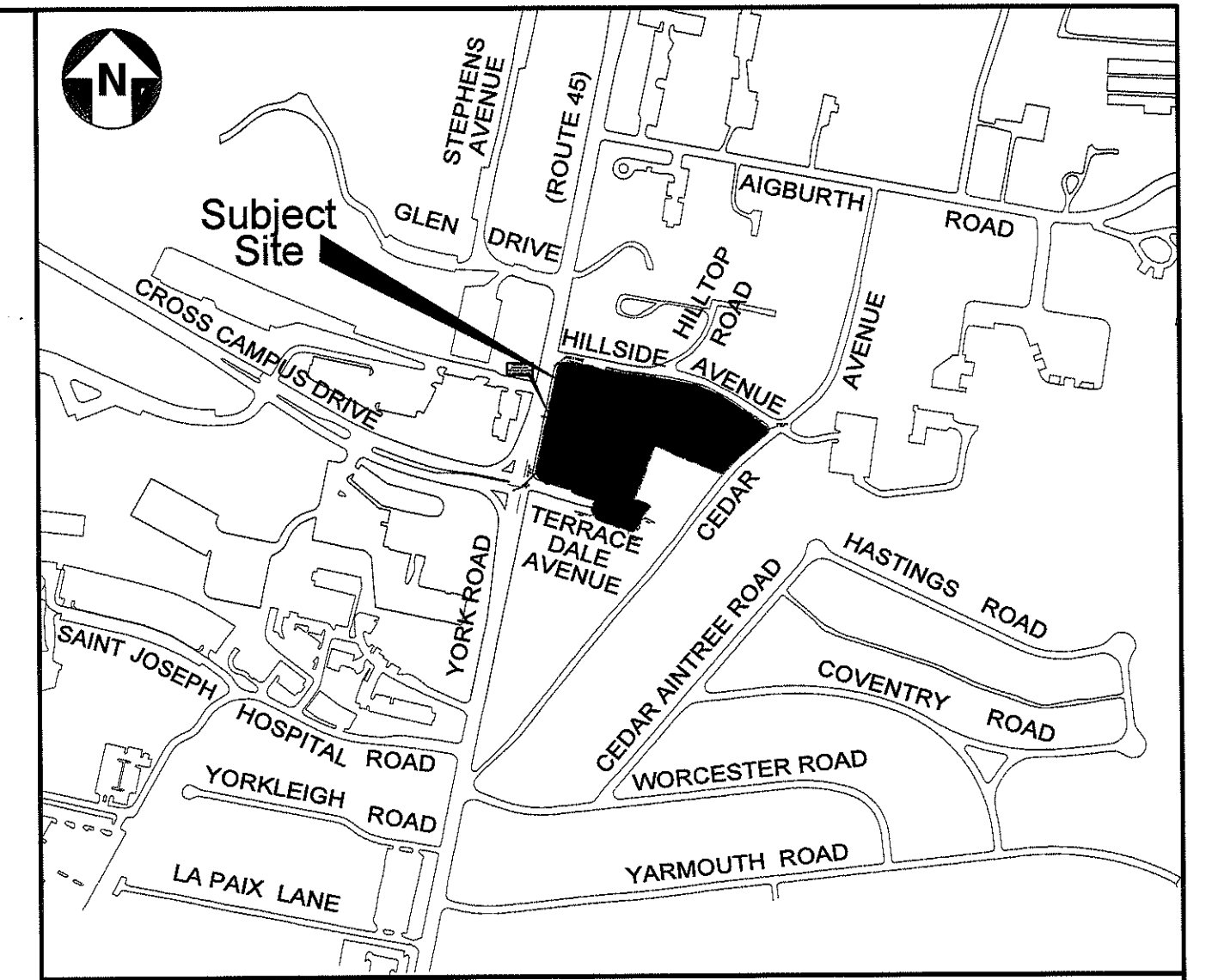




Case No. 70-231-XASPH
Special Exception for Office Building and Height and Setback Variances
Denied by the Zoning Commissioner per Order dated June 29, 1970
BDA Case 70-231-XA-SPH was dismissed by the Board of Appeals per
Order dated August 24, 1972.

Case No. 70-231-0223-A
Variances are required pursuant to Section 86-2CZ to permit
From §§ 60-4.0 Attachment 1.5 (i) of the BZCZ to permit one double lane, free-standing
antennae 30 feet in height in lieu of maximum area per lot in lieu of the four permit, (1
per foot) double lane, free-standing antennae of 25 square feet each
maximum area per base, and
From §§ 60-4.0 Attachment 1.5 (j) of the BZCZ to permit a double lane, free-standing
antennae 30 feet in height in lieu of the maximum permit 9 feet in height.
Withdrawn by the Petitioner on October 18, 2011.

Baltimore County, Maryland
Election District No. 9
Councilmanic District No. 5

AA-2017-0001PP

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
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of counsel:

EUGENE A. ARBAUGH, JR.
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*Admitted in MD, FL, PA

December 22, 2017

Via Hand Delivery

Arnold Jablon
Deputy Administrative Officer
Director, Department of Permits, Approvals and Inspections
111 West Chesapeake Ave, Suite 105
Towson, MD 21204

Re: York Dale Limited Partnership
7801 York Road
Zoning Verification Letter

Dear Mr. Jablon:

On behalf of the property owner, York Dale Limited Partnership, of the real property known as 7801 York Road (listed with the State Department of Assessments and Taxation as Map 70, Parcel 423 (Tax Account No. 0925450764)) located in Baltimore County, Maryland (the "Property"), I hereby request that you verify that all office uses, whether medical or office-general, for this particular project shall only be required to provide, at most, 3.3 spaces per 1,000 square feet.

The Property is approximately 4.981 acres. It is split zoned Office Building — Residential ("OR-1") and Density Residential 5.5 ("D.R. 5.5").¹ The Property is improved with a 70,884 square foot ("sf") office building which was erected in 1982.² The property owner is proposing to convert a portion of the existing office building from office-general to medical office. Both uses are permitted by right in the OR-1 zone. Under the currently applicable provisions of the BCZR, the general rule is that the minimum number of parking spaces that have to be provided for office-general and medical office are 3.3 spaces/1,000 square feet and 4.5 spaces/1,000 square feet, respectively. However, this project constitutes an exception to this general rule. In accordance

¹ There are no improvements on the miniscule portion of the property which is zoned DR 5.5.

² The property was zoned Business, Local ("BL") in 1982 but that in no way changed the minimum parking requirement for the office building.

with § 409.1.B of the Baltimore County Zoning Regulations ("BCZR"), any office use proposed as part of this project shall not exceed 3.3 spaces per 1,000 square feet, irrespective of whether its office-general or medical office.³

The aforementioned exception to the general rule can be traced back to legislation affecting the BCZR § 409 regulations which went into effect in 1988, Bill No. 26-88. A copy of Bill No. 26-88 is attached hereto as **Exhibit 1**. In pertinent part, Bill No. 26-88 provided that the parking regulations in effect prior to 1988 were applicable to a vested development. BCZR § 409.1.B reads:

Those projects which have County Review Group (CRG) approval prior to the effective date of these regulations may modify their plans to satisfy these regulations or may proceed under the regulations in effect at the time of said approval.

Bill No. 26-88 created, among other things, current BCZR § 409.1.B, the provision which allows at most a minimum requirement that all office uses provide at most 3.3 spaces/1,000 sf. Bill No. 26-88 was enacted in 1988, several years after this project was constructed. It also created, for parking calculation purposes, the current parking regulations in BCZR § 409.6.A. In pertinent part, current § 409.6.A.2 of the BCZR generally requires that "medical office or clinic" and "office-general" provide parking at 4.5 spaces/1,000 sf of gross floor area and 3.3 spaces/1,000 sf of gross floor area, respectively. Prior to that bill being enacted, the 1981 edition of the BCZR required parking to be provided as follows: "ground floor medical or dental offices or clinics" and "other institutional, office, and nonretail commercial buildings (excluding garage structures) having a total floor area over 5,000 square feet" were both required to provide at most 1 space for each 300 square feet of total floor area (i.e. 3.3 spaces/1,000 sf).⁴ It is uncontroverted that Bill No. 26-88, which codified current BCZR § 409.1.B, expressly provides that any and all office use, irrespective of whether the use is office-general or medical office, provide at most 3.3 spaces/1,000 sf.

In order to demonstrate that the ratio of 3.3 spaces/1,000 square feet applies, York Dale Limited Partnership need only establish that the development was approved via the CRG process (or the process which preceded the CRG process). Jim Matis, Matis Warfield, has indicated, and the Development Management Bureau of the Department of Permits, Approvals and Inspections ("PAI") confirmed, that PAI does not have a Public Services Project Number for this project. Furthermore, there is no record of it in their Card File or on their Map. Nevertheless, the

³ Under the 1981 edition of the BCZR, the off street parking and loading regulation referenced what we presently refer to as "office-general" as "other institutional, office, and nonretail commercial buildings (excluding garage structures) having a total floor area over 5,000 square feet" and what we now refer to as "medical office or clinic" was referred to as "medical or dental offices or clinics." BCZR § 409.2.b(5) (1981 Edition); BCZR § 409.6.A.2. A copy of BCZR § 409.2 (1981 Ed.) is attached hereto as **Exhibit 2**.

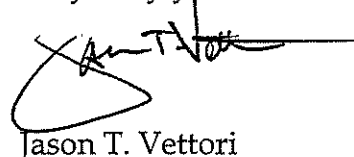
⁴ It should be further noted that "other institutional, office, and nonretail commercial buildings (excluding garage structures) having a total floor area over 5,000 square feet" *above the first floor* are only required to provide 1 space for each 500 square feet of total floor area (i.e. 2 spaces/1,000 sf). BCZR § 409.2.b(5) (1981 Edition).

development was clearly built in 1982. Mr. Matis opined that the reason there is no Public Services Project Number for this project was most likely a result of the fact that it was authorized without the Joint Subdivisions Planning Committee (JSPC)⁵ approval (i.e. a predecessor to the limited exemption process under the current development review and approval process which is outlined in § 32-4-106(a) of the Baltimore County Code). Mr. Matis did, however, produce a Site Plan that accurately shows the existing development. A copy of the Site Plan is attached hereto as **Exhibit 3** for your review. Unfortunately, it is barely legible. That doesn't matter though. While the Site Plan has a bunch of information which pertains to the parking for the original tenants (which apparently included a restaurant and other uses), those notes are not what is relevant for purposes of analyzing whether current BCZR § 409.1.B applies to this project. All that matters is that the project was approved prior to 1988. The applicability of BCZR § 409.1.B is established by the as-built certification on Exhibit 3. That certification indicates that the improvements were built on or before July 28, 1983. As such, this project has satisfied the condition that it has to have obtained CRG approval. CRG approval, as noted in BCZR § 409.1.B, is also intended to include approval under the preceding process, the JSPC process. Because Bill No. 26-88 was enacted in 1988, the legislative intent of the Council was meant to include any subdivision review process that predated the current development review and approval process, not simply the CRG process.⁶

As previously noted, Exhibit 3 is barely legible. In the event any future permits to change tenancy from office-general to medical office is submitted, a plan to accompany this zoning verification letter is enclosed herein which more clearly shows the existing improvements and more succinctly states the legal basis for the applicable parking requirement which has been exhaustively addressed herein. That plan is attached hereto as **Exhibit 4**.

BCZR § 409.1.B applies to this development and thus parking for all office use (medical or other) is parked at 3.3 spaces per 1,000 square feet (with office-general above the ground floor being parked at 2/1,000 sf). Please confirm and verify that the preceding statements are true as of the date of this letter by executing this document where indicated and returning same to me. Your kind attention to this matter is much appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jason T. Vettori", with a large, stylized loop at the end.

Jason T. Vettori

⁵ The CRG process preceded the current development review and approval process. The JSPC process preceded the CRT process. The JSPC process was in place prior to 1982. Between 1982 and 1992, the CRG process was in effect. *Beth Tfiloh Congregation of Baltimore City, Inc. v. Glyndon Cmty. Ass'n*, 152 Md.App. 97, 110-11 (2003).

⁶ As Judge Salmon stated in *Beth Tfiloh*, 152 Md.App. at 111, it is generally accepted that the current development review and approval process is more onerous than the CRG process or the JSPC process. Correspondingly, it stands to reason that the CRG process is correspondingly more onerous than the JSPC process.

AA-2017-0001PP

Verification Letter (7801 York Road)

December 22, 2017

Page 4

CC: W. Carl Richards

Gary Gill

James E. Matis

ACCEPTED AND APPROVED:

 12/22/17



Arnold Jablon

Deputy Administrative Officer

Director, Department of Permits, Approvals and Inspections

AA-2017-0001PP