

IN THE MATTER OF	*	BEFORE THE
STEVEN WILSON - LEGAL OWNER AND	*	BOARD OF APPEALS
PARKTON YORK SOLAR, LLC - LESSEE	*	
AND PETITIONERS FOR SPECIAL	*	OF
EXCEPTION ON THE PROPERTY LOCATED	*	
AT 21138 OLD YORK ROAD	*	BALTIMORE COUNTY
7 TH ELECTION DISTRICT	*	
3 RD COUNCILMANIC DISTRICT	*	CASE NO: 19-138-X

* * * * *

OPINION

This case comes before the Board of Appeals on an appeal of the final decision of the Administrative Law Judge ("ALJ") in which the ALJ granted a Petition for Special Exception for a Solar Facility by Opinion and Order dated January 14, 2019. The property is located at 21138 Old York Road (the "Property"), in the Maryland Line vicinity. It is zoned R.C.2, Agricultural. BCZR Sec. 1A01.

The initial Petitioner before the ALJ was co-owner Steven Wilson. His mother, co-owner Mabel Wilson has been added by stipulation. Protestants' Sparks Glencoe Community Planning Council, Inc. ("SGCPC"), Lisa Arthur, Emma Arthur, Lynne Jones and Kathleen Pieper (collectively the "Protestants") filed an appeal of the ALJ's decision conditionally granting the Special Exception.

A *de novo* hearing was held before this Board on May 14, 2019. The Petitioners, Steven Wilson and Mabel E. Wilson, and Parkton York Solar, LLC, Lessee, (collectively the "Petitioners") were represented by Benjamin S. Wechsler, Esquire and Linowes and Blocher LLP. The Protestants were represented by H. Barnes Mowell, Esquire. People's Counsel also participated in the hearing. The Board conducted a public deliberation immediately following the public hearing, on May 14, 2019.

On appeal, Petitioners met with Protestants and reached agreement on an amended special exception and site plan, with specified conditions. Upon review of the record, the Board decided to approve the special exception, with such conditions, as set forth in the Board's Order below.

Factual Background

The Property comprises one parcel totaling 39.9 acres, spanning the north and the south sides of Old York Road. The Property is owned by Steven Wilson and his mother, Mabel Wilson, as tenants in common with a right of survivorship. The Property currently is in active agricultural production, along with other adjacent properties in the neighborhood owned by the same family.

The Petitioners proposed to construct a solar array on the 19.052 acre portion of the parcel bounded by Sampson Road to the east and Old York Road (MD RTE. 439) to the north.

The Property enjoys fairly level topography, is almost entirely cleared of trees, and contains no significant environmental features such as streams or wetlands. The Property is zoned R.C.2. Old York Road is a designated scenic route.

The Petitioners are proposing to use approximately 9.17 acres of the Property for a solar facility pursuant to Baltimore County Zoning Regulations ("BCZR"), Article 4F. The solar facility is designed to generate 0.825 megawatts of alternating current electricity. The remaining acreage of the Property located south of Old York Road (9.9+/- acres) will remain in active agricultural production by the Wilson family. This is in addition to the extensive remaining acreage on the north side of Old York Road that is in agricultural production by the Wilson family. Their holdings comprise about 80 acres in all.

Solar Facilities Law

On July 7, 2017, the County Council enacted Bill 37-17 permitting solar facilities by special exception in certain zones, including R.C.2, R.C.4, R.C.5, and R.C.8. 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 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 § 33-3-197 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.

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:

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, §50.1, 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 environment 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 will 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 will 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 vs. 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] will have any adverse effects above and beyond those inherently associated with such use under the *Schultz* standard." *Attar*, 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").

Evidence

The Petitioner presented four witnesses who testified on its behalf on its behalf in the merits of the case, as well as a total of seven exhibits, all of which were accepted as evidence and incorporated into the record:

1. Greg Werner.

Mr. Werner testified as the Maryland Business Development Manager for Nexamp, Inc. Nexamp is the controlling member of Petitioner Parkton York Solar, LLC, who is developing the solar facility.

Mr. Werner explained Nexamp and Parkton York Solar, LLC are in the business of developing, owning, and managing photovoltaic arrays, with projects throughout the northeast. Mr. Werner indicated that Nexamp has a number of projects under development in Maryland, including one that is operational in Queen Anne's County, and several additional projects in various stages of development throughout Maryland. Mr. Werner observed that Nexamp not only develops solar facilities, but also follows up with their management and continuing operation.

Mr. Werner testified that the proposed project is at 21138 Old York Road, Parkton, Maryland 21120, on the Property owned by Mr. Wilson and his mother Mabel. Mr. Wilson is a farmer, and intends to continue farming the parts of his property not used for the photovoltaic array. The property is zoned R.C.2 Resource Conservation – Agriculture. The parcel is 39.9 acres in total, with acreage located on the south and north sides of Old York Road and, as noted, is part of a larger Wilson family farm area. The acreage that will be developed with the photovoltaic installation will be on the south side of Old York Road, to the west of Sampson Road.

Mr. Werner 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 and generate electrical energy. 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 Samson Road Rd. Mr. Werner testified that this facility is designed and engineered to generate 0.825 megawatts of alternating current (AC) electricity, which is likely the smallest solar facility seeking approval in the Third Councilmanic District.

Mr. Werner identified three (3) main criteria for prospective solar facility properties: (1) existing power lines with a capacity for connecting to the solar facility; (2) flat, cleared land; and, (3) a property owner who is willing to enter into a long term lease. He indicated that the site is ideal because there are existing power lines with capacity, the property is completely cleared, and that the owners of the property are willing to enter into a long-term lease.

Mr. Werner testified that the height of the structure will be no more than seven (7) feet, and will be connected to the Baltimore Gas and Electric electrical grid through an "inverter" that converts direct current generated by the panels into alternating current used to transmit and distribute electrical energy through the grid. The inverters will emit a low humming noise, which is not likely to be audible at any property line. Additionally, 2 or 3 utility poles will be erected near the existing power lines to connect the electricity generated from the new facility to the electrical grid. There will be only minimal signage providing contact information in the event of an emergency. There will be almost no maintenance needed. There will be no lighting. At the end of the lease term, the solar facility will be removed and the holes filled in.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 1, a site plan showing the proposed configuration of the photovoltaic array, along with a landscaping plan. The notes on Petitioners' Exhibit 1 show that the site area (the area south of Old York Road and west of Sampson Road) is a total of 19.052 acres, with the area within the fence line of 8.05 acres, and the total Limits of Disturbance ("LOD") being 9.17 acres. This plan shows extensive landscaping around the site, including landscaping around the perimeter of the field, as well as additional dense landscaping outside of the fence surrounding the array.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 2, which is a "redline" site plan showing changes that were been proposed by Parkton York Solar, LLC in order to address community concerns. The exhibit shows that the configuration of the solar panels was changed in order to provide relatively open view from Old York Road, a designated scenic road. Specifically, a section of the panels closest to Old York Road was moved to a location further away from Old York Road. The exhibit also shows the significant additional landscaping that is being proposed in order to screen the solar panels from public view.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 3, which is a viewshed study, depicting the impact of the solar project on views from Old York Road and Sampson Road. The study was conducted by erecting a seven-foot white marker at two visible locations at the perimeter of the proposed array, and taking photographs from five locations along Old York Road and Sampson Road. The seven-foot white marker was difficult to see from most of the locations.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 4, which is a set of conditions, negotiated with the Protestant Sparks Glencoe Community Planning Council and People's Counsel, in advance of the hearing. Mr. Werner indicated that

there were a total of seven conditions in the exhibit, and that each of the conditions will be acceptable to SGCPD in exchange for their support of the application. Mr. Werner indicated that each of the seven conditions contained in Petitioners' Exhibit 4 were acceptable to Petitioners.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 5 a copy of the Opinion and Order issued by the Baltimore County Administrative Law Judge in this matter below, conditionally approving the Special Exception for the project. Petitioners' Exhibit 5 contains a total of six (6) conditions. Mr. Werner indicated that generally the conditions were acceptable. However, Condition No. 3 in the ALJ approval specifies that the fence "shall be black vinyl/coated chain link fence." Mr. Werner indicated that subsequent discussions with the SGCPD resulted in an agreement that the fence should instead be a "farm fence," without barbed wire, substantially in compliance with the picture shown in Petitioners' Exhibit 4.

Mr. Werner indicated that he understood that no more than ten (10) photovoltaic projects will be allowed in Councilmanic District 3 under current law, and that to his knowledge this project will be one of those ten project. He also acknowledged that if the project was not one of those first ten projects, then the project will not receive building permits and will not proceed.

2. Daniel Speakman – Civil Engineer.

Daniel Speakman, P.E., testified as and was qualified as an expert civil engineer, with significant expertise with solar facilities. His Resume was introduced and accepted as Petitioners' Exhibit 6. He described the site plan (Petitioners' Exhibit 1) in detail, and reviewed each of the general special exception standards, as well as the standards applicable to solar facilities. He indicated that the facility will not overcrowd the land, will result in minimal impacts to the land; and will have no negative impacts upon public facilities, and in fact will have the opposite effect

considering that the property could not be developed with houses or other impactful uses for a period of thirty five (35) years. He indicated that there will be no trees or vegetation removed, and that there will be no negative environmental impacts, particularly once stormwater management facilities were installed in compliance with the Maryland Department of Environment's Environmental Site Design to the Maximum Extent Practicable ("ESD to the MEP") standards. He also indicated that the reconfiguration of the facility away from Old York Road and the proposed landscaping adequately address the viewshed issues from Old York Road. The lease payments will allow for the continued use of remainder of the property as a family farm, in context, consistent with purpose of R.C. 2 Zone. Mr. Speakman reviewed each of the specific standards contained in Article 4f of the BCZR, and showed their satisfaction, as more fully discussed below.

3. Mr. Steven Wilson, Property Owner.

Mr. Wilson indicated he was testifying on behalf of himself, and his mother, Mabel Wilson as the owners of the Property. He indicated that the Wilson family runs an active farm on this and several adjacent properties. Unlike other farms on which solar facilities will be located, the Wilson farm will continue in active agricultural production by the owners themselves. Mr. Wilson described the surrounding rural neighborhood, and said that, to the best of his knowledge, the adjacent residents find the project to be acceptable. There were no adjacent residents who appeared in opposition to the project.

4. Ms. Lynn Jones, Sparks Glencoe Community Planning Council.

Lynne Jones, President of SGCP, testified on behalf of the Petitioner. Ms. 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 SGCP. SGCP 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-shaped figure as shown on the boundary map, introduced and accepted as Petitioners' Exhibit 7.

SGPGC is concerned about the impact of solar facilities in the rural north county area, especially on agricultural properties, and has participated in many of the solar facility special exception cases. Ms. Jones explained in detail why this facility is acceptable, so long as subject to the agreed conditions and the conditions set by the ALJ, as adjusted for the fence.

Ms. Jones spoke about her appreciation of the proposal and the willingness of Petitioners to work with her organization; highlighted the moderate size of this facility compared to other proposals; the willingness of the Petitioners to relocate the facility further away from Old York Road. She also appreciated the upgraded farm fence and landscaping, and specifically cited the lack of particular or significant environmental impacts as an important factor in her support.

In spite of being a named Protestant, Ms. Jones indicated that she supported the granting of this Special Exception, provided that certain conditions were imposed relating to the Special Exception. Specifically, she referenced the conditions contained in Petitioners' Exhibits 4 and 5 as being the conditions that were acceptable to SGCPG.

Protestants' Case.

The Protestants did not otherwise present a case.

People's Counsel Case

Mr. Zimmerman, the People's Counsel for Baltimore County, introduced two deeds, as People's Counsel Exhibits 1 and 2, proving ownership of the property in Steven and Mabel Wilson. People's Counsel indicated non-opposition to the granting of the Special Exception,

provided that the conditions contained in Petitioners' Exhibits 4 and 5 are incorporated into the Board of Appeals decision and order.

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. Werner and Mr. Speakman support the Petitioners' position that the proposed solar facility will not be detrimental to the health, safety or general welfare of the locality involved. In sum, Petitioners presented an unopposed *prima facie* case that the proposal, as conditioned, meets all of the special exception criteria and satisfies the additional requirements of BCZR Article 4F. We conclude that Petitioners' case complies with each of the Special Exception criteria and with BCZR, Section 4F.

As described in detail above, Mr. Werner and Mr. Speakman testified that the solar facility will 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. Werner indicated that there was very limited risk of fire, and that in the case of fire contact information will be readily available to gain access to the facility. (BCZR, §502.1.C.) As with the lack of traffic, Mr. Werner and Mr. Speakman repeated that this use does not generate people and therefore it will not tend to overcrowd the land or cause an undue concentration of population. (BCZR, §502.1.D.) Additionally, both Mr. Werner and Mr. Speakman confirmed that this use does not interfere with schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. (BCZR, §502.1.E.)

Mr. Speakman confirmed that the height of the facility will be approximately 7 feet and will 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.

A solar facility is consistent with the purposes of the R.C.2 zone and with the spirit and intent of the BCZR, as a use permitted by special exception. At the end of the facility's useful life, the solar facility area can also be returned to active agricultural production.

Rain will repel off the solar panels and soak into the ground between the rows. Mr. Speakman indicated that stormwater management will be in accordance with MDE's ESD to the MEP standard. Furthermore, the Baltimore County Department of Environmental Protection and Sustainability ("EPS") will determine whether any further storm water management retention measures are needed.

Finally, Mr. Speakman testified that this use, at this location, will not be detrimental to the environmental or natural resources of the Property, including the forest, streams, wetlands, aquifers and floodplains.

The Board of Appeals is also satisfied that the proposal satisfies the special BCZR §4F criteria. Mr. Speakman 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. Speakman testified that the solar facility will not be located in the forest conservation easement or designated conservancy area. (BCZR, §§4F-104.A.3.)

As to the setback and height requirements, Mr. Werner and Mr. Speakman made clear that the facility at its highest peak will not exceed 7 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, Petitioners have demonstrated robust landscape planning around the perimeter of the property, as well as around the array itself. (BCZR, §4F-104 .6).

Additionally, there is a requirement that the solar panels minimize glare in order to prevent vehicle collision and safety hazards. (BCZR, §4 F-104 .8). Mr. Werner indicated that there will be no glare from the panels.

Finally, Petitioners must comply with BCC, §33-3-108, which specifies requirements for plans pertinent to water quality, streams, wetlands, and floodplains. (BCZR §4 F-104 .A.9).

CONDITIONS

Resolution of this matter was aided by Petitioners' and Protestants' efforts to draw up a set of conditions, set forth in Petitioners' Exhibit 4 and 5, which will minimize the impact of facility on the surrounding community, which modify the condition regarding the fence and add to those imposed by the ALJ.

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, subject to the conditions below.

ORDER

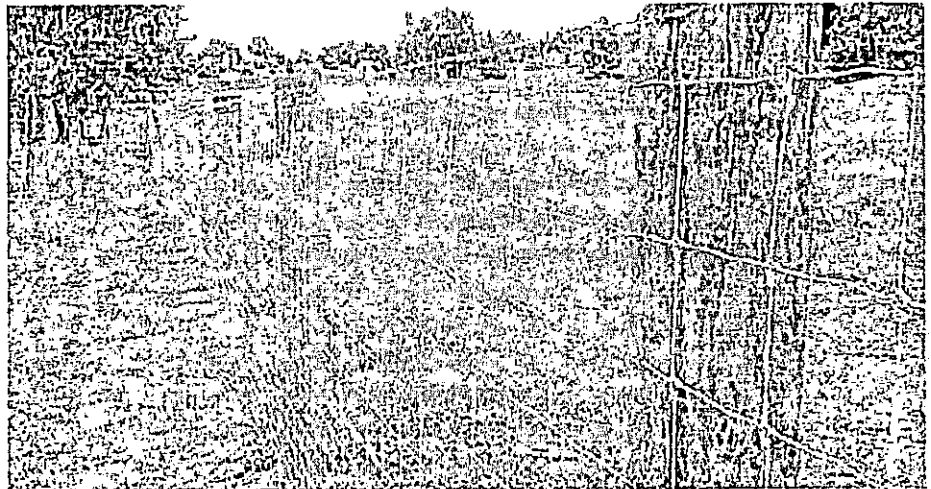
THEREFORE, IT IS THIS 24th day of July, 2019, by the County Board of Appeals for Baltimore County,

ORDERED that the Petition for Special Exception for a solar facility pursuant to BCZR, Article 4F and Sec. 502.1 as set forth on the Site Plan (Petitioners' Exhibit 1) be, and the same is

hereby **GRANTED**, subject to the following conditions under the Board's authority in §4F-104.A.10 and Sec. 502.2:

I: Agreed Conditions

- a. Petitioner must comply with Conditions 1 through 6 of the Opinion and Order of the Baltimore County Administrative Law Judge in this matter (**Petitioners' Exhibit 5**), with the following modifications:
 - i. Instead of a black vinyl-coated chain link fence referenced in Condition 3 thereof, the parties agree that the fence shall be a "farm fence" similar to picture below around the perimeter of the project, *provided* that such fence shall not contain barbed wire and may be modified at the requirement or direction of the County or other governmental entity during the site plan review process, or as necessary to comply with applicable building codes.



- b. The configuration of the Project shall be substantially as depicted in **Petitioners' Exhibit 1**, including the relocation of approximately 9 rows of panels from the northeast corner of the parcel to the southeast corner; *provided* that such location may be modified as required or directed by the County or other governmental entity during the site plan review process; *provided further* that such location and configuration within the Property may be modified as reasonably necessary for construction-related purposes, so long as such modified location and configuration do not result in the placement of any solar modules nearer to Old York Road than as depicted in **Petitioners' Exhibit 1**.
- c. Petitioners shall provide a vegetative screen ("Screen") at least as rigorous as reflected in **Petitioners' Exhibit 1** including the species, quantities, and planting sizes indicated in the Plant Table shown thereon; *provided* that such Screen may be

modified as required or directed by the County or other governmental entity during the site plan review process.

- d. Petitioners shall, prior to issuance of the applicable County building permit, post a performance bond with the County in an amount equal to 125% of the installation costs of the Screen and other landscape improvements, as determined by a duly licensed civil engineer. Such bond shall be provided to the County as security for Parkton York's obligations to properly maintain the Screen for a period of 3 years, so as to ensure the reasonable health and growth of the trees and shrubs comprising the Screen.
- e. Petitioners acknowledge that the support of each neighboring property owner is critical to the success of the Solar Facility, and therefore shall work in good faith with SGCPC to ensure the continued support of such neighbors throughout the development process.
- f. Petitioners agree and consent to the Board of Appeals of Baltimore County limiting the duration of the Special Exception, approved pursuant to BCZR Sections 502.1 and 4F-104, to a period of 35 years, running from the date of final inspection certificate issued under the County building permit for the Solar Facility.
- g. Parkton York will design and install a stormwater management system that meets or exceeds all County standards. The design will be prepared, approved, and stamped by a civil engineering firm that is fully licensed and insured in accordance with State requirements.
- h. Petitioners shall not spray chemicals on the ground during the construction or operation of the Solar Facility.

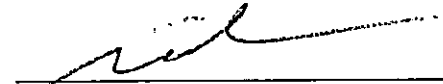
II. Conditions 1 through 6 of the ALJ Order, as relevant and as adjusted.

- i. Petitioners must comply with the ZAC comments submitted by the DEPS, a copy of which is attached hereto and made a part hereof, including compliance with Baltimore County Code Secs. 33-1-101 through 33-3-120 and 33-6-101 through 33-6-122.
- j. Prior to issuance of permits, Petitioners must submit for approval by the Baltimore County Landscape Architect a landscape plan for the site.
- k. The special exception area shall include only the property within the proposed fenced enclosure, i.e., approximately 9.38 acres.
- l. No lighting or signage shall be permitted in connection with the solar facility.

In the matter of: Ste. Wilson - Legal Owner
Parkton York Solar, LLC - Lessee
Case No: 19-138-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*.

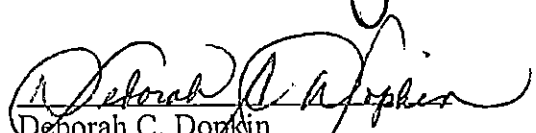
**BOARD OF APPEALS
FOR BALTIMORE COUNTY**



Andrew M. Belt, Panel Chair



Maureen E. Murphy



Deborah C. Dopkin



Board of Appeals of Baltimore County

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July 24, 2019

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RE: *In the Matter of: Steven Wilson – Legal Owner*
Parkton York Solar, LLC – Lessee
Case No.: 19-138-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,


Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Multiple Original Cover Letters

c: See Attached Distribution List

In Re: Steven Wilson – Legal Owner
Parkton York Solar, LLC – Lessee
19-138-X

Distribution List

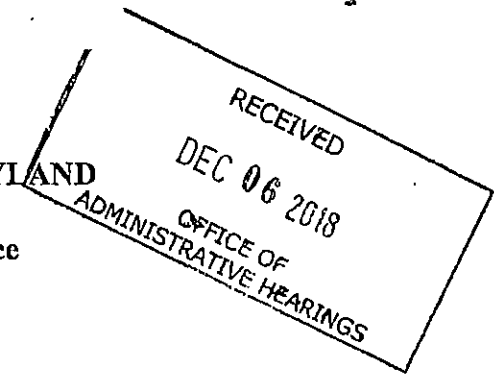
July 24, 2019

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Steven Wilson
Kamran Idrees/Parkton York Solar, LLC
Sparks Glencoe Community Planning Council, Inc.
Lisa Arthur
Emma Arthur
Lynne Jones
Kathleen Pieper
Lawrence M. Stahl, Managing Administrative Law Judge
C. Pete Gutwald, Director/Department of Planning
Michael D. Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

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: December 6, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0138-X
Address 21138 Old York Road
(Wilson Property)

Zoning Advisory Committee Meeting of November 12, 2018.

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

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Reviewer: Thomas Panzarella
Environmental Impact Review



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
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PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

June 13, 2019

HAND DELIVERED

Andrew Belt, Panel Chairman
County Board of Appeals of Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204



Re: Steven and Mabel Wilson- Legal Owners
Parkton York Solar, LLC – Contract Purchaser
21138 Old York Road
Case No.: 2019-138-X

Dear Panel Chairman Belt,

Consistent with the Board's instruction, we herewith submit for review a proposed memorandum opinion and order. All of the parties have worked on and reviewed this proposal. We are pleased that we have reached a consensus.

We thank the Board for its expeditious and judicious conduct of these proceedings.

Sincerely,

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

Peter Max Zimmerman
People's Counsel for Baltimore County

cc: H. Barnes Mowell, Esquire
Benjamin S. Wechsler, Esquire

RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE BOARD
21138 Old York Road; NW/S Sampson,		
201' SW of Old York Road	*	OF APPEALS
7 th Election & 3 rd Councilmanic Districts		
Legal Owner(s): Steven and Mabel Wilson	*	FOR
Contract Purchaser: Parkton York Solar, LLC		
Petitioners	*	BALTIMORE COUNTY
	*	2019-138-X

* * * * *

MEMORANDUM OPINION AND ORDER

This case comes before the Board of Appeals on an appeal of the final decision of the Administrative Law Judge ("ALJ") in which the ALJ granted a Petition for Special Exception for a Solar Facility by Opinion and Order dated January 14, 2019. The property is located at 21138 Old York Road, in the Maryland Line vicinity. It is zoned R.C.2, Agricultural. BCZR Sec. 1A01.

The initial Petitioner before the ALJ was co-owner Steven Wilson. His mother, co-owner Mabel Wilson has been added by stipulation. Protestants Sparks Glencoe Community Planning Council, Inc., Lisa Arthur, Emma Arthur, Lynne Jones and Kathleen Pieper (collectively the "Protestants") filed an appeal of the ALJ's decision conditionally granting the Special Exception.

A *de novo* hearing was held before this Board on May 14, 2019. The Petitioners, Steven Wilson and Mabel E. Wilson, and Parkton York Solar, LLC, Lessee, (collectively the "Petitioners") were represented by Benjamin S. Wechsler, Esquire and Linowes and Blocher LLP. The Protestants were represented by H. Barnes Mowell, Esquire. People's Counsel also participated in the hearing in accordance with his responsibility under County Charter Sec. 524.1. The Board conducted a public deliberation immediately following the public hearing, on May 14, 2019.

On appeal, Petitioners met with Protestants and reached agreement on an amended special exception and site plan, with specified conditions. Upon review of the trial record, the Board

decided to approve the special exception, with such conditions, as set forth in the Board's Order below.

Factual Background

The Property comprises one parcel totaling 39.9 acres, spanning the north and the south sides of Old York Road. The Property is owned by Steven Wilson and his mother, Mabel Wilson, as tenants in common with a right of survivorship. The Property currently is in active agricultural production, along with other adjacent properties in the neighborhood owned by the same family.

The property enjoys fairly level topography, is almost entirely cleared of trees, and contains no significant environmental features such as streams or wetlands. The Property is zoned R.C.2. Old York Road is a designated scenic route.

The Petitioners proposed to construct a solar array on the 19.052 acre portion of the parcel bounded by Sampson Road to the east and Old York Road (MD RTE. 439) to the north (the "Property"). The Petitioners are proposing to use approximately 9.17 acres of the Property for a solar facility on a cleared area of the Property pursuant to Baltimore County Zoning Regulations ("BCZR"), Article 4F. The solar facility is designed to generate 0.825 megawatts of alternating current electricity. The remaining acreage of the Property located south of Old York Road (9.9+/- acres) will remain in active agricultural production by the Wilson family. This is in addition to the extensive remaining acreage on the north side of Old York Road that is in agricultural production by the Wilson family. Their holdings comprise about 80 acres in all.

Solar Facilities Law

On July 7, 2017, the County Council enacted Bill 37-17 permitting solar facilities by special exception in certain zones, including R.C.2, R.C.4, R.C.5, and R.C.8. 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 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 § 33-3-197 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.
- 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:

- 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, §50.1, 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 environment 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 vs. 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*, 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").

Evidence

The Petitioner had four witnesses who testified on its behalf on its behalf in the merits of the case, as well as a total of seven exhibits, all of which were accepted as evidence and incorporated into the record:

1. Greg Werner.

Mr. Werner testified as the Maryland Business Development Manager for Nexamp, Inc. Nexamp is the controlling member of Petitioner Parkton York Solar, LLC, who is developing the solar facility.

Mr. Werner explained Nexamp and Parkton York Solar, LLC are in the business of developing, owning, and managing photovoltaic arrays, with projects throughout the northeast. Mr. Werner indicated that Nexamp has a number of projects under development in Maryland, including one that is operational in Queen Anne's County, and several additional projects in various stages of development throughout Maryland. Mr. Werner observed that Nexamp not only develops solar facilities, but also follows up with their management and continuing operation.

Mr. Werner testified that the proposed project is at 21138 Old York Road, Parkton, Maryland 21120. The Property is owned by Mr. Wilson and his mother Mabel. Mr. Wilson is a farmer, and intends to continue farming the parts of his property not used for the photovoltaic array. The property is zoned R.C.2 Resource Conservation – Agriculture. The parcel is 39.9 acres in total, with acreage located on the south and north sides of Old York Road and, as noted, is part of a larger Wilson family farm area. The acreage that will be developed with the photovoltaic installation will be on the south side of Old York Road, to the west of Sampson Road.

Mr. Werner 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 and generate electrical energy. 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 Samson Road Rd. Mr. Werner testified that this facility is designed and engineered to

generate 0.825 megawatts of alternating current (AC) electricity, which is likely the smallest solar facility seeking approval in the Third Councilmanic District.

Mr. Werner identified three (3) main criteria for prospective, solar facility properties: (1) existing power lines with a capacity for connecting to the solar panel facility; (2) flat, cleared land; and (3) a property owner who is willing to enter into a long term lease. He indicated that the site was ideal, because there were existing power lines with capacity, the property was already completely cleared, and that the owners of the property were willing to enter into a long-term lease as well.

Mr. Werner testified that the height of the structure would be no more than seven (7) feet, and would be connected to the Baltimore Gas and Electric electrical grid through an “inverter” that converts direct current generated by the panels into alternating current used to transmit and distribute electrical energy through the grid. The inverters will emit a low humming noise, which is not likely to be audible at any property line. Additionally, 2 or 3 utility poles will be erected near the existing power lines to connect the electricity generated from the new facility to the electrical grid. There will be only minimal signage providing contact information in the event of an emergency. There will be almost no maintenance needed. There will be no lighting. At the end of the lease term, the solar facility will be removed and the holes filled in.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, **Petitioners’ Exhibit 1**, a site plan showing the proposed configuration of the photovoltaic array, along with a landscaping plan. The notes on **Petitioners’ Exhibit 1** show that the site area (the area south of Old York Road and west of Sampson Road) is a total of 19.052 acres, with the area within the fence line of 8.05 acres, and the total Limits of Disturbance (“LOD”) being 9.17 acres. This plan shows extensive landscaping around the site, including landscaping around the perimeter of the field, as well as additional dense landscaping outside of the fence surrounding the array.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, **Petitioners' Exhibit 2**, which is a "redline" site plan showing changes that were been proposed by Parkton York Solar, LLC in order to address community concerns. The exhibit shows that the configuration of the solar panels has changed in order to provide relatively open view from Old York Road, a designated scenic road. Specifically, a section of the panels closest to Old York Road has been moved to a location further away from Old York Road. The exhibit also shows the significant additional landscaping that is being proposed in order to screen the solar panels from public view.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, **Petitioners' Exhibit 3**, which is a viewshed study, depicting the impact of the solar project on views from Old York Road and Sampson Road. The study was conducted by erecting a seven-foot white marker at two visible locations at the perimeter of the proposed array, and taking photographs from five locations along Old York Road and Sampson Road. The seven-foot white marker was difficult to see from most of the locations.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, **Petitioners' Exhibit 4**, which is a set of conditions, negotiated with the Protestant Sparks Glencoe Community Planning Council ("SGCPC") and People's Counsel, in advance of the hearing. Mr. Werner indicated that there were a total of seven conditions in the exhibit, and that each of the conditions would be acceptable to SGCPC in exchange for their support of the application. Mr. Werner indicated that each of the seven conditions contained in **Petitioners' Exhibit 4** were acceptable to Petitioners.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, **Petitioners' Exhibit 5** a copy of the Opinion and Order issued by the Baltimore County Administrative Law Judge in this matter below, conditionally approving the Special Exception for the project.

Petitioners' Exhibit 5 contains a total of six (6) conditions. Mr. Werner indicated that generally the conditions were acceptable. However, Condition No. 3 in the AHO approval specifies that the fence "shall be black vinyl/coasted chain link fence." Mr. Werner indicated that subsequent discussions with the SGCPD resulted in an agreement that the fence should instead be a "farm fence," without barbed wire, substantially in compliance with the picture shown in **Petitioners' Exhibit 4**.

Mr. Werner indicated that he understood that no more than ten (10) photovoltaic projects would be allowed in Councilmanic District 3 under current law, and that to his knowledge this project would be one of those ten project. He also acknowledged that if the project was not one of those first ten projects, then the project would not receive building permits and would not proceed.

2. **Daniel Speakman – Civil Engineer.**

Daniel Speakman, P.E., testified as and was qualified as an expert civil engineer, with significant expertise with solar facilities. His Resume was introduced and accepted as **Petitioners' Exhibit 6**. He described the site plan (**Petitioners' Exhibit 1**) in detail, and reviewed each of the general special exception standards, as well as the standards applicable to solar facilities. He indicated that the facility will not overcrowd the land, will result in minimal impacts to the land; and will have no negative impacts upon public facilities, and in fact will have the opposite effect considering that the property could not be developed with houses or other impactful uses for a period of thirty five (35) years. He indicated that there would be no trees or vegetation removed, and that there would be no negative environmental impacts, particularly once stormwater management facilities were installed in compliance with the Maryland Department of Environment's Environmental Site Design to the Maximum Extent Practicable ("ESD to the MEP") standards. He also indicated that the reconfiguration of facility away from Old York Road

and the landscaping adequately address the viewshed issues from Old York Road. The lease payments will allow for the continued use of remainder of the property as a family farm; in context, consistent with purpose of R.C. 2 Zone. Mr. Speakman reviewed each of the specific standards contained in Article 4f of the BCZR, and showed their satisfaction.

3. Mr. Steven Wilson, Property Owner.

He indicated he was testifying on behalf of himself, and his mother, Mabel Wilson. Together, Steven and Mabel Wilson are the owners of the property at issue. He indicated that the Wilson family runs an active farm on this and several adjacent properties. Unlike other farms on which solar facilities will be located, the Wilson farm will continue in active agricultural production by the owners themselves. Mr. Wilson described the surrounding rural neighborhood, and said that, to the best of his knowledge, the adjacent residents find the project to be acceptable. There were no adjacent residents who appeared in opposition to the project.

4. Ms. Lynn Jones, Sparks Glencoe Community Planning Council.

Lynne Jones, President of SGCPG, testified on behalf of the Petitioner. Ms. 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 SGCPG. SGCPG 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-shaped figure as shown on the boundary map, introduced and accepted as Petitioners' Exhibit 7.

SGPGC is concerned about the impact of solar facilities in the rural north county area, especially on agricultural properties, and has participated in many of the solar facility special exception cases. Ms. Jones explained in detail why this facility is acceptable, so long as subject to the agreed conditions and the conditions set by the ALJ, as adjusted for the fence.

Ms. Jones spoke about her appreciation of the proposal and the willingness of Petitioners to work with her organization; highlighted the moderate size of this facility compared to other proposals; the willingness of the Petitioners to relocate the facility further away from Old York Road. She also appreciated the upgraded farm fence and landscaping, and specifically cited the lack of particular or significant environmental impacts as an important factor in her support.

In spite of being a named Protestant, Ms. Jones indicated that she supported the granting of this Special Exception, provided that certain conditions were imposed relating to the Special Exception. Specifically, she referenced the conditions contained in Petitioners' Exhibits 4 and 5 as being the conditions that were acceptable to SGCP.

Protestants' Case.

The Protestants did not otherwise present a case.

People's Counsel Case

Mr. Zimmerman, the People's Counsel for Baltimore County, introduced two deeds, as People's Counsel Exhibits 1 and 2, proving ownership of the property in Steven and Mabel Wilson. People's Counsel indicated non-opposition to the granting of the Special Exception, provided that the conditions contained in Petitioners' Exhibits 4 and 5 are incorporated into the Board of Appeals decision and order.

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. Werner and Mr. Speakman support the Petitioners' position that the proposed solar facility would not be detrimental to the health, safety or general welfare of the locality involved. In sum, Petitioners presented an unopposed *prima facie* case that the proposal, as conditioned, meets all of the special exception criteria and satisfies the additional requirements of BCZR Article 4F. Indeed, we

conclude that Petitioners presented a compelling case of compliance with each of the Special Exception Criteria.

As described in detail above, Mr. Werner and Mr. Speakman 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. Werner indicated that there was very limited risk of fire, and that in the case of fire contact information would be readily available to gain access to the facility. (BCZR, §502.1.C.) As with the lack of traffic, Mr. Werner and Mr. Speakman 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. Werner and Mr. Speakman 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. Speakman confirmed that the height of the facility will be approximately 7 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 R.C.2 zone and with the spirit and intent of the BCZR, it is significant that the solar facility area is moderate relative to the entire farm, such that the principal farm area may remain productive. Furthermore, at the end of the facility's useful life, the solar facility area can also be returned to active agricultural production.

The County Council deemed solar facilities are uses permitted in the R.C.2 zone, subject to the special exception standards, as explained in *Shultz*, *Loyola* and *Attar*. Rain will repel off the solar panels and soak into the ground between the rows. Mr. Speakman indicated that stormwater

management will be in accordance with MDE's ESD to the MEP standard. Furthermore, the Baltimore County Department of Environmental Protection and Sustainability ("EPS") will determine whether any further storm water management retention measures are needed.

Finally, Mr. Speakman 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 Board of Appeals is also satisfied that the proposal satisfies the special BCZR §4F criteria. Mr. Speakman 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. Speakman testified that the solar facility will not be located in the forest conservation easement or designated conservancy area. (BCZR, §§4F-104.A.3.)

As to the setback and height requirements, Mr. Werner and Mr. Speakman made clear that the facility at its highest peak will not exceed 7 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, Petitioners have demonstrated robust landscape planning around the perimeter of the property, as well as around the array itself. (BCZR, §4F-104 .6).

Additionally, there is a requirement that the solar panels minimize glare in order to prevent vehicle collision and safety hazards. (BCZR, §4 F-104 .8). Mr. Werner indicated that there would be no glare from the panels.

Finally, Petitioners must comply with BCC, §33-3-108, which specifies requirements for plans pertinent to water quality, streams, wetlands, and floodplains. (BCZR §4 F-104 .A.9).

CONDITIONS

Resolution of this matter was aided by Petitioners' and Protestants' efforts to draw up a set of conditions, set forth in **Petitioners' Exhibit 4 and 5**, which will minimize the impact of facility on the surrounding community. Given the parties' willingness to enter into these conditions, the Board of Appeals believes it is appropriate to incorporate these conditions in the Order approving this Special Exception Petition.

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, subject to the conditions below. To repeat, these are the conditions agreed upon by Petitioners and Protestants, along with the conditions imposed by the ALJ, as adjusted to provide for an appropriate fence.

ORDER

THEREFORE, IT IS THIS _____ day of _____, 2019, by the County Board of Appeals for Baltimore County,

ORDERED that the Petition for Special Exception for a solar facility pursuant to BCZR, Article 4F and Sec. 502.1 as set forth on the Site Plan (**Petitioners' Exhibit 1**) be, and the same is hereby **GRANTED**, subject to the following conditions under the Board's authority in §4F-104.A.10 and Sec. 502.2:

I: Agreed Conditions

- a. Petitioner must comply with Conditions 1 through 6 of the Opinion and Order of the Baltimore County Administrative Law Judge in this matter (**Petitioners' Exhibit 5**), with the following modifications:
 - i. Instead of a black vinyl-coated chain link fence referenced in Condition 3 thereof, the parties agree that the fence shall be a "farm fence" similar to picture below around the perimeter of the project, *provided* that such fence shall not contain barbed wire and may be modified at the requirement or

direction of the County or other governmental entity during the site plan review process, or as necessary to comply with applicable building codes.



- b. The configuration of the Project shall be substantially as depicted in **Petitioners' Exhibit 1**, including the relocation of approximately 9 rows of panels from the northeast corner of the parcel to the southeast corner; *provided* that such location may be modified as required or directed by the County or other governmental entity during the site plan review process; *provided further* that such location and configuration within the Property may be modified as reasonably necessary for construction-related purposes, so long as such modified location and configuration do not result in the placement of any solar modules nearer to Old York Road than as depicted in **Petitioners' Exhibit 1**.
- c. Petitioners shall provide a vegetative screen ("Screen") at least as rigorous as reflected in **Petitioners' Exhibit 1** including the species, quantities, and planting sizes indicated in the Plant Table shown thereon; *provided* that such Screen may be modified as required or directed by the County or other governmental entity during the site plan review process.
- d. Petitioners shall, prior to issuance of the applicable County building permit, post a performance bond with the County in an amount equal to 125% of the installation costs of the Screen and other landscape improvements, as determined by a duly licensed civil engineer. Such bond shall be provided to the County as security for Parkton York's obligations to properly maintain the Screen for a period of 3 years, so as to ensure the reasonable health and growth of the trees and shrubs comprising the Screen.
- e. Petitioners acknowledge that the support of each neighboring property owner is critical to the success of the Solar Facility, and therefore shall work in good faith with SGPC to ensure the continued support of such neighbors throughout the development process.

- f. Petitioners agree and consent to the Board of Appeals of Baltimore County limiting the duration of the Special Exception, approved pursuant to BCZR Sections 502.1 and 4F-104, to a period of 35 years, running from the date of final inspection certificate issued under the County building permit for the Solar Facility.
- g. Parkton York will design and install a stormwater management system that meets or exceeds all County standards. The design will be prepared, approved, and stamped by a civil engineering firm that is fully licensed and insured in accordance with State requirements.
- h. Petitioners shall not spray chemicals on the ground during the construction or operation of the Solar Facility.

II. Conditions 1 through 6 of the ALJ Order, as relevant and as adjusted.

- i. Petitioners must comply with the ZAC comments submitted by the DEPS, a copy of which is attached hereto and made a part hereof, including compliance with Baltimore County Code Secs. 33-1-101 through 33-3-120 and 33-6-101 through 33-6-122.
- j. Prior to issuance of permits, Petitioners must submit for approval by the Baltimore County Landscape Architect a landscape plan for the site.
- k. The special exception area shall include only the property within the proposed fenced enclosure, i.e., approximately 9.38 acres.
- l. No lighting or signage shall be permitted in connection with the solar facility.

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
FOR BALTIMORE COUNTY**

Andrew M. Belt, Panel Chair

Maureen E. Murphy

Deborah C. Dopkin

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Steven Wilson – Legal Owner 19-138-X
Parkton York Solar, LLC – Lessee

DATE: May 14, 2019

BOARD/PANEL: Andrew M. Belt, Panel Chairman
Maureen E. Murphy
Deborah C. Dopkin

RECORDED BY: Tammy A. Zahner, Legal Secretary

PURPOSE: To deliberate a Petition for Special Exception pursuant to BCZR Sections 502.1 and 4F-104 to operate a solar facility in the RC-2 zone.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

DISCUSSION

- The Board convened for a hearing on the request to operate a solar facility in the RC-2 zone, then immediately convened for Public Deliberation.
- Prior to the hearing the parties entered into discussions to address the Protestants concerns about the solar facility, and the Petitioner agreed to certain conditions to satisfy those concerns.
- During the hearing the Board heard testimony from Lynne Jones on behalf of the Protestants indicating they have no objection to the solar facility with the conditions agreed to by the Petitioner.
- The Board noted that the requested solar facility will generate under 2 megawatts of electricity, meets setback requirements, no environmental features were identified, the scenic route setback is double that required, the facility will be fenced with a farm fence, there will be no fire, noise or smoke generated, and the proposed solar facility area is smaller than allowed. There was also testimony that the statutory requirement of 10 solar facilities per district has not been exceeded.
- The Board will impose an additional condition that a sign be posted on the fence of the solar facility with emergency contact information including a 24 hour telephone number, e-mail address, and website.
- The Board found that the request meets the special exception requirements contained in BCZR Section 502.1 and the requirements for a solar facility to be located in a RC zone contained in Section 4F-104.
- Counsel for Petitioner will prepare and submit a proposed Order to the Board, after review by Protestants' counsel and People's Counsel.

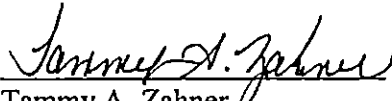
CONCLUSION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the Petition for Special Exception with conditions.

STEVEN WILSON – LEGAL OWNER
PARKTON YORK SOLAR, LLC – LESSEE
19-138-X
MINUTES OF DELIBERATION

PAGE 2

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Tammy A. Zahner



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

March 20, 2019

NOTICE OF ASSIGNMENT

IN THE MATTER OF:

19-138-X

Steven Wilson – Legal Owner
Parkton York Solar, LLC – Lessee
21138 Old York Road
7th Election District; 3rd Council District

Re: Petition for Special Exception pursuant to BCZR Sections 502.1 and 4F-104 to operate a solar facility in the RC-2 zone.

1/14/19 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

ASSIGNED FOR:

And

MAY 14, 2019, AT 10:00 A.M. - Day 1
MAY 16, 2019, AT 10:00 A.M. - Day 2

LOCATION:

Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.
- Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.
- Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

Notice of Assignment
In the matter of: Steven Wilson
Case number: 19-138-X
March 20, 2019
Page 2

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Petitioner/Lessee

: Benjamin S. Wechsler, Esquire
: Steven Wilson
: Parkton York Solar, LLC

Counsel for Protestants
Protestants

: H. Barnes Mowell, Esquire
: Sparks Glenco Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones, Kathleen
Pieper

Jeff Smith, P.E., Bowman Consulting

Jeff Mayhew, Acting Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel



JOHN A. OLSZEWSKI, JR.
County Executive

ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings

February 13, 2019



Benjamin S. Wechsler, Esq.
1 Park Place, Suite 585
Annapolis, MD 21401

RE: **APPEAL TO BOARD OF APPEALS** – Petition for Special Exception
Case No. 2019-0138-X
Property: 21138 Old York Road

Dear Mr. Wechsler:

Please be advised that an appeal of the above-referenced case was filed in this Office on February 12, 2019. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,

A handwritten signature in black ink, appearing to read "JEB".
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

c: Baltimore County Board of Appeals
Peter Max Zimmerman, People's Counsel for Baltimore County
H. Barnes Mowell, Esq., H. Barnes Mowell, P.A., 16925 York Road, Monkton, MD 21111
Lynne Jones, 815 Stablers Church Road, Parkton, MD 21120
Lisa Arthur, 19500 Burke Road, White Hall, MD 21161

APPEAL

**Petition for Special Exception
(21138 Old York Road)
7th Election District – 3rd Councilmanic District
Legal Owners: Steven Wilson
Lessee: Parkton York Solar, LLC
Case No. 2019-0138-X**

Petition for Special Exception (October 29, 2018)

Zoning Description of Property

Certificate of Postings –

1st Posting: December 19, 2018 by Bruce Doak

2nd Posting: January 7, 2019 by Bruce Doak

Newspaper Advertisement – December 21, 2018 (The Daily Record)

Notice of Zoning Hearing – December 4, 2018

People's Counsel Entry of Appearance – November 8, 2018

Zoning Advisory Committee Comments

Petitioner's Sign-in Sheets – 1 Sheet

Citizen's Sign-in Sheets- 1 Sheet

Petitioner(s) Exhibits –

1. Site Plan
2. Aerial photo
3. Jeff Smith resume
4. Plan w/ accompanying photos 1-6

Protestant(s) Exhibits –

1. Photo of Zoning Signs
2. Photo of Old York Road
3. Zoning listing for hearing from My Neighborhood
4. Site photo from Old York Road
5. Site photo from Sampson Road

Miscellaneous (Not Marked as Exhibits)

Administrative Law Judge Order and Letter (GRANTED with Conditions – January 14, 2019)

Appeal Notice, Letter & Receipt received from H. Barnes Mowell, Esq. – February 12, 2019



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

No. **174814**

Date: **2/12/19**

PAID RECEIPT

BUSINESS 2/13/2019 ACTUAL 2/12/2019 TIME 15:02:09 DRW 1

REC WSO1 WALKIN LJR
 >> RECEIPT # 833005 2/12/2019 OFLN

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				400.00

Total: **400.00**

Rec From: **H. Barnes Mowell**

For: **Office of Administrative Hearings (CD OR APPEAL)**

CASE NO. **2019-0138-X**

ADDRESS OR PROJECT: **21138 Old York Road**

HEARING DATE(S): **JANUARY 10, 2019**

CHECK # **6298 \$15.00** **1501 - \$385.00**

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

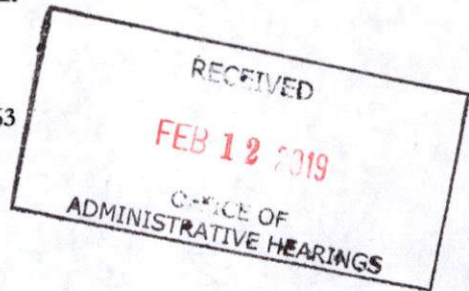
GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

H. BARNES MOWELL, P.A.

Attorney At Law
16925 York Road
Monkton, Maryland 21111
Phone: 410-329-6488 Fax: 410-357-4663
barneymowell@hotmail.com
February 11, 2019



Michael Mohler, Acting Director
Department of Permits, Approvals & Inspections
111 W. Chesapeake Avenue
Suite 205
Towson, Maryland 21204

via Hand-Delivery

Re: Notice of Appeal of OAH Decision
Case No: 2019-0138-X

Dear Mr. Mohler:

I have enclosed a Notice of Appeal of the Opinion and Order of the Office of Administrative Hearings in the captioned case, as well as a check for the \$400 filing fee.
Should you have any questions, please contact me.

Very truly yours,

H. Barnes Mowell

cc: Baltimore County Board of Appeals
Office of Administrative Hearings

IN RE: PETITION FOR SPECIAL EXCEPTION *

(21138 Old York Road)

7th Election District *

3rd Council District *

Steven Wilson, LLC *

Legal Owner

Parkton York Solar, LLC *

Lessee

Petitioners

BEFORE THE

OFFICE OF ADMINISTRATIVE HEARINGS

FOR

BALTIMORE COUNTY

CASE NO: 2019-0138-X

* * * * *

NOTICE OF APPEAL

Please enter my appearance as counsel on behalf of the Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Emma Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074.

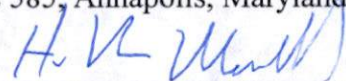
Please note the appeal by the above-named entity and individuals to the Baltimore County Board of Appeals of the Opinion and Order entered in the captioned case by the Office of Administrative Hearings on January 14, 2019.



H. Barnes Mowell, P.A.
16925 York Road
Monkton, Maryland 21111
410-329-6488
barneymowell@hotmail.com

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed this 12th day of February 2019 to Benjamin S. Wechsler, Esquire, One Park Place, Suite 585, Annapolis, Maryland 21401.



H. Barnes Mowell

H. BARNES MOWELL, P.A.

Attorney At Law
16925 York Road
Monkton, Maryland 21111
Phone: 410-329-6488 Fax: 410-357-4663
barneymowell@hotmail.com
February 11, 2019



Michael Mohler, Acting Director
Department of Permits, Approvals & Inspections
111 W. Chesapeake Avenue
Suite 205
Towson, Maryland 21204

via Hand-Delivery

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Should you have any questions, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "H. Barnes Mowell".

H. Barnes Mowell

cc: Baltimore County Board of Appeals
Office of Administrative Hearings



IN RE: PETITION FOR SPECIAL EXCEPTION *

(21138 Old York Road) *

7th Election District *

3rd Council District *

Steven Wilson, LLC *

Legal Owner *

Parkton York Solar, LLC *

Lessee *

Petitioners *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR

BALTIMORE COUNTY

CASE NO: 2019-0138-X

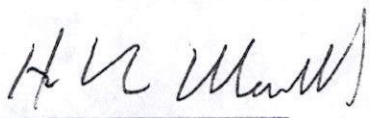
* * * * *

NOTICE OF APPEAL

Please enter my appearance as counsel on behalf of the Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Emma Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074.

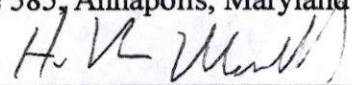
Please note the appeal by the above-named entity and individuals to the Baltimore County Board of Appeals of the Opinion and Order entered in the captioned case by the Office of Administrative Hearings on January 14, 2019.




H. Barnes Mowell, P.A.
16925 York Road
Monkton, Maryland 21111
410-329-6488
barneymowell@hotmail.com

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed this 12th day of February 2019 to Benjamin S. Wechsler, Esquire, One Park Place, Suite 585, Annapolis, Maryland 21401.


H. Barnes Mowell



JOHN A. OLSZEWSKI, JR.
County Executive

ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings

January 14, 2019

Benjamin S. Wechsler, Esq.
1 Park Place, Suite 585
Annapolis, MD 21401

RE: Petition for Special Exception
Case No. 2019-0138-X
Property: 21138 Old York Road

Dear Mr. Wechsler:

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

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

Sincerely,


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

c: Lynne Jones, 815 Stablers Church Road, Parkton, MD 21120
Lisa Arthur, 19500 Burke Road, White Hall, MD 21161

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(21138 Old York Road)		
7 th Election District	*	OFFICE OF
3 rd Council District		
Steven Wilson	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Parkton York Solar, LLC	*	FOR BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	Case No. 2019-0138-X

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Special Exception filed on behalf of Steven Wilson, legal owner, and Parkton York Solar, LLC, lessee (“Petitioners”). The special exception petition was filed pursuant to Sections 502.1 and 4F-104 the Baltimore County Zoning Regulations (“BCZR”) to approve a solar facility.

Steven Wilson, Greg Werner, and professional engineer Jeff Smith appeared in support of the petition. Benjamin S. Wechsler, Esq. represented the lessee. Several members of the community opposed the request. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”), the Department of Planning (“DOP”), the Bureau of Development Plans Review (“DPR”) and the State Highway Administration (“SHA”). None of the reviewing agencies oppose the request.

In the aggregate, the subject property is approximately 40 acres (with parcels on both sides of Old York Road) and is zoned RC-2. The property is in active agriculture and the owner (Steven Wilson) testified he was born and raised on this farm and that his family have been farming in this area since the 1930s. The parcel on the south side of Old York Road is approximately 19 acres in size, while the proposed solar panels would occupy approximately 9.38 acres.

ORDER RECEIVED FOR FILING

Date 1-14-19

By hw

Special Exception

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Petitioners presented testimony from Greg Werner, an employee of Nexamp, the lessee which would operate the facility. Ms. Werner testified at length concerning the proposed facility and described in detail the site improvements and landscaping planned for the site. Professional engineer Jeff Smith also testified and explained the proposed improvements shown on the site plan. Mr. Smith also addressed how storm water management would be handled at this site and he emphasized that, as required by state and county law, there would be no increase in storm water runoff as a result of the solar panels. He opined Petitioners satisfied all requirements for special exception relief.

Although community members identified certain concerns including visibility of the site from the scenic route and the potential for interfering with and discouraging agricultural activity in the area, these are the same concerns which have been identified in nearly every contested zoning case involving solar facilities. As such, I believe they are inherent in the operation of such a facility regardless of its location in the rural portions of the County. Such testimony cannot, pursuant to *Schultz* and *Attar*, successfully rebut Petitioners *prima facie* case outlined above.

ORDER RECEIVED FOR FILING

Date 1-14-19

2

By kw

The DOP submitted thorough and detailed ZAC comment(s) concerning this project, and in the most recent correspondence indicated it no longer opposes the request. Counsel indicated the site plan was revised to address many of the concerns raised by the DOP, and other conditions are included below as suggested by that agency. The only condition suggested by that agency which is not included below concerns the number of years the solar facility may operate before it is decommissioned. The solar facilities law (Council Bill 37-17) does not contain any time limitations on the operations of these facilities and Petitioner presented testimony that the panels have a useful life in excess of 25 years. Special exceptions, like variances, "run with the land," which means they are transferrable to a subsequent owner and are extinguished only by request of the property owner or by operation of law. *See, e.g., Upper Minnetonka Yacht Club v. City of Shorewood*, 770 N.W. 2d 184, 187 (Minn. 2009) (special exception or conditional use permit is a "protected property right [that] runs with the land").

THEREFORE, IT IS ORDERED this 14th day of **January, 2019**, by this Administrative Law Judge, that the Petition for Special Exception seeking relief from Sections 502.1 and 4F-104 of the Baltimore County Zoning Regulations ("BCZR"), for a solar facility, be and is hereby GRANTED.

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 must comply with the ZAC comments submitted by the DEPS, a copy of which is attached hereto and made a part hereof.

ORDER RECEIVED FOR FILING

Date 1-14-19

By [signature]

3. No barbed wire fencing shall be permitted in connection with the solar facility. The fence enclosing the panels shall be black vinyl/coated chain link fence.
4. Prior to issuance of permits, Petitioners must submit for approval by the Baltimore County Landscape Architect a landscape plan for the site.
5. The special exception area shall include only the property within the proposed fenced enclosure, i.e., approximately 9.38 acres.
6. No lighting or signage shall be permitted in connection with the solar facility.

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 1-14-19

By law

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
DEC 06 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

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

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

DATE: December 6, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0138-X
Address 21138 Old York Road
(Wilson Property)

Zoning Advisory Committee Meeting of **November 12, 2018.**

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

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Reviewer: Thomas Panzarella
Environmental Impact Review

ORDER RECEIVED FOR FILING

Date 1-14-19
By [Signature]



JOHN A. OLSZEWSKI, JR.
County Executive

DIRECTOR
Department of Permits,
Approvals & Inspections

January 3, 2019

Benjamin Wechsler, Esq.
1 Park Place, Ste. 585
Annapolis, MD 21401

RE: Case Number: 2019-0138-X, Address: 21138 Old York Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on October 29, 2018. This letter is not an approval, but only a **NOTIFICATION**.

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

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

Very truly yours,

A handwritten signature in black ink, appearing to read "W. Carl Richards, Jr.", is written over a faint, larger version of the same signature.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR/kl

Enclosures

c: People's Counsel
Parkton York Solar, LLC, 101 Summer Street, Boston MA 02110
Steven Wilson, 21128 Lentz Road, Parkton 21120

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: December 6, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0138-X
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Reviewer: Thomas Panzarella
Environmental Impact Review

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: John Beverungen
PAI Administrative Law Judge

DATE: January 4, 2019

FROM: Wally Lippincott
Sector Planner, Neighborhood Response Team

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS (REVISED)
Case Number: 19-138

INFORMATION:

Property Address: 21138 Old York Road
Petitioner: Steven Wilson, Surviving Joint Tenant
Zoning: RC 2
Requested Action: Special Exception

The Department is revising its recommendation from "Oppose" to "Not Oppose" the Special Exception Request for Solar Arrays at 21138 Old York Road subject to the conditions listed below. The change in recommendation is based upon the submittal of the petitioner of a "Revised Statement of Justification" and electronic copy of a revised site plan.

The Department does not oppose the request subject to the following conditions:

- Decommission the solar project at the end of 25 years and return the land to conditions suitable for farming.
- Eliminate the access road off Old York Road and replace with an access from Sampson Road.
- Provide an internal farm road access from the front field to the area behind the proposed solar arrays.
- Plant, maintain and monitor the planting of pollinator-friendly groundcover species between the arrays within the solar facility and provide reports of the results to the Department of Planning North Sector Planner on an annual basis.
- Revise the landscape buffer to be more naturalistic in appearance subject to the approval of the Baltimore County Landscape Architect.
- Provide a scenic view impact study to the attention of Department of Planning North Sector Planner and the Baltimore County Landscape Architect as required by the Comprehensive Manual of Development Policies (Page 185) as adopted by the Baltimore County Planning Board on April 16, 1992 with Amendments on September 20, 2006.

The following comments provided on the November 27, 2018 Department's Zoning Advisory Letter remain valid:

- 1) Proposed perimeter fence shall be black vinyl coated chain-link fence.
- 2) Submit a solar glare analysis and letter from an expert of the solar company confirming the finding of said analysis and that glare will not impact the surrounding residential properties and the public road

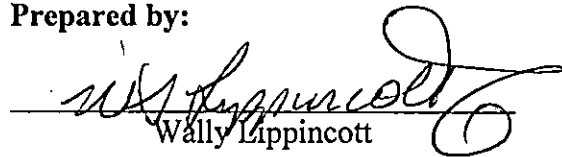
Subject: ZAC #19-138

Date: January 4, 2019

Page 2

- 3) Petitioners shall certify by note on the plan that the proposed solar facility will not exceed the maximum permitted number of facilities allowed in its respective councilmanic district. If approved, Petitioners shall submit to this Department at the time of building permit application the final fixed location and area of the facility by coordinate data so that an inventory may be kept.
- 4) Lighting shall be limited to what is required for security purposes only and will be sited in such a way as to have minimal spillage onto neighboring properties.
- 5) Signage shall be limited to that which is necessary for safety and security purposes.
- 6) No deliveries or outdoor maintenance which may generate excessive noise may occur on-site between the hours of 6 P.M. through 6 A.M.
- 7) Indicate on the plan the means and location by which the solar facility connects to the power grid and whether grading or clearing will be involved.

Prepared by:


Wally Lippincott

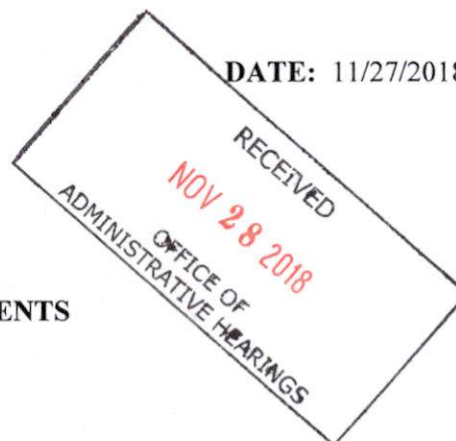
BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

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

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-138

DATE: 11/27/2018



INFORMATION:

Property Address: 21138 Old York Road
Petitioner: Steven S. Wilson
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a solar facility.

A site visit was conducted on November 20, 2018. Old York Road is a Master Plan designated scenic road presenting an "expansive view" as defined in the Comprehensive Manual of Development Policies (CMDP pg.177). The subject site is currently under cultivation and is within a Master Plan 2020 Agricultural Priority Preservation Area (APPA).

The Department objects to granting the petitioned zoning relief.

The subject site is surrounded on three sides by agricultural uses and is part of one of the largest active agriculture and agricultural preservation areas in the County. A Master Plan 2020 stated action for the APPAs is to "*Continue to enforce local policies, ordinances, regulations and procedures that stabilize the agricultural and forest land base*" (MP2020, pg.92). Baltimore County Zoning Regulations (BCZR) § 1A01.1.A.1.b finds "*that the agricultural industry is an integral part of the Baltimore (County) economy and that a continued conversion of agricultural land will continue to undermine this basic industry*". The Department recommends the petitioners have not demonstrated how the proposal has met the criteria established on BCZR§1A01.1.2.C stipulating that the special exception not be detrimental to agricultural uses in the vicinity. The "vicinity" is in fact the solar facility site itself. The special exception use is proposed to be situated entirely on prime and productive soils preventing cultivation of the resource and therefore is inconsistent with the purposes of the R.C.2 zone. The proposal will have greater impacts here as opposed to other locations where the use may be considered. The Department recommends this is detrimental to the general welfare of the County and is contrary to the special exception approval conditions established in BCZR§502.1.A&G.

If subsequent to the hearing, the Administrative Law Judge deems the petitioned special exception to be appropriate, the Department recommends the following conditions be attached to any decision and order rendered in the case:

Old York Road is a Baltimore County Scenic Route. When developing on a scenic route, the Comprehensive Manual of Development Policies (CMDP) development guidelines instructs one to *"maintain a buffer between the road and the new development"* (CMDP pg.180).

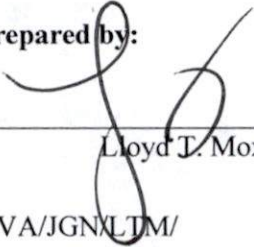
- The proposal shall minimize grading, tree and vegetation removal along Old York Road.
- The Department supports the Baltimore County Landscape Architect in planting requirements deemed necessary to include interior contour screening and other planting schemes that will mitigate the visual impact of the special exception proposal upon the scenic route.
- The Department recommends entry to the solar facility be via Sampson Road only.

Additional conditions are as follows:

- Pursuant to BCZR §502.1.A, petitioners shall demonstrate to the satisfaction of the Administrative Law Judge that the facility will not be detrimental to the adjacent residential properties as a result of glare emanating from the facility.
- Petitioners shall note on the plan that the proposed solar facility will be subject to BCZR §4E-107.
- Petitioners shall certify by note on the plan that the proposed solar facility will not exceed the maximum permitted number of facilities allowed in its respective councilmanic district. If approved, Petitioners shall submit to this Department at the time of building permit application the final fixed location and area of the facility by coordinate data so that an inventory may be kept.
- Lighting shall be limited to what is required for security purposes only and will be sited in such a way as to have minimal spillage onto neighboring properties.
- Signage shall be limited to that which is necessary for safety and security purposes.
- No deliveries or outdoor maintenance which may generate excessive noise may occur on-site between the hours of 6 P.M. through 6 A.M.

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

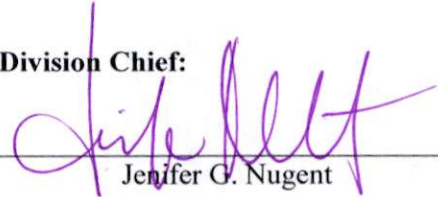
Prepared by:



Lloyd T. Moxley

AVA/JGN/LTM/

Division Chief:



Jennifer G. Nugent

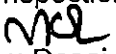
c: Wally Lippincott

James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Benjamin S. Wechsler, Esquire
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

FROM:  Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For November 12, 2018
Item No. 2019-0138-X

DATE: November 26, 2018

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

Specific landscape comments:

1. Old Court Road is a Baltimore County Scenic Route,
2. Perimeter landscape buffers are required,
3. Must minimize tree and vegetation removal,
4. Perimeter landscape buffers required along Sampson Road might require solar facility to be set back more from Sampson Road to allow room for adequate and diverse landscape screen planting. This planting needs to be set back from the existing overhead power lines to allow the diversity of screen plant materials to mature and not be effected by standard vegetation maintenance typically associated with existing overhead power line. This planting should also be located and follow higher contours to capitalize and maximize screening potential.
5. Perimeter landscape buffers need to be designed to include a diversity of plant materials.
6. Solar panels are considered a utility and should be designed and located to harmonize with the surroundings and to create the least visual impact.
7. Additional strip landscape buffers (including contour strip buffers) may be required to address existing topography changes. The plan that was circulated (without a date) was insufficient with respect to showing a number of the existing site conditions including existing adjacent property information i.e. topo, contour labels, existing vegetation, overhead powerlines, driveways etc. (see below)
8. Proposed perimeter fence shall be black vinyl-coated chain-link fence,
9. Perimeter landscape buffer should follow southern property line to address adjacent property views to provide maximum screening potential when it relates to the proposed solar facility. Including but not limited to 20922 Sampson Road.
10. Additional site plan information is needed:
 - a. Plan Date
 - b. Adjacent property information including but not limited to:
 - i. Topography
 - ii. Tax account numbers, address, use, etc.,

- iii. Existing conditions - structures, fencing, vegetation, driveways, etc.
 - iv. Show topo and existing conditions 500+ feet outside subject property
 - v. Include recently built house located at 20922 Sampson Road
11. Proposed access road may need to have a chicane or bends to assure screening of the solar array field from Sampson Road views if landscape screening does not,
12. More comments may be rendered during review of the Landscape Plan

Developer to provide a commercial entrance a minimum of 24-feet wide off of Old York Rd. (MD Route 439).

The on-site access road from Old York Rd. back to the equipment pad shall be dustless and durable.

Owner to dedicate highway widening along Sampson Road to Baltimore County as part of the development process.

* * * * *

VKD: cen
Cc: file

MDOT
MARYLAND DEPARTMENT
OF TRANSPORTATION
STATE HIGHWAY
ADMINISTRATION

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

November 14, 2018

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 109
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Ms. Lewis:

Thank you for the opportunity to review the site plan to accompany the petition for a special exception to allow a solar facility on the subject property. The Maryland Department of Transportation State Highway Administration (MDOT SHA) has reviewed the submittal listed below and is pleased to respond.

Parkton York Solar, LLC
Site Plan Review for Special Exception
Case No. 2019-0138-X
MD 439 (south side) 220' west of Lentz Road
Mile Post 0.83
Baltimore County

The proposed access to this site will be subject to the terms of an access permit to construct a paved apron on MD 439. That permit may be obtained by contacting Mr. Brian Gneiting, Resident Maintenance Engineer – Hereford Shop at 410-329-6752. A copy of the plan will be forwarded to his office.

If there are any questions, please contact Mr. Richard Zeller at 410-229-2332 or toll free (in Maryland only), 1-866-998-0367 (x2332) 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

cc: Bowman Consulting / 185 Admiral Cochrane Drive, Suite 215, Annapolis, MD 21401
Parkton York Solar, LLC / 101 Summer Street, Boston, MA 02110
Mr. Steven L Wilson / 21128 Lentz Road, Parkton, MD 21120
Mr. Brian Gneiting, MDOT SHA Resident Maintenance Engineer – Hereford Shop

Carl Richards Jr

From: Jeffery Livingston
Sent: Thursday, January 03, 2019 11:42 AM
To: Benjamin S. Wechsler - Linowes and Blocher LLP; Wallace S. Lippincott; Jeff Smith
Cc: Carl Richards Jr; Greg Werner (gwerner@nexamp.com); Peter Z. Goldsmith - Linowes and Blocher LLP; Lloyd Moxley; Joseph W. Wiley; James Hermann
Subject: RE: Zoning case #19-138

Ben,

Forest Conservation and Forest Buffer Regulations apply to the entire parcel.

Jeff Livingston
Baltimore County
Department of Environmental Protection and Sustainability
111 West Chesapeake Ave, Suite 319
Towson, MD 21204
(410) 887-5859
Fax (410) 887-4804

From: Benjamin S. Wechsler - Linowes and Blocher LLP [mailto:BWechsler@linowes-law.com]
Sent: Wednesday, January 02, 2019 3:58 PM
To: Wallace S. Lippincott <wlippincott@baltimorecountymd.gov>; Jeff Smith <jsmith@bowmanconsulting.com>
Cc: Carl Richards Jr <CRichards@baltimorecountymd.gov>; Greg Werner (gwerner@nexamp.com) <gwerner@nexamp.com>; Jeffery Livingston <jlivingston@baltimorecountymd.gov>; Peter Z. Goldsmith - Linowes and Blocher LLP <PGoldsmith@linowes-law.com>; Lloyd Moxley <lmoxley@baltimorecountymd.gov>; Joseph W. Wiley <jwiley@baltimorecountymd.gov>; James Hermann <jhermann@baltimorecountymd.gov>
Subject: RE: Zoning case #19-138

Wally – thanks for meeting with us on December 11 to discuss this application. As we discussed, NexAmp is willing and able to make some changes that should address most if not all of your concerns. As the anticipated long-term owner of the project, NexAmp has considerably more flexibility to consider atypical and site-specific requests than many typical solar developers. .

Many of these changes are reflected on the attached revised site plan. The landscape buffer is now much more articulated and naturalistic. The entrance road has been moved from Old York Road to Sampson Road. The solar array has also been slightly reconfigured in order to allow farm equipment to access the acreage in the back of the property.

We will also be willing to commit to developing pollinator habitat and apiculture within the area of the solar array that is not covered by panels (approximately 7.5 acres). This Project would score roughly 105 points on the Department of Natural Resources' ("DNR") draft version of the "Solar Site Pollinator Habitat Planning and Assessment Form." DNR characterizes any score over 85 points as "Provides Exceptional Habitat."

Finally, we are continuing to work to confirm that afforestation is based on the area of the actual solar array that would be authorized by the Special Exception (approximately 10 acres), not the entirety of the 40-acre

parcel. This reduced afforestation area will reduce the amount of productive acreage that is converted from active agricultural uses trees.

Could you (a) advise whether there are additional enhancements that you would like for NexAmp to consider, and (b) confirm that these additional proffers (if formally submitted through a revised site plan and Statement of Justification), will not trigger the need to send out new public notice and hence a new hearing date?

Benjamin S. Wechsler | Linowes and Blocher LLP | 443.949.3128

From: Wallace S. Lippincott [<mailto:wlippincott@baltimorecountymd.gov>]
Sent: Tuesday, December 18, 2018 11:20 AM
To: Benjamin S. Wechsler - Linowes and Blocher LLP; Jeff Smith
Cc: Carl Richards Jr; Greg Werner (g Werner@nexamp.com); Jeffery Livingston
Subject: RE: Zoning case #19-138

Ben,
I see you are still waiting for comments of which I think the most critical are the Environmental ones. We discussed that you might consider contacting the agency directly. I believe we suggested you check in with Jeff Livingston at 410-887-3769 since he coordinates the comments.

From: Benjamin S. Wechsler - Linowes and Blocher LLP [<mailto:BWechsler@linowes-law.com>]
Sent: Tuesday, December 18, 2018 7:09 AM
To: Jeff Smith <j smith@bowmanconsulting.com>
Cc: Carl Richards Jr <CRichards@baltimorecountymd.gov>; Wallace S. Lippincott <wlippincott@baltimorecountymd.gov>; Greg Werner (g Werner@nexamp.com) <g Werner@nexamp.com>
Subject: Re: Zoning case #19-138

Could we get a response to the below please? We have a January 10 hearing so we are a bit under the gun.

Thank You!

Benjamin S. Wechsler | Linowes and Blocher LLP | [443.949.3128](tel:443.949.3128)

On Dec 13, 2018, at 9:17 AM, Jeff Smith <j smith@bowmanconsulting.com> wrote:

Carl, we had a good meeting with Wally on Tuesday regarding his team's comments on the proposed Special Exception plan. We haven't received any comments from other departments on this site to date. We may have some changes to our plan based on our meeting with Wally, however we don't want to submit revised plans/info without having all the dept's comments. Do you have any idea when we may receive the remaining comments? Also, should we submit a redline plan now or wait? Thanks for your help.

**Jeff Smith, P.E. | Branch Manager\Principal
Bowman Consulting**

185 Admiral Cochrane Drive, Suite 215, Annapolis, MD 21401
direct: 443-837-3765 | mobile: 443-540-4280
j smith@bowmanconsulting.com | bowmanconsulting.com |
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 — Go Green! Please consider the environment before printing this email.



CONNECT WITH BALTIMORE COUNTY

Carl Richards Jr

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185 Admiral Cochrane Drive, Suite 215, Annapolis, MD 21401
direct: 443-837-3765 | mobile: 443-540-4280

jsmith@bowmanconsulting.com | bowmanconsulting.com |

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— Go Green! Please consider the environment before printing this email.

Carl Richards Jr

From: Carl Richards Jr
Sent: Tuesday, December 18, 2018 7:30 AM
To: 'Benjamin S. Wechsler - Linowes and Blocher LLP'
Subject: RE: Zoning case #19-138

File

Jeff/Benjamin,

It is incumbent upon you to be in touch with the approval agencies, especially if you need any advanced comments on the proposal. It may involve more than a phone call or E-mail. Many times the final plan with all comments received and complied with will only be accomplished after the hearing and order when permits are submitted. You could start with these agencies: DPR (Development Plans Review) 410-887-3751, Planning 410-887-3480, EPS (Environmental Protection and Sustainability) 410-887-5859.

From: Benjamin S. Wechsler - Linowes and Blocher LLP [mailto:BWechsler@linowes-law.com]
Sent: Tuesday, December 18, 2018 7:09 AM
To: Jeff Smith <jsmith@bowmanconsulting.com>
Cc: Carl Richards Jr <CRichards@baltimorecountymd.gov>; Wallace S. Lippincott <wlippincott@baltimorecountymd.gov>; Greg Werner (gwerner@nexamp.com) <gwerner@nexamp.com>
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Jeff Smith, P.E. | Branch Manager\Principal
Bowman Consulting

CASE NAME 2019-138-X
CASE NUMBER _____
DATE 1/10/2019

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
Ben Webster	585 1 Park Place St SE	Annapolis 21301	bwebster@libris.com
Greg Werner	5335 Wisconsin Ave NW #440	Washington DC 20015	gwerner@nexamp.com
JEFF SMITH	185 ADMIRAL COCHRANE DR., SUITE 215	ANNAPOLIS, MD 21401	jsmith@bowmanconsulting.com
Haley Wilson	21128 Lentz Rd	Parkton, MD 21120	haleywilson22@gmail
Steve Wilson	21128 Lentz Rd	Parkton, MD 21120	"same"
Haley Wilson + Emm Arthur (children) not named on order			

CASE NAME 2019-138-X
CASE NUMBER 2132 OLD YORK
DATE 4/10/19

NAME _____

CITY, STATE, ZIP

E - MAIL

[illegible]

The Daily Record

11 East Saratoga Street
Baltimore, MD 21202-2199
(443) 524-8100

<http://www.thedailyrecord.com>

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in **The Daily Record**, a daily newspaper published in the State of Maryland 1 times on the following dates:

12/21/2018

Order #: 11660965
Case #: 2019-0138-X
Description:

NOTICE OF ZONING HEARING CASE NUMBER: 2019-0138-X



Darlene Miller, Public Notice Coordinator
(Representative Signature)

Baltimore County

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2019-0138-X

21138 Old York Road

NW/s of Sampson Road, s/w of Old York Road

7th Election District - 3rd Councilmanic District

Legal Owners: Steven Wilson, Surviving Joint Tenant Contract Purchaser/Lessee: Parkton York Solar, LLC
Special Exception for a Solar Facility.

Hearing: Thursday, January 10, 2019 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3368.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

d21

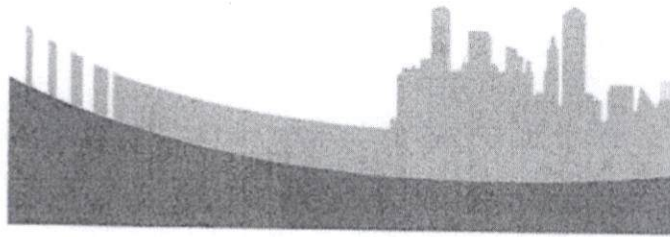
Debra Wiley

From: Bruce Doak <bdoak@bruceedoakconsulting.com>
Sent: Monday, January 07, 2019 7:54 PM
To: Sherry Nuffer
Cc: Administrative Hearings
Subject: Case # 2019-0138-X posting cert
Attachments: Posting cert 1 07 19.pdf

Bruce

Bruce E. Doak Consulting
410-419-4906
bdoak@bruceedoakconsulting.com
3801 Baker Schoolhouse Road
Freeland, MD 21053





CERTIFICATE OF POSTING

December 19, 2018
January 07, 2019 amended for second inspection

Re:
Zoning Case No. 2019-0138-X
Legal Owner: Steven Wilson Surviving Joint Tenant
Lessee: Parkton York Solar, LLC
Hearing date: January 10, 2019



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

Attention: Kristen Lewis

Ladies and Gentlemen,

This letter is to certify under the penalties of perjury that the two necessary signs required by law were posted conspicuously on the property located at 21138 Old York Road.

The signs were initially posted on December 19, 2018.

The subject property was also inspected on January 07, 2019.

Sincerely,

Bruce E. Doak
MD Property Line Surveyor #531

See the attached sheets for the photos of the posted signs

Bruce E. Doak Consulting, LLC
3801 Baker Schoolhouse Road
Freeland, MD 21053
410-419-4906 cell / 443-900-5535 office
bdoak@bruceedoakconsulting.com

ZONING NOTICE

CASE NO. 2019-0138-X

21138 Old York Road

**A PUBLIC HEARING WILL BE HELD BY THE
ADMINISTRATIVE LAW JUDGE
IN TOWSON MARYLAND**

**PLACE: Room 205 JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE TOWSON, MD
21204**

DATE & TIME: Thursday January 10, 2019 1:30 PM

SPECIAL EXCEPTION FOR A SOLAR FACILITY.

**POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY. TO CONFIRM THE HEARING CALL 410-887-3391.**

**DO NOT REMOVE THIS SIGN AND POST UNTIL THE DAY OF THE HEARING UNDER
PENALTY OF LAW.
THE HEARING IS HANDICAPPED ACCESSIBLE**

RECEIVED

JAN 08 2018

OFFICE OF
ADMINISTRATIVE HEARINGS

ZONING NOTICE

CASE NO. 2019-0138-X

21138 Old York Road

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ADMINISTRATIVE LAW JUDGE
IN TOWSON MARYLAND**

**PLACE: Room 205 JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE TOWSON, MD
21204**

DATE & TIME: Thursday January 10, 2019 1:30 PM

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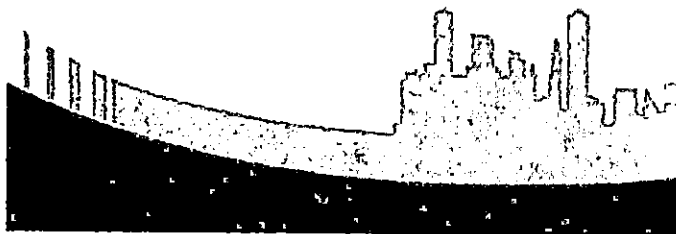
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ADMINISTRATIVE HEARINGS
OFFICE OF

JAN 08 2018

RECEIVED



CERTIFICATE OF POSTING

December 19, 2018

_____ amended for second inspection

Re:

Zoning Case No. 2019-0138-X

Legal Owner: Steven Wilson Surviving Joint Tenant

Lessee: Parkton York Solar, LLC

Hearing date: January 10, 2019

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County Office Building
111 West Chesapeake Avenue, Room 111
111 West Chesapeake Avenue Towson, MD 21204

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The subject property was also inspected on _____.

Sincerely,

Bruce E. Doak
MD Property Line Surveyor #531

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3801 Baker Schoolhouse Road
Freeland, MD 21053
410-419-4906 cell / 443-900-5535 office
bdoak@bruceedoakconsulting.com

ZONING NOTICE

CASE NO. 2019-0138-X

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IN TOWSON MARYLAND**

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105 W. CHESAPEAKE AVENUE TOWSON, MD
21204**

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ZONING NOTICE

CASE NO. 2019-0138-X

21138 Old York Road

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DATE & TIME: Thursday January 10, 2019 1:30 PM

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PENALTY OF LAW.
THE HEARING IS HANDICAPPED ACCESSIBLE**



December 4, 2018
County Executive

NOTICE OF ZONING HEARING

DIRECTOR
Department of Permits,
Approvals & Inspections

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

CASE NUMBER: 2019-0138-X

21138 Old York Road
NW/s of Sampson Road, s/w of Old York Road
7th Election District – 3rd Councilmanic District
Legal Owners: Steven Wilson, Surviving Joint Tenant
Contract Purchaser/Lessee: Parkton York Solar, LLC

Special Exception for a Solar Facility.

Hearing: Thursday, January 10, 2019 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Benjamin Wechsler, 1 Park Place, Ste. 585, Annapolis 21401
Parkton York Solar, LLC, 101 Summer Street, Boston MA 02110
Steven Wilson, 21128 Lentz Road, Parkton 21120

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, DECEMBER 21, 2018.**
- (2) **HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.**
- (3) **FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.**

RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE OFFICE
21138 Old York Road; NW/S Sampson, *
201' SW of Old York Road * OF ADMINSTRATIVE
7th Election & 3rd Councilmanic Districts *
Legal Owner(s): Steven Wilson * HEARINGS FOR
Contract Purchaser: Parkton York Solar, LLC *
Petitioner(s) * BALTIMORE COUNTY
* 2019-138-X

* * * * *

ENTRY OF APPEARANCE

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

RECEIVED

NOV 08 2018

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of November, 2018, a copy of the foregoing Entry of Appearance was mailed to Benjamin S. Wechsler, Esquire, 1 Park Place, Suite 585, Annapolis, Maryland 21401, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



PETITION FOR ZONING HEARING(S)

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

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

Address 21138 Old York Road, Parkton which is presently zoned RC-2
 Deed References: 6139/78 10 Digit Tax Account # 0711035191
 Property Owner(s) Printed Name(s) Steven L. Wilson, Surviving Joint Tenant with Right of Survivorship

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

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

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

2. X a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
 A Solar Facility pursuant to BCZR § 502.1 and 4F104

3. a **Variance** from Section(s)

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

Please see attached Statement of Justification, and as presented at hearing.

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

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

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

Contract Purchaser/Lessee:

Parkton York Solar, LLC

Name- Type or Print

Kamran Idrees
 Signature

Kamran Idrees, Authorized Officer

101 Summer Street Boston MA
 Mailing Address City State
02110 202-827-5106 gwerner@nexamp.com
 Zip Code Telephone # Email Address

Attorney for Petitioner:

Benjamin S. Wechsler, Esq.

Name- Type or Print

1 Park Place, Ste. 585 Annapolis MD
 Mailing Address City State
21401 443-949-3128 bwechsler@linowes-law.com
 Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Steven Wilson, surviving Joint Tenant

Name #1 - Type or Print

Name #2 - Type or Print

Steven Wilson
 Signature #1

Signature # 2

21128 Lentz Road Parkton MD
 Mailing Address City State
21120 443-895-0899 starsnstripes66@gmail.com
 Zip Code Telephone # Email Address

Representative to be contacted:

Benjamin S. Wechsler, Esq.

Name - Type or Print

1 Park Place, Ste. 585 Annapolis MD
 Mailing Address City State
21401 443-949-318 bwechsler@linowes-law.com
 Zip Code Telephone # Email Address

CASE NUMBER 2019-0138-X Filing Date 10/29/2018 Do Not Schedule Dates: _____ Reviewer JNP

METES AND BOUNDS DESCRIPTION

(AS NOW SURVEYED)

LANDS OF LINDSAY F. AND MABEL E. WILSON

22138 OLD YORK ROAD, PARKTON MARYLAND

LIBER 6139, FOLIO 78

BEING part of those lands granted and conveyed from Mary Edith Kiser, Ruth Ann Fogle and Calvin Thomas by Deed dated February 1, 1980 and recorded among the Land Records of Baltimore County, Maryland in Liber 6139 at Folio 078 and being more particularly described as follows, with bearings referenced to Maryland Datum NAD 83/2011, and as now surveyed:

COMMENCING for the same at 48" Oak Tree situated approximately south west of the intersection of Old York Road (Maryland State Route 439) and Sampson Road (private road), thence following along the center of aforementioned Sampson Road the following four courses and distances;

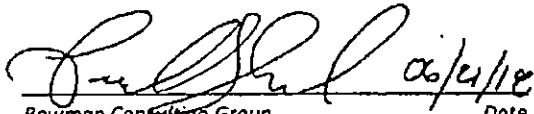
1. South 43°35'04" West, 84.52 feet, thence
2. South 58°20'47" West, 80.82 feet, thence
3. South 65°18'55" West, 16.42 feet, thence
4. South 70°11'42" West, 19.35 feet to the **POINT OF BEGINNING**, said point being on the approximate centerline of Sampson Road, a private right-of-way, thence following along the approximate centerline of the road the following six (6) courses and distances
5. South 80°20'14" West, 121.78 feet to a point, thence
6. South 55°59'23" West, 133.40 feet to a point, thence
7. South 50°42'20" West, 19.91 feet to a point, thence
8. 16.22 feet along a curve turning to the left, having a radius of 630.53 feet, and being subtended by a chord bearing South 47°10'22" West, and having a chord distance of 16.22 feet to a point, thence
9. 304.22 feet along a compound curve turning to the left, having a radius of 750.00 feet, and being subtended by a chord bearing of South 33°50'31" West, and having a chord distance of 302.13 feet to a point, thence
10. South 24°19'52" West, 550.97 feet, thence leaving the aforementioned centerline line of Sampson Road and running reversely along and binding on the northern lines of those lands granted and conveyed from Andrew J. Mezewski and Alison M. Barry to Andrew J. Mezewski and Alison M. Barry by deed dated April 29, 2016 and recorded among the land records of Baltimore County Maryland in Book 37478 at Page 193, the following two courses and distances
11. North 48°25'27" West, 467.95 feet, passing over a concrete monument found and held for line at 25.00 feet, to a ½" rebar found, thence
12. North 57°57'58" West, 508.45 feet to a rebar found, thence running along and binding the southerly three (3) boundary lines as shown on a plat titled "First Amended Final Subdivision Plat of

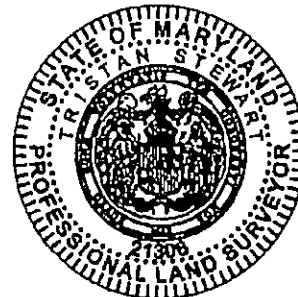
2019-0138-X

George Transfer Property" said plat recorded among the land records of Baltimore County Maryland at Plat Book 69 at Page 98, the following three (3) courses and distances

13. North 49° 04' 17" East, 857.02 feet, passing over a rebar and cap at 239.00 feet and a ¼" iron pipe at 575.00 feet, to a point, thence
14. South 40° 55' 42" East, 50.00 feet to a point, thence
15. North 49° 04' 17" East, 287.60 feet to a point on the southern right-of-way of Old York Road (MD Route.439) (no plat found), thence following along on the aforementioned southerly right-of-way line the following six (6) courses and distances
16. South 69° 22' 48" East, 75.54 feet to a point, thence
17. South 70° 37' 00" East, 54.85 feet to a point, thence
18. South 72° 12' 17" East, 52.95 feet to a point, thence
19. South 73° 34' 04" East, 55.70 feet to a point, thence
20. South 73° 47' 16" East, 47.86 feet to a point, thence
21. South 72° 42' 03" East, 106.95 feet to a point, thence leaving the aforementioned southerly right-of-way line and running along and binding with the lands granted from Ruth Ann Fogle-Adams to Edwin K. Ruble and Nicole M. S. Ruble by deed dated June 11, 2004 and recorded among the land records of Baltimore County Maryland at Book 20225 at Page 548, the following two (2) courses and distances
22. South 28° 33' 18" West, 169.22 feet to a point, thence
23. South 58° 19' 38" West, 285.87 feet to the **POINT OF BEGINNING**, containing 829,925 square feet or 19.0525 acres of Land, more or less.

The undersigned, being a licensed surveyor personally prepared or was in responsible charge of the preparation and the survey work reflected in this metes and bounds description and the accompanying sketch, in compliance with the requirements set forth in "COMAR" Title 09, Subtitle 13, Chapter 06, Regulation 12.


Bowman Consulting Group
By: Tristan Stewart
Professional Land Surveyor
Maryland Registration No. 21306
Renewal Date 06-26-2020



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

DATE: October 29, 2018

TO: John E. Beverungen, Administrative Law Judge
Office of Administrative Hearings

FROM: Jeffrey Perlow, Planner II, Zoning Review Office
Department of Permits and Development Management

SUBJECT: Recommendation for Zoning Case # 2019-0138-X

Pursuant to Section 4F-102.B.4, BCZR:

"Upon reaching the threshold of 10 solar facilities in a councilmanic district, no additional permits shall be issued for a solar facility in that district unless an existing facility previously approved under this article has been removed pursuant to Section 4F-107."

Since this case would be the "eleventh" petition filed in the 3rd Councilmanic District, the Zoning Review Office recommends that an advisory statement (i.e., a restriction) be included in any order granting the special exception that states:

"The granting of this special exception by the ALJ or the Board of Appeals upon appeal, does not guarantee that a building permit will ultimately be available for construction, pursuant to Section 4F-102.B.4, BCZR."

If you have any questions, please feel free to contact me at extension 3391.

2019-0138-X

LINOWES
AND | BLOCHER LLP
ATTORNEYS AT LAW

Benjamin S. Wechsler
443.949.3128 (direct)
bwechsler@linowes-law.com

October 9, 2018

Office of Administrative Hearings for Baltimore County
105 West Chesapeake Avenue
Suite 103
Towson, Maryland 21204

RE: **Application for Special Exception**
Parkton York Solar, LLC – Wilson Solar Array
21138 Old York Road
Parkton, Maryland 21120
Tax Map 0007, Parcel 0044;
Tax Account No. 07-0711035191

Dear Sir/Madam:

This Firm represents Parkton York Solar, LLC (the “Applicant”), a subsidiary of Nexamp, Inc., regarding the enclosed special exception application for the above-referenced property (the “Property”). The Applicant is a developer of community solar projects throughout Maryland and the mid Atlantic. The Applicant is requesting a Special Exception in order to construct a solar array on the R.C.2. (Resource Conservation – Agriculture) zoned Property.

I. Introduction and Description of the Solar Project

The Property comprises one parcel totaling 39.9 acres, spanning the north and the south sides of Old York Road. The array is located on the 19.052 acre portion of the parcel bounded by Sampson Road to the east and Old York Road (MD RTE. 439) to the north.

The Applicant proposes to develop a solar facility and accessory structures on 10+ acres of the Property (the “Project”). The Project will include 3,040 solar photovoltaic, which will be visually screened from the adjoining roads and the residence by landscaping. Each panel will be mounted racking, attached to a footer mounted into the ground. The Applicant will install a fence 7' in height between the landscaping and the solar facility that will completely obscure the facility from public view and visual impact.

In order to grant a special exception for a solar facility in Baltimore County, the Applicant must meet certain conditions and criteria outlined in the Baltimore County Zoning Regulations (“BCZR”). Each of these conditions and criteria is addressed in turn.

2019-0138-X

Office of Administrative Hearings for
Baltimore County
October 9, 2018
Page 2

II. Compliance with Special Exception Conditions

The Applicant's proposed solar facility meets each of the general conditions for special exception approval set forth in Section 502.1 of the BCZR

First, the proposed solar facility cannot "***be detrimental to the health, safety or general welfare of the locality involved.***" BCZR § 502.1(A). The Project, as renewable-energy and sustainable development, satisfies this condition because of its positive environmental impact on the County and its citizens. Additionally, the landscape buffer around the Project will make it invisible to local traffic and residences. There will be no negative impacts on public facilities, roads, schools, fire, or police services.

Second, the proposed solar facility must not "***tend to create congestion in roads, streets or alleys therein.***" BCZR § 502.1(B). The Project will have no impact on traffic; therefore, this condition is satisfied.

Third, the Project cannot "***create a potential hazard from fire, panic or other danger.***" BCZR § 502.1(C). The solar array is designed to withstand direct sunlight without combusting, and the photovoltaic panels require little maintenance. All electrical equipment is UL rated, and has been deployed at numerous other photovoltaic arrays without any negative consequences. Thus, there is no potential for the Project to cause any danger to the public.

Fourth, the solar facility must not "***tend to overcrowd land and cause undue concentration of population.***" BCZR § 502.1(D). The Project will have no effect on the population in this rural area. If anything, development of this photovoltaic array will effectively retire potential future residential development density (and associated impacts associated with residential development) on this site during the period that it is used for a photovoltaic array.

Fifth, under the BCZR, the Project cannot "***interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements.***" BCZR § 502.1(E). The solar array will have no effect on the adequacy of public facilities.

Sixth, the Project must not "***interfere with adequate light and air.***" BCZR § 502.1(F). The photovoltaic array, which will be buffered with landscaping, will not be visible to the public. The height and size of the solar panels will be unobtrusive and, therefore, will not interfere with the light and air rights of nearby property owners.

Office of Administrative Hearings for
Baltimore County
October 9, 2018
Page 3

Seventh, the solar facility cannot *“be inconsistent with the purposes of the property’s zoning classification nor in any other way inconsistent with the spirit and intent of [the BCZR].”* BCZR § 502.1(G). The Property is zoned R.C.2. (Resource Conservation – Agriculture). In essence, the purpose of Resource Conservation Zones is to protect rural areas from suburban sprawl and to protect the resources in those locations. BCZR § 1A00.2. Similarly, the purpose of the R.C.2. Zone is to curb the urbanization of agricultural areas. Constructing a solar array on the Property will further these goals by retiring the development potential for this Property during the period that it is used for a photovoltaic array. In fact, the Office of Administrative Hearings for Baltimore County has approved several other solar facilities in portions of Baltimore County outside the Urban-Rural Demarcation Line, suggesting strongly that the use is consistent with the spirit and intent of the BCZR, and the presumption of compatibility associated with the designation of solar facilities as a special exception use in the R.C.2. zoning district.

Eighth, the Project cannot *“be inconsistent with the impermeable surface and vegetative retention provisions of [the BCZR].”* BCZR § 502.1(H). The solar array will not affect the permeability of the ground on which the photovoltaic panels sit and will not interfere with any effort to retain certain protected vegetative species. The panels will be pole-mounted.

Finally, the proposed solar array must not *“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. . . . Zone”* BCZR § 502.1(I). The renewable-energy Project is environmentally sustainable and will improve the conditions and natural resources of not only the site, but the County as a whole.

III. Specific Criteria for Solar Facilities

Article 4F of the BCZR provides specific criteria for the location and specification of “solar facilities,” which is defined as a “facility that includes a series of one or more solar collector panels or solar energy systems that are placed in an area on a tract of land for the purpose of generating photovoltaic power for commercial use.” BCZR § 4F-101(B). The term “solar facility” includes a solar power plant or solar photovoltaic farm.” The Project is a “solar facility” and meets all the criteria.

A. § 4F-102. Location of Solar Facilities

The allocation of land for solar facilities in the County is limited to the “the amount of acreage that produces no more than two megawatts alternating (AC) of electricity.” BCZR § 4F-102(B)(1). The total area of the Property is 39.9 acres, and of that only 10 acres will be part of

Office of Administrative Hearings for
Baltimore County
October 9, 2018
Page 4

the Project. The total capacity of the solar facility is anticipated to be less than 1MW, well below the 2MW “community solar” threshold.

Additionally, there can be no more than 10 solar facilities in a councilmanic district. BCZR § 4F-102(B)(2). The Project will be located in Councilmanic District 3, where there are currently fewer than 10 developed or approved solar facilities.

B. § 4F-104. Requirements

A solar facility located in an R.C. Zone is subject to additional requirements pursuant to BCZR § 4F-104.

First, 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.” BCZR § 4F-104(A)(1). There are no agricultural preservation, environmental preservation, or rural legacy easements encumbering the Property.

Second, 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.” BCZR § 4F-104(A)(2). The Project is not located in one of the County’s 17 historic districts and is not listed on the Baltimore County Final Landmarks List.

Third, 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 R.C.4. or R.C.6 Zone.” BCZR § 4F-104(A)(3). The Project is not located in conservation easement and is located in an R.C.2. Zone.

Fourth, the “aboveground 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.” BCZR § 4F-104(A)(4). The Project meets all setback requirements, as reflected in the enclosed site plan.

Fifth, a “structure may not exceed 20 feet in height.” BCZR § 4F-104(A)(5). The height of the photovoltaic panels will be 6 feet 9 inches.

Sixth, 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.” BCZR § 4F-104(A)(6). “Screening of state and local scenic routes and scenic views is required in accordance with the Baltimore County Landscape Manual.” The landscaping buffer will shield

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Baltimore County
October 9, 2018
Page 5

the view of the solar array from both Sampson Road and Old York Road in compliance with the Landscape Manual. The Project will also have a landscape buffer that screens the view of the array from the residence to the south.

Seventh, "security fencing shall be provided between the landscaping buffer and the solar facility." BCZR § 4F-104(A)(7). The proposed security fencing will be 7 feet in height and will comply with this requirement.

Eighth, 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." BCZR § 4F-104(A)(8). The photovoltaic panels will not be visible from Sampson Road, Old York Road, or the adjacent properties on account of the landscaping buffer.

Ninth, a "petitioner shall comply with the plan requirements of Section 33-3-108 of the County Code." BCZR § 4F-104(A)(9). Section 33-3-108 of the Code requires a plan approved for all development, forest harvesting operations, surface mining operations, and agricultural operations. The applicant will comply with this requirement.

Finally, in granting a special exception, the Administrative Law Judge may impose certain conditions or restrictions "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." BCZR § 4F-104(A)(10). Although additional conditions and restrictions on the low-impact Project are unnecessary, the Applicant will comply with any reasonable conditions and restrictions that the Administrative Law Judge deems necessary for approval.

IV. Conclusion

The Project meets all of the requisite criteria and conditions for developing a solar facility in the County's third councilmanic district. The special exception therefore should be granted.

Office of Administrative Hearings for
Baltimore County
October 9, 2018
Page 6

If you have any questions or need further information, please do not hesitate to contact me at 443-949-33128 or bwechsler@linowes-law.com.

Very truly yours,

LINOWES AND BLOCHER LLP



Benjamin S. Wechsler

Enclosure

cc: Greg Werner, Nexamp
Jeff Smith, P.E., Bowman Consulting

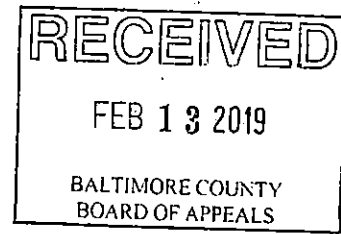
**L&B 7097162v1/13239.0003



JOHN A. OLSZEWSKI, JR.
County Executive

ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings

February 13, 2019



Benjamin S. Wechsler, Esq.
1 Park Place, Suite 585
Annapolis, MD 21401

RE: **APPEAL TO BOARD OF APPEALS** – Petition for Special Exception
Case No. 2019-0138-X
Property: 21138 Old York Road

Dear Mr. Wechsler:

Please be advised that an appeal of the above-referenced case was filed in this Office on February 12, 2019. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

c: Baltimore County Board of Appeals
Peter Max Zimmerman, People's Counsel for Baltimore County
H. Barnes Mowell, Esq., H. Barnes Mowell, P.A., 16925 York Road, Monkton, MD 21111
Lynne Jones, 815 Stablers Church Road, Parkton, MD 21120
Lisa Arthur, 19500 Burke Road, White Hall, MD 21161

105 West Chesapeake Avenue, Suite 103 | Towson, Maryland 21204 | Phone 410-887-3868 | Fax 410-887-3468
www.baltimorecountymd.gov

APPEAL

Petition for Special Exception
(21138 Old York Road)
7th Election District – 3rd Councilmanic District
Legal Owners: Steven Wilson
Lessee: Parkton York Solar, LLC
Case No. 2019-0138-X

Petition for Special Exception (October 29, 2018)

Zoning Description of Property

Certificate of Postings –

1st Posting: December 19, 2018 by Bruce Doak
2nd Posting: January 7, 2019 by Bruce Doak

Newspaper Advertisement – December 21, 2018 (The Daily Record)

Notice of Zoning Hearing – December 4, 2018

People's Counsel Entry of Appearance – November 8, 2018

Zoning Advisory Committee Comments

Petitioner's Sign-in Sheets – 1 Sheet

Citizen's Sign-in Sheets- 1 Sheet

Petitioner(s) Exhibits –

1. Site Plan
2. Aerial photo
3. Jeff Smith resume
4. Plan w/ accompanying photos 1-6

Protestant(s) Exhibits –



PETITION FOR ZONING HEARING(S)

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

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

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which is presently zoned RC-2

Deed References: 6139/78

10 Digit Tax Account # 0711035191

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A Solar Facility pursuant to BCZR § 502.1 and 4F-104

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Please see attached Statement of Justification, and as presented at hearing.

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

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

Contract Purchaser/Lessee:

Parkton York Solar, LLC

Name- Type or Print

Kamran Idrees
Signature

Kamran Idrees, Authorized Officer

101 Summer Street Boston MA

Mailing Address City State

02110 / 202-827-5106 / gwerner@nexamp.com
Zip Code Telephone # Email Address

Attorney for Petitioner:

Benjamin S. Wechsler, Esq.

Name- Type or Print

Signature

1 Park Place, Ste. 585 Annapolis MD

Mailing Address City State

21401 / 443-949-3128 / bwechsler@linowes-law.com
Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Steven Wilson, Surviving Joint Tenant

Name #1 - Type or Print

Name #2 - Type or Print

Steven Wilson
Signature #1

Signature #2

21128 Lentz Road Parkton MD

Mailing Address City State

21120 / 443-895-0899 / starsnstripes66@gmail.com
Zip Code Telephone # Email Address

Representative to be contacted:

Benjamin S. Wechsler, Esq.

Name - Type or Print

Signature

1 Park Place, Ste. 585 Annapolis MD

Mailing Address City State

21401 / 443-949-318 / bwechsler@linowes-law.com
Zip Code Telephone # Email Address

CASE NUMBER 2019-0138-X Filing Date 10/29/2018

Do Not Schedule Dates: Reviewer JNP



PETITION FOR ZONING HEARING(S)

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Kamran Idrees, Authorized Officer

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Zip Code Telephone # Email Address

Attorney for Petitioner:

Benjamin S. Wechsler, Esq.

Name- Type or Print

Signature

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Name #1 - Type or Print

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Steven Wilson

Signature #1

Signature #2

21128 Lentz Road Parkton MD

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CASE NUMBER 2019-0138-X Filing Date 10/29/2018

Do Not Schedule Dates: Reviewer JNP

METES AND BOUNDS DESCRIPTION

(AS NOW SURVEYED)

LANDS OF LINDSAY F. AND MABEL E. WILSON

22138 OLD YORK ROAD, PARKTON MARYLAND

LIBER 6139, FOLIO 78

BEING part of those lands granted and conveyed from Mary Edith Kiser, Ruth Ann Fogle and Calvin Thomas by Deed dated February 1, 1980 and recorded among the Land Records of Baltimore County, Maryland in Liber 6139 at Folio 078 and being more particularly described as follows, with bearings referenced to Maryland Datum NAD 83/2011, and as now surveyed:

COMMENCING for the same at 48" Oak Tree situated approximately south west of the intersection of Old York Road (Maryland State Route 439) and Sampson Road (private road), thence following along the center of aforementioned Sampson Road the following four courses and distances;

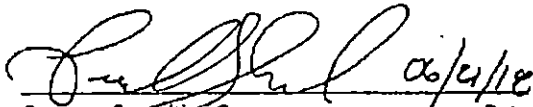
1. South 43°35'04" West, 84.52 feet, thence
2. South 58°20'47" West, 80.82 feet, thence
3. South 65°18'55" West, 16.42 feet, thence
4. South 70°11'42" West, 19.35 feet to the **POINT OF BEGINNING**, said point being on the approximate centerline of Sampson Road, a private right-of-way, thence following along the approximate centerline of the road the following six (6) courses and distances
5. South 80°20'14" West, 121.78 feet to a point, thence
6. South 55°59'23" West, 133.40 feet to a point, thence
7. South 50°42'20" West, 19.91 feet to a point, thence
8. 16.22 feet along a curve turning to the left, having a radius of 630.53 feet, and being subtended by a chord bearing South 47°10'22" West, and having a chord distance of 16.22 feet to a point, thence
9. 304.22 feet along a compound curve turning to the left, having a radius of 750.00 feet, and being subtended by a chord bearing of South 33°50'31" West, and having a chord distance of 302.13 feet to a point, thence
10. South 24°19'52" West, 550.97 feet, thence leaving the aforementioned centerline line of Sampson Road and running reversely along and binding on the northern lines of those lands granted and conveyed from Andrew J. Mezewski and Alison M. Barry to Andrew J. Mezewski and Alison M. Barry by deed dated April 29, 2016 and recorded among the land records of Baltimore County Maryland in Book 37478 at Page 193, the following two courses and distances
11. North 48°25'27" West, 467.95 feet, passing over a concrete monument found and held for line at 25.00 feet, to a ½" rebar found, thence
12. North 57°57'58" West, 508.45 feet to a rebar found, thence running along and binding the southerly three (3) boundary lines as shown on a plat titled "First Amended Final Subdivision Plat of

2019-0138-X

George Transfer Property" said plat recorded among the land records of Baltimore County Maryland at Plat Book 69 at Page 98, the following three (3) courses and distances

13. North 49° 04' 17" East, 857.02 feet, passing over a rebar and cap at 239.00 feet and a ¼" iron pipe at 575.00 feet, to a point, thence
14. South 40° 55' 42" East, 50.00 feet to a point, thence
15. North 49° 04' 17" East, 287.60 feet to a point on the southern right-of-way of Old York Road (MD Route 439) (no plat found), thence following along on the aforementioned southerly right-of-way line the following six (6) courses and distances
16. South 69° 22' 48" East, 75.54 feet to a point, thence
17. South 70° 37' 00" East, 54.85 feet to a point, thence
18. South 72° 12' 17" East, 52.95 feet to a point, thence
19. South 73° 34' 04" East, 55.70 feet to a point, thence
20. South 73° 47' 16" East, 47.86 feet to a point, thence
21. South 72° 42' 03" East, 106.95 feet to a point, thence leaving the aforementioned southerly right-of-way line and running along and binding with the lands granted from Ruth Ann Fogle-Adams to Edwin K. Ruble and Nicole M. S. Ruble by deed dated June 11, 2004 and recorded among the land records of Baltimore County Maryland at Book 20225 at Page 548, the following two (2) courses and distances
22. South 28° 33' 18" West, 169.22 feet to a point, thence
23. South 58° 19' 38" West, 285.87 feet to the **POINT OF BEGINNING**, containing 829,925 square feet or 19.0525 acres of Land, more or less.

The undersigned, being a licensed surveyor personally prepared or was in responsible charge of the preparation and the survey work reflected in this metes and bounds description and the accompanying sketch, in compliance with the requirements set forth in "COMAR" Title 09, Subtitle 13, Chapter 06, Regulation 12.


Bowman Consulting Group Date

By: Tristan Stewart
Professional Land Surveyor
Maryland Registration No. 21306
Renewal Date 06-26-2020



PLEASE PRESS HARD

GOLD ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**

1/14/19

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
(21138 Old York Road) *
7th Election District * OFFICE OF
3rd Council District *
Steven Wilson * ADMINISTRATIVE HEARINGS
Legal Owner *
Parkton York Solar, LLC * FOR BALTIMORE COUNTY
Lessee *
Petitioners * Case No. 2019-0138-X

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH") for consideration of a Petition for Special Exception filed on behalf of Steven Wilson, legal owner, and Parkton York Solar, LLC, lessee ("Petitioners"). The special exception petition was filed pursuant to Sections 502.1 and 4F-104 the Baltimore County Zoning Regulations ("BCZR") to approve a solar facility.

Steven Wilson, Greg Werner, and professional engineer Jeff Smith appeared in support of the petition. Benjamin S. Wechsler, Esq. represented the lessee. Several members of the community opposed the request. Substantive Zoning Advisory Committee ("ZAC") comments were received from the Department of Environmental Protection and Sustainability ("DEPS"), the Department of Planning ("DOP"), the Bureau of Development Plans Review ("DPR") and the State Highway Administration ("SHA"). None of the reviewing agencies oppose the request.

In the aggregate, the subject property is approximately 40 acres (with parcels on both sides of Old York Road) and is zoned RC-2. The property is in active agriculture and the owner (Steven Wilson) testified he was born and raised on this farm and that his family have been farming in this area since the 1930s. The parcel on the south side of Old York Road is approximately 19 acres in size, while the proposed solar panels would occupy approximately 9.38 acres.

Special Exception

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Petitioners presented testimony from Greg Werner, an employee of Nexamp, the lessee which would operate the facility. Ms. Werner testified at length concerning the proposed facility and described in detail the site improvements and landscaping planned for the site. Professional engineer Jeff Smith also testified and explained the proposed improvements shown on the site plan. Mr. Smith also addressed how storm water management would be handled at this site and he emphasized that, as required by state and county law, there would be no increase in storm water runoff as a result of the solar panels. He opined Petitioners satisfied all requirements for special exception relief.

Although community members identified certain concerns including visibility of the site from the scenic route and the potential for interfering with and discouraging agricultural activity in the area, these are the same concerns which have been identified in nearly every contested zoning case involving solar facilities. As such, I believe they are inherent in the operation of such a facility regardless of its location in the rural portions of the County. Such testimony cannot, pursuant to *Schultz* and *Attar*, successfully rebut Petitioners *prima facie* case outlined above.

The DOP submitted thorough and detailed ZAC comment(s) concerning this project, and in the most recent correspondence indicated it no longer opposes the request. Counsel indicated the site plan was revised to address many of the concerns raised by the DOP, and other conditions are included below as suggested by that agency. The only condition suggested by that agency which is not included below concerns the number of years the solar facility may operate before it is decommissioned. The solar facilities law (Council Bill 37-17) does not contain any time limitations on the operations of these facilities and Petitioner presented testimony that the panels have a useful life in excess of 25 years. Special exceptions, like variances, "run with the land," which means they are transferrable to a subsequent owner and are extinguished only by request of the property owner or by operation of law. *See, e.g., Upper Minnetonka Yacht Club v. City of Shorewood*, 770 N.W. 2d 184, 187 (Minn. 2009) (special exception or conditional use permit is a "protected property right [that] runs with the land").

THEREFORE, IT IS ORDERED this 14th day of January, 2019, by this Administrative Law Judge, that the Petition for Special Exception seeking relief from Sections 502.1 and 4F-104 of the Baltimore County Zoning Regulations ("BCZR"), for a solar facility, be and is hereby GRANTED.

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 must comply with the ZAC comments submitted by the DEPS, a copy of which is attached hereto and made a part hereof.

3. No barbed wire fencing shall be permitted in connection with the solar facility. The fence enclosing the panels shall be black vinyl/coated chain link fence.
4. Prior to issuance of permits, Petitioners must submit for approval by the Baltimore County Landscape Architect a landscape plan for the site.
5. The special exception area shall include only the property within the proposed fenced enclosure, i.e., approximately 9.38 acres.
6. No lighting or signage shall be permitted in connection with the solar facility.

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

1-10

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
DEC 06 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

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

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

DATE: December 6, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0138-X
Address 21138 Old York Road
(Wilson Property)

Zoning Advisory Committee Meeting of November 12, 2018.

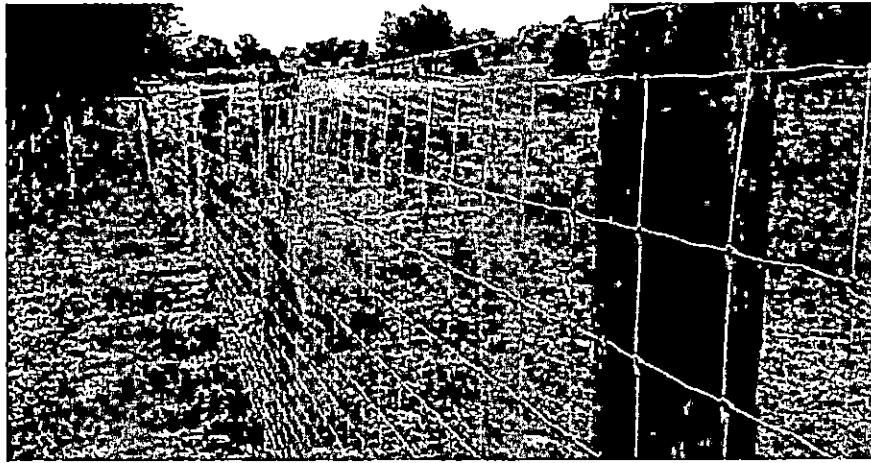
X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Reviewer: Thomas Panzarella
Environmental Impact Review

1. Parkton York's Covenants: Parkton York, in order to secure the support of SGCP, agrees and covenants to the following conditions for the Project:

- a. Parkton York agrees to Conditions 1 through 6 of the Opinion and Order of the Baltimore County Administrative Law Judge in this matter, with the following modifications:
 - i. With regard to Condition 3, Parkton York agrees to the condition that the fencing shall contain no barbed wire. However, instead of a black vinyl-coated chain link fence, the parties agree that the fence shall be a "farm fence" similar to picture below around the perimeter of the project, *provided* that such fence may be modified at the requirement or direction of the County or other governmental entity during the site plan review process, or as necessary to comply with applicable building codes.



- b. The configuration of the Project shall be substantially as depicted in the attached Exhibit A, including the relocation of approximately 9 rows of panels from the northeast corner of the parcel to the southeast corner; *provided* that such location may be modified as required or directed by the County or other governmental entity during the site plan review process; *provided further* that such location and

configuration within the Property may be modified as reasonably necessary for construction-related purposes, so long as such modified location and configuration do not result in the placement of any solar modules nearer to Old York Road than as depicted in Exhibit A.

- c. Parkton York will provide a vegetative screen ("Screen") at least as rigorous as reflected in the attached Exhibit A including the species, quantities, and planting sizes indicated in the Plant Table shown thereon; *provided* that such Screen may be modified as required or directed by the County or other governmental entity during the site plan review process.
- d. Parkton York shall, prior to issuance of the applicable County building permit, post a performance bond with the County in an amount equal to 125% of the installation costs of the Screen and other landscape improvements, as determined by a duly licensed civil engineer. Such bond shall be provided to the County as security for Parkton York's obligations to properly maintain the Screen for a period of 3 years, so as to ensure the reasonable health and growth of the trees and shrubs comprising the Screen.
- e. Parkton York acknowledges that the support of each neighboring property owner is critical to the success of the Solar Facility, and agrees to work in good faith with SGCPG to ensure the continued support of such neighbors throughout the planning process.
- f. Parkton York agrees and consents to the Board of Appeals of Baltimore County limiting the duration of the Special Exception, approved pursuant to BCZR Sections 502.1 and 4F-104, to a period of 35 years, running from the date of final inspection certificate issued under the County building permit for the Solar Facility.
- g. Parkton York will design and install a stormwater management system that meets or exceeds all County standards. The design will be prepared, approved, and stamped by a civil engineering firm that is fully licensed and insured in accordance with State requirements.

2. SGCPC's Support of the Project

- a. SGCPG agrees, in exchange for Parkton York's agreement on the conditions above, to provide reasonable support and supportive testimony, as requested by Parkton York, in favor of the Special Exception approval sought by Parkton York before the Baltimore County Board of Appeals.

Board of Appeals

Case No: 19-138-Y Case Name: Parkton Solar Facility

Exhibit List

Party: Petitioner Date: 5/14/19

Exhibit No:	Description:
1	Site Plan
2	Change of Conditions Plan.
3 rd	Photographs with Site Map Key.
4	Agreed Conditions
5	ALJ Opinion and Order
6	Daniel Speakman PE- CV
7	ADG Sparks Glencoe Boundary Map
VERIFIED BY _____ DATE:_____	

Daniel Speakman, P.E., LEED AP

— Senior Project Manager

**Petitioner
CBA Exhibit**

6

Background

Dan leads engineering teams designing land development projects in McCrone's northern and eastern service areas. With project experience in both Maryland and Delaware, Dan manages all aspects of project administration including scheduling and project permit path analysis, staff training, quality assurance review, authoring reports, and gathering and distributing project information. He coordinates projects with clients, regulatory agencies, and subcontractors to bring projects to permit quickly. Dan has conducted many technical evaluations, is an expert at Environmental Site Design and stormwater retrofits and has authored flood studies and obtained Letters of Map Revision. Dan has designed roadways, site layouts, water distribution systems, sewage collection and conveyance systems, and conducted infrastructure assessment, modeling and rehabilitation design. Dan has provided civil engineering design and project management for a variety of clients, including private and commercial landowners, educational institutions, and municipalities.

Project Experience

Commercial / Industrial

- GE Aviation, Bellevue Rd, Newark, DE
- Cargill NPDES, Appleton Rd, Elkton, MD
- Performance Food Group NPDES, MD Route 279 Site, Elkton, MD
- Welsh Property, U.S. Route 40, North East, MD
- C&S Wholesale Grocers, MD Route 272 & Lums Road, North East, MD
- Norfolk Southern Railroad MD Route 222, Cecil County, MD

Power / Energy

- Freepoint Solar, LLC, Cecil County, MD
- Wildcat Point Power Plant Expansion, Conowingo, MD
- AstraZeneca, Fairfax, Wilmington, DE
- Dover Air Force Base, DE
- Delmarva Power, Keeney Substation, Route 72, Newark, DE

Education / Institutional

- Chesapeake City Elementary School, Chesapeake City, MD
- Gilpin Manor Elementary School, Elkton, MD
- Elkton High School and Stadium, Cecil County, MD
- Dover Air Force Base, Dover, DE
- Delaware Technical & Community College, Georgetown, DE

Residential

- Village of Noble's Pond, Cheswold, DE
- New East Crossing, North East, MD
- Stony Run Apartments, North East, MD
- Habitat for Humanity Susquehanna, Inc., Elkton, MD

County / Municipality

- Cecil County, Timberbrook Basin Retrofit, North East, MD
- Bowers, Drainage Improvements, Frederica, DE
- New Castle Conservation District, Stonebridge Basin Retrofit, DE
- DNREC Tidbury Creek Flood Study, Kent County, DE
- Razor Strap Road Improvements, Cecil County DPW, North East, MD



Education

1998 University of Maryland
B.S. Biological Resources Engineering
2000 Cecil Soil Conservation District, MDE
Green Card
2001 Community College of Baltimore Co.
Stormwater Management in MD
2002 Delaware Dept. of Land Use
Conservation Design
2012 Cecil Leadership Institute Graduate
2013 DNREC Certified Construction
Reviewer
2014 DNREC SWM Training
2014 MSS Forest Conservation Training
2014 Stream Restoration Training
2018 Earth Retaining Structures

Registrations

2004 Professional Engineer
Delaware #13197
2005 Professional Engineer
Maryland #31400
2009 LEED Accredited Professional
Maryland DNR "Qualified Professional"

Primary Competencies

- Project Manager/Team Leadership
- Permitting/Agency negotiations
- Stormwater Management permitting
- Hydrology and Hydraulics Studies
- Land Development

Years of Experience - 20



Sparks Glencoe Community Planning Council Boundaries

Petitioner
CBA Exhibit

Board of Appeals

Case No: 19-138-X Case Name: Parton Solar.

Exhibit List

Party: People's Counsel Date: 3/14/19

[illegible]

THIS DEED, Made this 1st day of FEBRUARY AD 1980, by and between MARY EDITH KISER, RUTH ANN FOGLE and CALVIN THOMAS KISER, of Baltimore County, State of Maryland, of the first part, grantors, and F. LINDSAY WILSON and MABEL E. WILSON, his wife, and STEVEN L. WILSON, single person, of Baltimore County, State Of Maryland, of the second part grantees.

WITNESSETH that in consideration of the sum of Two Hundred Thousand (\$200,000.00) Dollars in hand paid by the said parties of the second part the said parties of the first part do grant and convey unto the said F. Lindsay Wilson and Mabel E. Wilson, his wife, as to a one-half interest as tenants by the entireties and unto Steven L. Wilson as to a one-half interest, with the parties of the second part holding as to each other as Joint Tenants With Rights of Survivorship, in fee simple, all the following described lots or parcel of ground, situate, lying and being in the Seventh Election District Of Baltimore County, State Of Maryland, and described as follows:-

BEGINNING for the first at a bounded chestnut tree, the same being a boundary of said Sampson and Daniel Collier, standing on the east side of main road running thence as follows: North 56 degrees East 46 perches to a stone, North 45 degrees West 38 perches to a stone, South 54 degrees West 29.4 perches to a stone, South 53 degrees West 135 perches to a stone, North 22 degrees West 52.2 perches to a stone, South 74½ degrees West 24.3 perches to a stone, North 15 degrees West 31.4 perches to a stone, South 63½ degrees West 28.3 perches to a stone, South 18½ degrees East 40.5 perches to a spanish oak, South 19½ degrees East 32.5 perches to a stone, South 3½ degrees East 34.3 perches to a stone, South 11½ degrees East 25.6 perches to a stone, North 44-¾ degrees East 36 perches to a chestnut tree, North 76½ degrees 41 perches to a stone, north 48-¾ degrees East 37 perches to a chestnut tree, South 41½ degrees East 27.2 perches to a stone, North 27½ degrees East 37 perches to a stone, North 51-¾ degrees East 38.9 perches to a stone, South 60 degrees East 9½ perches to a stone, North 42½ degrees East 13.3 perches to a white oak, North 38½ degrees West 11 perches to the place of beginning. Containing 83 acres and 58 perches of land, more or less.

BEGINNING for the second at a stone set up near a spanish oak on the given line of the whole tract, running thence South 49½ degrees West 64.4 perches to a stone, then South 28½ degrees West 38 perches to a stone, South 24 degrees West 89 perches to a stone, South 23 degrees East 25 perches to a stone, North 52 degrees East 135 perches to a stone, North 54-¾ degrees East 70-¾ perches to a stone, North 55 degrees West 89 perches to the place of beginning. Containing 75 acres and 23 perches of land, more or less.

SAVING and EXCEPTING therefrom that parcel of land, containing 5 acres, more or less, which by deed dated May 18th, 1916, and recorded among the Land Records of Baltimore County in Liber W.P. C. No. 465 folio 453 was granted and conveyed by Joseph C. Harshner and Edith Harshner, his wife, to Edward Thompson.

BEGINNING for the third at the end of the first line of the fourth parcel of land which by Deed dated February 7, 1911 and recorded among the Land Records of Baltimore County in Liber W.P. C. No. 372 folio 571, was conveyed by Agnes J. Gemmill to Edward S. Thompson, running thence and binding on the second and part of the third lines of the said land the two following courses and distances, Viz: South 42 degrees 37 minutes East 598 feet and North 58 degrees 45 minutes East 202 feet 6 inches, running thence for a line

of division North 33 degrees 45 minutes West 593 feet 3 inches to intersect the first line of the above mentioned land, running and binding on said line South 57 degrees 28 minutes West 295 feet 2 inches to the place of beginning. Containing 3.4 acres of land, more or less.

SAVING AND EXCEPTING out of the above mentioned parcels all those lots and tracts mentioned and described in the following:-

1. Deed dated May 5th, 1956 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2924 folio 463, from Ruth A. Anderson et. al. to Calvin Hershner for a parcel of land containing 1.60 acres, more or less. Less a Deed dated September 9, 1975, and recorded among the Land Records of Baltimore County in Liber E.H.K. Jr. No. 5564 folio 394, from Mary Hershner Kiser, Ruth Ann Fogle and Calvin Thomas Kiser unto George A. Rosier and Phyllis A. Rosier, his wife, containing 0.21 acre, more or less, leaving a net acreage of 1.39 acres saved and excepted herein.
2. Inquisition in the case entitled "State Roads Commission Of Maryland versus Calvin M. Hershner" dated December 24, 1958, and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 3466 folio 589, (see Condemnation Case No. 655, Docket 4 Folio 74A) for parcel of land containing 29,920 acres.
3. Deed dated October 18, 1962, and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 4069 folio 315, from Calvin M. Hershner to Frank L. Wilson Jr. and wife, for a parcel of land containing 21,530 square feet, more or less.
4. Deed dated June 23, 1965, and recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4476 folio 484, from Calvin M. Hershner to George Transfer and Rigging Company Incorporated, for a parcel of land containing 26,265 acres of land, more or less.
5. Deed dated October 19, 1962, and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 4062 folio 11 from Calvin M. Hershner to Catherine Marie Cox and Dorothy Jeanette Bell, containing 20,000 square feet.
6. Deed dated May 24, 1973, and recorded among the Land Records of Baltimore County in Liber E.H.K. Jr. No. 5360 folio 885 from Mary Edith Kiser and Sparks State Bank for mortgage release for a right of way to the State Of Maryland for use of the State Highway Administration, containing 2.206 acres of land, more or less.

BEGINNING for the fourth at a point in the center of Lentz Road, the said point being at the end of the second or North 58 degrees 45 minutes East 202.6 foot line of Parcel No. 3 of the Deed of Edith Hershner et. al., to G. William Parker, dated June 26, 1940, and recorded in the Land Records of Baltimore County in Liber C.W. B. Jr. No. 1108 folio 470, and running thence along the third line of said description and bearing thereon along the farm lane of Lindsay Wilson, North 33 degrees 45 minutes West 200 feet to an iron pin; thence by line of division through the land of Calvin M. Hershner South 58 degrees 45 minutes West 100 feet to an iron pin; thence by a second line of division, South 33 degrees 45 minutes East 200 feet to a point in Lentz Road, being in the second line of the above mentioned deed, thence North 58 degrees 45 minutes East 100 feet to the place of beginning. Containing an area of 20,000 square feet, more or less.

BEGINNING for the fifth at a point in the centerline of Sampson Road at the intersection thereof with the North 59 degrees West 17 perches line of the lands of George A. Rosier as described in a deed dated May 29, 1958 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 3355 folio 381, thence leaving the road and running with and binding on the outlines of the Rosier lands and lands of Hershner, as now surveyed, (1) North 53 degrees 00 minutes 00 seconds West 172.24 feet and (2) South 31 degrees 30 minutes 00 seconds West 223.07 feet to intersect the center line of Sampson Road, thence running for new lines of division through and across the lands of grantor Rosier's and binding on the center line of the road (3) North 55 degrees 53 minutes 33 seconds East 19.74 feet, (4) North 60 degrees 46 minutes 41 seconds East 133.40 feet and (5) North 85 degrees 07 minutes 32 seconds East 121.78 feet to the beginning thereof. Containing 0.35 acre, more or

less, as surveyed by David Brooks, Surveyor, on May 30th, 1974.

For Title of the lot numbers one, two and three described herein, see deed from G. William Parker to Calvin M. Hershner and Rhoda E. Hershner, his wife dated June 26, 1940 and recorded among the Land Records of Baltimore County in Liber C.W.B. Jr. No. 1108 folio 472. The said Rhoda E. Hershner died on or about January 6, 1956.

For Title to number four herein being the same parcel of land which by Deed dated May 2, 1964 and recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4294 folio 136, was granted and conveyed by Catherine Marie Cox and Dorothy Jeanette Bell to Calvin M. Hershner.

For Title to number five being a part of all that lot or parcel of land which George A. Rosier and Phyllis R. Rosier, his wife granted and conveyed unto Mary Hershner Kiser, Ruth Ann Fogle and Calvin Thomas Kiser, on September 6th, 1975, and recorded among the Land Records of Baltimore County in Liber E.H.K. No. 5564 folio 392.

BEING all and the same lot or tracts of land which Calvin M. Hershner, deceased on 11/24/67, by his last will and testament duly probated in the Orphan's Court For Baltimore County and now of record in the Register Of Wills Office for Baltimore County in Liber J.L.D. No. 100 folio 540 wherein he devised all his real estate unto his daughter Mary Edith Kiser (referred to in some deeds as Mary Hershner Kiser) for life, and at her death unto her children, the said Ruth Ann Kiser (now Fogle) and Calvin Thomas Kiser, share and share alike, said above three parties being the grantors herein. Said conveyance herein lists all real property inherited by said last will and testament plus a parcel conveyed to the grantors herein recorded among the Land Records of Baltimore County in Liber E.H.K. Jr. No. 5564 folio 392 and being parcel five herein, and less a right of way deed granted by the grantors herein unto the State of Maryland for use of the State Highway Administration which said deed is listed as number 6 in the saving and excepting section together with other deeds conveyed by the said Calvin M. Hershner during his lifetime. Finally grantors herein also are reserving in number one of the saving and excepting section a 1.60 acre tract which is listed among the Land Records of Baltimore County in Liber G.L.B. No. 2924 folio 463 less a 0.21 acre tract conveyed by grantors herein unto George A. Rosier and wife, recorded among the Land Records of Baltimore County in Liber E.H.K. Jr. No. 5564 folio 392, leaving a net acreage saved and excepted in number one of 1.39 acres. The net acreage conveyed herein according to the deed amounts to 96.771 acres but the assessment records for said tracts conveyed totals 101.615 acres.

TOGETHER with the buildings and improvements thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

TO HAVE AND TO HOLD the said described lots and parcels of land and premises unto and to the proper use and benefit of the said F. Lindsay Wilson and Mabel E. Wilson, his wife, as to a one-half interest as tenants by the entirety, and to the other one-half interest unto Steven L. Wilson, their son, with the parties holding as to each other as Joint Tenants With Rights Of Survivorship, in fee simple.

AND the grantors covenant to warrant specially the properties or tracts hereby granted and conveyed, and to execute such further assurances of said land as may be requisite.

WITNESS the hands and seals of the said Grantors:

Test:

A. Lee Giller

Mary Edith Kiser
Mary Edith Kiser

(SEAL)

Test: Lee Allen Jr

Calvin Thomas Kiser (SEAL)
Calvin Thomas Kiser

I HEREBY CERTIFY, that on this the 1st day of February, 1980 AD 1980, before me, a Notary Public of the State and County aforesaid, personally appeared MARY EDITH KISER, RUTH ANN ROGGE and CALVIN THOMAS KISER, grantors herein, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within Deed, who signed the same in my presence, and acknowledged that they executed the same for the purposes therein contain-

My Commission expires: 7/1/82

00316144 102102 08-92 83

Rec'd for record FEB 20 1955 at 1st
 Per Elmer H. Kahline, Jr.
 Mail to Frankly W. Kahline
 Receipt No. 1800

Real Property Data Search

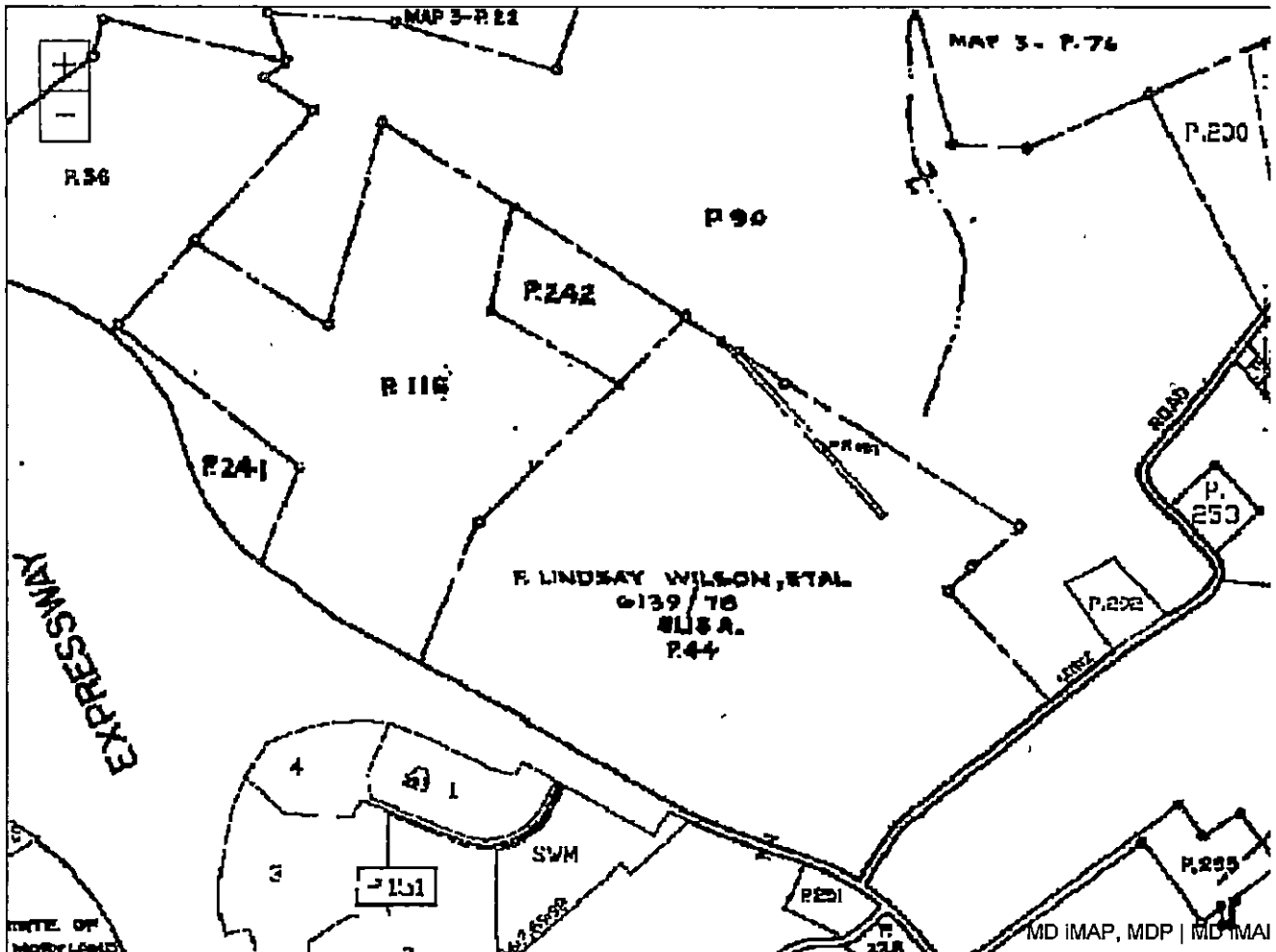
Search Result for BALTIMORE COUNTY

View Map			View GroundRent Redemption			View GroundRent Registr		
Tax Exempt:			Special Tax Recapture:					
Exempt Class:			AGRICULTURAL TRANSFER TAX					
Account Identifier:			District - 07 Account Number - 0711035191					
Owner Information								
Owner Name:		WILSON MABEL E WILSON STEVEN L				Use:		AGRICULTUR
Mailing Address:		21128 LENTZ RD PARKTON MD 21120-9128				Principal Residence:		NO
						Deed Reference:		/40904/ 00234
Location & Structure Information								
Premises Address:		OLD YORK RD PARKTON 21120-				Legal Description:		39.857 AC N & OLD YORK RD NE COR LENT
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:
0007	0005	0044		0000				2017
Special Tax Areas:					Town:		NONE	
					Ad Valorem:			
					Tax Class:			
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area 39.8500 AC		
Stories	Basement	Type	Exterior	Full/Half Bath		Garage	Last Major Renov	
Value Information								
		Base Value		Value		Phase-in Assessments		
				As of		As of		As c
				01/01/2017		07/01/2018		07/0
Land:		7,900		7,900				
Improvements		0		0				
Total:		7,900		7,900		7,900		7,90
Preferential Land:		7,900						7,90
Transfer Information								
Seller: WILSON F LINDSAY WILSON MABEL E				Date: 11/26/2018		Price: \$		
Type: NON-ARMS LENGTH OTHER				Deed1: /40904/ 00234		Deed2:		
Seller: KISER MARY E AG USE 83-84				Date: 02/26/1980		Price: \$		
Type: NON-ARMS LENGTH OTHER				Deed1: /06139/ 00078		Deed2:		
Seller:				Date:		Price:		
Type:				Deed1:		Deed2:		
Exemption Information								
Partial Exempt Assessments:		Class		07/01/2018		07/01/2019		
County:		000		0.00				
State:		000		0.00				
Municipal:		000		0.00 0.00		0.00 0.00		
Tax Exempt:		Special Tax Recapture:						
Exempt Class:		AGRICULTURAL TRANSFER TAX						
Homestead Application Information								
Homestead Application Status: No Application								
Homeowners' Tax Credit Application Information								
Homeowners' Tax Credit Application Status: No Application					Date:			

People's Counsel
CBA Exhibit

2

Baltimore County

New Search (<http://sdat.dat.maryland.gov/RealProperty/>)District: **07** Account Number: **0711035191**

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

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

Property maps provided courtesy of the Maryland Department of Planning.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at <http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx> (<http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx>).

Case No.: 2019-0138-X 21138 Old York Rd.

1/10

1:30 PM

Exhibit Sheet

Petitioner/Developer

1-14-19

Protestants

No. 1	Site plan	Photo of Zoning Signs
No. 2	Aerial photo	Photo of Old York Rd.
No. 3	Jeff Smith resume	Zoning Listing for hearing from My Neighborhood
No. 4	Plan w/ accompanying photos 1-6.	Site photo from Old York Road
No. 5		Site photo from Sampson Rd.
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Jeff Smith, PE

Principal & Branch Manager,
Bowman Consulting
185 Admiral Cochrane Drive, Suite 215
Annapolis, MD 21401
443-540-4280 mobile

EDUCATION

B.S./1995/Civil Engineering
The Citadel, Military College of South Carolina

PROFESSIONAL AFFILIATIONS

Maryland Society of Professional Engineers
American Society of Civil Engineers
Maryland Building Industry Association

REGISTRATION

Professional Engineer, Maryland, MD#31373
Professional Engineer, South Carolina, SC#23906
Professional Engineer, Delaware, DE#14568
Professional Engineer, Kansas, KS#22978
Professional Engineer, Oklahoma, OK#26407

EXPERT TESTIMONY

Federal Court:

Qualified as an expert in Civil Engineering in the United States Bankruptcy Court for the District of Maryland in the Chapter 11 bankruptcy case of In re Whiskey One Eight, LLC, Case No: 15-19885-DER (2015).

Circuit Court Anne Arundel County:

Case No. 02-C-06-119249: Hole-In-One, Ltd. vs. Walden Community Association, Inc, Walden XII HOA, Inc, and Century Golf Partners Management, LLC

Anne Arundel County Zoning Hearings Numerous Cases
Anne Arundel County Board of Appeals
Anne Arundel County Certified Reviewer

EXPERIENCE

Branch Manager and Professional Engineer with over twenty-two years of experience. Provide site-engineering services for numerous residential and commercial projects of various size and scope. Expertise in the design of storm drains, stormwater management systems including the latest MDE manual for ESDv, roadways, utilities, site grading, erosion and sediment control and project management. Responsibilities include branch manager of 20 person office including day to day operations, management of a design team, proposals, planning, and oversight of plan preparation, specifications, shop drawing review, engineering design, cost estimating, permit processing, final plan review, and construction inspection services. Attend community meetings and agency meetings as required during the permitting process. Direct contact for property owners, developers and builders during all stages of development process.

EMPLOYMENT

Bowman Consulting, Annapolis, MD employed January 2013-present
Vogel Engineering, Ellicott City, MD employed August 2011- January 2013
Daft-McCune-Walker, Inc., Towson, MD employed January 2011-August 2011
Bay Engineering, Inc., Annapolis, MD employed from June 2003-December 2010
Freeland & Kauffman, Inc., Greenville, SC employed from June 2000-March 2003
Simmons & White, Inc., Palm Beach, FL employed from June 1995-May 2000

RESIDENTIAL DEVELOPMENT (Sample of past projects within Maryland)

- **Autumn Overlook Subdivision**, Howard County, MD; Project Manager responsible for design and survey services for construction of a 20 unit single family development including Stormwater management pond, roads, utilities and permitting.
- **Autumn River Subdivision**, Howard County, MD; Project Manager responsible for design and survey services for a four phased 100 mixed unit development including single family and townhouses located in Ellicott City, MD. Responsibilities included submittal of sketch plan and final development plan for the site and oversee design team to assist with completion of project.
- **The Pond at Church Hill Subdivision**, Queen Anne County, MD; Project Manager responsible for design and survey services for construction of a 40 unit active adult community including Stormwater management pond, roads, utilities and permitting with The Town of Church Hill, Queen Anne's County and State Highway Administration.
- **Tallyn Ridge**, Frederick County, MD; Project Manager responsible for design services for 440 unit development located in Frederick, MD. Responsible for design of 3 ponds (378 classification), roads, onsite & offsite water and forcemains, onsite gravity sanitary sewer, road widening, ESD and stormwater management systems. Responsibilities included submittal of preliminary and improvement plans for 150 acre site and oversee design team to assist with completion.
- **Calumet**, Frederick County, MD; Project Manager responsible for design services for 950 unit development located in Frederick, MD. Responsible for design of numerous pond, roads, onsite & offsite water and forcemains, onsite gravity sanitary sewer, road widening, ESD and stormwater management systems. Responsibilities included submittal of preliminary and improvement plans for 300 acre site and oversee design team to assist with completion.
- **Fieldstone Subdivision**, Anne Arundel County, MD; Project Manager responsible for design and survey services for a 258 townhouse development located in Laurel, MD. Responsible for design of 3 ponds (378 classification), roads, over a mile of gravity sanitary sewer including offsite public utility plans, water main and storm drain system, offsite road design and approval. Responsibilities included submittal of sketch plan and final development plan for the 27 acre site and oversee design team to assist with completion of project.
- **Parker Creek Subdivision**, Anne Arundel County, MD. Project manager of 5 lot subdivision which included handling community meeting with owner and County councilman. Design of lot layout,

storm water management, sanitary sewer system and overall county compliance. Site included large area of wetlands and buffer which constricted the size of development.

- **South Meadow Ridge Subdivision**, Anne Arundel County, MD. Project manager of 8 lot subdivision on approximately 3 acres. Responsibilities included design of storm water management pond, road layout and profiles, water and sewer main layout, storm drain layout, profiles for all pipes and the propose road. Offsite road design and approval from State Highway Administration for proposed public road widening.
- **Bellemeade Subdivision**, Anne Arundel County, MD. Project manager on 17 lot subdivision on approximately 11 acres. Responsibilities included design of storm water management pond, road layout and profiles, water and sewer main layout, storm drain layout, profiles for all pipes and the propose road. Appropriate sizing of the storm drain system in order to convey upstream pond through the property.
- **Alview & Furnace Branch Subdivision**, Anne Arundel County, MD. Project manager on 3 lot subdivision on approximately 1 acre. Responsibilities included design of underground storm water management facility for each lot and access road. Public utility plan to extend sanitary sewer to site. Submittal of sketch plan, final development plan and grading plans for site.
- **Duckett Farms Subdivision**, Anne Arundel County, MD. Project manager on 16 lot subdivision on approximately 51 acres. Responsibilities included design of storm water management pond, road layout and profiles, water and sewer main layout, storm drain layout, profiles for all pipes and the propose road. Public utility plan to extend sanitary sewer and water to site. Submittal of final development plans and grading plans for site.
- **Shoreham Beach Subdivision**, Anne Arundel County, MD. Project manager on 18 lot subdivision on approximately 12 acres. Responsibilities included design of storm water management pond, road layout and profiles, storm drain layout, profiles for all pipes and the proposed road. Submittal of sketch development plans.
- **Governor's Bridge Subdivision**, Anne Arundel County, MD. Project manager on 7 lot subdivision on approximately 90 acres. Responsibilities included design of storm water facility, lot layout, well & septic location. Submittal of sketch development plans.
- **Mountain Road Condo Development**, Anne Arundel County, MD. Project manager on 88 unit condo building on approximately 6 acres. Responsibilities included design of storm water management pond, road layout and profiles, water and sewer main layout, storm drain layout, profiles for all pipes and the propose road.
- **ACDS-Tree Side Subdivision**, Anne Arundel County, MD. Project manager on 10 lot subdivision on approximately 3 acres. Responsibilities included design of storm water management pond, road layout and profiles, storm drain layout, profiles for all pipes and the proposed road. Submittal of final development plans, Public Water and Sewer, Public Road, Storm Drain & SWM Plans.

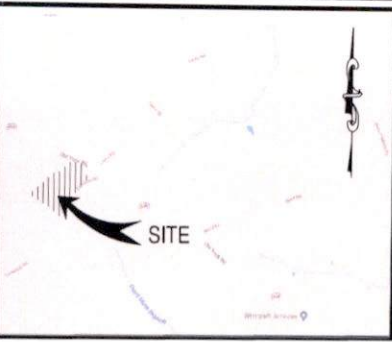
COMMERCIAL DEVELOPMENT (Sample of past projects within Maryland)

- **Project ROOK (Amazon Site)**, Baltimore City, MD. Project manager on 360,000 sf industrial/warehouse facility. Design of parking lot layout, grading, storm water management facility including profiles, sediment and erosion control. Check shop drawings for contractor and inspected facility in order to certify site was built in accordance with approved plans. Coordinated bonds & agreements with City in order to complete permitting process.
- **CREG site (Sun Products Site)**, Baltimore City, MD. Project manager on 420,000 sf industrial/warehouse facility. Design of parking lot layout, grading, storm water management facility including profiles, sediment and erosion control, demolition plan. Coordinated bonds & agreements with City in order to complete permitting process.
- **Rivers Overlook**, Howard County, MD. Project manager on 13,000 sf retail facility on approximately 1 acre. Responsibilities included design of storm water management facility, parking lot layout with profiles, storm drain layout & profiles. Coordinated bonds and agreements with County in order to complete permitting process.
- **Taco Bell Expansion**, Anne Arundel County, MD. Project manager on restaurant expansion. Design of parking lot layout, underground storm water management facility including profiles. Check shop drawings for contractor and inspected facility in order to certify site was built in accordance with approved plans. Coordinated bonds & agreements with County in order to complete permitting process.
- **Big Vanilla Athletic Club Expansion**, Anne Arundel County, MD. Project manager on 15,000 sf building expansion on approximately 3 acres. Responsibilities included design of underground storm water management facility, parking lot layout and profiles, water and sewer main layout, storm drain layout, profiles for all pipes. Coordinated with owner during construction for future development of site.
- **Mecca Learning Center**, Anne Arundel County, MD. Project manager on 100,000 sf private school with athletic field on approximately 20 acres. Responsibilities included design of storm water management pond, road & parking lot layout with profiles, storm drain layout & profiles. Field inspections & as-built plans necessary to certify the storm water management facility. Coordinated bonds and agreements with County in order to complete permitting process.
- **Arundel Baptist Church**, Anne Arundel County, MD. Project manager on a 6,000 sf church expansion on approximately 2 acres. Responsibilities included design of storm water management facility, parking lot layout and variance site plan.
- **Goddard School Private Daycare Facility**, Anne Arundel County, MD. Project manager on 10,000 sf private daycare facility on approximately 1 acre. Responsibilities included design of underground storm water management facility, parking lot layout with profiles, storm drain layout & profiles. Coordinated bonds and agreements with County in order to complete permitting process.
- **Kiddie Academy Private Daycare Facility**, Anne Arundel County, MD. Project manager on 10,000 sf private daycare facility on approximately 1.5 acres. Responsibilities included design of

underground storm water management facility, parking lot layout with profiles, storm drain layout & profiles. Coordinated bonds and agreements with County in order to complete permitting process.

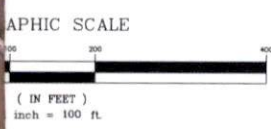
- **Lighthouse Shelter**, City of Annapolis, Anne Arundel County, MD. Project manager on 23,000 sf homeless shelter on approximately 1.5 acres. Responsibilities included design of underground storm water management facility, parking lot layout with profiles, storm drain layout & profiles. Coordinated bonds and agreements with City in order to complete permitting process.
- **Fire Fighters Office Complex**, Anne Arundel County, MD. Project manager on 30,000 sf office complex for local Fire Fighters Association on approximately 2 acres. Responsibilities included design of storm water management pond, road & parking lot layout with profiles, storm drain layout & profiles. Coordinated bonds and agreements with County in order to complete permitting process.
- **Brightview Senior Living Facility**, Anne Arundel County, MD. Project manager on 100,000 sf senior living facility building on approximately 6 acres. Responsibilities included design of storm water management system, road & parking lot layout with profiles, storm drain layout & profiles.
- **Clean Water Partnership**, Prince George's County, MD. Project director for team working with Corvias Solutions and Prince George's County to retrofit up to 2000 acres of impervious area within the County. Plans include retrofits for existing ponds, new bio-retention and micro-bio, gravel wetlands, etc. Location of potential sites, feasibility and cost analysis, oversight for 40% use of MBEs within County and surrounding areas. Coordinate with general contractors and Corvias staff as needed to design, permit and complete in order to obtain MDE certification.

Code file name : P:\130033-01-001 (ENC)\Engineering\Engineering Plans\130033-01-001-SP1C D0327\001.dwg



VICINITY MAP
ADC PERMITTED USE 20602152
SCALE 1"= 1000'

N YORK SOLAR, LLC
TTTS 02110
GROUP
NE DRIVE, SUITE 215
PHANE, P.E.
77
PARCEL 44
35191
00 SCALE ZONING MAP GIS TILE 007C1 & 007C2
EMA FLOODPLAIN ON-SITE
LIMIT OF DISTURBANCE: 9.38± ACRES
S AGRICULTURE
ELD INTACT SINCE 1980
WITHIN THE CHESAPEAKE BAY CRITICAL AREA
TO THE URBAN-RURAL DEMARCATION LINE (URDL).
A BALTIMORE COUNTY HISTORIC DISTRICT OR ON A
ON THE BALTIMORE COUNTY FINAL LANDMARKS LIST.
PERMITS OR ACTIVE ZONING VIOLATIONS FOUND ON FILE
ZONED RC-2 AND ML
4 PL
RELIEF FOR A SOLAR FACILITY PURSUANT TO BCZR
ER RELIEF AS MAY BE REQUIRED BY THE ADMINISTRATIVE
COUNTY.



nexamp

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Tel: (617) 431-1440 Fax: (978) 416-2525 Web: nexamp.com

Bowman
CONSULTING

Phone: (410) 254-7565
www.bowmanconsulting.com
1100 Annapolis Corporate Center
Suite 215
Annapolis, Maryland 21401

Date Issued			
Issued For			
Scale			
Rev			



COVER SHEET

PARKTON YORK SOLAR, LLC

21138 OLD YORK ROAD,
PARKTON, BALTIMORE COUNTY, MD 21120

Draw No.	Scale	Sheet No.
C-1		A

Job No.: 130033-01-001
Plan No.
Sheet C-1 of 1

PET. 4

PHOTO 1



PHOTO 2



PHOTO 3



PHOTO 4



PHOTO 5



PHOTO 6





1. 1139 Monkton Rd



2. 20450 Middletown Rd



3. 632 Freeland Rd (placed on Oakland Rd)



4. 21138 Old York Rd

Zoning notice signs posted for 4 solar zoning cases:

#1.-3. were placed on posts in areas that had shoulders on roads; these were legible from several yards away.

#4. sign is for 21138 Old York Rd zoning case: two signs were placed along Old York Rd, a shoulder-less road; there were no posts to raise signs off ground; print on sign is small and could not be read from several yards away (this image had to be taken from a moving car window as there was no safe place to pull over and stop to read). This photo was taken 1/4/2019.

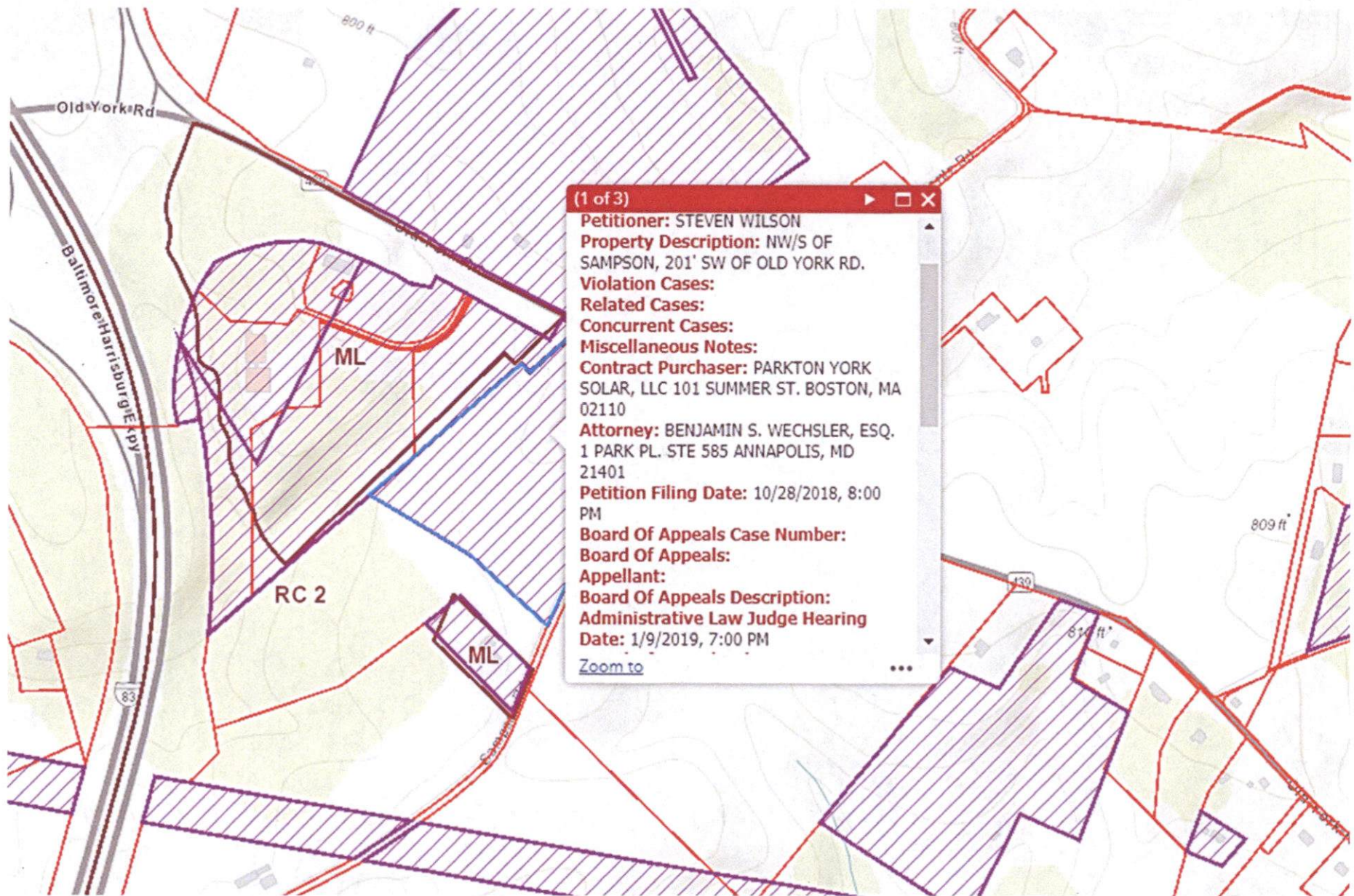
Prot. 1



Top Photo (1/8/2019): Facing west toward site property (corn stubble in field). Old York Rd has warning signs, painted lines on road surface and blinking lights at this point for safety reasons. Two zoning notice signs are located on this stretch of road.



Bottom Photo (1/4/2019): Both signs are visible here (the sign on right is located next to the end of the guard rail; see top photo), the one on left is attached to base of electric pole.



Copied 1/8/2019 from Myneighborhood website.



21138 Old York Rd

Photo taken 1/8/2019, facing ~~west~~. Elevation of site field is higher than surrounding area.

South west

Prot. 4



View of 21138 Old York Rd farmland, taken from Sampson Rd (1/8/2019). Field to left in photo is proposed site for solar arrays.

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: December 6, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0138-X
Address 21138 Old York Road
(Wilson Property)

Zoning Advisory Committee Meeting of **November 12, 2018**.

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

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Reviewer: Thomas Panzarella
Environmental Impact Review

IN THE MATTER OF	*	BEFORE THE
STEVEN WILSON - LEGAL OWNER AND	*	BOARD OF APPEALS
PARKTON YORK SOLAR, LLC - LESSEE	*	
AND PETITIONERS FOR SPECIAL	*	OF
EXCEPTION ON THE PROPERTY LOCATED	*	
AT 21138 OLD YORK ROAD	*	BALTIMORE COUNTY
7 TH ELECTION DISTRICT	*	
3 RD COUNCILMANIC DISTRICT	*	CASE NO: 19-138-X

* * * * *

OPINION

This case comes before the Board of Appeals on an appeal of the final decision of the Administrative Law Judge ("ALJ") in which the ALJ granted a Petition for Special Exception for a Solar Facility by Opinion and Order dated January 14, 2019. The property is located at 21138 Old York Road (the "Property"), in the Maryland Line vicinity. It is zoned R.C.2, Agricultural. BCZR Sec. 1A01.

The initial Petitioner before the ALJ was co-owner Steven Wilson. His mother, co-owner Mabel Wilson has been added by stipulation. Protestants Sparks Glencoe Community Planning Council, Inc. ("SGCPC"), Lisa Arthur, Emma Arthur, Lynne Jones and Kathleen Pieper (collectively the "Protestants") filed an appeal of the ALJ's decision conditionally granting the Special Exception.

A *de novo* hearing was held before this Board on May 14, 2019. The Petitioners, Steven Wilson and Mabel E. Wilson, and Parkton York Solar, LLC, Lessee, (collectively the "Petitioners") were represented by Benjamin S. Wechsler, Esquire and Linowes and Blocher LLP. The Protestants were represented by H. Barnes Mowell, Esquire. People's Counsel also participated in the hearing. The Board conducted a public deliberation immediately following the public hearing, on May 14, 2019.

On appeal, Petitioners met with Protestants and reached agreement on an amended special exception and site plan, with specified conditions. Upon review of the record, the Board decided to approve the special exception, with such conditions, as set forth in the Board's Order below.

Factual Background

The Property comprises one parcel totaling 39.9 acres, spanning the north and the south sides of Old York Road. The Property is owned by Steven Wilson and his mother, Mabel Wilson, as tenants in common with a right of survivorship. The Property currently is in active agricultural production, along with other adjacent properties in the neighborhood owned by the same family.

The Petitioners proposed to construct a solar array on the 19.052 acre portion of the parcel bounded by Sampson Road to the east and Old York Road (MD RTE. 439) to the north.

The Property enjoys fairly level topography, is almost entirely cleared of trees, and contains no significant environmental features such as streams or wetlands. The Property is zoned R.C.2. Old York Road is a designated scenic route.

The Petitioners are proposing to use approximately 9.17 acres of the Property for a solar facility pursuant to Baltimore County Zoning Regulations ("BCZR"), Article 4F. The solar facility is designed to generate 0.825 megawatts of alternating current electricity. The remaining acreage of the Property located south of Old York Road (9.9+/- acres) will remain in active agricultural production by the Wilson family. This is in addition to the extensive remaining acreage on the north side of Old York Road that is in agricultural production by the Wilson family. Their holdings comprise about 80 acres in all.

Solar Facilities Law

On July 7, 2017, the County Council enacted Bill 37-17 permitting solar facilities by special exception in certain zones, including R.C.2, R.C.4, R.C.5, and R.C.8. 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 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 § 33-3-197 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.
- 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:

- 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, §50.1, 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 environment 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 will 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 will 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 *Altar vs. 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] will have any adverse effects above and beyond those inherently associated with such use under the *Schultz* standard." *Altar*, 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").

Evidence

The Petitioner presented four witnesses who testified on its behalf on its behalf in the merits of the case, as well as a total of seven exhibits, all of which were accepted as evidence and incorporated into the record:

1. Greg Werner.

Mr. Werner testified as the Maryland Business Development Manager for Nexamp, Inc. Nexamp is the controlling member of Petitioner Parkton York Solar, LLC, who is developing the solar facility.

Mr. Werner explained Nexamp and Parkton York Solar, LLC are in the business of developing, owning, and managing photovoltaic arrays, with projects throughout the northeast. Mr. Werner indicated that Nexamp has a number of projects under development in Maryland, including one that is operational in Queen Anne's County, and several additional projects in various stages of development throughout Maryland. Mr. Werner observed that Nexamp not only develops solar facilities, but also follows up with their management and continuing operation.

Mr. Werner testified that the proposed project is at 21138 Old York Road, Parkton, Maryland 21120, on the Property owned by Mr. Wilson and his mother Mabel. Mr. Wilson is a farmer, and intends to continue farming the parts of his property not used for the photovoltaic array. The property is zoned R.C.2 Resource Conservation – Agriculture. The parcel is 39.9 acres in total, with acreage located on the south and north sides of Old York Road and, as noted, is part of a larger Wilson family farm area. The acreage that will be developed with the photovoltaic installation will be on the south side of Old York Road, to the west of Sampson Road.

Mr. Werner 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 and generate electrical energy. 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 Samson Road Rd. Mr. Werner testified that this facility is designed and engineered to generate 0.825 megawatts of alternating current (AC) electricity, which is likely the smallest solar facility seeking approval in the Third Councilmanic District.

Mr. Werner identified three (3) main criteria for prospective solar facility properties: (1) existing power lines with a capacity for connecting to the solar facility; (2) flat, cleared land; and, (3) a property owner who is willing to enter into a long term lease. He indicated that the site is ideal because there are existing power lines with capacity, the property is completely cleared, and that the owners of the property are willing to enter into a long-term lease.

Mr. Werner testified that the height of the structure will be no more than seven (7) feet, and will be connected to the Baltimore Gas and Electric electrical grid through an "inverter" that converts direct current generated by the panels into alternating current used to transmit and distribute electrical energy through the grid. The inverters will emit a low humming noise, which is not likely to be audible at any property line. Additionally, 2 or 3 utility poles will be erected near the existing power lines to connect the electricity generated from the new facility to the electrical grid. There will be only minimal signage providing contact information in the event of an emergency. There will be almost no maintenance needed. There will be no lighting. At the end of the lease term, the solar facility will be removed and the holes filled in.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 1, a site plan showing the proposed configuration of the photovoltaic array, along with a landscaping plan. The notes on Petitioners' Exhibit 1 show that the site area (the area south of Old York Road and west of Sampson Road) is a total of 19.052 acres, with the area within the fence line of 8.05 acres, and the total Limits of Disturbance ("LOD") being 9.17 acres. This plan shows extensive landscaping around the site, including landscaping around the perimeter of the field, as well as additional dense landscaping outside of the fence surrounding the array.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 2, which is a "redline" site plan showing changes that were been proposed by Parkton York Solar, LLC in order to address community concerns. The exhibit shows that the configuration of the solar panels was changed in order to provide relatively open view from Old York Road, a designated scenic road. Specifically, a section of the panels closest to Old York Road was moved to a location further away from Old York Road. The exhibit also shows the significant additional landscaping that is being proposed in order to screen the solar panels from public view.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 3, which is a viewshed study, depicting the impact of the solar project on views from Old York Road and Sampson Road. The study was conducted by erecting a seven-foot white marker at two visible locations at the perimeter of the proposed array, and taking photographs from five locations along Old York Road and Sampson Road. The seven-foot white marker was difficult to see from most of the locations.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 4, which is a set of conditions, negotiated with the Protestant Sparks Glencoe Community Planning Council and People's Counsel, in advance of the hearing. Mr. Werner indicated that

there were a total of seven conditions in the exhibit, and that each of the conditions will be acceptable to SGCPD in exchange for their support of the application. Mr. Werner indicated that each of the seven conditions contained in Petitioners' Exhibit 4 were acceptable to Petitioners.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 5 a copy of the Opinion and Order issued by the Baltimore County Administrative Law Judge in this matter below, conditionally approving the Special Exception for the project. Petitioners' Exhibit 5 contains a total of six (6) conditions. Mr. Werner indicated that generally the conditions were acceptable. However, Condition No. 3 in the ALJ approval specifies that the fence "shall be black vinyl/coated chain link fence." Mr. Werner indicated that subsequent discussions with the SGCPD resulted in an agreement that the fence should instead be a "farm fence," without barbed wire, substantially in compliance with the picture shown in Petitioners' Exhibit 4.

Mr. Werner indicated that he understood that no more than ten (10) photovoltaic projects will be allowed in Councilmanic District 3 under current law, and that to his knowledge this project will be one of those ten project. He also acknowledged that if the project was not one of those first ten projects, then the project will not receive building permits and will not proceed.

2. Daniel Speakman – Civil Engineer.

Daniel Speakman, P.E., testified as and was qualified as an expert civil engineer, with significant expertise with solar facilities. His Resume was introduced and accepted as Petitioners' Exhibit 6. He described the site plan (Petitioners' Exhibit 1) in detail, and reviewed each of the general special exception standards, as well as the standards applicable to solar facilities. He indicated that the facility will not overcrowd the land, will result in minimal impacts to the land; and will have no negative impacts upon public facilities, and in fact will have the opposite effect

considering that the property could not be developed with houses or other impactful uses for a period of thirty five (35) years. He indicated that there will be no trees or vegetation removed, and that there will be no negative environmental impacts, particularly once stormwater management facilities were installed in compliance with the Maryland Department of Environment's Environmental Site Design to the Maximum Extent Practicable ("ESD to the MEP") standards. He also indicated that the reconfiguration of the facility away from Old York Road and the proposed landscaping adequately address the viewshed issues from Old York Road. The lease payments will allow for the continued use of remainder of the property as a family farm, in context, consistent with purpose of R.C. 2 Zone. Mr. Speakman reviewed each of the specific standards contained in Article 4f of the BCZR, and showed their satisfaction, as more fully discussed below.

3. Mr. Steven Wilson, Property Owner.

Mr. Wilson indicated he was testifying on behalf of himself, and his mother, Mabel Wilson as the owners of the Property. He indicated that the Wilson family runs an active farm on this and several adjacent properties. Unlike other farms on which solar facilities will be located, the Wilson farm will continue in active agricultural production by the owners themselves. Mr. Wilson described the surrounding rural neighborhood, and said that, to the best of his knowledge, the adjacent residents find the project to be acceptable. There were no adjacent residents who appeared in opposition to the project.

4. Ms. Lynn Jones, Sparks Glencoe Community Planning Council.

Lynne Jones, President of SGCP, testified on behalf of the Petitioner. Ms. 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 SGCP. SGCP 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-shaped figure as shown on the boundary map, introduced and accepted as Petitioners' Exhibit 7.

SGPGC is concerned about the impact of solar facilities in the rural north county area, especially on agricultural properties, and has participated in many of the solar facility special exception cases. Ms. Jones explained in detail why this facility is acceptable, so long as subject to the agreed conditions and the conditions set by the ALJ, as adjusted for the fence.

Ms. Jones spoke about her appreciation of the proposal and the willingness of Petitioners to work with her organization; highlighted the moderate size of this facility compared to other proposals; the willingness of the Petitioners to relocate the facility further away from Old York Road. She also appreciated the upgraded farm fence and landscaping, and specifically cited the lack of particular or significant environmental impacts as an important factor in her support.

In spite of being a named Protestant, Ms. Jones indicated that she supported the granting of this Special Exception, provided that certain conditions were imposed relating to the Special Exception. Specifically, she referenced the conditions contained in Petitioners' Exhibits 4 and 5 as being the conditions that were acceptable to SGCPG.

Protestants' Case.

The Protestants did not otherwise present a case.

People's Counsel Case

Mr. Zimmerman, the People's Counsel for Baltimore County, introduced two deeds, as People's Counsel Exhibits 1 and 2, proving ownership of the property in Steven and Mabel Wilson. People's Counsel indicated non-opposition to the granting of the Special Exception,

provided that the conditions contained in Petitioners' Exhibits 4 and 5 are incorporated into the Board of Appeals decision and order.

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. Werner and Mr. Speakman support the Petitioners' position that the proposed solar facility will not be detrimental to the health, safety or general welfare of the locality involved. In sum, Petitioners presented an unopposed *prima facie* case that the proposal, as conditioned, meets all of the special exception criteria and satisfies the additional requirements of BCZR Article 4F. We conclude that Petitioners' case complies with each of the Special Exception criteria and with BCZR, Section 4F.

As described in detail above, Mr. Werner and Mr. Speakman testified that the solar facility will 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. Werner indicated that there was very limited risk of fire, and that in the case of fire contact information will be readily available to gain access to the facility. (BCZR, §502.1.C.) As with the lack of traffic, Mr. Werner and Mr. Speakman repeated that this use does not generate people and therefore it will not tend to overcrowd the land or cause an undue concentration of population. (BCZR, §502.1.D.) Additionally, both Mr. Werner and Mr. Speakman confirmed that this use does not interfere with schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. (BCZR, §502.1.E.)

Mr. Speakman confirmed that the height of the facility will be approximately 7 feet and will 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.

A solar facility is consistent with with the purposes of the R.C.2 zone and with the spirit and intent of the BCZR, as a use permitted by special exception, At the end of the facility's useful life, the solar facility areacan also be returned to active agricultural production.

Rain will repel off the solar panels and soak into the ground between the rows. Mr. Speakman indicated that stormwater management will be in accordance with MDE's ESD to the MEP standard. Furthermore, the Baltimore County Department of Environmental Protection and Sustainability ("EPS") will determine whether any further storm water management retention measures are needed.

Finally, Mr. Speakman testified that this use, at this location, will not be detrimental to the environmental or natural resources of the Property, including the forest, streams, wetlands, aquifers and floodplains.

The Board of Appeals is also satisfied that the proposal satisfies the special BCZR §4F criteria. Mr. Speakman 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. Speakman testified that the solar facility will not be located in the forest conservation easement or designated conservancy area. (BCZR, §§4F-104.A.3.)

As to the setback and height requirements, Mr. Werner and Mr. Speakman made clear that the facility at its highest peak will not exceed 7 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, Petitioners have demonstrated robust landscape planning around the perimeter of the property, as well as around the array itself. (BCZR, §4F-104 .6).

Additionally, there is a requirement that the solar panels minimize glare in order to prevent vehicle collision and safety hazards. (BCZR, §4 F-104 .8). Mr. Werner indicated that there will be no glare from the panels.

Finally, Petitioners must comply with BCC, §33-3-108, which specifies requirements for plans pertinent to water quality, streams, wetlands, and floodplains. (BCZR §4 F-104 .A.9).

CONDITIONS

Resolution of this matter was aided by Petitioners' and Protestants' efforts to draw up a set of conditions, set forth in Petitioners' Exhibit 4 and 5, which will minimize the impact of facility on the surrounding community, which modify the condition regarding the fence and add to those imposed by the ALJ.

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, subject to the conditions below.

ORDER

THEREFORE, IT IS THIS 24th day of July, 2019, by the County Board of Appeals for Baltimore County,

ORDERED that the Petition for Special Exception for a solar facility pursuant to BCZR, Article 4F and Sec. 502.1 as set forth on the Site Plan (Petitioners' Exhibit 1) be, and the same is

hereby **GRANTED**, subject to the following conditions under the Board's authority in §417-104.A.10 and Sec. 502.2:

I: Agreed Conditions

- a. Petitioner must comply with Conditions 1 through 6 of the Opinion and Order of the Baltimore County Administrative Law Judge in this matter (**Petitioners' Exhibit 5**), with the following modifications:
 - i. Instead of a black vinyl-coated chain link fence referenced in Condition 3 thereof, the parties agree that the fence shall be a "farm fence" similar to picture below around the perimeter of the project, *provided* that such fence shall not contain barbed wire and may be modified at the requirement or direction of the County or other governmental entity during the site plan review process, or as necessary to comply with applicable building codes.



- b. The configuration of the Project shall be substantially as depicted in **Petitioners' Exhibit 1**, including the relocation of approximately 9 rows of panels from the northeast corner of the parcel to the southeast corner; *provided* that such location may be modified as required or directed by the County or other governmental entity during the site plan review process; *provided further* that such location and configuration within the Property may be modified as reasonably necessary for construction-related purposes, so long as such modified location and configuration do not result in the placement of any solar modules nearer to Old York Road than as depicted in **Petitioners' Exhibit 1**.
- c. Petitioners shall provide a vegetative screen ("Screen") at least as rigorous as reflected in **Petitioners' Exhibit 1** including the species, quantities, and planting sizes indicated in the Plant Table shown thereon; *provided* that such Screen may be

modified as required or directed by the County or other governmental entity during the site plan review process.

- d. Petitioners shall, prior to issuance of the applicable County building permit, post a performance bond with the County in an amount equal to 125% of the installation costs of the Screen and other landscape improvements, as determined by a duly licensed civil engineer. Such bond shall be provided to the County as security for Parkton York's obligations to properly maintain the Screen for a period of 3 years, so as to ensure the reasonable health and growth of the trees and shrubs comprising the Screen.
- e. Petitioners acknowledge that the support of each neighboring property owner is critical to the success of the Solar Facility, and therefore shall work in good faith with SGCPC to ensure the continued support of such neighbors throughout the development process.
- f. Petitioners agree and consent to the Board of Appeals of Baltimore County limiting the duration of the Special Exception, approved pursuant to BCZR Sections 502.1 and 4F-104, to a period of 35 years, running from the date of final inspection certificate issued under the County building permit for the Solar Facility.
- g. Parkton York will design and install a stormwater management system that meets or exceeds all County standards. The design will be prepared, approved, and stamped by a civil engineering firm that is fully licensed and insured in accordance with State requirements.
- h. Petitioners shall not spray chemicals on the ground during the construction or operation of the Solar Facility.

II. Conditions 1 through 6 of the ALJ Order, as relevant and as adjusted.

- i. Petitioners must comply with the ZAC comments submitted by the DEPS, a copy of which is attached hereto and made a part hereof, including compliance with Baltimore County Code Secs. 33-1-101 through 33-3-120 and 33-6-101 through 33-6-122.
- j. Prior to issuance of permits, Petitioners must submit for approval by the Baltimore County Landscape Architect a landscape plan for the site.
- k. The special exception area shall include only the property within the proposed fenced enclosure, i.e., approximately 9.38 acres.
- l. No lighting or signage shall be permitted in connection with the solar facility.

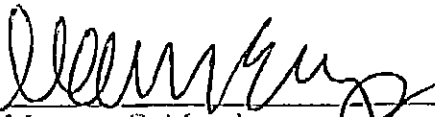
In the matter of: Steven Wilson - Legal Owner
Parkton York Solar, LLC - Lessee
Case No: 19-138-X

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*.

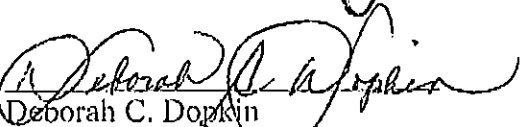
**BOARD OF APPEALS
FOR BALTIMORE COUNTY**



Andrew M. Belt, Panel Chair



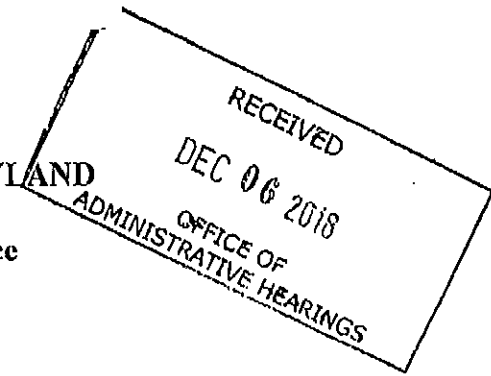
Maureen E. Murphy



Deborah C. Dopkin

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: December 6, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0138-X
Address 21138 Old York Road
(Wilson Property)

Zoning Advisory Committee Meeting of November 12, 2018.

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

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Reviewer: Thomas Panzarella
Environmental Impact Review

IN THE MATTER OF
STEVEN WILSON - LEGAL OWNER AND
PARKTON YORK SOLAR, LLC - LESSEE
AND PETITIONERS FOR SPECIAL
EXCEPTION ON THE PROPERTY LOCATED
AT 21138 OLD YORK ROAD
7TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO: 19-138-X

* * * * *

OPINION

This case comes before the Board of Appeals on an appeal of the final decision of the Administrative Law Judge ("ALJ") in which the ALJ granted a Petition for Special Exception for a Solar Facility by Opinion and Order dated January 14, 2019. The property is located at 21138 Old York Road (the "Property"), in the Maryland Line vicinity. It is zoned R.C.2, Agricultural. BCZR Sec. 1A01.

The initial Petitioner before the ALJ was co-owner Steven Wilson. His mother, co-owner Mabel Wilson has been added by stipulation. Protestants Sparks Glencoe Community Planning Council, Inc. ("SGCPC"), Lisa Arthur, Emma Arthur, Lynne Jones and Kathleen Pieper (collectively the "Protestants") filed an appeal of the ALJ's decision conditionally granting the Special Exception.

A *de novo* hearing was held before this Board on May 14, 2019. The Petitioners, Steven Wilson and Mabel E. Wilson, and Parkton York Solar, LLC, Lessee, (collectively the "Petitioners") were represented by Benjamin S. Wechsler, Esquire and Linowes and Blocher LLP. The Protestants were represented by H. Barnes Mowell, Esquire. People's Counsel also participated in the hearing. The Board conducted a public deliberation immediately following the public hearing, on May 14, 2019.

On appeal, Petitioners met with Protestants and reached agreement on an amended special exception and site plan, with specified conditions. Upon review of the record, the Board decided to approve the special exception, with such conditions, as set forth in the Board's Order below.

Factual Background

The Property comprises one parcel totaling 39.9 acres, spanning the north and the south sides of Old York Road. The Property is owned by Steven Wilson and his mother, Mabel Wilson, as tenants in common with a right of survivorship. The Property currently is in active agricultural production, along with other adjacent properties in the neighborhood owned by the same family.

The Petitioners proposed to construct a solar array on the 19.052 acre portion of the parcel bounded by Sampson Road to the east and Old York Road (MD RTE. 439) to the north.

The Property enjoys fairly level topography, is almost entirely cleared of trees, and contains no significant environmental features such as streams or wetlands. The Property is zoned R.C.2. Old York Road is a designated scenic route.

The Petitioners are proposing to use approximately 9.17 acres of the Property for a solar facility pursuant to Baltimore County Zoning Regulations ("BCZR"), Article 4F. The solar facility is designed to generate 0.825 megawatts of alternating current electricity. The remaining acreage of the Property located south of Old York Road (9.9 +/- acres) will remain in active agricultural production by the Wilson family. This is in addition to the extensive remaining acreage on the north side of Old York Road that is in agricultural production by the Wilson family. Their holdings comprise about 80 acres in all.

Solar Facilities Law

On July 7, 2017, the County Council enacted Bill 37-17 permitting solar facilities by special exception in certain zones, including R.C.2, R.C.4, R.C.5, and R.C.8. 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 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 § 33-3-197 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.
- 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:

- 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, §50.1, 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 environment 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 will 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 will 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 vs. 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] will have any adverse effects above and beyond those inherently associated with such use under the *Schultz* standard." *Attar*, 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").

Evidence

The Petitioner presented four witnesses who testified on its behalf on its behalf in the merits of the case, as well as a total of seven exhibits, all of which were accepted as evidence and incorporated into the record:

1. Greg Werner.

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Mr. Werner explained Nexamp and Parkton York Solar, LLC are in the business of developing, owning, and managing photovoltaic arrays, with projects throughout the northeast. Mr. Werner indicated that Nexamp has a number of projects under development in Maryland, including one that is operational in Queen Anne's County, and several additional projects in various stages of development throughout Maryland. Mr. Werner observed that Nexamp not only develops solar facilities, but also follows up with their management and continuing operation.

Mr. Werner testified that the proposed project is at 21138 Old York Road, Parkton, Maryland 21120, on the Property owned by Mr. Wilson and his mother Mabel. Mr. Wilson is a farmer, and intends to continue farming the parts of his property not used for the photovoltaic array. The property is zoned R.C.2 Resource Conservation – Agriculture. The parcel is 39.9 acres in total, with acreage located on the south and north sides of Old York Road and, as noted, is part of a larger Wilson family farm area. The acreage that will be developed with the photovoltaic installation will be on the south side of Old York Road, to the west of Sampson Road.

Mr. Werner 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 and generate electrical energy. 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 Samson Road Rd. Mr. Werner testified that this facility is designed and engineered to generate 0.825 megawatts of alternating current (AC) electricity, which is likely the smallest solar facility seeking approval in the Third Councilmanic District.

Mr. Werner identified three (3) main criteria for prospective solar facility properties: (1) existing power lines with a capacity for connecting to the solar facility; (2) flat, cleared land; and, (3) a property owner who is willing to enter into a long term lease. He indicated that the site is ideal because there are existing power lines with capacity, the property is completely cleared, and that the owners of the property are willing to enter into a long-term lease.

Mr. Werner testified that the height of the structure will be no more than seven (7) feet, and will be connected to the Baltimore Gas and Electric electrical grid through an "inverter" that converts direct current generated by the panels into alternating current used to transmit and distribute electrical energy through the grid. The inverters will emit a low humming noise, which is not likely to be audible at any property line. Additionally, 2 or 3 utility poles will be erected near the existing power lines to connect the electricity generated from the new facility to the electrical grid. There will be only minimal signage providing contact information in the event of an emergency. There will be almost no maintenance needed. There will be no lighting. At the end of the lease term, the solar facility will be removed and the holes filled in.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 1, a site plan showing the proposed configuration of the photovoltaic array, along with a landscaping plan. The notes on Petitioners' Exhibit 1 show that the site area (the area south of Old York Road and west of Sampson Road) is a total of 19.052 acres, with the area within the fence line of 8.05 acres, and the total Limits of Disturbance ("LOD") being 9.17 acres. This plan shows extensive landscaping around the site, including landscaping around the perimeter of the field, as well as additional dense landscaping outside of the fence surrounding the array.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 2, which is a "redline" site plan showing changes that were been proposed by Parkton York Solar, LLC in order to address community concerns. The exhibit shows that the configuration of the solar panels was changed in order to provide relatively open view from Old York Road, a designated scenic road. Specifically, a section of the panels closest to Old York Road was moved to a location further away from Old York Road. The exhibit also shows the significant additional landscaping that is being proposed in order to screen the solar panels from public view.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 3, which is a viewshed study, depicting the impact of the solar project on views from Old York Road and Sampson Road. The study was conducted by erecting a seven-foot white marker at two visible locations at the perimeter of the proposed array, and taking photographs from five locations along Old York Road and Sampson Road. The seven-foot white marker was difficult to see from most of the locations.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 4, which is a set of conditions, negotiated with the Protestant Sparks Glencoe Community Planning Council and People's Counsel, in advance of the hearing. Mr. Werner indicated that

there were a total of seven conditions in the exhibit, and that each of the conditions will be acceptable to SGCP in exchange for their support of the application. Mr. Werner indicated that each of the seven conditions contained in Petitioners' Exhibit 4 were acceptable to Petitioners.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 5 a copy of the Opinion and Order issued by the Baltimore County Administrative Law Judge in this matter below, conditionally approving the Special Exception for the project. Petitioners' Exhibit 5 contains a total of six (6) conditions. Mr. Werner indicated that generally the conditions were acceptable. However, Condition No. 3 in the ALJ approval specifies that the fence "shall be black vinyl/coated chain link fence." Mr. Werner indicated that subsequent discussions with the SGCP resulted in an agreement that the fence should instead be a "farm fence," without barbed wire, substantially in compliance with the picture shown in Petitioners' Exhibit 4.

Mr. Werner indicated that he understood that no more than ten (10) photovoltaic projects will be allowed in Councilmanic District 3 under current law, and that to his knowledge this project will be one of those ten project. He also acknowledged that if the project was not one of those first ten projects, then the project will not receive building permits and will not proceed.

2. Daniel Speakman -- Civil Engineer.

Daniel Speakman, P.E., testified as and was qualified as an expert civil engineer, with significant expertise with solar facilities. His Resume was introduced and accepted as Petitioners' Exhibit 6. He described the site plan (Petitioners' Exhibit 1) in detail, and reviewed each of the general special exception standards, as well as the standards applicable to solar facilities. He indicated that the facility will not overcrowd the land, will result in minimal impacts to the land; and will have no negative impacts upon public facilities, and in fact will have the opposite effect

considering that the property could not be developed with houses or other impactful uses for a period of thirty five (35) years. He indicated that there will be no trees or vegetation removed, and that there will be no negative environmental impacts, particularly once stormwater management facilities were installed in compliance with the Maryland Department of Environment's Environmental Site Design to the Maximum Extent Practicable ("ESD to the MEP") standards. He also indicated that the reconfiguration of the facility away from Old York Road and the proposed landscaping adequately address the viewshed issues from Old York Road. The lease payments will allow for the continued use of remainder of the property as a family farm, in context, consistent with purpose of R.C. 2 Zone. Mr. Speakman reviewed each of the specific standards contained in Article 4f of the BCZR, and showed their satisfaction, as more fully discussed below.

3. Mr. Steven Wilson, Property Owner.

Mr. Wilson indicated he was testifying on behalf of himself, and his mother, Mabel Wilson as the owners of the Property. He indicated that the Wilson family runs an active farm on this and several adjacent properties. Unlike other farms on which solar facilities will be located, the Wilson farm will continue in active agricultural production by the owners themselves. Mr. Wilson described the surrounding rural neighborhood, and said that, to the best of his knowledge, the adjacent residents find the project to be acceptable. There were no adjacent residents who appeared in opposition to the project.

4. Ms. Lynn Jones, Sparks Glencoe Community Planning Council.

Lynne Jones, President of SGCP, testified on behalf of the Petitioner. Ms. 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 SGCP. SGCP 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-shaped figure as shown on the boundary map, introduced and accepted as Petitioners' Exhibit 7.

SGPGC is concerned about the impact of solar facilities in the rural north county area, especially on agricultural properties, and has participated in many of the solar facility special exception cases. Ms. Jones explained in detail why this facility is acceptable, so long as subject to the agreed conditions and the conditions set by the ALJ, as adjusted for the fence.

Ms. Jones spoke about her appreciation of the proposal and the willingness of Petitioners to work with her organization; highlighted the moderate size of this facility compared to other proposals; the willingness of the Petitioners to relocate the facility further away from Old York Road. She also appreciated the upgraded farm fence and landscaping, and specifically cited the lack of particular or significant environmental impacts as an important factor in her support.

In spite of being a named Protestant, Ms. Jones indicated that she supported the granting of this Special Exception, provided that certain conditions were imposed relating to the Special Exception. Specifically, she referenced the conditions contained in Petitioners' Exhibits 4 and 5 as being the conditions that were acceptable to SGCPG.

Protestants' Case.

The Protestants did not otherwise present a case.

People's Counsel Case

Mr. Zimmerman, the People's Counsel for Baltimore County, introduced two deeds, as People's Counsel Exhibits 1 and 2, proving ownership of the property in Steven and Mabel Wilson. People's Counsel indicated non-opposition to the granting of the Special Exception,

provided that the conditions contained in Petitioners' Exhibits 4 and 5 are incorporated into the Board of Appeals decision and order.

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. Werner and Mr. Speakman support the Petitioners' position that the proposed solar facility will not be detrimental to the health, safety or general welfare of the locality involved. In sum, Petitioners presented an unopposed *prima facie* case that the proposal, as conditioned, meets all of the special exception criteria and satisfies the additional requirements of BCZR Article 4F. We conclude that Petitioners' case complies with each of the Special Exception criteria and with BCZR, Section 4F.

As described in detail above, Mr. Werner and Mr. Speakman testified that the solar facility will 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. Werner indicated that there was very limited risk of fire, and that in the case of fire contact information will be readily available to gain access to the facility. (BCZR, §502.1.C.) As with the lack of traffic, Mr. Werner and Mr. Speakman repeated that this use does not generate people and therefore it will not tend to overcrowd the land or cause an undue concentration of population. (BCZR, §502.1.D.) Additionally, both Mr. Werner and Mr. Speakman confirmed that this use does not interfere with schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. (BCZR, §502.1.E.)

Mr. Speakman confirmed that the height of the facility will be approximately 7 feet and will 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.

A solar facility is consistent with the purposes of the R.C.2 zone and with the spirit and intent of the BCZR, as a use permitted by special exception. At the end of the facility's useful life, the solar facility area can also be returned to active agricultural production.

Rain will repel off the solar panels and soak into the ground between the rows. Mr. Speakman indicated that stormwater management will be in accordance with MDE's ESD to the MEP standard. Furthermore, the Baltimore County Department of Environmental Protection and Sustainability ("EPS") will determine whether any further storm water management retention measures are needed.

Finally, Mr. Speakman testified that this use, at this location, will not be detrimental to the environmental or natural resources of the Property, including the forest, streams, wetlands, aquifers and floodplains.

The Board of Appeals is also satisfied that the proposal satisfies the special BCZR §4F criteria. Mr. Speakman 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. Speakman testified that the solar facility will not be located in the forest conservation easement or designated conservancy area. (BCZR, §§4F-104.A.3.)

As to the setback and height requirements, Mr. Werner and Mr. Speakman made clear that the facility at its highest peak will not exceed 7 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, Petitioners have demonstrated robust landscape planning around the perimeter of the property, as well as around the array itself. (BCZR, §4F-104 .6).

Additionally, there is a requirement that the solar panels minimize glare in order to prevent vehicle collision and safety hazards. (BCZR, §4 F-104 .8). Mr. Werner indicated that there will be no glare from the panels.

Finally, Petitioners must comply with BCC, §33-3-108, which specifies requirements for plans pertinent to water quality, streams, wetlands, and floodplains. (BCZR §4 F-104 .A.9).

CONDITIONS

Resolution of this matter was aided by Petitioners' and Protestants' efforts to draw up a set of conditions, set forth in Petitioners' Exhibit 4 and 5, which will minimize the impact of facility on the surrounding community, which modify the condition regarding the fence and add to those imposed by the ALJ.

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, subject to the conditions below.

ORDER

THEREFORE, IT IS THIS 24th day of July, 2019, by the County Board of Appeals for Baltimore County,

ORDERED that the Petition for Special Exception for a solar facility pursuant to BCZR, Article 4F and Sec. 502.1 as set forth on the Site Plan (Petitioners' Exhibit 1) be, and the same is

hereby **GRANTED**, subject to the following conditions under the Board's authority in §41F-104.A.10 and Sec. 502.2:

I: Agreed Conditions

- a. Petitioner must comply with Conditions 1 through 6 of the Opinion and Order of the Baltimore County Administrative Law Judge in this matter (**Petitioners' Exhibit 5**), with the following modifications:
 - i. Instead of a black vinyl-coated chain link fence referenced in Condition 3 thereof, the parties agree that the fence shall be a "farm fence" similar to picture below around the perimeter of the project, *provided* that such fence shall not contain barbed wire and may be modified at the requirement or direction of the County or other governmental entity during the site plan review process, or as necessary to comply with applicable building codes.



- b. The configuration of the Project shall be substantially as depicted in **Petitioners' Exhibit 1**, including the relocation of approximately 9 rows of panels from the northeast corner of the parcel to the southeast corner; *provided* that such location may be modified as required or directed by the County or other governmental entity during the site plan review process; *provided further* that such location and configuration within the Property may be modified as reasonably necessary for construction-related purposes, so long as such modified location and configuration do not result in the placement of any solar modules nearer to Old York Road than as depicted in **Petitioners' Exhibit 1**.
- c. Petitioners shall provide a vegetative screen ("Screen") at least as rigorous as reflected in **Petitioners' Exhibit 1** including the species, quantities, and planting sizes indicated in the Plant Table shown thereon; *provided* that such Screen may be

modified as required or directed by the County or other governmental entity during the site plan review process.

- d. Petitioners shall, prior to issuance of the applicable County building permit, post a performance bond with the County in an amount equal to 125% of the installation costs of the Screen and other landscape improvements, as determined by a duly licensed civil engineer. Such bond shall be provided to the County as security for Parkton York's obligations to properly maintain the Screen for a period of 3 years, so as to ensure the reasonable health and growth of the trees and shrubs comprising the Screen.
- e. Petitioners acknowledge that the support of each neighboring property owner is critical to the success of the Solar Facility, and therefore shall work in good faith with SGCPC to ensure the continued support of such neighbors throughout the development process.
- f. Petitioners agree and consent to the Board of Appeals of Baltimore County limiting the duration of the Special Exception, approved pursuant to BCZR Sections 502.1 and 4F-104, to a period of 35 years, running from the date of final inspection certificate issued under the County building permit for the Solar Facility.
- g. Parkton York will design and install a stormwater management system that meets or exceeds all County standards. The design will be prepared, approved, and stamped by a civil engineering firm that is fully licensed and insured in accordance with State requirements.
- h. Petitioners shall not spray chemicals on the ground during the construction or operation of the Solar Facility.

II. Conditions 1 through 6 of the ALJ Order, as relevant and as adjusted.

- i. Petitioners must comply with the ZAC comments submitted by the DEPS, a copy of which is attached hereto and made a part hereof, including compliance with Baltimore County Code Secs. 33-1-101 through 33-3-120 and 33-6-101 through 33-6-122.
- j. Prior to issuance of permits, Petitioners must submit for approval by the Baltimore County Landscape Architect a landscape plan for the site.
- k. The special exception area shall include only the property within the proposed fenced enclosure, i.e., approximately 9.38 acres.
- l. No lighting or signage shall be permitted in connection with the solar facility.

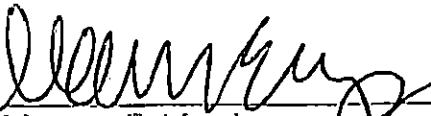
In the matter of: Steven Wilson - Legal Owner
Parkton York Solar, LLC - Lessee
Case No: 19-138-X

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*.

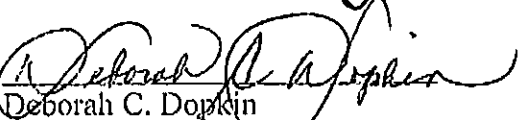
**BOARD OF APPEALS
FOR BALTIMORE COUNTY**



Andrew M. Belt, Panel Chair



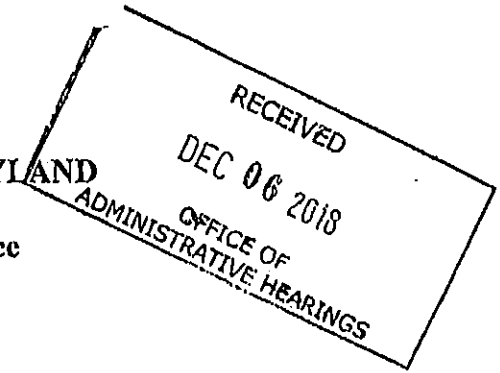
Maureen E. Murphy



Deborah C. Dopkin

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: December 6, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0138-X
Address 21138 Old York Road
(Wilson Property)

Zoning Advisory Committee Meeting of November 12, 2018.

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

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Reviewer: Thomas Panzarella
Environmental Impact Review

IN THE MATTER OF
STEVEN WILSON - LEGAL OWNER AND
PARKTON YORK SOLAR, LLC - LESSEE
AND PETITIONERS FOR SPECIAL
EXCEPTION ON THE PROPERTY LOCATED
AT 21138 OLD YORK ROAD
7TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO: 19-138-X

* * * * *

OPINION

This case comes before the Board of Appeals on an appeal of the final decision of the Administrative Law Judge ("ALJ") in which the ALJ granted a Petition for Special Exception for a Solar Facility by Opinion and Order dated January 14, 2019. The property is located at 21138 Old York Road (the "Property"), in the Maryland Line vicinity. It is zoned R.C.2, Agricultural. BCZR Sec. 1A01.

The initial Petitioner before the ALJ was co-owner Steven Wilson. His mother, co-owner Mabel Wilson has been added by stipulation. Protestants Sparks Glencoe Community Planning Council, Inc. ("SGCPC"), Lisa Arthur, Emma Arthur, Lynne Jones and Kathleen Pieper (collectively the "Protestants") filed an appeal of the ALJ's decision conditionally granting the Special Exception.

A *de novo* hearing was held before this Board on May 14, 2019. The Petitioners, Steven Wilson and Mabel E. Wilson, and Parkton York Solar, LLC, Lessee, (collectively the "Petitioners") were represented by Benjamin S. Wechsler, Esquire and Linowes and Blocher LLP. The Protestants were represented by H. Barnes Mowell, Esquire. People's Counsel also participated in the hearing. The Board conducted a public deliberation immediately following the public hearing, on May 14, 2019.

On appeal, Petitioners met with Protestants and reached agreement on an amended special exception and site plan, with specified conditions. Upon review of the record, the Board decided to approve the special exception, with such conditions, as set forth in the Board's Order below.

Factual Background

The Property comprises one parcel totaling 39.9 acres, spanning the north and the south sides of Old York Road. The Property is owned by Steven Wilson and his mother, Mabel Wilson, as tenants in common with a right of survivorship. The Property currently is in active agricultural production, along with other adjacent properties in the neighborhood owned by the same family.

The Petitioners proposed to construct a solar array on the 19.052 acre portion of the parcel bounded by Sampson Road to the east and Old York Road (MD RTE. 439) to the north.

The Property enjoys fairly level topography, is almost entirely cleared of trees, and contains no significant environmental features such as streams or wetlands. The Property is zoned R.C.2. Old York Road is a designated scenic route.

The Petitioners are proposing to use approximately 9.17 acres of the Property for a solar facility pursuant to Baltimore County Zoning Regulations ("BCZR"), Article 4F. The solar facility is designed to generate 0.825 megawatts of alternating current electricity. The remaining acreage of the Property located south of Old York Road (9.9+/- acres) will remain in active agricultural production by the Wilson family. This is in addition to the extensive remaining acreage on the north side of Old York Road that is in agricultural production by the Wilson family. Their holdings comprise about 80 acres in all.

Solar Facilities Law

On July 7, 2017, the County Council enacted Bill 37-17 permitting solar facilities by special exception in certain zones, including R.C.2, R.C.4, R.C.5, and R.C.8. 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 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 § 33-3-197 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.
- 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:

- 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, §50.1, 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 environment 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 will 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 will 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 vs. 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] will have any adverse effects above and beyond those inherently associated with such use under the *Schultz* standard." *Attar*, 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").

Evidence

The Petitioner presented four witnesses who testified on its behalf on its behalf in the merits of the case, as well as a total of seven exhibits, all of which were accepted as evidence and incorporated into the record:

1. Greg Werner.

Mr. Werner testified as the Maryland Business Development Manager for Nexamp, Inc. Nexamp is the controlling member of Petitioner Parkton York Solar, LLC, who is developing the solar facility.

Mr. Werner explained Nexamp and Parkton York Solar, LLC are in the business of developing, owning, and managing photovoltaic arrays, with projects throughout the northeast. Mr. Werner indicated that Nexamp has a number of projects under development in Maryland, including one that is operational in Queen Anne's County, and several additional projects in various stages of development throughout Maryland. Mr. Werner observed that Nexamp not only develops solar facilities, but also follows up with their management and continuing operation.

Mr. Werner testified that the proposed project is at 21138 Old York Road, Parkton, Maryland 21120, on the Property owned by Mr. Wilson and his mother Mabel. Mr. Wilson is a farmer, and intends to continue farming the parts of his property not used for the photovoltaic array. The property is zoned R.C.2 Resource Conservation – Agriculture. The parcel is 39.9 acres in total, with acreage located on the south and north sides of Old York Road and, as noted, is part of a larger Wilson family farm area. The acreage that will be developed with the photovoltaic installation will be on the south side of Old York Road, to the west of Sampson Road.

Mr. Werner 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 and generate electrical energy. 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 Samson Road Rd. Mr. Werner testified that this facility is designed and engineered to generate 0.825 megawatts of alternating current (AC) electricity, which is likely the smallest solar facility seeking approval in the Third Councilmanic District.

Mr. Werner identified three (3) main criteria for prospective solar facility properties: (1) existing power lines with a capacity for connecting to the solar facility; (2) flat, cleared land; and, (3) a property owner who is willing to enter into a long term lease. He indicated that the site is ideal because there are existing power lines with capacity, the property is completely cleared, and that the owners of the property are willing to enter into a long-term lease.

Mr. Werner testified that the height of the structure will be no more than seven (7) feet, and will be connected to the Baltimore Gas and Electric electrical grid through an "inverter" that converts direct current generated by the panels into alternating current used to transmit and distribute electrical energy through the grid. The inverters will emit a low humming noise, which is not likely to be audible at any property line. Additionally, 2 or 3 utility poles will be erected near the existing power lines to connect the electricity generated from the new facility to the electrical grid. There will be only minimal signage providing contact information in the event of an emergency. There will be almost no maintenance needed. There will be no lighting. At the end of the lease term, the solar facility will be removed and the holes filled in.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 1, a site plan showing the proposed configuration of the photovoltaic array, along with a landscaping plan. The notes on Petitioners' Exhibit 1 show that the site area (the area south of Old York Road and west of Sampson Road) is a total of 19.052 acres, with the area within the fence line of 8.05 acres, and the total Limits of Disturbance ("LOD") being 9.17 acres. This plan shows extensive landscaping around the site, including landscaping around the perimeter of the field, as well as additional dense landscaping outside of the fence surrounding the array.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 2, which is a "redline" site plan showing changes that were been proposed by Parkton York Solar, LLC in order to address community concerns. The exhibit shows that the configuration of the solar panels was changed in order to provide relatively open view from Old York Road, a designated scenic road. Specifically, a section of the panels closest to Old York Road was moved to a location further away from Old York Road. The exhibit also shows the significant additional landscaping that is being proposed in order to screen the solar panels from public view.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 3, which is a viewshed study, depicting the impact of the solar project on views from Old York Road and Sampson Road. The study was conducted by erecting a seven-foot white marker at two visible locations at the perimeter of the proposed array, and taking photographs from five locations along Old York Road and Sampson Road. The seven-foot white marker was difficult to see from most of the locations.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 4, which is a set of conditions, negotiated with the Protestant Sparks Glencoe Community Planning Council and People's Counsel, in advance of the hearing. Mr. Werner indicated that

there were a total of seven conditions in the exhibit, and that each of the conditions will be acceptable to SGCPD in exchange for their support of the application. Mr. Werner indicated that each of the seven conditions contained in Petitioners' Exhibit 4 were acceptable to Petitioners.

Mr. Werner introduced, and the Board of Appeals accepted into the Record, Petitioners' Exhibit 5 a copy of the Opinion and Order issued by the Baltimore County Administrative Law Judge in this matter below, conditionally approving the Special Exception for the project. Petitioners' Exhibit 5 contains a total of six (6) conditions. Mr. Werner indicated that generally the conditions were acceptable. However, Condition No. 3 in the ALJ approval specifies that the fence "shall be black vinyl/coated chain link fence." Mr. Werner indicated that subsequent discussions with the SGCPD resulted in an agreement that the fence should instead be a "farm fence," without barbed wire, substantially in compliance with the picture shown in Petitioners' Exhibit 4.

Mr. Werner indicated that he understood that no more than ten (10) photovoltaic projects will be allowed in Councilmanic District 3 under current law, and that to his knowledge this project will be one of those ten project. He also acknowledged that if the project was not one of those first ten projects, then the project will not receive building permits and will not proceed.

2. Daniel Speakman – Civil Engineer.

Daniel Speakman, P.E., testified as and was qualified as an expert civil engineer, with significant expertise with solar facilities. His Resume was introduced and accepted as Petitioners' Exhibit 6. He described the site plan (Petitioners' Exhibit 1) in detail, and reviewed each of the general special exception standards, as well as the standards applicable to solar facilities. He indicated that the facility will not overcrowd the land, will result in minimal impacts to the land; and will have no negative impacts upon public facilities, and in fact will have the opposite effect

considering that the property could not be developed with houses or other impactful uses for a period of thirty five (35) years. He indicated that there will be no trees or vegetation removed, and that there will be no negative environmental impacts, particularly once stormwater management facilities were installed in compliance with the Maryland Department of Environment's Environmental Site Design to the Maximum Extent Practicable ("ESD to the MEP") standards. He also indicated that the reconfiguration of the facility away from Old York Road and the proposed landscaping adequately address the viewshed issues from Old York Road. The lease payments will allow for the continued use of remainder of the property as a family farm, in context, consistent with purpose of R.C. 2 Zone. Mr. Speakman reviewed each of the specific standards contained in Article 4f of the BCZR, and showed their satisfaction, as more fully discussed below.

3. Mr. Steven Wilson, Property Owner.

Mr. Wilson indicated he was testifying on behalf of himself, and his mother, Mabel Wilson as the owners of the Property. He indicated that the Wilson family runs an active farm on this and several adjacent properties. Unlike other farms on which solar facilities will be located, the Wilson farm will continue in active agricultural production by the owners themselves. Mr. Wilson described the surrounding rural neighborhood, and said that, to the best of his knowledge, the adjacent residents find the project to be acceptable. There were no adjacent residents who appeared in opposition to the project.

4. Ms. Lynn Jones, Sparks Glencoe Community Planning Council.

Lynne Jones, President of SGCP, testified on behalf of the Petitioner. Ms. 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 SGCP. SGCP 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-shaped figure as shown on the boundary map, introduced and accepted as Petitioners' Exhibit 7.

SGPGC is concerned about the impact of solar facilities in the rural north county area, especially on agricultural properties, and has participated in many of the solar facility special exception cases. Ms. Jones explained in detail why this facility is acceptable, so long as subject to the agreed conditions and the conditions set by the ALJ, as adjusted for the fence.

Ms. Jones spoke about her appreciation of the proposal and the willingness of Petitioners to work with her organization; highlighted the moderate size of this facility compared to other proposals; the willingness of the Petitioners to relocate the facility further away from Old York Road. She also appreciated the upgraded farm fence and landscaping, and specifically cited the lack of particular or significant environmental impacts as an important factor in her support.

In spite of being a named Protestant, Ms. Jones indicated that she supported the granting of this Special Exception, provided that certain conditions were imposed relating to the Special Exception. Specifically, she referenced the conditions contained in Petitioners' Exhibits 4 and 5 as being the conditions that were acceptable to SGCPG.

Protestants' Case.

The Protestants did not otherwise present a case.

People's Counsel Case

Mr. Zimmerman, the People's Counsel for Baltimore County, introduced two deeds, as People's Counsel Exhibits 1 and 2, proving ownership of the property in Steven and Mabel Wilson. People's Counsel indicated non-opposition to the granting of the Special Exception,

provided that the conditions contained in Petitioners' Exhibits 4 and 5 are incorporated into the Board of Appeals decision and order.

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. Werner and Mr. Speakman support the Petitioners' position that the proposed solar facility will not be detrimental to the health, safety or general welfare of the locality involved. In sum, Petitioners presented an unopposed *prima facie* case that the proposal, as conditioned, meets all of the special exception criteria and satisfies the additional requirements of BCZR Article 4F. We conclude that Petitioners' case complies with each of the Special Exception criteria and with BCZR, Section 4F.

As described in detail above, Mr. Werner and Mr. Speakman testified that the solar facility will 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. Werner indicated that there was very limited risk of fire, and that in the case of fire contact information will be readily available to gain access to the facility. (BCZR, §502.1.C.) As with the lack of traffic, Mr. Werner and Mr. Speakman repeated that this use does not generate people and therefore it will not tend to overcrowd the land or cause an undue concentration of population. (BCZR, §502.1.D.) Additionally, both Mr. Werner and Mr. Speakman confirmed that this use does not interfere with schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. (BCZR, §502.1.E.)

Mr. Speakman confirmed that the height of the facility will be approximately 7 feet and will 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.

A solar facility is consistent with with the purposes of the R.C.2 zone and with the spirit and intent of the BCZR, as a use permitted by special exception, At the end of the facility's useful life, the solar facility areacan also be returned to active agricultural production.

Rain will repel off the solar panels and soak into the ground between the rows. Mr. Speakman indicated that stormwater management will be in accordance with MDE's ESD to the MEP standard. Furthermore, the Baltimore County Department of Environmental Protection and Sustainability ("EPS") will determine whether any further storm water management retention measures are needed.

Finally, Mr. Speakman testified that this use, at this location, will not be detrimental to the environmental or natural resources of the Property, including the forest, streams, wetlands, aquifers and floodplains.

The Board of Appeals is also satisfied that the proposal satisfies the special BCZR §4F criteria. Mr. Speakman 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. Speakman testified that the solar facility will not be located in the forest conservation easement or designated conservancy area. (BCZR, §§4F-104.A.3.)

As to the setback and height requirements, Mr. Werner and Mr. Speakman made clear that the facility at its highest peak will not exceed 7 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, Petitioners have demonstrated robust landscape planning around the perimeter of the property, as well as around the array itself. (BCZR, §4F-104 .6).

Additionally, there is a requirement that the solar panels minimize glare in order to prevent vehicle collision and safety hazards. (BCZR, §4 F-104 .8). Mr. Werner indicated that there will be no glare from the panels.

Finally, Petitioners must comply with BCC, §33-3-108, which specifies requirements for plans pertinent to water quality, streams, wetlands, and floodplains. (BCZR §4 F-104 .A.9).

CONDITIONS

Resolution of this matter was aided by Petitioners' and Protestants' efforts to draw up a set of conditions, set forth in Petitioners' Exhibit 4 and 5, which will minimize the impact of facility on the surrounding community, which modify the condition regarding the fence and add to those imposed by the ALJ.

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, subject to the conditions below.

ORDER

THEREFORE, IT IS THIS 24th day of July, 2019, by the County Board of Appeals for Baltimore County,

ORDERED that the Petition for Special Exception for a solar facility pursuant to BCZR, Article 4F and Sec. 502.1 as set forth on the Site Plan (Petitioners' Exhibit 1) be, and the same is

hereby **GRANTED**, subject to the following conditions under the Board's authority in §417-104.A.10 and Sec. 502.2:

I: Agreed Conditions

- a. Petitioner must comply with Conditions 1 through 6 of the Opinion and Order of the Baltimore County Administrative Law Judge in this matter (**Petitioners' Exhibit 5**), with the following modifications:
 - i. Instead of a black vinyl-coated chain link fence referenced in Condition 3 thereof, the parties agree that the fence shall be a "farm fence" similar to picture below around the perimeter of the project, *provided* that such fence shall not contain barbed wire and may be modified at the requirement or direction of the County or other governmental entity during the site plan review process, or as necessary to comply with applicable building codes.



- b. The configuration of the Project shall be substantially as depicted in **Petitioners' Exhibit 1**, including the relocation of approximately 9 rows of panels from the northeast corner of the parcel to the southeast corner; *provided* that such location may be modified as required or directed by the County or other governmental entity during the site plan review process; *provided further* that such location and configuration within the Property may be modified as reasonably necessary for construction-related purposes, so long as such modified location and configuration do not result in the placement of any solar modules nearer to Old York Road than as depicted in **Petitioners' Exhibit 1**.
- c. Petitioners shall provide a vegetative screen ("Screen") at least as rigorous as reflected in **Petitioners' Exhibit 1** including the species, quantities, and planting sizes indicated in the Plant Table shown thereon; *provided* that such Screen may be

modified as required or directed by the County or other governmental entity during the site plan review process.

- d. Petitioners shall, prior to issuance of the applicable County building permit, post a performance bond with the County in an amount equal to 125% of the installation costs of the Screen and other landscape improvements, as determined by a duly licensed civil engineer. Such bond shall be provided to the County as security for Parkton York's obligations to properly maintain the Screen for a period of 3 years, so as to ensure the reasonable health and growth of the trees and shrubs comprising the Screen.
- e. Petitioners acknowledge that the support of each neighboring property owner is critical to the success of the Solar Facility, and therefore shall work in good faith with SGCPC to ensure the continued support of such neighbors throughout the development process.
- f. Petitioners agree and consent to the Board of Appeals of Baltimore County limiting the duration of the Special Exception, approved pursuant to BCZR Sections 502.1 and 4F-104, to a period of 35 years, running from the date of final inspection certificate issued under the County building permit for the Solar Facility.
- g. Parkton York will design and install a stormwater management system that meets or exceeds all County standards. The design will be prepared, approved, and stamped by a civil engineering firm that is fully licensed and insured in accordance with State requirements.
- h. Petitioners shall not spray chemicals on the ground during the construction or operation of the Solar Facility.

II. Conditions 1 through 6 of the ALJ Order, as relevant and as adjusted.

- i. Petitioners must comply with the ZAC comments submitted by the DEPS, a copy of which is attached hereto and made a part hereof, including compliance with Baltimore County Code Secs. 33-1-101 through 33-3-120 and 33-6-101 through 33-6-122.
- j. Prior to issuance of permits, Petitioners must submit for approval by the Baltimore County Landscape Architect a landscape plan for the site.
- k. The special exception area shall include only the property within the proposed fenced enclosure, i.e., approximately 9.38 acres.
- l. No lighting or signage shall be permitted in connection with the solar facility.

In the matter of: Steven Wilson - Legal Owner
Parkton York Solar, LLC - Lessee
Case No: 19-138-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*.

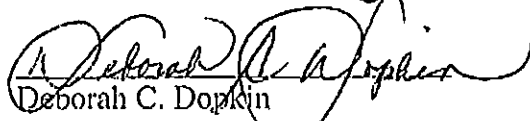
**BOARD OF APPEALS
FOR BALTIMORE COUNTY**



Andrew M. Belt, Panel Chair



Maureen E. Murphy



Deborah C. Dopkin

ORDER RECEIVED FOR FILING

DATE December 12, 1981

BY [Signature]

With the plan proposed by Frank S. Lee, dated October 7, 1981, should be
to the extent it is GRANTED, then and after the date of this Order, subject, however,
to the approval of the Board of Public Works and the Department of Public Works
and the Department of Planning and Zoning.

[Signature]
Baltimore County

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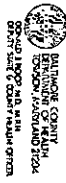
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BALTIMORE COUNTY
DEPARTMENT OF PLANNING AND ZONING
1000 JONES ROAD
BALTIMORE, MARYLAND 21204
DIRECTOR OF PLANNING AND ZONING

December 12, 1981

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Mr. William E. Harwood
Planning and Zoning Commission
1000 JONES ROAD
BALTIMORE, MARYLAND 21204
DIRECTOR OF PLANNING AND ZONING

December 12, 1981

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December 30, 1980

Dr. Eric D. Miller, Esq.
404 W. Pennsylvania Avenue
Baltimore, Maryland 21204

RE:

Prothon for Victims
V/A State Bd., 107 SE from Davis Rd.
Coral B. E. 22014, et al. - Petitioner
Case No. 107-20

Dear Mr. Miller:

This is to advise you that, as per the order of the court, the following is being filed with the court:

Prothon for Victims
V/A State Bd., 107 SE from Davis Rd.
Coral B. E. 22014, et al. - Petitioner
Case No. 107-20

BALTIMORE COUNTY, MARYLAND
JANUARY 11, 1981

11/11/80

RE:

Prothon for Victims
V/A State Bd., 107 SE from Davis Rd.
Coral B. E. 22014, et al. - Petitioner
Case No. 107-20

11/11/80

11/11/80



January 11, 1981

Dr. Eric D. Miller, Esq.
404 W. Pennsylvania Avenue
Baltimore, Maryland 21204

RE: Prothon for Victims
V/A State Bd., 107 SE from Davis Rd.
Coral B. E. 22014, et al. - Petitioner
Case No. 107-20

Dear Mr. Miller:

I have this date given my Order to the above captioned matter in accordance with the order.

Very truly yours,

John M. H. Jones
John M. H. Jones
Baltimore, Maryland 21204

201/11
Attest:
for Mr. John M. H. Jones
Baltimore, Maryland 21204
John W. Heston, III, Esq.
Prothon for Victims

Dr. Eric D. Miller, Esq.
404 W. Pennsylvania Avenue
Baltimore, Maryland 21204

December 8, 1981

RE:

Prothon for Victims
V/A State Bd., 107 SE from Davis Rd.
Coral B. E. 22014, et al. - Petitioner
Case No. 107-20

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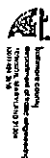
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January 11, 1981

January 11, 1981

January 11, 1981



January 20, 1981

Dr. Eric D. Miller, Esq.
404 W. Pennsylvania Avenue
Baltimore, Maryland 21204

RE: Prothon for Victims
V/A State Bd., 107 SE from Davis Rd.
Coral B. E. 22014, et al. - Petitioner
Case No. 107-20

Dear Mr. Miller:

I have this date given my Order to the above captioned matter in accordance with the order.

Very truly yours,

John M. H. Jones
John M. H. Jones
Baltimore, Maryland 21204

201/11
Attest:
for Mr. John M. H. Jones
Baltimore, Maryland 21204
John W. Heston, III, Esq.
Prothon for Victims

Dr. Eric D. Miller, Esq.
404 W. Pennsylvania Avenue
Baltimore, Maryland 21204

December 15, 1981

RE:

Prothon for Victims
V/A State Bd., 107 SE from Davis Rd.
Coral B. E. 22014, et al. - Petitioner
Case No. 107-20

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January 11, 1981

January 11, 1981

January 11, 1981



January 20, 1981

Dr. Eric D. Miller, Esq.
404 W. Pennsylvania Avenue
Baltimore, Maryland 21204

RE: Prothon for Victims
V/A State Bd., 107 SE from Davis Rd.
Coral B. E. 22014, et al. - Petitioner
Case No. 107-20

Dear Mr. Miller:

I have this date given my Order to the above captioned matter in accordance with the order.

Very truly yours,

John M. H. Jones
John M. H. Jones
Baltimore, Maryland 21204

201/11
Attest:
for Mr. John M. H. Jones
Baltimore, Maryland 21204
John W. Heston, III, Esq.
Prothon for Victims

Dr. Eric D. Miller, Esq.
404 W. Pennsylvania Avenue
Baltimore, Maryland 21204

December 15, 1981

RE:

Prothon for Victims
V/A State Bd., 107 SE from Davis Rd.
Coral B. E. 22014, et al. - Petitioner
Case No. 107-20

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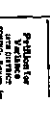
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January 11, 1981

January 11, 1981

January 11, 1981



January 20, 1981

Dr. Eric D. Miller, Esq.
404 W. Pennsylvania Avenue
Baltimore, Maryland 21204

RE: Prothon for Victims
V/A State Bd., 107 SE from Davis Rd.
Coral B. E. 22014, et al. - Petitioner
Case No. 107-20

Dear Mr. Miller:

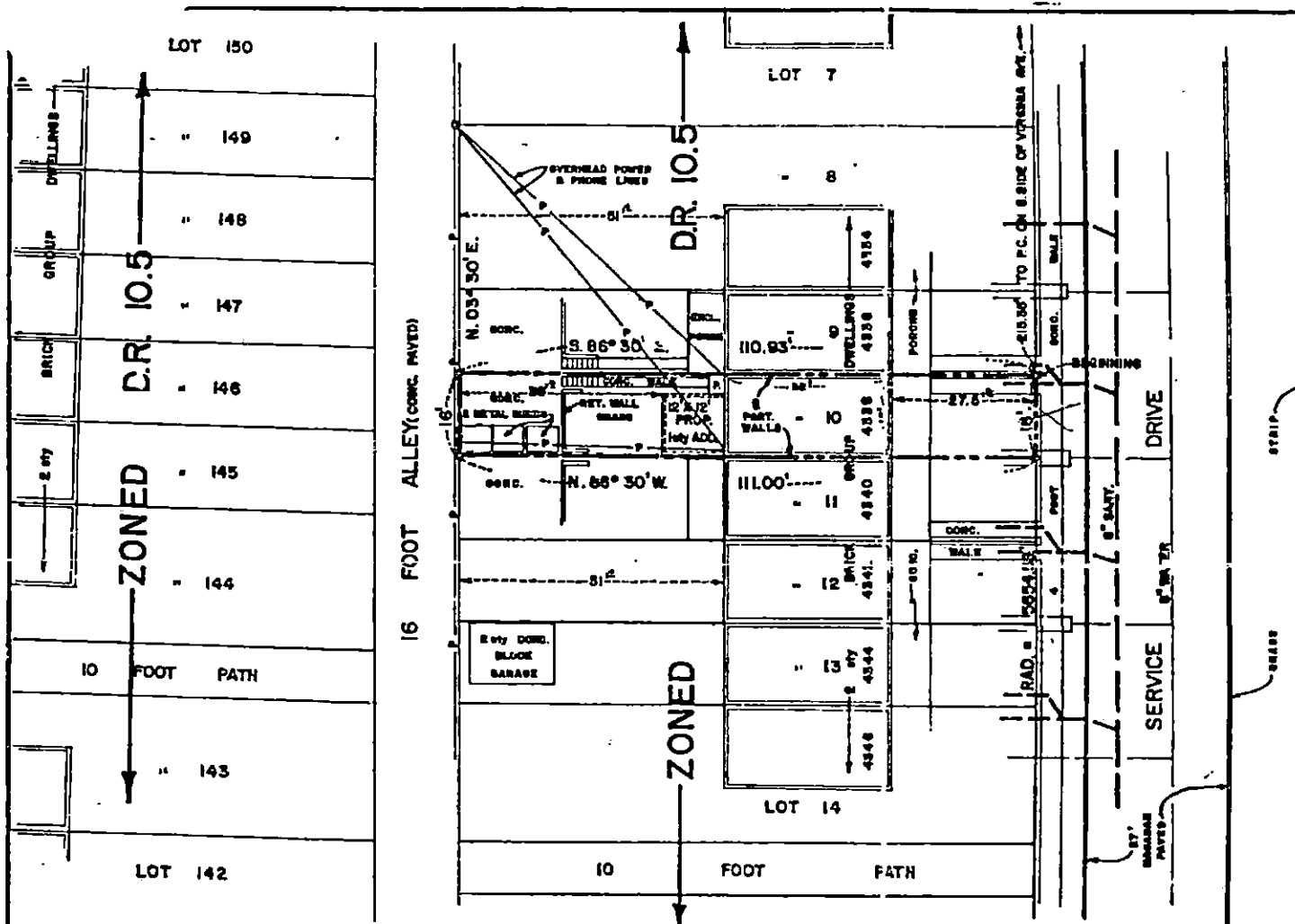
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Very truly yours,

John M. H. Jones
John M. H. Jones
Baltimore, Maryland 21204

201/11
Attest:
for Mr. John M. H. Jones
Baltimore, Maryland 21204
John W. Heston, III, Esq.
Prothon for Victims





PETITION FOR VARIANCE

1400 DISTRICT

LOCATION:

Northwest corner of Perry Hall and Shoppers Boulevard
Baltimore, Maryland 21204

DATE: Thursday, September 17, 1981 at 10:30 A.M.

PROPOSED VARIANCE: From 100' Setback to 10' Setback

PROPOSED VARIANCE: From 100' Setback to 10' Setback

PROPOSED VARIANCE: From 100' Setback to 10' Setback

PROPOSED VARIANCE: From 100' Setback to 10' Setback

PROPOSED VARIANCE: From 100' Setback to 10' Setback

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PROPOSED VARIANCE: From 100' Setback to 10' Setback

PROPOSED VARIANCE: From 100' Setback to 10' Setback

DEED TO APPLICATION FOR VARIANCE

LEGAL DESCRIPTION:

The Parcel which is the subject of this Application consists of the following described parcels of land lying and being in Election District No. 36 of Baltimore County, Maryland.

PARCELS:

Parcel 1

Parcel 2

Parcel 3

Parcel 4

Parcel 5

Parcel 6

Parcel 7

Parcel 8

Parcel 9

Parcel 10

Parcel 11

Parcel 12

Parcel 13

Parcel 14

Parcel 15

Parcel 16

Parcel 17

Parcel 18

Parcel 19

Parcel 20

Parcel 21

Parcel 22

Parcel 23

Parcel 24

Parcel 25

Parcel 26

Parcel 27

Parcel 28

Parcel 29

Parcel 30

Parcel 31

Parcel 32

Parcel 33

Parcel 34

Parcel 35

Parcel 36

Parcel 37

Parcel 38

Parcel 39

Parcel 40

Parcel 41

DEED TO APPLICATION FOR VARIANCE

LEGAL DESCRIPTION:

The Parcel which is the subject of this Application consists of the following described parcels of land lying and being in Election District No. 36 of Baltimore County, Maryland.

PARCELS:

Parcel 1

Parcel 2

Parcel 3

Parcel 4

Parcel 5

Parcel 6

Parcel 7

Parcel 8

Parcel 9

Parcel 10

Parcel 11

Parcel 12

Parcel 13

Parcel 14

Parcel 15

Parcel 16

Parcel 17

Parcel 18

Parcel 19

Parcel 20

Parcel 21

Parcel 22

Parcel 23

Parcel 24

Parcel 25

Parcel 26

Parcel 27

Parcel 28

Parcel 29

Parcel 30

Parcel 31

Parcel 32

Parcel 33

Parcel 34

Parcel 35

Parcel 36

Parcel 37

Parcel 38

Parcel 39

Parcel 40

Parcel 41

DEED TO APPLICATION FOR VARIANCE

LEGAL DESCRIPTION:

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PARCELS:

Parcel 1

Parcel 2

Parcel 3

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Parcel 5

Parcel 6

Parcel 7

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Parcel 9

Parcel 10

Parcel 11

Parcel 12

Parcel 13

Parcel 14

Parcel 15

Parcel 16

Parcel 17

Parcel 18

Parcel 19

Parcel 20

Parcel 21

Parcel 22

Parcel 23

Parcel 24

Parcel 25

Parcel 26

Parcel 27

Parcel 28

Parcel 29

Parcel 30

Parcel 31

Parcel 32

Parcel 33

Parcel 34

Parcel 35

Parcel 36

Parcel 37

Parcel 38

Parcel 39

Parcel 40

Parcel 41

7. 1818

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—118142 3297011133

15

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TABLE 3

PETITIONERS EXHIBIT

1. SHOW

[illegible]

270

Opened by 1881

Shopping Centers Exhibit 7 today

Lower parking ratios are recommended

Lower parking ratios are recommended for new shopping centers, according to a study by the National Association of Retailers and Developers. The study, which was conducted by the National Association of Retailers and Developers, found that the current parking ratios for new shopping centers are too high. The study recommends that the parking ratios for new shopping centers be reduced to 1.5 spaces per 1,000 square feet of gross leasable area. The study also found that the current parking ratios for existing shopping centers are too high. The study recommends that the parking ratios for existing shopping centers be reduced to 1.0 space per 1,000 square feet of gross leasable area. The study also found that the current parking ratios for existing shopping centers are too high. The study recommends that the parking ratios for existing shopping centers be reduced to 1.0 space per 1,000 square feet of gross leasable area.

Retail growth seen not as easy or predictable

Retail growth is seen not as easy or predictable, according to a study by the National Association of Retailers and Developers. The study, which was conducted by the National Association of Retailers and Developers, found that the current retail growth is not as easy or predictable as it once was. The study recommends that the retail growth be reduced to 1.5 spaces per 1,000 square feet of gross leasable area. The study also found that the current retail growth is not as easy or predictable as it once was. The study recommends that the retail growth be reduced to 1.5 spaces per 1,000 square feet of gross leasable area.

Lower parking ratios urged

Lower parking ratios are urged for new shopping centers, according to a study by the National Association of Retailers and Developers. The study, which was conducted by the National Association of Retailers and Developers, found that the current parking ratios for new shopping centers are too high. The study recommends that the parking ratios for new shopping centers be reduced to 1.5 spaces per 1,000 square feet of gross leasable area. The study also found that the current parking ratios for existing shopping centers are too high. The study recommends that the parking ratios for existing shopping centers be reduced to 1.0 space per 1,000 square feet of gross leasable area. The study also found that the current parking ratios for existing shopping centers are too high. The study recommends that the parking ratios for existing shopping centers be reduced to 1.0 space per 1,000 square feet of gross leasable area.

SHOPPING CENTERS TODAY/June 1981

FRANK, BERNSTEIN, CONAWAY & GOLDMAN

111 W. Chesapeake Avenue
Towson, Maryland 21204
September 27, 1981

RE: Jean Marie Jung
Bosley Constable
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Section No. 81-34-A Item 211
White Marsh Shopping Center

In accordance with your request at the hearing held on September 17, 1981, I am enclosing herewith copies of portions of the Ground Lease between Nottingham Villages, Inc. and White Marsh Associates, dated December 18, 1978. I wish to note that Section 8.1 contains restrictions on the use of the Deeded Premises and Section 8.2 contains restrictions on the Landlord's use of the Remaining Property.

Very respectfully yours,
Gail H. Stern

GHS:lh
enclosure

DECLARATION OF COVENANTS

3.1. The Restrictions.
For a term of eighty-five (85) years commencing on the date hereof the Fringe Parcels shall be used only for the following purposes: (a) sale of merchandise and/or services to the general public including offices, housing and living quarters (permanent and transient), entertainment and recreational facility, convention hall, sale of automobiles (new and used); and automotive parts and services including repair of automobiles exclusive of painting and body work, storage of merchandise and equipment, moving home, and (b) any other uses which are not detrimental to the operation of a shopping center. Included among the uses of operations which shall be prohibited because of their obvious detriment to a shopping center, are uses or operations which produce or are accompanied by characteristics such as, but not limited to, the following:

- (i) Any noise, litter, odor or other activity which may constitute a public or private nuisance;
- (ii) Any storage or production of explosives or other unusually hazardous materials;
- (iii) Any assembly or manufacturing operation which would be permitted only in a heavy manufacturing or industrial zone, or any distillation, refinery, smelting, industrial or mining operation;
- (iv) Any trailer court, mobile home park, lot for sale of used motor vehicles, except as may be strictly ancillary to the operation of a retail facility, junk yard, stock yard or animal raising (other than pet shops and veterinarians);
- (v) Any dumping, disposal, incineration or reduction of garbage or refuse other than handling or reducing such waste if produced on the Shopping Center site from permitted uses and if handled in a reasonably clean and sanitary manner.

GROUND LEASE

PH11/12-27-78
2087A

shopping center within a radius of five (5) miles of the Deeded Premises measured from the center of the Deeded Premises.

Section 8.1. Restrictions on Remaining Property.

A. For a period of twenty-five (25) years from August 1, 1972, there shall not be constructed or operated on the Remaining Acreage (i) any single retail store containing more than 35,000 square feet of Gross Leasable Area, (ii) more than one complex of stores in excess of 22,500 square feet of Gross Leasable Area, or (iii) any complex of stores in excess of 80,000 square feet of Gross Leasable Area.

B. Lessor agrees to develop the Remaining Acreage in the vicinity of the Deeded Premises in a manner which will not be detrimental to the Shopping Center or the Deeded Premises, and the parties will coordinate the development of roadways and utilities jointly serving the Deeded Premises and the Remaining Acreage. However, nothing herein shall be deemed to limit Lessor's right to develop the Remaining Acreage for business, roadside and other uses, including but not limited to, motels, hotels, restaurants, banks, office buildings, service stations, residential and recreation buildings, and any other uses not in conflict with paragraph 8.2A, above.

Section 8.3. Mortgages Not Bound. The provisions of this Article 1X shall not be binding upon any mortgagee taking possession by foreclosure or at sale in lieu of foreclosure.

GROUND LEASE

PH11/12-27-78
2087A

regional shopping centers, expressly excluding for such twenty-five year period motels and hotels.

Section 8.6. Additional Construction. Lessee may at Lessee's cost and expense construct additional buildings and improvements on the Deeded Premises subject to the provisions of Section 8.9 below.

Section 8.7. Repair and Restoration. Lessee may at Lessee's cost and expense remove and raze any buildings and other improvements on the Deeded Premises and, if Lessee desires, erect new improvements in place thereof subject to the provisions of Section 8.9 and provided further that Lessee shall as soon as possible reconstruct at least 250,000 square feet of Gross Leasable Area.

Section 8.8. Alterations. Lessee may, at Lessee's cost and expense, make such changes, improvements, alterations and additions to the Deeded Premises as Lessee may desire subject to the provisions of Section 8.9.

Section 8.9. Requirements. Lessee shall comply with all existing laws, regulations and building codes and shall, upon the commencement of construction, removal and paving and reconstruction, or alterations and repairs, as the case may be, complete the same as soon as is practicable and restore all existing buildings to an architectural whole and pave or landscape the areas formerly occupied by buildings not to be restored.

If any mechanic's lien shall be filed against the Deeded Premises, Lessee shall within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record; provided, however, that Tenant shall have the right to contest the amount or validity of any such lien by appropriate proceedings but in such event Lessee shall promptly bond

GROUND LEASE

PH11/12-27-78
2087A

veyed or leased shall be automatically released from the provisions of this lease and neither Lessee nor the department store company shall be obligated under the terms of this lease with respect thereto, but the rent under this lease shall not thereby be abated.

As used herein the term "department store company" shall refer to a company which owns or operates two or more department stores.

Section 8.3. Construction of the Shopping Center.

Lessee will commence construction of buildings in the Shopping Center consisting of at least 250,000 square feet of Gross Leasable Area, other than department stores, by April 1, 1974 or twenty-four months after the occurrence of the events specified in Section 7.4, whichever shall last occur, subject to Force Majeure as defined in Article XVI and will diligently prosecute such construction to completion.

Section 8.4. Continuous Operation of Shopping Center.

Following completion of the Shopping Center buildings, Lessee will (i) maintain and operate a first class regional Shopping Center consisting of at least 250,000 square feet of Gross Leasable Area and (ii) use its best efforts to lease the Shopping Center to tenants for so long as at least two department stores are operated adjacent to the Deeded Premises, subject to Force Majeure, interruptions for casing, restoration and repair as permitted by this lease, damage and destruction and condemnation.

Section 8.5. Restrictions on Use of the Deeded Premises.

For a period of twenty-five years from the date of this lease, Lessee shall be restricted in its use of the Deeded Premises to stores, office buildings, theatres, restaurants, and other uses commonly found in large diversified

ATTACHMENT TO PETITION FOR ZONING VARIANCE

NOTTINGHAM VILLAGES, INC.
and
WHITE MARSH ASSOCIATES

For the petitioners to be required to provide parking spaces for building area contained within the outlined mall and other interior common areas not intended for lease or occupancy will create hardship and practical difficulty for the following reasons:

- (1) It will necessitate surrounding the Shopping Center, which is the core of the White Marsh Town Center, with an additional approximately eight (8) acres of parking which area, as will be shown at the hearing, unnecessary to the functioning of the Shopping Center, not needed to accommodate customers and employees of the Shopping Center, and will not be in accordance with good shopping center practices as accepted in the industry.
- (2) To provide more than the number of spaces required by accepted shopping center practices will or may:
 - (a) detract from the aesthetics of the Town Center; and
 - (b) require additional electric power for lighting and energy for maintenance and security; and
 - (c) unnecessarily increase the cost of maintenance and repair.
- (3) The provision of the additional parking will restrict comprehensively planned peripheral development of the White Marsh Town Center and will detract from the County's overall planning objectives.
- (4) For such other reasons as may be advanced at the hearing.

Petition for Variance

The Times

THIS IS TO CERTIFY, That the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., on the 27th day of August, 1951, at 11:30 A.M., the said publication appearing on the 27th day of August, 1951.

THE JEFFERSONIAN
D. L. Smith, Publisher

Cost of Advertisement, \$.....

CERTIFICATE OF PUBLICATION

TOWSON, MD. August 27, 1951

THIS IS TO CERTIFY, That the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., on the 27th day of August, 1951, at 11:30 A.M., the said publication appearing on the 27th day of August, 1951.

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THE JEFFERSONIAN
D. L. Smith, Publisher

Cost of Advertisement, \$.....

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204

July 30, 1951

WILLIAM E. HAMMOND
ZONING COMMISSIONER

Morton P. Fishers, Jr., Esquire
1122 Monmouth Road & Trust Bldg.
Two Hopkins Plaza
Baltimore, Maryland

RE: Petition for Variance
M/Case Perry Hill & Monrovia Roads.
Baltimore Village, Inc. - Petitioner
Case #12-34-A

Dear Mr. Fishers:

This is to advise you that \$125.00 is being due for advertising and posting of the above property.

Please make check payable to Baltimore County, Maryland, and remit to Karen Alford, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Very truly yours,
WILLIAM E. HAMMOND
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF PLANNING & ZONING
RECEIVED
JUL 31 1951

EX-100487

12/26/51 at 10:00 A.M., which was due to be scheduled, I will

Frank R. Smith, Secretary & Public
for Planning & Zoning of Case #12-34-A

12267227 3 155904

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Commissioner Date: July 27, 1951

FROM: Norman S. Gilder, Director
Office of Planning and Zoning

SUBJECT: Petition No. 82-34-A Item 223

Petition for Variance
Northeast corner of Perry Hill and Monrovia Boulevards
Petitioner: Baltimore Village, Inc.

REMARKS: Thursday, August 6, 1951 (10:00 A.M.)

There are no comprehensive planning factors requiring comment on this petition.

Norman S. Gilder, Director
Office of Planning and Zoning

EX-100487

The Essex Times

Essex, Md. July 26, 1951

THIS IS TO CERTIFY, That the annexed advertisement was inserted in The Essex Times, a newspaper printed and published in Baltimore County, Md., on the 26th day of July, 1951, at 11:30 A.M., the said publication appearing on the 26th day of July, 1951.

THE ESSEX TIMES
J. H. Smith, Publisher

Cost of Advertisement, \$.....

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

Case: 14 Date of Posting: 7/24/51

Posted for: Baltimore Village, Inc.

Publication: Baltimore Village, Inc.

Location of property: NE Corner Perry Hill & Monrovia Roads

Location of signs: Signs placed on Perry Hill Road opposite existing signs. Signs placed on Monrovia Road opposite existing signs. Signs placed on Perry Hill Road opposite existing signs.

Remarks: All signs placed on Perry Hill Road opposite existing signs.

Posted by: Norman S. Gilder Date of return: 7/24/51

Notes: Signs placed on Perry Hill Road opposite existing signs.

Duplicate **CERTIFICATE OF PUBLICATION**

TOWSON, MD. July 16, 1981
THIS IS TO CERTIFY, that the second advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., on the 11th day of July, 1981, the first publication appearing on the 11th day of July, 1981.

THE JEFFERSONIAN
642
Cost of Advertisement, \$

CERTIFICATE OF PUBLICATION

TOWSON, MD. July 16, 1981
THIS IS TO CERTIFY, that the second advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., on the 11th day of July, 1981, the first publication appearing on the 11th day of July, 1981.

THE JEFFERSONIAN
642
Cost of Advertisement, \$

Morton P. Fisher, Jr., Esquire
1200 Massachusetts Bank & Trust Building
Two Hopkins Place
Baltimore, MD 21201

July 7, 1981

NOTICE OF HEARING

RE: Petition for Variance
312/3000 at Perry Hall & Monrovia Boulevards
Huntingham Village, Inc. - Petitioner
Case #12-34-A

TIME: 10:00 A.M.

DATE: Thursday, August 6, 1981

PLACE: ROOM 106, COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVENUE

ROOM: 106

BY: White Marsh Mill Associates
Baltimore, Md.

WILLIAM E. HARRINGTON
ZONING COMMISSIONER OF BALTIMORE COUNTY

PETITION FOR VARIANCE **14th DISTRICT**

ZONING: Petition for Variance
LOCATION: Northeast corner of Perry Hall and Monrovia Boulevards
DATE & TIME: Thursday, September 17, 1981 at 10:30 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Variance to permit 1,810 parking spaces in lieu of the required 2,932 spaces on the Developer's 34.01 parcel, thereby reducing the total required number of spaces within the shopping center from 7,511 to 5,700

The Zoning Regulations to be accepted as follows:

Section 629.2(b) - Minimum required parking spaces in a R.M.-C.T. Zone

All that parcel of land in the Fourteenth District of Baltimore County

Being the property of Huntingham Village, Inc., as shown on plat plan filed with the Zoning Department.

Hearing Date: Thursday, September 17, 1981 at 10:30 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

BY ORDER OF
WILLIAM E. HARRINGTON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

RE: PETITION FOR VARIANCE
RE: corner of Perry Hall and
Monrovia Boulevards, 14th District
NOTTINGHAM VILLAGE, INC. - Case No. 12-34-A
Petitioner

ORDER TO ENTER APPEARANCE

Mr. Commissioner
Pursuant to the authority contained in Section 574.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or time which may be set or heard or designated therefore, and of the postage of any preliminary or final Order in connection therewith.

John W. Hession, III
People's Counsel for Baltimore County
Rm. 225, Court House
Towson, Maryland 21204
(410) 218-1181

I HEREBY CERTIFY that on this 20th day of July, 1981, a copy of the foregoing Order was mailed to Morton P. Fisher, Jr., Esquire, 1200 Massachusetts Bank & Trust Building, Two Hopkins Place, Baltimore, Maryland 21201, Attorney for Petitioner.

John W. Hession, III
John W. Hession, III

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received this 16 day of May, 1981

Filing Fee \$ 250.00 Received: _____

Item # 223

BALTIMORE COUNTY, MARYLAND
OFFICE OF PLANNING & ZONING
RECEIVED YOUR PETITION FOR VARIANCE

No. 095959

By: Morton P. Fisher, Jr.

Reviewed by: LOR

On the Petition for assignment of a

7/21/81 \$13.00

7/21/81 \$13.00

7/21/81 \$13.00

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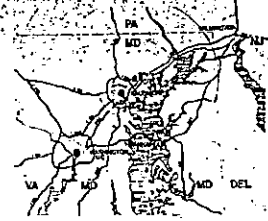
7/21/81 \$13.00

7/21/81 \$13.00

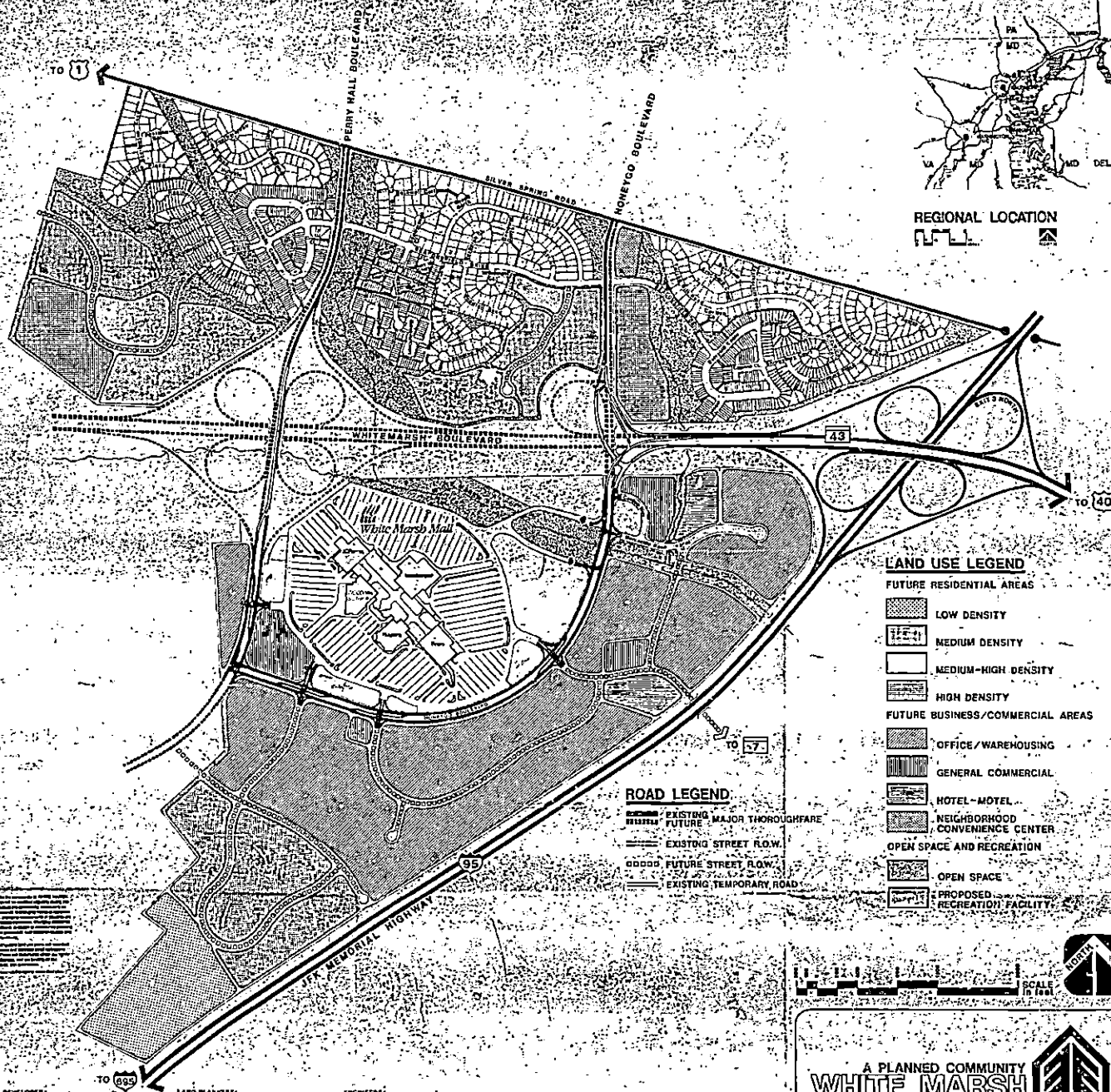
PETITION MAPPING PROGRESS SHEET

FUNCTION	Field Rep.	Checked	Reviewed	Approved	Map	Notes
Descriptions checked and outline plotted on map						
Petition number added to outline						
Dated						
Created by: CC, SA, CC, CA						
Reviewed by: LOR						
Previous case:						
Revised Plan:						
Change in outline as described: Yes						
Map # 40						

Item # 223



REGIONAL LOCATION



LAND USE LEGEND

FUTURE RESIDENTIAL AREAS

- LOW DENSITY
- MEDIUM DENSITY
- MEDIUM-HIGH DENSITY
- HIGH DENSITY

FUTURE BUSINESS/COMMERCIAL AREAS

- OFFICE/WAREHOUSING
- GENERAL COMMERCIAL
- HOTEL-MOTEL
- NEIGHBORHOOD/CONVENIENCE CENTER

OPEN SPACE AND RECREATION

- OPEN SPACE
- PROPOSED RECREATION FACILITY

ROAD LEGEND

- EXISTING MAJOR THOROUGHFARE
- FUTURE MAJOR THOROUGHFARE
- EXISTING STREET R.O.W.
- FUTURE STREET R.O.W.
- EXISTING TEMPORARY ROAD



MASTER DEVELOPER:
NOTTINGHAM PROPERTIES, INC.
200 West Fawcettville Ave.
York, Maryland 21204

LAND PLANNERS:
RTKL ASSOCIATES, INC.
1100 North Charles Street
Baltimore, Maryland 21201

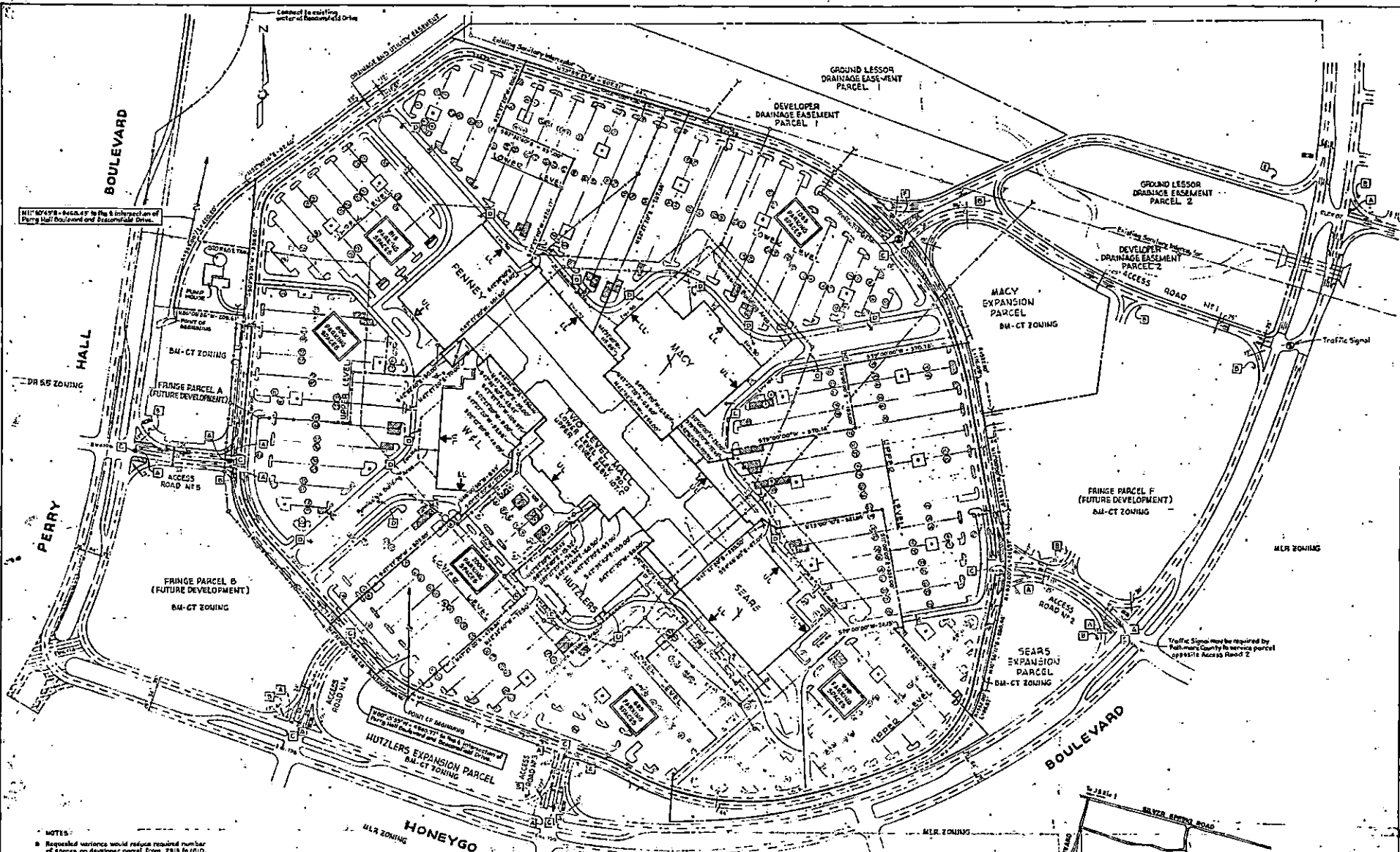
ENGINEERS:
WHITMAN REQUARDT & ASSOCIATES
111 North Charles Street
Baltimore, Maryland 21201

REVISED: APRIL 1, 1991

A PLANNED COMMUNITY

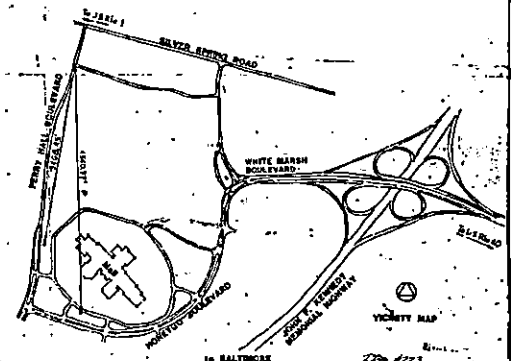
WHITE MARSH

BALTIMORE COUNTY • MARYLAND



- NOTES:
- 1. Requested variance would reduce required number of spaces on developer parcel from 2,813 to 1,010, thereby decreasing spaces for the shopping center from 7,011 to 5,200.
 - 2. Plan spaces shown in excess of requirement are contingent spaces to accommodate final computation by Baltimore County for structure on-built floor area, structure on-built uses, and parking on-built.

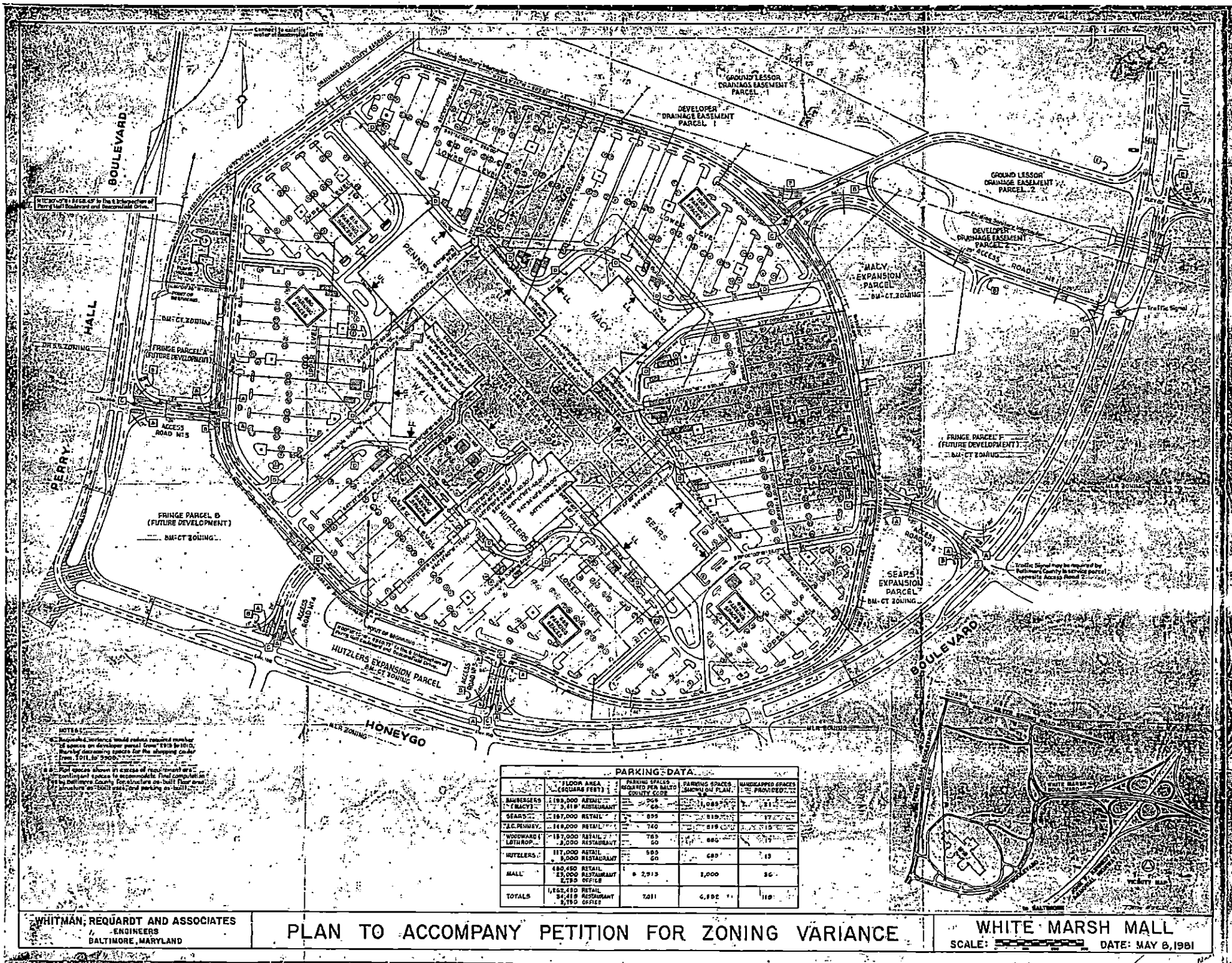
PARKING DATA				
	FLOOR AREA (SQUARE FEET)	PARKING SPACES REQUIRED PER BALTO COUNTY CODE	PARKING SPACES SHOWING PLAN	HAANDICAPPED SPACES PROVIDED
DABLERS (TRACY)	193,000 RETAIL 5,410 RESTAURANT	765 60	1,083	21
SEARS	167,000 RETAIL	634	318	17
J.C. PENNEY	146,000 RETAIL	740	215	15
WOODWARD LUTHEROP	187,000 RETAIL 3,000 RESTAURANT	785 60	846	17
HUTZLERS	117,000 RETAIL 3,000 RESTAURANT	565 60	625	13
MALL	480,400 RETAIL 25,000 RESTAURANT 2,750 OFFICE	4,2913	2,000	36
TOTALS	1,864,800 RETAIL 34,410 RESTAURANT 2,750 OFFICE	7,011	6,392	119



WHITMAN, REQUARDT AND ASSOCIATES
ENGINEERS
BALTIMORE, MARYLAND

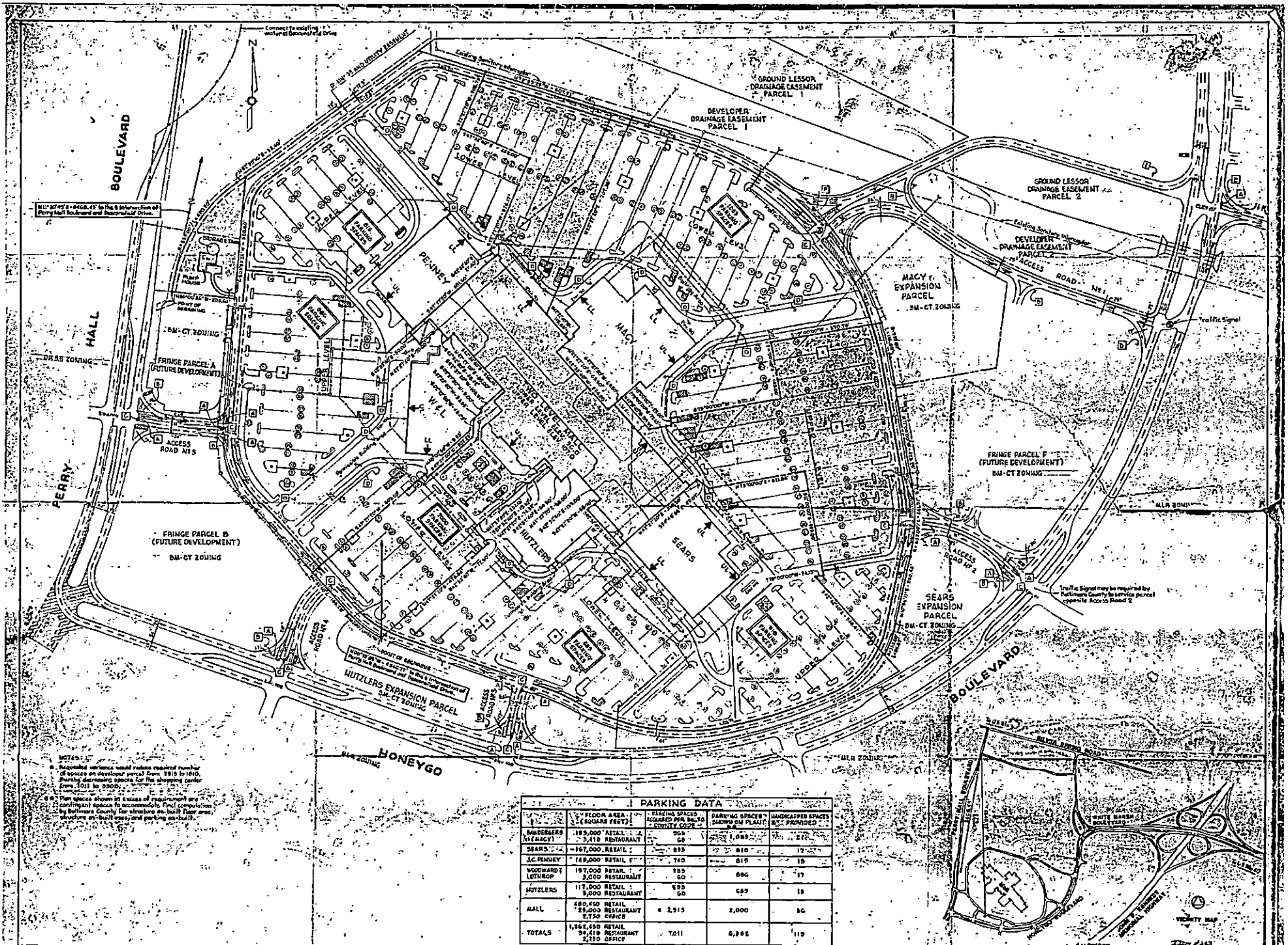
PLAN TO ACCOMPANY PETITION FOR ZONING VARIANCE

WHITE MARSH MALL
SCALE: DATE: MAY 8, 1981



WHITMAN, REQUARDT AND ASSOCIATES
ENGINEERS
BALTIMORE, MARYLAND

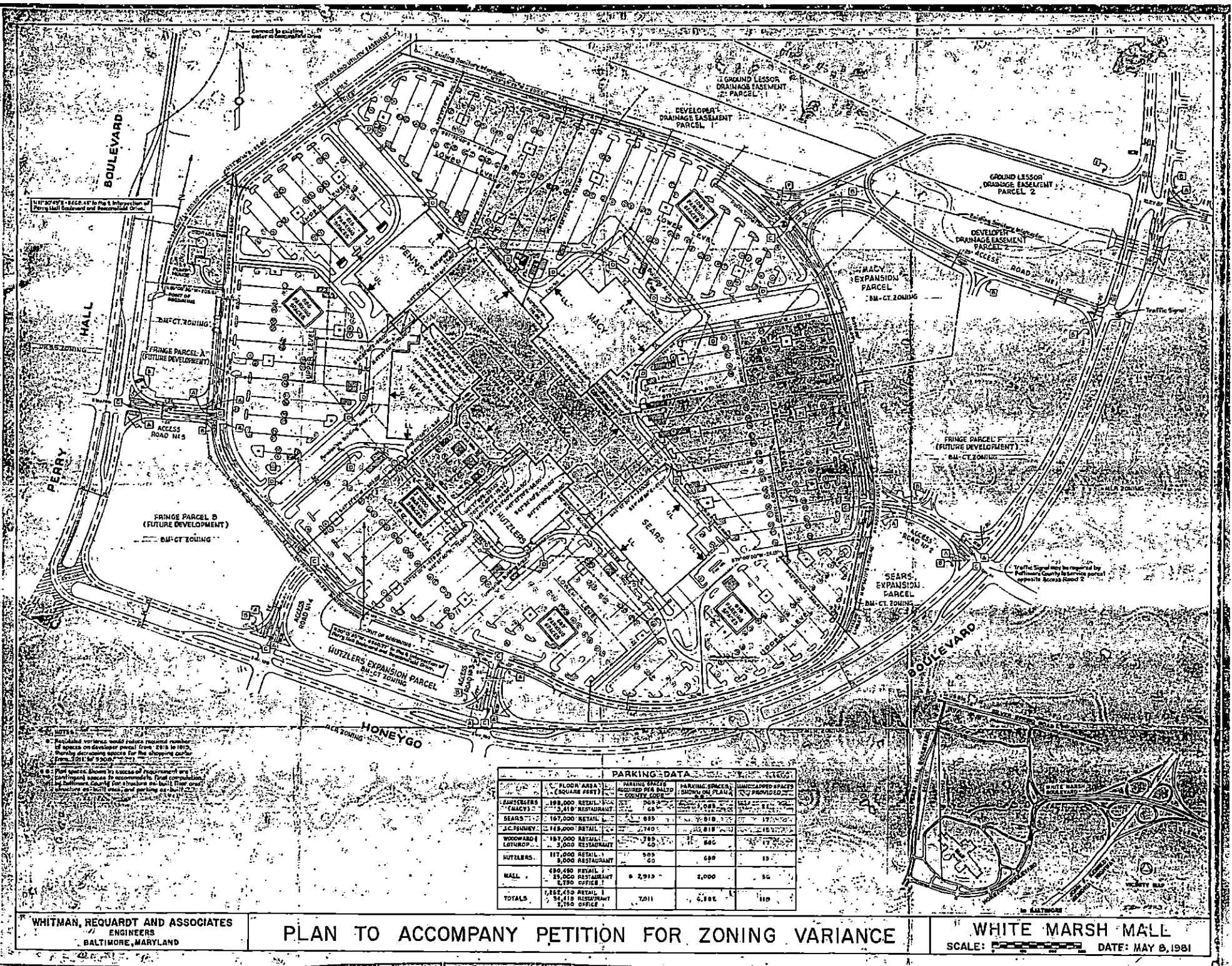
PLAN TO ACCOMPANY PETITION FOR ZONING VARIANCE



WHITMAN, REQUARDT AND ASSOCIATES
ENGINEERS
BALTIMORE, MARYLAND

PLAN TO ACCOMPANY PETITION FOR ZONING VARIANCE

WHITE MARSH MALL
SCALE: DATE: MAY 8, 1981



	FLOOR AREA	PARKING SPACES REQUIRED PER BALTO COUNTY CODE	PARKING SPACES SHOWN ON PLANS	UNDEVELOPED SPACES PROVIDED
BAUMGARTERS (MACYS)	108,000 RETAIL 2,818 RESTAURANT	64	1,083	11
SEARS	167,000 RETAIL 5,000 RESTAURANT	68	1,018	17
J.C. PENNEY	168,000 RETAIL 5,000 RESTAURANT	68	1,018	17
WOODWARD LOTHROP	187,000 RETAIL 5,000 RESTAURANT	68	1,018	17
HUTZLERS	117,000 RETAIL 5,000 RESTAURANT	68	1,018	17
MALL	490,490 RETAIL 25,000 RESTAURANT 2,790 OFFICE	2,913	2,000	56
TOTALS	1,855,450 RETAIL 94,418 RESTAURANT 2,790 OFFICE	7,011	6,186	110

WHITMAN, REQUARDT AND ASSOCIATES
ENGINEERS
BALTIMORE, MARYLAND

PLAN TO ACCOMPANY PETITION FOR ZONING VARIANCE

WHITE MARSH MALL
SCALE: DATE: MAY 8, 1981

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE * ZONING COMMISSIONER
NEC Perry Hall Blvd., and
Honeygo Blvd. * OF BALTIMORE COUNTY
White Marsh Mall * Case No. 98-416-SPHA
14th Election District
6th Councilmanic District
Legal Owners: White Marsh G.P.
Lessee: May Dept. Stores Co.
Petitioner

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing and Petition for Variance for the property known as the White Marsh Mall, located adjacent to Honeygo Boulevard in White Marsh. The Petition was filed by the White Marsh General Partnership, property owner, and the May Department Stores Company, Lessee. Variance relief is requested from Section 450.4 of the Baltimore County Zoning Regulations (BCZR) to permit four (4) wall mounted signs, (two signs per face) with a total area of 1566 sq. ft. in lieu of the required two signs (1 sign per face) with a total of 972 sq. ft. for the east and south elevations of a proposed building and to permit two wall mounted signs in lieu of the permitted one sign for the west elevation of the proposed building. Special Hearing relief is also requested to allow an amendment to all prior zoning cases for the subject property. The requested relief is more particularly shown on the plat to accompany the Petitions for Variance and Special Hearing received as Petitioner's Exhibit No. 1.

Appearing at the requisite public hearing held for this case was Anthony J. Amato, Jr., an architect, retained by the co-Petitioner, The May Department Stores Co., for this project. Also present was Jeffrey Pryor, on behalf of the Petitioner, and Mitch Kellman, from Daft, McCune, Walker, Inc., the consulting firm which prepared the site plan. The Petitioners were represented by Robert A. Hoffman, Esquire and Patsy Malone, Esquire.

ORDERED FOR FILING
Date
[Signature]

There were no Protestants or other interested persons present.

Testimony and evidence presented was that the subject property is located near White Marsh Boulevard and the John F. Kennedy Memorial Highway (I-95) in the White Marsh community of Baltimore County. The site is a large parcel which is improved with a large commercial/retail center known as the White Marsh Mall. This Mall is one of the major retail centers in Baltimore County and is well known to this Zoning Commissioner.

The matter comes in for a hearing as a result of an addition to the Mall. As shown on the site plan, a large building is being constructed which will be the site of a Lord and Taylor store. The Lord and Taylor chain is operated by The May Department Stores Company and this particular store is the first of this chain in Baltimore County. It was noted at the hearing that a second store is planned for the Owings Mills Mall. The Lord and Taylor store is an upscale retail establishment; which specializes in the sale of men and women's fashions, accessories, cosmetics, etc.

All Lord and Taylor stores feature a distinctive sign which sets out the store's name in a script writing style. Due to the unusual style of this logo, the requested zoning relief is sought. As shown on the site plan, a large sign is proposed on the both the east and south elevations of the proposed building. In addition to those signs on the face of the building, a smaller 3 ft. x 16 ft. rectangular sign will be located above the door at the south and east entrances. Additionally, relief is requested to permit two similar signs in lieu of the one allowed for the west elevation. The signs for the west elevation are within the area permitted, however.

At the hearing before me, Mr. Amato testified and presented a number of exhibits which detailed the proposed sign package and supported the conclusion that the relief should be granted. He emphasized the uniqueness

ORDER RECORDED FOR FILING
Date 6/26/98
By [Signature]

of the company's logo and indicated that same would be appropriate for the large building which is proposed. He also indicated that the variance was necessitated, in part, due to the manner in which square footage for signage is measured. Specifically, a rectangular area must be drawn around the sign and the full dimensions of the rectangle counted when computing the area of the proposed sign. In applying this method of the Lord and Taylor sign, a significant variance is requested, notwithstanding that the actual area to be occupied by the scripted lettering will be quite small. In fact, this area will be only 11% of the entire area of the rectangle.

Based upon the testimony and evidence, I am persuaded to grant the Petition for Variance. I am convinced that the Petitioner has presented sufficient evidence to justify a variance in accordance with the standards set out in Sections 307 and 450.8 of the BCZR. In my judgement, the proposed signage is unique and consistent with the spirit and intent of the regulations. To require the Petitioner to install a small sign would be counter-productive, and it would inadequately identify the site.

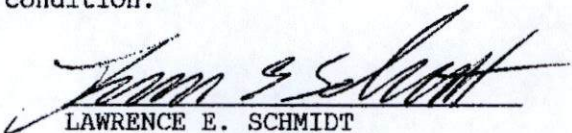
Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 26th day of June 1998 that, pursuant to the Petition for Special Hearing, approval to amend all prior zoning cases regarding the subject property, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that a variance from Sec. 450.4 of the Baltimore County Zoning Regulations (BCZR) to permit four (4) wall mounted signs, (two signs per face) with a total area of 1566 sq. ft., in lieu of the required two signs (1 sign per face) with a total of 972 sq. ft. for the east and south elevations of the proposed building and to permit two wall

mounted signs in lieu of the permitted one sign for the west elevation of the proposed building, be and is hereby GRANTED, subject, however, to the following restriction:

1. The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.


LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmn

ORDER RECORDED FOR FILING
Date 6/23/99
By M. Gorch



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

June 25, 1998

Robert A. Hoffman, Esquire
Venable, Baetjer and Howard LLP
210 Allegheny Avenue
Towson, Maryland 21204

RE: Petitions for Special Hearing and Variance
Property: The White Marsh Mall, Honeygo Blvd.
Case No. 98-416-SPHA

Dear Mr. Hoffman:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing and Variance have been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.

c: Mr. Anthony J. Amato, Jr.
Amato/Reed Associates, Architects
727 N. First Street
Suite 600
St. Louis, Missouri 63102





And Special Hearing

Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at White Marsh Mall, Honeygo Boulevard
White Marsh
which is presently zoned BM-CT

This Petition shall be filed with the Department of Permits and Development Management.

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

450.4 to permit four (4) wall-mounted signs (two signs per face) with a total area of 1,566 sf. in lieu of two (2) signs (one sign per face) with a total of 972 sf. and a special hearing to amend all prior zoning cases on site.
for East and South elevations, and to permit 2 wall-mounted signs in lieu of one for the West Elevation,
of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardships or practical difficulty)

To be determined at hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

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

Contract Purchaser/Lessee:

The May Department Stores Company

(Type or Print Name)

By: R. Dean Wolfe ac
Signature R. Dean Wolfe, Executive Vice President

811 Olive Street

Address

St. Louis Missouri 63101
City State Zipcode

Attorney for Petitioner:

Robert A. Hoffman
Venable, Baetjer and Howard, LLP

(Type or Print Name)

Signature

210 Allegheny Ave. (410) 494-8200
Address Phone No

Towson MD 21204
City State Zipcode

Legal Owner(s):

White Marsh General Partnership

By: White Marsh Mall Associates, General Partner

By: White Marsh Mall Limited Partnership, General Partner

By: White Marsh Mall, Inc., General Partner

(Type or Print Name)

By: Kenneth M. Marty
Signature Name/Title Kenneth M. Marty,
Vice President

(Type or Print Name)

Signature

c/o The Rouse Company
10275 Little Patuxent Parkway

410-992-8177

Address

Phone No.

Columbia

MD

21044
21048

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Robert A. Hoffman
Venable, Baetjer and Howard, LLP

Name

210 Allegheny Ave, Towson, MD 21204

(410) 494-8200

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

78-416-SPH.A

#416

**Zoning Description
for Lord and Taylor Sign Variance
at White Marsh Mall**

Project No. 93017.M



Beginning at a point on the East side of Perry Hall Boulevard which is 130 feet wide at a distance of 65 feet East which is also 600 feet North of the center line of Honeygo Boulevard which is 130 feet wide, thence the following courses and distances:

1. North 07 degrees 39 minutes 13 seconds East - 492.17 feet
2. South 82 degrees 20 minutes 47 seconds East - 39.00 feet
3. South 86 degrees 06 minutes 36 seconds East - 205.61 feet
4. North 03 degrees 53 minutes 24 seconds West - 388.60 feet
5. North 52 degrees 39 minutes 16 seconds East - 765.05 feet
6. South 73 degrees 59 minutes 25 seconds East - 948.52 feet
7. Then by a curve to the right
R = 932.00 feet, L = 1024.60 feet
8. South 11 degrees 00 minutes 00 seconds East - 423.25 feet
9. Then by a curve to the right
R = 632.00 feet, L = 241.97 feet
10. South 10 degrees 56 minutes 11 seconds East - 260.46 feet
11. Then by a curve to the left
R = 332.00 feet, L = 85.67 feet
12. South 42 degrees 32 minutes 40 seconds East, L = 62.63 feet
13. Then by a curve to the right
R = 1746.93 feet, L = 1549.99 feet
14. North 71 degrees 45 minutes 00 seconds West - 1153.48 feet
15. Then by a curve to the right
R = 87.00 feet, L = 140.41 feet
16. Then by a curve to the left
R = 1974.86 feet, L = 450.39 feet to the place of beginning



Daft McCune Walker, Inc.

200 East Pennsylvania Avenue
Towson, Maryland 21286
<http://www.dmw.com>
410 296 3333
Fax 410 296 4705

*A Team of Land Planners,
Landscape Architects,
Engineers, Surveyors &
Environmental Professionals*

98-416-SPHA
414

BALTIMORE COUNTY, MARYL
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

ITEM # 416
No. 2364

DATE 5-4-78 ACCOUNT 7,001-6150
020 - CV - \$250.00
040 - SPA - \$250.00 AMOUNT \$ 500.00

RECEIVED
FROM: WHITE MARSH MALL, HANOVER RD.

FOR: SPH & VARIATIZE (SIGNS)

R.T.

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT
PROCESS NO. 78
5/4/78 5/4/78 5/4/78
BALANCE 100.00 100.00 100.00
5.00 100.00 100.00
PERIOD 5 0000
EX NO. 10000

BALANCE 100.00
WHITE CASH. 100.00

98-416-SPNA

CASHIER'S VALIDATION

NOTICE OF PUBLIC HEARING

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

Case: #98-416-SPHA
NEC Perry Hall Boulevard and
Montego Boulevard (White
Marsh Mall)
14th Election District
6th Councilmanic District
Legal Owner(s): White Marsh
General Partnership
Contract Purchaser: The May
Department Stores Company

Special Hearing: to amend
all prior zoning cases on the
Variance: to permit 4 wall-
mounted signs (2 signs per
face) with a total area of 1,566
square feet in lieu of 2 signs (1
per face) with a total of 972
square feet for east and south
elevations; and to permit 2
wall-mounted signs in lieu of 1
for west elevation.

Hearing: Monday, June 22,
1998 at 9:00 a.m., in Room
497, County Court Bldg.,
401 Boston Avenue.

LAWRENCE E. SCHWARTZ
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible for
special accommodations.
Please Call (410) 887-3053.
(2) For information concern-
ing the File and/or Hearing,
Please Call (410) 887-3081.

6/8/98 June 4 C233435

CERTIFICATE OF PUBLICATION

TOWSON, MD., 6/4, 1998

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/4, 1998.

THE JEFFERSONIAN,

A. Henrickson
LEGAL AD. - TOWSON

RE: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE
White Marsh Mall, NEC Perry Hall Blvd. and
Honeygo Blvd., 14th Election District, 6th
Councilmanic

Legal Owners: White Marsh G.P.
Contract Purchaser: May Dept. Stores Company

Petitioner(s)

* * * * *

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case Number: 98-416-SPHA

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates of other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio

Carole S. Demilio
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of June, 1998, a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esq., Venable, Baetjer & Howard, 210 Allegheny Avenue, P.O. Box 5517, Towson, MD 21204, attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

May 18, 1998

NOTICE OF ZONING HEARING

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

CASE NUMBER: 98-416-SPHA
NEC Perry Hall Boulevard and Honeygo Boulevard (White Marsh Mall)
14th Election District - 6th Councilmanic District
Legal Owner: White Marsh General Partnership
Contract Purchaser: The May Department Stores Company

Special Hearing to amend all prior zoning cases on site. Variance to permit 4 wall-mounted signs (2 signs per face) with a total area of 1,566 square feet in lieu of 2 signs (1 per face) with a total of 972 square feet for east and south elevations; and to permit 2 wall-mounted signs in lieu of 1 for west elevation.

HEARING: Monday, June 22, 1998 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

c: Robert A. Hoffman, Esquire
White Marsh General Partnership
The May Department Stores Company

- NOTES: (1) **YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY JUNE 7, 1998.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3391.



TO: PATUXENT PUBLISHING COMPANY
June 4, 1998 Issue - Jeffersonian

Please forward billing to:

Barbara W. Ormord
210 Allegheny Avenue
Towson, MD 21204

410-494-6201

NOTICE OF ZONING HEARING

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

CASE NUMBER: 98-416-SPHA

NEC Perry Hall Boulevard and Honeygo Boulevard (White Marsh Mall)

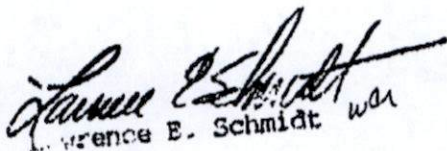
14th Election District - 6th Councilmanic District

Legal Owner: White Marsh General Partnership

Contract Purchaser: The May Department Stores Company

Special Hearing to amend all prior zoning cases on site. Variance to permit 4 wall-mounted signs (2 signs per face) with a total area of 1,566 square feet in lieu of 2 signs (1 per face) with a total of 972 square feet for east and south elevations; and to permit 2 wall-mounted signs in lieu of 1 for west elevation.

HEARING: Monday, June 22, 1998 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighbors property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 416

Petitioner: White Marsh General Partnership

Location: White Marsh Mall - Honeygo Borderland

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Barbara W. Ormrod

ADDRESS: 210 Allegheny Avenue
Towson, Md 21204

PHONE NUMBER: 410-494-6201

AJ:ggs

(Revised 09/24/96)

98.416-SPHA -16-



Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____.

Format for Sign Printing, Black Letters on White Background:

ITEM # 414

ZONING NOTICE

Case No.: 98-416 SPAA

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

PLACE: _____

DATE AND TIME: _____

REQUEST: PETITIONS FOR VARIANCE TO PERMIT FOUR (4) WALL-MOUNTED
SIGNS (TWO SIGNS PER FACE) WITH A TOTAL AREA OF 1,566 SQ. FT. IN LIEU
OF TWO SIGNS (ONE SIGN PER FACE) WITH A TOTAL OF 972 SQ. FT., FOR EAST
& SOUTH ELEVATIONS, AND TO PERMIT 2 WALL-MOUNTED SIGNS IN LIEU OF
ONE FOR WEST ELEVATION AND A SPECIAL HEARING TO AMEND ALL PRIOR
ZONING CASES ON SITE.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

June 15, 1998

Robert A. Hoffman, Esq.
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: Item No.: 416
Case No.: 98-416-SPH
Petitioner: White Marsh
General Partnership
Location: White Marsh Mall

Dear Mr. Hoffman:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on May 4, 1998.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure 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. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Gwendolyn Stephens in the zoning office (410-887-3391).

Sincerely,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." with a stylized flourish at the end.

W. Carl Richards, Jr.
Zoning Supervisor

WCR:ggs
Attachment(s)





Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

May 1, 1998

Arnold Jablon, Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: WHITE MARSH GENERAL PTNP.

Location: DISTRIBUTION MEETING OF MAY 18, 1998

Item No.: 416 Zoning Agenda:

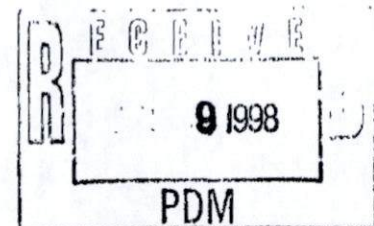
Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1994 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: May 22, 1998

FROM: Robert W. Bowling, Chief *RWB/DWK*
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for May 26, 1998
Item Nos 416, 417, 418, 419, 420,
421, 422, 423 and 424

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

RWB:HJO:jrb

cc: File

ZONE0526.NOC



**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor

David L. Winstead
Secretary

Parker F. Williams
Administrator

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

RE: Baltimore County 5-15-91
Item No. 416 RT

Dear Ms. Stephens:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Thank you for the opportunity to review this item.

Very truly yours,

P. J. Gredlein
for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

...LTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE: 5/20/98

FROM: R. Bruce Seeley *(RBS)*
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: May 18, 98

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:

<u>416</u>	423
417	424
418	425
420	426

RBS:sp

BRUCE2/DEPRM/TXTS8P

*Sent to
6/22*

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits
and Development Management

DATE: May 21, 1998

FROM: Arnold F. "Pat" Keller, III, Director
Office of Planning

SUBJECT: Zoning Advisory Petitions

The Planning Office has no comments on the following petitions (s):

Item No. 404, 412, and 416

If there should be any questions or if this office can provide additional information,
please contact Jeffrey Long in the Office of Planning at (401) 887-3495.

Prepared by: *Jeffrey W. Long*

Division Chief: *Gary L. Kerns*

AFK/JL

Catherine (Kitty) Popelarski - Web - constituent inquiry

To: JMD
Just Call
10/14/05
m

From: <webform@co.ba.md.us>
To: <tkotroco@co.ba.md.us>
Date: 10/13/2005 9:14 AM
Subject: Web - constituent inquiry

ehren_gaag@gensler.com

E-mail: ehren_gaag@gensler.com

Name: Ehren Gaag

Address: 300 W. Pratt Street

City: Baltimore

State: Maryland

Zip Code: 21201

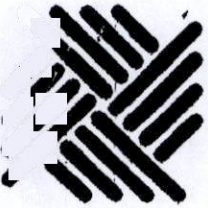
Telephone Number: 410.230.3036

Telephone Extension:

Message: I live on 240 Gaywood road and own a separately deeded garage on an alley behind my house. Is there a way I can find out who owns the garage next to mine?

Called
10/17/05

Is is to call
Tafassent
for info.



File

To: DD
\$1.00 page
Call
9/7/05

The Planning & Zoning Resource Corporation

100 NE 5th Street • Oklahoma City, Oklahoma 73104

Telephone (405) 840-4344 • Fax (405) 840-2608

Toll Free 1-800-344-2944

To: R. David Duvall
Zoning Review

Date: September 2, 2005

RE: Zoning Hearing Case #98-416-SPHA

I am requesting any available copies of the files relating to case #98-416-SPHA regarding the address located at 8200 Perry Hall Blvd. Please find enclosed a check for \$10.00 for the copies of the files. I also enclosed a return FEDEX Pac so that you may send me copies of the files in addition to the faxed copies. My fax number is #888-523-9008. Please feel free to contact me any questions or concerns.

Thank you,

Tabitha Still
Document Specialist

No. 5395

AMOUNT \$ 10.00

RECEIVED
FROM: Tamitha Hill

FOR: \$200 King/Free Blue

DESCRIPTION
WHITE - CASHIER

PINK - AGENCY

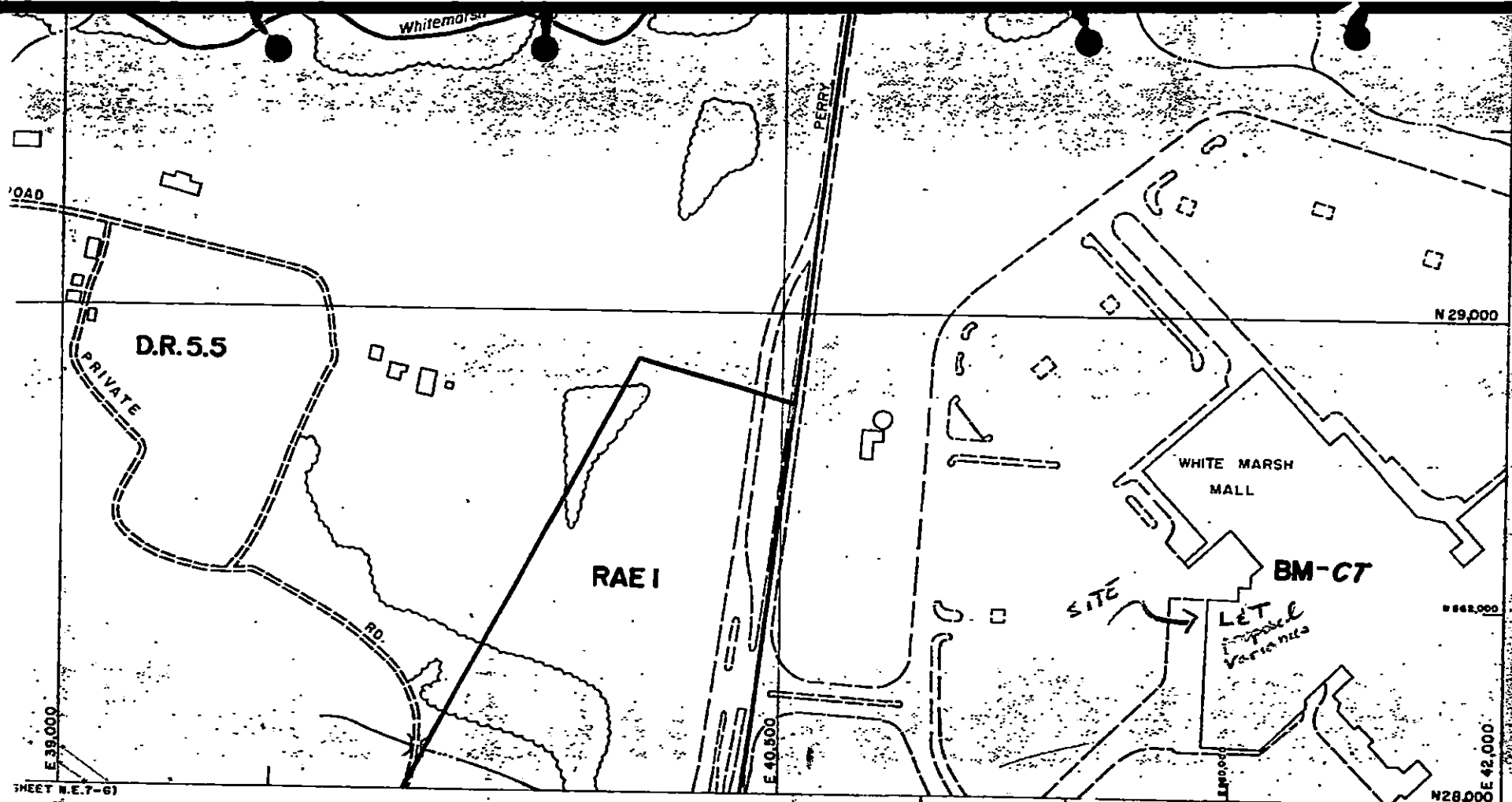
YELLOW - CUSTOMER

DL

THE REVIEW

[illegible]

CASHIER'S VALIDATION



RE COUNTY NNING AND ZONING ZONING MAP

SCALE 1" = 200' ±	LOCATION Item # 416	SHEET
DATE OF PHOTOGRAPHY JANUARY 1986	FULLERTON VICINITY	N.E. 8-G

98.416.SPHA

SCALE

WHITE MARSH

A5

DATE

BY

CHKD

APP'D

PROJECT

DESCRIPTION

12071 M

SIGN AREA CALCULATIONS

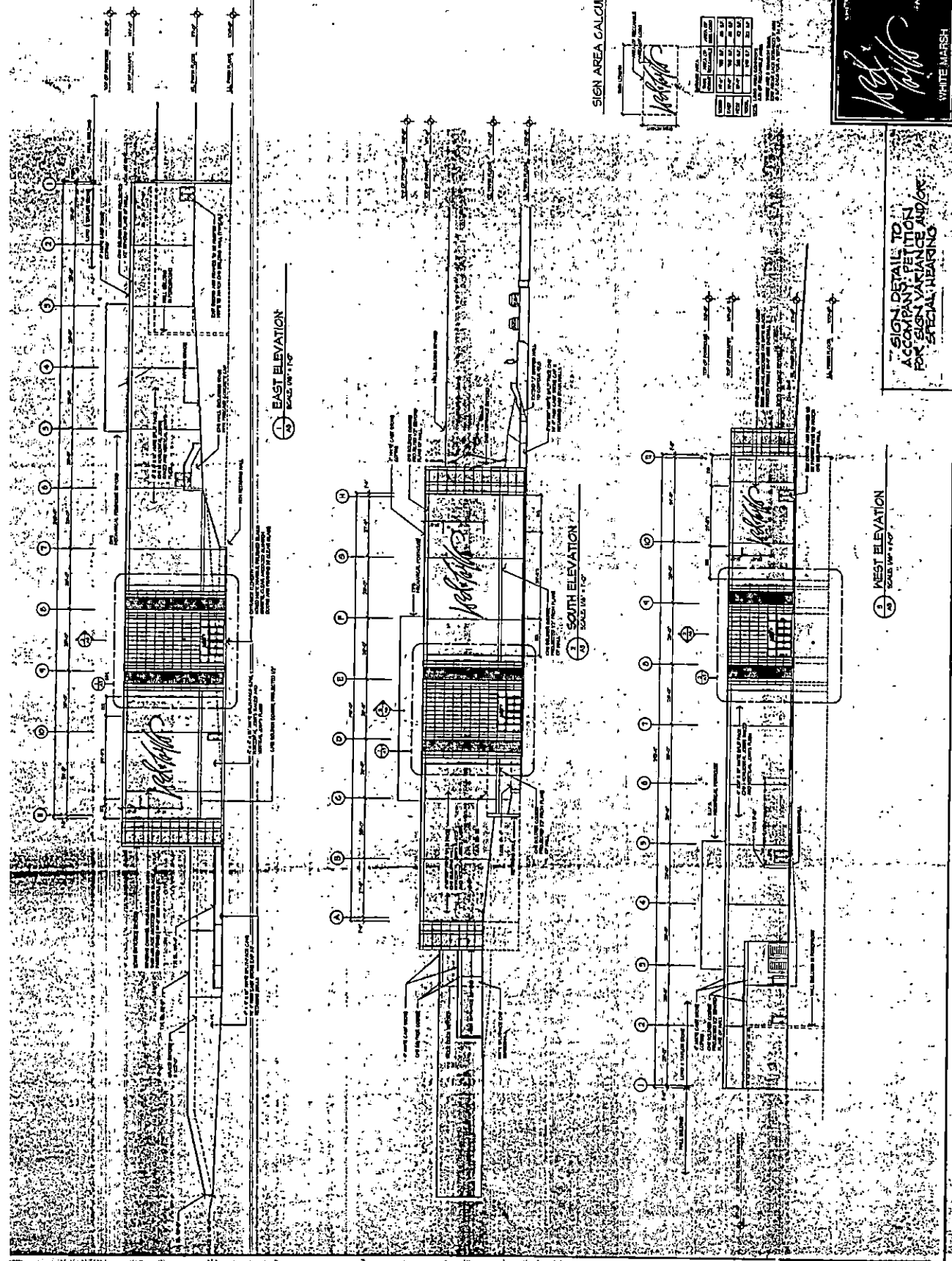
ITEM	AREA (SQ. FT.)	TYPE
1	100.00	Sign Area
2	100.00	Sign Area
3	100.00	Sign Area
4	100.00	Sign Area
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SIGN DETAIL TO ACCOMPANY PETITION FOR SIGN VARIANCE AND/OR SPECIAL HEARING

WEST ELEVATION

SOUTH ELEVATION

EAST ELEVATION



NOV - 9 1973

100

CERTIFICATE OF PUBLICATION

TOWNE, N. EDWARD, Jr. November 5 -- 14, 1912.
 THIS IS TO CERTIFY, that the annual shareholders' meeting
 of THE FORTY-FOURTH, a weekly newspaper, printed
 and published by TOWNE, EDWARD, JR., was held at
 St. Louis, Mo., on the 14th day of November, 1912, at
 11:00 a. m., the day previous to the date
 specified in the 14th day of November, 1912.

Cost of Apartment: \$.....

[illegible]

RECEIVED JUN 10 1964 FBI - BALTIMORE	RECEIVED JUN 10 1964 FBI - BALTIMORE	RECEIVED JUN 10 1964 FBI - BALTIMORE
RECEIVED JUN 10 1964 FBI - BALTIMORE	RECEIVED JUN 10 1964 FBI - BALTIMORE	RECEIVED JUN 10 1964 FBI - BALTIMORE
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[illegible]

100-443883 MAR 1964	BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE RECEIVED	100-443883 MAR 1964
100-443883 MAR 1964	RECEIVED BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE RECEIVED	100-443883 MAR 1964

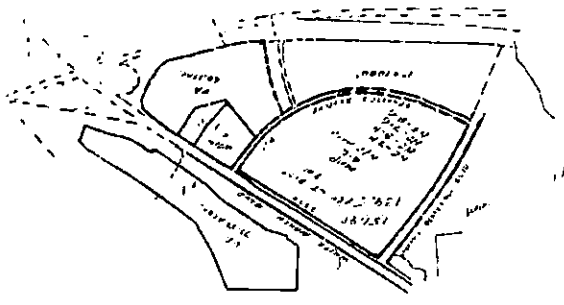
364

RECEIVED OF POSTING

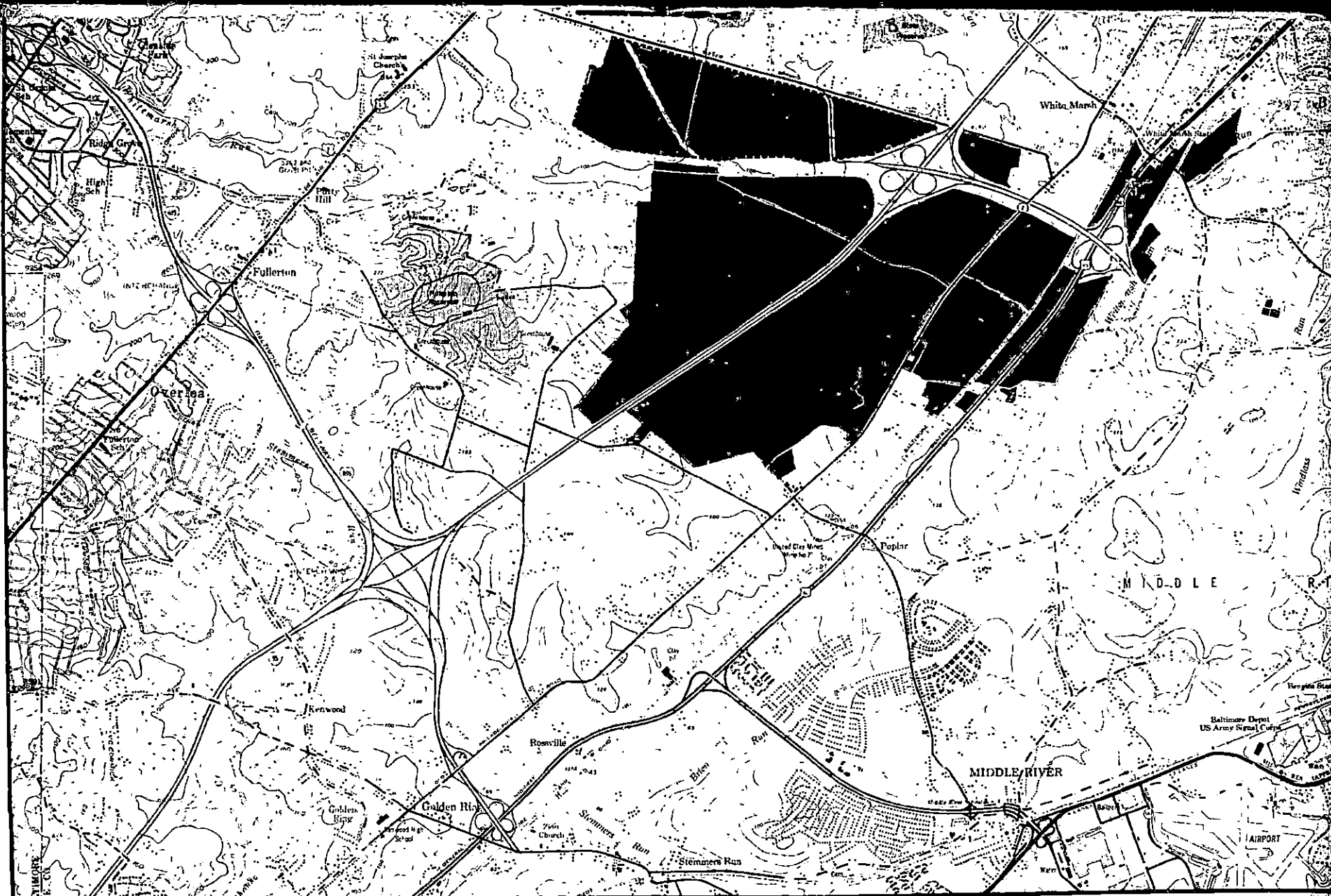
INDIAN DEPARTMENT OF SALTATION COUNTY

471-104-X

347-
 DIVISION OF INVESTIGATION
 UNITED STATES DEPARTMENT OF JUSTICE
 WASHINGTON, D. C. 20535
 Date of Report: 3-4-72
 File No. 44-38861-1174
 Name of Subject: ALLEGEDLY
 Name of Informant: [redacted]
 Title of Informant: [redacted]
 Date of Information: 2-11-72
 Name of Agency: [redacted]
 Title of Agency: [redacted]

[illegible]

1935, Vol. 1121
 THE
 JOURNAL
 OF
 THE
 ROYAL ANTHROPOLOGICAL INSTITUTE
 OF GREAT BRITAIN AND IRELAND
 PART 1
 LONDON: H. K. LEY, LTD.
 1935



White Marsh Property Development Plan

WHITE MARSH, MARYLAND

NOTTINGHAM PROPERTIES, INC

PROPERTY OWNERSHIP MAP

UNDER CONTROL OF DEVELOPER



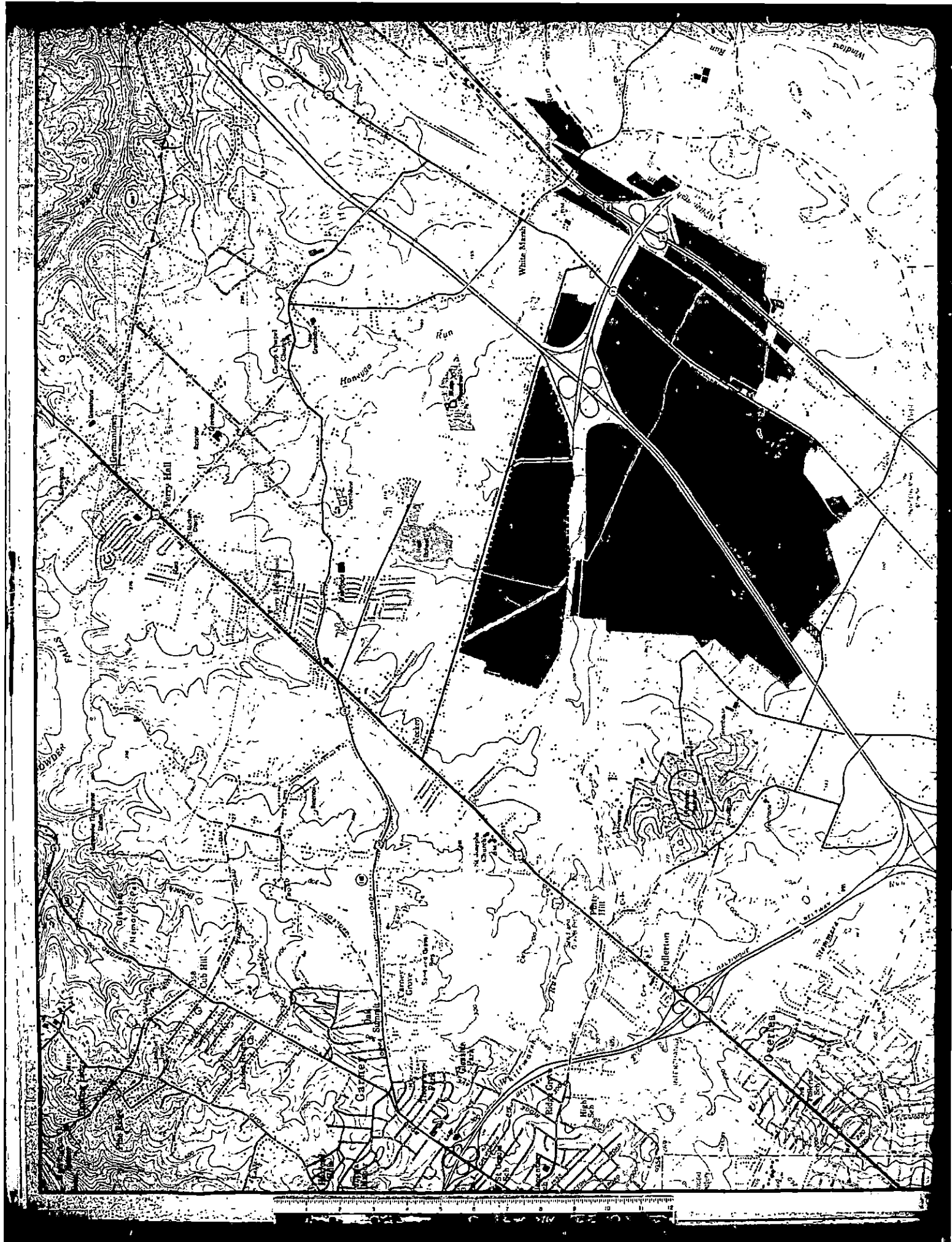
ARTICLE 60200

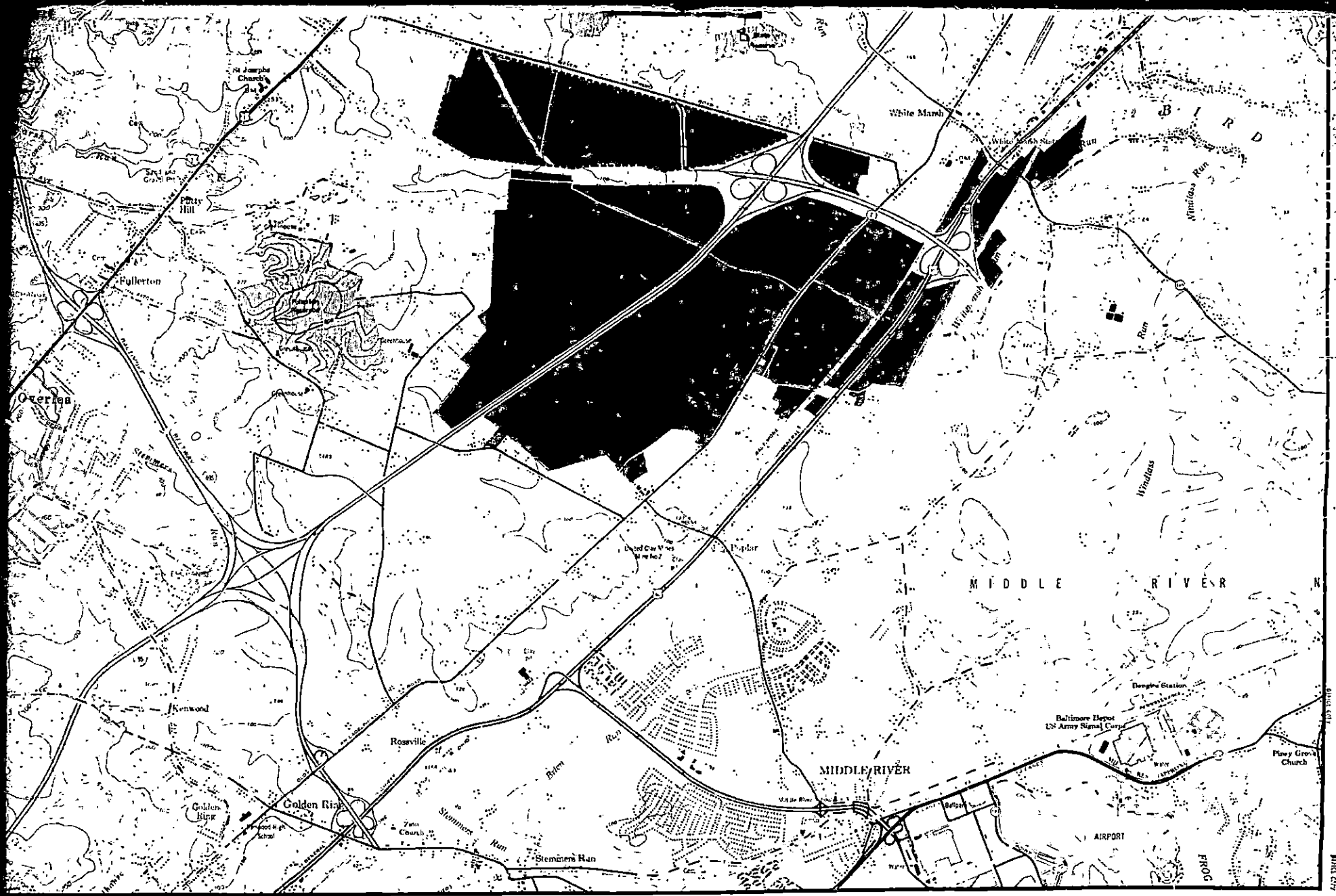
Scandinavian Forest

OFFICE COPY 

GRUEN ASSOCIATES

ARCHITECTURE • PLANNING • ENGINEERING





sh Property Development Plan
MARYLAND
PROPERTIES, INC

PROPERTY OWNERSHIP MAP

UNDER CONTROL OF DEVELOPER

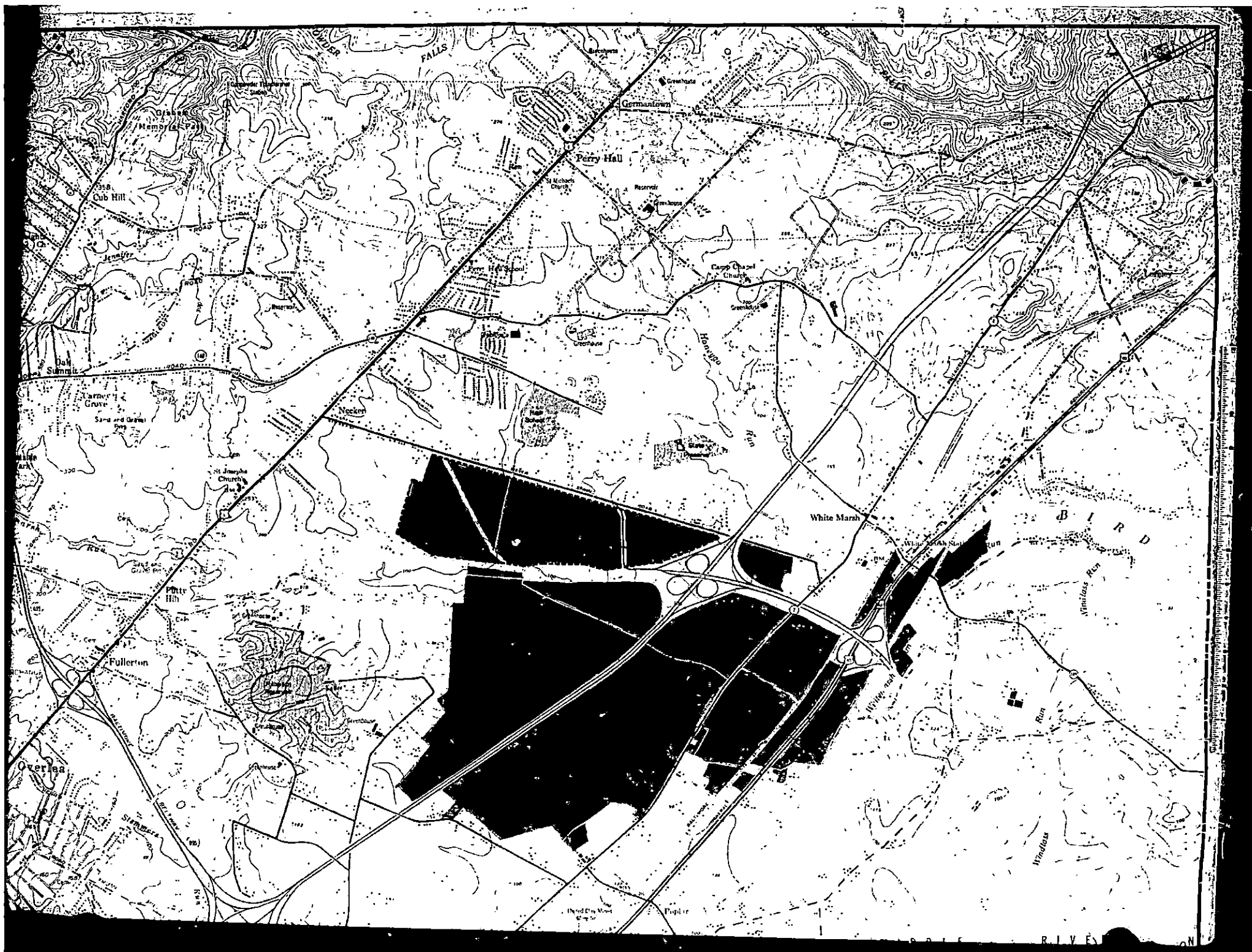
OFFICE COPY Scale in feet 0 500 1000 1500 2000 2500 3000 3500 4000 4500 5000 5500 6000 6500 7000 7500 8000 8500 9000 9500 10000 11" = 1000'

GRUEN ASSOCIATES
 ARCHITECTURE PLANNING ENGINEERING

JUNE 1968



FILE 7-11-68



PARKING DATA

APARTMENTS
 1120 DWELLING UNITS @ 1000 S.P.A.C.E. = 1120 SPACES
 2050 SPACES @ 1000 S.P.A.C.E. = 2050 SPACES

OFFICES
 1ST FLOOR 225,000 S.F. @ 300 = 750 SPACES
 2ND FLOOR 225,000 S.F. @ 300 = 750 SPACES
 TOTAL = 1,500 SPACES

HOTEL
 300 ROOMS @ 1 SPACE PER ROOM = 300 SPACES
 350 SPACES PROVIDED

RESTAURANT
 15,000 S.F. @ 150 = 100 SPACES
 350 SPACES PROVIDED

NOTE: PARKING SPACES WILL BE PROVIDED AS REQUIRED BY BALTIMORE COUNTY ZONING REGULATIONS (SEC 401.2)

APARTMENT DENSITY

GROSS AREA = 19.5 ACRES
 NET AREA = 13.5 ACRES
 DENSITY = 16 UNITS PER ACRE
 GROSS 16 UNITS PER ACRE @ 19.5 ACRES = 312 UNITS
 NET 14 UNITS PER ACRE @ 13.5 ACRES = 189 UNITS
 TOTAL UNITS = 501 UNITS

DETAILED DENSITY
 GROSS 15 UNITS PER ACRE
 NET 12.5 UNITS PER ACRE
 TOTAL UNITS = 1120 UNITS

**ZONING PLAN
 PROPERTY OF
 NOTTINGHAM VILLAGE, INC.**

LOCATED IN

11TH & 14TH DISTRICTS BALTIMORE, CO. MD.

TOTAL AREA = 929.081 ACRES

I. AREA TO BE ZONED EA = 75.50 ACRES

II. AREA TO BE ZONED BR = 21.20 ACRES

III. AREA TO BE ZONED ZA WITH SPECIAL EXCEPTION = 40.23 ACRES

IV. AREA IN C&D DISTRICT = 14.30 ACRES

EXISTING ZONING **EC**

PROPOSED ZONING **EA, BR, AND ZA** WITH SPECIAL EXCEPTION FOR OFFICE BUILDINGS AND A C&D DISTRICT FOR THE BR ZONE

NO EXISTING BUILDINGS

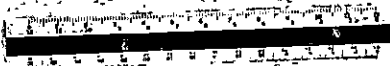
ALL PROPOSED BUILDINGS WILL CONFORM

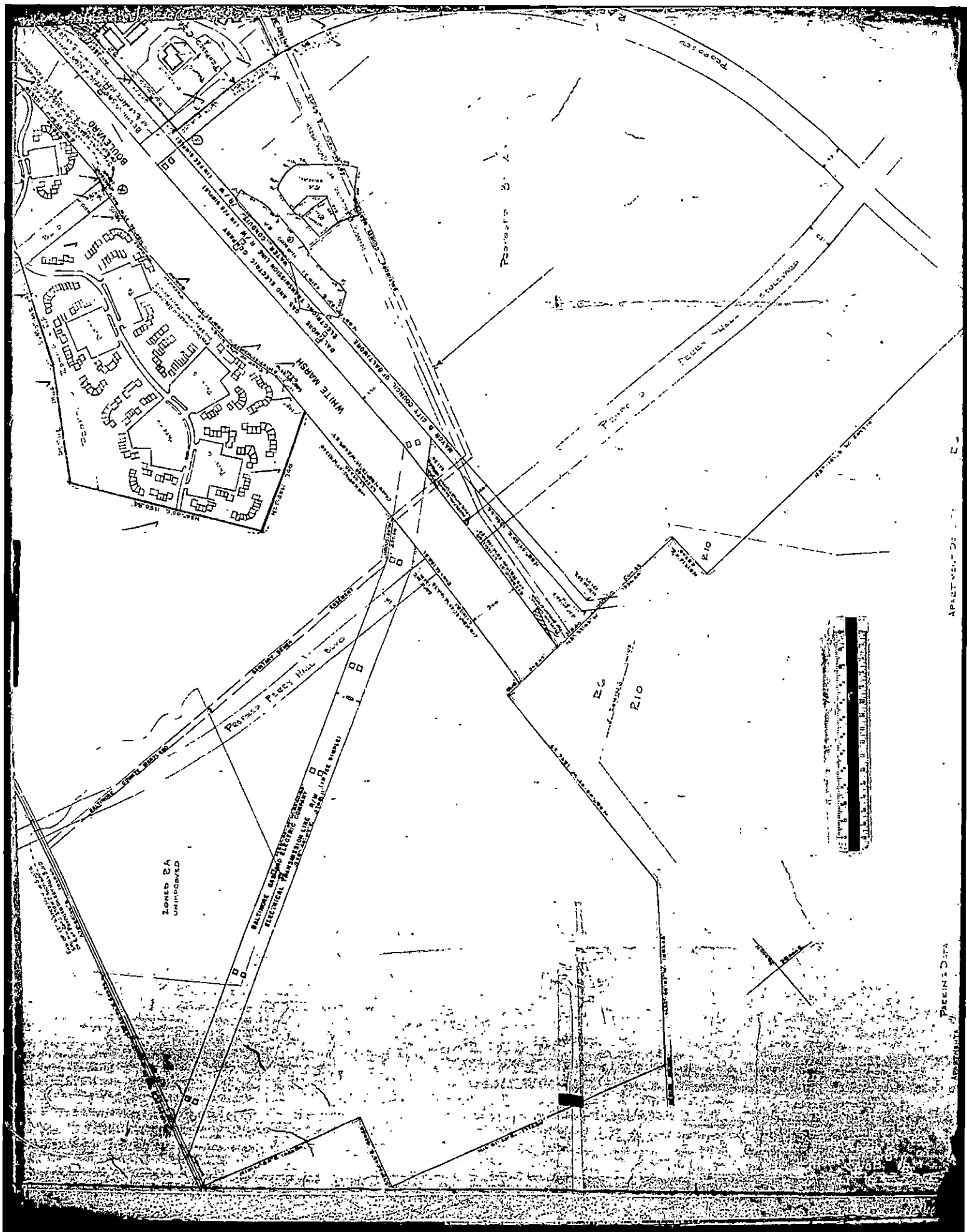
WITH HEIGHT AND AREA REGULATIONS FOR BALTIMORE

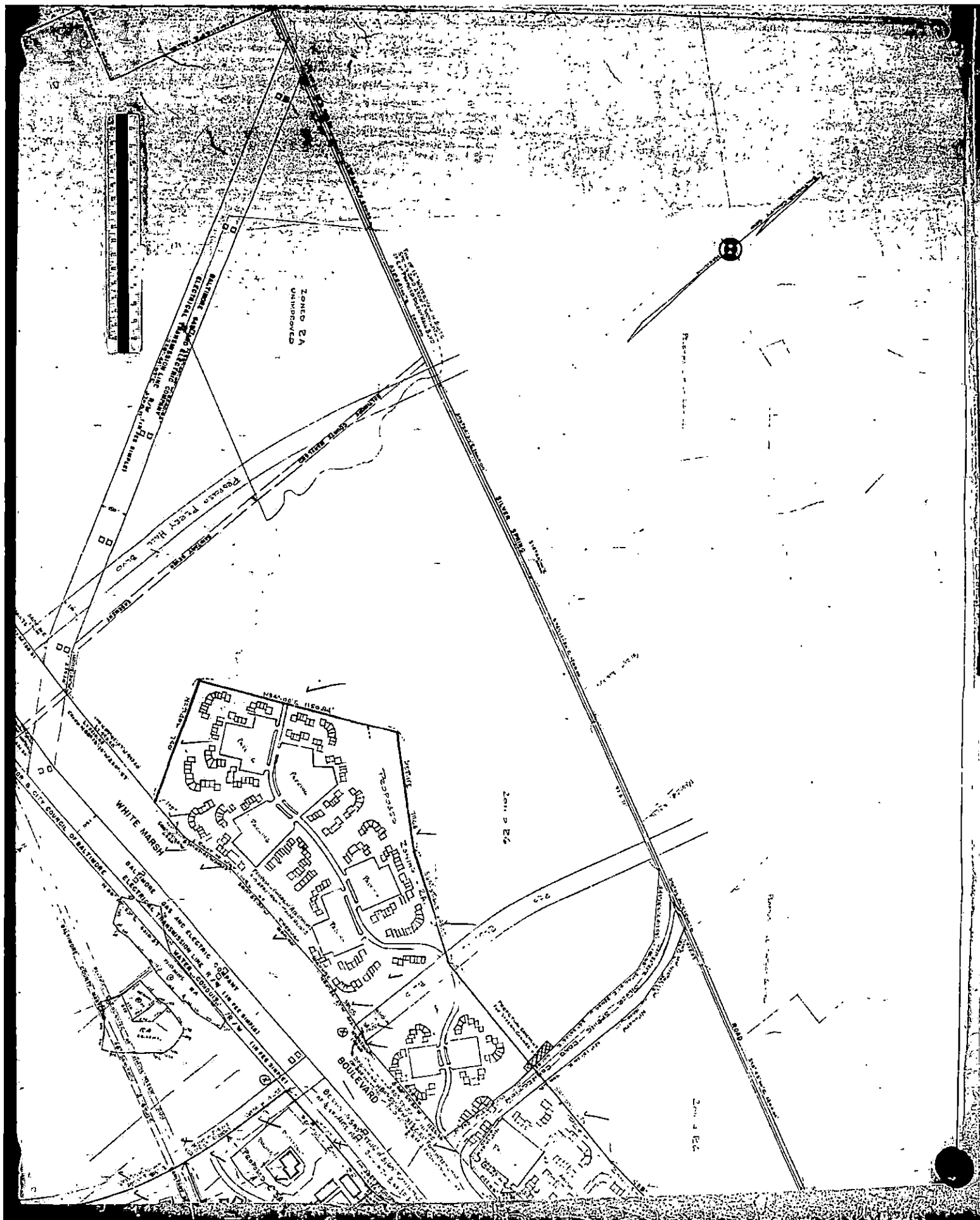
COUNTY ZONING REGULATIONS (ARTS 216, 217, 207A-225)

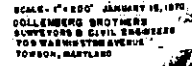
NOTE: THE TOP GRAPHIC DESIGN AND DETAILS OF THE DRIVE OF BRIDGE AND PIER HALL BOULEVARD AND THEIR INTERSECTIONS WITH WHITEPINE BOULEVARD SHALL BE DEVELOPED AS PLANNED BY THE CITY OF BALTIMORE AND FINAL LAYOUT AND DESIGN OF THESE ROAD BUILDINGS

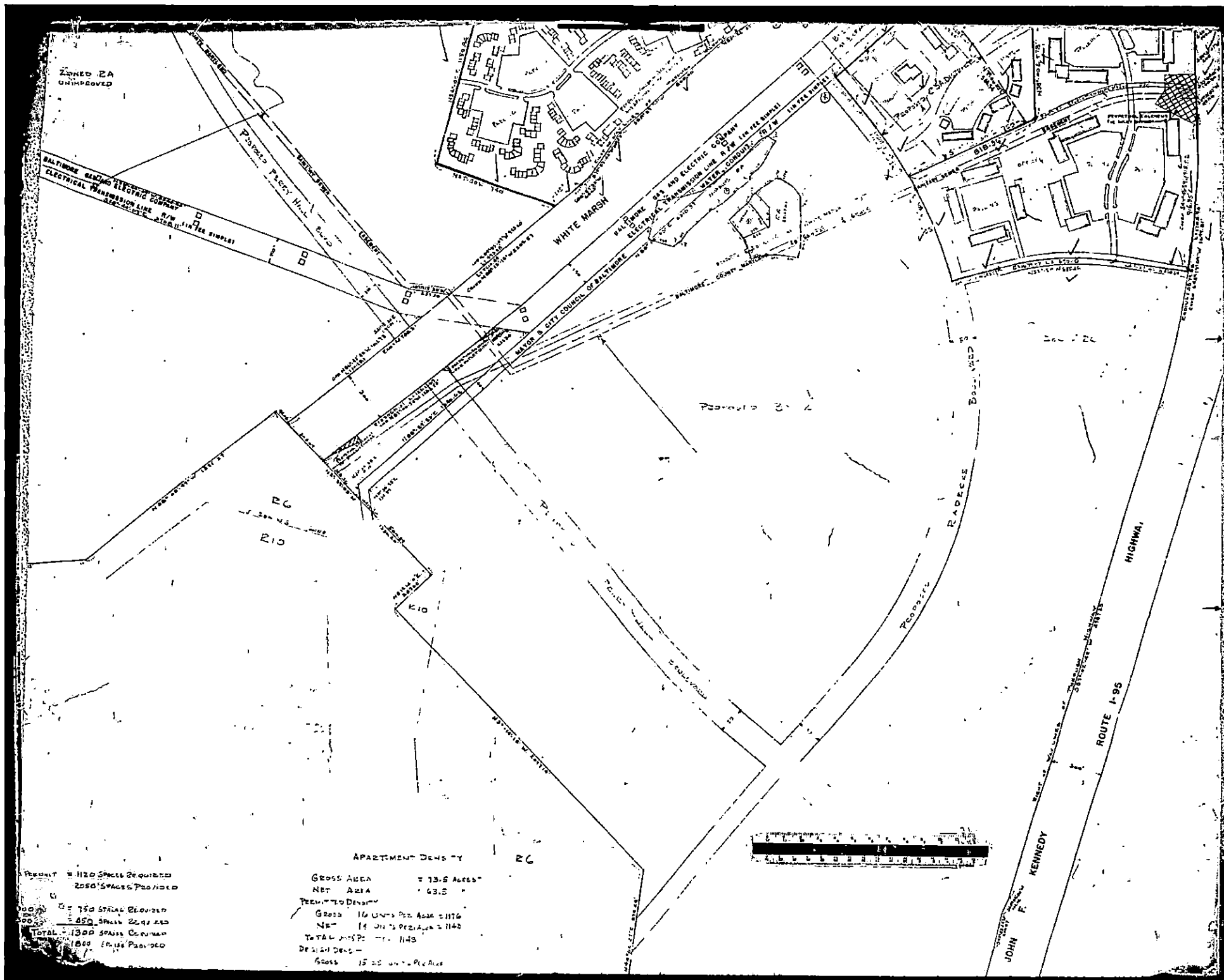
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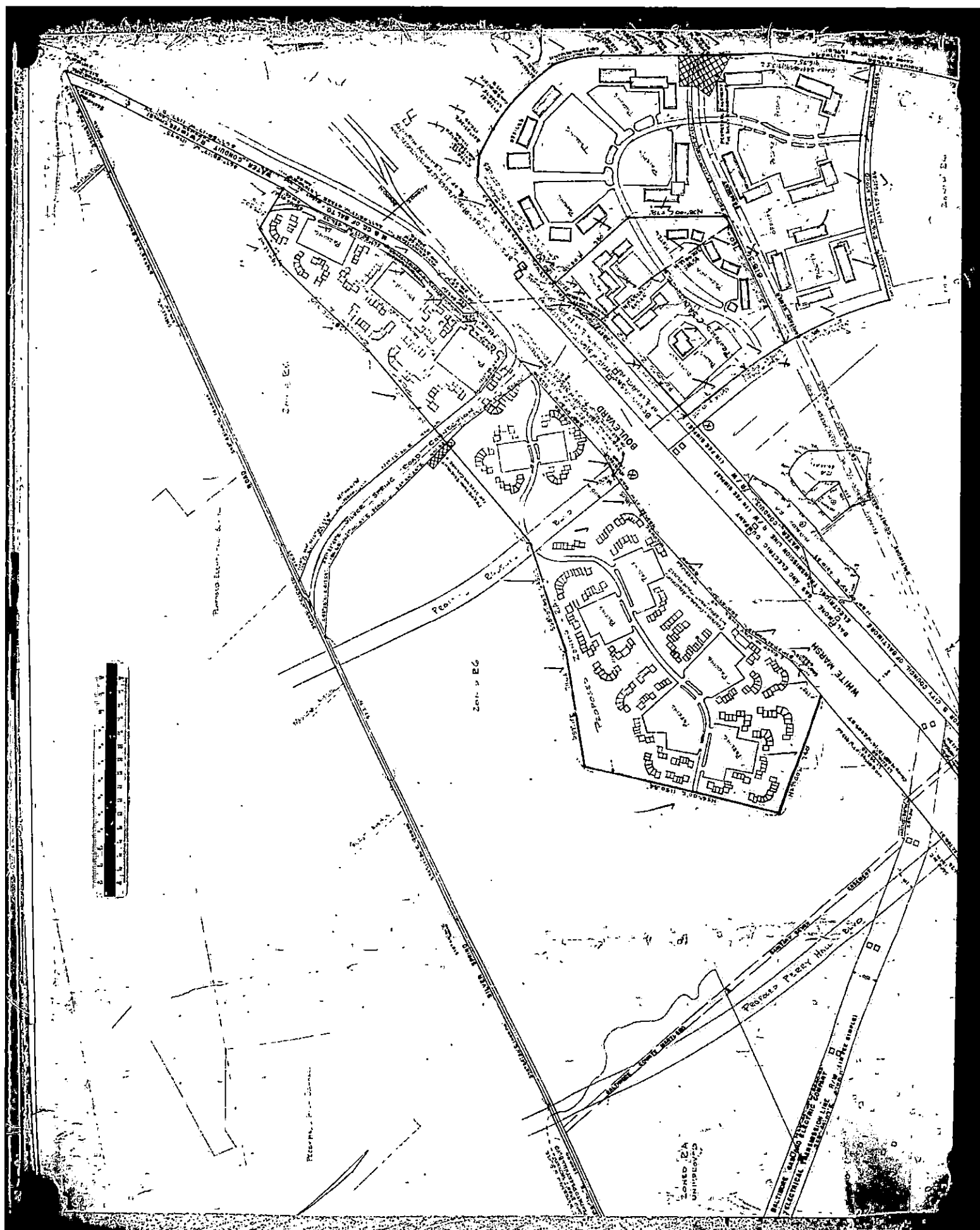












PARKING DATA

APARTMENTS
 1120 DWELLING UNITS @ 1 SPACE PER UNIT = 1120 SPACES REQUIRED
 2050 SPACES PROVIDED

OFFICES
 1ST FLOOR 111,000'² ÷ 300 = 370 SPACES REQUIRED
 2ND FLOOR 111,000'² ÷ 500 = 222 SPACES REQUIRED
 TOTAL = 592 SPACES REQUIRED
 1500 SPACES PROVIDED

HOTEL
 300 ROOMS @ 1 SPACE PER ROOM = 300 SPACES REQUIRED
 350 SPACES PROVIDED

RESTAURANT
 15,000'² ÷ 500 = 30 SPACES REQUIRED
 350 SPACES PROVIDED

NOTE: PARKING SPACES WILL BE PROVIDED AS REQUIRED BY BALTIMORE COUNTY ZONING REGULATIONS (SECTION 421.2)

APARTMENT DENSITY

GROSS AREA = 173.5 ACRES
 NET AREA = 63.5
 PER UNIT DENSITY
 GROSS 16 UNITS PER ACRE = 1176
 NET 16 UNITS PER ACRE = 1140
 TOTAL UNITS = 1140

DESIGN DENSITY
 GROSS 15.25 UNITS PER ACRE
 NET 17.6 UNITS PER ACRE
 TOTAL UNITS = 1170

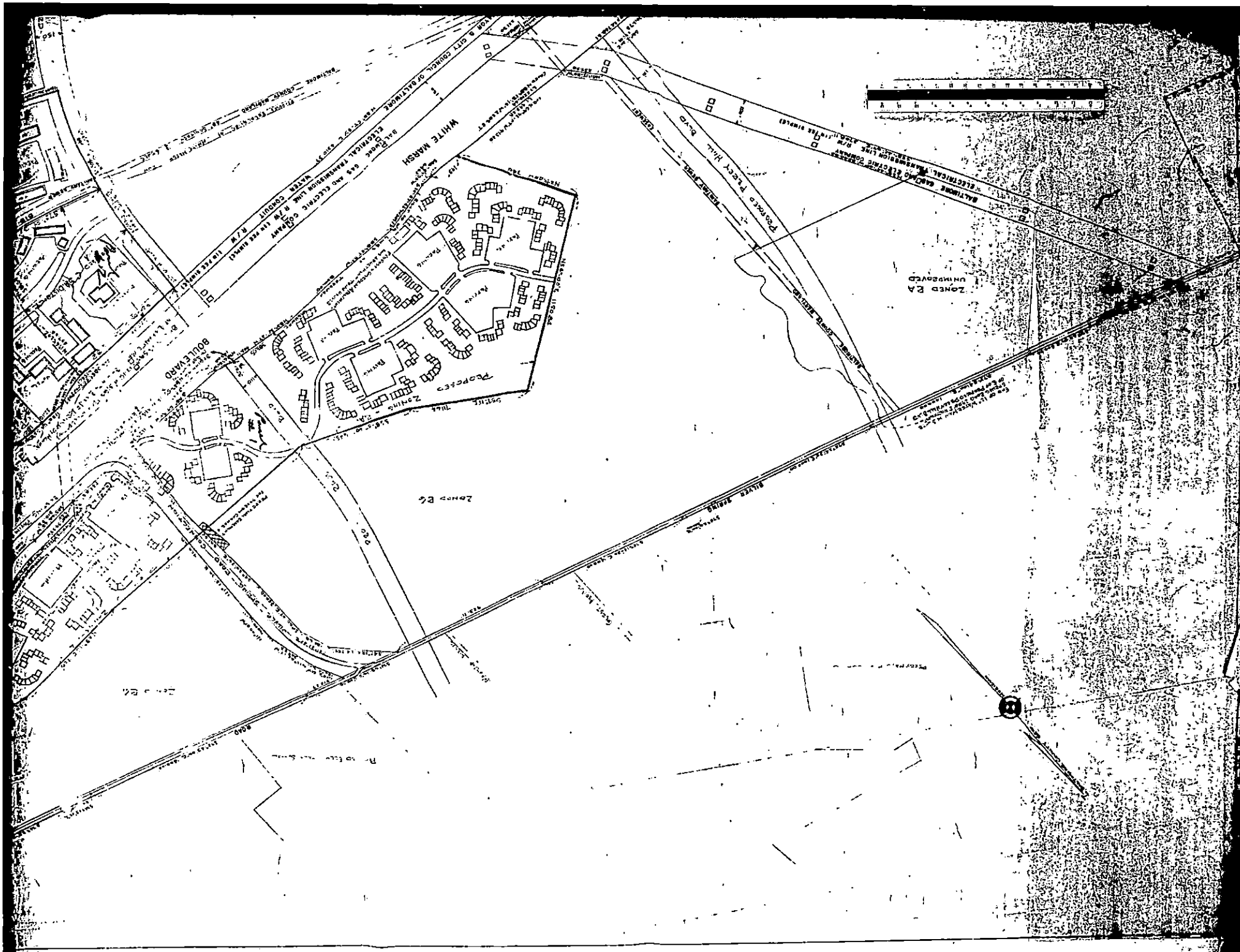
ZONING PLAT
PROPERTY OF
NOTTINGHAM VILLAGE, INC.

LOCATED IN
 1ST 8TH 14TH DISTRICTS BALTIMORE, CO. MD.

TOTAL AREA = 929.081 ACRES:
 I. AREA TO BE ZONED RA = 74.50 ACRES
 II. AREA TO BE ZONED B.R. = 21.80 ACRES
 III. AREA TO BE ZONED EA WITH SPECIAL EXCEPTION = 60.25 ACRES
 AREA IN CSA DISTRICT = 14.38 ACRES

EXISTING ZONING R6
 PROPOSED ZONING RA, BR AND EA WITH SPECIAL EXCEPTION FOR OFFICE BUILDINGS AND A CSADISTRICT FOR THE BE ZONE
 NO EXISTING BUILDINGS
 ALL PROPOSED BUILDINGS WILL CONFORM WITH HEIGHT AND AREA REGULATIONS PER BALTIMORE COUNTY ZONING REGULATIONS (ARTS 216, 217, 257A-220)

NOTE: THE TYPE SIGNETTES AND DETAILS OF THE TAVING OF EXISTING AND PROPOSED BOLL. EXCHANGES AND THEIR INTERSECTIONS WITH WHITEHORN BOULEVARD SHALL BE DEVELOPED AS WELL AS TRAFFIC STUDIES ARE COMPLETED AND FINAL SITE AND LAYOUT DESIGN OF THESE ROAD BEGINS



APARTMENT DENSITY
 1120 SPACES REQUIRED
 2050 SPACES PROVIDED

300 = 750 SPACES REQUIRED
 500 = 1250 SPACES REQUIRED
 TOTAL = 1300 SPACES REQUIRED
 1800 SPACES PROVIDED

APARTMENT DENSITY
 300 SPACES REQUIRED
 350 SPACES PROVIDED

300 SPACES REQUIRED
 350 SPACES PROVIDED

AS PROVIDED AS REQUIRED BY
 ZONING REGULATIONS (SIC 401.2)

APARTMENT DENSITY
 GROSS AREA = 73.5 ACRES
 NET AREA = 43.5 ACRES
 PERMITTED DENSITY
 GROSS 16 UNITS PER ACRE = 1176
 NET 16 UNITS PER ACRE = 712
 TOTAL UNITS PER ACRE = 1143
 DESIGN DENSITY
 GROSS 15.5 UNITS PER ACRE
 NET 17.6 UNITS PER ACRE
 TOTAL UNITS = 1120

WILMINGTON

ZONING PLAT

PROPERTY OF

NOTTINGHAM VILLAGE, INC.

LOCATED IN

34TH DISTRICTS

BALTIMORE, CO. MD.

TOTAL AREA = 929.081 ACRES:

I AREA TO BE ZONED R.A. = 73.50 ACRES
 II AREA TO BE ZONED R.R. = 21.20 ACRES
 AREA TO BE ZONED R.A. WITH SPECIAL EXCEPTION = 60.23 ACRES
 AREA IN C.A. DISTRICT 12 = 16.30 ACRES

EXISTING ZONING R.C.

PROPOSED ZONING R.A. AND R.R. WITH SPECIAL EXCEPTION FOR OFFICE BUILDINGS AND
 A C.A. DISTRICT FOR THE R.C. ZONE

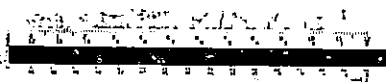
NO EXISTING BUILDINGS

ALL PROPOSED BUILDINGS WILL CONFORM

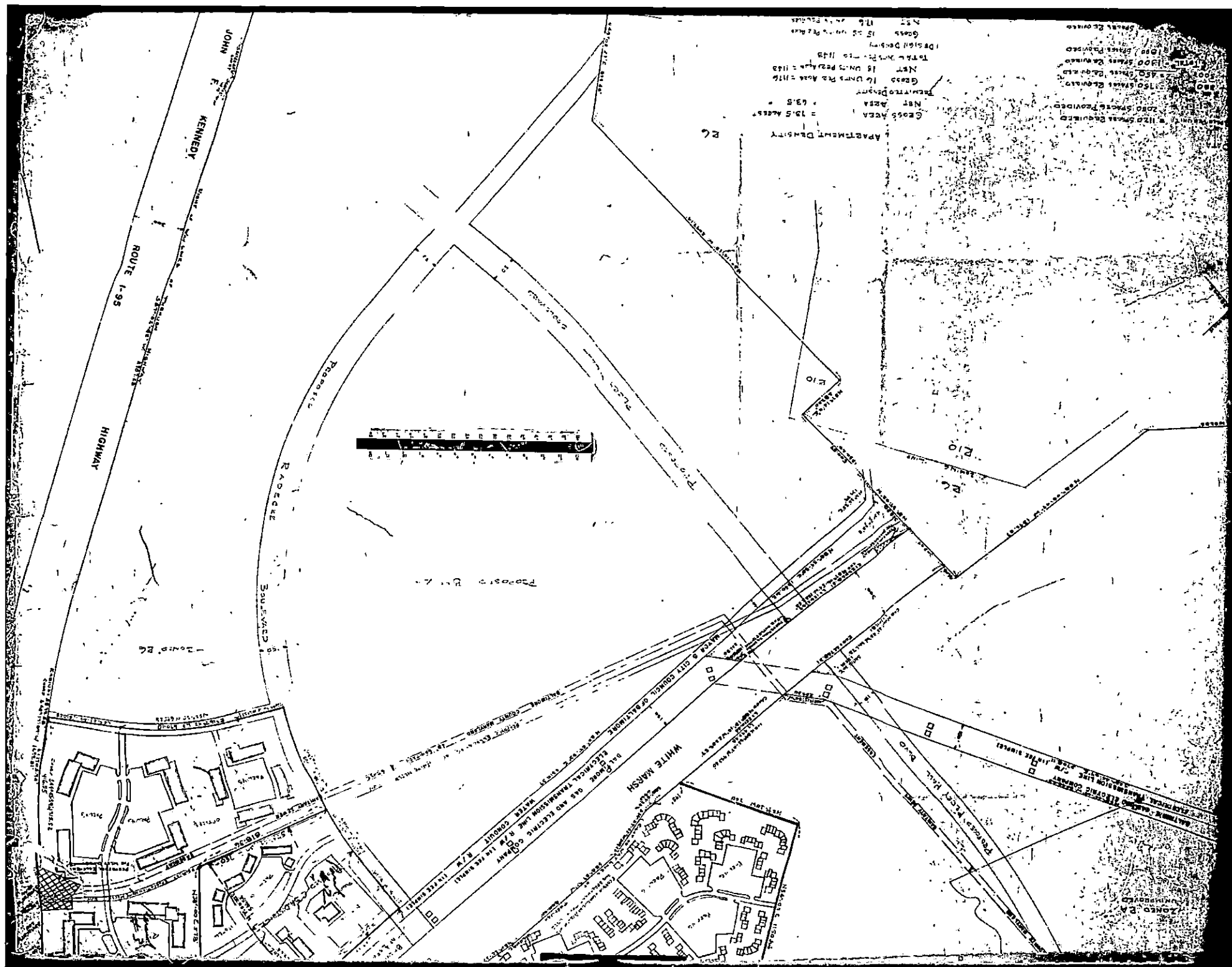
WITH HEIGHT AND AREA REGULATIONS PER BALTIMORE

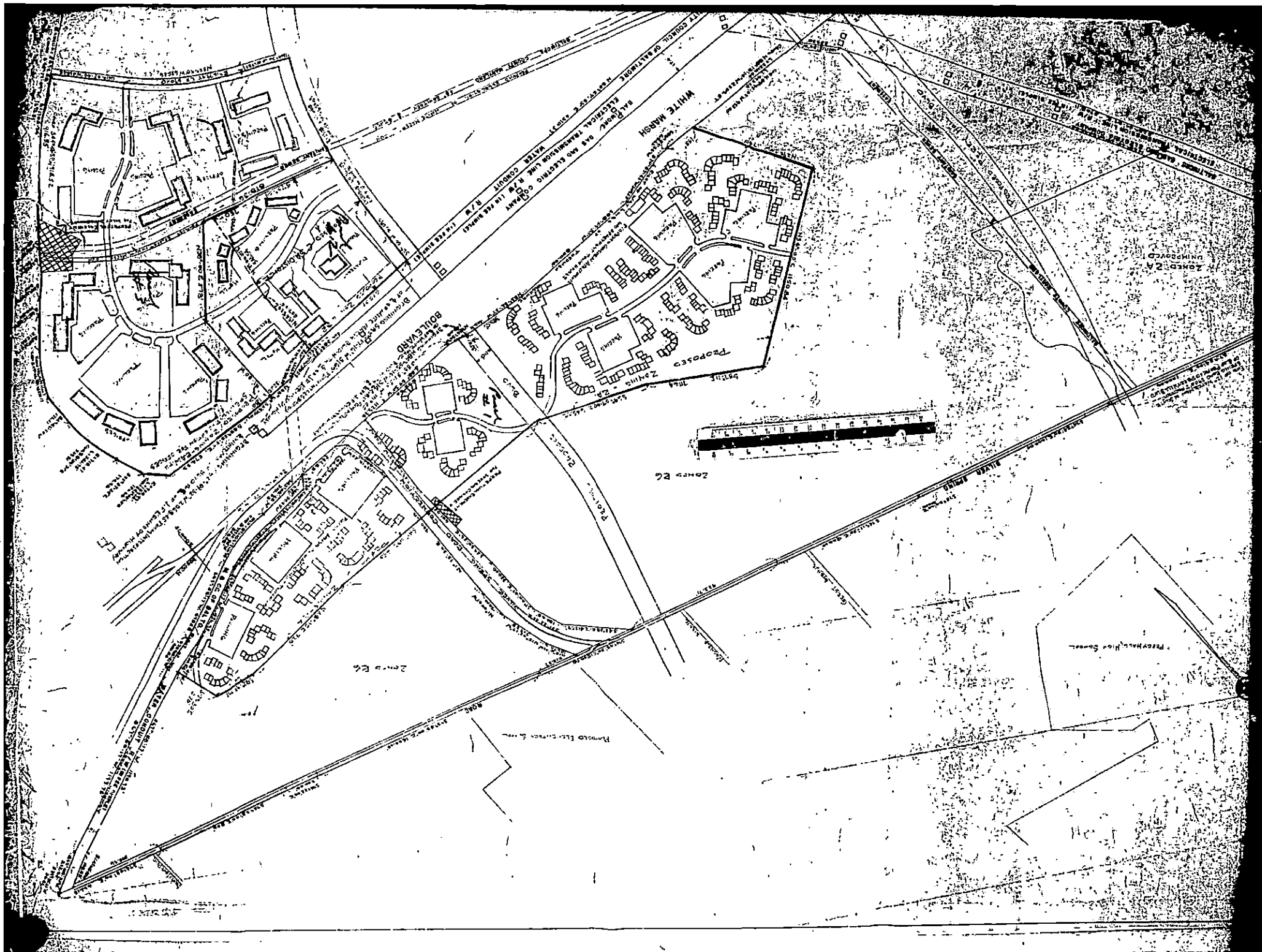
COUNTY ZONING REGULATIONS (ARTS 216, 217, 257A-218)

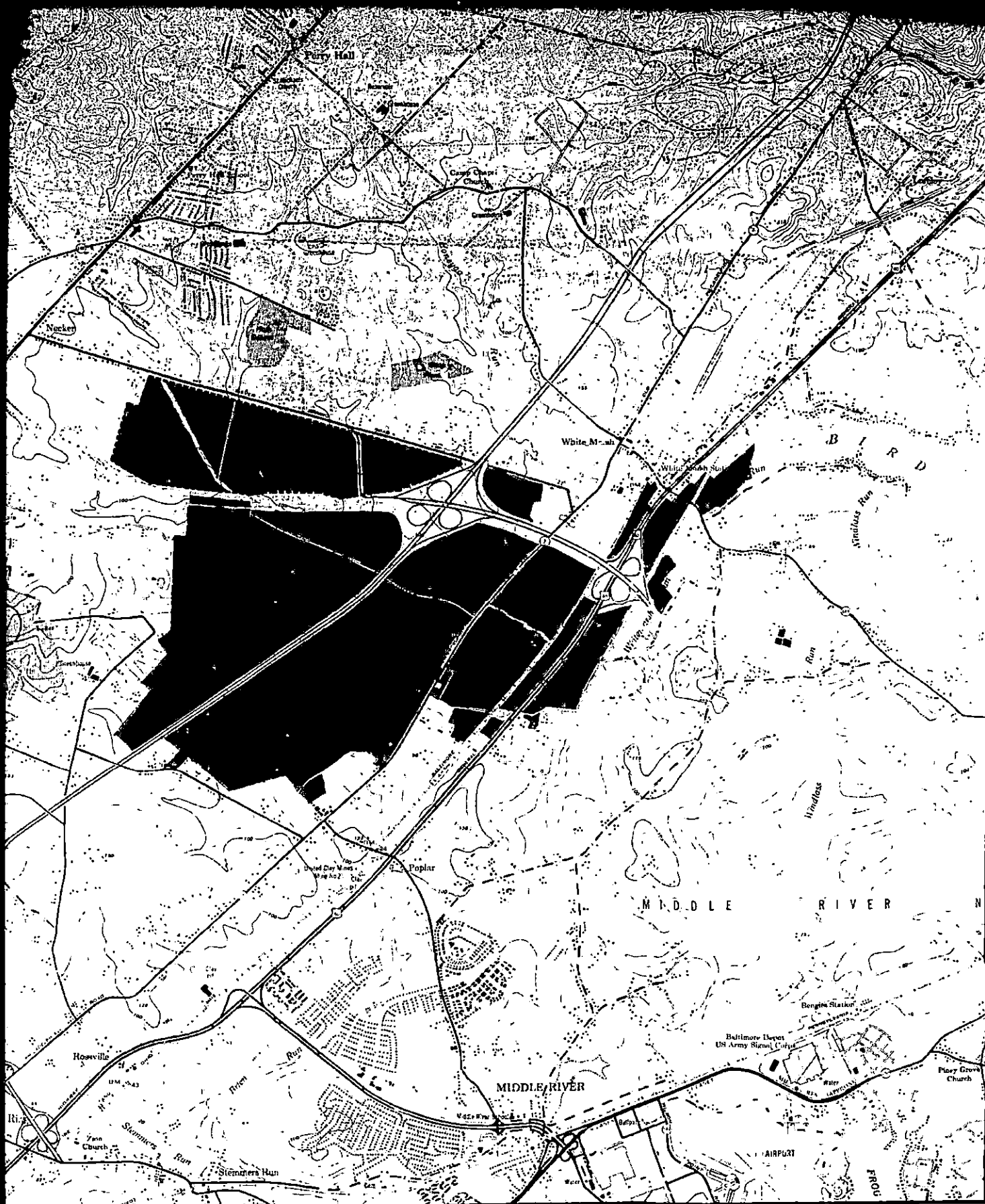
NOTE: THE TYPE GRADING DESIGN AND
 DETAILS OF THE PAVING OF ROADS
 AND DRIVEWAYS SHALL BE DEVELOPED
 AND THESE INTERSECTIONS WITH WASHINGTON
 BOULEVARD SHALL BE DEVELOPED
 AS PART OF TRAFFIC STUDIES ARE COMPLETED
 AND FINAL SITE AND LAYOUT DESIGN OF
 THESE ROAD BEGINS



SCALE: 1" = 100' JANUARY 18, 1970
 COLLEENBROS BROTHERS
 SURVEYORS & CIVIL ENGINEERS
 700 WASHINGTON AVENUE
 TOWSON, MARYLAND







an

PROPERTY OWNERSHIP MAP



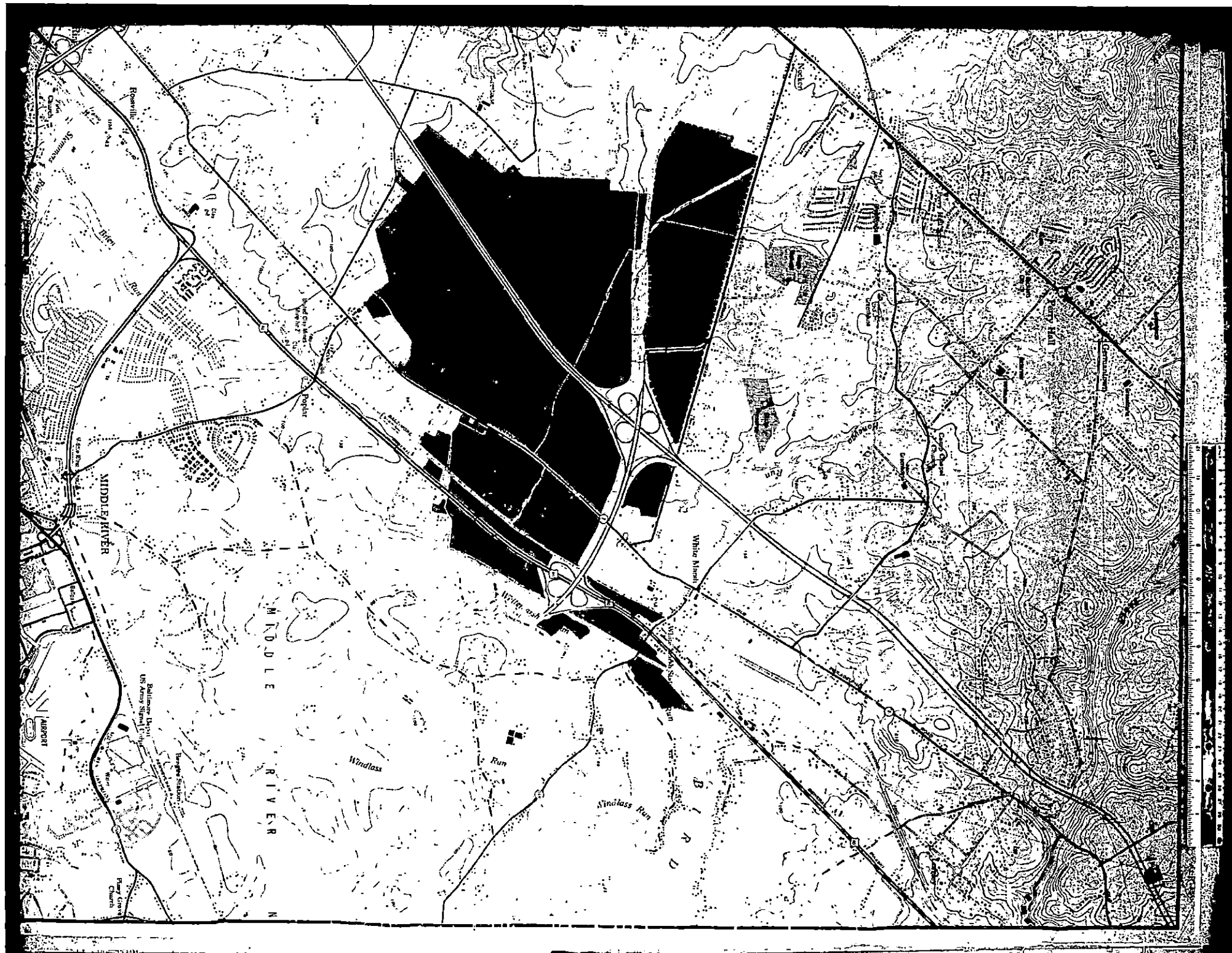
UNDER CONTROL OF DEVELOPER

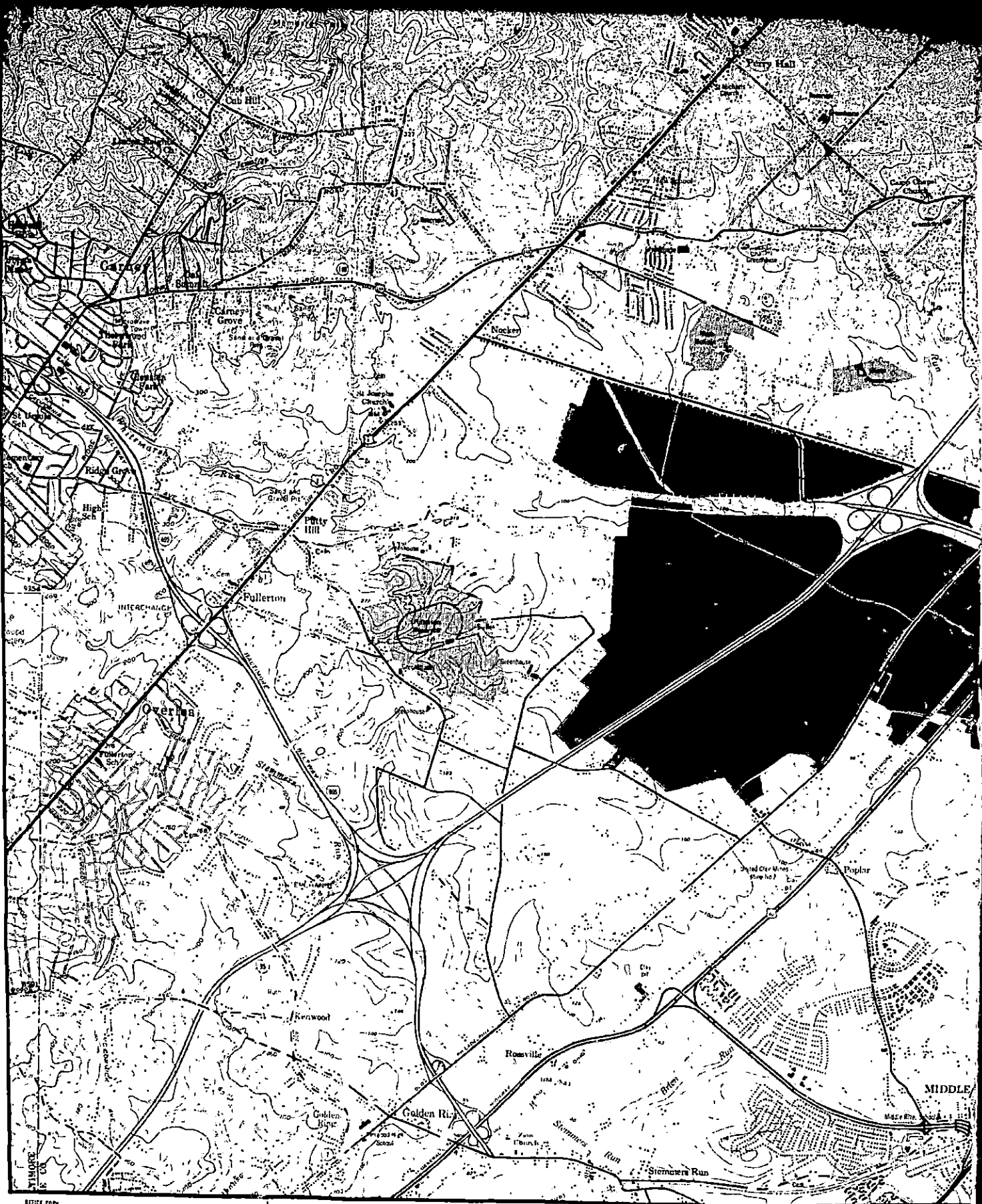
Scale in feet
0 500 1000 1500 2000 2500 3000 3500 4000 4500 5000 5500 6000 6500 7000 7500 8000 8500 9000 9500 10000

GRUEN ASSOCIATES
ARCHITECTURE • PLANNING • ENGINEERING

JUNE 1968



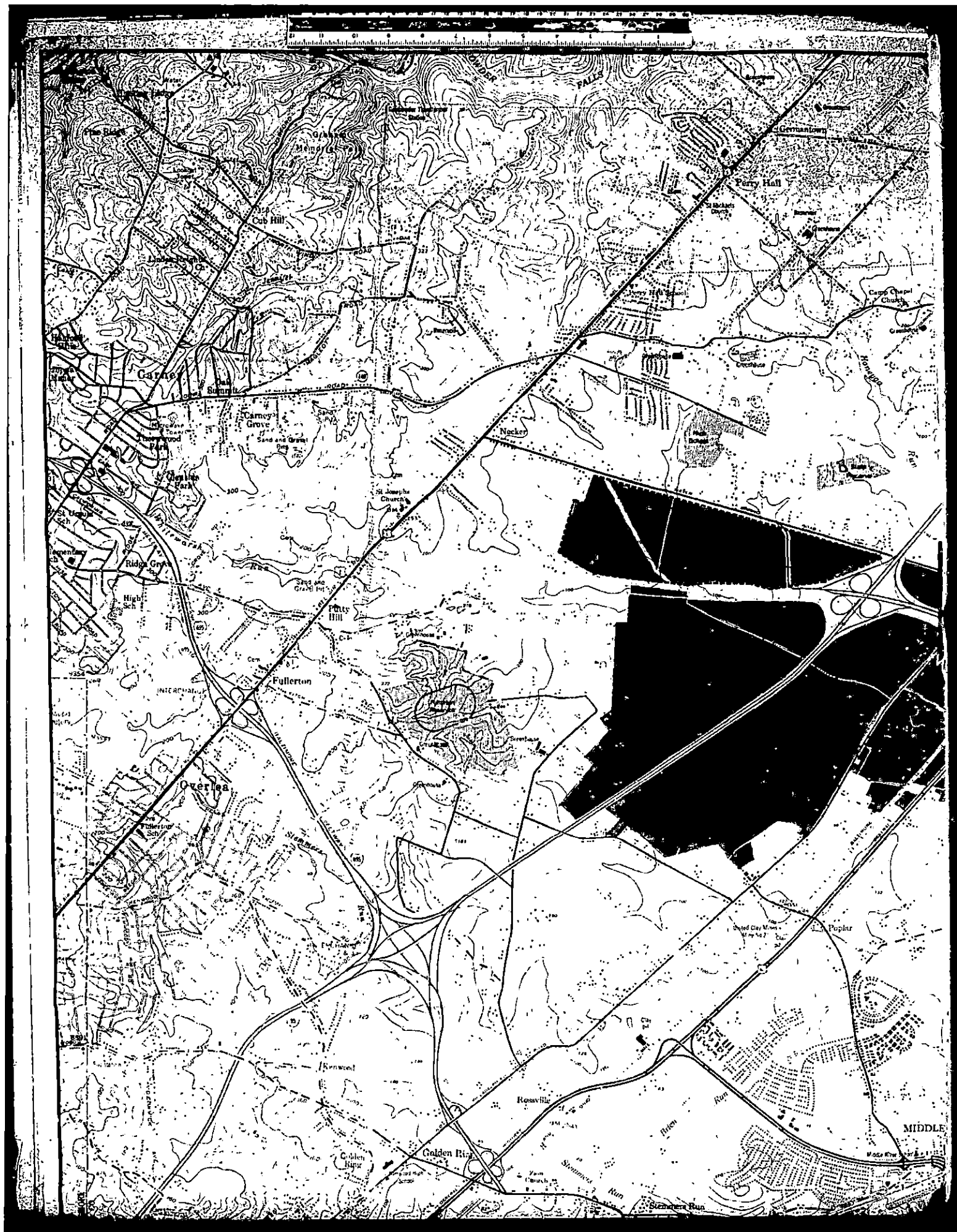




White Marsh Property Development Plan
 WHITE MARSH, MARYLAND
 NOTTINGHAM PROPERTIES, INC.

PROPERTY OWNERSHIP MAP

UNDER CONTROL OF DEVELOPER



ZONING PLAT
PROPERTY OF
NOTTINGHAM VILLAGE, INC.

LOCATED IN

11th & 14th DISTRICTS BALTIMORE CO. MD.

TOTAL AREA = 929.081 ACRES:

GROSS AREA TO BE ZONED B.M. = 15180 ACRES ±
NET AREA TO BE ZONED B.M. = 1374.5 ACRES ±
NET AREA IN C.T. DISTRICT = 133.5 ACRES ±

EXISTING ZONING R6

PROPOSED ZONING BM

NO EXISTING BUILDINGS

ALL PROPOSED BUILDINGS WILL CONFORM

WITH HEIGHT AND AREA REGULATIONS OF BALTIMORE
COUNTY ZONING REGULATIONS (SECTION 25-6.2.2)

PARKING DATA

FLOOR SPACE FOR RETAIL TRADE
 $1,260,000'² ÷ 200 = 6300$ SPACES REQUIRED

FLOOR SPACE FOR OFFICES
 $87,000'² ÷ 200 = 435$ SPACES REQUIRED

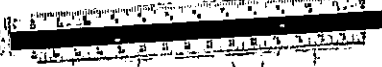
$2,000'² ÷ 175,000'² ÷ 500 = 346$ SPACES REQUIRED

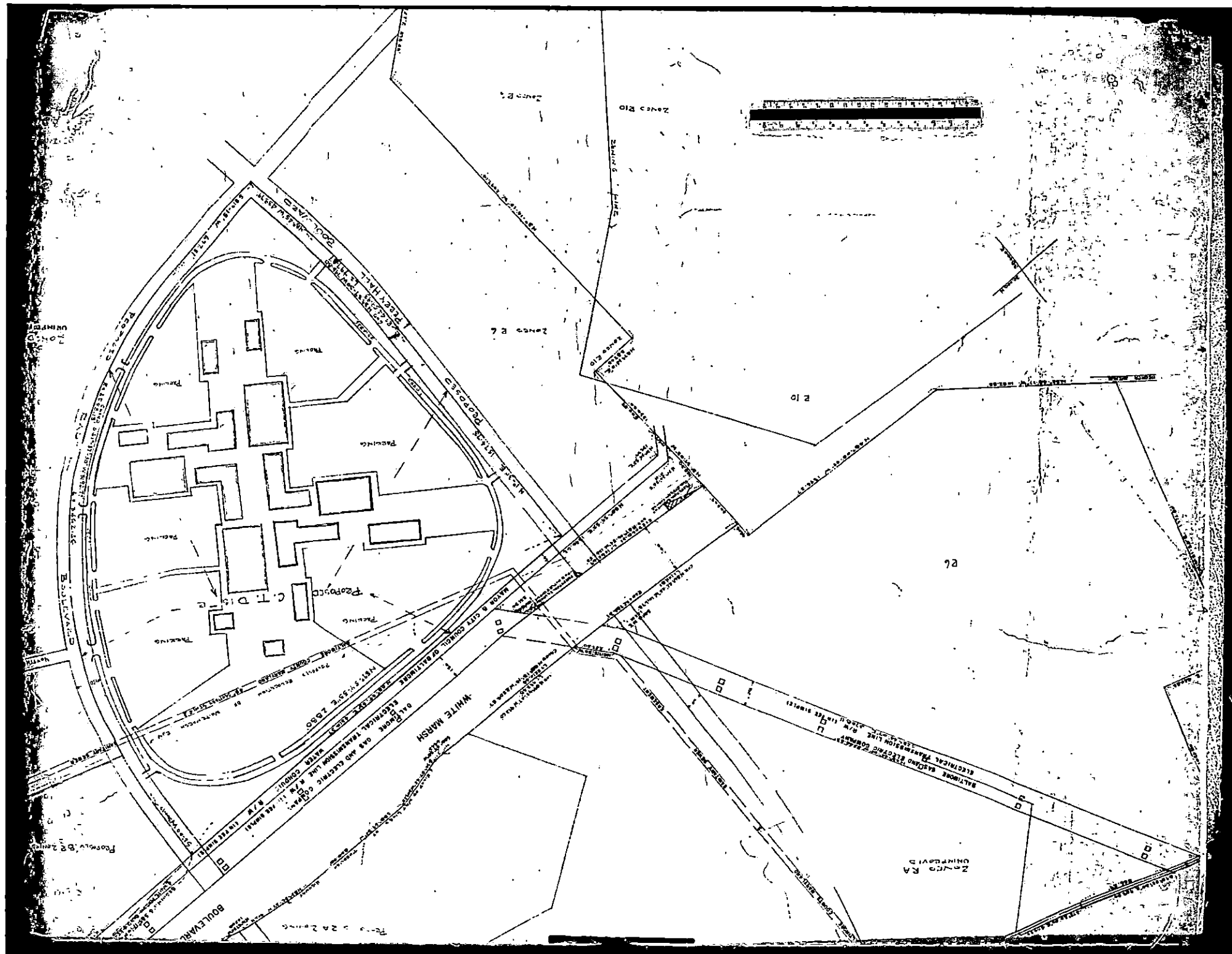
TOTAL = 6936 SPACES REQUIRED

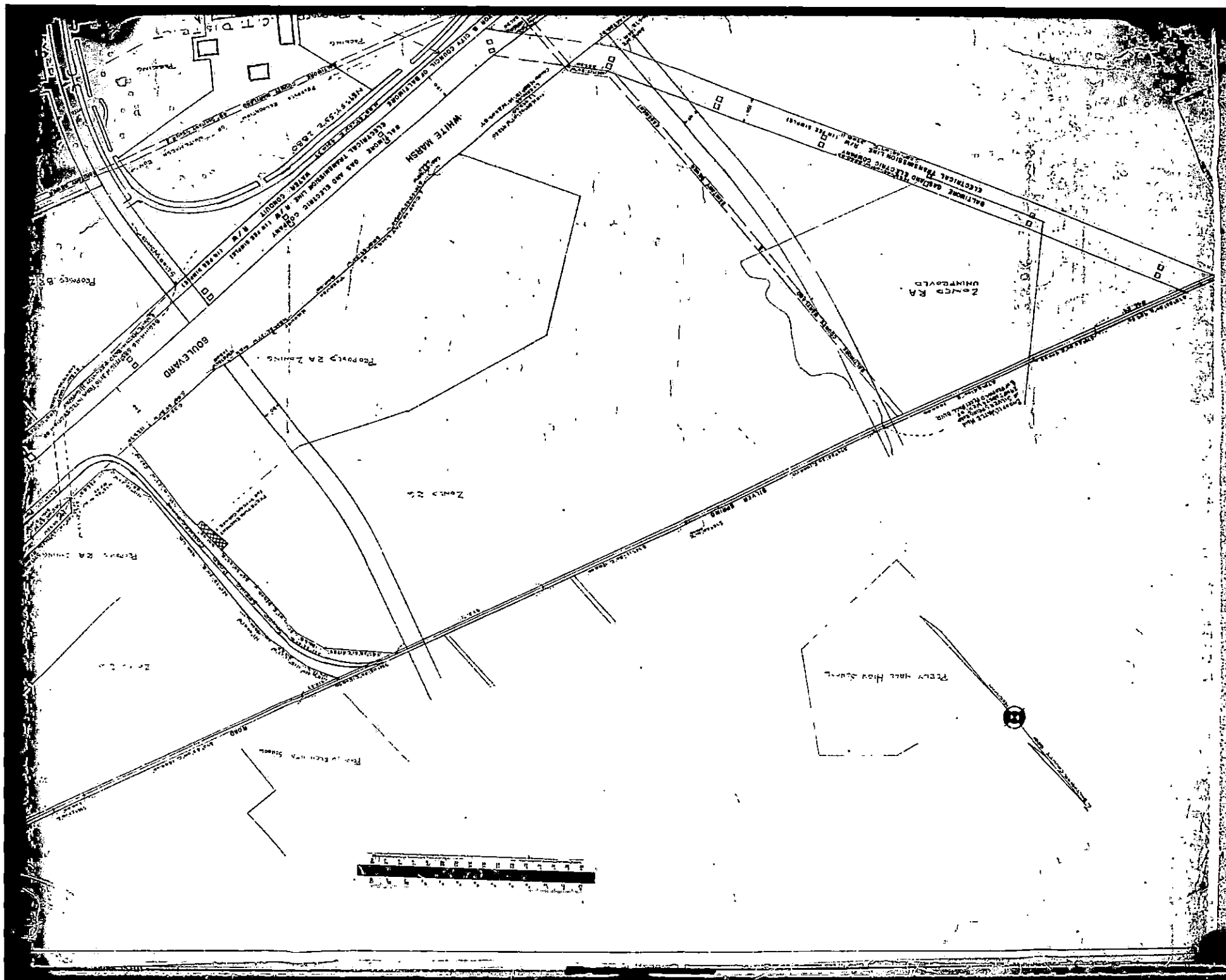
6980 SPACES PROVIDED

NOTE: PARKING SPACES WILL BE PROVIDED AS REQUIRED
BY BALTIMORE COUNTY ZONING REGULATIONS (SECTION 25-6.2.2)

NOTE: THE GEOMETRIC DESIGN AND DETAILS
OF THE PAVING OF DRIVEWAYS AND
PARKING AREAS AND THEIR
DRAINAGE WITH NOTATION BEING
DEVELOPED AS FINAL TRAFFIC
STUDIES ARE COMPLETED ON
THESE FACILITIES AND FINAL STATE
AND COUNTY DESIGN OF THESE AREAS
BEING







ZONING PLAT
PROPERTY OF
NOTTINGHAM VILLAGE, INC.
LOCATED IN
DISTRICTS BALTIMORE CO. MD.

TOTAL AREA = 929.081 ACRES:

AREA TO BE ZONED B.M. = 1519.8 ACRES ±
AREA TO BE ZONED B.M. = 134.5 ACRES ±
AREA IN C.T. DISTRICT = 134.5 ACRES ±

EXISTING ZONING R-6

PROPOSED ZONING B.M.

AND C.T. DISTRICT FILE B.M. ZONE

NO EXISTING BUILDINGS

ALL PROPOSED BUILDINGS WILL CONFORM

WITH HEIGHT AND AREA REGULATIONS OF BALTIMORE

COUNTY ZONING REGULATIONS (SECTION 23-46-235)

PARKING DATA

FLOOR SPACE FOR RETAIL TRADE

1,160,000' ± 200 = 6500 SPACES REQUIRED

FLOOR SPACE FOR OFFICES

FIRST FLOOR 87,000' ± 300 = 290

2ND & 3RD FLOORS 178,000' ± 500 = 346

TOTAL 6936 SPACES REQUIRED

6980 SPACES PROVIDED

NOTE: PARKING SPACES WILL BE PROVIDED AS REQUIRED

BY BALTIMORE COUNTY ZONING REGULATIONS (SECTION 23-46-235)

NOTE: THE GEOMETRIC DESIGN DETAILS OF THE PAVING OF BRIDGES AND PEDESTAL BOULEVARD AND THEIR INTERSECTION WITH WATERGAS BOULEVARD SHALL BE DEVELOPED AS PRELIMINARY STUDIES ARE COMPLETED ON THESE FACILITIES AND FINAL STATE AND COUNTY DESIGN OF THESE DETAILS BE-48

271-1752

AIRP

4-C

NORTH-EASTERN AREA

NE-7-N

NE-8-N

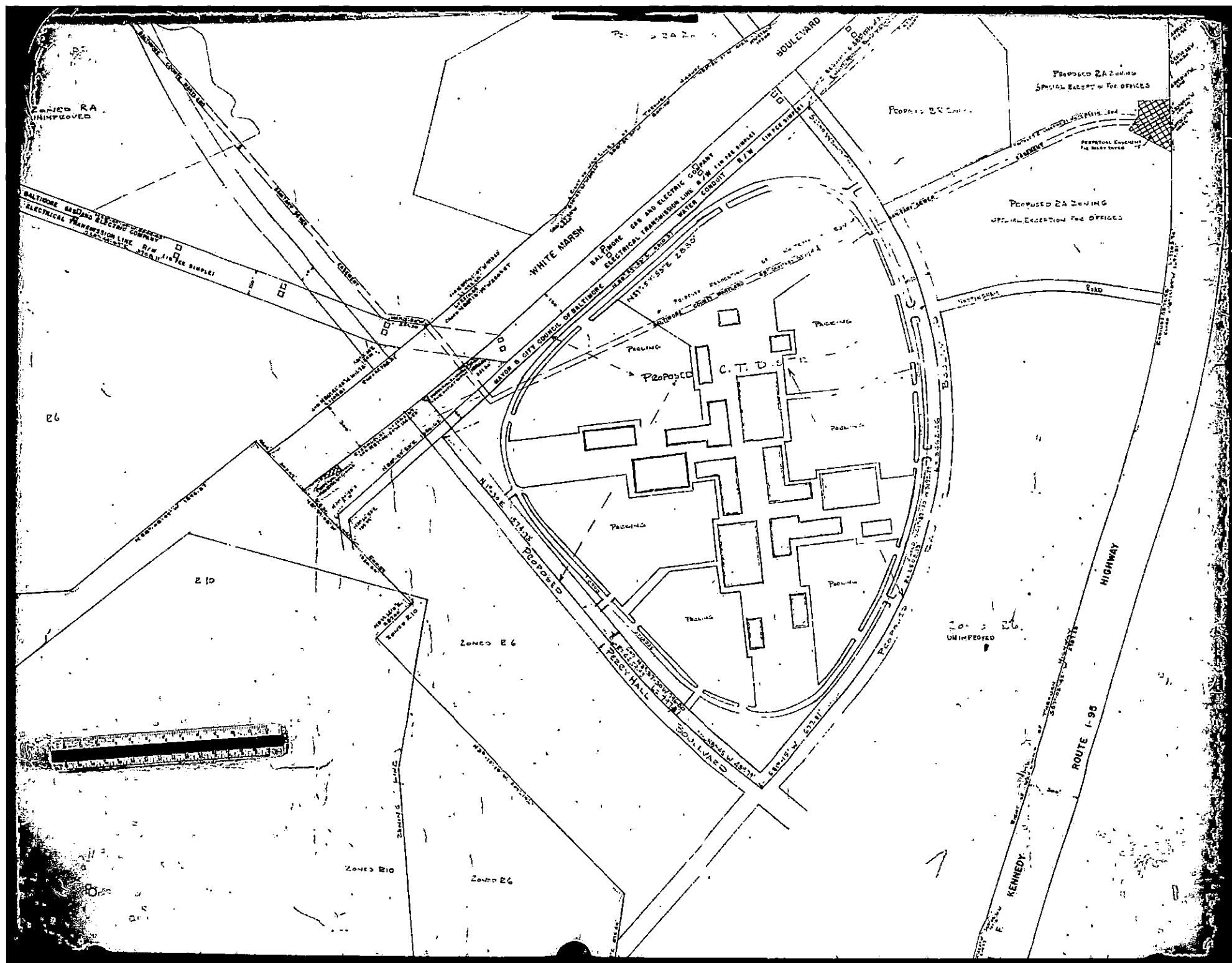
NE-7-S

NE-8-S

CT DIST

201

SCALE: 1" = 200' JANUARY 19, 1970
DOLLEBERG BROTHERS
SURVEYORS & CIVIL ENGINEERS
1000 WASHINGTON AVENUE
TOWSON, MARYLAND





PERRY HALL HIGH SCHOOL

Zone 22

Proposed RA Zone 23

BOULEVARD

WHITE MARSH

BALTIMORE GAS AND ELECTRIC COMPANY
ELECTRICAL TRANSMISSION LINE A/W (10 FEET SIMPLE)
WATER CONDUIT B/W (10 FEET SIMPLE)
CITY COUNCIL OF BALTIMORE
1917 ST. 57E 2050

Proposed RA Zone
SPECIAL EXEMPTION FOR OFFICES

Proposed BR Zone

Proposed RA Zoning
SPECIAL EXEMPTION FOR OFFICES

Zone 24
UNIMPROVED

BALTIMORE GAS AND ELECTRIC COMPANY
ELECTRICAL TRANSMISSION LINE A/W (10 FEET SIMPLE)
WATER CONDUIT B/W (10 FEET SIMPLE)

ZONING PLAT
PROPERTY OF
NOTTINGHAM VILLAGE, INC.

LOCATED IN

1ST & 14TH DISTRICTS BALTIMORE CO. MD.

TOTAL AREA = 929.081 ACRES:

GROSS AREA TO BE ZONED B.M. = 1518 ACRES ±
NET AREA TO BE ZONED B.M. = 131.5 ACRES ±
NET AREA IN C.T. DISTRICT = 131.5 ACRES ±

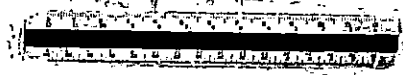
EXISTING ZONING R-6
PROPOSED ZONING B.M.
B.M. & C.T. DISTRICT

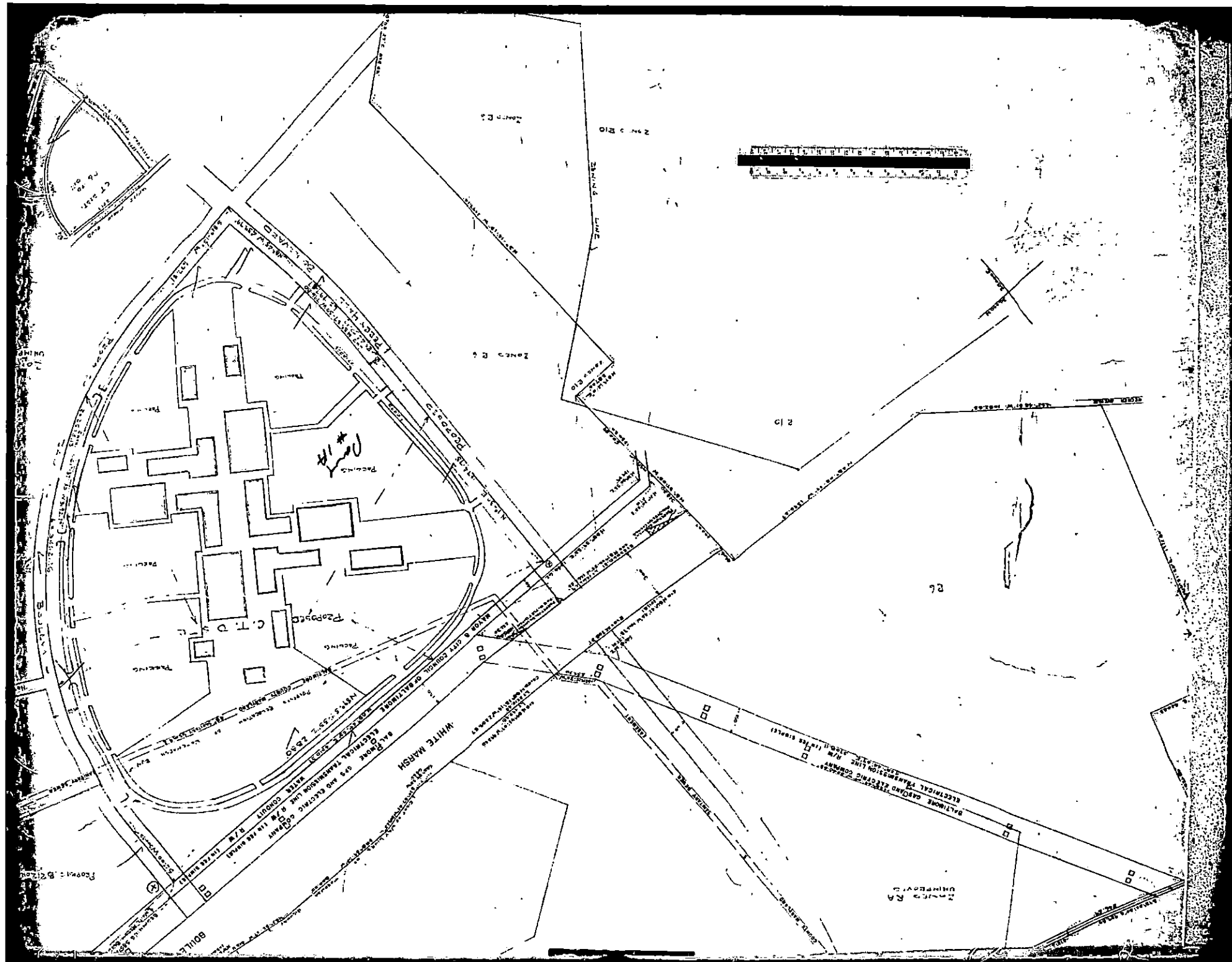
NO EXISTING BUILDINGS
ALL PROPOSED BUILDINGS WILL CONFORM
WITH HEIGHT AND AREA REGULATIONS OF BALTIMORE
COUNTY ZONING REGULATIONS (SECTION 40-2)

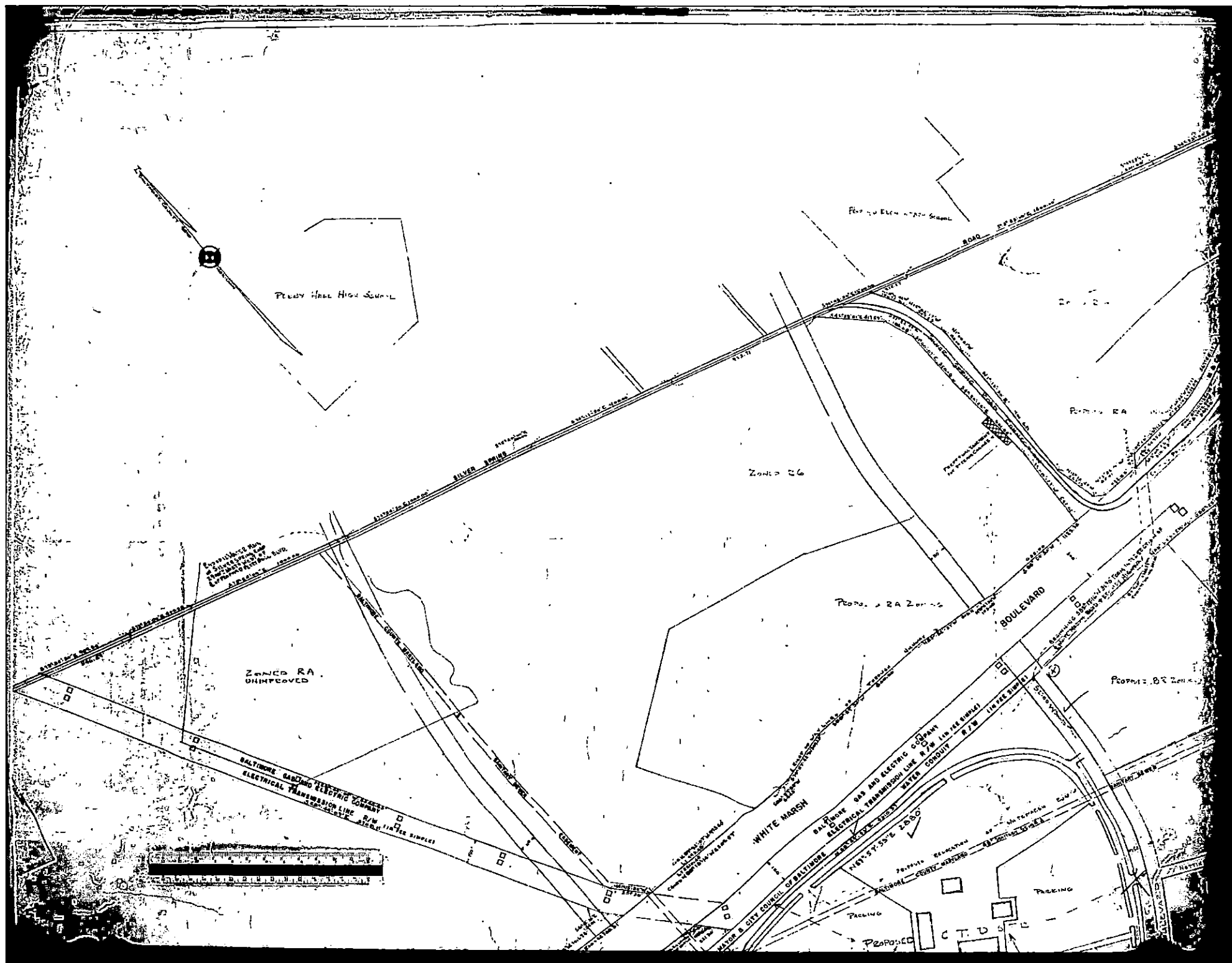
PARKING DATA
FLOOR SPACE FOR RETAIL TRADE
 $1,260,000 \div 200 = 6300$ SPACES REQUIRED
FLOOR SPACE FOR OFFICES
FIRST FLOOR $87,000 \div 100 = 870$
SECOND FLOOR $173,000 \div 500 = 346$
TOTAL = 6716 SPACES REQUIRED
6780 SPACES PROVIDED

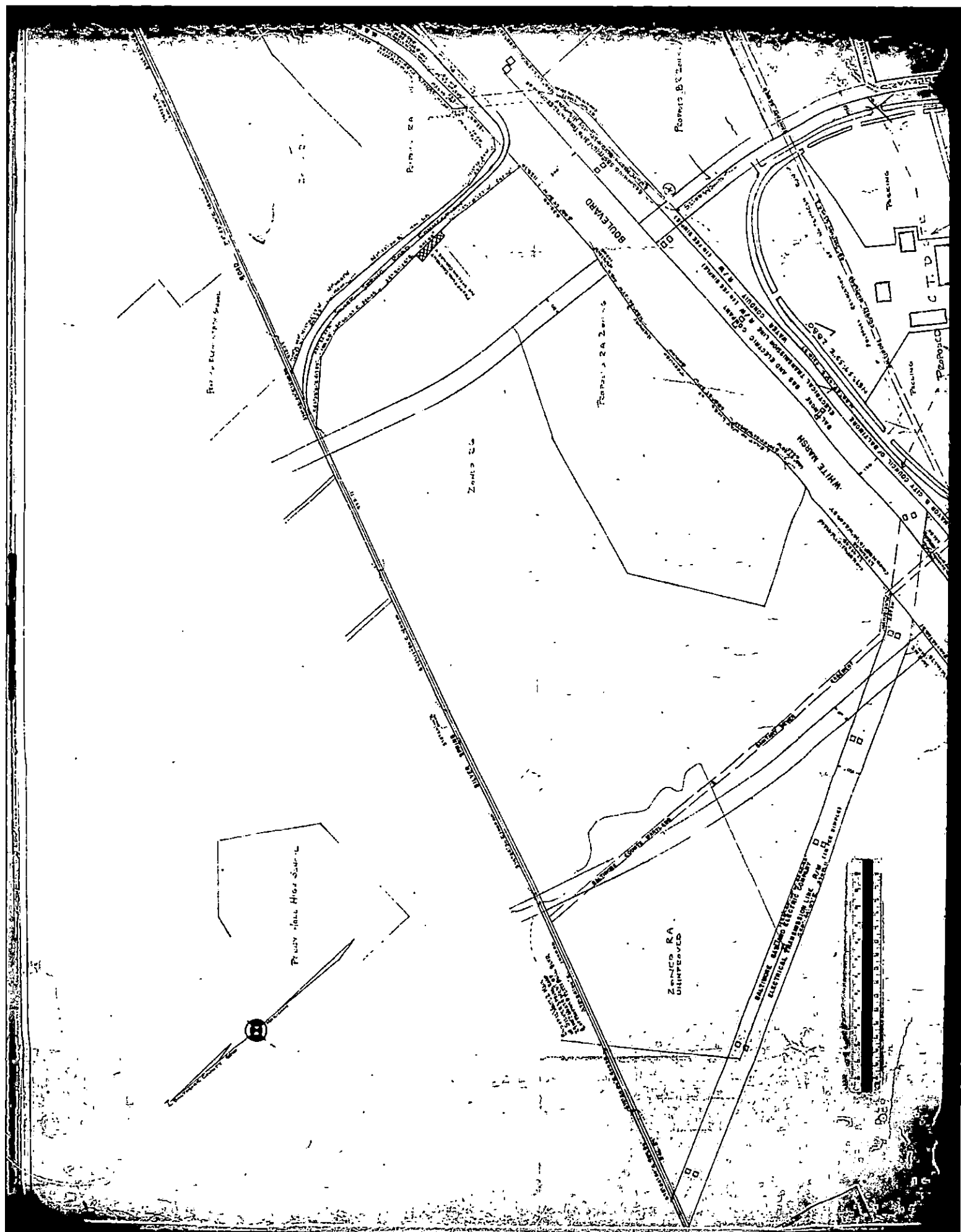
NOTE: PARKING SPACES WILL BE PROVIDED AS REQUIRED
BY BALTIMORE COUNTY ZONING REGULATIONS (SECTION 40-2)

NOTE: THE GEOMETRIC DESIGN AND DETAILING
OF THE DRIVE OF CROSSING AND
PERRY HALL BOULEVARD AND THE
INTERSECTION WITH MAIN BUILDING
SHALL BE DEVELOPED AS PLANNING
STUDIES ARE COMPLETED ON
THESE FACILITIES AND FINAL STATE
AND COUNTY DESIGN OF THESE DRIVES
BEING









ZONING PLAT
PROPERTY OF
NOTTINGHAM VILLAGE, INC.
LOCATED IN
DISTRICTS BALTIMORE CO. MD.

TOTAL AREA = 929.081 ACRES:

AREA TO BE ZONED B.M. = 1518.8 ACRES

AREA TO BE ZONED B.M. = 1311.5 ACRES

AREA IN C.T. DISTRICT = 1311.5 ACRES

EXISTING ZONING R.C.

PROPOSED ZONING B.M.

NO EXISTING BUILDINGS

ALL PROPOSED BUILDINGS WILL CONFORM

WITH HEIGHT AND AREA REGULATIONS

COUNTY ZONING REGULATIONS (SECTION 14-285)

PARKING DATA

FLOOR SPACE FOR RETAIL TRADE

1,260,000' ± 200 = 6800 SPACES REQUIRED

FLOOR SPACE FOR OFFICES

FIRST FLOOR 87000' ± 300 = 270

SECOND FLOOR 17000' ± 500 = 240

TOTAL 6930 SPACES REQUIRED

6930 SPACES PROVIDED

NOTE: PARKING SPACES WILL BE PROVIDED AS REQUIRED

BY BALTIMORE COUNTY ZONING REGULATIONS (SECTION 14-285)

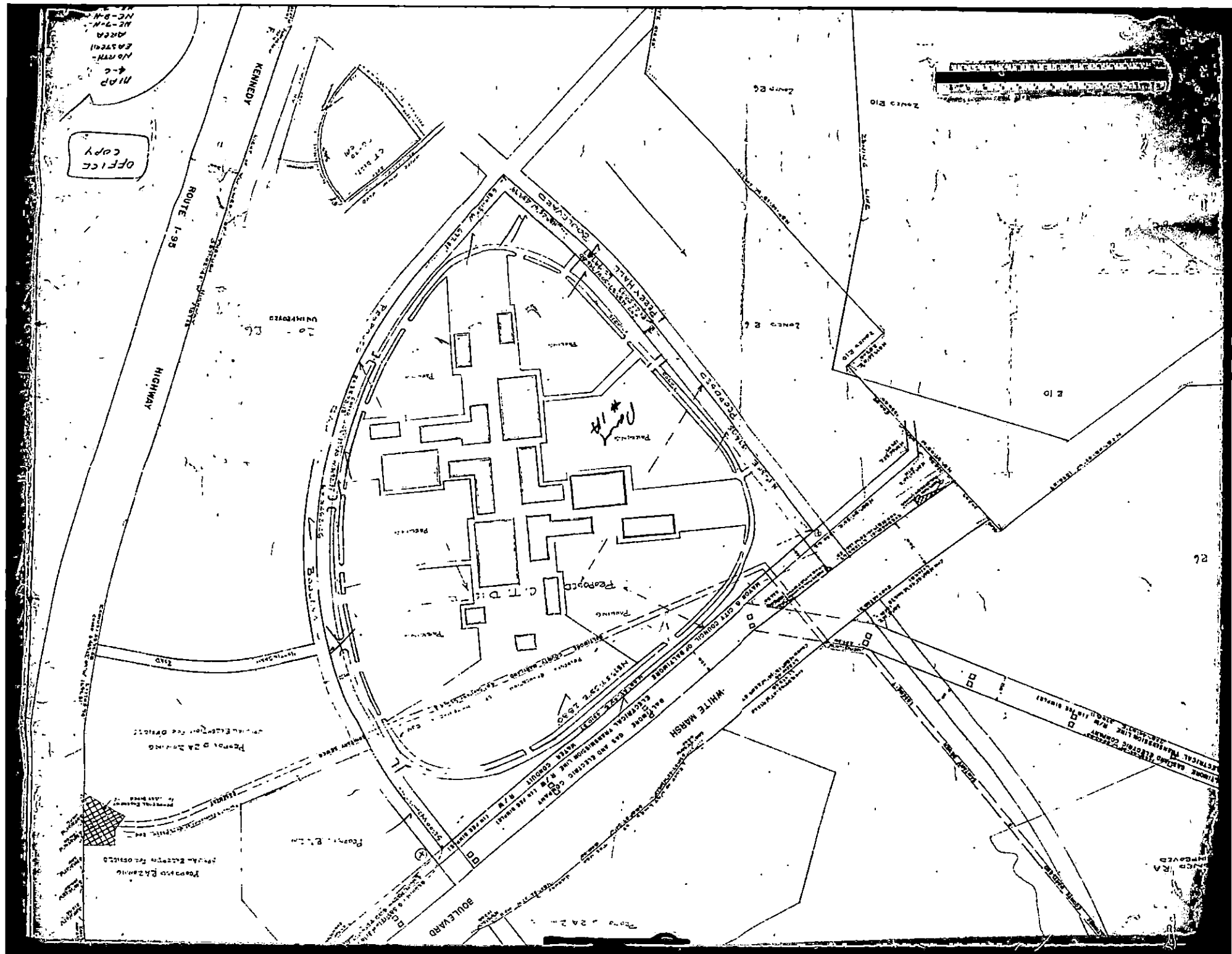
NOTE: THE GEOMETRIC DESIGN AND DETAILS
OF THE PAVING OF DRIVEWAYS AND
PARKING DRIVEWAYS AND THE
INTERSECTION WITHIN THE PLANNED
SHALL BE DEVELOPED AS FINAL TRAFFIC
STUDIES ARE COMPLETED ON
THESE FACILITIES AND FINAL STATE
AND COUNTY DESIGN OF THESE DRIVEWAYS
BEINGS.

OFFICE
COPY

MAP
4-C
NORTH-
EASTERN
AREA
NE-7-A
NE-8-A
NE-9-A
NE-10-A
CT-215
B01

71-175R
DIST.
MAP
4-C
CT

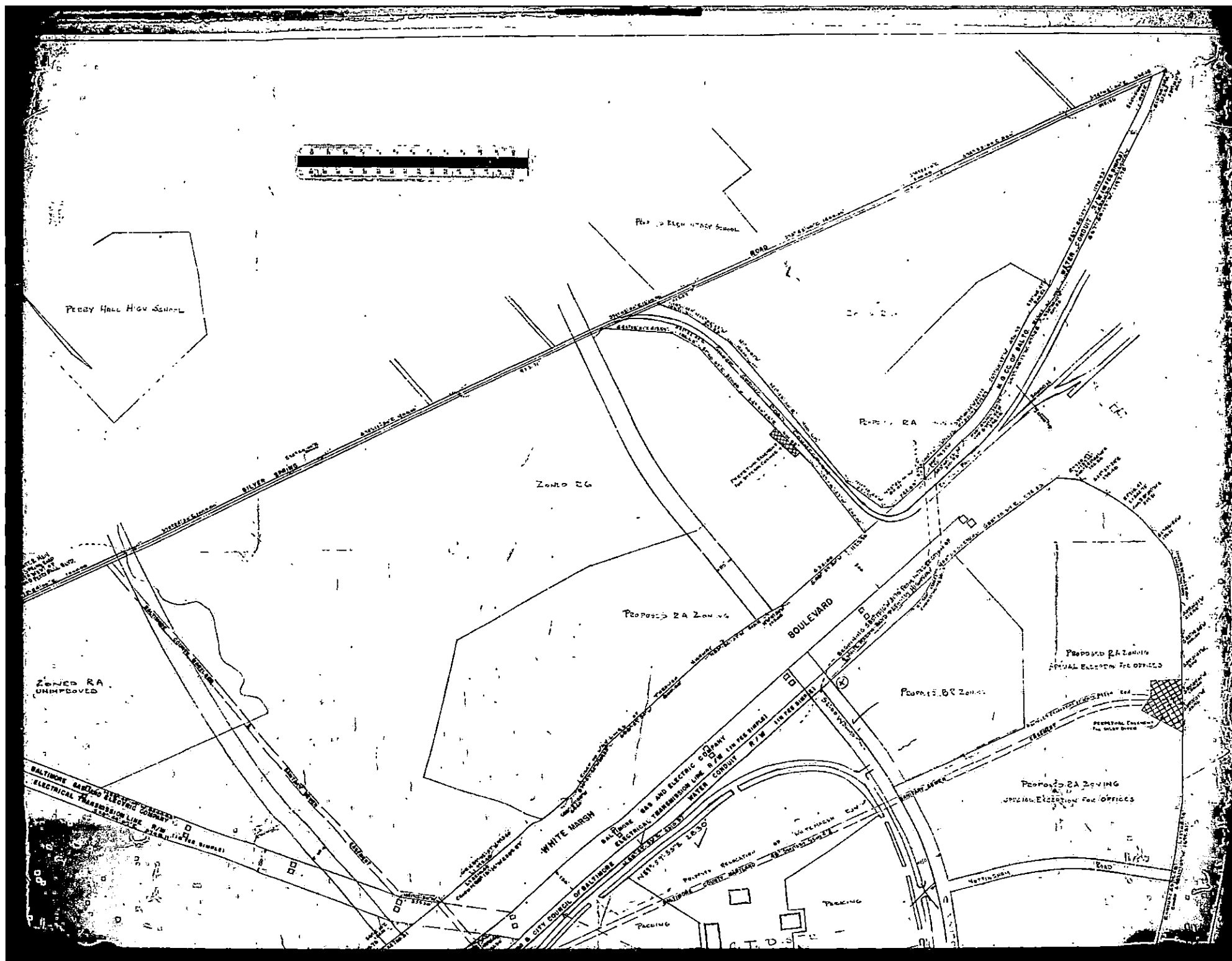
SCALE: 1" = 200' JANUARY 12, 1970
DOLLERS BROTHERS
SURVEYING & CIVIL ENGINEERS
705 WASHINGTON AVENUE
TOPEKA, KANSAS



OFFICE
COPY

MAP
4-C
NO. 100-
603701
AREA
NE-7-A
NC-B-4

SECRET



PETITION FOR ZONING RECLASSIFICATION

TO THE ZONING COMMISSIONERS OF BALTIMORE COUNTY.

I, or we, **BOTTINGHAM VILLAGE, INC.**, of the County of Baltimore, Maryland, do hereby petition and request that the zoning classification of the property described in the attached description be changed from its present zoning classification of **RD-5-A (10-60)** to **CC District (Parcel 41) and CC District (Parcel 42) and CC District (Parcel 43) and CC District (Parcel 44)**.

For error in the zoning classification of RD-5-A placed on the zoning map, such error appears more fully in the memorandum filed herewith.

See attached description

Property to be placed as provided as prescribed by zoning regulations.

I, or we, agree to pay expenses of above reclassification and pay special exception advertising, printing, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law of Baltimore County.

BOTTINGHAM VILLAGE, INC.
 General manager
 102 N. Pennsylvania Ave.
 Baltimore, Maryland 21204

W. Lee Thomas, Jr.
 President's Attorney
 102 N. Pennsylvania Ave.
 Baltimore, Maryland 21204

Address: 102 N. Pennsylvania Ave., Baltimore, Maryland 21204

ORDERED BY THE Zoning Commissioners of Baltimore County, on the 17th day of January, 1972.

Attest: **Eric Dillman**
 Zoning Commissioner of Baltimore County

Attest: **Eric Dillman**
 Zoning Commissioner of Baltimore County

Attest: **Eric Dillman**
 Zoning Commissioner of Baltimore County

Attest: **Eric Dillman**
 Zoning Commissioner of Baltimore County

PETITION FOR ZONING REDISTRICTING

TO THE ZONING COMMISSIONERS OF BALTIMORE COUNTY.

I, or we, **BOTTINGHAM VILLAGE, INC.**, of the County of Baltimore, Maryland, do hereby petition and request that the zoning classification of the property described in the attached description be changed from its present zoning classification of **RD-5-A (10-60)** to **CC District (Parcel 41) and CC District (Parcel 42) and CC District (Parcel 43) and CC District (Parcel 44)**.

To allow Parcel 41 to be developed as a commercial core to serve the area and to allow parcel 42 to be utilized for vehicular oriented uses.

Property to be placed as provided as prescribed by zoning regulations.

I, or we, agree to pay expenses of above reclassification and pay special exception advertising, printing, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law of Baltimore County.

BOTTINGHAM VILLAGE, INC.
 General manager
 102 N. Pennsylvania Ave.
 Baltimore, Maryland 21204

W. Lee Thomas, Jr.
 President's Attorney
 102 N. Pennsylvania Ave.
 Baltimore, Maryland 21204

Address: 102 N. Pennsylvania Ave., Baltimore, Maryland 21204

ORDERED BY THE Zoning Commissioners of Baltimore County, on the 17th day of January, 1972.

Attest: **Eric Dillman**
 Zoning Commissioner of Baltimore County

Attest: **Eric Dillman**
 Zoning Commissioner of Baltimore County

Attest: **Eric Dillman**
 Zoning Commissioner of Baltimore County

Attest: **Eric Dillman**
 Zoning Commissioner of Baltimore County

CONGOLIN, STEINBERG, SCHULMAN & HARRIS
 Attorneys at Law
 102 N. Pennsylvania Ave.
 Baltimore, Maryland 21204
 Phone: 777-1111
 Telex: 777-1111

January 11, 1972

The Honorable Eric Dillman
 Zoning Commissioner for
 Baltimore County
 County Office Building
 Towson, Maryland 21204

Re: Petition for Reclassification & Redistricting
 22 corner of Interstate 95 & Nottingham Village
 11th and 12th Streets - Nottingham Village
 Inc. - Petitioner
 No. 72-50-5 (10-60 No. 16)

Dear Mr. Dillman:

On behalf of James T. French and Ella R. French, 9139 Covention Avenue, Perry Hall, Maryland, and Harry Tate, Cockrell Island, Whitman, Maryland, please enter an appeal to the County Board of Appeals from the County Office of the Zoning Commissioner, dated December 27, 1971, and the amended order dated December 27, 1971, for the sum of Seventy Dollars (\$70.00) is enclosed, representing payment of the fee for this appeal.

Very truly yours,

Eric Dillman
 Zoning Commissioner

cc: **Eric Dillman**

cc: **Eric Dillman**

cc: **Eric Dillman**

cc: **Eric Dillman**

cc: **Eric Dillman**

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FRANK E. CROOK
 Attorney at Law
 102 N. Pennsylvania Ave.
 Baltimore, Maryland 21204
 Suite 411 Jefferson Bldg.
 January 14, 1972

Mr. E. Eric Dillman
 Zoning Commissioner
 County Office Building
 Towson, Maryland 21204

RE: Nottingham Village, Inc.
 Case No. 72-50-5

Dear Mr. Dillman:

Please note an appeal to the Board of Appeals for Baltimore County in the above-subject case from the Zoning Commissioner's Order of December 17, 1971 and also from the Zoning Commissioner's amended Order dated December 27, 1971. This appeal is being taken on behalf of my client, Ralph D. Batts, 2019 Philadelphia Road, Baltimore, Maryland, 21204.

I am enclosing herewith my check number 1478 in the amount of \$70.00 to cover the cost of the appeal.

Very truly yours,

Frank E. Crook
 Attorney for Appellant

TEC:ha

Encl.

cc: **Eric Dillman**

cc: **Eric Dillman**

cc: **Eric Dillman**

cc: **Eric Dillman**

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DOLLEBERG BROTHERS

General Manager of Land Survey

102 N. Pennsylvania Ave.

Baltimore, Maryland 21204

April 9, 1972

Continging 77.40 acres of land more or less.

Being a part of the land of the petitioners herein as shown on a plat filed in the office of the zoning department.

Attest: **Eric Dillman**
 Zoning Commissioner

Attest: **Eric Dillman**
 Zoning Commissioner

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 Zoning Commissioner

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Attest: **Eric Dillman**
 Zoning Commissioner

DOLLEBERG BROTHERS

General Manager of Land Survey

102 N. Pennsylvania Ave.

Baltimore, Maryland 21204

April 9, 1972

Continging 77.40 acres of land more or less.

</

1. PETITION FOR RECLASSIFICATION
from D.R. 5.5 zone to M.L.R., B.R.,
D.R. 16 and B.M. zones, and for
C.S.A. and C.S.A.A. Districts
SW corner Interstate 95 and
White Marsh Boulevard
17th and 18th Districts
Northeast Sector
Norttingham Village, Inc.
Petitioner

2. BEFORE
COUNTY BOARD OF APPEALS
FOR
BALTIMORE COUNTY
No. 72-50-R

OPINION

This case comes before the Board on an appeal by the Petitioner from an Order of the Zoning Commission dated December 17, 1971 granting the petitioned reclassification in zoning. The subject property is a four hundred thirty-two acre tract located on the southwest corner of Interstate 95 (John F. Kennedy Expressway) and White Marsh Boulevard, in the 17th and 18th Election District of Baltimore County, Maryland, in the section known as "White Marsh".

The existing zoning of the 432 acres is D.R. 5.5 (Density Residential, 5.5 dwellings per acre). The Petitioner, Norttingham Village, Inc., et al., seeks to have the D.R. 5.5 zoning reclassified to the following zoning:

Parcel 1	170.04 acres	to a Balance Major (B.M.) zone, and from an undistricted to a Commercial, Town Center Core (C.T.C.) District
Parcel 2	21.20 acres	to a Balance Residential (B.R.) zone, and from an undistricted to a Commercial Supporting Area (C.S.A.) District as 14.20 acres within Parcel 2, and being identified as Parcel 3
Parcel 3	77.40 acres	to a Manufacturing Light Restricted (M.L.R.) zone
Parcel 4	163.36 acres	to a Density Residential 16 D.R. 16 zone
Total:	432.0 acres	

Each of the above noted five parcels are described by metes and bounds in the zoning descriptions prepared by Dillenberg Brothers, dated April 9, 1971, and are part of zoning file No. 72-50-R, which is in evidence as Petitioner's Exhibit 1. The parcels are also shown outlined on the plan accepted in evidence as Petitioner's Exhibit

Norttingham Village, Inc. - No. 72-50-R

2. No. 2 and 12.

Petitioner's Exhibit No. 13 indicates that the Petitioner owns a total of 929.081 acres. There was testimony from Mr. R. McLean Campbell, President of Norttingham Village, Inc., that time with which he is familiar over 1500 acres in this locality. All tracts are contiguous to each other. However, only 432 acres of this total are the subject of this appeal.

To initiate the Zoning Commission's Order, it is the Petitioner's burden in this proceeding to show that the members of the Baltimore County Council acted by zoning the subject property D.R. 5.5 when they adopted the Comprehensive Zoning Map for the area on March 24, 1971 (Zoning Map 4-C). In pursuing this objective, the Petitioner presented testimony which revealed that Norttingham has owned the subject property since 1962, during which time it was leased to the Henry T. Campbell & Sons Corporation. This firm conducted a quarrying operation by mining sand and gravel from the site. During the period no other development or use of the site was possible. However, the terms of the lease provided that as the minerals were depleted, the affected area would be freed from the leasehold. Some of the subject land now has been freed, and all of it could be freed upon its owner's notice, thereby permitting other use of the property for the first time in fifty years. Mr. Campbell related the history of the subject tract, and stated that about ten years ago, in anticipation of the eventual termination of the mineral lease, he began to question what would be the best possible future use of the site for the company and the general welfare. To obtain an answer to this, the Petitioner hired some of the best available professional consultants to make in-depth studies of the problem and to present their recommendations, freely entered into, to the Petitioner.

The economic consulting firm of Larry Selick and Company initiated the first study. Subsequently, in 1968, on their advice, the Petitioner engaged the engineering firm of Gruen and Associates to make further detailed studies and specific plans for a balanced type development on the 930 acres owned by the Petitioner. Concurrently working in the study, the Petitioner hired other consultants, including the firm of Whitman Research & Associates and John Funk & Associates, to solve technical problems in specialized disciplines

Norttingham Village, Inc. - No. 72-50-R

for developing adequate road and utility services. The resulting balanced type plan that was prepared included recommendations to the effect that in addition to housing and office there is a great need for commercial services in the northeast section of the County and a strong support a regional shopping center on the subject site. To this end, the Petitioner sought out the services of the Jones House Company because of its expertise in commercial development and as a potential lease and developer for the 170 acre tract in Parcel 1. The Jones Company liked the proposition and it became involved in plans to develop and lease an ultramodern regional shopping center which would be constructed on an enclosed mall and contain department stores, as well as other retail stores and office space. Jones further recommended that roadside services be developed which, among other services, would include a motel.

In May of 1969, armed with their research data and technical reports, Mr. R. McLean Campbell and Mr. P. Douglas Dillenberg, President and Vice President respectively of Norttingham Village, Inc., presented the plans to Baltimore County governmental authorities to solicit their cooperation, approval and guidance in order to implement their plan. They met with Mr. George Gowers, Director of Planning for Baltimore County, his Deputy Director, Leslie Graef, and other Planning Department professional staff members, thereby initiating a series of meetings for lengthy and thorough discussions regarding the proposed plans for the subject property. These meetings were expanded to include other Baltimore County department heads and personnel, such as Mr. Albert Kellenbach, Director of Public Works, Mr. Eugene Clifford, Director of Traffic Engineering, and others in the discussion. At all times the Petitioner made his experts available to the County authorities for detailed consultations regarding the proposed plans and to solve any problems which might arise. Subsequent testimony indicated that the proposals submitted by Norttingham were well received by the County planners, as being sound and desirable land use planning practices, but with some reservation as to the time (1969) as to the proposed being perhaps premature.

However, considering that there would be necessity for stages of construction commensurate with the availability of facilities, the Planning Director advised the Planning Board to make recommendations on the Northeast Comprehensive Zoning Map then

Norttingham Village, Inc. - No. 72-50-R

being reviewed, that would give Norttingham the proceeds by zoning substantially as recommended, to permit the development of the subject property. The Planning Board followed this advice and further recommended in their Preliminary Guide Plan Report (Petitioner's Exhibit No. 4, page 12, dated September 10, 1970) that the area be designated a Town Sector Center. The Planning Board member signed a recommended zoning map on November 19, 1970 (see Petitioner's Exhibit No. 5) and forwarded it to the Baltimore County Council as required by law, for its review, public hearing, possible changes and ultimate adoption. The County Council members signed and passed into law a new set of zoning maps for the entire County on March 24, 1971, including Map 4-C embracing the Norttingham property. However, in doing so, they failed to follow the recommendations of the Planning Board regarding Norttingham which were set out in the Log of Issues (Petitioner's Exhibit 11, Item NE 12), and assigned instead a D.R. 5.5 zoning category to the entire subject property.

Thereupon Norttingham sought to overturn the Council's action by filing a zoning petition with the Baltimore County Zoning Commission in the first zoning cycle, April-October, 1971, following the adoption of the new zoning map. In this administrative process, the Planning Board reversed the picture and proposed recommendations to the Zoning Commission, as required by law. (See Petitioner's Exhibit No. 6, Item 16). In their comments, the Planning Board members again supports "the petition, but with some modification, by recommending that the petitioned 163.36 acres to D.R. 16 be granted on only 77 acres, that D.R. 5.5 be retained on the remainder, and that the portion of the tract for which B.R. - C.S.A. zoning was requested should instead be zoned M.L.R. The Planning Board considered its recommendations by zoning.

"The Board believes that this area of the County requires a strong center to serve the needs of the people and to generate additional growth; and, further, that development of this town center and large office complex will generate work growth."

After hearing the case, the Zoning Commission granted the entire petition, whereupon the Petitioner appealed, which is the instant case.

The Board of Appeals, hearing the case de novo, heard nineteen hours of testimony spread over seven days; accepted forty-five exhibits into evidence; received a twenty-eight page memorandum of law and fact from the Petitioner's counsel; and re-

Norttingham Village, Inc. - No. 72-50-R

ceived a lengthy response from Petitioner's counsel which incorporated the Maryland Court of Appeals' decision in Norttingham v. Baltimore County. All of this has been carefully considered by the Board. The Petitioner and his witnesses were conducting in their testimony to the Board and without the creative of Petitioner's counsel, as well as answering questions from the Board. Much of their present testimony, they stated, was initially the same information given previously over the years to the County Planners, department heads, the County Council and the Zoning Commission. The Zoning Commission, in its Order, clearly and succinctly summarized the major points of the Petitioner's testimony and that of his experts. For the sake of condensing this lengthy appeal to the testimony, which for the most part was repeated to the Board, only will be considered here. It may be well to point out that due to the scope of this case before the Zoning Commission, it was stated that the probable fruition of new road construction in the future is much closer at hand than heretofore, as supported in expert testimony given by Mr. John Funk, Petitioner's traffic and road engineering consultant.

It was Mr. Funk's opinion that the proposed network of roads would be adequate and would be constructed timely to handle all of the traffic which is anticipated to be generated by the proposed development.

Mr. Thomas Schuler, chief engineer of Whitman Research & Associates, testified that sewer and water utilities are sufficient and could be reinforced with proper interconnecting of several systems to satisfy the needs of the proposed without adversely affecting the surrounding area.

Mr. Jerome J. Michaels, economist, real estate consultant and Vice President of Larry Selick & Company, presented from his own study that the proposed is feasible, that it constitutes good planning and land use, and that it is needed now even in the face of other existing and emerging competitive projects. Twenty-four hundred apartments could be constructed and some office space is planned.

Mr. Stephen Shuler, development director and Vice President of White Marsh Mall, Inc., a wholly owned Jones Company subsidiary, was also responsible for the commercial development. He testified that construction of one and one quarter million square feet of commercial floor space is proposed for use by four department stores and one

Norttingham Village, Inc. - No. 72-50-R

hundred twenty-five to one hundred fifty small retail stores. Construction would be phased over a period of five to eight years.

Mr. Crawford Wachtel, Director of Planning and Vice President of Gruen & Associates, stated that he had consulted all of the independently arrived at findings of the other professional consultants into the recommended comprehensive plan for the subject property, and that throughout the study the Petitioner's goal was to propose a development that would be in accordance with the County planners' own guidelines for a Town Sector Center, which criteria he feels is fully satisfied in this proposal.

Each consultant who testified for the Petitioner stated that in his opinion the County Council had, in fact, acted by zoning the property D.R. 5.5.

The Petitioner, uniquely, has the support of the neighboring Improvement Association, whose members live in a development adjacent to the subject. Their spokesman and representative, Mrs. Ann C. Conroy, so testified, and submitted into evidence a written resolution stating the Association's position in the matter. (Petitioner's Exhibit No. 17). Also, Mr. Wade Cannell, President of the Larry Hill Improvement Association, which organization originally had prepared the petition when it was before the Zoning Commission, now testified that many members have changed their attitude and are in favor of the petition. Therefore, upon recommendation of their officers, the organization decided not to appeal the Zoning Commission's Order granting the petition.

The protesting appellants in this proceeding narrowed down to Mr. James J. French, his wife, and Mr. Harry Tate. Mr. Tate, although summoned by the Petitioner, failed to make an appearance before this Board, or to testify. Mr. and Mrs. French were called upon by the Petitioner's counsel to testify as adverse witnesses. Testimony revealed that they had very limited knowledge of what the Petitioner was requesting or of the nature of the proposed development plan. They could not see the site from their home, nor did they know its general boundaries. They mainly objected to any development in the vicinity because they were fearful that traffic congestion, air pollution and people pollution would result, thereby causing a change in the character of the neighborhood. They were also fearful of the possibility of increased flooding in the area from storm drainage.

Norttingham Village, Inc. - No. 72-50-R

Mr. Bernard Williams, a reputable land planner, testified on behalf of the Protestants. Mr. Williams has extensive knowledge of the subject property and is thoroughly familiar with the many problems relative to the site planning, including the providing of utilities, streets and other services. He recognized and respected the expertise of the Petitioner's consultants but was unaware that many of the questions which he raised wherein he testified that the large scale of the subject proposed calls for examination in detail of the entire utilities systems had, in fact, been covered in earlier testimony by Petitioner's expert witnesses. Mr. Williams had studied the subject site in 1957 for feasibility of developing it as a first class industrial park, but due to lack of sewerage services then and because of the encroachment of the mining lease, the plan could not be implemented at that time. He feels strongly that such a concept is still correct. He further acknowledged that apartments are needed in the area and that the petitioned use may be the best ultimate use of the property, but not at this point in time.

The Board believes that Protestants' objections are without foundation except the Board shares their deep concern and fear of the possibility that the development may generate periodic flooding conditions across highways downtown. However, there was testimony that even if such could be constructed on the site to impound excessive runoff of storm water and thereby control its runoff downstream, if government authorities would require such provisions before approving a site development plan.

The Board believes the Petitioner's plan has been carefully developed. The efficacy of the entire tract's utility and testimony bears out that a comprehensive development plan, compatible with the general land use and with the land use goals of Baltimore County, has been well thought out, properly planned, and given consideration to the common needs in the Northeast Sector of Baltimore County. The plan for the site satisfies the criteria for guiding the zoning and districting which is required.

The Board is convinced, in view of all of the facts which were presented in testimony and evidence, that the Petitioner has overcome the burden of proving that the County Council acted in placing the subject in D.R. 5.5 zoning when it adopted the Comprehensive

Norttingham Village, Inc. - No. 72-50-R

Zoning Map on March 24, 1971. Therefore, for the reasons cited and after carefully reviewing and considering all the testimony and evidence presented, the Board hereby affirms the Order of the Zoning Commission dated December 17, 1971 and amended December 27, 1971, and hereby grants the requested petition.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 15th day of January, 1972, by the County Board of Appeals, ORDERED that the petitioned for reclassification be and the same is hereby GRANTED.

From a D.R. 5.5 classification to

Parcel 1	170.04 acres	to a Balance Major (B.M.) zone, and from an undistricted to a Commercial, Town Center Core (C.T.C.) District
Parcel 2	21.20 acres	to a Balance Residential (B.R.) zone, and from an undistricted to a Commercial Supporting Area (C.S.A.) District as 14.20 acres within Parcel 2, and being identified as Parcel 3
Parcel 3	77.40 acres	to a Manufacturing Light Restricted (M.L.R.) zone
Parcel 4	163.36 acres	to a Density Residential 16 D.R. 16 zone
Total:	432.0 acres	

Each of the above noted five parcels are described by metes and bounds in the "Zoning Descriptions" prepared by Dillenberg Brothers, dated April 9, 1971, said zoning descriptions being attached hereto and made a part of this Order.

Any appeal from this decision must be in accordance with Chapter 1700, Article 8 of the Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

John A. Smith, Chairman
W. Allen Jones
Walter A. Reiter, Jr.

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The granting of this petition should not be detrimental to the health, safety, and general welfare of the surrounding area. Furthermore, the Comprehensive Zoning Map, as adopted by the Baltimore County Council, is presumed to be correct, and the

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28 April 1969: County Office of Planning and Zoning re-

issues "1960 Ordinance," a county-wide

master plan in preliminary form.

2 June 1969: County Council passes Bill No. 72, direct-

ing Planning Board to prepare county-wide

zoning map or maps.

Summer, 1969: Planning Board divides county into five

sectors and prepares Master Plans and Com-

prehensive Zoning Maps for each. Nottingham

trust was in Northham Sector.

11 October 1969: Public presentation by Planning Board of pro-

posed Plan and Map for Northham Sector. In

area; increase in R-1 zone, remainder R-2

recomended for Nottingham trust.

4 November 1969: Public hearing before Planning Board on

Northham Sector Map. Nottingham requests

2A, 10A, 20A-C and B-6 zoning previously de-

scribed.

January 1970: Planning Board approves Map for Northham

Sector, granting portions of 2A, 10A and 20A

zoning requested by Nottingham.

County 1970-1971: Council delays consideration of map pending

amendment of Zoning Regulations and adoption

of procedure for consideration of 20A, 2A

Resolution No. 3 and Bill No. 72, re-

spectively.

3 August 1970: Passage of Council Bill No. 100, amending

Zoning Regulations of Bill No. 100, setting

Planning Board release revised 1960 sub-

plan, Center Master Plan and Zoning Map for

Northham Sector. Nottingham trust classified

in 15 (residential) 16 dwelling units per acre,

a statutory equivalent of R-1; 20A-C, and

in 5.5 (a statutory equivalent of R-6); open-

space and business zones larger than those

on February 1970 map.

8 October 1970: Public hearing on 1960 Ordinance for County,

Sector Master Plan and Comprehensive Zoning

Map for Northham Sector. Nottingham re-

quests all districts (commercial, supereing

area) for part of land owned by

Planning Board submit final report and

Zoning Map to County Council. Recommended

for Nottingham trust were 10A, 15, 16, 20A-C,

20A-C, 147 acres; 12A (unimproved light,

residential), 77 acres; 20A, 18 acres, and

in 5.5, 198 acres.

18 January 1971: Public hearing on Zoning Map for Northham

Sector before County Council. Nottingham

requests request for all districts in part of

in zone.

27 March 1971: Second hearing before County Council on

Zoning Map for Northham Sector. Per first

time, two property owners protest against

Nottingham zoning.

24 March 1971: Zoning Map for Northham Sector, placing all

of Nottingham trust in 20A, 15, 16, 20A-C, placed

by County Council, Council Bill No. 31.

County to use leading questions in interrogating

members of the Court Council.

Baltimore County Code (1968, as amended) (the County

Code) Title 22, § 22-2 provides, in part:

"22-2. (a) After the County Council has received a final report

of the Planning Board recommending adoption of any zoning

or other public hearing thereon, and after the Council

has held at least two public hearings on the proposed

plan, the Council may, at any time, adopt or amend the

plan, or may refer the plan to the Planning Board for

further study and report. The Council may also, at any

time, refer the plan to the Planning Board for further

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"This Court is persuaded that application of these rules of law to the evidence requires rejection of complainants' contention that County Council's actions were products of the unlawful delegation of power.

"It is urged upon the Court that these Council actions were in fact the sole product of actions by a single councilman. This alone simply does not warrant, justify or compel such a conclusion. The councilman testified in visitations to the sites of all or substantial interests, properties set forth on the 'bus lists'; every councilman thereafter testified in the series of hearings that followed the preparation of the 'final lists', and every councilman participated in and were

County Code § 20-23.1 referred to in the opinion of the court below, as amended and re-enacted by Council Bill No. 42, as passed on 4 May 1970, required the Council to adopt, with such revisions as it might properly make, the county-wide Zoning Map recommended by the Planning Board. This requirement extended only to the Zoning Map, and it did not, as Nottingham would seek to imply, at variance with § 503 of the Charter, which requires Council approval of Zoning Maps adopted by the Office of Planning and Zoning. This requirement was met by the passage of Council Bill No. 31.

Nottingham and House next argue that the Zoning Map adopted when Bill No. 31 was passed on 24 March 1971 is invalid because it was not made in accordance with a comprehensive plan. To buttress this argument, they say that County Code, Title 22, § 22-18 requires that "... zoning maps and regulations shall be made in accordance with a comprehensive plan." The comprehensive plan they equate with the Master Plan provided for elsewhere in the County Code.

While it is true that other jurisdictions have by statute required that zoning ordinances be in accordance with the master plan, Haar, in accordance with a Comprehensive Plan 68 Harv. L. Rev.

We hold, therefore, that the passage of the Zoning Regulations on 3 August 1970 and the adoption of the Zoning Map on 26 March 1971 after the 1980 Guideplan had been presented and considered, could not be challenged as an invalid exercise of legislative authority because there had been no formal adoption of the Master

A typical example of this qualification occurred when Nottingham and House called members of the County Council as adverse witnesses by virtue of the provisions of Maryland Code (1957, 1971 Annotated Edition), Art. 35, § 9. On cross-examination, the court overrules objections taken to leading questions asked by the County solicitor, apparently because the questions only sought to adduce summaries of testimony already given on direct examination, which the County solicitor wished to emphasize. In its ruling from the bench, the court reasoned:

We feel compelled to apply the teachings of our predecessors which, in analogous situations, have considered the allowance of leading questions and held it to be within the court's discretion. Stoner v. Lovibind, 70 Md. 124, 160-161, 16 A. 440 (1889). In Pronsfeller v. State, Wes Carroll Co., 66 Md. 60, 68, 5 A. 410 (1886) we held that leading questions "... may be properly used for

One final question remains. The County moved to dismiss the appeal on the ground that Nottingham and House had not exhausted their administrative remedies and are in fact pursuing an appeal from an adverse ruling of the Belmonte County Zoning Commission, relying on Keyes v. Chief of Fire Bureau, 237 Mo. 583, 207 A.2d 267 (1965). Nottingham and House counter with the contention that when there is a constitutional attack upon the general validity of the applicable statute (here, the contention that Bill No. 31, adopting the Zoning Map was not enacted in compliance with a Charter provision requiring the Council to act as a body), failure to exhaust administrative remedies is not available as a defense. He thinks this point is well taken, Richards Realty v. Whittier, 226 Mo. 273,

280-261, 173 A.2d 196 (1961); *Schneider v. Pullon*, 358 Md. 64, 68-69, 31 A.2d 225 (1951); *Bracke v. Weinberg*, 197 Md. 339, 343-350, 79 A.2d 387 (1951) and see *Williams v. Loyola College*, 237 Md. 316, 335, 263 A.2d 5 (1971).

NOTION TO DENY HONORARY DESIGN
APPEALS, COURT TO BE MADE BY
APPEALS.

NOTTINGHAM VILLAGE, INC., et al. RECLASSIFICATION AND REDISTRICTING PETITION, 5/7 and 5/8 corner, Interstate 95 and White Marsh Boulevard, 11th & 12th Districts - North-east Sector Case No. 72-50-8

MEMORANDUM OF LAW AND FACT

The principal test of whether a tract of land in Maryland should or should not be rezoned was first set forth in *Bracke v. Weinberg* (District) 197 Md. 339 (1951) and in *Wahfield v. Kraft*, 202 Md. 135, 141 (1951). The rules established by these and by numerous later cases place upon Petitioners the burden of proving that the original zoning of the tract was arbitrary, capricious, discriminatory or illegal. The Petitioner must also rebut the presumption that the original zoning was well planned and designed to be permanent. In *Wahfield*, at 141, it was stated: " * * * it must appear, therefore, that either there is a mistake in the original zoning or that the character of the neighborhood has changed to an extent which justifies the remedial action." If such mistake or change is proven then the presumption is rebutted and "reclassification must be granted."

The County Board of Appeals has discretion in determining whether to justify zoning reclassification and its findings will not be reversed by the Courts unless such findings are considered "clearly erroneous" by the Courts. *Flanery v. Hall*, 241 Md. 224 (1961).

Proof presented to the zoning body (such as this Board) may, however, be so strong as to require the zoning body to grant the rezoning sought. In such case if the zoning body neglects its duty and denies rezoning contrary to the evidence in the case, the

NOTTINGHAM VILLAGE, INC. et al. v. BALTIMORE COUNTY BOARD OF APPEALS. Case No. 72-50-8. 11th & 12th Districts - North-east Sector.

REPORT THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY Case No. 72-50-8

Courts will reverse the zoning body.

In the case of *Board of County Commissioners of Prince Georges County, Maryland, et al. v. Oak Hill Farm, Inc.*, 232 Md. 274 (1953), it was definitively stated that a zoning authority may not ignore the facts and base a denial of reclassification on surmise or conjecture. If such is attempted, this arbitrary and capricious action of the zoning authority will require court intervention and a court order to grant reclassification. In *Oak Hill*, the County Commissioners of Prince Georges County, acting as a zoning body, refused to rezone a 21 acre tract of land for high density apartment use. The Circuit Court, upon appeal by the property owner, reversed the action of the County Commissioners. On subsequent appeal by the County Commissioners and aggrieved neighbors, the Court of Appeals affirmed the action of the Circuit Court in directing reclassification. The Court of Appeals made reference to three principal factors:

1. The technical staff of the Planning Commission had recommended denial of apartment zoning;
2. The Planning Commission, after further investigation, rejected the technical staff recommendation and reported unanimously to the Council that it believed the "reclassification of the subject property to the R-10 zone would provide the best possible use of these properties";
3. Acknowledged experts testified as to the strong need for high density land use; that the best use of the land was for high-rise apartments and further, that this use would be in harmony with the planned future development of the neighboring area and would not adversely

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affect the welfare, health, or safety of the Community.

The Circuit Court found that "the technical staff report has no real merit in opposing the rezoning," and that such staff report was contrary to the evidence in the case and dealt largely in abstractions without meaningful specifics. The Court further found that the Planning Commission, in possession of more specific information, had properly rejected the report of its own technical staff and had properly recommended to the zoning authority that the reclassification be granted. The zoning authority's subsequent refusal to accept that recommendation was clearly erroneous in that by so doing, they acted against the weight of the evidence. Such action by the zoning authority was unsupported by substantial evidence and was, therefore, arbitrary and capricious. The Court of Appeals agreed with the Circuit Court's finding of unavailability of evidence and with its conclusion that the Council's action was arbitrary and capricious and reclassification was directed.

The parallel between *Oak Hill* and the instant case is obvious. The principal difference is that in *Oak Hill* some minor justification for the zoning authority's negative action would be found in the negative technical staff report while in the instant case there is no justification to be found anywhere in the record for the negative action of the Baltimore County Council in ignoring Petitioners' request.

In the case of *Boyley, et al. v. Hospital for Consumptives of Maryland, et al.*, 246 Md. 197, reclassification of a tract of land in Baltimore County, Maryland was granted by this Board and affirmed by the Baltimore County Circuit Court and by the Maryland Court of Appeals. The underlying reason for reclassification was, in part, error on the part of the County Commissioners (then the

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zoning authority) in that the zoning classification in which they placed the property was inconsistent with the circumstances and with the knowledge that the County Commissioners had, or had available to them, at the time of classification.

In the instant case, there appears a more compelling example of inconsistency in that all evidence presented or available demands classification in accordance with Petitioners' request. In *Boyley*, the findings of the Circuit Court for Baltimore County as adopted by the Court of Appeals, were that "there was a lack of careful consideration for this particular property at the time of the adoption of the map; and certainly that there was no consideration of it in the light of Goucher Boulevard as it came to be laid out." The same lack of careful consideration underlying the *Boyley* decision is manifestly evident in the case at issue.

The case of *Burkovich, et al. v. Doubt, et al.*, 258 Md. 743 (1959) considered in general the question of mistake in original zoning and recited the rationale underlying the doctrine of mistake. The Court stated at page 219: " * * * when we consider the question of mistake we consider the 'batter of whether or not the Council made a basic and actual mistake as that term is used in zoning law, at the time when it classified the property * * *'. The Court further laid down the rule that " * * * one of the main concepts of zoning * * * is that there should be a comprehensive, long-range view of the entire area." The County Council in our White Marsh case has obviously not followed this "basic concept" of zoning and, in fact, its action results in the tearing asunder and destruction of the entire concept. The Council's action ignores the Sector Center designation placed on the Petitioners' tract by the Planning Board and planning authorities and thus would locate all long-range planning for the entire area as established by the

Baltimore County Department of Planning and Zoning and by the Baltimore County Planning Board. The inevitable result of the Council's capricious action would be that the residents of that area of the county would be denied an effective Sector Center, would be denied needed shopping facilities, and high density residential facilities, and that all such results would be in contravention of the well established long-range, comprehensive plans made for the area by all of the Planning and zoning experts and authorities employed by Baltimore County primarily to ensure proper long-range comprehensive development of the County.

We respectfully submit that not only the overwhelming evidence but all evidence presented favors and requires the classifications requested here by Petitioners and, further, that the Petitioners have (A) proven error in original zoning; (B) rebutted the presumptions of reasonableness and permanency of the original U.S.5 zoning of the subject tract; and (C) shown clearly that the reclassification is in the public interest and is in complete accordance with the long-range planning concepts of the Baltimore County Planning and Zoning authorities.

A. Proof of original error is overwhelming and uncontradicted.

The Court of Appeals has often recognized that the same factors may constitute both error and change and that it is often not necessary and, in fact, sometimes impossible, to differentiate between the two. *White et al. v. County Board of Appeals of Al.*, 219 Md. 136 (1958). Changing trends and failure to foresee or provide for population increase are recognized as a foundation for rezoning in Maryland. *West Ridge, Inc. v. McGinnis*, 232 Md. 448 (1940); *Hodges, et al. v. Trustees of the Sheppard and Froeh Hospital, et al.*, 246 Md. 794 (1947). In order properly to examine the action of the Baltimore County Council in erroneously

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classifying the subject tract as U.S.5, we must first not only to the evidence that was available to aid the County Council but we must also look to the County Council's failure to use or consider such evidence.

The evidence available was in substance the same evidence presented to the staff of the Baltimore County Department of Planning and Zoning, to the Zoning Subcommittee of the Baltimore County Planning Board, to the Baltimore County Planning Board, to the Baltimore County Zoning Commissioner at the hearing of September 3, 1971, to the area residents of the Parry Hall and Nottingham Improvement Associations and to this Board. Although obviously, the facts presented to each of these entities vary in small detail, in sum and substance, the facts presented to all of the named entities were identical.

Summarized, the facts presented included the following:

1. The Nottingham tract was unavailable for development prior to 1968 - 1969 in that the tract was then under lease to an independent corporation for the extraction of sand and gravel. Only in the 1968 - 1969 period was the subject tract of land depleted of such sand and gravel and, therefore, released from the restraints imposed by the extraction contracts.
2. This large undeveloped acreage owned by the Petitioner had previously acted as a "cork in a bottle" and prevented proper development of the Northeast Corridor between the Kennedy Expressway and Route 1.
3. The Baltimore County technical staff and experts recognized that the availability of a portion of the Petitioner's land for development would remove the artificial "cork" and allow proper development of the corridor. They further recognized that the

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subject tract because of its location, size and characteristics would act as the Sector Center for the entire North-east Baltimore County area.

4. The proposed Sector Center and comprehensive development of the tract is in accordance with all of the comprehensive planning and zoning goals recommended by the technical staff and experts and adopted by the Baltimore County Planning Board as evidenced by the fact that the technical staff and the Planning Board have unanimously and consistently recommended that the classifications requested by Petitioner be granted. In fact, by establishing a Sector Center on Petitioner's land these planning authorities have saved the ultimate development of the entire corridor and area with the establishment of Sector Center facilities at the White Marsh location. The adopted Master Plan (1960 Outlineplan) (Petitioner's Exhibit #18) evidences that the only Sector Center for this area with a population of approximately 220,000 people is the Sector Center placed on Petitioner's land by the Baltimore County Planning Board. Compatibility of a Petitioner's plan with the projected plans of zoning officials and with the reports of planning bodies is recognized as an important element in zoning reclassification requests. Among the numerous cases which so hold are *Hill, et al. v. The Johns Corporation*, 242 Md. 16 (1946); *Suburban Properties, Inc. v. Mayor and Council of Rockville*, 241 Md. 1 (1945) and *Board v. Oak Hill Farm, supra*.

5. Traffic data and information as to access to the site was known to all of the entities set forth above but inferentially such knowledge was either not possessed by or utilized by the County Council. The testimony of John Funk who is one of the foremost, if not the foremost, expert on traffic and roads in the State of Maryland is, in and of itself, sufficient proof beyond any reason-

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able doubt that the proposed Sector Center before completion of construction will be amply served by road networks more than sufficient to handle minimum traffic needs. Mr. Funk's testimony, uncontradicted as that:

(4) As a consultant for the State of Maryland, State Highway Administration, he had the responsibility of preparing and concluding a corridor hearing for the White Marsh Expressway extension from the Kennedy Expressway through the Petitioner's land and to U. S. Route 1 (and ultimately to Perring Parkway). His testimony is that the location of the White Marsh extension to U. S. Route 1 is absolutely fixed first by the reding of rights-of-way by the Petitioner throughout its property and secondly, by selection of an approved corridor after the public hearing required by law. Mr. Funk further testified that under his contract with the State Highway Administration, he will next prepare the engineering drawings for the exact alignment of the White Marsh Expressway following which the contract for actual construction will be let. He explained in fine detail that through a combination of means already allocated by the State, Federal participatory funds and developer's contributions, there was no doubt that funds necessary for construction of this extension of White Marsh Boulevard were available. There was and could be no contradictory evidence presented.

(11) Mr. Funk further testified that he has been retained as a consultant by Baltimore County, Maryland to prepare the necessary road alignment studies and construction details as to the proposed extension of Radecke Avenue between its fixed terminus at the Baltimore County Railway to the South and North of Silver Spring Road to the North. The fact that there is an existing bridge specifically built to carry Radecke Avenue over the Baltimore County Railway and that there has been partial

construction of Radecke Avenue North of Silver Spring Road leaves no doubt that the general route of Radecke Avenue is permanently fixed. Mr. Funk testified that by his report submitted to his employer, Baltimore County, Maryland, the specific location of Radecke Avenue between these fixed termini is also fixed. His testimony further outlined the monetary commitment made by Baltimore County for Radecke Avenue construction and the procedure and timing used by Baltimore County in allocating specific funds for construction. It is important to note that his explanation as to how and when funds are actually utilized is in full conformity with the inevitable procedure of Baltimore County, Maryland in cases of similar road construction. It is further apparent to note that his knowledge of these procedures is unparalleled in that the uncontradicted testimony is that Mr. Funk himself, while serving Baltimore County as Director of the Baltimore County Department of Public Works, established for County use the same subsidiary procedures as to which he testified.

(111) Mr. Funk after being retained by the Petitioner, prepared and presented to Petitioner a plan for the development of Perry Hill Boulevard to serve as a "ring road" around the Sector Center. His plan was not only presented to the Petitioner but presented to and acted upon by Baltimore County, Maryland. His further testimony is that Perry Hill Boulevard is a developer's road and is to be constructed at the entire cost of the developer.

(1v) Finally, Mr. Funk testified that all necessary roads would be available for use when needed by users of the planned development.

Even without additional substantiation, Mr. Funk's testimony standing alone, proves conclusively that the road network planned by the State and County authorities and by the Petitioner must be accepted as a fact and goes far beyond the "reasonably probable of fruition" test laid down by the Court of this State and discussed below.

Mr. Funk's testimony, however, does not stand alone. There have been presented to the Board numerous exhibits substantiating his oral testimony as with Petitioner's exhibits numbers 20, 21, 22, 23(a), 23(b), 24, 25(a) and 25(b).

In addition, Mr. Norman Fry, a Planner who has served in the Department of Planning and Zoning for many years, who served for approximately 3 years as the Chief Planner for the entire Northeast Sector of Baltimore County and who has recently been elevated to the status of Chief Planner for Traffic and Pools for Baltimore County in its entirety, testified at length as to the three roads mentioned above, their status, and has concurred with the facts testified to by Mr. Funk.

Finally, Mr. Williamson, who testified for the Protestants, (a) was not present during Mr. Funk's testimony on either direct or cross examination and was, therefore, unable to comment on it, and (b) on "look no studies as to area road networks and, in fact, is a land planner and not an expert in traffic or road patterns. Mr. Williamson did, however, acknowledge that Mr. Funk is a recognized expert and found no reason to disagree with his conclusions.

Cases in which road access considerations are deemed important by the Courts in determining whether or not reclassification is justified include McDonough, et al. v. Trustees of the Shepherd and Enoch Pratt Hospital, et al., 246 Md. 104 (1947) The Jobar Corporation, et al. v. Rodgers Park Community Association, Inc., et al., 234 Md. 104 (1964); Robdy, et al. v. County Board of Appeals For Baltimore County, et al., 234 Md. 259 (1964) and Schuyt, et al. v. Pratt Properties, Inc., 224 Md. 31 (1962).

The law pronounced by the Court of Appeals of Maryland is

to the effect that if evidence as to planned road construction is sufficient to show construction "reasonably probable of fruition in the foreseeable future" then such evidence must be considered by the zoning board. Numerous cases set forth this requirement including Robdy, et al. v. County Board of Appeals for Baltimore County, et al., Super and Trustees of McDonough Educational Fund and Institute, Inc., et al. v. Baltimore County Maryland et al., 221 Md. 970 (1960), in the McDonough case the Court of Appeals said, at pages 970-971:

"Of course, the county council was not confined in its deliberations upon the recommended new comprehensive plan exclusively to the roadway then in existence. If this were so it would destroy many of the advantages of zoning. A comprehensive plan, as we have stated above, is specifically designed to control and direct the use of land and buildings according to present and planned future conditions. We think the council was entitled to consider any proposed new highways, or proposed improvements to existing highways, that were reasonably probable of fruition in the foreseeable future in determining the proper classifications for the subject property."

Evidence as to the planned road network for the area then should have been considered by the County Council in the instant case.

6. The availability of utilities to serve the site was considered under three parts:

- (i) Storm water facilities
- (ii) Water facilities
- (iii) Sanitary sewer facilities.
- (1) Mr. Thomas Shaffer, a professional utilities engineer employed by Whitman Howard & Associates testified without contradiction as to the present and future availability of facilities for the drainage of storm water from the subject tract

of land. His testimony on this point is not only uncontradicted but in fact, Protestants' witness Mr. Williamson is in agreement with Mr. Shaffer. Mr. Williamson mentioned specifically that sufficient "storage ponds" can be constructed by the Petitioner on its own property to ponded storm waters.

(11) The testimony of Mr. Shaffer as to water availability to the site was buttressed by studies undertaken by Mr. Shaffer and his firm over a period of many years. His conclusions are that not only will the three available water supply lines be sufficient to service the proposed development, but that one line alone (i.e. the 16" line in Route 7) is itself sufficient to supply all water needs of the development without decrease in water quantity or pressure to others utilizing the existing water lines. He did comment that "good engineering practice" would indicate utilization of all three lines by an interconnecting water system but he emphasized that such interconnection is not necessary. The details of his studies as to the average water flow, maximum day water flow and fire-flow requirements are uncontradicted. In response to a question by a Board member, he succinctly stated that there is no difficulty in connecting all of the Petitioner's property to an adequate water supply. Mr. Williamson testified to the effect that there "would be no significant difference" on water demand as between the development and development under the requested classification.

(111) Mr. Shaffer's further testimony as to the availability of sanitary sewer facilities for the White Marsh tract was buttressed by continuing studies undertaken by Mr. Shaffer and by his employer, Whitman Howard & Associates. His testimony is to the effect that the 48" sanitary sewer line serving the property is unusual only in that such excellent facilities are seldom available to developers and in that respect, the subject property is unique.

In his direct testimony, he traced the path of effluent to and from the subject property through existing pumping stations to its ultimate destination, Back River Treatment Plant. His opinion at the conclusion of direct examination was that the sanitary sewer facilities now available are more than sufficient to meet the development needs of the entire area including Petitioner's tract. He further pointed out that if Petitioner's 923 acres were developed under existing zoning the average daily flow would be 1.68 million gallons while if the same 923 acres were developed after granting of the requested reclassification for part of such acreage the average daily flow would be only 1.33 million gallons. He testified that this maximum flow increase of .35 million gallons was not significant to effect treatment facilities. Mr. Williamson who was not present during Mr. Shaffer's testimony on cross examination, attempted to inject a note of doubt as to availability of sanitary sewer facilities by referring to "intensive development" planned in the Tri-Valley, Gaithersfield and Hampden areas. Even after the myth of intensive development in these areas was destroyed by questions from the Board, during which Mr. Williamson was forced to admit that intensive development was not planned for and would not occur in the areas mentioned, he attempted to indicate that there would in the future be a reversal of normal effluent flow directions in order to alleviate pressure on the Jones Falls system and that consequently, this reversal of flow from the northern and Northwestern portions of Baltimore County would pass through and perhaps overtake the Back River Treatment Plant. Mr. Williamson did not say that the Back River Treatment Plant would not be able to handle even that reverse flow but his testimony rather was to the effect that it might overtake the Treatment Plant. Unknown to Mr. Williamson, this red herring which he so carefully relied on had been pulled and filleted by Mr. Shaffer in his

testimony on cross examination. Unknown to Mr. Williamson, Mr. Shaffer had testified that his firm in 1964, on behalf of Baltimore City, had undertaken a comprehensive study of the Back River Treatment Plant and that the study report had recommended a series of improvements or enhancements to the plant which would enable the plant to handle all anticipated waste for treatment. He had further testified that over \$10,000,000.00 was prepared for the improvements and that improvements were now being made to the study handling facilities of the plant, although, in accordance with the schedule established by the report, the majority of the work will not be completed until 1974. The combination of Mr. Shaffer's testimony on direct and cross examination and the exhibits presented in substantiation thereof, lays to rest any assertion that sanitary sewer facilities are less than adequate. It is interesting to note that Mr. Williamson had no knowledge of the 1964 Whitman Howard & Associates report to Baltimore City dealing specifically with capacity and improvement of the Back River Treatment Plant.

Now again the test of "reasonably probable of fruition in the foreseeable future" as announced in McDonough, supra and other cases is fully met by Petitioner's uncontradicted evidence.

Cases illustrating the importance of the availability of utilities serving property for which classification has been requested include Piney v. Hall, supra (change) and Trustees of McDonough Educational Fund and Institute, Inc., et al. v. Baltimore County, Maryland, et al., supra (error).

7. Mr. Crawford Westbrook of Green Associates, land planners and engineers, testified as to his and his company's extensive studies over a three year period of the White Marsh area and as to the coordination between the expert advisors, the Baltimore Department of Planning and Zoning staff and the Planning Board, the

Department of Public Works and the State Highway Administration. He continued by expanding how a comprehensive plan for use of Petitioner's White Marsh tract in accordance with the Master Plan and recommendations of Baltimore County evolved. His testimony is that "the comprehensive plan for the White Marsh properties is in full and complete accord with the northeastern Sector Center proposed by the Baltimore County Planning Department for the White Marsh properties" is uncontradicted and, in fact, would not be contradicted.

Mr. Shaffer, Mr. Funk, Mr. Westbrook, and Mr. Michael all were asked specifically whether or not, in their respective expert opinions, the classification action of the Baltimore County Council was proper. Each testified that the Council's action was improper and erroneous and each fully substantiated his opinion by reference to fact. Of perhaps equal importance is the testimony of Mr. Norman Ray, who was the chief planner for the Northeastern Area through and including the time of Council action. Mr. Ray, as chief planner, had primary responsibility for preparing and coordinating reports and studies for that area in order that appropriate decisions might intelligently be made. He testified that he knew of no reason for the unexpected and unexplained action of the Council that he knows of no justification for the Council's action and that, in his expert opinion, the Council was in error in refusing to grant Petitioner's request for zoning in conformity with the Sector Center designation and the planned development of the County.

Of less importance but of some weight is the opinion of Mr. Williamson to the effect that industrial rather than residential is an appropriate classification for the Petitioner's tract.

The important fact is that all experts, including those,

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1. There is a large reserve want made for department store facilities in the trade area which would be served by the proposed (industrial) population projections based on an estimated (industrial) population of 12,000. (There will still be more than 100,000 people in the area.) It is not clear that the proposed (industrial) population projections were either constructed or the (industrial) population statistics were based on soundly documented, (industrial) population statistics and studies were soundly documented.

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place was shown availability of the 1500 and reader attended the hearing as his capacity as "President of that organization." His presentation and their claims was "that of plaintiff." He had added about the position of the "President's" representation and said in part "I think it unfortunate, I don't say I am just trying to look back at that position, I don't if they were actually on terms, and effective minutes." From Mr. Crowley, it was said by the board Chairman as to the details of the "President's" representation, he stated "I would say that, in the comparison, necessarily that existed with several hundred people, creating their block of one-half that number, it was a little difficult to keep track of any group, and there was a lot of localities, toward everything, as I recall." This dissatisfying comment as to the role opportunity that was afforded the Plaintiff to comment to the Council of his abilities underlying "President's" in part, two minutes and a half, was not perceived to "that extent we had done as the him up by Mr. Crowley" when in answer to answer questions by a student, "and then was obviously clear that that was that" was the reported fact-finding session of the County Council.

It was further stated by the County Council by the law review and its own inability to conduct a proper hearing revealed the importance to it of what evidence and other evidence subjected Plaintiff's remarks. This situation of which can be the restriction rules and the lack of a conscious decision in which it could accept the facts, necessarily lead the County Council to their previous error and into their arbitrary and capricious action.

It is equally apparent that the County Council ignored all recommendations and wishes of the technical staff and ignored who were specifically charged with aiding the Council in its

geographical reviews of the country. His conclusions that apartments are needed in the area to serve the demand of the population are not only buttressed by testimony of Mr. Crawford Westbrock of Green Associates but were also admitted to be correct by Mr. Williamson who also testified as to the lack of apartments in the area and the need for the same. Any more, the facts cannot be disputed.

3. Mr. Michael's opinion that P-H roadside facilities in the area were necessary to serve the area residents and the traveling public were accorded by Mr. Westbrock. In fact, not only are the Baltimore County technical staff and experts in agreement but such facilities are included in Petitioner's plan at the specific review and recommendation of that staff and those experts who are charged with recommending zoning development in Baltimore County which will be in the public interest. There was no attempt made to rebut these facts.

4. Mr. Michael's testimony as to the need for office facilities stands alone and uncontradicted.

5. The results of Mr. Michael's study as to direct economic benefit to be realized by the County from construction of the proposed facilities were presented in exhibit form to the Board. Reference to that exhibit indicates that once the facilities have been erected there will be an annual increase in tax to the County of \$7,000,000.00 in excess of the tax expected through DW 5-5. Not only does Mr. Michael's testimony as to need and public benefit stand uncontradicted, it is enhanced and asserted by the results of similar not independent studies undertaken by Green Associates and, as to the retail area, independent studies undertaken by the proposed developer, The Home Company.

Petitioners have shown before this Board and, in fact, have shown to all who would listen, that not only are there substantial

needs which can and should be met by development of this tract but that such development would add value to the tax revenue of the County. In contradistinction, there is not one scintilla of evidence of detriment to the County should this development proceed in accordance with the County's and the Petitioner's plans.

There being no evidence to the contrary, it is responsible for the decision of the Baltimore County Council to be in the best interest of Baltimore County and in compliance with their assigned task of protecting the public interest. Their failure to do such an assigned task is error and it is arbitrary and capricious action which should be reversed by this Board.

Baltimore benefits against allowed detriments of reclassification has a proper place in the Board's deliberation along with consideration of demonstrated error. Hardaway, et al. v. Board of Appeals of Baltimore County, 211 Md. 172 (1956) (where, however, the reasoning was reversed because of proof that undue traffic congestion would result from rezoning - a problem proven not to exist in the instant case).

A further rule of law is that zoning decisions do not depend on a ploticite of neighbors. Notter, et al. v. County Commissioners of Howard County, et al., 212 Md. 357 (1957)

The instant case is unusual in that the Petitioner's rezoning reclassification would, in fact, benefit if a ploticite of neighbors were allowed to control the zoning decision. Since the waterfront loss of the elusive Mr. Tito, only two protestants remain, Mr. & Mrs. French. Although certain aspects of their appeal are covered in the Memorandum previously submitted to this Board in support of Petitioner's motion to dismiss the appeal, their bona fides should be corrected on.

Mr. French was next called. His uncollected statement immediately after being sworn testifies to his lack of interest. That statement was as follows: "My name is James French. I live at Northern Street. My wife has read all of the proceedings, so I haven't anything else to say."

Mrs. French, in her testimony, stated quite clearly that she knew virtually nothing of the petition and that she had no real interest in the proceedings. Mrs. French refused to answer questions as to (i) who sent her to Mr. Schlectman, her original attorney; (ii) who was actually paying the costs of the appeal; (iii) what the costs of the appeal were to the date of hearing and what the ultimate cost would be; and (iv) who is really behind the appeal taken in her name. When questioned persistently, she could only say that she talked about the project with "customers who come into Food Fair where I work." Mrs. French, growing for sometime in a way which would indicate a bona fide reason for appeal, did answer certain questions posed to her by her counsel. In virtually every instance, her answers were completely inaccurate. She testified that Route 7 would provide the main access to the site and that she was concerned about traffic congestion on Route 7. It was pointed out to her by a Board member that there is no access to the site from Route 7. She was wrong. In response to another question by her counsel, she described the tract for which rezoning is requested as a "48 acre tract, isn't it?" She was wrong. In response to a third question, she admitted she did not have any idea as to the number of stores but did know that there would be a total of "1,000 square feet of store area" developed. She was wrong. With three strikes she should be declared out.

In contradistinction, the members of both the Perry Hall and the Nottingham Village Improvements Associations comprising respectively 168 and 50 homes were fully aware of the Petitioners'

proposals and had independently made conscious judgments not to oppose the proposals. Mr. Greenwell, a most articulate witness, informed upon the Board the knowledge of the members of his association as to the exact proposal of Petitioners and he testified that not one member of his association desired to have an appeal taken. Mrs. Coulter on behalf of Nottingham Village Improvement Association testified that the membership of her association unanimously voted to support the Petitioners' request and she presented to the Board an Association Resolution endorsing such support. These were actions taken by responsible citizens living immediately to the North and South of the subject property and such actions were taken as a result of community interest and not as a result of prodding or requests for support from Petitioners. Both Mr. Greenwell and Mrs. Coulter made it abundantly clear that presentations made by Petitioners to their respective associations were made at the request of the associations so that the associations might learn of the proposed White Marsh development. Mr. Greenwell went so far as to testify that his association refused to accept the decision of the Board Commissioner even in the face of pressure to appeal exercised by a particular County Commissioner.

In conclusion, Petitioners respectfully request that they have met all burden of proof imposed on them; that they have proven irretrievable error on the part of the County Council; that they have proven how such error was caused by Council action or inaction; that they have proven the inaccuracy of the initial presumption of "initiative validity" that they have proven the proposed development to be in the public interest and to be without detriment to the community; and that they have proven that the proposed development is supported by all concerned and responsible groups of area citizens. Petitioners, therefore, request that this Board

sustain the action of the Zoning Commissioner for Baltimore County and grant the reclassifications and district designations requested by Petitioners.

John J. ...
Attorney for Nottingham Village, Inc.

James C. ...
Attorney for White Marsh Mall, Inc.

NOTTINGHAM VILLAGE, INC.,
RECLASSIFICATION AND
REDISTRICTING PETITION,
S/N and S/W corner,
Interstate 95 and White
Marsh Boulevard, 11th &
16th Districts -
Northwest District
Case No. 72-50-2

The Court of Appeals of Maryland, in numerous decisions pertaining to appeals from County Board of Appeals to the Circuit Court and to the Court of Appeals itself, has uniformly held that such appeals may be taken only by parties who are aggrieved by the Judgment, Order, or Decree.

Section 21-27 of the Baltimore County Code, 1968, authorizes appeal from the decision of the Zoning Commissioner to the County Board of Appeals by "any person or persons, jointly or severally, or any taxpayer or any official, officer, department, board or bureau of the County, feeling aggrieved by any decision of the Zoning Commissioner . . . as herein supplied."

A provision identical in content of the Baltimore County Zoning Regulations (Section 300.10) authorizes appeals to the County Board of Appeals by an aggrieved person.

The question of whether or not an Appellant is truly "aggrieved" has been considered and decided many times by the Court of Appeals of Maryland. One of their most recent decisions

in Baylark, et al. v. Montgomery County Board of Appeals, et al., 247 Md. 137.

In Baylark, the Court of Appeals, in considering whether or not adjacent property owners were aggrieved stated that the word "aggrieved" has never been legislatively defined but that there have been many cases in Maryland and in other jurisdictions considering the meaning of the word "aggrieved." The Court, at page 144, stated:

"Generally speaking, the decisions indicate that a person aggrieved by the decision of a board of zoning appeals is one whose personal or property rights are adversely affected by the decision of the board. The decision must not only affect a matter in which the protestant has a specific interest or property right but his interest therein must be such that he is personally and specially affected in a way different from that suffered by the public generally."

After this general statement, the Court made, among others, three specific holdings:

1. An adjoining, confronting or nearby property owner is deemed prima facie to be specially damaged and, therefore, personally aggrieved.
2. A person whose property is far removed from the subject property ordinarily will not be considered a person aggrieved.
3. A person whose sole reason for objecting is to prevent competition is not a person aggrieved. The Board of Appeals cited cases in support of each holding.

The City of Greenbelt, Maryland, et al. v. Zenger, 217 Md.

418 was a case in which the City of Greenbelt appealed from a favorable Circuit Court decision on requested rezoning of property owned by Zenger. Zenger moved to dismiss the appeal as to the City alleging that the City was not "an aggrieved party." The Court of Appeals, after careful consideration of the record, dismissed the appeal filed by the City and held specifically that the City was not an aggrieved party. The Court pointed out that the City was not an adjoining or nearby property owner and that the subject property was not within its corporate limits. Testimony had been presented by the City to the effect that housing units were under development in the City of Greenbelt which would apply provide present and prospective apartment needs in and around the City and that, therefore, the proposed apartments to be developed on Zenger's land were not needed. The Court of Appeals, at page 423, stated:

"The fact that a large number of apartments, which might suffer from competition offered by the apartments planned to be built on the rezoned land, were being built within the corporate limits of Greenbelt would not give the City of the apartments in Greenbelt, such less the City of Greenbelt, standing as an aggrieved party."

In their decision in the City of Greenbelt case, the Court of Appeals cited with approval the case of Freeman v. Board of Appeals, 214 Md. 209. The point under consideration in Freeman was whether or not a competitor had the right to intervene in a suit in equity filed by a property owner against the Board of County

Commissioners of Howard County wherein such property owner prayed a Declaratory Decree to the effect that the Howard County Zoning Regulations as applied to his property were unconstitutional and void. The Howard County Circuit Court entered the decree requested and restrained the Board from interfering with the owner's use of the property for shopping center purposes. An appeal from that decree to the Court of Appeals of Maryland was taken by a competitor of the property owner. The Court of Appeals considered the extent of the competitor's interest in the controversy since as a condition, precedent to a ruling on the merits, the Court determined that it must first find that the Appellant has such an interest in the subject matter of the suit as entitle him to appeal. Absent such interest, his appeal must be dismissed.

In determining this matter, the Court found no evidence of any threatened depredation in the value of Kretschman's property (which was located 1 1/2 miles from the proposed shopping center) and found that there were no special damages which would give him standing to appeal. The Court further considered Kretschman's expressed opposition to the shopping center use of the property. His expressed opposition was fear of competition for his package liquor store should construction of the shopping center be allowed. The Court of Appeals examined the decisions in other jurisdictions and thereafter held that the prevention of competition is not a proper element of zoning. In doing so, they cited cases from Connecticut, New Jersey, North Carolina, Virginia, Massachusetts, New York, and Pennsylvania. In so holding that fear of competition does not make a party an aggrieved person so as to allow appeal, the Court cited with approval the case of Circles Towne & Grille, Inc. vs. Board

of Appeals of Boston, 324 Mass. 427, 363 N.E. 2d 790, wherein the Supreme Judicial Court of Massachusetts stated in part:

"... It is reasonable to suppose that the Plaintiff's business would suffer to some extent at least by the establishment of a 'Howard Johnson' Restaurant at the edge of Cleveland Circle. But injury from business competition has generally been considered damnum absque injuria. It was no part of the purpose of the Zoning Regulations to protect business from competition. In fact, they would often operate to increase competition by limiting the areas within which certain businesses can be carried on. We cannot believe that a person is aggrieved within the meaning of the statute here in question merely because a variance, even if imprudently granted, will increase competition in business."

The Court of Appeals of Maryland in recapitulating its decision found that the Kretschman case involved rival shopping center sites in the same vicinity and that the threat of competition was the danger from which Kretschman sought to protect himself and thus he was attempting to use the protection of the Zoning Regulations to stifle competition. The Court held that he was not entitled to do so and that the zoning laws gave him no standing to do so where they are invoked only in an attempt to prevent competition.

Kretschman was recently again cited as precedent by the Court of Appeals on this point in the case of Irvin Hill Ventures vs. Montgomery County Council, No. 238 September Term 1971 filed April 10, 1972 (Daily Record May 17, 1972).

The recent case of Commissioners of Cambridge v. Henry, et al., 263 Md. 370 is also in point. In that case, a zoning ordinance authorized appeals to the Board of Appeals by any "person aggrieved." Henry and others disagreeing with a decision made under the ordinance attempted to by-pass the Board of Appeals by filing in the Circuit Court a bill to enjoin the proposed construction. Judge Hammond, for the Court of Appeals, cited the applicable section of the ordinance dealing with appeals by a "person aggrieved" and stated in part at page 374:

"If Cambridge is bound by the Ordinance, the Board must consider whether the Complainants are persons aggrieved within the meaning of the ordinance. If they are, it should then consider whether the park is a non-enforcing use which legally could contain the proposed building..." (emphasis supplied)

There can be no doubt that the Appellants here are not persons "aggrieved" within the meaning of the statute or within the decision of the Court of Appeals of Maryland. The great distance from their lots to the subject property, their inability to see the subject property from their lots, and their previous total lack of concern for the zoning proposed for the subject site are proof positive that they have no standing as an aggrieved party.

If, in fact, they are acting solely as surrogates for others, who are thus indirectly attempting to improperly use the Zoning Regulations and Zoning Procedures of Baltimore County to eliminate competition, then their appeal is manifestly improper and should be dismissed. The Court of Appeals of Maryland will not allow such appeals and the Baltimore County Board of Appeals should be guided by the decisions in the City of Greenbelt and Kretschman cases stated above.

Even if this Board finds that competition is not the sole reason for the appeal, it is clear that the Appellants are not aggrieved parties under the test laid down in the Greenbelt and other cases. They are far removed from the Wettingham tract, they are not within sight distance of the tract, they do not have ready access to the tract, and they have previously demonstrated no concern for the zoning process. They have no specific interest or property rights which would affect them in a way different from the public in general. Therefore, under the specific holding of Greenbelt, they are not aggrieved persons and their appeals, therefore, should not be entertained.

Nothing is made that the Appeals filed be dismissed with

prejudice in that the Appellants are not persons aggrieved by the decision of the Zoning Commissioner within the meaning of the statute.

W. L. Thomas
W. L. Thomas, Attorney for
Nottingham Village, Inc.

Nottingham Improvement Association, Inc.

NOTTINGHAM
Baltimore, Maryland 21237

September 7, 1971

TO WHOM IT MAY CONCERN:

As a duly called Special Meeting of Nottingham Improvement Association on September 2, 1971, the membership present acted unanimously in directing this writing, signed by the President and attested by its Acting Secretary, to be the Association's POSITION regarding the zoning changes and development plans for the southeast corner of Interstate 93 and the White Marsh Boulevard, near its intersection with I-95.

1. That the Association, being the representative body for the majority of homeowners in the development of Nottingham Village and immediate adjacent areas, has an ownership of the planned Sector Center Development north and south of White Marsh Boulevard (as it will be extended) near its intersection with I-95.
2. That the area involved under the zoning changes and development plans of Nottingham Village, Inc. is in part contiguous to the Association area and, therefore, is of direct interest to the Association.
3. That the homeowners represented by the Association ought to and do have a civic and ultimate interest in an orderly development of the subject area.
4. That the Petitioner (Nottingham Village, Inc.) has presented a reasonable, planned proposal for the orderly development of the area.
5. That an orderly overall plan such as proposed by the Petitioner will, in the opinion of the Association, tend to preserve and stabilize the

Nottingham Improvement Association, Inc.

NOTTINGHAM
Baltimore, Maryland 21237

the present property values of the area hereunder as well as point to new and stable tax base on the proposed developments.

4. That the plan by the Petitioner offers an excellent opportunity to rehabilitate the land as it presently exists under a one-owner, overall plan in contrast to piecemeal, separate and perhaps competitive plans under diverse owners.

WHEREFORE, our Association approves the Petitioner's proposals as to the zoning changes.

ATTENT

W. L. Thomas
Acting Secretary

Ernest A. Robinson
Ernest A. Robinson, President

DEPARTMENT OF WATER RESOURCES

STATE OFFICE BUILDING
ANNEAPOLIS, MARYLAND 21403

June 29, 1971

Mr. P. Douglas Hollenberg
Vice President - Property Development
Nottingham Properties, Inc.
102 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Floodplain Analysis for White Marsh, Md.,
Baltimore County

Dear Doug:

The above project has received the necessary analysis and review. Your proposal of leaving the White Marsh Run in its natural state and the preservation of the floodplain area precludes the necessity of obtaining a permit from this office.

The Department hereby approves the plans as presented for this project. When the floodplain area has been defined by means and bounds for an easement, the Department would request a copy of a site.

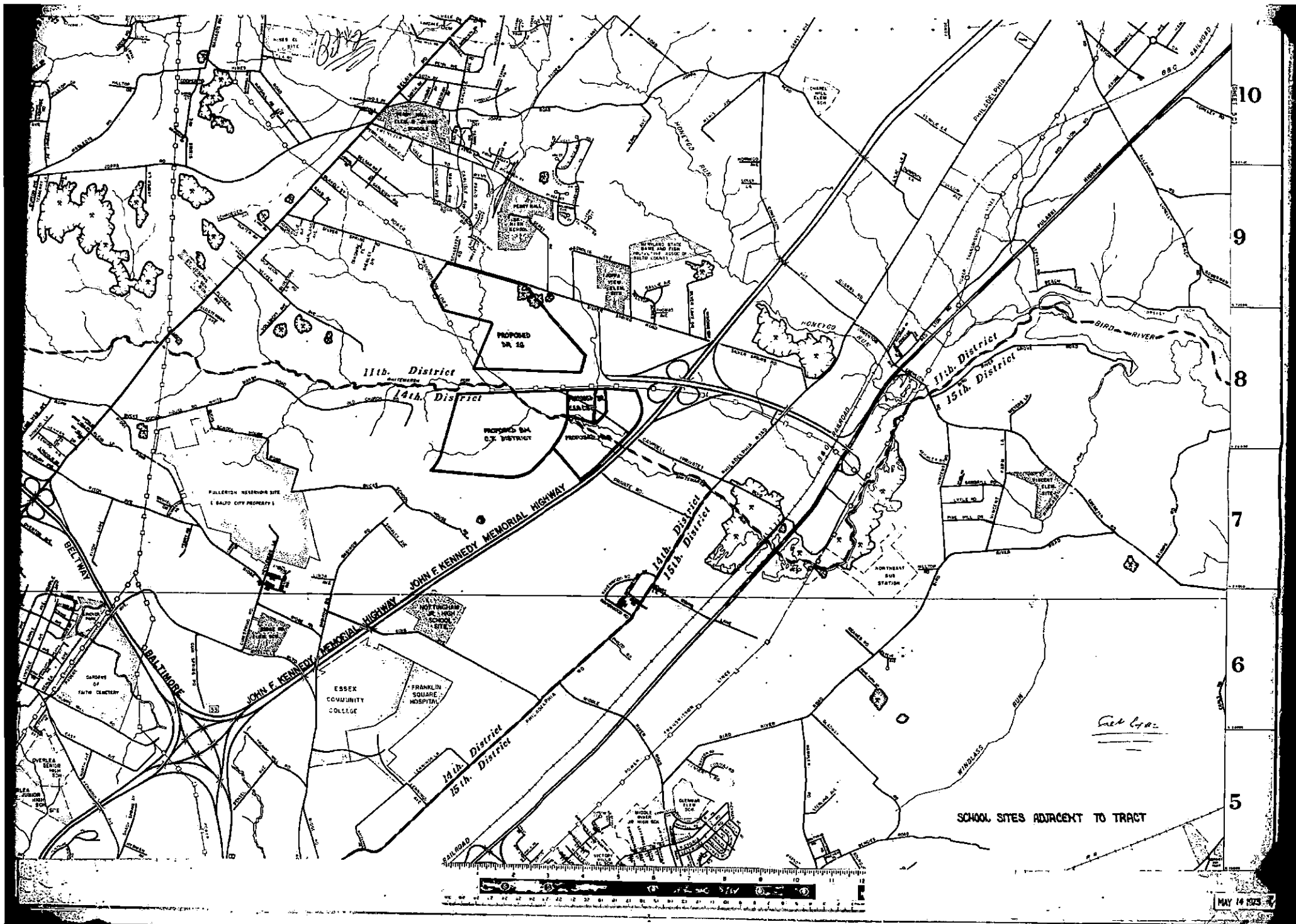
If there are any questions or needs for technical advice, please do not hesitate to call.

Very truly yours,

Robert S. Norton, Jr.
Robert S. Norton, Jr., Chief
Surface Water Management

RE:NOTTINGHAM

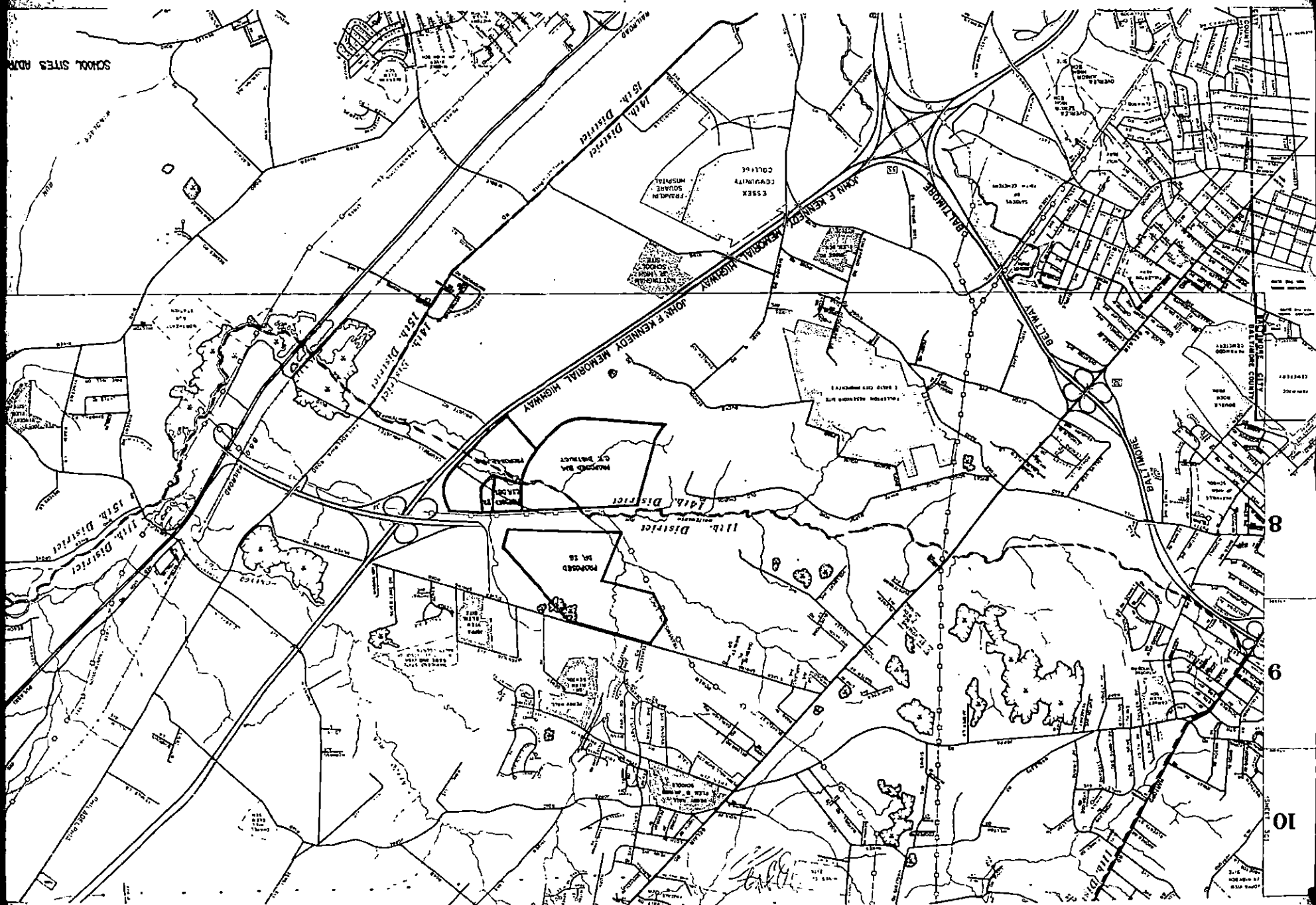
MAY 14 1975



MAY 14 1973



SCHOOL SITES ADJ.



8

6

10

Existing 15" Water - Zone 5
Maximum Gradient:
Elevation 515

Hydrant Flow Test
(4-15-71)
Hydrant Elevation: 51.154
Static Pressure: 150 p.s.i.
Flow Available @
Residual: 5000 g.p.m.

TOTAL FLOWS - EXISTING ZONING

AREA 1	SEWER: (923 Ac.) (5.5 DU/Ac.) (3.5 DU) (30) =	1.60 mgd.	4.70 mgd.
AREA 1	WATER: (923 Ac.) (5.5 DU/Ac.) (3.5 DU) (100) =	1.78 mgd.	2.68 mgd.

FIRE FLOW DEMANDS

EXISTING ZONING - 750 g.p.m. = 1.08 mgd.
PROPOSED ZONING - 2500 g.p.m. = 3.60 mgd.

Hydrant Flow Test
(4-11-70)
Hydrant Elevation: 51.180
Static Pressure: 86 p.s.i.
Flow Available @ 20 p.s.i.
Residual: 1120 g.p.m.

Existing 15" Water - Zone 2
Maximum Gradient:
Elevation 550

Hydrant Flow Test
(5-2-70)
Hydrant Elevation: 18.75
Static Pressure: 112 p.s.i.
Flow Available @ 100 p.s.i.
Residual: 1450 g.p.m.

Existing 15" Water - Zone 2
Maximum Gradient: Elevation 582

WHITMAN, REQUART AND ASSOCIATES
INCORPORATED
2 WEST PRESTON STREET
BALTIMORE 6, MARYLAND

ELECTION DISTRICTS 11 AND 14 BALTIMORE COUNTY, MARYLAND
Scale: 1" = 500'
Date: September 1, 1971

Springville, Pa.

ESTIMATED WATER AND SEWAGE FLOW

AREA	METHOD OF COMPUTATION	AVERAGE WATER FLOW	MAX. DAY WATER FLOW	AVERAGE SEWER FLOW	PEAK SEWER FLOW
1	SEWER: (63 Ac.) (16 DU/Ac.) (3.0 DU) (90 gpd.) WATER: (63 Ac.) (16 DU/Ac.) (3.0 DU) (100 gpd.)	0.75 mgd.	1.17 mgd.	0.70 mgd.	2.20 mgd.
2	SEWER: (1,250,000 SF) (0.2 gal/SF) WATER: (1,250,000 SF) (0.2 gal/SF)	0.25 mgd.	0.38 mgd.	0.25 mgd.	0.97 mgd.
3	SEWER: (710,000 SF) (0.2 gal/SF) WATER: (710,000 SF) (0.2 gal/SF)	0.14 mgd.	0.21 mgd.	0.14 mgd.	0.56 mgd.
4	SEWER: (800 rms) (100 gpd./rm) WATER: (300 rms) (100 gpd./rm)	0.03 mgd.	0.05 mgd.	0.03 mgd.	0.12 mgd.
5	SEWER: (5,000 SF) (1.0 gal/SF) WATER: (15,000 SF) (1.0 gal/SF)	0.02 mgd.	0.03 mgd.	0.02 mgd.	0.08 mgd.
TOTAL (Areas 1 thru 5)		1.22 mgd.	1.84 mgd.	1.14 mgd.	3.93 mgd.
6	SEWER: (492 Ac.) (5.5 DU/Ac.) (3.5 DU) (90) WATER: (492 Ac.) (5.5 DU/Ac.) (3.5 DU) (100)	0.75 mgd.	1.42 mgd.	0.85 mgd.	2.73 mgd.
TOTAL (Areas 1 thru 6)		1.97 mgd.	3.26 mgd.	1.99 mgd.	6.66 mgd.

TOTAL FLOWS - EXISTING ZONING

AREA 1	SEWER: (923 Ac.) (5.5 DU/Ac.) (3.5 DU) (90)	1.78 mgd.	2.66 mgd.	1.60 mgd.	4.70 mgd.
AREA 2	WATER: (923 Ac.) (5.5 DU/Ac.) (3.5 DU) (100)				

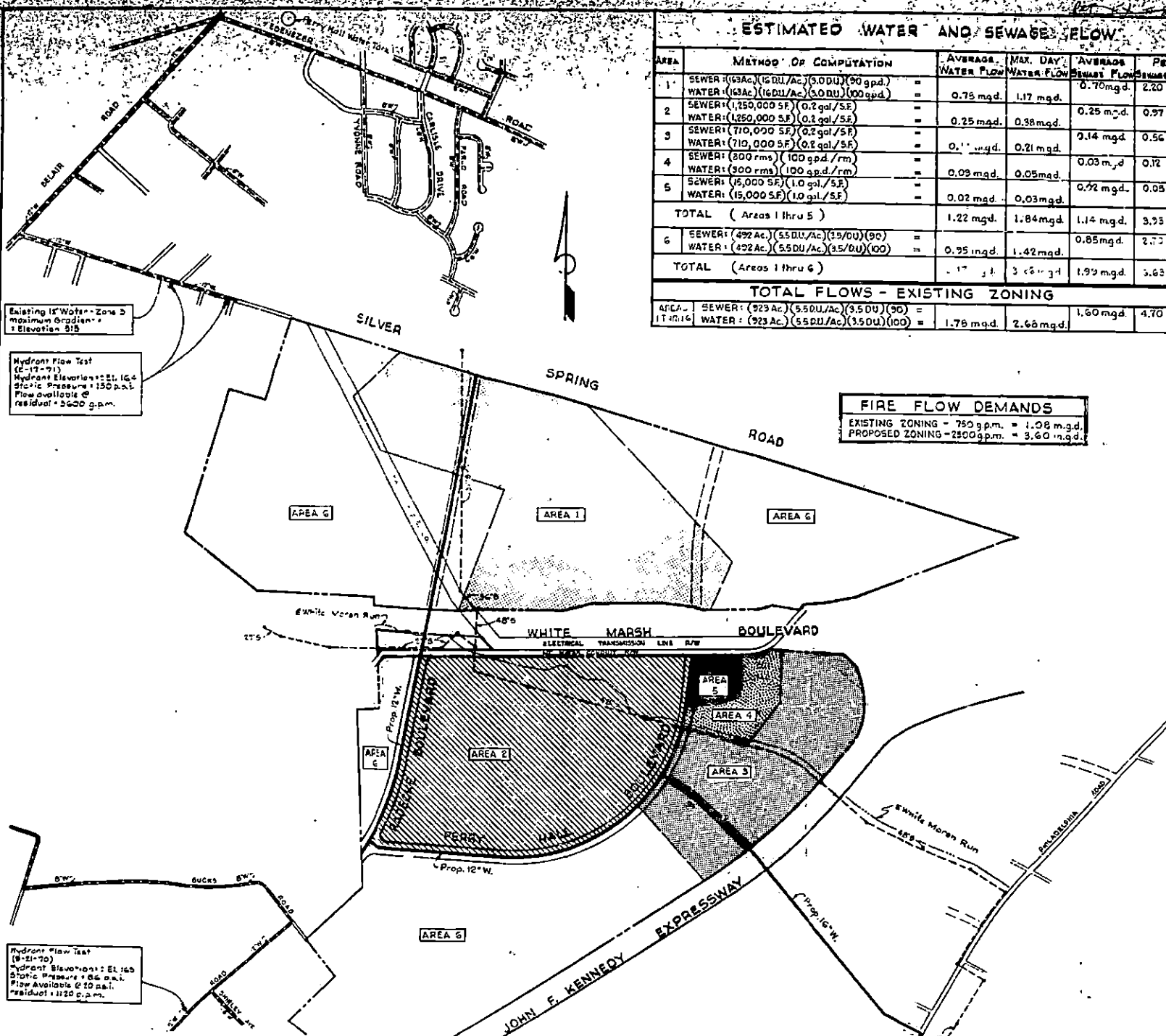
FIRE FLOW DEMANDS

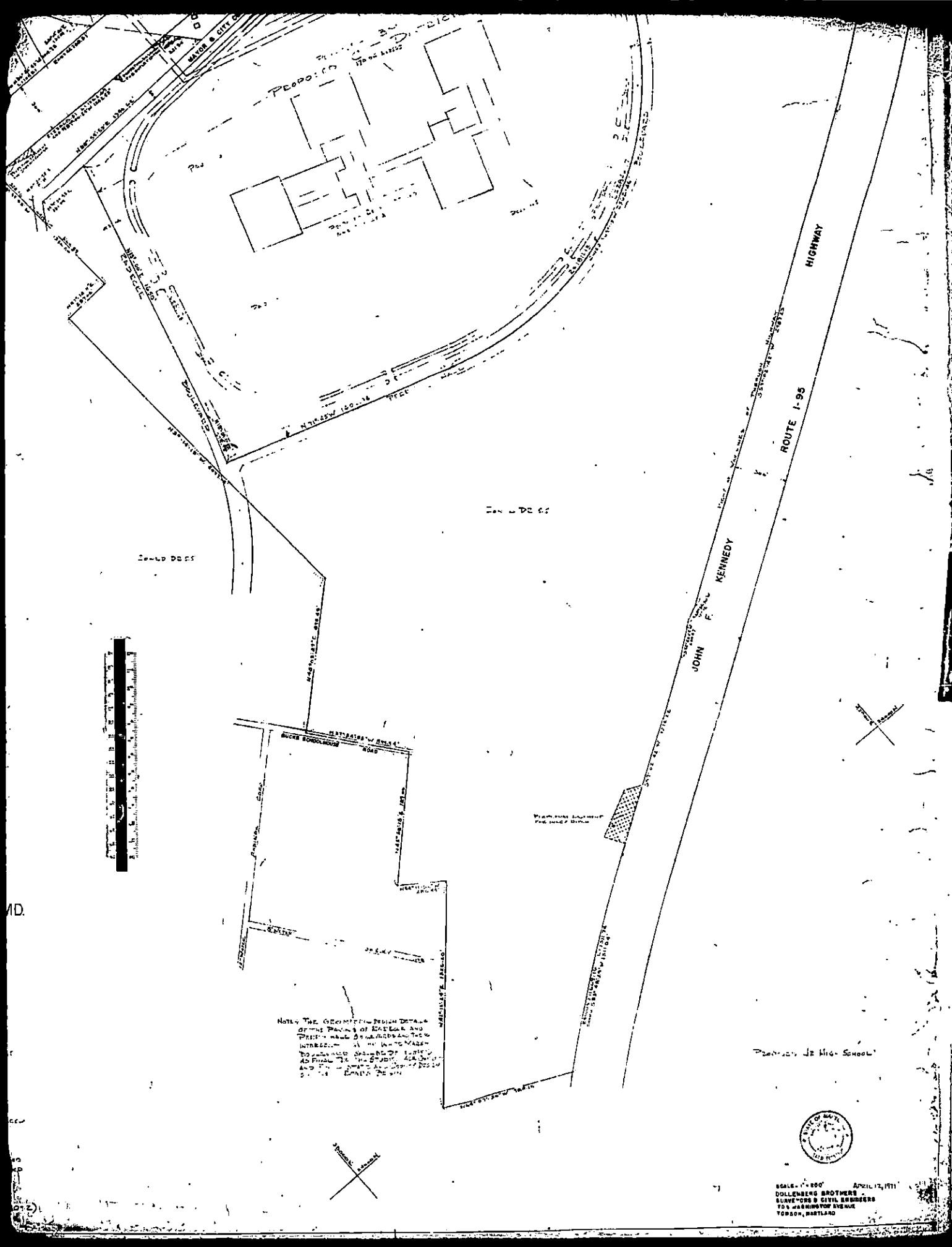
EXISTING ZONING - 750 g.p.m. = 1.08 mgd.
PROPOSED ZONING - 2500 g.p.m. = 3.60 mgd.

Existing 18" Water - Zone 3
Maximum Gradient = 1
Elevation = 515

Hydrant Flow Test
(2-17-71)
Hydrant Elevation = 51.16
Static Pressure = 150 p.s.i.
Flow Available @
Residual = 3600 g.p.m.

Hydrant Flow Test
(8-21-70)
Hydrant Elevation = 51.16
Static Pressure = 86 p.s.i.
Flow Available @ 10 p.s.i.
Residual = 1120 g.p.m.





NOTE THE GEOMETRIC DESIGN DETAILS OF THE BRIDGE AND THE ROAD AND THE INTERSECTION OF THE ROAD AND THE BRIDGE. THE ROAD IS A TWO-LANE ROAD AND THE BRIDGE IS A TWO-LANE BRIDGE. THE ROAD IS A TWO-LANE ROAD AND THE BRIDGE IS A TWO-LANE BRIDGE. THE ROAD IS A TWO-LANE ROAD AND THE BRIDGE IS A TWO-LANE BRIDGE.

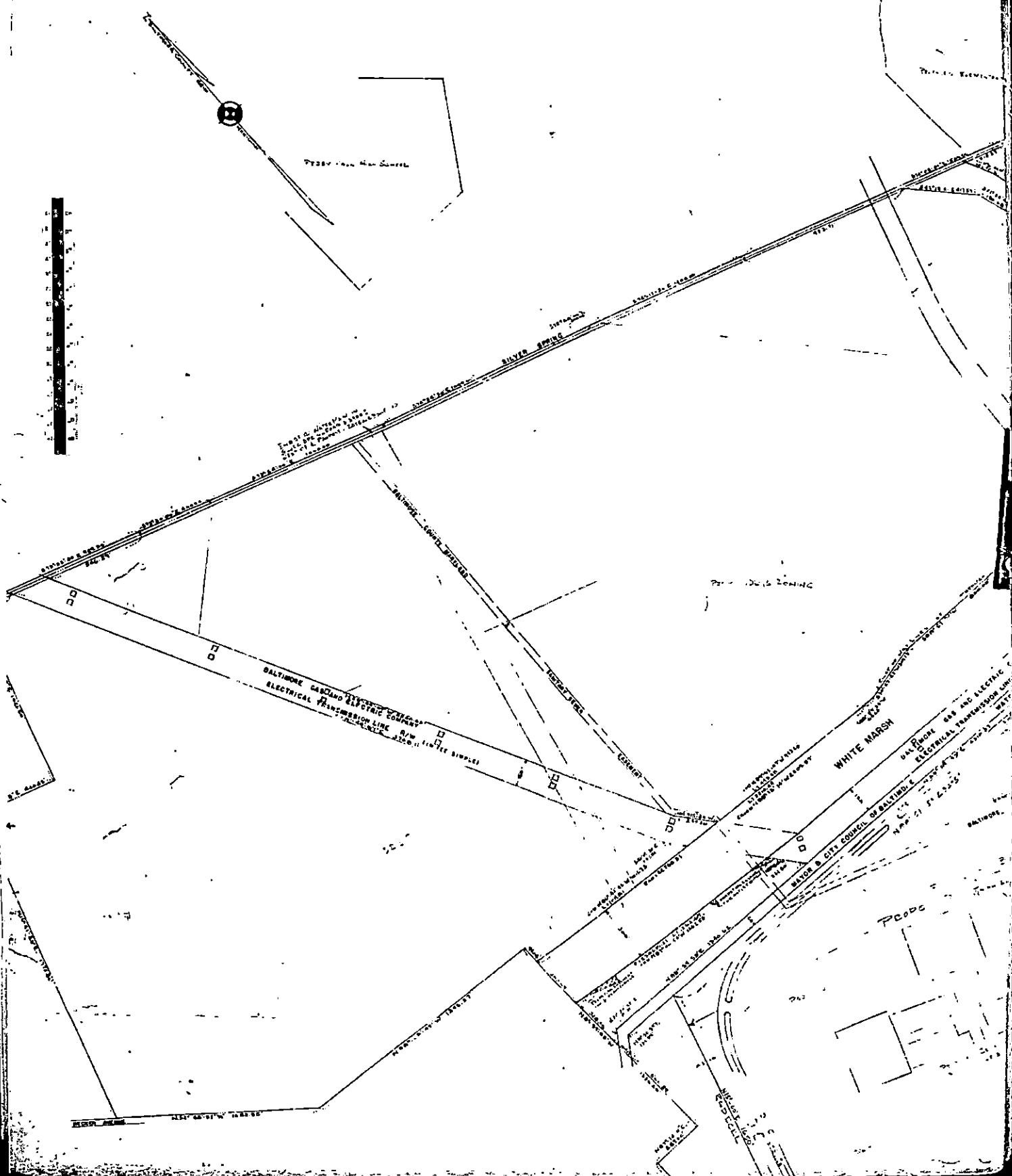
JOHN F. KENNEDY

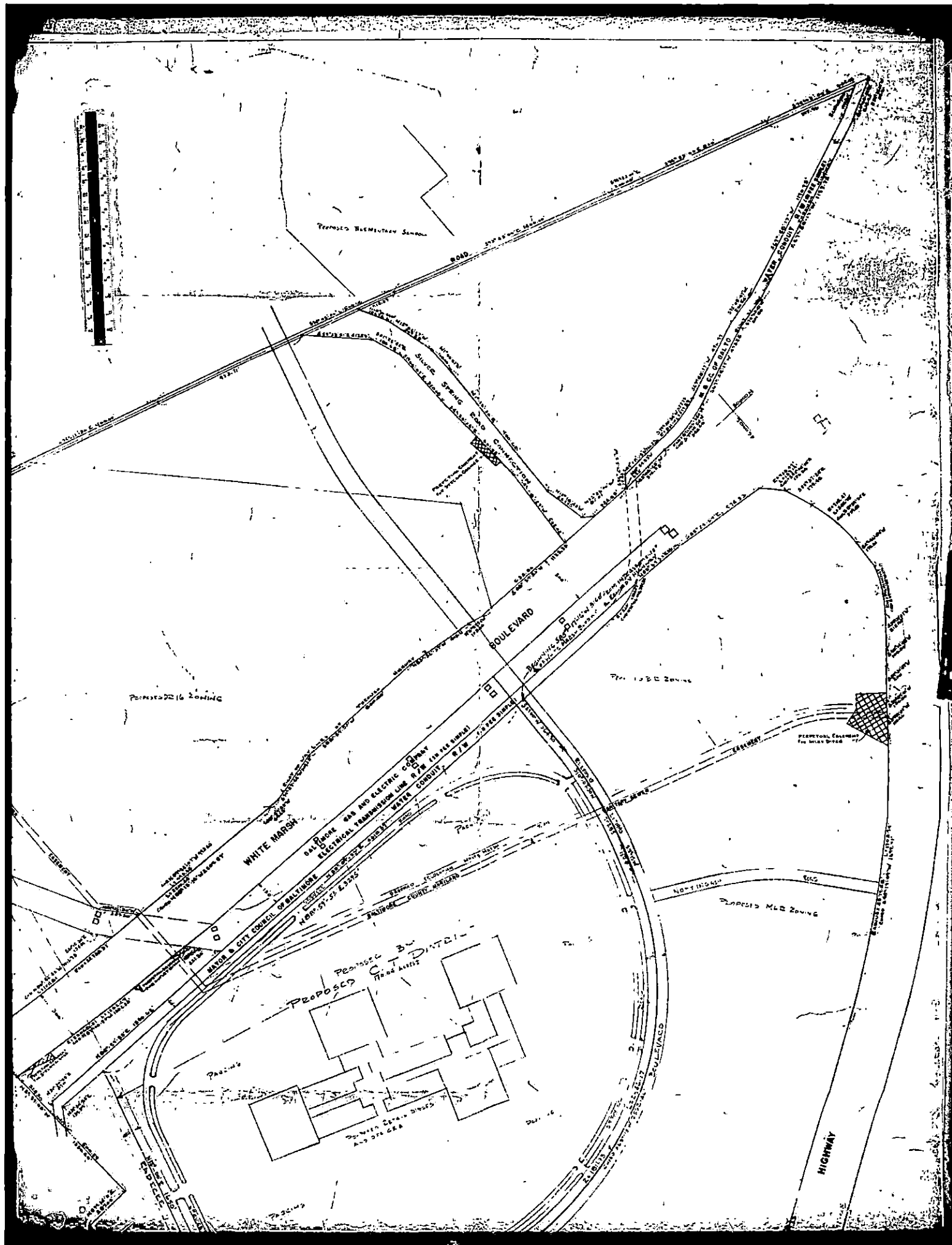


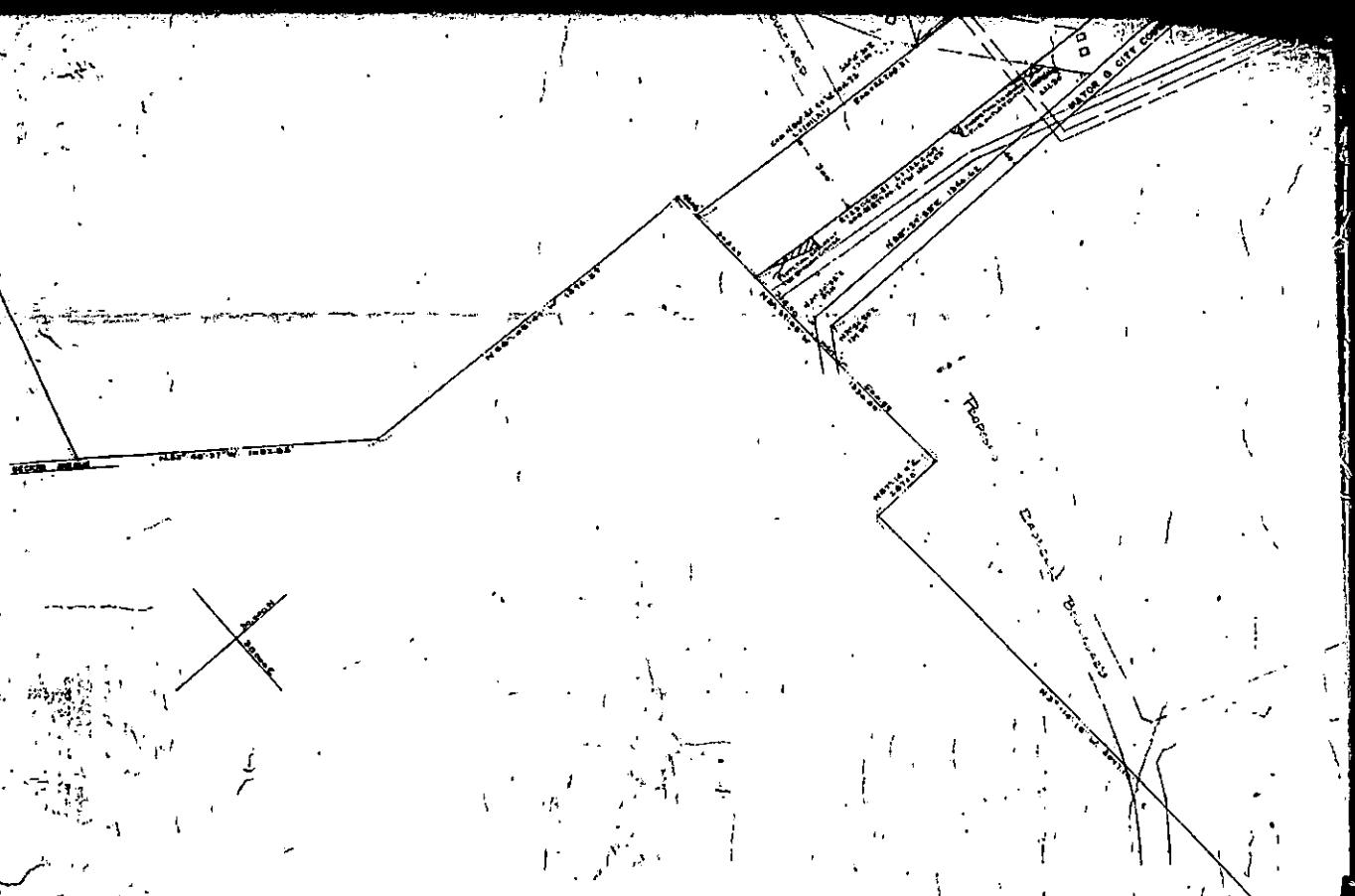
SCALE - 1" = 200' APRIL 17, 1971
DOLLENBERG BROTHERS
SURVEYORS & CIVIL ENGINEERS
FOR ASSOCIATION ENGINE
TOWSON, MARYLAND



7250' 100' 100' 100'







PARKING DATA

APARTMENTS
2400 DWELLING UNITS @ 1.5 SPACES PER UNIT = 3600 SPACES REQUIRED
3500 SPACES PROVIDED

OFFICES
1ST FLOOR 215,000 sq ft + 300 = 150 SPACES REQUIRED
2ND FLOOR 215,000 sq ft + 300 = 150 SPACES REQUIRED
Total = 300 SPACES REQUIRED
1000 SPACES PROVIDED

MOTEL
300 ROOMS @ 1.5 SPACES PER ROOM = 450 SPACES REQUIRED
350 SPACES PROVIDED

RESTAURANT
15,000 sq ft + 30 = 30 SPACES REQUIRED
350 SPACES PROVIDED

NOTES
PARKING SPACES WILL BE PROVIDED AS REQUIRED BY
BALTIMORE CODE ZONING ORDINANCE (SECTION 12-1)

APARTMENT DEVELOPMENT

GROSS AREA = 1,633,661 sq ft
NET AREA = 1,354,000 sq ft

DESIGN DEVELOPMENT
GROSS 16 UNITS PER ACRE = 2614
NET 16 UNITS PER ACRE = 2491
TOTAL UNITS PER ACRE = 2491

DESIGN DEVELOPMENT
GROSS 14.62 UNITS PER ACRE
NET 17.34 UNITS PER ACRE
TOTAL UNITS PER ACRE = 2400

P2#13

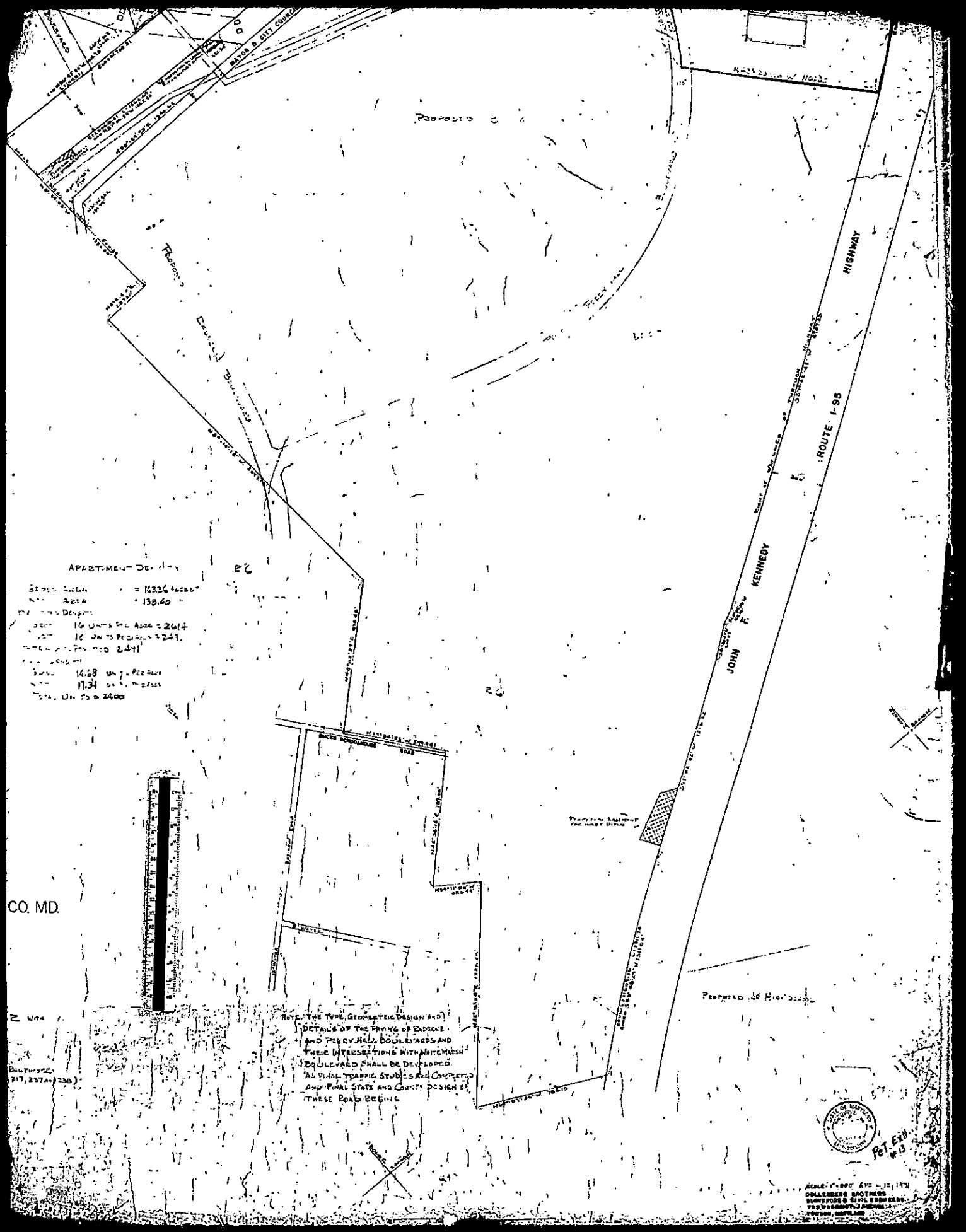
ZONING PLAN
PROPERTY OF
NOTTINGHAM VILLAGE, INC.
LOCATED IN
11TH & 14TH DISTRICTS BALTIMORE, CO. MD.

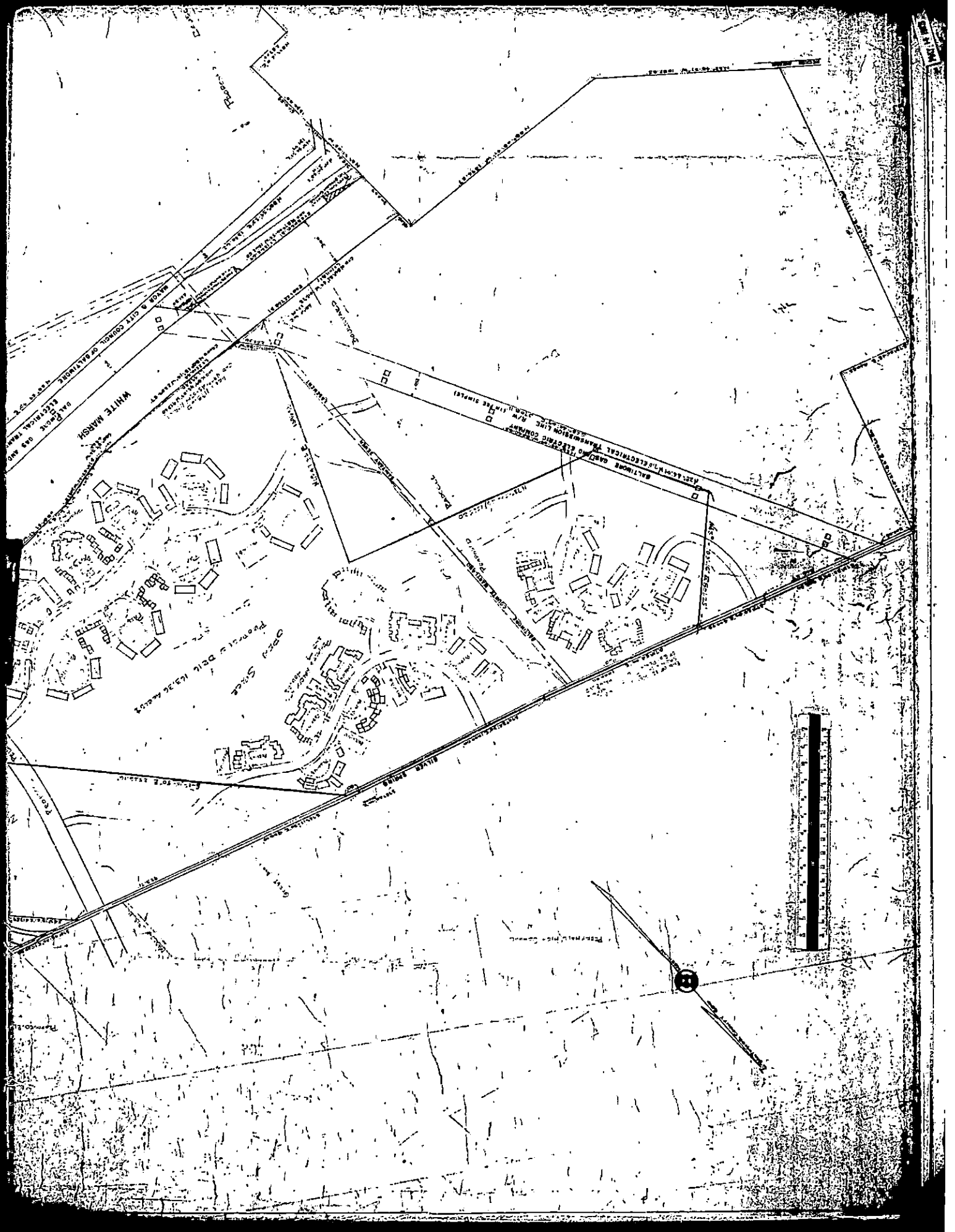
TOTAL AREA = 929.081 ACRES
AREA TO BE ZONED D2 = 163,361
AREA TO BE ZONED B2 = 21,120 ACRES
AREA TO BE ZONED M2 = 77,440 ACRES
AREA IN LSA DISTRICT = 14,330 ACRES

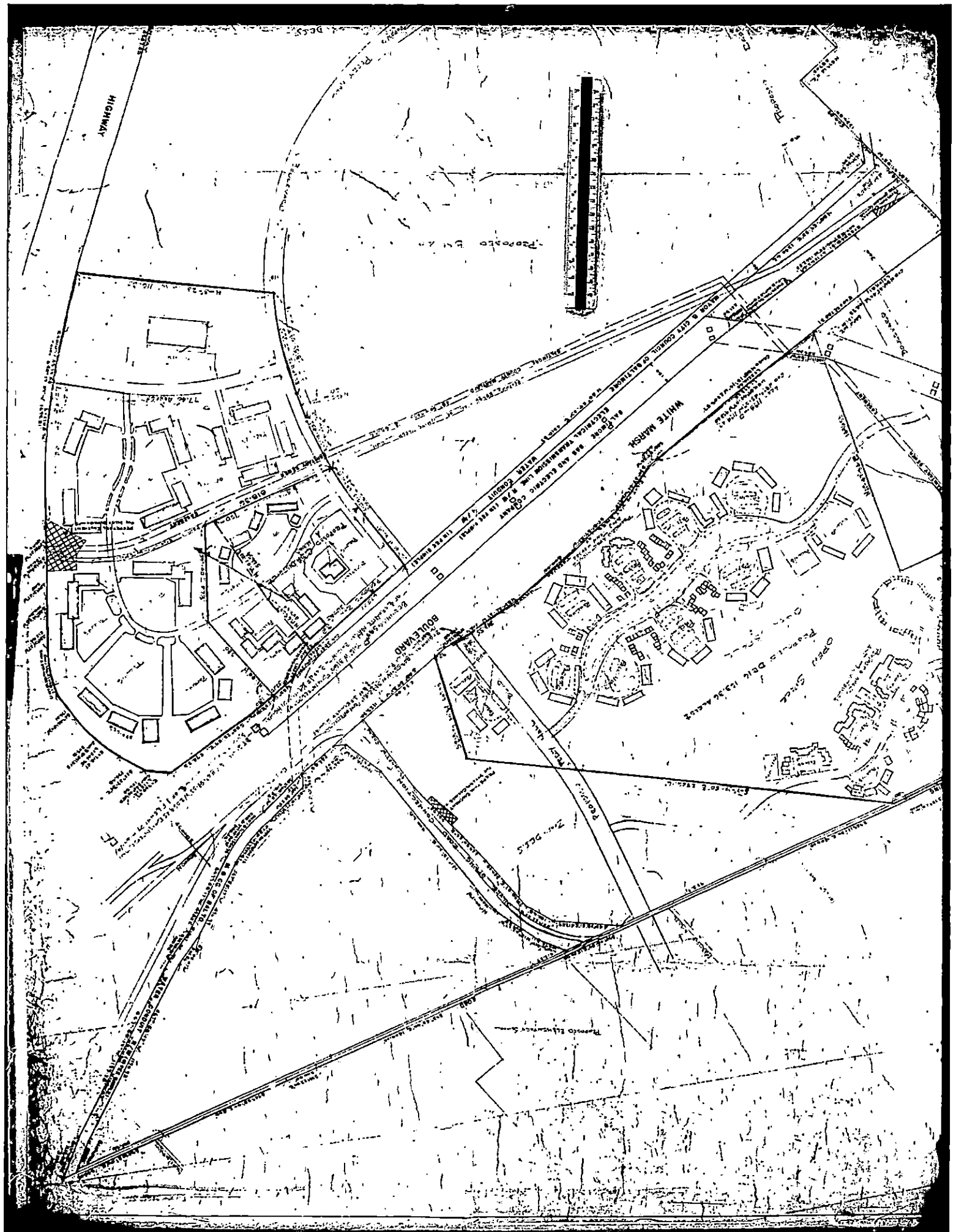
EXISTING ZONING - D2
PROPOSED ZONING D216 BE M2 L2 WITH
A CORRIDOR FOR THE B2 ZONING
NO EXISTING BUILDINGS
ALL PROPOSED BY NOTTINGHAM VILLAGE, INC.
WITH HEIGHT AND AREA REGULATIONS PER BALTIMORE
COUNTY ZONING ORDINANCE (SECTION 12-1, 12-2, 12-3, 12-4, 12-5)

NOTE: THE TYPE, GRADE, LOCATION, AND PERCENTAGE OF THE TRAVEL LANE IN THESE SECTIONS OF PERRY HILL BOULEVARD SHALL BE AS SHOWN IN THE TRAFFIC STUDY AND FINAL STATE AND COUNTY ENGINEERING THESE ROAD BEING

By: [Signature]



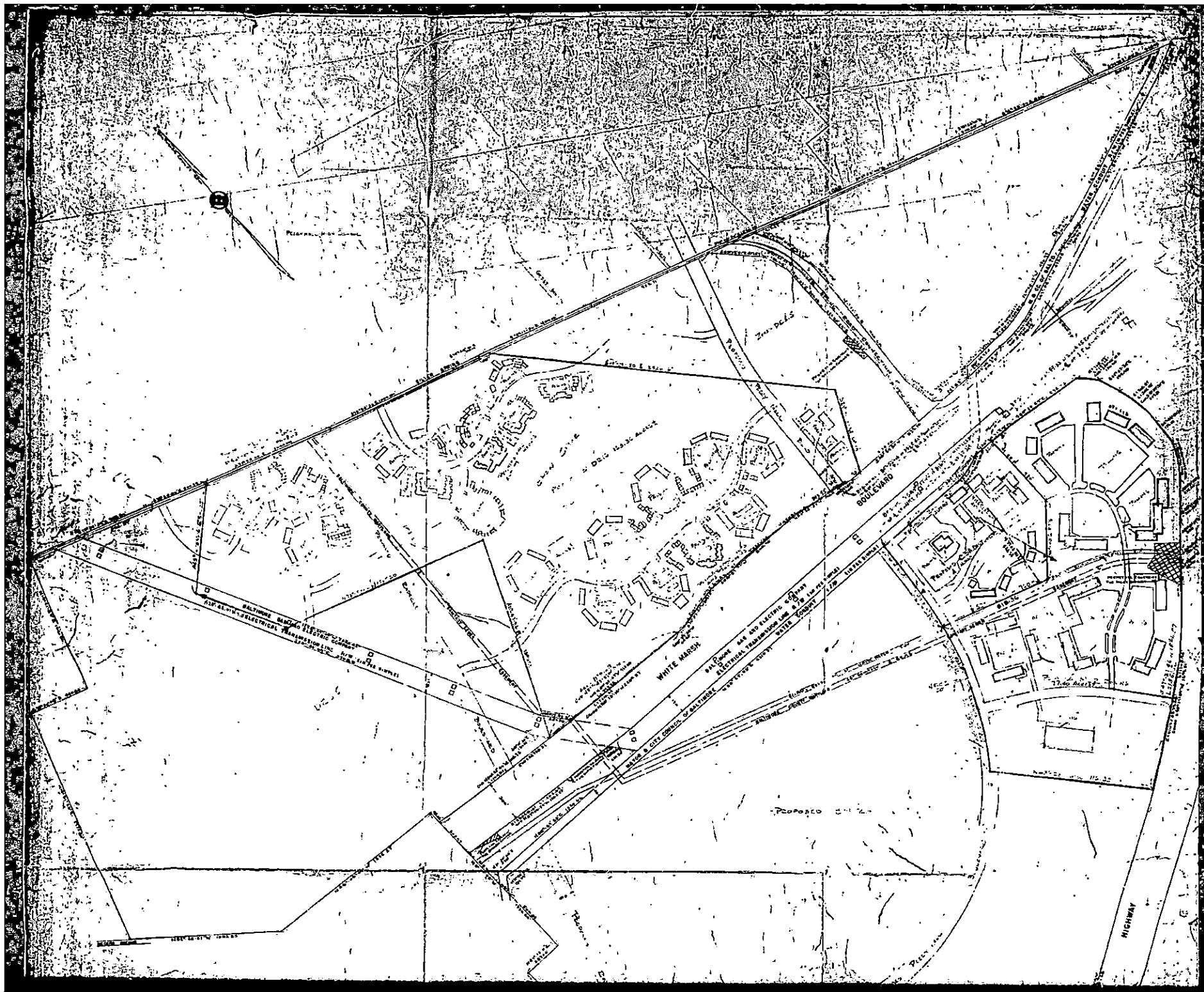




[illegible]11TH & 14TH DISTRICTS BALTIMORE CO. MD.

EXISTING ZONING DISTRICT
PROPOSED ZONING DISTRICT
A. EXISTING DISTRICT
NO EXISTING BUILDINGS
ALL PROPOSED BY DIVISION COMPANY
WITH HEIGHT AND AREA REGULATIONS
COUNTY ZONING DISTRICTS (1911, 1912, 1913)

DATE: TWO TYPE, GROUND-LEVEL DESIGN AND
DETAILS OF THE FORMING OF ESSEX
AND DEERY HALL BOULEVARDS AND
THEIR INTERSECTIONS WITH ANNE-CATH
BOULEVARD SHALL BE DEVELOPED.
A FINAL TRAFFIC STUDIES AND CIRCULARITY
AND FINAL STATE AND COUNTY DESIGN OF
THESE ROADS BEING.



Real Property Data Search (w4)

Search Result for BALTIMORE COUNTY

View Map			View GroundRent Redemption			View GroundRent Registration				
Tax Exempt: Exempt Class:			Special Tax Recapture: AGRICULTURAL TRANSFER TAX							
Account Identifier:			District - 07 Account Number - 0711035191							
Owner Information										
Owner Name:		WILSON F LINDSAY WILSON MABEL E WILSON STEVEN L				Use: Principal Residence:		AGRICULTURAL NO		
Mailing Address:		21128 LENTZ RD PARKTON MD 21120-9128				Deed Reference:		/06139/ 00078		
Location & Structure Information										
Premises Address:		OLD YORK RD PARKTON 21120-				Legal Description:		39.857 AC N & SS OLD YORK RD NE COR LENTZ RD		
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	Plat Ref:
0007	0005	0044		0000				2017		
Special Tax Areas:				Town:			NONE			
				Ad Valorem:						
				Tax Class:						
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area		County Use		
						39.8500 AC		05		
Stories	Basement	Type	Exterior	Full/Half Bath		Garage	Last Major Renovation			
Value Information										
			Base Value		Value		Phase-in Assessments			
					As of		As of		As of	
					01/01/2017		07/01/2018		07/01/2019	
Land:			7,900		7,900					
Improvements			0		0					
Total:			7,900		7,900		7,900		7,900	
Preferential Land:			7,900						7,900	
Transfer Information										
Seller: KISER MARY E AG USE 83-84				Date: 02/26/1980				Price: \$0		
Type: NON-ARMS LENGTH OTHER				Deed1: /06139/ 00078				Deed2:		
Seller:				Date:				Price:		
Type:				Deed1:				Deed2:		
Seller:				Date:				Price:		
Type:				Deed1:				Deed2:		
Exemption Information										
Partial Exempt Assessments:		Class			07/01/2018		07/01/2019			
County:		000			0.00					
State:		000			0.00					
Municipal:		000			0.00 0.00		0.00 0.00			
Tax Exempt: Exempt Class:			Special Tax Recapture: AGRICULTURAL TRANSFER TAX							
Homestead Application Information										

2019-0138-X

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

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

1. This screen allows you to search the Real Property database and display property records.
2. Click [here](#) for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
4. The following pages are for information purpose only. The data is not to be used for legal reports or documents. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.

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

DATE: October 29, 2018

TO: John E. Beverungen, Administrative Law Judge
Office of Administrative Hearings

FROM: Jeffrey Perlow, Planner II, Zoning Review Office
Department of Permits and Development Management

SUBJECT: Recommendation for Zoning Case # 2019-0138-X

Pursuant to Section 4F-102.B.4, BCZR:

"Upon reaching the threshold of 10 solar facilities in a councilmanic district, no additional permits shall be issued for a solar facility in that district unless an existing facility previously approved under this article has been removed pursuant to Section 4F-107."

Since this case would be the "eleventh" petition filed in the 3rd Councilmanic District, the Zoning Review Office recommends that an advisory statement (i.e., a restriction) be included in any order granting the special exception that states:

"The granting of this special exception by the ALJ or the Board of Appeals upon appeal, does not guarantee that a building permit will ultimately be available for construction, pursuant to Section 4F-102.B.4, BCZR."

If you have any questions, please feel free to contact me at extension 3391.

2019-0138-X

CASE NO. 2019-0138-X

CHECKLIST

Comment
Received

Department

Support/Oppose/
Conditions/
Comments/
No Comment

11/26

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

Comment

12/6

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

Comment

11/28 1/4

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

Comment / objects

11/14

STATE HIGHWAY ADMINISTRATION

Comment

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT

Date:

12/21/18

SIGN POSTING (1st)

Date:

12/19/18

by

DocuK

SIGN POSTING (2nd)

Date:

1-7-19

by

"

PEOPLE'S COUNSEL APPEARANCE

Yes



No



PEOPLE'S COUNSEL COMMENT LETTER

Yes



No



Comments, if any: _____

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Tax Exempt:		Special Tax Recapture:			
Exempt Class:		AGRICULTURAL TRANSFER TAX			
Account Identifier:		District - 07 Account Number - 0711035191			
Owner Information					
Owner Name:		WILSON F LINDSAY WILSON MABEL E		Use:	AGRICULTURAL
		WILSON STEVEN L		Principal Residence:	NO
Mailing Address:		21128 LENTZ RD		Deed Reference:	/06139/ 00078
		PARKTON MD 21120-9128			
Location & Structure Information					
Premises Address:		OLD YORK RD		Legal Description:	39.857 AC N & SS
		PARKTON 21120-			OLD YORK RD
					NE COR LENTZ RD
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:
0007	0005	0044		0000	
Special Tax Areas:				Town:	NONE
				Ad Valorem:	
				Tax Class:	
Primary Structure Built		Above Grade Living Area		Finished Basement Area	Property Land Area
					39.8500 AC
					County Use
					05
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
					Last Major Renovation
Value Information					
		Base Value	Value	Phase-In Assessments	
			As of	As of	As of
			01/01/2017	07/01/2018	07/01/2019
Land:		7,900	7,900		
Improvements		0	0		
Total:		7,900	7,900	7,900	7,900
Preferential Land:		7,900			7,900
Transfer Information					
Seller: KISER MARY E AG USE 83-84		Date: 02/26/1980		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /06139/ 00078		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Exemption Information					
Partial Exempt Assessments:		Class		07/01/2018	07/01/2019
County:		000		0.00	
State:		000		0.00	
Municipal:		000		0.00 0.00	0.00 0.00
Tax Exempt:		Special Tax Recapture:			
Exempt Class:		AGRICULTURAL TRANSFER TAX			
Homestead Application Information					
Homestead Application Status: No Application					
Homeowners' Tax Credit Application Information					
Homeowners' Tax Credit Application Status: No Application					
Date:					

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

FROM: Department of Environmental Protection and
Development Coordination

DATE:

SUBJECT: Item # 2019-0138-X
Address 21138 Old York Road
(Wilson Property)

Zoning Advisory Committee Meeting of **November 12, 2018**.

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

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Reviewer: Thomas Panzarella
Environmental Impact Review

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 11/27/2018

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-138

INFORMATION:

Property Address: 21138 Old York Road
Petitioner: Steven S. Wilson
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a solar facility.

A site visit was conducted on November 20, 2018. Old York Road is a Master Plan designated scenic road presenting an "expansive view" as defined in the Comprehensive Manual of Development Policies (CMDP pg.177). The subject site is currently under cultivation and is within a Master Plan 2020 Agricultural Priority Preservation Area (APPA).

The Department objects to granting the petitioned zoning relief.

The subject site is surrounded on three sides by agricultural uses and is part of one of the largest active agriculture and agricultural preservation areas in the County. A Master Plan 2020 stated action for the APPAs is to "Continue to enforce local policies, ordinances, regulations and procedures that stabilize the agricultural and forest land base" (MP2020, pg.92). Baltimore County Zoning Regulations (BCZR) § 1A01.1.A.1.b finds "that the agricultural industry is an integral part of the Baltimore (County) economy and that a continued conversion of agricultural land will continue to undermine this basic industry". The Department recommends the petitioners have not demonstrated how the proposal has met the criteria established on BCZR§1A01.1.2.C stipulating that the special exception not be detrimental to agricultural uses in the vicinity. The "vicinity" is in fact the solar facility site itself. The special exception use is proposed to be situated entirely on prime and productive soils preventing cultivation of the resource and therefore is inconsistent with the purposes of the R.C.2 zone. The proposal will have greater impacts here as opposed to other locations where the use may be considered. The Department recommends this is detrimental to the general welfare of the County and is contrary to the special exception approval conditions established in BCZR§502.1.A&G.

If subsequent to the hearing, the Administrative Law Judge deems the petitioned special exception to be appropriate, the Department recommends the following conditions be attached to any decision and order rendered in the case:

Old York Road is a Baltimore County Scenic Route. When developing on a scenic route, the Comprehensive Manual of Development Policies (CMDP) development guidelines instructs one to "maintain a buffer between the road and the new development" (CMDP pg.180).

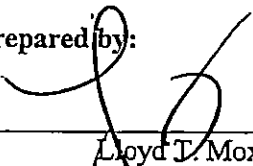
- The proposal shall minimize grading, tree and vegetation removal along Old York Road.
- The Department supports the Baltimore County Landscape Architect in planting requirements deemed necessary to include interior contour screening and other planting schemes that will mitigate the visual impact of the special exception proposal upon the scenic route.
- The Department recommends entry to the solar facility be via Sampson Road only.

Additional conditions are as follows:

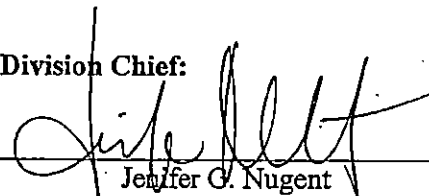
- Pursuant to BCZR §502.1.A, petitioners shall demonstrate to the satisfaction of the Administrative Law Judge that the facility will not be detrimental to the adjacent residential properties as a result of glare emanating from the facility.
- Petitioners shall note on the plan that the proposed solar facility will be subject to BCZR §4E-107.
- Petitioners shall certify by note on the plan that the proposed solar facility will not exceed the maximum permitted number of facilities allowed in its respective councilmanic district. If approved, Petitioners shall submit to this Department at the time of building permit application the final fixed location and area of the facility by coordinate data so that an inventory may be kept.
- Lighting shall be limited to what is required for security purposes only and will be sited in such a way as to have minimal spillage onto neighboring properties.
- Signage shall be limited to that which is necessary for safety and security purposes.
- No deliveries or outdoor maintenance which may generate excessive noise may occur on-site between the hours of 6 P.M. through 6 A.M.

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

Prepared by:


Lloyd T. Moxley

Division Chief:


Jennifer G. Nugent

AVA/JGN/LTM/

c: Wally Lippincott
James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Benjamin S. Wechsler, Esquire
Office of the Administrative Hearings
People's Counsel for Baltimore County

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

DATE: October 29, 2018

TO: John E. Beverungen, Administrative Law Judge
Office of Administrative Hearings

FROM: Jeffrey Perlow, Planner II, Zoning Review Office
Department of Permits and Development Management

SUBJECT: Recommendation for Zoning Case # 2019-0138-X

Pursuant to Section 4F-102.B.4, BCZR:

"Upon reaching the threshold of 10 solar facilities in a councilmanic district, no additional permits shall be issued for a solar facility in that district unless an existing facility previously approved under this article has been removed pursuant to Section 4F-107."

Since this case would be the "eleventh" petition filed in the 3rd Councilmanic District, the Zoning Review Office recommends that an advisory statement (i.e., a restriction) be included in any order granting the special exception that states:

"The granting of this special exception by the ALJ or the Board of Appeals upon appeal, does not guarantee that a building permit will ultimately be available for construction, pursuant to Section 4F-102.B.4, BCZR."

If you have any questions, please feel free to contact me at extension 3391.

2019-0138-X

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

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighbor property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

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

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

For Newspaper Advertising:

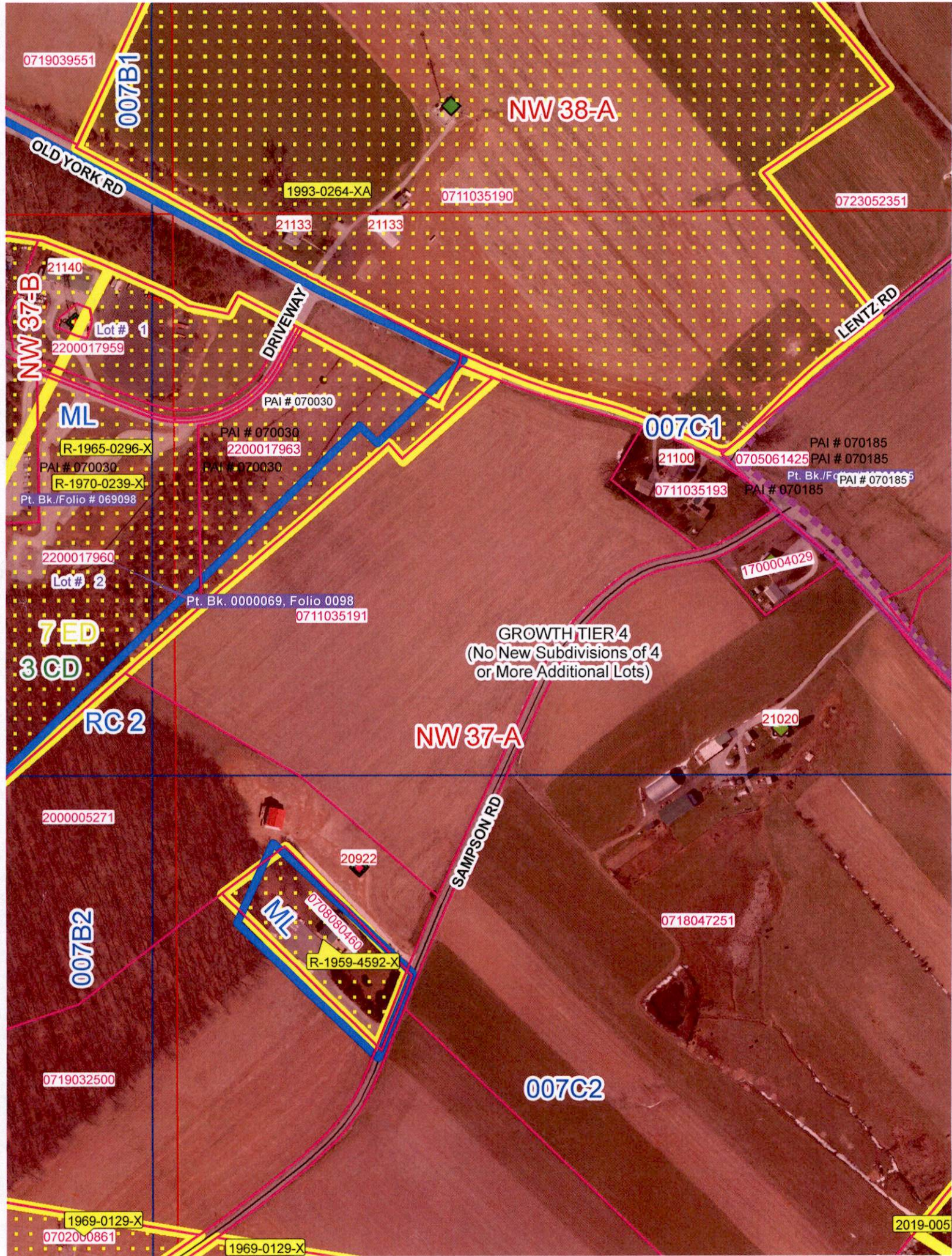
Case Number: 2019-0138-X
Property Address: 21138 Old York Road, Parkton
Property Description: Tax Map 7, Parcel 44 ,
NW 1/4 of Sampson Road, 201' SW of Old York Road
Legal Owners (Petitioners): Steve L. Wilson, Surviving Joint Tenant w/ Right of Survivorship
Contract Purchaser/Lessee: Parkton York Solar LLC

PLEASE FORWARD ADVERTISING BILL TO:

Name: Benjamin S. Wechsler, Esq.
Company/Firm (if applicable): Linowes and Blocher LLP
Address: 1 Park Place, Suite 585
Annapolis, MD 21401

Telephone Number: 443-949-3128

Revised 7/9/2015



7019-0129-X

JBS 1-10-19
1:30 PM

Debra Wiley

From: Administrative Hearings
Sent: Thursday, January 10, 2019 8:51 AM
To: SClabaugh
Subject: RE: request for copy of order

Good Morning,

This is to acknowledge receipt of your email and request.

Thank you for contacting the Office of Administrative Hearings.

From: SClabaugh [mailto:asharon26@gmail.com]
Sent: Thursday, January 10, 2019 8:22 AM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Subject: request for copy of order

Hello,

I am unable to attend the hearing today for the case listed below and would appreciate a copy of the order when it is issued.

Thank you,
Sharon

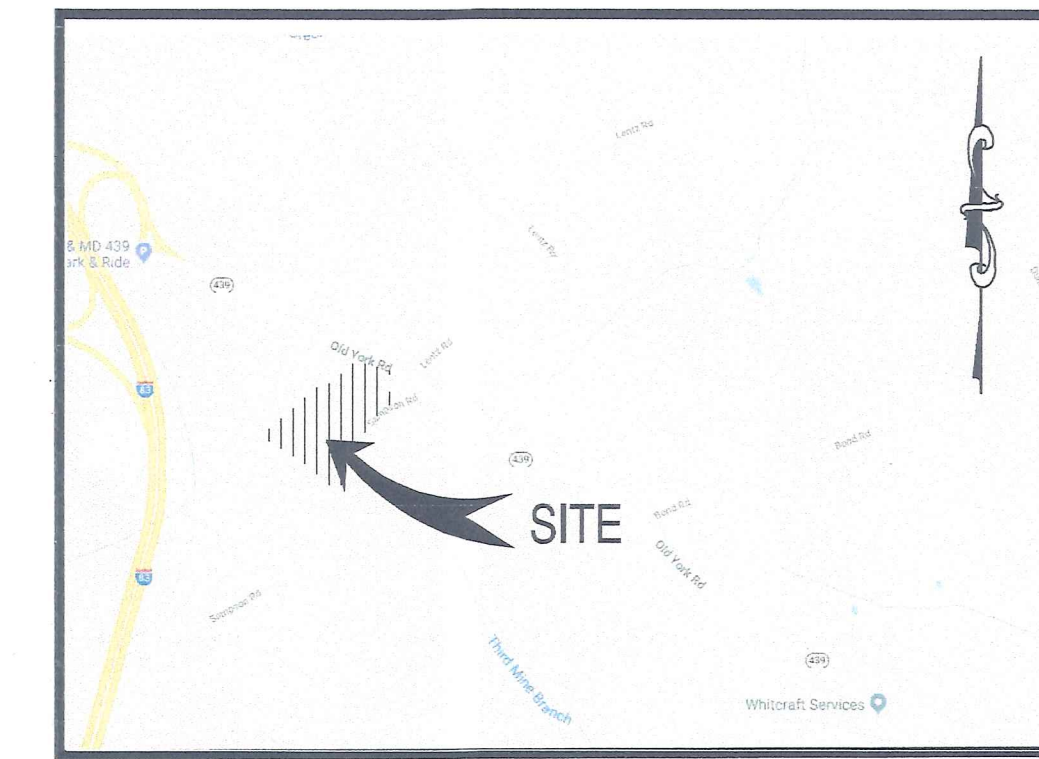
Share Zoning Hearings - 21138 Old York Road

Date/Time:
Thu. Jan 10, 2019 1:30pm - 3:30pm
Location:
3rd Council District
Details:
Case Number: 2019-0138-X
Location: Northwest side of Sampson, southwest of Old York Road
7th Election District
Legal Owners: Steven Wilson
Special Exception for a Solar Facility.
Hearing Location: Jefferson Building, 105 W. Chesapeake Avenue, Rm. 205, Towson 21204



LINE	BEARING	DISTANCE
L1	S 50°42'20" W	19.91'

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	16.22'	630.53'	1°28'25"	S 47°10'22" W	16.22'
C2	304.22'	750.00'	23°14'25"	S 33°50'31" W	302.13'



VICINITY MAP
ADC PERMITTED USE 20602152
SCALE 1"= 1000'

GENERAL NOTES:

1. DEVELOPMENT NAME: PARKTON YORK SOLAR, LLC

2. OWNER:

STEVEN L. WILSON
21128 LENTZ ROAD
PARKTON, MD 21120

APPLICANT:

PARKTON YORK SOLAR, LLC.
101 SUMMER STREET
BOSTON, MASSACHUSETTS 02110
ATTN: GREG WERNER
PHONE: 202-827-5106

PREPARED BY:

BOWMAN CONSULTING GROUP
185 ADMIRAL COCHRANE DRIVE, SUITE 215
ANNAPOLIS, MD 21401
ATTN: EDWARD S. KEOHANE, P.E.
PHONE: 443-837-3777

3. PROPERTY REFERENCE:

TAX MAP 07, GRID 05, PARCEL 44
TAX ACCT NO.: 0711035191
DEED 06139/00078

4. ZONING:

BALTIMORE COUNTY 200 SCALE ZONING MAP GIS TILE 007C1 & 007C2

5. FLOODPLAIN: NO IDENTIFIED FEMA FLOODPLAIN ON-SITE

6. SITE AREA: 19.052± ACRES - LIMIT OF DISTURBANCE: 9.38± ACRES

7. ZONED: RC-2

8. PARKING REQUIRED: 0 SPACES

9. EXISTING USE: RESIDENTIAL & AGRICULTURE.

10. THE PROPERTY HAS BEEN HELD INTACT SINCE 1980

11. THE SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.

12. THE SITE IS LOCATED BEYOND THE URBAN-RURAL DEMARCATION LINE (URDL).

13. THE SITE IS NOT LOCATED IN A BALTIMORE COUNTY HISTORIC DISTRICT OR ON A
PROPERTY THAT IS LISTED ON THE BALTIMORE COUNTY FINAL LANDMARKS LIST.

14. THERE WERE NO COMMERCIAL PERMITS OR ACTIVE ZONING VIOLATIONS FOUND ON FILE
WITH BALTIMORE COUNTY.

15. ADJOINING PROPERTIES ARE ZONED RC-2 AND ML

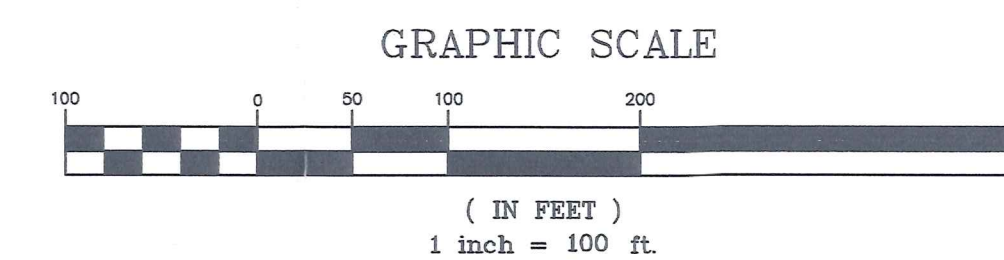
16. ELECTION DISTRICT: 7

17. COUNTY COUNCIL DISTRICT: 3

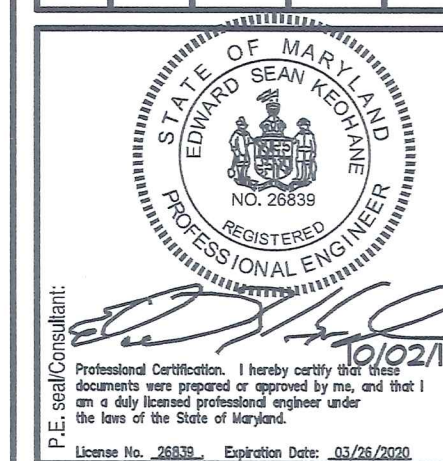
SPECIAL EXCEPTION:

1. TO GRANT SPECIAL EXCEPTION RELIEF FOR A SOLAR FACILITY PURSUANT TO BCZR
§§ 502.1 AND 4f-104

2. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE REQUIRED BY THE ADMINISTRATIVE
LAW JUDGE FOR BALTIMORE COUNTY.



Set Rev	Issued For	Date Issued
1		
1		
1		



Project: **COVER SHEET**
PARKTON YORK SOLAR, LLC
21138 OLD YORK ROAD,
PARKTON, BALTIMORE COUNTY, MD 21120

Job No.: 130033-01-001
Plan No.
Sheet C-1 of 1

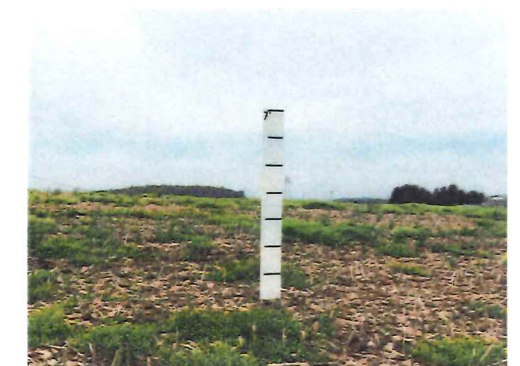


Bowman

4 Liberty Square, Boston, MA 02109
Tel: (617) 431-1440 Fax: (978) 416-2525 Web: nexamp.com

Cad file name : P:\130033 - 22138 York Road\130033-01-001 (ENG)\Engineering\Engineering Plans\130033-D-PR-001-SPEC EXCEPTION.dwg

PET. Ex. 2



Petitioner
CBA Exhibit



View of 7' white marker from Old York Road – Location #1



View of 7' white marker from Old York Road – Location #2



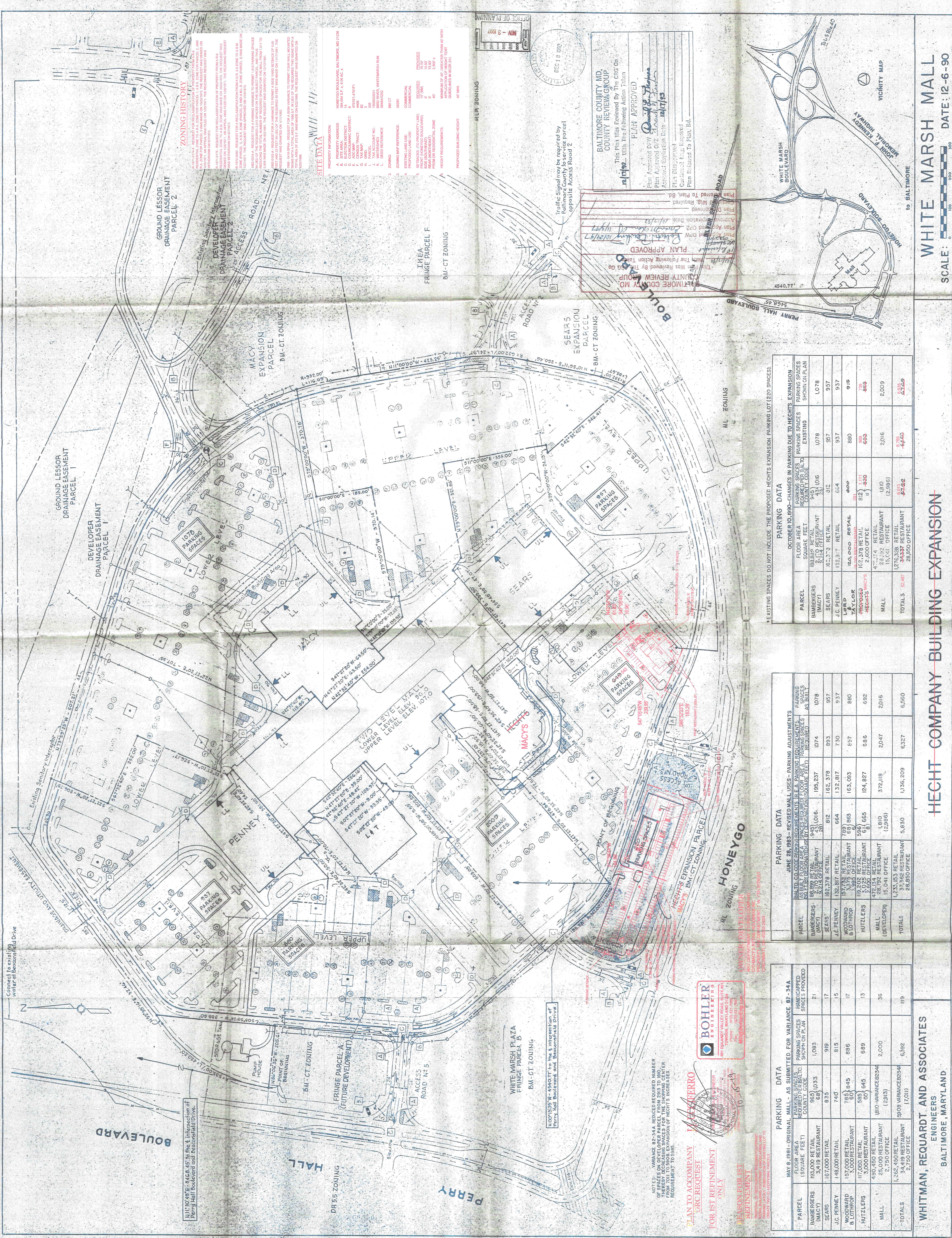
View of 7' white marker from Old York Road – Location #3



View of 7' white marker from Old York Road – Location #4



View of 7' white marker from Sampson Road – Location #5



ZONING HISTORY

EXISTING ZONING: B1 - COMMERCIAL
PROPOSED ZONING: B1 - COMMERCIAL
REASON FOR REQUEST: TO PERMIT THE PROPOSED EXPANSION OF THE BUILDING AND THE ASSOCIATED PARKING SPACES.
REMARKS: THE PROPOSED ZONING IS CONSISTENT WITH THE ZONING MAP AND THE ZONING ORDINANCE. THE REQUEST IS FOR A VARIANCE TO THE ZONING MAP TO PERMIT THE PROPOSED EXPANSION OF THE BUILDING AND THE ASSOCIATED PARKING SPACES. THE REQUEST IS FOR A VARIANCE TO THE ZONING MAP TO PERMIT THE PROPOSED EXPANSION OF THE BUILDING AND THE ASSOCIATED PARKING SPACES.

SITE DATA

PROPERTY INFORMATION:
OWNER: HECHT COMPANY
SITE AREA: 1.2 ACRES
CONVEYANCE INSTRUMENT: 1000000001
ESSENCIAL TRACT: 1000000001
TAX ACCOUNT NO.: 0000000001
ZONING MAP REFERENCE: B1 - COMMERCIAL
PROPOSED LAND USE: COMMERCIAL
PROPOSED BUILDING HEIGHT: 40' MAX.
PROPOSED BUILDING FOOTPRINT: 100,000 SQ. FT.

BALTIMORE COUNTY MD. COUNTY REVIEW GROUP
This Plan Was Reviewed By The CRG On 10/1/09 With The Following Action Taken: **PLAN APPROVED**
Plan Approved On: 10/1/09
Approval Expiration Date: 10/1/10
Plan Approved By: [Signature]
Plan Approved For: [Signature]
Plan Approved For: [Signature]
Plan Approved For: [Signature]
Plan Approved For: [Signature]

PARKING DATA

EXISTING SPACES DO NOT INCLUDE THE PROPOSED HECHT'S EXPANSION PARKING LOT (220 SPACES)

PARCEL	FLOOR AREA (SQ. FT.)	PARKING SPACES TO EXIST	PARKING SPACES SHOWN ON PLAN
BAMBERGERS (WACH)	100,000	1078	1078
SEARS	100,000	937	937
J.C. PENNEY	100,000	937	937
WOODWARD & LOthrop	100,000	880	880
HUTZLERS	100,000	880	880
MALL (DEVELOPER)	100,000	2016	2016
TOTALS	500,000	6725	6725

PARKING DATA

JUNE 28, 1993 - REVISED MALL USES - PARKING ADJUSTMENTS

PARCEL	FLOOR AREA (SQ. FT.)	PARKING SPACES TO EXIST	PARKING SPACES SHOWN ON PLAN
BAMBERGERS (WACH)	100,000	1078	1078
SEARS	100,000	937	937
J.C. PENNEY	100,000	937	937
WOODWARD & LOthrop	100,000	880	880
HUTZLERS	100,000	880	880
MALL (DEVELOPER)	100,000	2016	2016
TOTALS	500,000	6725	6725

PARKING DATA

MAY 1981 - ORIGINAL MALL - AS SUBMITTED FOR VARIANCE 87-34A

PARCEL	FLOOR AREA (SQ. FT.)	PARKING SPACES TO EXIST	PARKING SPACES SHOWN ON PLAN
BAMBERGERS (WACH)	100,000	1078	1078
SEARS	100,000	937	937
J.C. PENNEY	100,000	937	937
WOODWARD & LOthrop	100,000	880	880
HUTZLERS	100,000	880	880
MALL (DEVELOPER)	100,000	2016	2016
TOTALS	500,000	6725	6725

WHITMAN, REQUARDT AND ASSOCIATES
ENGINEERS
BALTIMORE, MARYLAND

HECHT COMPANY BUILDING EXPANSION

1ST REFINED CRG PLAN

WHITE MARSH MALL
SCALE: 1" = 100'
DATE: 12-6-90

XIV-110

May 13, 2019 - 10:29am User: dreschman Q:\3180025 Newmap Parkton York\3180025 - ENG Base Plan.dwg Tab: Landscape Plan

GENERAL NOTES:
1. DEVELOPMENT NAME: PARKTON YORK SOLAR, LLC
2. OWNER:
STEVEN L. WILSON
21128 LENTZ ROAD
PARKTON, MD 21120
APPLICANT:
PARKTON YORK SOLAR, LLC.
101 SUMMER STREET
BOSTON, MASSACHUSETTS 02110
ATTN: GREG WERNER
PHONE: 202-827-5106
PREPARED BY:
McCRONE
107 CHESAPEAKE BLVD, SUITE 104
ELKTON, MD 21921
ATTN: DANIEL SPEAKMAN, P.E.
PHONE: 443-569-8248
3. PROPERTY REFERENCE:
TAX MAP 07, GRID 05, PARCEL 44
TAX ACCT NO.: 0711035191
DEED 06139/00078
4. ZONING:
BALTIMORE COUNTY 200 SCALE ZONING MAP GIS TILE 007C1 & 007C2
5. FLOODPLAIN: NO IDENTIFIED FEMA FLOODPLAIN ON-SITE
6. SITE AREA: 19.052± ACRES
AREA WITHIN FENCE: 8.05 ACRES OR 42.25% OF SITE AREA
LIMIT OF DISTURBANCE: 9.17 ACRES
7. ZONED: RC-2
8. PARKING REQUIRED: 0 SPACES
9. EXISTING USE: RESIDENTIAL & AGRICULTURE
10. THE PROPERTY HAS BEEN HELD INTACT SINCE 1980
11. THE SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
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13. THE SITE IS NOT LOCATED IN A BALTIMORE COUNTY HISTORIC DISTRICT OR ON A
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14. THERE WERE NO COMMERCIAL PERMITS OR ACTIVE ZONING VIOLATIONS FOUND
ON FILE WITH BALTIMORE COUNTY.
15. ADJOINING PROPERTIES ARE ZONED RC-2 AND ML
16. ELECTION DISTRICT: 7
17. COUNTY COUNCIL DISTRICT: 3
SPECIAL EXCEPTION:
1. TO GRANT SPECIAL EXCEPTION RELIEF FOR A SOLAR FACILITY PURSUANT TO BCZR
§§ 502.1 AND 4F-104
2. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE REQUIRED BY THE
ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.



PLANT TABLE

KEY	Quantity	Scientific Name	Common Name	Planting Size	NOTE
Canopy Trees					
AR	7	Acer Rubrum	Red Maple	2" Cal.	Balled and Burlapped
Understory Trees					
CC	11	Cercis canadensis	Eastern Redbud	6-7" HL	Balled and Burlapped
BN	45	Betula nigra	River Birch	6-7" HL	Balled and Burlapped
Evergreen Trees					
CL	91	Cupressocyparis leylandi	Leyland Cypress	4-5'	Balled and Burlapped
PM	9	Pseudotsuga menziesii	Douglas Fir	6'	Balled and Burlapped
PS	12	Pinus strobus	Eastern White Pine	6'	Balled and Burlapped
IN	22	Ilex x 'Nellie R. Stevens'	Nellie Stevens Holly	3-4'	Balled and Burlapped
Evergreen Shrubs (Small Trees) - Plant 151 shrubs consisting of these four species:					
IC	38	Ilex crenata	Convex Japanese Holly	24"	2 Gal Container
CS	38	Cornus sericea	Red-osier dogwood	24"	2 Gal Container
LB	38	Lindera benzoin	Spicebush	24"	2 Gal Container
VD	37	Viburnum dentatum	Arrowwood	24"	2 Gal Container
TOTAL		348			

PRELIMINARY

SEAL

DATE

REV. #

DATE

DESCRIPTION

REVISIONS

REV. #

DATE

DESCRIPTION

McCRONE

ENGINEERS • SURVEYORS • PLANNERS

ANAPOLIS • CENTREVILLE • ELKTON • SALISBURY • DELAWARE

107 CHESAPEAKE BOULEVARD, SUITE 104

ELKTON, MARYLAND 21921

(410) 396-1550

www.mccrone-engineering.com

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LANDSCAPE PLAN

TAX MAP 7, GRID 5, PARCEL 44

21138 OLD YORK ROAD, PARKTON, MD 21120

PARKTON YORK SOLAR, LLC

SOLAR PROJECT

SEVENTH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND

PREPARED FOR: NEXAMP, INC.

DATE

MAY 2019

JOB NUMBER

D3190023

SCALE

AS SHOWN

DRAWN BY

NY

DESIGNED BY

NY

APPROVED BY

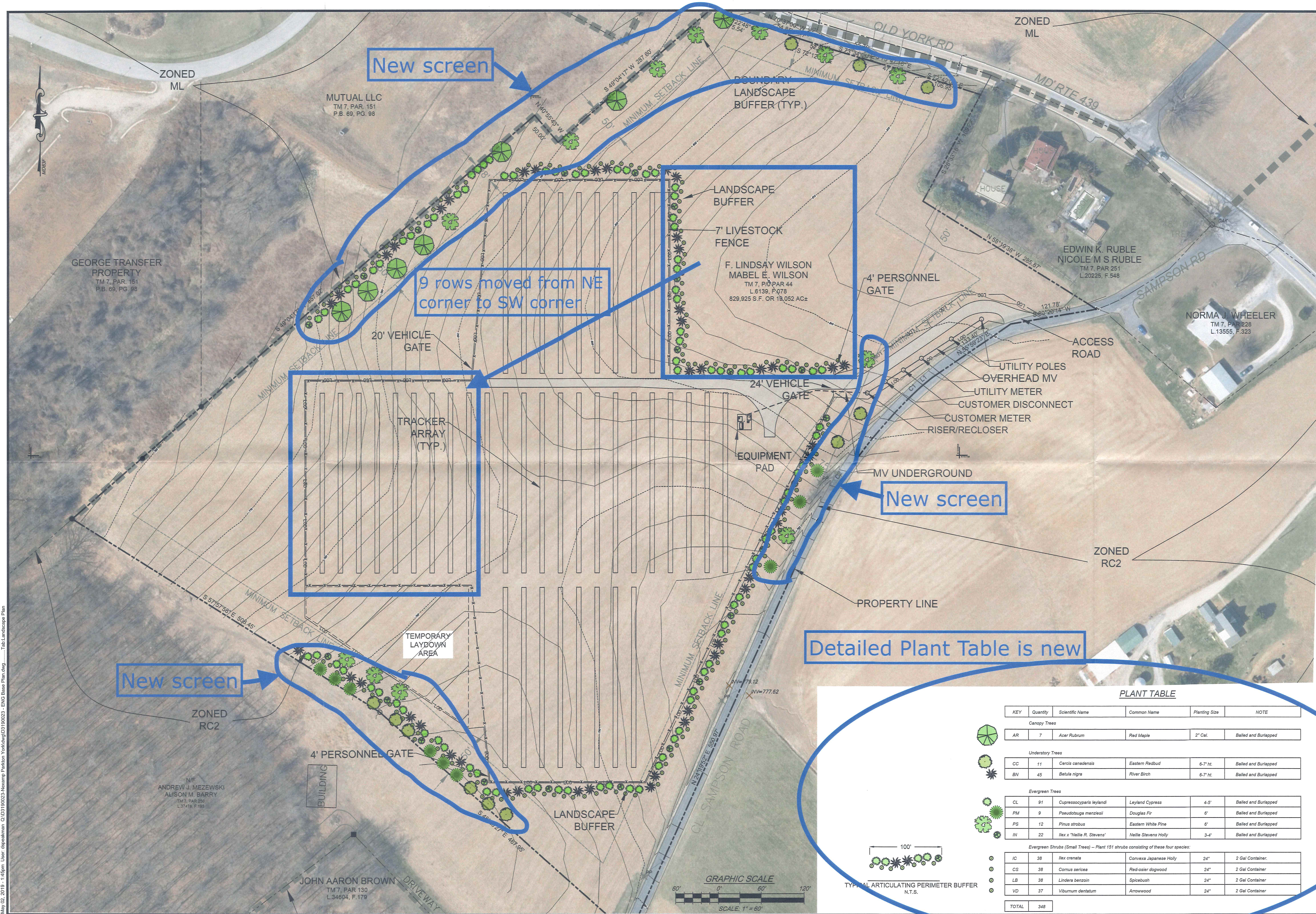
DSS

FOLDER REFERENCE

SHEET NO.:

1 OF 1

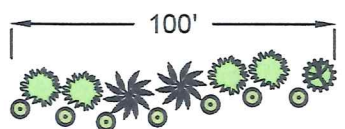
May 02, 2019 - 1:45pm User: dcapalman Q:\03190023 Newcamp Parkton York\03190023 - ENG Base Plan.dwg Tab: Landscape Plan



Detailed Plant Table is new

PLANT TABLE

KEY	Quantity	Scientific Name	Common Name	Planting Size	NOTE
Canopy Trees					
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Understory Trees					
CC	11	Cercis canadensis	Eastern Redbud	6-7" ht.	Balled and Burlapped
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Evergreen Trees					
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LB	38	Lindera benzoin	Spicebush	24"	2 Gal Container
VD	37	Viburnum dentatum	Arrowwood	24"	2 Gal Container
TOTAL	348				



TYPICAL ARTICULATING PERIMETER BUFFER N.T.S.

PRELIMINARY

SEAL

DATE

REV. #

DATE

DESCRIPTION

REVISIONS

REV. #

DATE

DESCRIPTION

McCRONE

ENGINEERS • SURVEYORS • PLANNERS

ANNAPOLIS • CENTREVILLE • ELKTON • SALISBURY • DELAWARE

107 CHESAPEAKE BOULEVARD, SUITE 104

ELKTON, MARYLAND 21921

(410) 396-1330

www.mccrone-engineers.com

Copyright © 2019

DATE

MAY 2019

JOB NUMBER

DS190023

SCALE

AS SHOWN

DRAWN BY:

NY

DESIGNED BY:

NY

APPROVED BY:

DS

FOLDER REFERENCE:

LANDSCAPE PLAN

TAX MAP 7, GRID 5, PARCEL 44

21138 OLD YORK ROAD, PARKTON, MD 21120

NEW CAMP

PARKTON YORK SOLAR PROJECT

SEVENTH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND

CONCEPT

SHEET NO.: 1 OF 1

Petitioner
CBA Exhibit

2

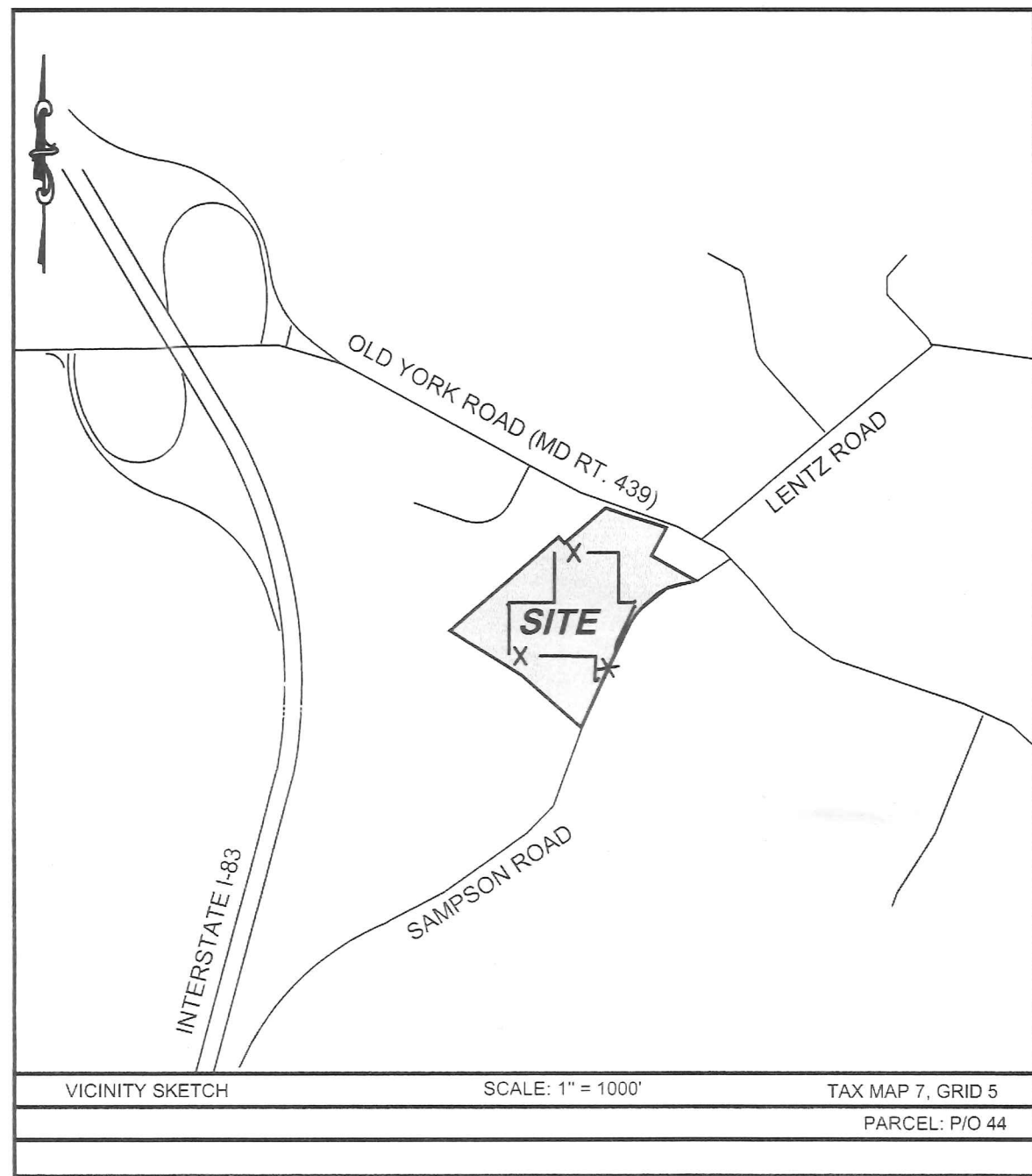
October 10, 2019 8:18am User: mcrone Q:\D3\190223-Nexamp-Parkton York\dwg\D3\190223-ENG Base Plan.dwg.....Tab C-1

SITE PLAN NOTES

- The purpose of this plan is to create a Major Site Plan for construction of a 1,138.86 kW DC solar power generation facility. This plan shows the existing conditions of the site as of July 2019.
 - Address: 21138 Old York Road, Parkton, Maryland 21120
 - Tax Map: 7
 - Grid: 5
 - Parcel: P/O 44
 - Area: 39.857 AC ± (site shown is 19.402 AC ± OR 845,161 SF±)
 - Zoned: RC2
 - Councilmanic District: Third
 - Election District: Seventh
 - Census Tract: 407002
 - Watershed: Loch Raven Reservoir Watershed
 - Deed Reference: Liber: 40904 Folio: 234
- Proposed Development:
 - Solar Array consisting of solar panels, metal racking system, and underground wiring
 - Concrete equipment pads
 - Gravel Access drive
- No design waivers or variances have been requested.
- A solar facility is permitted only by special exception in RC2 zones (§ 4F-102.A). The Board of Appeals of Baltimore County granted a Special Exception on July 24, 2019, Case #19-138-X to construct and operate a Solar Power Generation Facility on this parcel with the following conditions:
 - Landscape bufferyard around perimeter
 - Post a performance bond for maintenance of landscaping for 3 years
 - Solar Array configuration per Petitioners' Exhibit 1
 - Installation of a 7' high "farm fence" around the perimeter of the array
 - Special Exception is limited to a period of 35 years, running from the date of the final inspection certificate issued under the County building permit
 - Installation of a stormwater management system
 - No chemicals shall be sprayed on the ground during the construction or operation of the facility.
 - Site must comply with ZAC comments submitted by the DEPS
 - Baltimore County Landscape Architect approval of Landscape Plan
 - The Special Exception area shall include only the property within the proposed fenced enclosure
 - No lighting or signage shall be permitted
- Building coverage:
 - Existing: 0 s.f. - 0.00% of the total parcel area
 - Proposed: 0 s.f. - 0.00% of the total parcel area
- Waste/byproducts generated during operation will consist of ordinary construction debris and trash which will be removed by contractors or maintenance operators to landfill.
- Outside lighting: No outside lighting is proposed. Therefore no Photometrics Plan is required.
- Water supply: No domestic water is required for a solar array
- Sewage Disposal: No sewage disposal is required for a solar array
- Parking required and provided:
 - No parking is required for a Solar Power Generation Facility, however the gravel access road will provide ample temporary parking for maintenance of the facility and will provide turn around areas
- Total lot impervious coverage:
 - Existing impervious area: 16,587 s.f. ~ 0.36 ac. (1.96% of total site area, comprised of existing roadway, Sampson Road and Old York Road, all to remain)
 - Proposed impervious area: 81,946 s.f. ~ 1.88 ac. (9.69% of total site area, includes access drive, utility equipment pads, and solar panel arrays)
 - Total impervious area 98,533 s.f. ~ 2.26 ac. (11.65% of total site area)
- Existing landscaping has been shown and has been taken from aerial imagery. Locations are approximate.
- Open space/Landscape area:
 - Total site area: 35.26 ac.
 - Total post-developed open space/landscape area: 17.14 AC, or 746,710 SF±
- Landscape Buffers: (§ 4F-104.6) A landscaping buffer has been provided around the perimeter of each portion of the solar facility that is visible from an adjacent residentially used property or a public street. (Screening and Landscaping shall comply with the Baltimore Landscape Manual.)
- A Simplified Forest Stand Delineation Plan has been prepared.
- Maximum height of building = 35' in Zone RC2. No existing onsite building, no new buildings proposed. (§ 1A01.3.A)
- Solar array structures do not exceed 20' in height.
- Required setbacks (§ 1A01.3.B.3):
 - From street centerline = 75'
 - From lot line = 35'
- Boundary information and topography shown hereon taken from McCrone boundary and topographic survey conducted in June and July 2019.
- Regulatory approvals required:
 - Baltimore County - Major Site Plan
 - Baltimore County Soil Conservation District - Environmental Site Design Plan
 - Baltimore County Department of Environmental Protection and Sustainability - Environmental Site Design Plan
 - Baltimore County Permits, Approvals, and Inspection (PAI) - Environmental Site Design Plan
- No new signage will be constructed with this plan.
- Proposed improvements will not impact any streams, buffers, or non-tidal wetlands and their buffers. No wetlands or streams are present on the property.
- The property shown hereon appears to be located in Zone 'X' (areas to be outside the 0.2% annual chance floodplain) as shown on F.I.R.M. Community Panel No. 2400100035F dated September 26, 2008.
- The property does not lie within the Chesapeake Bay Critical Area.
- We hereby request confirmation by The Bureau of Traffic Engineering and Transportation Planning that the property is not within a Traffic Deficient Area.
- There are no known onsite wells or septic areas.
- There are no historical structures located on this property and the property is not located in the historic district.
- There are no known onsite hazardous materials as defined by Section 7-101 of the Environmental Article of the Annotated Code of Maryland.
- The development as proposed will include protective measures adequate to prevent erosion or sloughing of any steep slopes as defined by Section 32-4-101 of the Baltimore Count Code and promote the preservation of the natural topographic features of the steep slope. This will be achieved by providing Erosion and Sediment Control measures in accordance with the requirements of the Baltimore County Soil Conservation District and the current State of Maryland Specification for Soil Erosion and Sediment Control.
- The estimated proposed average daily trips attributable to the development in this plan is zero (0).
- Transit services not provided per the Maryland Mass Transit Administration's Access by Design publication.
- A 7' fence has been provided around the solar facility per § 4F-104.7.
- The land is not encumbered by an agricultural preservation easement, an environmental preservation easement, or a rural legacy easement.
- The portion of land on which the solar facility is proposed is not within a forest conservation easement.
- No deliveries or outdoor maintenance which may generate excessive noise may occur on-site between the hours of 6 PM through 6 AM.
- The solar facility will connect to the power grid by tying into the overhead electric line along Sampson Road.
- Clearing and grading will be conducted only for construction of the access road and stormwater facilities.

MAJOR SITE PLAN
FOR
PARKTON YORK SOLAR, LLC
1,138.86 kW DC SOLAR GENERATION FACILITY
SEVENTH ELECTION DISTRICT, THIRD COUNCILMANIC DISTRICT, BALTIMORE COUNTY, MARYLAND
21138 OLD YORK ROAD, PARKTON, MARYLAND 21120
TAX PIN: 0711035191

VICINITY MAP



SHEET INDEX

- C-1 COVER SHEET
- C-2 EXISTING CONDITIONS PLAN
- C-3 MAJOR SITE PLAN
- C-4 SITE CONSTRUCTION DETAILS
- L-1 LANDSCAPE PLAN
- L-2 LANDSCAPING DETAILS

SOILS LEGEND

TYPE	SOIL NAME & DESCRIPTION	HYDROLOGIC GROUP	K FACTOR	HES CRITERIA
GdA	Glenelg loam, 0 to 3 percent slopes	Not Hydric	B 0.24	
GdB	Glenelg loam, 3 to 8 percent slopes	Not Hydric	B 0.24	
GdC	Glenelg loam, 8 to 15 percent slopes	Not Hydric	B 0.24	
GhA	Glenville silt loam, 0 to 3 percent slopes	Partially Hydric	C 0.37	K Factor
GhB	Glenville silt loam, 3 to 8 percent slopes	Partially Hydric	C/D 0.37	K Factor

GdC - Glenelg loam is listed in Web Soil Survey under the Forest Productivity Rating for the Black Oak Tree.

BEFORE YOU DIG CALL
1-800-257-7777 OR DIAL 811



LEGEND

EXISTING	PROPOSED
CONTOUR	--- 65 --- 145 ---
SPOT ELEVATION	143.5
FLOW ARROW	~>
SOIL BOUNDARY	MiaB MuB
PROPERTY LINE	---
EASEMENT	---
FENCELINE	X --- X ---
GAS LINE	--- G ---
TELEPHONE LINE	--- T ---
ELECTRIC LINE	--- E ---
LIGHT POLE	+
WETLANDS	W
WETLAND BUFFER	---
STREAM	---
STREAM BUFFER	---
STORM DRAIN	---
STORM DRAIN MANHOLE	D
STORM DRAIN INLET	I
SANITARY SEWER	SS
SANITARY SEWER MANHOLE	S
WATERLINE	W
BUILDING	[Building symbol]
PAVEMENT	[Pavement symbol]
SIDEWALK	[Sidewalk symbol]
TREE	[Tree symbol]
TREELINE	---
LIMIT OF HIGH USE VEHICLE TRAVEL	LOV
LIMIT OF DISTURBANCE	LOD
SILT FENCE	SF
SUPER SILT FENCE	SSF
STABILIZED CONSTRUCTION ENTRANCE	SCE

MAXIMUM PERMITTED NUMBER OF FACILITIES:

We, Parkton York, LLC, hereby certify that this proposed solar facility will not exceed the maximum permitted number of facilities allowed in Councilmanic District Three. At building permit application, Parkton York, LLC will submit the final fixed location of the array and area of the facility by coordinate data to the Baltimore County Department of Planning.

Greg Werner

Date

ZONING HISTORY

CASE NO. 2019-138-X. Steven Wilson, Petitioner. This case came before the Board of Appeals on an appeal of the final decision of the Administrative Law Judge ("ALJ") in which the ALJ granted a Petition for Special Exception for a Solar Facility by Opinion and Order dated January 14, 2019. The petition for special exception for a Solar Facility was granted subject to the following conditions:

AGREED CONDITIONS:

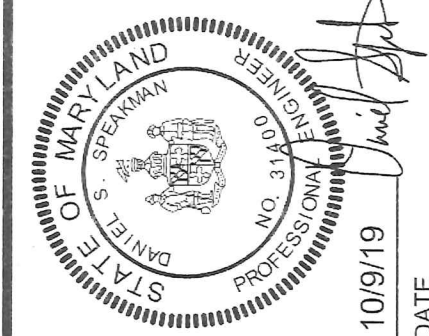
- Petitioner must comply with Conditions 1 through 6 of the Opinion and Order of the Baltimore County Administrative Law Judge in this matter (Petitioners' Exhibit 5), with the following modifications:
 - Instead of a black vinyl-coated chain link fence referenced in Condition 5 thereof, the parties agree that the fence shall be a farm fence similar to the picture below around the perimeter of the project, provided that such fence shall not contain barbed wire and may be modified at the requirement or direction of the county or other governmental entity during the site plan review process, or as necessary to comply with applicable building codes.
 - The configuration of the Project shall be substantially as depicted in Petitioners' Exhibit 1, including the relocation of approximately 9 rows of pines from the northeast corner of the parcel to the southeast corner, provided further that such location and configuration within the Property may be modified as reasonably necessary for construction-related purposes, so long as such modified location and configuration do not result in the placement of any solar modules nearer to Old York Road than as depicted in Petitioners' Exhibit 1.
 - Petitioners shall provide a vegetative screen ("Screen") at least as rigorous as reflected in Petitioners' Exhibit 1 including the species, quantities, and planting sizes indicated in the Plant Table shown thereon; provided that such Screen may be modified as required or directed by the County or other governmental entity during the site plan review process.
 - Petitioners shall, prior to issuance of the applicable County building permit, post a performance bond with the County in an amount equal to 125% of the installation costs of the Screen and other landscape improvements, as determined by a duly licensed civil engineer. Such bond shall be provided to the County as security for Parkton York's obligations to properly maintain the Screen for a period of 3 years so as to ensure the reasonable health and growth of the trees and shrubs comprising the Screen.
 - Petitioners acknowledge that the support of each neighboring property owner is critical to the success of the Solar Facility, and therefore shall work in good faith with SGCPG to ensure the continued support of such neighbors throughout the development process.
 - Petitioners agree and consent to the Board of Appeals of Baltimore County limiting the duration of the Special Exception, approved pursuant to BCZR Sections 502.1 and 4F-104, to a period of 35 years, running from the date of final inspection certificate issued under the County building permit for the Solar Facility.
 - Parkton York will design and install a stormwater management system that meets or exceeds all County standards. The design will be prepared, approved, and stamped by a civil engineering firm that is fully licensed and insured in accordance with State requirements.
 - Petitioners shall not spray chemicals on the ground during the construction or operation of the Solar Facility.
- Conditions 1 through 6 of the ALJ Order, as relevant and adjusted.
 - Petitioners must comply with the ZAC comments submitted by the DEPS, a copy of which is attached hereto and made a part hereof, including compliance with Baltimore County Code Secs. 33-1-101 through 33-3-120 and 33-6-101 through 33-6-122.
 - Prior to issuance of permits, Petitioners must submit for approval by the Baltimore County Landscape Architect a landscape plan for the site.
 - The special exception area shall include only the property within the fenced enclosure, i.e. approximately 9.36 acres.
 - No lighting or signage shall be permitted in connection with this solar facility.

DEDICATION TABLE

TYPE OF CONVEYANCE	NO.	TOTAL AREA (AC.)
FOREST CONSERVATION EASEMENT	4	1.61
STORMWATER MANAGEMENT EASEMENT	1	0.34

DELINQUENT ACCOUNTS CERTIFICATION

I, _____, CERTIFY UNDER OATH THAT THERE ARE NO DELINQUENT ACCOUNTS FOR ANY OTHER DEVELOPMENT WITH RESPECT TO ANY OF THE FOLLOWING: THE APPLICANT, A PERSON WITH A FINANCIAL INTEREST IN THE PROPOSED DEVELOPMENT, OR A PERSON WHO WILL PERFORM CONTRACTUAL SERVICES ON BEHALF OF THE PROPOSED DEVELOPMENT.



Professional Certification. I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Engineer under the laws of the State of Maryland. License No. 31498, Expiration Date 1-16-2021.

REVISIONS

DESCRIPTION

DATE

REV. #

DATE

REV. #

DATE

REV. #

DATE

REV. #

DATE

REV. #

DATE

REV. #

DATE

REV. #

DATE

REV. #

DATE

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PLAN TO ACCOMPANY DRC REQUEST

COVER SHEET

TAX MAP 7, GRID 5, PARCEL 44
21138 OLD YORK ROAD, PARKTON, MD 21120

PARKTON YORK SOLAR, LLC
SOLAR PROJECT

SEVENTH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND

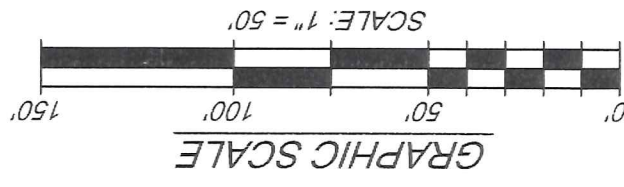
PREPARED FOR: NEXAMP, INC.

MARYLAND STATE PLANE
COORDINATE SYSTEM - NAD 83

SHEET NO.:

C-1

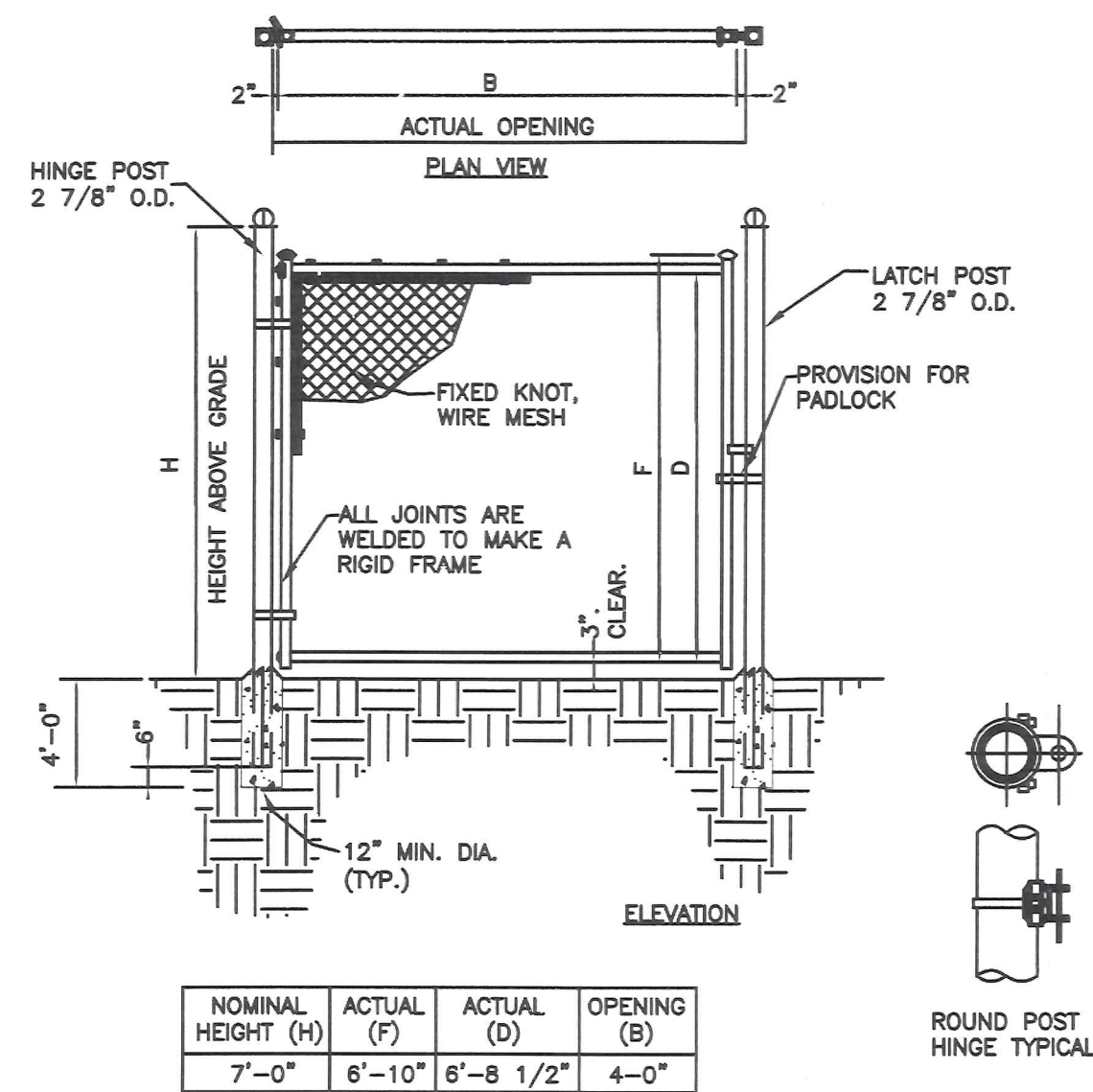
DRC110319A

- DENOTES IRON ROD FOUND
- DENOTES EXISTING UTILITY POLE

- | EQUIPMENT SCHEDULE | |
|--------------------|------------------------------------|
| ① | UTILITY OWNED STEP-UP TRANSFORMER |
| ② | POI: RISER POLE WITH FUSED CUTOUTS |
| ③ | MV UNDERGROUND |
| ④ | LV UNDERGROUND |
| ⑤ | EQUIPMENT PAD |
| ⑥ | VEHICLE GATE |
| ⑦ | 4* PERSONNEL GATE |

SHEET NO.: C-3		
MARYLAND STATE PLANE COORDINATE SYSTEM - NAD 83		
MAJOR SITE PLAN		
TAX MAP 7, GRID 5, PARCEL 44 21138 OLD YORK ROAD, PARKTON MD 21120		
PARKTON YORK SOLAR, LLC SOLAR PROJECT		
SEVENTH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND		
PREPARED FOR: NEAPM, INC.		
DATE: JULY 2019	JOB NUMBER: 021600223	
SCALE: 1" = 50'	DRAWN BY: MMK	
DESIGNED BY: MMK	APPROVED BY: DSS	
FOLDER REFERENCE:		
www.mccroneengineering.com		
McCRONE ENGINEERS ■ SURVEYORS ■ PLANNERS ANNAHOLDS ■ CENTREVILLE ■ ELKTON ■ SALISBURY ■ DELAWARE 107 CHURCH STREET, FIFTH FLOOR ELKTON, MARYLAND 2021 (410) 390-1550		
Copyright © 2018		
REVISIONS		
REV. #	DATE	DESCRIPTION
		No. 31400 - Expiration Date: 1-16-2021. Professional Certification: I hereby certify that this document was prepared or supervised by me, and that I am a duly licensed Professional Engineer under the laws of the State of Maryland. License No. 31400.
	10/9/19	
DATE		

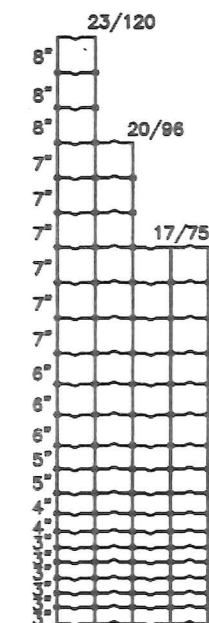
October 09, 2019 - 11:33am User: mkauff Q:\03180023-Nexamp Parkton York\dwg\03180023 - ENG Base Plan.dwg.....Tab C-4



FARM FENCE PERSONNEL GATE
NOT TO SCALE

#	WIRE	NOMENCLATURE	LENGTH	WEIGHT
23	23/120/6	330'	492	
20	20/96/3	165'	308	
20	20/96/6	330'	395	
20	20/96/6	500'	598	
17	17/96/6	330'	355	
17	17/75/6	330'	326	
10	10/60/6	330'	210	

#	WIRE	NOMENCLATURE	LENGTH	WEIGHT
23	23/120/12	330'	343	
20	20/96/12	330'	282	
20	20/96/12	660'	564	
17	17/96/12	330'	248	
17	17/96/12	660'	486	
17	17/75/12	330'	235	
10	10/60/12	660'	294	



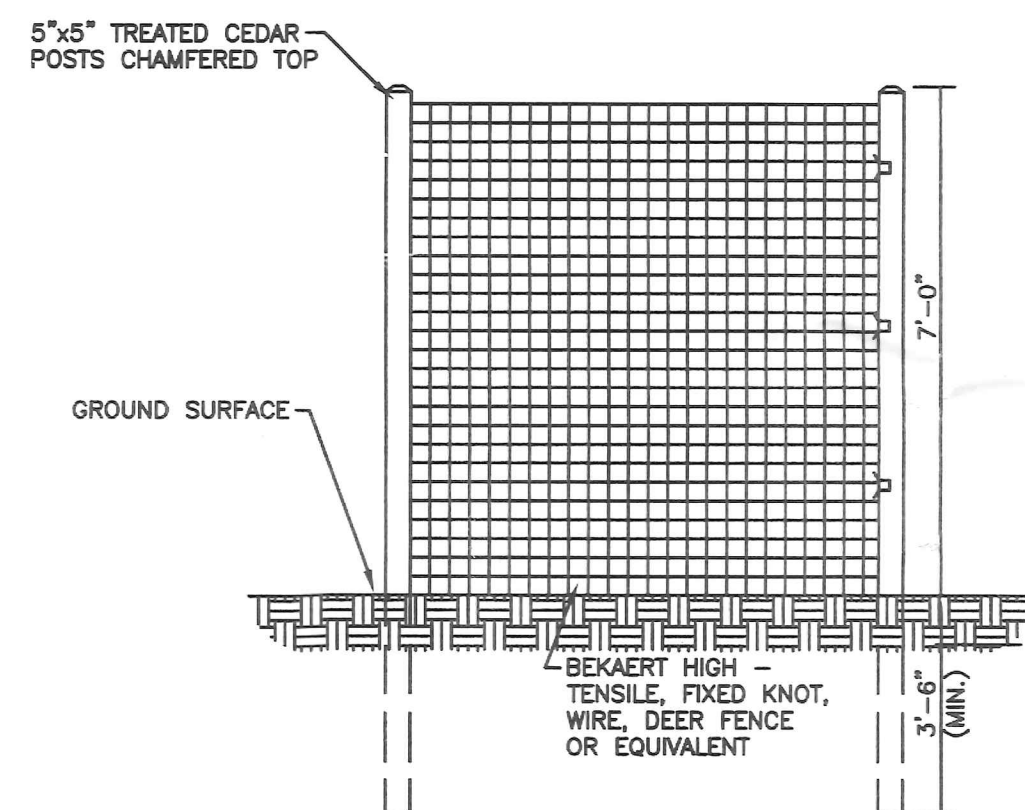
WIRE	GAUGE	TENSILE STRENGTH	BREAKING LOAD	GALVANIZATION
Line Wires	12 1/2 ga.	Hi-Tensile 180K-212K	1347 lbs-1687 lbs	.85 oz.-1.4 oz. per sq. ft.
Stay Wires	12 1/2 ga.	Med-Tensile 140K-170K*	1048 lbs-1273 lbs*	.85 oz.-1.4 oz. per sq. ft.
Knot Wires	13 ga.	Low Tensile 57K-76K	311 lbs-456 lbs	.85 oz.-1.4 oz. per sq. ft.

ORDER NOMENCLATURE

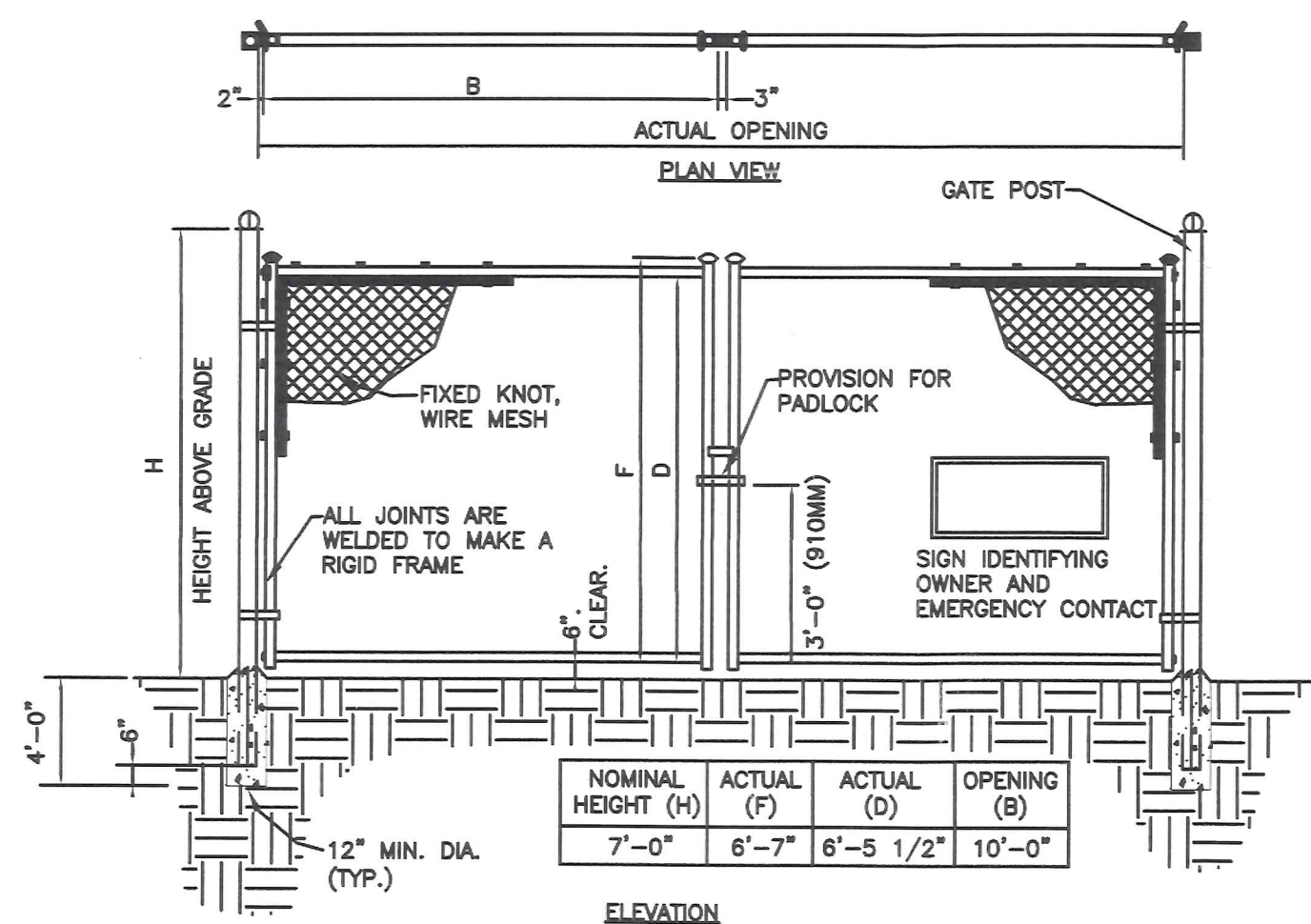
The first two numbers indicate the number or horizontal wires, while the second two numbers indicate the height of the fence. The last number is the distance between vertical stays.

Example: 20/96/12 is a roll with 20 horizontal wires, is 96" high, with vertical stays 12" apart.

- Note new higher strength vertical stay wire spec.
- Other configurations available on special order basis

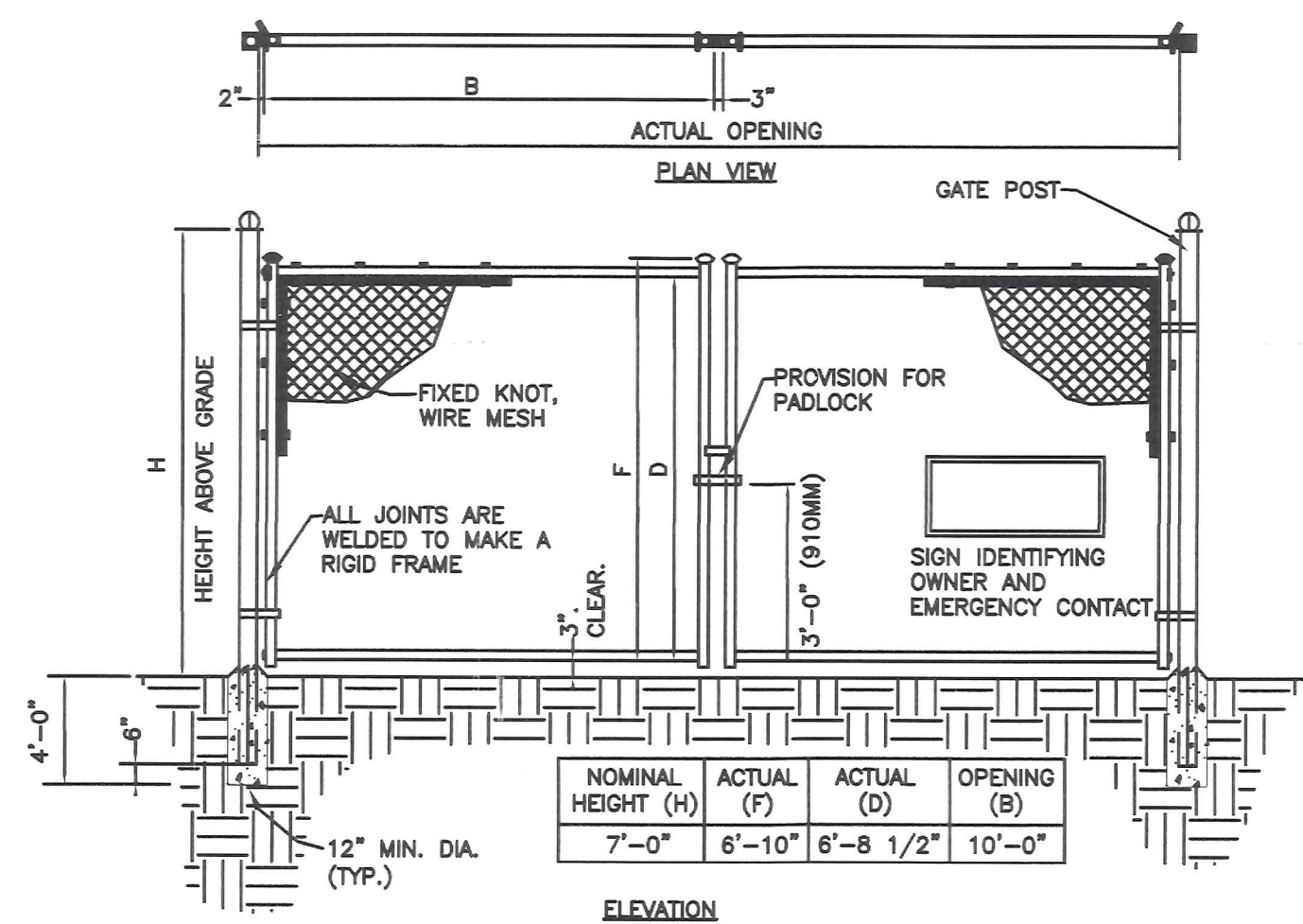


HIGH TENSILE, FIXED KNOT WIRE FENCE
NOT TO SCALE



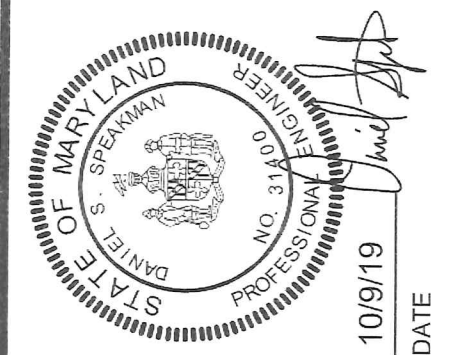
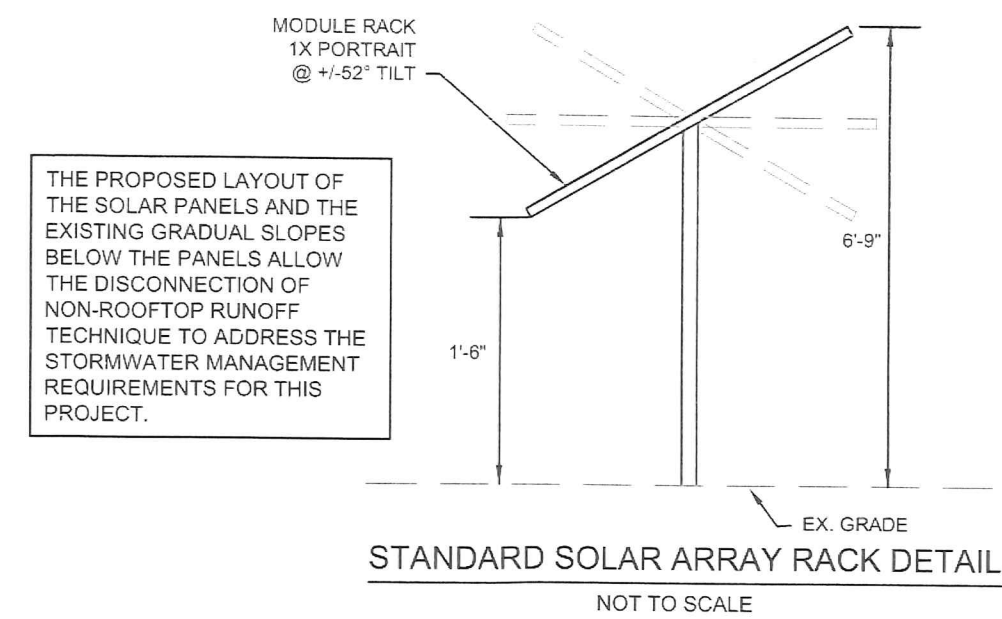
- NOTES
- ALL FENCING AND HARDWARE SHALL BE GALVANIZED.
 - CONCRETE ENCASEMENT AT END AND GATE POSTS ONLY

WIRE MESH SECURITY FENCE - DOUBLE GATE
NOT TO SCALE



- NOTES
- ALL FENCING AND HARDWARE SHALL BE GALVANIZED.
 - CONCRETE ENCASEMENT AT END AND GATE POSTS ONLY

WIRE MESH SECURITY FENCE - DOUBLE GATE
NOT TO SCALE



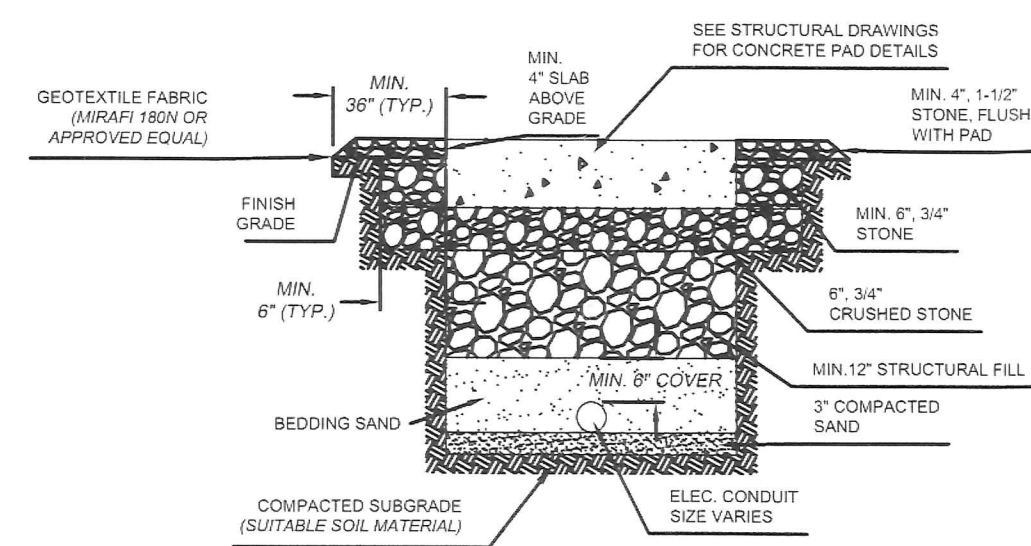
Professional Certification: I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Engineer under the laws of the State of Maryland. License No. 31450, Expiration Date: 1-16-2021

REV #	DATE	DESCRIPTION

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ELKTON, MARYLAND 21821
(410) 396-1550
www.mccrone-engineering.com

DATE:	JULY 2019
JOB NUMBER:	D3180023
SCALE:	
DRAWN BY:	MAK
DESIGNED BY:	MAK
APPROVED BY:	DSS
FOLDER REFERENCE:	

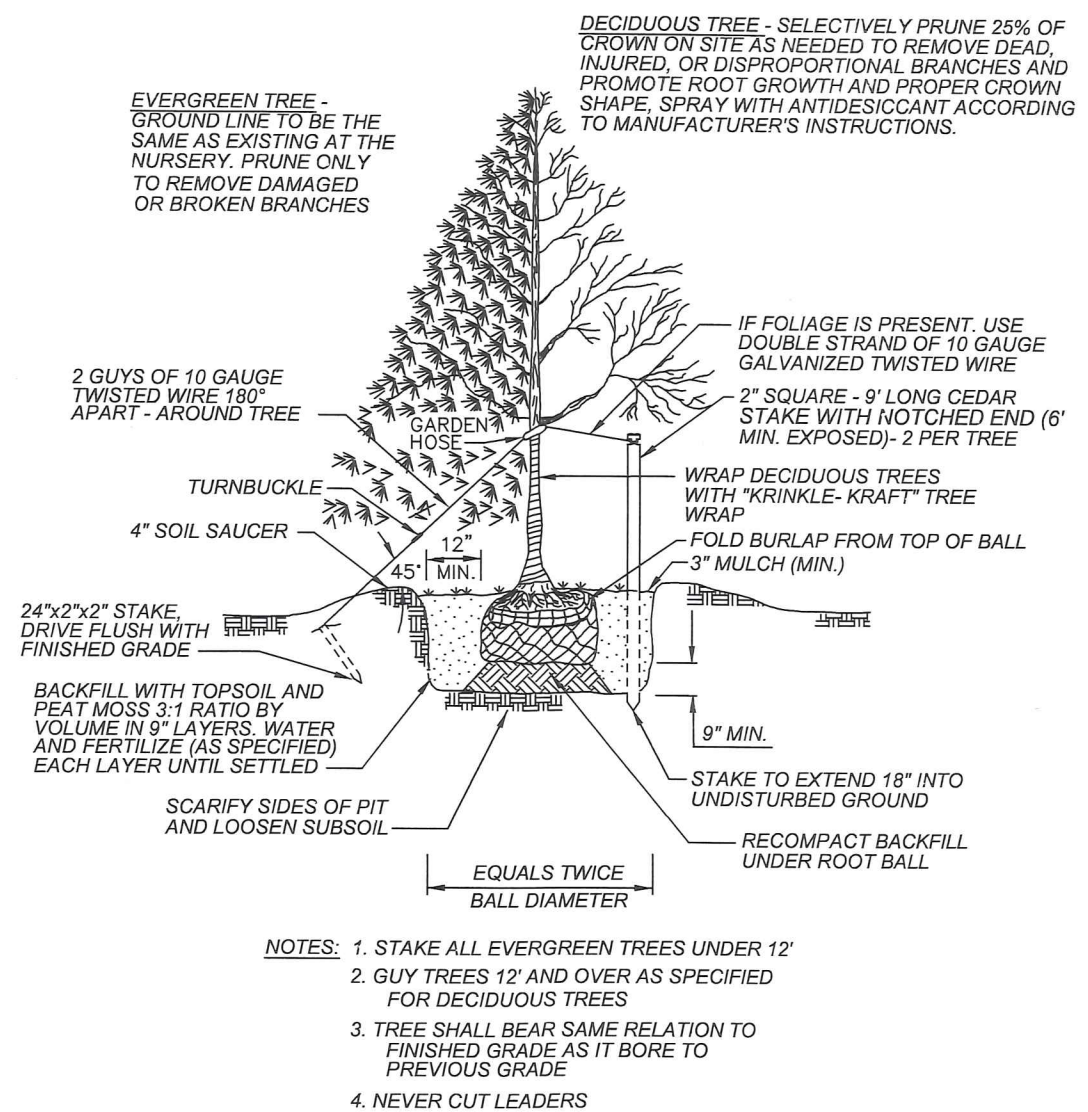
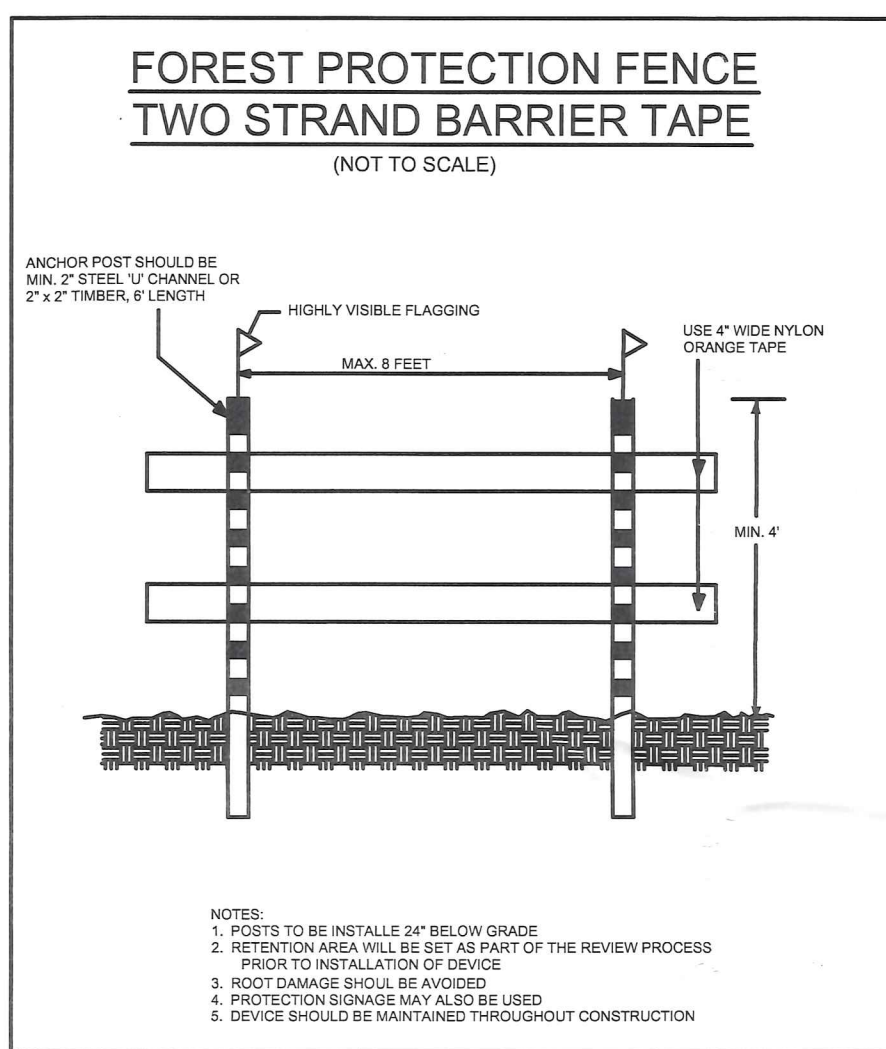
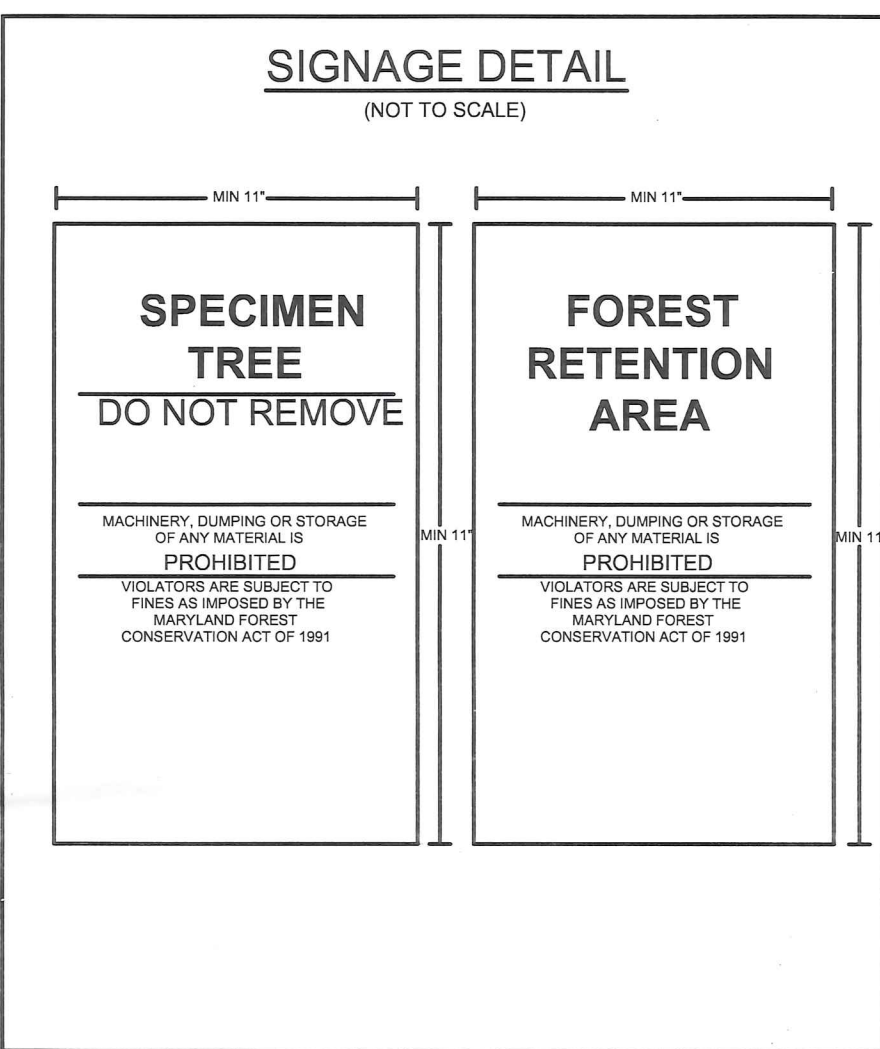
SITE CONSTRUCTION DETAILS
TAX MAP 7, GRID 5, PARCEL 44
21138 OLD YORK ROAD, PARKTON, MD 21120
PARKTON YORK SOLAR, LLC
SOLAR PROJECT
SEVENTH-ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND
PREPARED FOR: NEXAMP, INC.



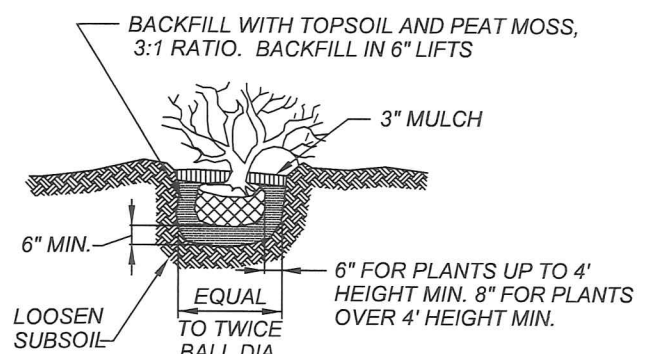
SUBSOIL EQUIPMENT FOUNDATION DETAIL

1. ALL FOREST CONSERVATION PROTECTION SIGNAGE SHALL BE PLACED PRIOR TO ANY LAND CLEARING OR GRADING AND IS TO BE MAINTAINED THROUGHOUT THE ENTIRE CONSTRUCTION PHASE OF THE PROJECT.
2. ATTACHMENT OF PROTECTION SIGNAGE OR OTHER EQUIPMENT TO TREES TO BE RETAINED IS PROHIBITED.
3. EQUIPMENT, MACHINERY, VEHICLES, MATERIALS AND EXCESSIVE PEDESTRIAN TRAFFIC IS PROHIBITED WITHIN FOREST RETENTION AREAS.
4. THE FOLLOWING USES ARE PROHIBITED WITHIN FOREST RETENTION /REFORESTATION AREA:
 - A. UTILITY LINES
 - B. ACCESS ROADS
 - C. STAGING, STORAGE OR TEMPORARY PARKING
 - D. STORMWATER MANAGEMENT DEVICES
 - E. IMPERVIOUS SURFACES
 - F. GRADING AND/OR SEDIMENT CONTROL STRUCTURES

1. ALL PLANT MATERIAL SHALL CONFORM WITH AMERICAN NURSERY AND LANDSCAPE ASSOCIATION USING ANSI Z60.1-2004 STANDARDS AND BE NURSERY GROWN.
2. PLANT PROCEDURES AND SPECIFICATIONS SHALL CONFORM WITH THE "LANDSCAPE SPECIFICATION GUIDELINES FOR THE BALTIMORE-WASHINGTON METROPOLITAN AREA" LATEST EDITION.
3. CONTRACTOR SHALL VERIFY LOCATION OF ALL UNDERGROUND UTILITIES IN THE FIELD AND BE RESPONSIBLE FOR THEIR PROTECTION DURING PLANTING OPERATIONS. ADJUSTMENTS IN PLANT SPACING AND LOCATION SHALL BE MADE AS NECESSARY TO AVOID CONFLICTS WITH UTILITIES. MISS UTILITY SHALL BE CONTACTED PRIOR TO THE INITIATION OF WORK.
4. CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REQUIREMENTS FOR EXECUTING THE PLANTING PLAN.
5. CONTRACTOR SHALL BE RESPONSIBLE FOR RESTORING AREAS ADJACENT TO THE PLANTING AREAS DISTURBED OR DAMAGED AS A RESULT OF PLANTING OPERATION.
6. CONTRACTOR SHALL RESTORE ALL DISTURBED OR DAMAGED LAWN AREAS WITHIN 50 FEET OF THE PLANTING AREAS AND RECOMMEND AN APPROPRIATE SEED MIX AS PER SOIL AND SITE CONDITIONS.
7. ALL GROUND COVER PLANTING AREAS SHALL BE MULCHED WITH A MINIMUM OF INCHES OF SHREDDED HARDWOOD BARK. TREES AND SHRUBS SHALL BE INSTALLED IN ACCORDANCE WITH PLANTING DETAILS.
8. CONTRACTOR SHALL WARRANT THAT ALL PLANT MATERIALS WILL BE HEALTHY AND IN FLOURISHING CONDITION FOR A TIME PERIOD OF NO LESS THAN TWO (2) GROWING SEASONS FROM THE DATE OF INITIAL ACCEPTANCE.
9. FINAL ACCEPTANCE WILL BE GIVEN TO THE CONTRACTOR ONE YEAR FROM THE DATE OF INITIAL ACCEPTANCE BY OWNER.



TREE PLANTING DETAIL
NOT TO SCALE



SHRUB PLANTING DETAIL
NOT TO SCALE

[illegible]

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DATE:	JULY 2019
JOB NUMBER:	D3190023
SCALE:	N/A
DRAWN BY:	MAK
DESIGNED BY:	MAK
APPROVED BY:	DSS
FOLDER REFERENCE:	

LANDSCAPE DETAILS

TAX MAP 7, GRID 5, PARCEL 44
21138 OLD YORK ROAD, PARKTON, MD 21120

PARKTON YORK SOLAR, LLC
SOLAR PROJECT

SEVENTH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND

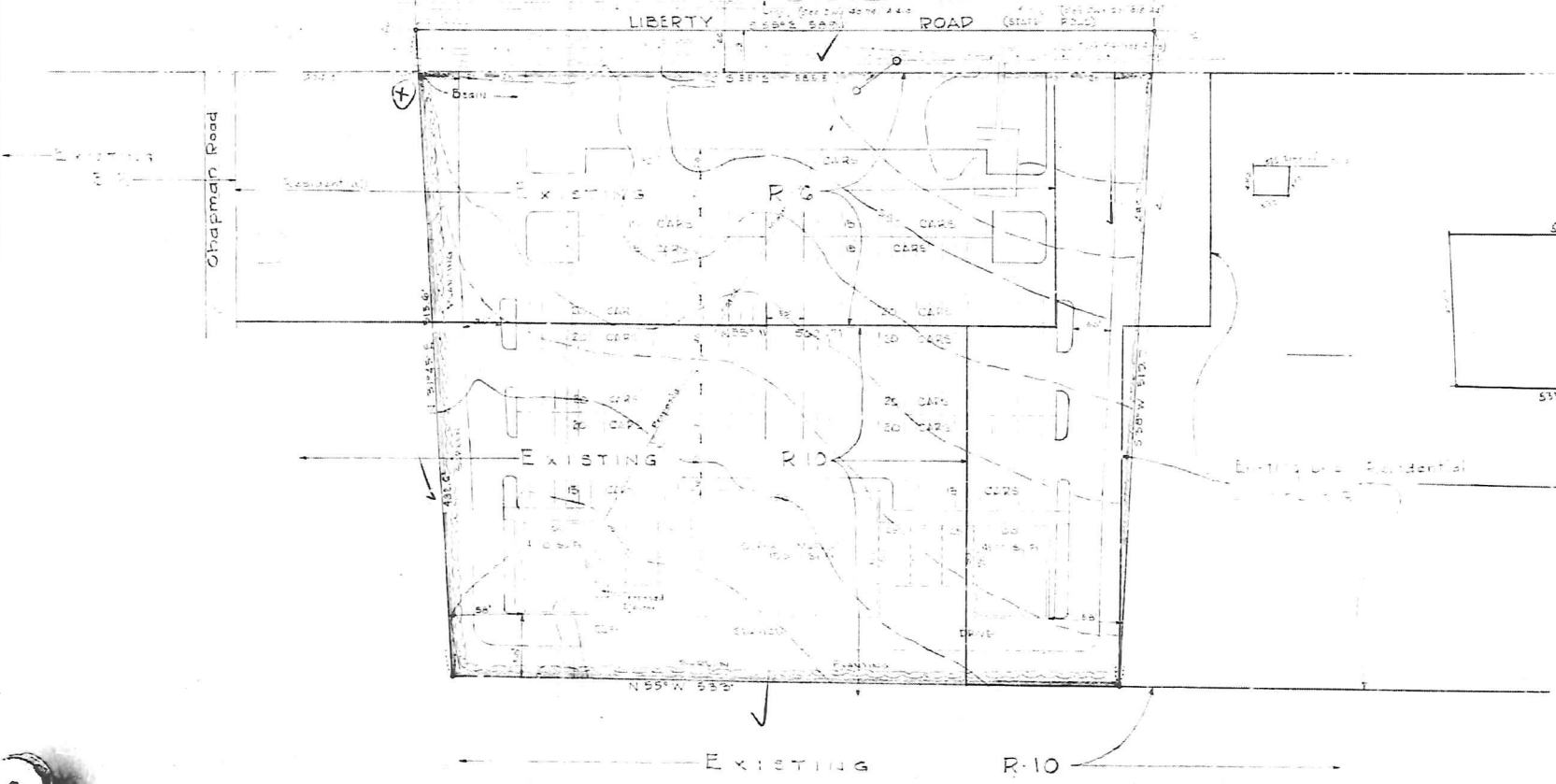
PREPARED FOR: NEXAMP, INC.

MARYLAND STATE PLANE
COORDINATE SYSTEM - NAD 83

SHEET NO.:

L-2

EXISTING BR
EXISTING R-10 (RESIDENTIAL)
EXISTING BR



Existing Zoning
Proposed Zoning
Net Area of Tract
Total Area of Changes
Parking Spaces Required (400 sq ft)
Parking Spaces Provided (400 sq ft)

R-10 to BR
2.0
215,000
1,500 sq ft
50
175

#68-44R

OFFICE
COPY

MAP
2-C
WESTERN
AREA
NW-7-1
BR

PLAT TO ACCOMPANY PETITION FOR RECLASSIFICATION OF ZONING
R-10 TO BR AND PART OF PROPERTY TO REMAIN BR
SOUTH SIDE OF LIBERTY ROAD EAST OF CHAPMAN ROAD
Baltimore County Md
Scale: 1" = 50'

Elect. Dist. #2
June 27, 1967

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
ENGINEERS
301 ALLEGHENY AVE.
PITTSBURGH, PENNSYLVANIA

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
ENGINEERS
301 ALLEGHENY AVE.
PITTSBURGH, PENNSYLVANIA



PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Albert Kernisch, legal owner, of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an R-10 zone to an R-10 zone, for the following reason:

1. Error in original zoning
2. Genuine change in condition in neighborhood

See attached description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for:

Property is to be graded and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above reclassification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract purchaser
Address: Albert Kernisch, Legal Owner
8517 Glenn Michael Lane
Baltimore, Maryland 21204

W. Lee Harrison, Esq.
306 W. Joppa Road
Towson, Maryland 21204 823-1200

ORDERED By The Zoning Commissioner of Baltimore County, this 11th day of September, 1970, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commission of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 22nd day of October, 1970, at 2:00 o'clock.

W. Lee Harrison, Esq.
306 W. Joppa Road
Towson, Maryland 21204
Item 226

Highways:
Chapman Road is an existing 10-foot wide macadam road proposed for improvement as a 40-foot closed roadway within a 60-foot right-of-way. Highway right-of-way widening and improvements would be required with any subsequent grading or building permit applications.

Without Avenue may be terminated at the property line as indicated on the plat.

The status of the "20-foot road - Use 'n Common" extending into the site from Chapman Road must be clarified. Any access to Chapman Road must be approved by the Department of Traffic Engineering and the Office of Planning.

Storm Drainage:
No provision for accommodating storm water or drainage have been indicated on the subject plan; however, storm drain facilities and easements will be required in connection with the proposed development of this property.

The petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the petitioner.

Sediment Control:
Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Grading studies and sediment control drawings will be necessary to be reviewed and approved prior to the recording of any record plat or the issuance of any grading or building permits.

Water:
Public water supply is available to serve this property.

Re: Petition for Reclassification
From R-10 Zone to R-R Zone
Property Beg. 554' S/W of
Int. of Liberty and Chapman
Roads, 2nd District
Albert Kernisch,
Petitioner

Before
Zoning Commissioner
of
Baltimore County
No. 71-137-R

As the matter in the above captioned case is now moot the petition is hereby **DISMISSED** without prejudice.

Order of Dismissal
Zoning Commissioner

Date: 6/2/71

RE: RECLASSIFICATION FROM
R-10 to R-R, LIBERTY ROAD
NEAR CHAPMAN ROAD, 2ND
ELECTION DISTRICT
PETITIONER: ALBERT KERNISCH

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

MEMORANDUM
Now comes Albert Kernisch, Legal Owner of the above captioned property, by W. Lee Harrison, his attorney, and in accordance with Bill 72, Section 22, 22(b) states that the reclassification requested should be granted and for reasons says:

1. Numerous reclassifications have taken place in the immediate neighborhood.
- a. Case No. 84046 - SE/4 Liberty Road and Green Lane, Special Exception for Office Building. Granted 2/17/64.
- b. Case No. 66-217-R - SW 1/4 of Liberty Road and Green Lane, Reclassification from R-A and R-6 to R-E. Granted 4/4/66.
- c. Case No. 68-236-S - SW 1/4 Liberty Road, 8'9" NW of Chapman Road. Special Exception for Contractor's Equipment Storage Yard. Granted 8/11/66.
- d. Case No. 68-434-R - Beg. 383' from SW 1/4 of Liberty Road, 1780' NW of Chapman Road. Reclassification from R-A and R-10 to R-E. Granted 8/17/67.
- e. Case No. 68-44-R - S/S Liberty Road, 60' S of Chapman Road. Reclassification from R-6 and R-10 to R-R. Granted 8/22/67.

2. And for such other and further reasons as may be shown at the time of hearing herein.

W. Lee Harrison
306 W. Joppa Road
Towson, Maryland 21204
823-1200
Attorney for Petitioner

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

May 11, 1970

W. Lee Harrison, Esq.
306 W. Joppa Road
Towson, Maryland 21204

RE: Type of Petition Reclassification
From an R-10 zone to an R-R zone
Location: 554' SW of Int. Chapman
and Liberty Roads
Petitioner: Albert Kernisch
Committee Meeting of April 14, 1970
2nd District
Item 226

Dear Sir:

The Zoning Advisory Committee has reviewed the plan submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

The subject property is presently an unimproved tract of land, with the property to the north improved with dwellings. As well as the properties to the east, west and south, Liberty Road and Chapman Road are not improved as far as concrete curbs and gutters are concerned at the present time.

BUREAU OF ENGINEERING:
The following comments are furnished in regard to the plan submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:
Liberty Road is a State road; therefore, all street improvements, entrance locations, drainage requirements and utility construction within the State road right-of-way are under the jurisdiction of the Maryland State Roads Commission and will be subject to the standards, specifications and approval of that agency.

W. Lee Harrison, Esq.
306 W. Joppa Road
Towson, Maryland 21204
Item 226

May 12, 1970

ZONING ADMINISTRATION DIVISION (Continued)

1. The top 500 as indicated near the proposed ejector station must be changed to indicate 150. The entrance as shown along Liberty Road do not meet State Roads Commission standards. (See comments by State Roads in the foregoing).
2. The dimensions of the front fence which is a portion of this petition must be indicated.

Very truly yours,
Oliver L. Ricks, Chairman

OLM:JD
Enc.

W. Lee Harrison, Esq.
306 W. Joppa Road
Towson, Maryland 21204
Item 226

May 12, 1970

Sanitary Sewer:

Public sanitary sewer is not presently available in the Patuxent River drainage area, the natural drainage area in which this property lies. It will be possible to reach the Scotts Le Drainage Area by constructing a private sewage pumping station as indicated on the subject plan. The private sewage station must be constructed on site in accordance with Department of Health regulations and requirements, and will not be permitted to be constructed within any drainage utility easement or flood plain reservation.

PROJECT PLANNING DIVISION:
This office has reviewed the subject site plan and offers the following comments:

The property proposed for zoning is physically oriented to Chapman Road which is not equipped to handle commercial traffic.

DEPARTMENT OF TRAFFIC ENGINEERING:
The subject petition is requesting a change of 6.3 acs from R10 to R-R.

This should increase the trip density from 220 trips to 4700 trips. This additional increase in trip density can be expected to create capacity problems, since Liberty Road presently exists as a 2 lane road and there is a great deal of commercial land along Liberty Road which is undeveloped.

BUILDING ENGINEER'S OFFICE:
Petitioner to comply with all applicable requirements for Baltimore County Building Code Rules and Regulations, when plans are submitted. See also Parking Section 409.10.h.

FIRE DEPARTMENT:
Owner shall be required to comply to all applicable requirements of the 1911 Life Safety Code, 1967 edition, and the Fire Prevention Code when construction plans are submitted for approval.

W. Lee Harrison, Esq.
306 W. Joppa Road
Towson, Maryland 21204
Item 226

May 12, 1970

BOARD OF EDUCATION:

Would not increase student population.

HEALTH DEPARTMENT:

Public water and sewer available. Proposed ejector must be equipped with auxiliary pump and emergency power.

Food Service Commission: If a food service is planned complete plans and specifications must be submitted to the Division of Food Control, Baltimore County Department of Health for review and approval.

Air Pollution Commission: The building or buildings on this site may be subject to registration and compliance with the Maryland State Health Air Pollution Control Regulations. Additional information may be obtained from the Division of Air Pollution, Baltimore County Department of Health.

STATE ROADS COMMISSION:

The lanes of monumental entrances must have a minimum width of 24'. The medians must have a minimum length of 120' from the proposed curb line.

There is poor stopping sight distance at the westerly entrance due to an over vertical curve (hill) to the east. To establish an entrance to a large traffic generator at this location would create a traffic hazard. A single monumental entrance as proposed at the east property line should be sufficient to serve the site, therefore, the westerly entrance should be eliminated.

Access to Liberty Road will be subject to State Roads Commission approval and permit.

ZONING ADMINISTRATION DIVISION:

The petitioner will be required to submit revised plans to this office prior to the hearing date being assigned indicating the following:

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of:

the above Reclassification should be had, and it further appearing that by reason of:

a Special Exception for a..... should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this..... day of..... 196..... that the herein described property or area should be and the same is hereby reclassified, from a..... to a..... and/or a Special Exception for a..... should be and the same is granted, from and after the date of this order.

Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of:

the above re-classification should NOT BE HAD, and/or the Special Exception should NOT BE GRANTED

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this..... day of..... 196..... that the above re-classification be and the same is hereby DENIED and that the above described property or area be and the same is hereby continued as and to remain a..... and/or the Special Exception for..... be and the same is hereby DENIED

RECEIVED FOR
PLANNING
BY: *[Signature]*
DATE: 3-2-70
OFFICE OF
PLANNING & ZONING

Zoning Commissioner of Baltimore County

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Edward D. Hardesty
ATTN: Oliver L. Myers
FROM: William H. Myers, P.E.
SUBJECT: Item 228 (1069-1070)
Property Owner: Albert Kermisch
554' S/W of Int. of Chapman and Liberty Roads
District: 2nd
Present Zoning: R-10
Proposed Zoning: Reclassification to BR
No. Acres: 6.331 acres

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Liberty Road is a State Road. Therefore, all street improvements, drainage facilities, drainage requirements and utility construction within the State Road right-of-way come under the jurisdiction of the Maryland State Roads Commission and will be subject to the standards, specifications and approval of that agency.

Highway:

Chapman Road is an existing 18-foot wide macadam road proposed for improvement as a 40-foot closed roadway within a 60-foot right-of-way. Highway right-of-way widening and improvements would be required with any subsequent grading or building permit applications.

Water Avenue may be terminated at the property line as indicated on the plat.

The status of the "20-foot road - Use In Common" extending into the site from Chapman Road must be clarified. Any access to Chapman Road must be approved by the Department of Traffic Engineering and the Office of Planning.

Storm Drains:

No provisions for accommodating storm water or drainage have been indicated on the subject plan; however, storm drain facilities and easements will be required in connection with the proposed development of this property.

June 24, 1971

W. Lee Harrison, Esq.,
306 West Joppa Road,
Towson, Maryland 21204

Re: Petition for Reclassification
from R-10 to B-R Zone
554' S/W of Int. of Liberty
and Chapman Roads, 2nd Dist.,
Albert Kermisch, Petitioner
No. 71-137-R

Dear Mr. Harrison:

I have today dismissed the petition, in the above matter, in accordance with the attached.

Very truly yours

Zoning Commissioner

cc: Fred. E. Waldrop, Esq.,
Loyola Federal Building
Towson, Maryland 21204

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
SUITES
P. O. BOX 1428, TOWSON, MD. 21204

Description to Accompany Zoning
Petition from R-10 to BR
Chapman Road, Reclassification.

March 26, 1970

Beginning for the same in the center of Chapman Road, 30 feet wide, at a point 554 feet more or less measured southerly along the center line of Chapman Road from the intersection of the center line of said Road with the southerly side of Liberty Road, 66 feet wide, running thence from said place of beginning the eight following courses and distances, viz: (1) South 24° 15' West 163.00 feet, blinding on the center line of Chapman Road, thence leaving Chapman Road, (2) South 53° 45' East 300.00 feet, (3) South 36° 15' West 120.00 feet, (4) South 53° 45' East 566.25 feet, (5) North 42° 00' East 371.54 feet to a point on the outline of a parcel of land heretofore owned BR, thence blinding for a part of said land (6) North 54° 27' West 724.32 feet, (7) South 36° 15' West 77.26 feet, and (8) North 53° 45' West 200.00 feet to the place of beginning. Containing 6.331 Acres of land more or less.



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF TRAFFIC ENGINEERING
JEFFERSON BUILDING
TOWSON, MARYLAND 21204
INTER-OFFICE CORRESPONDENCE

TO: Mr. Edward D. Hardesty
ATTN: Oliver L. Myers
FROM: C. Richard Moore
SUBJECT: Item 228 - ZAC - April 14, 1970
Property Owner: Albert Kermisch
Chapman Road & Liberty Road
Reclassification to BR

Date: April 17, 1970

The subject petition is requesting a change of 6.3 acres from R10 to BR.

This should increase the trip density from 226 trips to 4700 trips. This additional increase in trip density can be expected to create capacity problems, since Liberty Road presently exists as a 2 lane road and there is a great deal of commercial land along Liberty Road which is undeveloped.

[Signature]
C. Richard Moore
Assistant Traffic Engineer

CRM:rr

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. Edward D. Hardesty
Zoning Commissioner

Date: May 11, 1970

FROM: Richard B. Williams
Project Planning Division
SUBJECT: Zoning Advisory Agenda Item # 228

April 14, 1970
Albert Kermisch
554' SW of Int. Chapman and
Liberty Roads

This Office has reviewed the subject site plan and offers the following comments:

The property proposed for zoning is physically oriented to Chapman Road which is not equipped to handle Commercial Traffic.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Edward D. Hardesty, Zoning Commissioner
Date: April 17, 1970

FROM: Edward D. Hardesty, Zoning Commissioner

SUBJECT: 228 - Albert Kermisch
554' S/W of Int. Chapman & Liberty Roads
District 2

Petitioner to comply with all applicable requirements of the Building Code Rules and Regulations when plans are submitted. See, also, Planning Section 409.11(b).

[Signature]

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Edward D. Hardesty, Zoning Commissioner, Date: April 21, 1970
Attn: Mr. Myers

FROM: Inspector Thomas E. Kelly
Fire Department

SUBJECT: Property Owner Albert Kernisch

Location: 554' S. of Int. Chapman and Liberty Roads

Item #228 Zoning Agency April 14, 1970

Owner shall be required to comply to all applicable requirements of the 301 Life Safety Code, 1967 edition, and the Fire Prevention Code when construction plans are submitted for approval.

Inspector T. E. Kelly

cc: Mr. M. J. Hanna III

BALTIMORE COUNTY BOARD OF EDUCATION

ZONING ADVISORY COMMITTEE MEETING
OF April 14, 1970

Petitioner: Albert Kernisch

Location: Chapman & Liberty Rd.

Subject: A

Present Zoning: R-10

Proposed Zoning: R-10

No. of Acres: 6.331

Comments: Would not increase student population

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Oliver Myers Date: April 20, 1970

FROM: Mr. J. Hardesty

SUBJECT: Item 228 - Zoning Advisory Committee Meeting, April 14, 1970

228. Property Owner: Albert Kernisch
Location: 554' S. of Int. Chapman and Liberty Rd.
Present Zoning: R-10
Proposed Zoning: Reclassification to R-10
District: 2nd
No. Acres: 6.331 acres ±

Public water and sewers available. Proposed septic tank to be equipped with auxiliary pump and emergency power.

Food Service Comments: If a food service is planned complete plans and specifications must be submitted to the Division of Food Control, Baltimore County Department of Health for review and approval.

Air Pollution Comments: The building or buildings on this site may be subject to registration and compliance with the Maryland State Health Air Pollution Control Regulations. Additional information may be obtained from the Division of Air Pollution, Baltimore County Department of Health.

Chief
Sales and Service Section
BUREAU OF ENVIRONMENTAL HEALTH

137/ea

STATE OF MARYLAND
STATE ROADS COMMISSION
310 WEST PRESTON STREET
BALTIMORE, MD 21201

April 22, 1970

Mr. Edward A. Hardesty
Zoning Commissioner
County Office Bldg.
Towson, Maryland 21204

Attn: Mr. O. L. Myers

Re: zoning application
Meeting April 14, 1970
Location: 554' S. of Int. Chapman
and Liberty Roads 18 use 26
Present Zoning: R-10
Proposed Zoning: Reclassification to R-10
2nd District
6.331 acres ±

Dear Mr. Hardesty:

The lanes of vehicular entrances must have a minimum width of 24'. The medians must have a minimum length of 120' from the proposed curb line.

There is poor stopping sight distance at the westerly entrance due to an over vertical curve (hill) to the east. To establish an entrance to a large traffic generator at this location would create a traffic hazard. A single vehicular entrance as proposed in the east property line would be sufficient to serve the site, therefore, the westerly entrance should be eliminated.

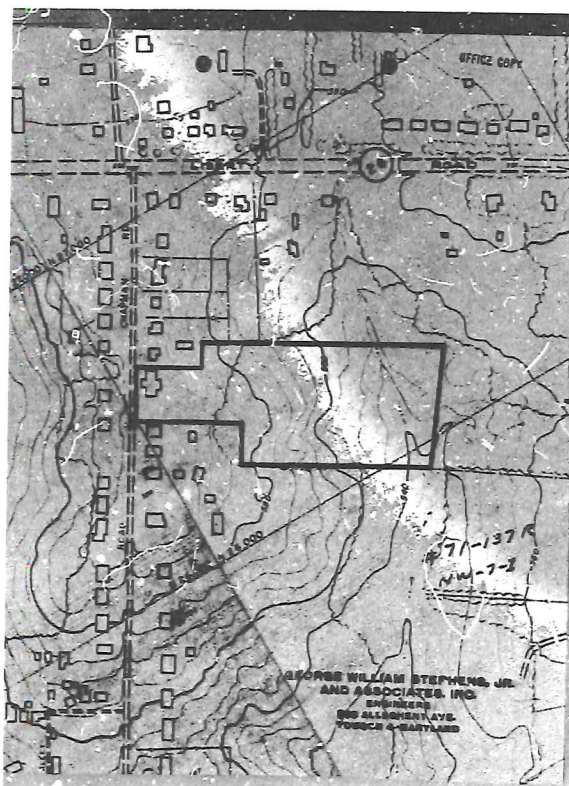
Access to Liberty Road will be subject to State Roads Commission approval and permit.

Very truly yours,

Charles Lee, Chief
Development Engineering Section

By: John E. Meyers
Asst. Development Engineer

CLJE:tkk



NOTICE FOR RECLASSIFICATION
The Board of Commissioners of Baltimore County, Maryland, hereby gives notice that it has received and is considering an application for the reclassification of a portion of land in the County of Baltimore, Maryland, from R-10 to R-10A. The land is located in the 2nd District, and is owned by Albert Kernisch. The proposed reclassification is for a residential use. The Board of Commissioners will hold a public hearing on this application on the 1st day of October, 1970, at 7:00 P.M. in the County Office Building, 310 West Preston Street, Baltimore, Maryland. Any person desiring to be heard at the hearing should appear in person or by a duly authorized agent at the hearing. The Board of Commissioners reserves the right to deny the application or to grant it with such conditions as it may deem proper.

CERTIFICATE OF PUBLICATION

TOWSON, MD. October 1, 1970

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., in each of one (1) issue before the 22nd day of October, 1970, the first publication appearing on the 1st day of October, 1970.

THE JEFFERSONIAN,

Manager

Cost of Advertisement: \$

NOTICE FOR RECLASSIFICATION

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OFFICE OF
THE COMMUNITY TIMES

RANDALLSTOWN, MD. 21133 October 3 - 1970

THIS IS TO CERTIFY that the annexed advertisement of Edward A. Hardesty, Zoning Commissioner of Baltimore County, was inserted in THE COMMUNITY TIMES, a weekly newspaper published in Baltimore County, Maryland, on a work for one week before the 31st day of October, 1970 that is to say, the same was inserted in the issue of October 1, 1970.

STROMBERG PUBLICATIONS, Inc.

By: *Edward A. Hardesty*

ORIGINAL

15160

71-137-R

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 2nd
Posted for: RECLASSIFICATION FROM R-10 TO R-10A
Petitioner: ALBERT KERNISCH
Location of property: 554 FT. S.W. OF INTERSECTION OF CHAPMAN & LIBERTY RD.
Remarks: Charles E. Kelly
Posted by: Charles E. Kelly
Date of return: OCT 8 - 1970

AUG 24 1976

TELEPHONE 494-2413

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
No. 75392
DATE: Nov. 12, 1970

Revenue Division
COURT HOUSE
TOWSON, MARYLAND 21204

BILLED BY:
Zoning Dept. of Baltimore County

To: Jack Selig
3001 Green Ave.
Baltimore, Md. 21223

QUANTITY	DESCRIPTION	TOTAL AMOUNT
1	Advertising and posting of property #71-137-2	24.96

REMARKS: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE, REVENUE DIVISION
MAIL TO: COURTHOUSE, TOWSON, MARYLAND 21204

TELEPHONE 494-2413

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
No. 73888
DATE: Sept. 30, 1970

Revenue Division
COURT HOUSE
TOWSON, MARYLAND 21204

BILLED BY:
Zoning Dept. of Baltimore County

To: W. Lee Harrison, Esq.
305 W. Joppa Rd.
Towson, Md. 21204

QUANTITY	DESCRIPTION	TOTAL AMOUNT
1	Petition for Reclassification for Albert Karmisch #71-137-2	50.00

REMARKS: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE, REVENUE DIVISION
MAIL TO: COURTHOUSE, TOWSON, MARYLAND 21204

TELEPHONE 494-2413

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
No. 75391
DATE: Nov. 12, 1970

Revenue Division
COURT HOUSE
TOWSON, MARYLAND 21204

BILLED BY:
Zoning Dept. of Baltimore County

To: Karmisch's
8517 Glen Michael Lane
Randallstown, Md. 21137

QUANTITY	DESCRIPTION	TOTAL AMOUNT
1	Advertising and posting of property #71-137-2	24.89

REMARKS: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE, REVENUE DIVISION
MAIL TO: COURTHOUSE, TOWSON, MARYLAND 21204

Item 228
Group 28

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

W. Lee Harrison, Esq.
206 W. Joppa Road
Towson, Maryland 21204

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing this
1st day of September, 1970.

Edward D. Hildesheim
Edward D. Hildesheim,
Zoning Commissioner

Petitioner: Albert Karmisch

Petitioner's Attorney: W. Lee Harrison

Reviewed by: *W. Lee Harrison*
Chairman of the
Advisory Committee

LIBERTY

ROAD

EXISTING ZONING - R10

EXISTING ZONING - R10

EX. USE - RESIDENTS

EXISTING ZONING - BR

EXISTING ZONING
PROPOSED ZONING
AREA OF PARCEL TO BE RECLASSIFIED
TOTAL AREA, SQUARE FEET
PARKING SPACES REQUIRED (1 per 200 sq. ft.)
PARKING SPACES PROVIDED

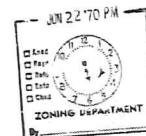
88,700.00
88,700.00
88,700.00

Notes: Parking Space to be provided by owner.
MATERIALS AND LABOR TO BE PROVIDED BY OWNER.
LIGHTS, SIGNALS, TRAFFIC SIGNALS, AND OTHER TRAFFIC CONTROL DEVICES TO BE PROVIDED BY OWNER.

371-137R

OFFICE
COPY

MAP
2-C
WESTERN
AREA
NW-7-E
BR



REVISED PLANS
ALBERT KERNICK
1970

PLAT TO ACCOMPANY ZONING PETITION
RECLASSIFICATION FROM R10 TO BR

SECOND DISTRICT BALTIMORE COUNTY, MARYLAND
SCALE 1"=50'

REVISED JUNE 19, 1970 (COUNTY COMMENTS)

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
ENGINEERS
303 ALLEGHENY AVE.
TOWSON 4, MARYLAND



PN 2021



NOTE: 20 FT. ROADWAY IS RETAINED IN ORDER TO
MAINTAIN EXISTING ACCESS TO CHAPMAN AVE.

CHAPMAN AVE. ROAD

