

MEMORANDUM

DATE: December 19, 2017
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2018-108-A – Appeal Period Expired

The appeal period for the above-referenced case expired on December 18, 2017. 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 ADMIN. VARIANCE *
(4549 Fitch Avenue)
14th Election District *
5th Council District *
Vincent P., Jr. & Linda A. Muffoletto *
Petitioners *

BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2018-0108-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH") for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owners of the property, Vincent P. Muffoletto, Jr. and Linda A. Muffoletto ("Petitioners"). The Petitioners are requesting Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit a proposed two story detached garage to be located in the rear yard of the property with a height of 22 ft., and to permit the proposed garage to be located one (1) ft. from the rear lot line in lieu of the maximum height allowed 15 ft. and 2.5 ft. from the rear lot line, respectively. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

The Zoning Advisory Committee ("ZAC") comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on October 26, 2017, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

ORDER RECEIVED FOR FILING

Date 11-14-17

By [Signature]

The Petitioners have filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code ("B.C.C."). Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of § 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Although the Department of Planning did not make any recommendations related to the proposed two story detached garage's height and usage, I will impose conditions that the garage shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, or used for commercial purposes.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this 16th day of **November, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit a proposed two story detached garage to be located in the rear yard of the property with a height of 22 ft., and to permit the proposed garage to be located one (1) ft. from the rear lot line in lieu of the maximum height allowed 15 ft. and 2.5 ft. from the rear lot line, respectively, be and is hereby GRANTED.

ORDER RECEIVED FOR FILING

Date 11-16-17

By [Signature]

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. Petitioners or subsequent owners shall not convert the proposed two story detached garage into a dwelling unit or apartment. The proposed two story detached garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
3. The proposed two story detached garage shall not be used for commercial purposes.

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:dlw

ORDER RECEIVED FOR FILING

Date 11-16-17

By EW



ADMINISTRATIVE ZONING PETITION

FOR ADMINISTRATIVE VARIANCE – OR – ADMINISTRATIVE SPECIAL HEARING

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

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

Address 4549 Fitch Ave Baltimore md Currently zoned DR3.5

Deed Reference / 10 Digit Tax Account # /

Owner(s) Printed Name(s) Vincent P. Muffoletto & Linda A. Muffoletto

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

For Administrative Variances, the Affidavit on the reverse of this Petition form must be completed and notarized.

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. ADMINISTRATIVE VARIANCE from Section(s) 400.3 of BCZR to permit a proposed a two-story detached garage to be located in the rear yard of property with a height of 22 feet, and, from § 400.1 of BCZR to permit the proposed garage to be located one foot from rear lot line, in lieu of the maximum height allowed 15 feet and 2.5 feet from rear lot line, respectively.

2. ADMINISTRATIVE SPECIAL HEARING to approve a waiver pursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of work in this space: i.e., to raze, alter or construct addition to building)

of the Baltimore County Code, to the development law of Baltimore County.

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

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

Owner(s)/Petitioner(s):

Vincent P. Muffoletto Linda A. Muffoletto

Name #1 – Type or Print Name #2 – Type or Print

Vincent P. Muffoletto Linda A. Muffoletto

Signature #1 Signature #2

4549 Fitch Ave Baltimore md

Mailing Address City State

21230 410 294 0587 lindamuffoletto@

Zip Code Telephone # Email Address

hotmail.com

Attorney for Owner(s)/Petitioner(s):

/ Name- Type or Print

Signature

Mailing Address City State

Date 11-16-17

Zip Code Telephone # Email Address

Representative to be contacted:

Pete Beyratt

Name – Type or Print

Pete C. Beyratt

Signature

2021 Sue Creek Dr Balto Md

Mailing Address City State

21221 443-829-2738 pbeyratt@pyramidhome

Zip Code Telephone # Email Address

A PUBLIC HEARING having been formally demanded and/or found to be required, it is ordered by the Office of Administrative Hearings for Baltimore County, this 11 day of November, 2017 that the subject matter of this petition be set for a public hearing, advertised, and re-posted as required by the zoning regulations of Baltimore County.

Administrative Law Judge for Baltimore County

CASE NUMBER 2018-0108-A Filing Date 10/16/17 Estimated Posting Date 10/29/17 Reviewer AT

Rev 5/5/2016

2018-0108-A

Affidavit in Support of Administrative Variance

(THIS AFFIDAVIT IS NOT REQUIRED FOR AN HISTORIC ADMINISTRATIVE SPECIAL HEARING)

The undersigned hereby affirms under the penalties of perjury and upon personal knowledge to the Administrative Law Judge for Baltimore County, that the information herein given is true and correct and that the undersigned is/are competent to testify in the event that a public hearing is scheduled in the future with regard thereto. In addition, the undersigned hereby affirms that the property is not the subject of an active Code Enforcement case and that the residential property described below is owned and occupied by the undersigned.

Address: 4549 Fitch Ave Balto. Md. 21236
Print or Type Address of property City State Zip Code

Based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address. (Clearly state practical difficulty or hardship here)

We need additional storage area - PROPOSED IS
A 2-STORY 2 CAR GARAGE 36'X32'X22H.

(If additional space for the petition request or the above statement is needed, label and attach it to this Form)

Vincent Peter Muffoletto Jr.
Signature of Owner (Affiant)

VINCENT PETER MUFFOLETTO JR
Name- Print or Type

Linda A. Muffoletto
Signature of Owner (Affiant)

Linda A. Muffoletto
Name- Print or Type

The following information is to be completed by a Notary Public of the State of Maryland

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 12 day of October 2017, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

Print name(s) here: Vincent Peter Muffoletto and Linda Muffoletto

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notaries Seal

James E. Que
Notary Public

My Commission Expires

Affidavit in Support of Administrative Variance

(THIS AFFIDAVIT IS NOT REQUIRED FOR AN HISTORIC ADMINISTRATIVE SPECIAL HEARING)

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Print or Type Address of property City State Zip Code

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PROPOSED IS A 2-STORY, 2 CAR GARAGE 36' X 32' X 22'H

(If additional space for the petition request or the above statement is needed, label and attach it to this Form)

Vincent Peter Muffoletto
Signature of Owner (Affiant)

VINCENT PETER MUFFOLETTO
Name- Print or Type

Linda A. Muffoletto
Signature of Owner (Affiant)

Linda A. Muffoletto
Name- Print or Type

The following information is to be completed by a Notary Public of the State of Maryland

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 12 day of October 2017, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

Print name(s) here: Vincent Peter Muffoletto and Linda Muffoletto
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notaries Seal

[Signature]
Notary Public
My Commission Expires 9/9/20



ADMINISTRATIVE ZONING PETITION

FOR ADMINISTRATIVE VARIANCE – OR – ADMINISTRATIVE SPECIAL HEARING

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

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

Address 4549 Fitch Ave Baltimore md Currently zoned DR3.5
 Deed Reference 11976 / 458 10 Digit Tax Account # 1411 047425
 Owner(s) Printed Name(s) Vincent P. Muffoletto & Linda A. Muffoletto

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

For Administrative Variances, the Affidavit on the reverse of this Petition form must be completed and notarized.

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. ADMINISTRATIVE VARIANCE from Section(s) 400.3 of BCZR to permit a proposed a two-story detached garage to be located in the rear yard of property with a height of 22 feet, and, from § 400.1 of BCZR to permit the proposed garage to be located one foot from rear lot line, in lieu of the maximum height allowed 15 feet and 2.5 feet from rear lot line, respectively.
2. ADMINISTRATIVE SPECIAL HEARING to approve a waiver pursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of work in this space: i.e., to raze, alter or construct addition to building)

of the Baltimore County Code, to the development law of Baltimore County.

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

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

Owner(s)/Petitioner(s):

Vincent P. Muffoletto Jr. / Linda A. Muffoletto
 Name #1 – Type or Print Name #2 – Type or Print
Vincent P. Muffoletto Jr. / Linda A. Muffoletto
 Signature #1 Signature #2
4549 Fitch Ave Baltimore md
 Mailing Address City State
21230 (410) 294-0587 / lindamuffoletto @
 Zip Code Telephone # Email Address hotmail.com

Attorney for Owner(s)/Petitioner(s):

Name- Type or Print
 Signature
 Mailing Address City State
 Zip Code Telephone # Email Address

Representative to be contacted:

Pete Beyratt
 Name – Type or Print
Peter C. Beyratt
 Signature
2021 Sue Creek Dr Balto. Md
 Mailing Address City State
21221 / 443-829-2738 / pbeyratt@pyramidhome.com
 Zip Code Telephone # Email Address

A PUBLIC HEARING having been formally demanded and/or found to be required, it is ordered by the Office of Administrative Hearings for Baltimore County, this 11-16-17 day of Nov, that the subject matter of this petition be set for a public hearing, advertised, and re-posted as required by the zoning regulations of Baltimore County.

Administrative Law Judge for Baltimore County

CASE NUMBER 2018-0108-A Filing Date 10/16/17 Estimated Posting Date 10/29/17 Reviewer AT

-11/13/17

Rev 5/5/2016

Zoning Petition Property Description:

Zoning property description for 4549 Fitch Ave.

Beginning at the center of Fitch Ave., which has a width of 22 feet and is running South 21 degrees 15 minutes West, between Perry Rd. and Bennerton Drive.

Meets & Bounds property description of 4549 Fitch Ave.

Beginning at the centerline of Fitch Ave. following a line South 22 degrees West 218.4 feet, following the course of South 72 degrees 14 minutes East 100 feet, and then North 22 degrees East 218.4 feet back to the center of Fitch Avenue, and then North 72 degrees 14 minutes West for 100 feet to the place of beginning as recorded in Deed Liber 155, folio 190, containing 21,800 square feet. Located in Election District 14.

2018-0108-A

CERTIFICATE OF POSTING

2017-0108-X

RE: Case No.: _____

Petitioner/Developer: _____

**David Williams Mathews
Bluefin Origination 2, LLC**

January 9, 2018

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: _____

20450 Middletown Road

December 20, 2017

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



Sincerely,

December 20, 2017

(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)

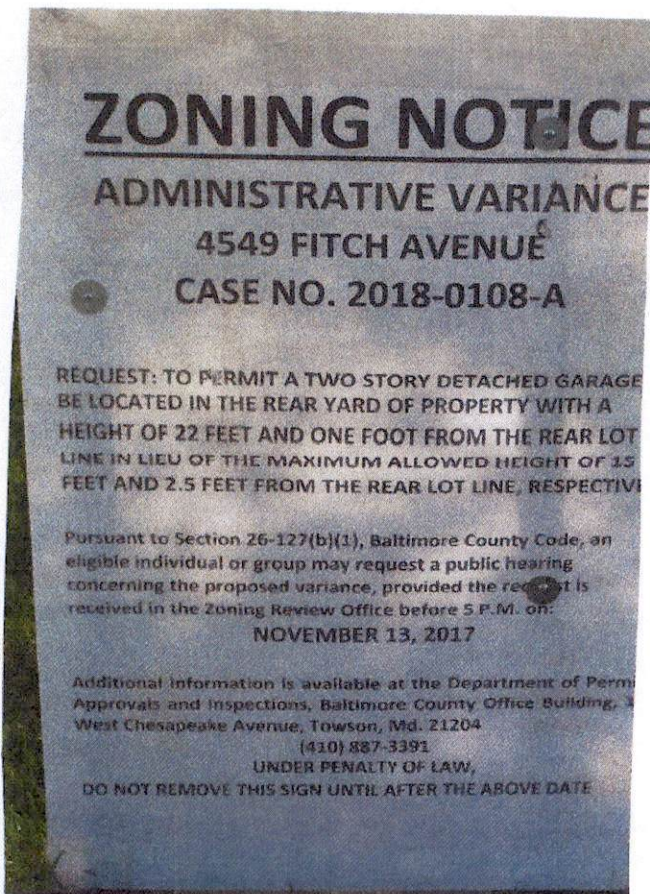
CERTIFICATE OF POSTING

Date: OCTOBER 26, 2017

RE: Project Name: 4549 FITCH AVENUE
Case Number /PAI Number: 2018-0108-A
Petitioner/Developer: VINCENT MUFFOLETTO
Date of Hearing/Closing: NOVEMBER 13, 2017

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 4549 FITCH AVENUE

The sign(s) were posted on OCTOBER 26, 2017
(Month, Day, Year)



David Billingsley
(Signature of Sign Poster)

DAVID W. BILLINGSLEY
(Printed Name of Sign Poster)

601 CHARWOOD COURT
(Street Address of Sign Poster)

EDGEWOOD, MD. 21040
(City, State, Zip Code of Sign Poster)

(410) 679-8719
(Telephone Number of Sign Poster)

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2018- 0108 - A Address 4549 Fitch Avenue

Contact Person: Aaron Tsui Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 10/16/17 Posting Date: 10/29/17 Closing Date: 11/13/17

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification, usually within 10 days of the closing date if all County agencies' comments are received, as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 2018- 0108 -A Address 4549 Fitch Avenue

Petitioner's Name: Vincent Muffoletto Telephone 410-294-0587

Posting Date: 10/29/17 Closing Date: 11/13/2017

Wording for Sign: To permit a proposed a two-story detached garage to be located in the rear yard of property with a height of 22 feet and one foot from rear lot line in lieu of the maximum height allowed 15 feet and 2.5 feet from rear lot line, respectively.

Revised 7/10/17

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

NO 159298

Date: 10/16/17

Fund	Dept.	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				\$ 75 -
Total:								\$ 75 -

Rec From: MUFFOLETTO
For: 4549 FITCH AVE
2018-0108-A

DISTRIBUTION

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

PAID RECEIPT

BUSINESS ACTUAL TIME JAN
10/17/2017 10/16/2017 10:24:00 3
REC NO 03 MALKIN CAN
RECEIPT # 749534 10/16/2017 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO 159298
Receipt Tot \$75.00
\$75.00 CA
Baltimore County, Maryland

CASHIER'S
VALIDATION



KEVIN KAMENETZ
County Executive

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

November 14, 2017

Vincent P & Linda A Muffoletto
4549 Fitch Avenue
Baltimore MD 21236

RE: Case Number: 2018-0108 A, Address: 4549 Fitch Avenue

Dear Mr. & Ms. Muffoletto:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on October 16, 2017. 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 dark ink, appearing to read "W. Carl Richards, Jr.", is written over a horizontal line.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Peter Beyrodt, 2021 Sue Creek Drive, Baltimore MD 21221

MDOT
MARYLAND DEPARTMENT
OF TRANSPORTATION
STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Pete K. Rahn
Secretary
Gregory Slater
Administrator

Date: 10/23/17

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

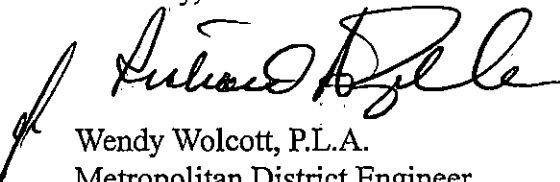
Dear Ms. Lewis:

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. *2018-0108A -*

*Administrative Variance
Vincent P. & Linda A. Muffoletto.
4549 Fitch 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,



Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections
MS
FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

DATE: November 1, 2017

SUBJECT: Zoning Advisory Committee Meeting
For October 30, 2017
Item No. 2018-0108-A, 0110-SPHA, 0111-SPHXA and 0112-SPH

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

*

*

*

*

*

VKD: efc
cc: file

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: October 30, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0108-A
Address 4549 Fitch Avenue
(Muffoletto Property)

Zoning Advisory Committee Meeting of **October 30, 2017**.

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

Reviewer: Steve Ford Date: 10-30-2017

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 14 Account Number - 1411047425			
Owner Information					
Owner Name:		MUFFOLETTO VINCENT P JR MUFFOLETTO LINDA A		Use:	RESIDENTIAL
Mailing Address:		4549 FITCH AVE BALTIMORE MD 21236-3911		Principal Residence:	YES
				Deed Reference:	/11976/ 00458
Location & Structure Information					
Premises Address:		4549 FITCH AVE 0-0000		Legal Description: 4549 FITCH AVE SS 500FT W OF RIDGE RD	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:
0081	0012	0935		0000	
					Block:
					Lot:
					Assessment Year:
					2018
					Plat No:
					Plat Ref:
Special Tax Areas:			Town:		
			NONE		
			Ad Valorem:		
			Tax Class:		
Primary Structure Built		Above Grade Living Area		Finished Basement Area	
1920		1,659 SF			
				Property Land Area	
				21,800 SF	
				County Use	
				04	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
2	YES	STANDARD UNIT	SIDING	2 full	1 Detached
Value Information					
		Base Value	Value	Phase-in Assessments	
			As of	As of	As of
			01/01/2015	07/01/2017	07/01/2018
Land:		106,700	106,700		
Improvements		185,200	185,200		
Total:		291,900	291,900	291,900	
Preferential Land:		0			
Transfer Information					
Seller: KLEIN EDWARD P		Date: 01/07/1997		Price: \$140,000	
Type: ARMS LENGTH IMPROVED		Deed1: /11976/ 00458		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Exemption Information					
Partial Exempt Assessments:		Class	07/01/2017		07/01/2018
County:		000	0.00		
State:		000	0.00		
Municipal:		000	0.00		0.00
Tax Exempt:		Special Tax Recapture:			
Exempt Class:		NONE			
Homestead Application Information					
Homestead Application Status: Approved 08/18/2014					
Homeowners' Tax Credit Application Information					
Homeowners' Tax Credit Application Status: No Application				Date:	

2018-0108-A

June 25, 2021

Adam M. Rosenblatt

T 410.494.6271

F 410.821.0147

amrosenblatt@Venable.com

Via Email and Hand Delivery

Hon. Paul M. Mayhew
Office of Administrative Hearings
Jefferson Building, first floor
105 W. Chesapeake Avenue
Towson, MD 21204

Re: Case No. 2017-108-X
20450 Middletown Road
Request for Extension of Time

Judge Mayhew:

This firm represents the solar company developing a ground mounted solar facility on the above-referenced property located in the Freeland area of Baltimore County (the "Property"). On April 25, 2019, we successfully obtained a special exception in Case No. 2017-108-X to develop a portion of the Property with a solar facility. The Order is attached hereto for your convenience.

The Order did not specify a time by which the special exception must be utilized to prevent it from expiring. Pursuant to Section 502.3 of the Baltimore County Zoning Regulations ("BCZR"), when an order does not specify a time for expiration, a special exception which has not been utilized within a period of 2 years from the date of the final order shall thereafter be void. I am writing: (1) to confirm that this special exception is still valid due to an Executive Order passed by the Governor of Maryland, and (2) to request an extension of time of 1 year for the owner to utilize, and therefore vest, the special exception.

To say that the events of the past year have been unprecedented is an understatement. As you can imagine, the owner had no concept when we obtained his special exception that the world would essentially shut down a year after the relief was granted. Had we anticipated the events of 2020, it would have been easy to request an extension of time to utilize this special exception for a period of up to 5 years from the date of the original order. However, there were no signs of the impending global crisis, so we did not make any request at our hearing with respect to timing.

Fortunately, Governor Hogan took action through Executive Order to extend the time for utilization of all licenses, permits, and other authorizations issued by local governments such as Baltimore County. Order No. 21-03-09-03, which is attached hereto for your convenience,

June 25, 2021

Page 2

extends the time for any such authorizations that would have expired on or after March 12, 2020 to June 30, 2021. In this case, the special exception, if not utilized, would have expired on April 25, 2021 two years from the date of the Order granting the relief. Governor Hogan's Executive Order extends the date to utilize the special exception until June 30, 2021.

While the owner is diligently working to utilize the special exception, we are respectfully requesting an extension of time of a period of one year to ensure that our client can finalize the approvals needed to begin site work and formally utilize the special exception. This request is consistent with Section 502.3 of the BCZR, which allows the Administrative Law Judge to issue one or more extensions of time to utilize a special exception, provided the total time is not extended for a period of more than 5 years from the date of the final order. Here, extending the time for utilization to June 30, 2022 would provide a total of approximately 3 years from the date of the final order, well within the time provided in BCZR Section 502.3.

If you are in agreement that the time for utilization of the special exception in Case No. 2017-108-X should be extended until June 30, 2022, we would greatly appreciate your countersigning this letter so that it can be provided as needed during the owner's permitting process. As suggested, we contacted the Office of People's Counsel, who, through their Deputy, consented to this requested extension.

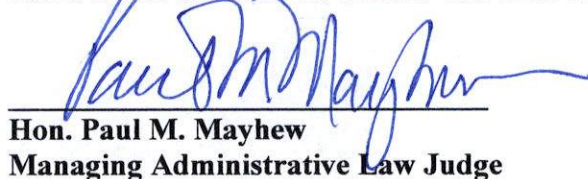
Thank you for your time and consideration.

Sincerely



Adam M. Rosenblatt

**AGREED AND ACCEPTED. THE TIME FOR UTILIZATION OF THE SPECIAL
EXEPTION IN CASE NO. 2017-108-X IS HEREBY EXTENDED UNTIL JUNE 30, 2022.**


Hon. Paul M. Mayhew
Managing Administrative Law Judge

Donna Mignon

From: Paul Mayhew
Sent: Wednesday, June 30, 2021 10:26 AM
To: Donna Mignon
Subject: FW: Foxhall - Special Exception Extension Request
Attachments: Letter Requesting Extension(52682000.1).pdf; Hogan Permit License Extensions.pdf; BOA Opinion.pdf

Paul M. Mayhew
Managing Administrative Law Judge
105 West Chesapeake Ave., Suite 103
Towson, Maryland 21204
410-887-3868
pmayhew@baltimorecountymd.gov

From: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>
Sent: Monday, June 28, 2021 11:33 AM
To: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Carole Demilio <cdemilio@baltimorecountymd.gov>
Subject: FW: Foxhall - Special Exception Extension Request

CAUTION: This message from AMRosenblatt@venable.com originated from a non-Baltimore County Government or non-BCPL email system. Hover over any links before clicking and use caution opening attachments.

Hi Judge,

I am attaching another request for a 1 year extension to use a special exception. Ms. Demilio is copied and I have discussed this with her as well.

Thank you very much.

Adam M. Rosenblatt, Esq. | Venable LLP
t 410.494.6271 | f 410.821.0147 | m 410.294.9430
210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204

AMRosenblatt@Venable.com | www.Venable.com

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The State of Maryland

Executive Department

ORDER OF THE GOVERNOR OF THE STATE OF MARYLAND

No. 21-03-09-03

AMENDING AND RESTATING THE ORDER OF JUNE 19, 2020, EXTENDING CERTAIN LICENSES, PERMITS, REGISTRATIONS, AND OTHER GOVERNMENTAL AUTHORIZATIONS, AND AUTHORIZING SUSPENSION OF LEGAL TIME REQUIREMENTS

- WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, April 10, May 6, June 3, July 1, July 31, August 10, September 8, October 6, October 29, November 25, and December 23, 2020, and January 21 and February 19, 2021, to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;
- WHEREAS, COVID-19, a respiratory disease that spreads easily from person to person and may result in serious illness or death, is a public health catastrophe and has been confirmed throughout Maryland;
- WHEREAS, The U.S. Centers for Disease Control and Prevention ("CDC") has advised employers, such as the State of Maryland, to prepare for increased employee absence and alternative working arrangements (such as teleworking) in response to an outbreak of COVID-19;
- WHEREAS, Increased employee absence and alternative working arrangements within the State of Maryland's workforce may impact the State's ability to timely process renewals of expiring permits, licenses, registrations, and other governmental authorizations;
- WHEREAS, The CDC and the Maryland Department of Health ("MDH") recommend social distancing to reduce the spread of COVID-19;
- WHEREAS, Renewal of expiring permits, licenses, registrations, and other governmental authorizations often requires the public to enter public buildings and interact with State employees and other persons, which may be contrary to prudent social distancing; and

WHEREAS, To reduce the threat to human health caused by transmission of COVID-19 in Maryland, and to protect and save lives, it is necessary and reasonable that permits, licenses, registrations, and other governmental authorizations be extended until after the state of emergency and catastrophic health emergency has ended;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

- I. Amendment and Restatement. The Order of the Governor of the State of Maryland, dated March 12, 2020, entitled “Extending Certain Licenses, Permits, Registrations, and Other Government Authorizations, and Authorizing Suspension of Legal Time Requirements” (the “Original Order”), as amended and restated on June 19, 2020 by Order Number 20-06-19-01 (together with the Original Order, the “Prior Versions”), is further amended and restated in its entirety as set forth herein.
- II. Extension of Certain Licenses, Permits, Registrations and Authorizations.
 - a. This Order applies to all licenses, permits, registrations, and other authorizations issued by the State of Maryland, any agency of the State of Maryland, or any political subdivision of the State of Maryland, including, without limitation, driver’s licenses, vehicle registrations, and professional licenses (collectively, the “Covered Authorizations”), that would otherwise:
 - i. expire prior to June 30, 2021 during the state of emergency and catastrophic health emergency; and
 - ii. be renewable during the state of emergency and catastrophic health emergency under applicable laws and regulations.
 - b. The expiration date of each Covered Authorization (other than Covered Authorizations excluded pursuant to paragraph II.c below) is hereby extended to June 30, 2021.
 - c. The head of each unit of State or local government may opt to exclude any Covered Authorization from paragraph II.b above; provided, that the unit head shall provide reasonable public notice of each exclusion pursuant to this paragraph II.c.

III. Suspension of Legal Time Requirements.

- a. Paragraph III.a of the Prior Versions of this Order, which authorized the head of each unit of State or local government to suspend the effect of any legal or procedural deadline, due date, time of default, time expiration, period of time, or other time of an act or event described within any State or local statute, rule, or regulation (each, a "Timeframe Suspension"), is no longer in effect.
- b. Notwithstanding anything herein to the contrary, each Timeframe Suspension in effect immediately prior to this Order shall continue in effect until the earlier of (i) the date the applicable unit head elects to end the Timeframe Suspension, or (ii) June 30, 2021. The applicable unit head shall provide reasonable public notice regarding the end of each Timeframe Suspension.
- c. For avoidance of doubt, no new Timeframe Suspensions may be made on or after the date of this Order.

IV. Virtual Hearings and Meetings.

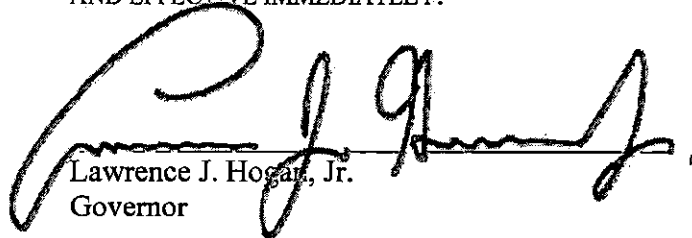
- a. To the extent any statute or rule or regulation of an executive branch agency of the State or a political subdivision requires a hearing or meeting to be conducted in-person or at a particular physical location, such statute, rule, or regulation is suspended to the extent necessary to permit the applicable unit of State or local government to elect to conduct such hearing or meeting, in whole or in part, using videoconferencing, teleconferencing, or other communication technology ("Virtual Meeting Technology"); *provided* that for each such hearing or meeting that is conducted, in whole or in part, using Virtual Meeting Technology, the applicable unit shall:
 - i. give notice of, and conduct such hearing or meeting in a manner that satisfies the due process requirements and/or other relevant constitutional requirements applicable to the hearing or meeting, if any; and
 - ii. conduct the hearing or meeting in a manner that allows for an exchange of information among the participants that is substantially equivalent to the exchange of information that would reasonably be expected to occur if the hearing or meeting was conducted in the manner prescribed by the applicable statute, rule, or regulation.
- b. For avoidance of doubt, nothing in this Order:

- i. requires any unit of State or local government to conduct a hearing or meeting using Virtual Meeting Technology; or
- ii. relieves any unit of State or local government of its obligations to comply with the Open Meetings Act.

V. General Provisions.

- a. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this Order is hereby suspended to the extent of the inconsistency.
- b. The underlined paragraph headings in this Order are for convenience of reference only and shall not affect the interpretation of this Order.
- c. If any provision of this Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Order are severable.

ISSUED UNDER MY HAND THIS 9TH DAY OF MARCH, 2021,
AND EFFECTIVE IMMEDIATELY.



Lawrence J. Hogan, Jr.
Governor

IN THE MATTER OF
DAVID WILLIAM MATHEWS - Legal Owner
BLUEFIN ORIGINATION 2, LLC - Lessee
20450 Middletown Road
Freeland, MD 21053

RE: Petition for a Solar Facility

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 17-108-X

* * * * *

OPINION

This case comes before the Board on appeal of the final decision of the Administrative Law Judge ("ALJ") in which the ALJ granted a Petition for a Solar Facility by Opinion and Order dated January 22, 2018. Protestants, Freeland Legacy Alliance, Inc., Richard and Rhonda Ryan, Jeanne Bowman, Scott Dykes, Beverly and Salvatore Scavone, Theresa and Christopher Norton, Kathleen and Christopher Marciniak, Christine Pignateri, Laverne Poe, Diana Householder, Betty Lou Holmes, Therese Sassler, Paul Hoeckel, Beverly Kram, Rhonda and William Rollins, Ed and Debra Myslinski, Matthew Myslinski, Michael Myslinski, Lynne Jones, Debbie Frank, Patricia Trump, Kathleen Pieper, Lisa Arthur, and Robin Arrington (collectively the "Protestants") filed an appeal.

A *de novo* hearing was held before this Board on July 12, October 16, and October 25, 2018. The Petitioners, David William Mathews and Bluefin Origination 2, LLC (the "Petitioners") were represented by Christopher D. Mudd, Esquire, Patricia A. Malone, Esquire and Venable, LLP. The Protestants were represented by H. Barnes Mowell, Esquire. People's Counsel also participated in the hearing. A public deliberation was held on January 24, 2019.

Factual Background

The subject property is located at 20450 Middletown Road and consists of 71 acres +/- on the south side of Middletown Road, east of Flintstone Road (the "Property"). It is split-zoned

In the matter of: David Mathews - Legal Owner
Bluefin Origination 2, LLC - Lessee
Case No: 17-108-X

RC2, RC4, RC5 and RC8. Middletown Road is a designated scenic route. The Property was previously a farm but no farming activities presently take place there. The Petitioners are proposing to use 16.71 acres for a solar facility on a cleared area of the Property pursuant to Baltimore County Zoning Regulations ("BCZR"), Article 4F.¹ The solar facility will generate 1.9 Mw of AC electricity. The remaining acreage of the Property (35.7 acres+/-) is wooded and is subject to a Forest Buffer Easement and Forest Conservation Easement recorded in Land Records at Liber 12794, folio 716. (Pet. Ex. 2).

Solar Facilities Law

On July 17, 2017, the County Council enacted Bill 37-17 permitting solar facilities by special exception in certain zones, including RC2, RC4, RC5, and RC8. BCZR, §4F-102.A. The County Council imposed limits on the number of facilities per councilmanic district (*i.e.* 10 per district), and on the maximum area for each facility (*i.e.* the amount of acreage that produces no more than 2 megawatts alternating current (AC) of electricity). (BCZR, §4F-102.B.1 and 2.)

In addition to the special exception factors, there are 10 requirements set forth in BCZR, §4F-104.A:

1. The land on which a solar facility is proposed may not be encumbered by an agricultural preservation easement, an environmental preservation easement, or a rural legacy easement.
2. The land on which a solar facility is proposed may not be located in a Baltimore County historic district or on a property that is listed on the Baltimore County Final Landmarks List.
3. The portion of land on which a solar facility is proposed may not be in a forest conservation easement, or be in a designated conservancy area in an RC 4 or RC 6 Zone.
4. Above ground components of the solar facility, including solar collector panels, inverters, and similar equipment, must be set back a minimum of 50 feet from the tract boundary. This setback

¹ The Petition filed before ALJ requested an area of 18.73 acres for the solar facility.

does not apply to the installation of the associated landscaping, security fencing, wiring, or power lines.

5. A structure may not exceed 20 feet in height.

6. A landscaping buffer shall be provided around the perimeter of any portion of a solar facility that is visible from an adjacent residentially used property or a public street. Screening of state and local scenic routes and scenic views is required in accordance with the Baltimore County Landscape Manual.

7. Security fencing shall be provided between the landscaping buffer and the solar facility.

8. A solar collector panel or combination of solar collector panels shall be designed and located in an arrangement that minimizes glare or reflection onto adjacent properties and adjacent roadways, and does not interfere with traffic or create a safety hazard.

9. A petitioner shall comply with the plan requirements of § 33-3-108 of the County Code.

10. In granting a special exception, the Administrative Law Judge, or Board of Appeals on appeal, may impose conditions or restrictions on the solar facility use as necessary to protect the environment and scenic views, and to lessen the impact of the facility on the health, safety, and general welfare of surrounding residential properties and communities, taking into account such factors as the topography of adjacent land, the presence of natural forest buffers, and proximity of streams and wetlands.

There are also provisions regarding maintenance of the facilities:

§ 4F-106. - Maintenance.

A. All parties having a lease or ownership interest in a solar facility are responsible for the maintenance of the facility.

B. Maintenance shall include painting, structural repairs, landscape buffers and vegetation under and around solar panel structures, and integrity of security measures. Access to the facility shall be maintained in a manner acceptable to the Fire Department. The owner, operator, or lessee are responsible for the cost of maintaining the facility and any access roads.

C. Appropriate vegetation is permitted under and around the solar collector panels, and the tract may be used for accessory agricultural purposes, including grazing of livestock, apiculture, and similar uses.

D. The provisions on this section shall be enforced in accordance with Article 3, Title 6 of the County Code.

A solar facility which has reached the end of its useful life must be removed in accordance with

§4F-107 which states:

§ 4F-107. - Abandonment; removal.

- A. A solar facility that has reached the end of its useful life or has been abandoned shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the County by certified mail of the proposed date of discontinued operations and plans for removal.
- B. Removal shall consist of the:
 - 1. Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site;
 - 2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
 - 3. Stabilization or revegetation of the site as necessary to minimize erosion.
- C. If the owner or operator fails to remove the facility within 150 days of abandonment, the County retains the right to enter and remove the facility. As a condition of special exception approval, the petitioner and landowner agree to allow entry to remove an abandoned facility.
- D. The Code Official may issue a citation to the owner or operator for removal of a solar facility if:
 - 1. The Code Official determines that the solar facility has not been in actual and continuous use for 12 consecutive months;
 - 2. The owner or operator failed to correct an unsafe or hazardous condition or failed to maintain the solar facility under Section 4F-106 within the time prescribed in a correction notice issued by the Code Official; or
 - 3. The owner or operator has failed to remove the solar facility in accordance with Paragraph C.

In order to grant a request for a special exception under BCZR, §502.1, 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;
- 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;
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
- 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.

In *Schultz v. Pritts*, 291 Md. 1, 22-23, 432 A.2d at 1331 (1981), the Court of Appeals held that “the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and therefore should be denied, is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.”

The Court of Appeals in *People's Counsel for Baltimore County v. Loyola College in Md.* 406 Md. 54, 106, 956 A.2d 166 (2008) upheld that longstanding *Shultz* analysis, explaining that a special exception use has “certain [inherent] adverse effects...[which] are likely to occur”. In its analysis, the *Loyola* Court observed that “[t]he special exception adds flexibility to a comprehensive legislative zoning scheme by serving as a ‘middle ground’ between permitted use and prohibited uses in a particular zone.” *Id.*, 406 Md. at 71, 956 A.2d at 176 (2008).

The *Schultz* and *Loyola* Courts, and more recently in *Attar v. DMS Tollgate, LLC*, 451 Md. 272, 285 (2017) have expressly recognized that “[a] special exception is presumed to be in

the interest of the general welfare, and therefore a special exception enjoys a presumption of validity.” (See also *Loyola*, 406 Md. at 84, 88; 105 *Schultz*, 291 Md. at 11). Based on this standard, once an applicant puts on its *prima facie* evidence in support of a special exception, the opponents must then “set forth sufficient evidence to indicate that the proposed [use] would have any adverse effects above and beyond those inherently associated with such use under the *Schultz* standard.” *Attar*, 451 Md. at 287. (See *Montgomery County v. Butler*, 417 Md.271, 276-77 (2010) (opponent must show “non-inherent adverse effects” to “undercut the presumption of compatibility enjoyed by a proposed special exception use”). (See also, *Clarksville Residents Against Mortuary Defense Fund, Inc. v. Donaldson Properties*, 453 Md. 516, 543 (2017) (“there is a presumption that the [special exception] use is in the interest of the general welfare, a presumption that may only be overcome by probative evidence of unique adverse effects”).

Motions to Dismiss

1. Timeliness of Petition Filing.

The Protestants argued in their Post Hearing Memorandum that the Petition should be dismissed because it was filed on October 17, 2016 and Bill 37-17 applied retroactively to petitions filed after October 18, 2016. However, it is undisputed that an Amended Petition was filed after October 18, 2016. As a result, we find that the Amended Petition satisfies the October 18, 2016 filing date and the Motion to Dismiss is denied.

2. Failure to File a Cross-appeal.

In his Post Hearing Memorandum, People’s Counsel argues that Petitioner failed to appeal the ALJ’s Order dated January 22, 2018, which conditioned the approval of the special exception on the submittal of a redlined plan with a special exception area of 13 acres. Protestants filed a Motion for Reconsideration of the Order and in response, Petitioner submitted a redlined

plan showing a special exception area of 12.99 acres +/- . Thereafter, the Protestants appealed both the Opinion and Order, and the Order denying the Motion for Reconsideration.

All issues appealed are heard by this Board *de novo*. (*Halle Co. v. Crofton Civic Ass'n*, 339 Md. 131, 141-45 (1995). *Daihl v. County Board of Appeal*, 258 Md.157, 161-64 (1970)). The Protestants did not exclude any specific issues in their appeal. Accordingly, the entirety of the ALJ's Opinion and Order was heard before this Board including the size of the special exception area, and a cross appeal was not required.

3. Plan Compliance with BCC, §33-3-108(c).

At the close of the Petitioner's case in chief, Protestants, through counsel, orally moved to dismiss the case on the basis that Article 4F-104.A.9 requires the Site Plan to comply with BCC, §33-3-108, but the Site Plan failed to list some of the items require in Subsection 33-3-108(c)1-18. We deny this Motion to Dismiss for the reasons set forth below.

Evidence

The Petitioner had several witnesses who testified on its behalf in the merits of the case:

1. Parker Sloan – Cypress Creek.

Parker Sloan is the zoning and outreach manager for Cypress Creek Renewables located in Ashville, NC. (Pet. Ex. 1). Bluefin Origination 2, LLC is a wholly-owned subsidiary of Cypress Creek Renewables. Cypress Creek owns and operates 250 solar facility projects nationwide.

Mr. Sloan works with local governments and communities to advocate for the construction of solar facilities. He explained that the facility proposed to be constructed in this case is ground-mounted with steel poles and the solar panels rotate on a system which tracks the sun. The solar panels will be installed on aluminum racks in a north/south direction to maximize

collection of the sun's rays which are then converted into energy through an inverter. The energy from the inverter is then directed to a grid connected to the existing distribution power lines along Middletown Rd. Mr. Sloan testified that this facility will generate 1.9 megawatts of alternating current (AC).

Mr. Sloan identified three (3) main criteria for prospective, solar facility properties: (1) existing power lines with a capacity for connection to the solar panel facility; (2) flat, cleared land; and (3) a property owner who is willing to enter into a long term lease.

A site plan for the proposed facility showed that the solar panel array will encompass 13 acres (the "Site Plan"). (Pet. Ex. 2). The requested special exception area would consume 16.71 acres. Mr. Sloan explained that the minimum spacing between the rows of panels must be between 12-14 ft. If that spacing were further narrowed, it would create shading and reduced the amount of electricity produced.

The facility will be placed on the highest point on the Property. The height of the structure is 9 ft. The maximum height of the panels when tilted toward the sun will not exceed 11ft. The motor, connected to underground wiring, will rotate the solar panels. The sound of the motor equates to a hairdryer on low speed. Additionally, 2 or 3 utility poles will be erected near the existing power lines along Middletown Rd. to connect the electricity generated from the new facility to the existing transformer.

A Schematic Landscape Plan was prepared and accompanied the Petition for Special Exception. (Pet. Exs. 6, 7). The installation of the solar facility in this case will not require grading or clearing of land as that area has already been cleared. A security fence (without barbed wire), measuring 7 ft. in height will surround the Property. A row of evergreen trees exists along Middletown Rd. No trees or existing vegetation will be removed; however, additional deciduous

trees will be planted in accordance with the direction of the Baltimore County Landscape Architect.

Approximately 8 times per year, maintenance of the solar panel facility will take place including lawn mowing. A water truck will be used to clean the panels. At the end of the lease term, the solar facility will be removed and the holes filled in, restoring the ground.

As to the special exception factors, Mr. Sloan testified that it will not be detrimental to the health, safety or general welfare of the locality. He explained that any aesthetic complaints are inherent in solar facilities. (BCZR, §502.1.A). There is little to no noise generated day or night. The movement of the tracking system is very slow. Existing deciduous trees and those to be planted, will block the view of the facility from Middletown Rd.

Mr. Sloan further stated that the facility will not create congestion in the roads, streets or alleys as there is minimal traffic generated by this use, other than periodic maintenance. (BCZR, §502.1.B). Additionally, the facility will not create a fire hazard or other danger. (BCZR, §502.1.C). There are no flammable materials contained within the parts of the solar facility. The closest fire station is on Middletown Rd. (Pet. Ex. 3A). The security fence will keep out trespassers and animals. An alarm system on the facility is monitored remotely by the Petitioner such that, if the facility is not operating properly, an alarm will sound and it can be shut down.

Because this use does not generate traffic or attract people, there is no overcrowding of the land or undue concentration of population. (BCZR, §502.1.D). Likewise, Mr. Sloan confirmed that there is no impact from this use on adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. (BCZR, §502.1.E).

Finally, Mr. Sloan testified that the facility will not be detrimental to the environmental or natural resources of the Property or vicinity, including forests, streams, wetlands aquifers and floodplains. (BCZR, §502.1.I). The solar facility will not be located in the designated and recorded forest conservation area or forest buffers. The special exception area is the cleared area which was previously used for farming. There is no permanent disturbance of the soil because, after removal of the poles supporting the solar facility, the land may be used for farming or other purposes.

Mr. Sloan stated that there is nothing unique about this Property or this solar facility as compared to other similarly situated properties within the RC zones. He said that this particular location does not cause any adverse impacts which are not already inherent in solar facilities.

2. David Martin – Landscape Architect.

David Martin, a landscape architect with Daft, McCune and Walker, was admitted as an expert in the area of landscape architecture and land planning. (Pet. Ex. 4). Mr. Martin prepared a Schematic Landscape Plan based on information he obtained from the Baltimore County GIS System. (Pet. Exs. 6 and 7). Cypress Creek provided Mr. Martin with the layout of the solar facility. The metes and bound description of the 16.71 acre special exception area was also provided to him. (Pet. Ex. 5).

Mr. Martin testified that he superimposed onto the Landscape Plan, the Minor Subdivision Plan which was approved by the County on May 24, 2000. (Pet. Ex. 2). The Minor Subdivision Plan delineated the wetlands and created the forest buffer easement and forest conservation easement. Mr. Martin explained that the terrain slopes and drains from the highest point at Middletown Rd. to the farm pond.

Mr. Martin testified that the proposed solar facility met each of the requirements set forth in BCZR, §4F-104.A. First, the Property is not encumbered by an agricultural preservation easement, environmental easement or rural legacy easement. (§4F-104.A.1). Second, the Property is not located in a Baltimore County historic district or on the Baltimore County Final Landmarks List. (§4F-104.A.2). Third, the solar facility proposed will not be located in the forest conservation easement or in a designated conservancy area in an RC4 or RC6 zone. (Pet. Exs. 2, 6 and 7). (§4F-104.A.3). Fourth, the aboveground components of the solar facility, including the solar collector panels, inverters and similar equipment will be set back a minimum of 50 feet from the tract boundary. (Pet. Exs. 2, 6 and 7). (§4F-104.A.4). Fifth, the solar facility will not exceed 20' in height. (§4F-104.A.5).

With regard to the landscape buffer requirement, photographs of the existing evergreen trees were provided. (Pet. Ex. 11 a -v). He opined that these existing evergreen trees along Middletown Rd. provide a natural and effective screen of the facility. Baltimore County representative, Wally Lippencott, reviewed the Landscape Plan and the photos of the Property. Mr. Lippencott requested that, along Middletown Rd., the Petitioner plant a sub-canopy of deciduous trees, such as maples and oaks. Mr. Martin explained that the screening of Middletown Rd. will be in compliance with that required for scenic routes and views in accordance with the Baltimore County Landscape Manual. (§4F-104.A.6). With regard to the security fence, Mr. Martin reiterated Mr. Sloan's testimony that a 7 ft. security fence with no barbed wire will be installed around the perimeter of the Property. (§4F-104.A.7).

Mr. Martin also opined that the Site Plan complied with the plan requirements in BCC, §33-3-108. (§4F-104.A.9). Mr. Martin explained that, in his experience, the Petitioner must first obtain special exception relief before the Department of Environmental Protection and

Sustainability ("EPS") will review the plan for the requirements listed in Section 33-3-108(c). The Zoning Advisory Committee ("ZAC") comments recommended approval of the Site Plan. (Pet. Ex. 12).

Mr. Martin also testified about the remaining special exceptions factors and in doing so, he opined that the solar facility use meets all of the factors. He described this use as "benign" in that it is not permanent. Said another way, it was Mr. Martin's opinion that there were no adverse effects above and beyond those which are inherent with solar facility use.

As to BCZR, §502.1.F, given that the maximum height of the solar panels when tilted toward the sun is 11 ft., and the facility will be installed in the clear field of the Property away from neighboring residences as shown on Pet. Exh. 2, Mr. Martin testified that it would not interfere with adequate light or air.

Mr. Martin testified that solar facilities are consistent with the purpose of the RC zones and with the spirit and intent of the BCZR under §502.1.G, in that the use supports farming; it helps the farmer generate income and does not interfere with agricultural production because the soil type will remain the same after the removal of the facility as it is now. (BCZR, §502.1.G). Mr. Martin pointed out that Northern Baltimore County is primarily designated as Agricultural Priority Preservation Area.

With regard to impermeable surface and vegetative retention provisions of §502.1.H, and the environmental and natural resources of the site under BCZR, §502.1.I, Mr. Martin highlighted that no impermeable surface exists underneath the solar panels. Rain water which falls onto the panels will be absorbed into the ground. The spacing between the rows of panels is designed to allow rainwater to penetrate into the ground. Thus, there is no concentration of storm water flowing into streams as there is when water flows onto pavement. Additionally, the solar facility

will not be located in the designated forest buffer easement or forest conservation easement on the Property. (Pet. Ex. 2).

In summary, Mr. Martin opined that there are no adverse effects from this use above and beyond those inherent in solar facilities.

3. Thomas Cleveland – Glare Study.

The Petitioner contracted with Thomas Cleveland, an employee of Advanced Energy Corporation,² to conduct a study on whether the proposed solar facility panels will produce glare from the sun's rays. (§4F-104.A.8). Mr. Cleveland prepared a glare study using computer software which is widely used in the industry. (Pet. Ex. 15). The computer software considers the topography of the land and any obstructions but excludes existing trees.

In the 20 glare studies Mr. Cleveland has conducted, typically he finds glare is produced by solar panels. However, in this study, no glare will be produced because the proposed design of the tracking system causes the panels to continuously move while tracking the sun. As a result, in his opinion, no glare of low or high intensity will be created.

Protestants' Case.

The Protestants opposed this case for a number of reasons. These reasons include: a) visibility of facility from the property; b) the environmental impacts of run-off from the steep slopes on the property; c) dissatisfaction with the solar bill and related regulations concerning the maintenance and dismantling of the facility; and d) the negative impact to the agricultural industry. The Protestants called several witnesses.

² Advanced Energy Corporation is not associated with or owned by either Cypress Creek or Bluefin Origination 2, LLC.

1. Lois Jean Bowman.

Lois Jean Bowman lives at 2709 Flintstone Rd. which is adjacent to the Property. (Pet. Ex. 2). Ms. Bowman testified that her family, the Dykes, owned the Property prior to 2005. It was originally 70 acres. She was quite familiar with the Property in that she lived there, farmed it and used it for hunting. In later years, the Dykes leased the land to Arthur and Joan Tracy for farming. She said the cleared area where the solar facility is proposed to be installed provided a good yield of crops depending on the weather.

Sometime in the 1970s, Ms. Bowman's father and brothers dug the farm pond which is located near Margaret Jones Curtis' property (2705 Flintstone Rd.). On May 24, 2000, Ms. Bowman's brother, Warren Scott Dykes, received approval for a Minor Subdivision Plan (PAI #00030M) for his own house which sits on 2 acres of land. In 2001, her family placed 40 acres in a forest conservation easement and the forest buffers delineated on the Site Plan were created and recorded in the Land Records. (Pet. Ex. 2). The streams on and surrounding the Property were also surveyed at that time.

In 2005, Ms. Bowman sold the Property for approximately \$400,000.00 to the uncle of Petitioner, William Mathews. The sale did not restrict the use to agriculture. Ms. Bowman testified that she also declined to put the Property into rural conservation. The farmhouse has been vacant since the sale. Ms. Bowman admitted that she researched the cost of installing solar panels on her own home but it was not feasible. In the winter, she will have a direct view of the solar facility. In the summer, the forest buffer easement will block her view.

2. John Altmeyer.

John Altmeyer lives at 21722 Orwig Rd., Freeland, MD 21053 which is at least 3 ½ miles away from the Property. He is a retired building inspector who worked for Baltimore County for

32 years. He was not offered as an expert in this case. Mr. Altmeyer calculated slope percentages for 3 areas on the Property using a topographical map provided to him by Protestant Lynne Jones. (Prot. Ex. 5). That map was a photocopy of the original Site Plan (later changed) obtained by Ms. Jones at the ALJ hearing. Mr. Altmeyer admitted that it was not to scale and that at least one of his handwritten calculations was not correct.

Relying on Maryland Department of Environment ("MDE") Stormwater Design Guidance for Solar Panel Installations (Prot. Ex. 6), Mr. Altmeyer testified that, in his opinion, if a slope is $\geq 5\%$ - $\leq 10\%$, the Petitioner would need "level spreaders" to catch the water runoff from the solar panels. He stated that if the slope is more than 10%, a full engineering study would have to be conducted and submitted to EPS. Mr. Altmeyer expressed his concern that the Site Plan does not show any stormwater management facilities. Without such controls, he believes that the water runoff will negatively affect Dykes Creek and Prettyboy Reservoir.

3. Lynne Jones.

Lynne Jones lives at 815 State Church Rd., Parkton, MD. Her home is a 150 acre farm where her family has lived for 7 generations beginning in 1745. Ms. Jones testified individually and as President of Sparks-Glencoe Community Planning Council ("Sparks-Glencoe Council"). Sparks-Glencoe Council has 400 members and its boundaries run in a heart-shaped pattern from Hunt Valley in the south, to the Harford County/Baltimore County line in the east, to the Carroll County/Baltimore County line in the west. The northern boundary is the top of the heart-shape figure as shown on the boundary map. (Pet. Ex. 16). Not only is Sparks-Glencoe Council not a party to this case, more importantly, the Property is not located within its boundaries. (Pet. Exs. 3, 16).

Those facts notwithstanding, Sparks Glencoe Council submitted a letter, signed by Ms. Jones, which described general opposition to solar facilities on farmland in northern Baltimore County. (Prot. Ex. 7).

Ms. Jones' farm is located 6-7 miles from the Property. She expressed her concerns about water runoff, flooding and the negative impact on the agriculture industry created by using farmland for solar facilities. Her testimony centered on her dissatisfaction with the enactment of Bill 37-17 and development in general. Ms. Jones believes that solar facilities should be located in business and manufacturing zones. She is worried that the language in BCZR 4F-102.A and 4F-107 are not strong enough with regard to the issuance of a bond for maintenance and dismantling of the facility.

4. Kathleen Pieper.

Kathleen Pieper lives at 4310 Beckeysville Rd., Hampstead, MD which is 10 miles from the Property. Ms. Pieper presented Rule 8 papers for the North County Community Group, LLC for which she is the President ("North County"). North County is a volunteer organization of 500 members formed in 2015 with boundaries from the Maryland-Pennsylvania line in the north, York Rd. in the east, the Baltimore/Carroll County line in the west and Mt. Carmel Rd. in the south. The Property is within the boundaries of North County.

Ms. Pieper expressed concern that the special exception area is composed of prime and productive soils, and that solar facilities in general remove available farmland and crop production. Much of her testimony focused on 'Targeted Ecological Areas' or 'TEAs' which are designated as such because the land contains; forests; wildlife and rare habitats; non-tidal streams and fisheries; wetland adaptation areas; and tidal fisheries, bay and coastal ecosystems. (Prot. Ex. 32 and 33). Ms. Pieper explained when land is designated as having a TEA designation, it has

the opportunity to receive state funding from Project Open Space ("POS"). (*Id.*) Ms. Pieper testified that this Property is an unprotected TEA, and without any recorded conservation easement.

Decision

As set forth above in BCZR, §4F-102.A, solar facilities are only permitted by special exception under the factors set forth in BCZR §502.1. The testimony of Mr. Sloan and Mr. Cleveland support the Petitioner's position that the proposed solar facility would not be detrimental to the health, safety or general welfare of the locality involved. To the contrary, the Protestants' collective concerns are impacts which are inherent with this particular use. It was apparent that the Protestants' complaints center on their dissatisfaction with the County Council's enactment of Bill 37-17 which is codified in BCZR, Article 4F. Understandably, the Protestants want the land in RC zones to remain farm land.

However, it is beyond the jurisdiction of this Board to rewrite Bill 37-17 or Article 4F. Applying the standard in *Shultz*, *Loyola* and *Attar*, the Protestants were required to present evidence that the adverse effects stemming from this solar facility, at this location, are unique and different than the inherent impacts associated with this use in general. We did not have such evidence here.

As described in detail above, Mr. Sloan testified that the solar facility would not create congestion in the roads as it is not a use that generates traffic into or out of the Property. (BCZR, §502.1.B.) Further, Mr. Sloan confirmed that there are no flammable materials used in this solar facility and there is fire station on Middletown Rd. (BCZR, §502.1.C.) As with the lack of traffic, Mr. Martin repeated that this use does not generate people and therefore it would not tend to overcrowd the land or cause an undue concentration of population. (BCZR, §502.1.D.)

Additionally, both Mr. Sloan and Mr. Martin confirmed that this use does not interfere with schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. (BCZR, §502.1.E.) To the contrary, the Board finds that it produces electricity which benefits the surrounding community.

Mr. Martin confirmed that the height of the facility will be 11 feet and would therefore not interfere with adequate light or air. (BCZR, §502.1.F.) The facility will stand in the cleared area of the Property, removed from any adjacent homes. Accordingly, the Board finds that shadowing and air circulation are not areas of concern.

As to the consistency of this use with the purposes of the RC zones and with the spirit and intent of the BCZR, solar facilities are consistent uses because they are temporary and are removed at the end of a lease term. There was much testimony and argument about removing 'prime and productive' soil from the agriculture industry. However, the evidence showed that the soil type remains the same before, during and after removal.

The County Council deemed solar facilities are uses consistent with the RC zone, provided they meet the special exception standard, as explained in *Shultz*, *Loyola* and *Attar*. The Protestants' argument that farming is the primary use and therefore solar facilities are inconsistent with the RC zones, is an argument which should be directed to the County Council. This Board is not required to determine whether a solar facility is detrimental to agricultural uses. Our authority to approve this use is contained in Article 4F and §502.1 factors. Moreover, even if this Property contains 'prime and productive' soil (an alleged fact which we are not deciding), the owner cannot be compelled to farm, or to lease the Property to a farmer.

Mr. Martin explained that the use is consistent with impermeable surface and vegetative retention provisions of the BCZR because there will not be any clearing or grading of land, and

no tree removal. Rain will propel off the solar panels and soak into the ground between the rows. Mr. Martin described to the Board that the separation between the rows of panels is designed so that there is no concentrated flow of water as there would be with water flowing off an impermeable surface such as pavement. This fact notwithstanding, Mr. Martin added that the Department of Environmental Protection and Sustainability ("EPS") will determine whether any further storm water management retention measures are needed.

Finally, Mr. Sloan and Mr. Martin testified that this use, at this location, would not be detrimental to the environmental or natural resources of the Property, including the forest, streams, wetlands, aquifers and floodplains. The 2000 Minor Subdivision Plan defined and recorded the forest buffer easements and forest conservation easements of the Property and the facility will not be placed within, or disturb, those areas. (Pet. Ex. 2). Ms. Bowman testified that her mother placed 40 acres into the forest conservation easement and that her brother, Warren Dykes, filed the Minor Subdivision Plan outlining those environmental and natural resources. Accordingly, there is no dispute as to the precise location of these natural resources within the Property, and that this facility will not be located in those areas.

Having analyzed the special exception factors, the requirements of BCZR, §4F-102.B.1 and BCZR, §4F-104.A. 1-9, must also be satisfied by the Petitioner. Mr. Sloan testified that the 16.71 acre special exception area and 13 acre solar panel array is the minimum acreage needed to produce 1.9 megawatts AC of electricity. (BCZR, §4F-102.B.1.) The Protestants urged this Board to adopt the reasoning of the ALJ in his decision wherein he looked at the special exception areas and electricity generated in other recently approved solar facility cases and decided that the special exception area here should be restricted to 13 acres. (Prot. Ex. 21).

While the ALJ's decision was admitted as evidence at the request of Protestants (Prot. Ex. 21), the Board has traditionally accepted copies of ALJ opinions as well as copies of statutes or regulations, as a courtesy to the parties. Since this case is heard *de novo*, the ALJ's decision is not part of the record and his analysis is not binding on the Board. Based on the evidence presented to the Board, we find that there was no compelling evidence submitted by the Protestants here which contradicts the Petitioner's plan that 16.71 acre special exception area is the minimum area needed to produce less than 2 megawatts AC electricity. The Protestants did not have an expert testify on this issue. Accordingly, we find that the Petitioner has met this burden.

Mr. Martin testified that the Property is not encumbered by an agricultural preservation easement, an environmental preservation easement or rural legacy easement, nor is it in a Baltimore County historic district or on the Baltimore County Final Landmarks list. (BCZR, §§4F-104.A.1 and 2.) In addition, as with the special exception factors, Mr. Martin testified that the solar facility will not be located in the forest conservation easement or designated conservancy area. (BCZR, §§4F-104.A.3.) There was no evidence by the Protestants which contradicted either of these requirements.

As to the setback and height requirements, Mr. Martin made clear that the facility at its highest peak will not exceed 11 ft. and will not be located within 50 ft. from the tract boundary. BCZR, §§4F-104.A.4 and 5. Accordingly, both the height and setback requirements have been met. There was no evidence by the Protestants which contradicted either of these requirements.

With regard to the requirement for a landscape buffer on the perimeter, the photographs presented reveal the existing row of evergreen trees along Middletown Rd. (BCZR, §4F-104.6). (Pet. Ex. 11a-u) (Prot. Ex. 9a-o). The comments from the Department of Planning recommended

supplementing the existing row of trees with additional deciduous trees to form a subcanopy. (Pet. Ex. 12). The Petitioner is amenable to planting these additional trees and prepared a schematic Landscaping Plan in support of its Petition which was reviewed by the County. (Pet. Exs. 6, 7). Moreover, the Plan proposes a 7 ft. chain link fence without barbed wire between the landscape buffer and the solar facility. (BCZR, §4F-104.7). We find that these requirements have been satisfied.

Additionally, there is a requirement that the solar panels minimize glare in order to prevent vehicle collisions and safety hazards. (BCZR, §4F-104.8). In this case, the Petitioner had Mr. Cleveland testify and present his glare study. (Pet. Ex. 15). The Protestants did not present an expert to contradict Mr. Cleveland. The glare study indicated that there would be no glare produced by the solar panels here. Thus we find that requirement is satisfied.

Finally, the Site Plan must comply with BCC, §33-3-108. (BCZR, §4F-104.A.9). The Protestants argued that the Petition should be dismissed because the Site Plan failed to list each of the 18 elements in Subsection (c). In our review of BCC, §33-3-108, we find the that language in Subsection (a) is unambiguous. That Subsection requires the Department of Environmental Protection and Sustainability ("EPS") (as defined in §33-3-101(f)), to approve the Site Plan. Further, Subsection (b) directs that the Site Plan shall generally include such information (graphs, charts, etc.) to enable EPS to "make a reasonably informed decision regarding the proposed activity." Additionally, a plan submitted to EPS for approval must also contain the information listed in Subsection (c).

As a result, the specific items listed in Subsection (c) must be considered by EPS when it reviews and approves the Plan under that Section, not this Board. The testimony of Mr. Martin was that EPS' policy is that they will not approve a site plan until after the special exception

In the matter of: David Mathews - Legal Owner
Bluefin Origination 2, LLC - Lessee
Case No: 17-108-X

relief is granted. We find his testimony to be consistent with the language in Section 33-3-105 (1) and (2) which provides that EPS is "responsible for enforcing the provisions of [Title 33]" and the Director of EPS "may adopt policies and regulations as necessary to implement the provisions of [Title 33]."

Given the express wording of Section 33-3-108 that EPS shall approve the Site Plan, and that EPS is responsible for ensuring that the Site Plan comply with both the general and specific requirements of Subsections (b) and (c), we find that the appropriate resolution for this Board is to place a condition in the Order reiterating the words of §4F-104.A.9, that the Petitioner shall comply with Section 33-3-108. To do otherwise would be to overstep this Board's statutory authority.

Conclusion

After reviewing all of the testimony and evidence presented, the Board finds that Petition for Special Exception pursuant to BCZR, Article 4F should be granted.

ORDER

THEREFORE, IT IS THIS 25th day of April, 2019, by the Board of Appeals of Baltimore County,

ORDERED, that the Protestants' Motion to Dismiss the Petition on the basis that the Petition was filed on October 17, 2016 and Bill 37-17 applied retroactively to petitions filed after October 18, 2016, be and the same is hereby **DENIED** for the reasons set forth herein, and it is further,

ORDERED, that the Protestants' Motion to Dismiss the Petition after the close of the Petitioner's case-in-chief on the basis that the proposed Plan failed to provide some of the

information required in BCZR, §33-3-108(c), be and the same is hereby **DENIED** for the reasons set forth herein, and it is further,

ORDERED, that People's Counsel's Motion to Dismiss the Petition on the basis that the Petitioner submitted a red-lined Plan for a 13 acre special exception area as directed by the ALJ in his Opinion and Order dated March 1, 2018, but failed to file a cross-appeal of the ALJ's condition, be and the same is hereby **DENIED** for the reasons set forth herein and it is further,

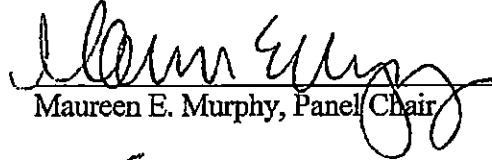
ORDERED that the Petition for Special Exception for a solar facility pursuant to BCZR, Article 4F as set forth on the Site Plan (Pet. Ex. 2), and the Landscape Plan (Pet. Exs. 6 and 7) be, and the same is hereby **GRANTED**, subject to the following conditions under the Board's authority in §4F-104.A.10:

1. Petitioners shall submit for approval by Baltimore County a landscape plan for the Property demonstrating appropriate screening and vegetation is provided along Middletown Rd, a scenic route, as required by the Landscape Manual and as set forth in the Zoning Advisory Committee Comments dated November 28, 2017 (Pet. Ex. 12) and as under BCZR, §4F-104.A.6.
2. Petitioners shall install a 7 ft. high, security fence, without barbed wire, between the landscaping buffer and the solar facility as required by BCZR, §4F-104.A.7. Attached to the fence in a conspicuous place, while the solar facility is in operation, shall be the current contact information (name, address, telephone number with a 24-hour operator, website and email address) of the operator of the solar facility.
3. Prior to the issuance of a building permit, Petitioner must satisfy the environmental regulations set forth in BCC, §33-3-108 pertaining to the protection of water quality, streams, wetlands and floodplains and obtain approval of the Site Plan from the Department of Environmental Protection and Sustainability as required in that Section.

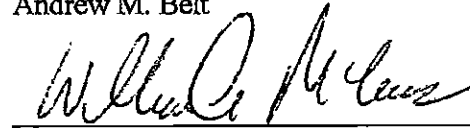
In the matter of: David Mathews - Legal Owner
Bluefin Origination 2, LLC - Lessee
Case No: 17-108-X

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Maureen E. Murphy, Panel Chair


Andrew M. Belt


William A. McComas



Board of Appeals of Baltimore County

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

April 25, 2019

Patricia A. Malone, Esquire
Christopher D. Mudd, Esquire
Venable LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16925 York Road
Monkton, Maryland 21111

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: *In the Matter of: David William Mathews – Legal Owner*
Bluefin Origination 2, LLC – Lessee
Case No.: 17-108-X

Dear Counsel:

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

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

Very truly yours,

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

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Multiple Original Cover Letters

c: See Attached Distribution List

Distribution List
April 25, 2019
Page 2

David William Mathews
Geoff Fallon/Bluefin Origination 2, LLC
Freeland Legacy Alliance, Inc.
Richard and Rhonda Ryan
Jeanne Bowman
Scott Dykes
Beverly & Salvatore Scavone
Theresa & Christopher Norton
Kathleen and Christopher Marciniak
Christine Pignateri
Laverne Poe
Diana Householder
Betty Lou Holmes
Lawrence M. Stahl, Managing Administrative Law Judge
Jeff Mayhew, Acting Director/Department of Planning
Michael Mohler, Acting Director/PAI
Nancy C. West, Assistance County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

Therese Sassler
Paul Hoeckel
Beverly Kram
Rhonda and William Rollins
Ed and Debra Myslinski
Matthew Myslinski
Matthew Myslinski
Lynne Jones
Debbie Frank
Patricia Trump
Kathleen Pieper
Lisa Arthur
Robin Arrington

2018-0108-A





2018-0108-A

2018-0108-A

PROPOSED 2-STORY
GARAGE



806

CHECKLIST

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
<u>11-1</u>	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	<u>NC</u>
<u>10-30</u>	DEPS (if not received, date e-mail sent _____)	<u>NC</u>
_____	FIRE DEPARTMENT	_____
_____	PLANNING (if not received, date e-mail sent _____)	_____
<u>10-23</u>	STATE HIGHWAY ADMINISTRATION	<u>No objection</u>
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. _____)	
NEWSPAPER ADVERTISEMENT	Date: _____	
SIGN POSTING	Date: <u>10-26-17</u> by <u>Bellinger</u>	
PEOPLE'S COUNSEL APPEARANCE	Yes ☐ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____

Search Result for BALTIMORE COUNTY

11/13/2017

NONE

Homestead Application Information

Homestead Application Status: Approved 08/18/2014

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

ZAC AGENDA

Case Number: 2018-0108-A

Primary Use: RESIDENTIAL

Reviewer: TsuiAaron

Type: ADMINISTRATIVE VARIANCE

Legal Owner: Vincent P & Linda A Muffoletto

Contract Purchaser

Critical Area : No Flood Plain: No Historic No Election Dist Fourteenth Councilmanic Dist Fifth

Property Address: 4549 Fitch AVENUE

Location: S/S of Fitch Avenue, 450 ft. W of the centerline of Ridge Road

Existing Zoning: DR 3.5

Area: 21,800 sq. ft.

Proposed Zoning: ADMINISTRATIVE VARIANCE:

To permit a proposed two story detached garage to be located in the rear yard of the property with a height of 22 ft. ; and to permit the proposed garage to be located one (1) ft. from the rear lot line in lieu of the maximum height allowed 15 ft. and 2.5 ft. from the rear lot line, respectively.

Attorney:

Prior Zoning Cases:

Concurrent Cases:

Violation Cases:

Closing Date: 11/13/2017 12:00:00AM

Miscellaneous:

11-13-17

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: October 30, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0108-A
Address 4549 Fitch Avenue
(Muffoletto Property)

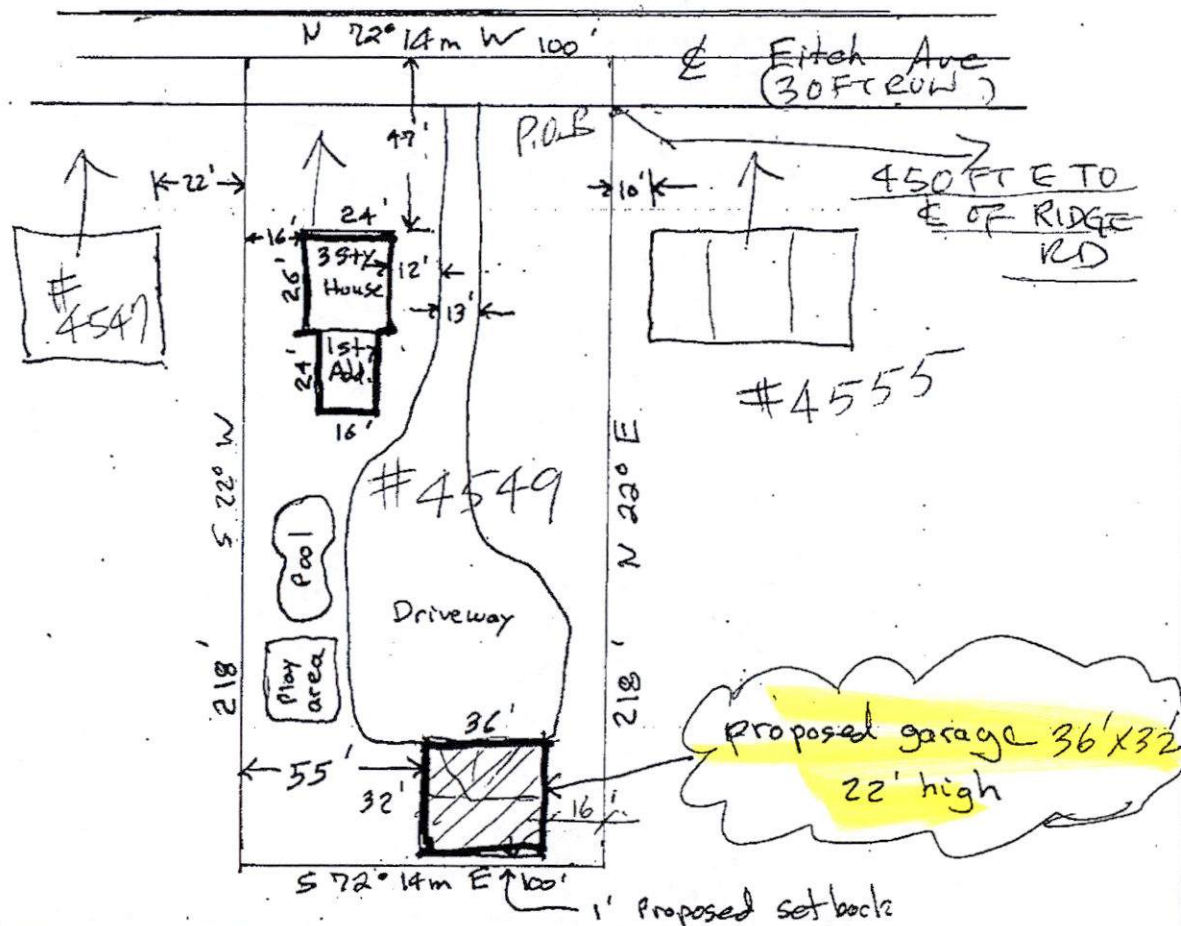
Zoning Advisory Committee Meeting of **October 30, 2017**.

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

Reviewer: Steve Ford

Date: 10-30-2017

ZONING HEARING PLAN FOR VARIANCE ☒ FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)
ADDRESS 4549 Fitch Ave OWNER(S) NAME(S) Vincent & Linda Muffoletto
SUBDIVISION NAME 0000 LOT # _____ BLOCK # _____ SECTION # _____
PLAT BOOK # _____ FOLIO # _____ 10 DIGIT TAX # 1411047425 DEED REF. # 11976/00458



SITE VICINITY MAP



N



MAP IS NOT TO SCALE

ZONING MAP# 08/C2

SITE ZONED DR3.5

ELECTION DISTRICT 14TH

COUNCIL DISTRICT 5TH

LOT AREA ACREAGE: _____

OR SQUARE FEET 21,800

HISTORIC? No

IN CBCA? No

IN FLOOD PLAIN? No

UTILITIES? MARK WITH X

WATER IS:

PUBLIC ☒ PRIVATE _____

SEWER IS:

PUBLIC ☒ PRIVATE _____

PRIOR HEARING? No

IF SO GIVE CASE NUMBER

AND ORDER RESULT BELOW

No

VIOLATION CASE INFO:

No

PLAN DRAWN BY Pete Beyradt

DATE 10-15-17 SCALE: 1 INCH = 50' FEET

2018-0108-A

Pet. Exh. 1

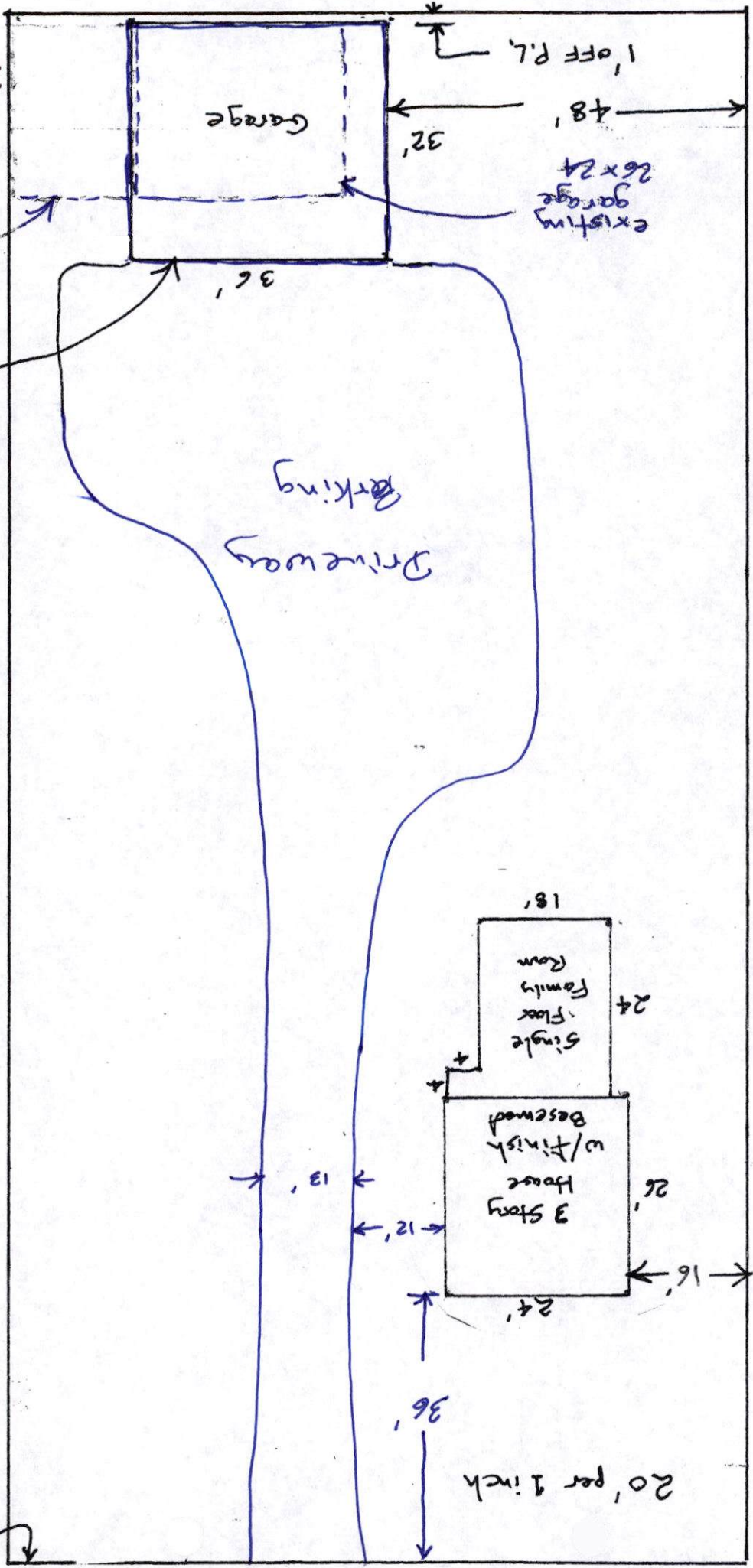
2018-0108-A

existing
carport
16x24

22' High
Proposed
Garage

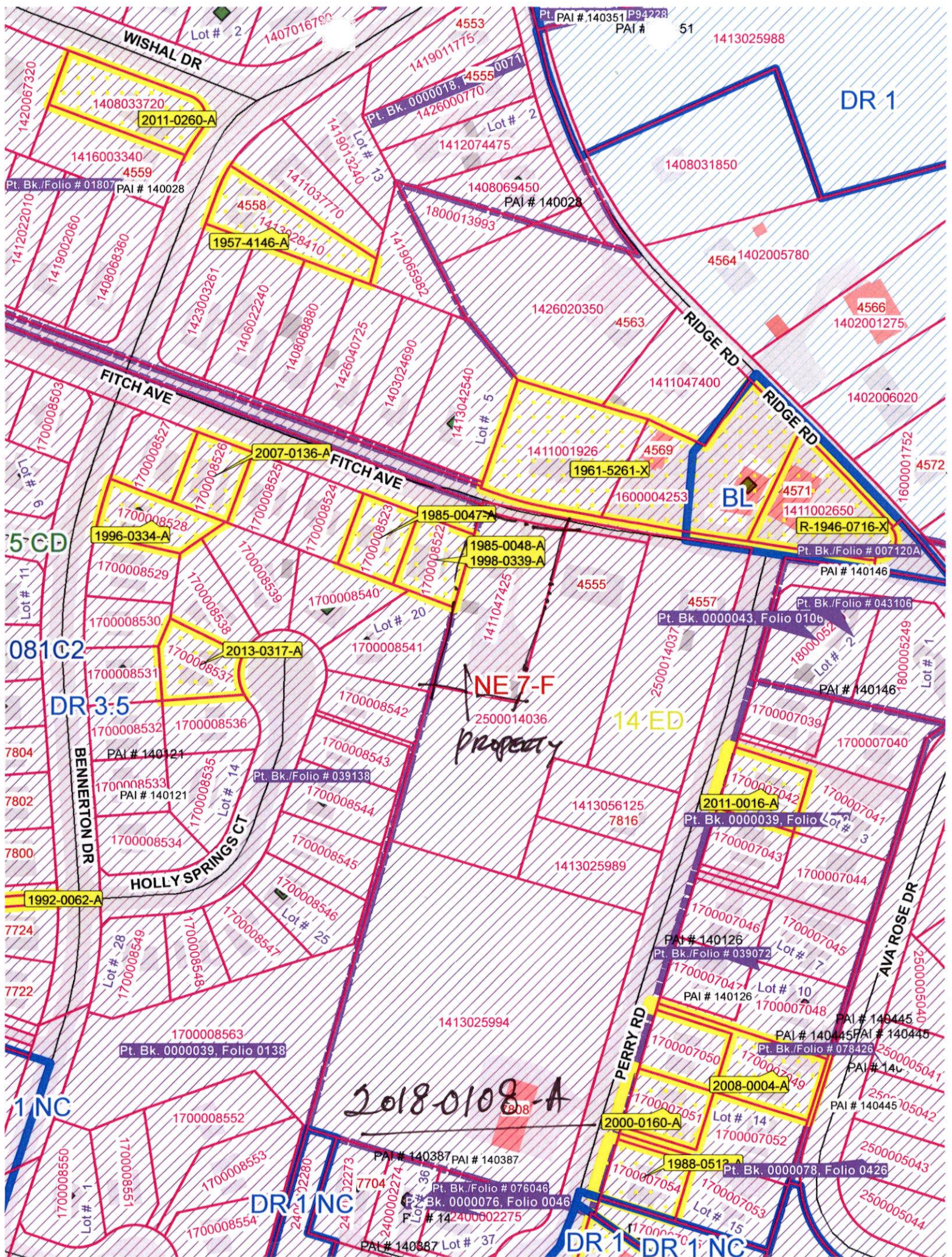
4549
Fifth Ave

edge of
Fifth Ave
22' wide



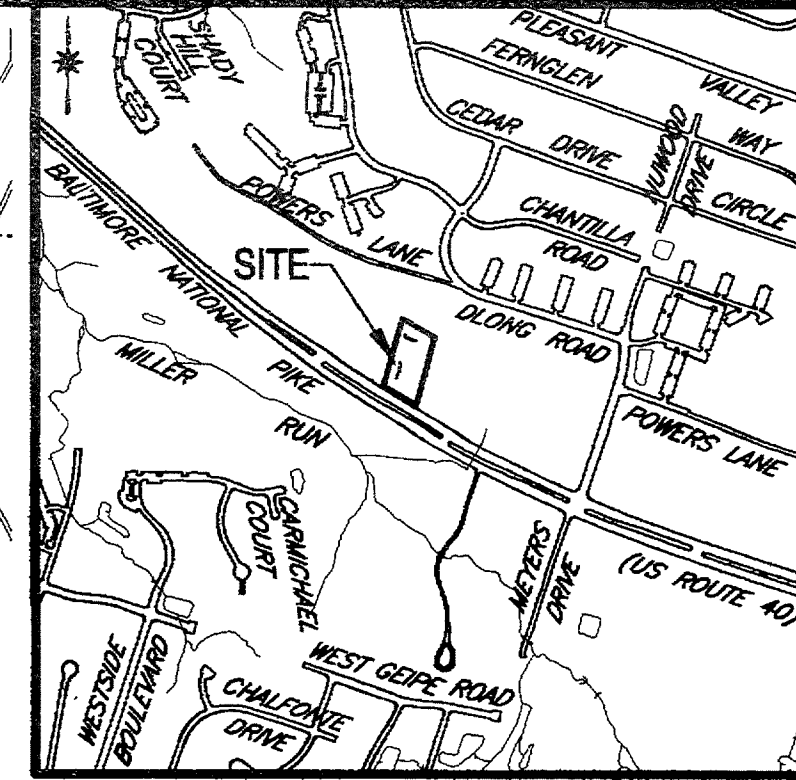
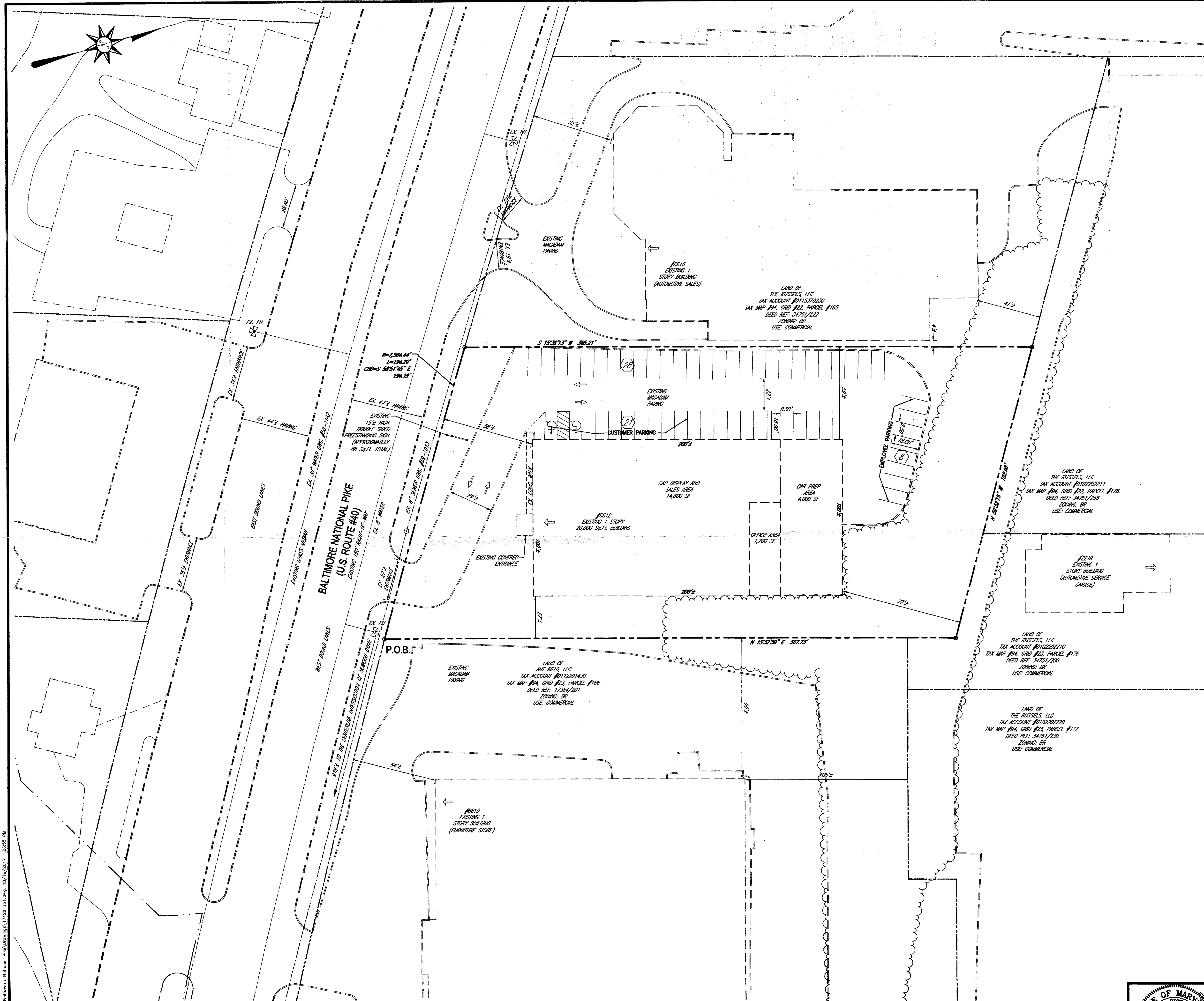
00' x 207'

A-8010-8152





4-8010-81a.c



LOCATION MAP
SCALE: 1" = 1000'

GENERAL NOTES:

- OWNER:
LEONARD & SHIRLEY E. LEVINE
P.O. BOX 1176
BROOKLANDVILLE, MD. 21022
- CONTRACT PURCHASER:
- SITE AREA:
GROSS: 74,363 Sq.Ft. or 1.71 Ac.±
NET: 68,537 Sq.Ft. or 1.57 Ac.±
- EXISTING BUILDING AREA: 20,000 Sq.Ft.
- UTILITIES
PUBLIC WATER.
PUBLIC SEPTIC.
- DEED REF: 4340/336
- TAX ACCOUNT: #0112201904
- EXISTING ZONING: BR
(PER 200 SCALE GIS TILE # 094B3 & 094C3)
- TAX MAP #94, GRID #22, PARCEL #224
- PREVIOUS PERMITS:
B191232; REMODEL EXISTING STOREFRONT & REPLACE
ROOF, ISSUED SEPT. 4TH, 1994.
- THE SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY
CRITICAL AREA.
- NO FLOODPLAINS EXISTS ON SITE.
- THERE ARE NO HISTORIC FEATURES ON SITE NOR IS
THE SITE ITSELF HISTORIC.
- BASIC SERVICE MAPS (2017)
TYPE DEFICIENT (Y/N) NOTE
WATER N
SEWER N
TRANSPORTATION N
LEVEL D
- PREVIOUS ZONING CASE:
1949-1543-X; SPECIAL PERMIT FOR USE AS A CABIN
CAMP OR TOURIST MOTEL. GRANTED 05-25-1950.
1953-2525-X; SPECIAL PERMIT FOR USE AS TWO
ADVERTISING STRUCTURES. GRANTED 04-24-1953.
- FLOOR AREA RATIO (FAR)
MAX PERMITTED: 2.0
PROVIDED: 20,000/74,363 = 0.27
- ANY PROPOSED SIGNS ARE TO CONFORM TO THE
BALTIMORE COUNTY ZONING REGULATIONS (BCZR).
- SETBACKS FOR BR ZONE
TYPE REQUIRED PROVIDED
FRONT 50' 58'±
SIDE 30' 25'±
REAR 30' 77'±
- USE
EXISTING: FURNITURE STORE
PROPOSED: USED CAR SALES
- PARKING
REQUIRED: 14,800 SQ.FT. @ 5/1000 SQ.FT. SALES
AREA = 74 SPACES
5,200 SQ.FT. @ 3.3/1000 SQ.FT. OFFICE/CAR PREP
AREA = 18 SPACES
TOTAL REQUIRED = 92 SPACES
PROVIDED: 20 SPACES (2 H.C., 18 STANDARD) FOR
EMPLOYEES AND CUSTOMERS
PLUS 37 SPACES FOR OUTDOOR INVENTORY AND
DISPLAY

Richardson Engineering, LLC

30 East Padonia Road, Suite 500
Timonium, Maryland 21093
Phone: 410-560-1502 Fax: 443-901-1208

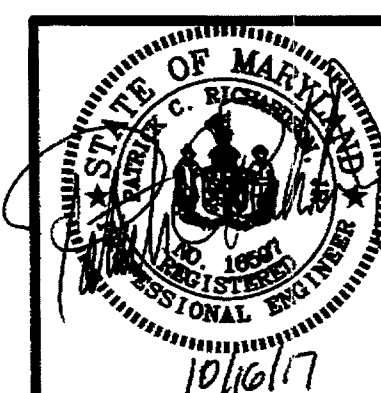
PLAN TO ACCOMPANY ZONING PETITION
FOR

NATIONAL MOTORS
6612 BALTIMORE NATIONAL PIKE
(U.S. ROUTE #40)
BALTIMORE, MARYLAND 21228

BALTIMORE COUNTY MARYLAND
1ST ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT

REVISION:	DRAWN BY: CND	CHECKED BY: PCR	SCALE: 1" = 20'
DATE: 10-03-17	JOB NO.: 17120	SHEET NO.: 1 OF 1	

PETITIONER'S
EXHIBIT NO. 1



PROFESSIONAL CERTIFICATION:
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR
APPROVED BY ME, AND THAT I AM A FULLY LICENSED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE
NUMBER 16597, EXPIRATION DATE: 06-15-2019