

M E M O R A N D U M

DATE: December 10, 2019
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2019-0450-A - Appeal Period Expired

The appeal period for the above-referenced case expired on December 9, 2019. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

/dlw

c: / Case File
Office of Administrative Hearings

IN RE: PETITION FOR VARIANCE

(913 Southerly Road)

9th Election District

5th Council District

Bozzuto Group,

Legal Owner

Petitioner

*

BEFORE THE OFFICE

*

OF ADMINISTRATIVE

*

HEARINGS FOR

*

BALTIMORE COUNTY

*

CASE NO. 2019-0450-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Bozzuto Group, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 450.4.E of the Baltimore County Zoning Regulations (“BCZR”) to permit a monument sign with 29 sq. ft. of signage (on each side) in lieu of the maximum allowed 25 sq. ft. (on each side). A site plan was marked as Petitioner’s Exhibit 1.

Jeffrey Sparhawk, the owner and President of Severn Graphics, Inc. (the firm that designed and will install the sign) appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. No substantive Zoning Advisory Committee (“ZAC”) comments were received from any of the County reviewing agencies.

The site is approximately 4.22 acres in size and is zoned BM-DT. Ms. Nyren proffered that the Bozzuto Group owns and operates a 295 unit apartment complex at the intersection of Dulaney Valley and Southerly Roads in Towson. She explained that Dulaney Valley is a five lane road at this intersection and that due to the congested nature of this area it is difficult for visitors to these apartments to find the proper ingress. That is why they are requesting this

ORDER RECEIVED FOR FILING

Date 11-7-19

By low

monument signage with a slightly larger face. She explained that this will reduce traffic confusion in the area and that this sign will link to the leasing office signage.

Under BCZR Section 307, and Maryland common law, in order to be entitled to a variance the applicant must satisfy a two-step legal analysis, summarized as follows:

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

Cromwell v. Ward, 102 Md. App. 691 (1995).

The subject property fronts on a five lane road in a very congested area with limited sight distance for motorists from certain approaches. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because their tenants and guests, as well as would be tenants, would have difficulty locating the entrance to the apartment complex. I find that the minor variance relief requested can be granted in harmony with the spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the absence of County and/or community opposition.

THEREFORE, IT IS ORDERED, this 7th day of **November, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations ("BCZR") to permit a monument sign with 29 sq. ft. of signage (on each side) in lieu of the maximum allowed 25 sq. ft. (on each side), be and is hereby GRANTED.

ORDER RECEIVED FOR FILING

Date

11-7-19

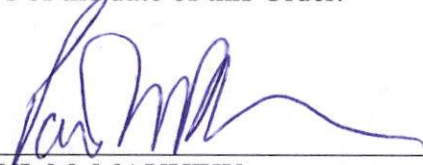
By

kw

The relief granted herein shall be subject to the following:

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

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



PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:sln/dlw

ORDER RECEIVED FOR FILING

Date 11-17-19

By 19W



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 913 Southerly Rd, Towson 21204 which is presently zoned RAE-2
 Deed References: 17838-185 10 Digit Tax Account # 25 000 02149
 Property Owner(s) Printed Name(s) Bozzuto Group

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

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

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

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

3. ☒ a Variance from Section(s)

BCZR: 450.4.E → To permit a monument sign with 29 square feet of signage (on each side) in lieu of the maximum allowed 25 square feet (on each side).

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)

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

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

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

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Legal Owners (Petitioners):

Bozzuto Group

Name #1 - Type or Print

Name #2 - Type or Print

representative: Jadyn Hosking

Signature #1

Signature #2

6406 Ivy Lane Greenbelt MD

Mailing Address

City

State

20770 / 301.245.1262

Zip Code

Telephone #

Email Address

Representative to be contacted:

Jeffrey Sparhawk

Name - Type or Print

Signature

7590 Ritchie Hwy Glen Burnie MD

Mailing Address

City

State

21061 / 410.768.6118

Zip Code

Telephone #

Email Address

jeffs@sevgraph.com

CASE NUMBER 2019-0450-1 Filing Date 9/5/19 Do Not Schedule Dates: _____ Reviewer JS

Today's Date: August 19, 2019

Revised Date:

Project Name: The Winthrop sign permit variance

Property Description

Multi-story apartment with 295 units totaling 296,772SF that is located on the east side of Dulaney Valley Road with a 60' C/L distance, and is located on the north side of Southerly Road with a 30' C/L distance. The building is also along the southeast side of Locustvale Road with a 30' C/L distance.

The property tax ID# is 2500002149 and is identified as 913 Southerly Road, Baltimore, MD, 21204. It is owned and managed by Bozzuto Group whose business address is 6406 Ivy Lane, Ste 700, Greenbelt MD, 20770.

Particular to this variance, the existing sign in reference is located on the corner of Dulaney Valley Road and Southerly Road.

2019-0450-A

Signs, Displays, and Exhibits
Design, Fabrication, and Installation
Print and Graphics

X

[Handwritten signature]



JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections

September 24, 2019

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2019-0450-A

913 Southerly Road

NW corner of intersection of Southerly Road and Dulaney Valley Road

9th Election District – 5th Councilmanic District

Legal Owners: Bozzuto Group

Variance to permit a monument sign with 29 sq. ft. of signage (on each side) in lieu of the maximum allowed 25 sq. ft. (on each side).

Hearing: Thursday, October 31, 2019 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Michael Mallinoff".

Michael Mallinoff
Director

MM:kl

C: Jeffrey Sparhawk, 7590 Ritchie Highway, Glen Burnie 21061
Jaclyn Hosking, 6406 Ivy Lane, Greenbelt 20770

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, OCTOBER 11, 2019.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: THE DAILY RECORD
Friday, October 11, 2019 - Issue

Please forward billing to:
Jeffrey Sparhawk
7590 Richie Highway
Glen Burnie, MD 21061

410-768-6118

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2019-0450-A

913 Southerly Road

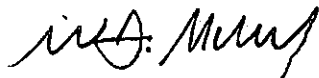
NW corner of intersection of Southerly Road and Dulaney Valley Road

9th Election District – 5th Councilmanic District

Legal Owners: Bozzuto Group

Variance to permit a monument sign with 29 sq. ft. of signage (on each side) in lieu of the maximum allowed 25 sq. ft. (on each side).

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105 West Chesapeake Avenue, Towson 21204



Michael Mallinoff

Director of Permits, Approvals and Inspections for Baltimore County

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

RE: PETITION FOR VARIANCE * BEFORE THE OFFICE
913 Southerly Road; NW corner of intersection *
of Southerly Road and Dulaney Valley Road * OF ADMINISTRATIVE
9th Election & 5th Councilmanic Districts *
Legal Owner(s): Bozzuto Group * HEARINGS FOR
Petitioner(s) * BALTIMORE COUNTY
* 2019-450-A

* * * * *

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

SEP 09 2019

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 9th day of September, 2019, a copy of the foregoing Entry of Appearance was mailed to Jeffrey Sparhawk, 7590 Ritchie Highway, Glen Burnie, Maryland 21061, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

The Daily Record

200 St. Paul Place Suite 2480

Baltimore, Maryland 21202

1 (443) 524-8100

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:

10/11/2019

Order #: 11796727
Case #: 2019-0450-A
Description:

NOTICE OF ZONING HEARING - CASE NUMBER: 2019-0450-A



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 herein as follows:

CASE NUMBER: 2019-0450-A

913 Southerly Road

NW corner of intersection of Southerly Road and Dulaney Valley Road

9th Election District - 5th Councilmanic District

Legal Owners: Bozzuto Group

Variance to permit a monument sign with 29 sq. ft. of signage (on each side) in lieu of the maximum allowed 25 sq. ft. (on each side).

Hearing: Thursday, October 31, 2019 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Michael Mallinoff

Director of Permits, Approvals and Inspections for Baltimore County

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.

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

o11

Sherry Nuffer

From: Linda O'Keefe <luckylinda1954@yahoo.com>
Sent: Sunday, October 27, 2019 11:35 PM
To: Administrative Hearings
Subject: Certifications Case # 2019-0436-A & Case # 2019-0450-A
Attachments: Highview Ave. Cert..jpeg; Highview Ave. Photos.docx; Southerly Rd. Cert. .jpeg; Southerly Rd. Photos.docx

CAUTION: This message from luckylinda1954@yahoo.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Hi Debbie,

I have Certifications and photos for you of Case # 2019-0436-A @ 4304 Highview Ave. & Case # 2019-0450-A @ 913 Southerly Ave. for your records.

Have a nice day,

Linda

Linda O'Keefe
523 Penny Lane
Hunt Valley MD 21030
Phone # 410-666-5366
Cell# 443-604-6431
Fax# 410-666-0929
luckylinda1954@yahoo.com



SECOND CERTIFICATE OF POSTING

ATTENTION: SHERRY NUFFER

DATE: 10/27/2019

Case Number: 2019-0450-A

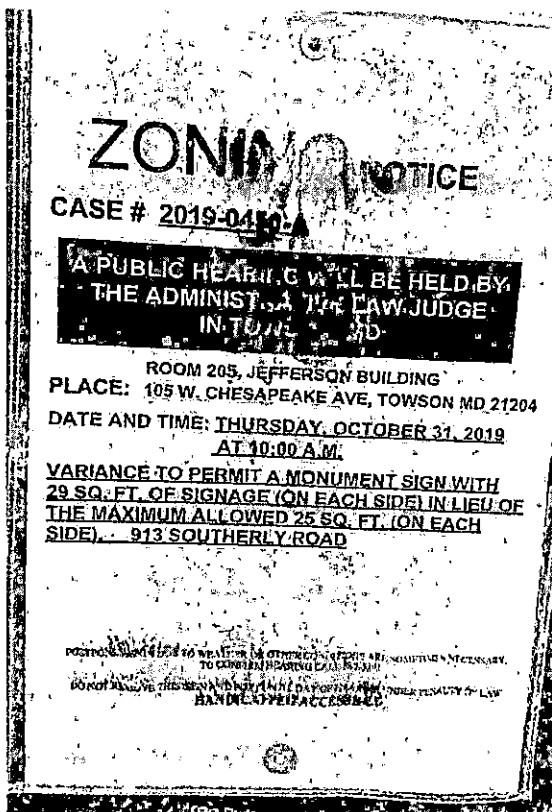
Petitioner / Developer: JEFFREY SPARHAWK ~ JACLYN HOSKING

Date of Hearing: OCTOBER 31, 2019

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

The sign(s) were posted on: OCTOBER 10, 2019

The sign(s) were re-photographed on: OCTOBER 27, 2019



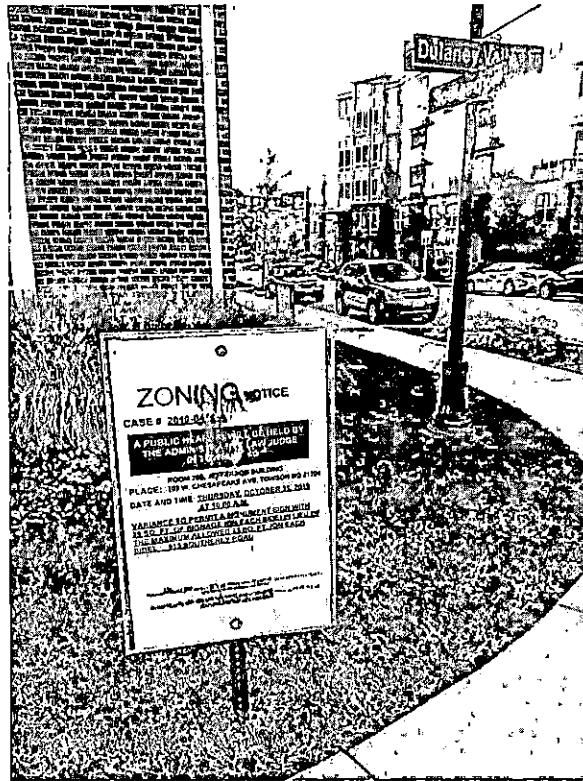
Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

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

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



Re-Photographed 1st Sign @ 913 Southerly Road ~ 10/27/2019



Re-Photographed 2nd Sign @ 913 Southerly Road ~ 10/27/2019
CASE # 2019-0450-A

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 10/10/2019

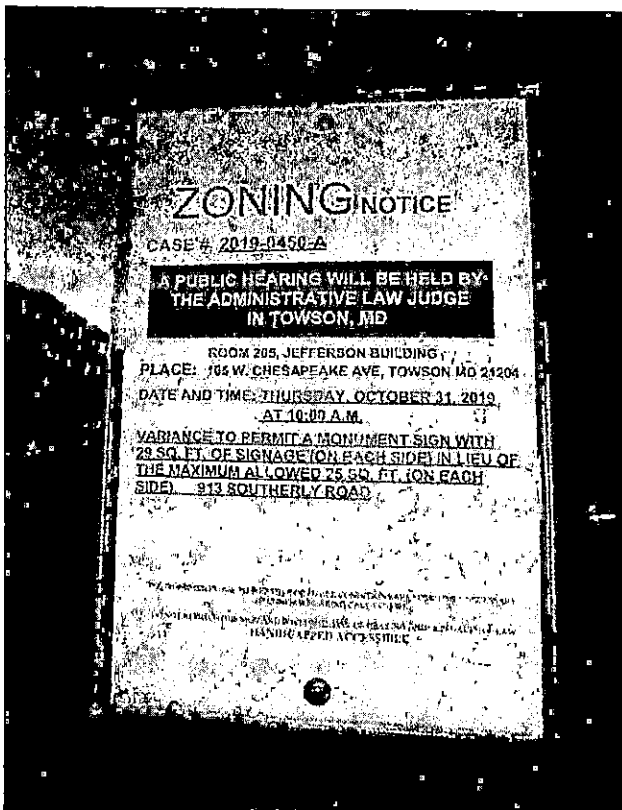
Case Number: 2019-0450-A

Petitioner / Developer: JEFFREY SPARHAWK ~ JACLYN HOSKING

Date of Hearing: OCTOBER 31, 2019

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

The sign(s) were posted on: OCTOBER 10, 2019



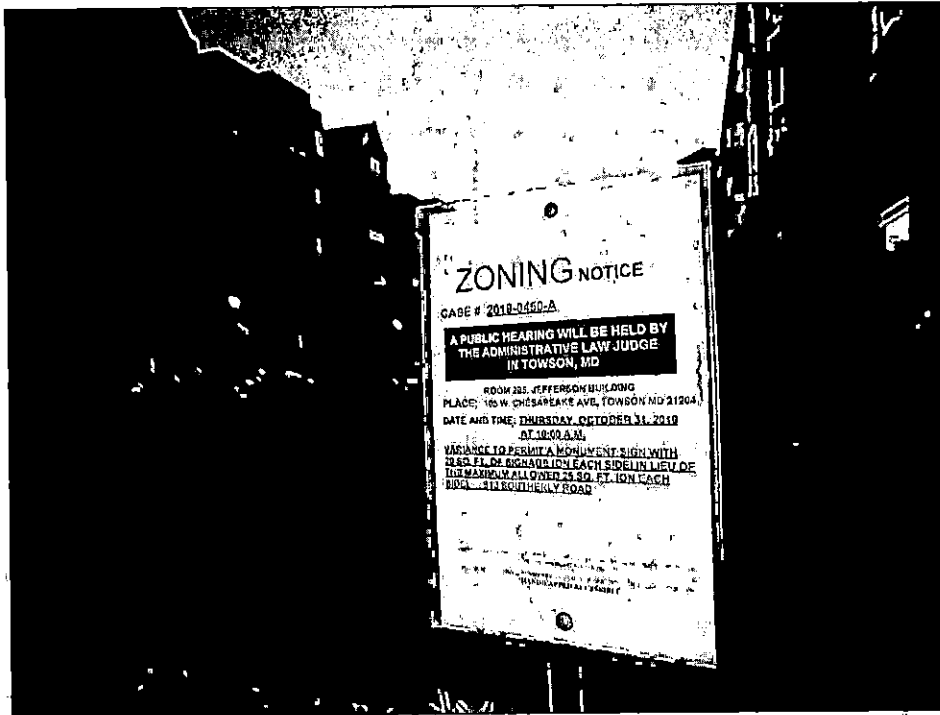
Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

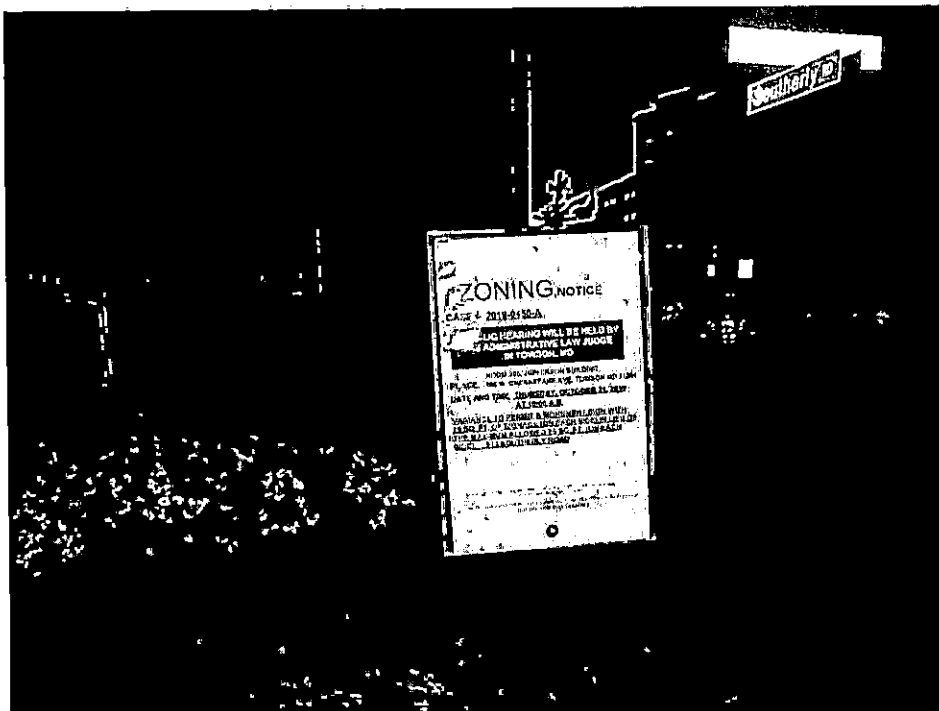
523 Penny Lane
(Street Address of Sign Poster)

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

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



Background Photo 1st Sign @ 913 Southerly Road ~ 10/10/2019



Background Photo 2nd Sign @ 913 Southerly Road ~ 10/10/2019
CASE # 2019-0450-A

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

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least 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: 2019-0450-A
Property Address: 913 SOUTHWALKY ROAD, 21204
Property Description: _____

Legal Owners (Petitioners): BOZZUTO GROUP
Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: JADYN HOSKING
Company/Firm (if applicable): BOZZUTO GROUP
Address: 6406 IVY LANE
GREENBELT, MD 20770

Telephone Number: 301-245-1262



JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections

October 24, 2019

Jeffery Sparhawk
7590 Ritchie Hwy
Glen Burnie MD 21061

RE: Case Number: 2019-0450-A, 913 Southerly 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 September 05, 2019. 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.", with a stylized flourish at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR/kl

Enclosures

c: People's Counsel
Bozzuto Group Representative: Jady Hosking 6406 Ivy Lane Greenbelt MD 20770

10-31-19

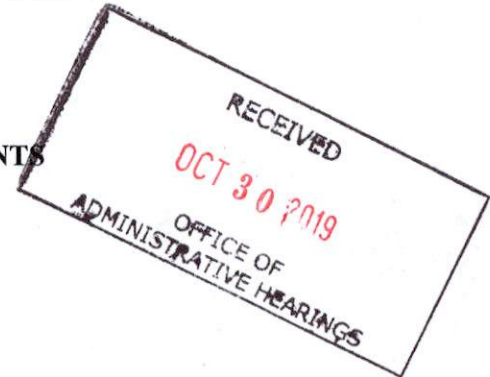
BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

TO: Michael D. Mallinoff
Director, Department of Permits, Approvals and Inspections

DATE: 10/24/2019

FROM: C. Pete Gutwald
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-450



INFORMATION:

Property Address: 913 Southerly Road
Petitioner: Bozzuto Group
Zoning: RAE 2
Requested Action: Variance

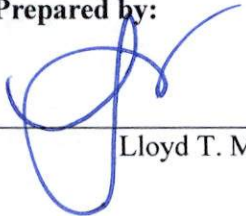
The Department of Planning has reviewed the petition for a variance to permit a monument sign with 29 square feet of signage (face) on each side in lieu of the maximum allowed 25 square feet on each side.

A site visit was conducted on 9/20/2019. The signage is in support of a newly constructed apartment building located in the Downtown Towson District.

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

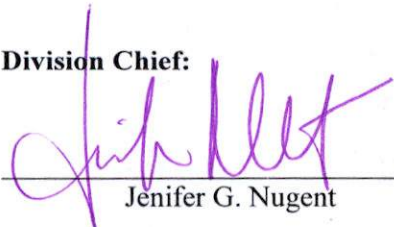
For further information concerning the matters stated herein, please contact Laurie Hay at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Jenifer G. Nugent

CPG/JGN/LTM/

c: Laurie Hay
Jeffrey Sparhawk
Office of the Administrative Hearings
People's Counsel for Baltimore County

10-31

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: September 13, 2019

SUBJECT: DEPS Comment for Zoning Item # 2019-0450-A
Address 913 Southerly Road
(Bozzuto Group Property)

Zoning Advisory Committee Meeting of **September 6, 2019.**

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

Reviewer: Steve Ford

Date: 9/9/19

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

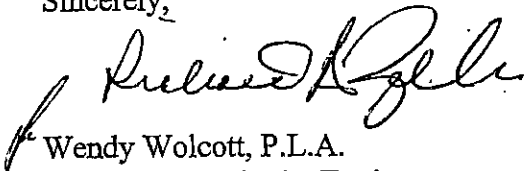
Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Case No. 2019-0450-A

*Variance
Bozzuto Group
913 Southerly Road.*

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

Sincerely,



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

WW/RAZ

IN RE: DEVELOPMENT PLAN HEARING and	*	BEFORE THE
PETITION FOR VARIANCE – W/S		
Dulaney Valley Road, E of Fairmount Ave.	*	ZONING COMMISSIONER
(Dulaney Valley Apartments)		
	*	FOR BALTIMORE COUNTY
9 th Election District		
5 th Council District	*	Cases Nos. IX-773 and 06-079-A
Dulaney Acquisition L.P., Owners;	*	
Lane Northeast, Developer		
	*	
	*	
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	*	
	*	
	*	

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer/Zoning Commissioner for a combined hearing pursuant to Section 32-4-230 of the Baltimore County Code (B.C.C.). That Section permits an applicant to request development plan approval and zoning relief through a single public hearing. Pursuant to the development regulations codified in Article 32, Title 4 thereof, the Owners/Developers seek approval of a redlined development plan prepared by Daft-McCune-Walker, Inc. for the proposed redevelopment of the subject property with a 900-unit, multi-family, luxury apartment/condominium complex. In addition, variance relief is requested from Section 201.3.C.1 of the Baltimore County Zoning Regulations (BCZR) as follows: **(1&2)** to permit a building to street centerline setback of 30 feet in lieu of the required 60 feet and a building to street line setback of 0 feet in lieu of the required 15 feet for Buildings 1A, 1B, 2, 3 and 4 along Southerly Road; and, if necessary, **(3&4)** to permit a building to street centerline setback of 55 feet in lieu of the required 60 feet and a street line setback of 0 feet in lieu of the required 15 feet for Buildings 1A and 1B along Fairmount Avenue; and **(5)** from Section 201.3.C.2 of the B.C.Z.R. to permit a minimum distance between the centers of facing windows of different apartments on the same lot to be as close as 20 feet in lieu of the required 75 feet for Buildings 1A, 1B, 2, 3 and 4. The subject proposal and requested relief are more particularly described on the five-page, redlined development plan submitted and marked into evidence as Developer's Exhibits 3A - 3E.

As to the history of this project through the development review process, codified in Article 32 of the B.C.C., a concept plan of the proposed development was prepared and a conference held on April 25, 2005. As the name suggests, the concept plan is a schematic representation of the proposed subdivision and is reviewed by and between representatives of the Developer and the reviewing County agencies at the Concept Plan Conference (CPC). Thereafter, as required, a Community Input Meeting (CIM) is scheduled during evening hours at a location near the property to provide residents of the area an opportunity to review and comment on the plan. In this case, the CIM was held on June 8, 2005 at the Towson Public Library. Subsequently, a development plan is prepared, based upon the comments received at the CPC and CIM, and submitted for further review at a Development Plan Conference (DPC) which is again held between the Developer's consultants and reviewing County agencies. In this case, the DPC was held on September 14, 2005. In addition to this process, Section 32-4-203 of the B.C.C. requires this project to undergo an evaluation by the Design Review Panel (DRP) of its architectural quality due to its location in the Urban Design Review area. Following review by the DPC and DRP recommendations, comments are submitted by the appropriate County reviewing agencies and a revised development plan ("the redlined plan") incorporating these comments is submitted at the Hearing Officer's Hearing, which in this case was held before me on October 6, 2005.

Appearing at the public hearing on behalf of the Owner/Developer were Frank Griffin and Jeffrey G. Price, Managing Members of Dulaney Acquisition, LP and Lane Northeast, and Robert A. Hoffman, Esquire and Michael H. Davis Esquire, attorneys for the Owner/Developer. The Developer presented as expert witnesses Glenn E. Cook, V.P. of The Traffic Group, Inc.; Frederick P. Behlen, Mitchell J. Kellman, and Charles Main, II with Daft-McCune-Walker, Inc. (DMW), the firm that prepared the development plan; Michael R. Poole, President of Poole and

Poole Architecture, LLC; and, Robert E. Latshaw, Jr., an economic and real estate consultant in Towson. In addition, a letter of support was received from Cynthia W. Bledsoe, Executive Director of the Greater Towson Community, Inc., and accepted into evidence as Developer's Exhibit 10.

Numerous representatives of the various Baltimore County agencies who reviewed the plan attended the hearing, including the following individuals from the Department of Permits and Development Management (DPDM): Colleen Kelly, Project Manager; Rahee Famili, Development Plans Review; Ron Goodwin, Land Acquisition; and Joe Merrey, Office of Zoning Review. Also appearing on behalf of the County were Lynn Lanham, Office of Planning (OP), Jan Cook, Department of Recreation and Parks, and R. Bruce Seeley, Department of Environmental Protection and Resource Management (DEPRM). In addition, Jeffrey Long, Deputy Director of the Office of Planning and Andrea Van Arsdale, with the Department of Economic Development, appeared in support of the project. Lt. Don W. Muddiman, appeared on behalf of the Baltimore County Fire Marshall's Office and testified on matters pertaining to the County's Fire Prevention Code. Finally, written comments were received from Larry Gredlein and Steven Foster on behalf of the Maryland State Highway Administration (SHA). These and other agency remarks are contained within the case file.

This project generated significant public interest and numerous residents from the surrounding locale appeared including Richard Parsons and Corrine Becker on behalf of the Greater Towson Council of Community Associations, Inc. (GTCCA).¹ The majority of the residents of the surrounding neighborhood, including residents of Dulaney Towers who appeared,

¹ Following the public hearing, Judy Gregory, President of the Greater Towson Council of Community Associations, Inc., presented a letter dated October 10, 2005 memorializing membership concerns regarding the overall scope of this project and its compatibility with the neighborhood and potential repercussions. This letter, as well as Developer's October 18, 2005 Post-Hearing Memorandum addressing the issues raised by Protestants are contained within the case file.

are opposed to this project. In addition, property owners in the Stoneridge neighborhood raised issues regarding storm water runoff and flooding problems they have endured over the years. The citizen sign-in sheets circulated at the hearing will reflect the attendance of those individuals.

The majority of testimony offered by those participating was presented by Paul and Carolyn Smeton, Patrick Semone, Norman Rocklin, Esquire, Ann Davis, Michelle Ekaruis, Thomas Haddaway, Georgia Hilliard, Ali Crawford, and Evelyn Fischer. Their testimony revolved around the scope of the project and potential traffic impacts, adequacy of internal parking, lack of recreational space, and the appropriateness of the requested variance relief. An extensive volume of testimony and evidence was offered in this case. Due to limitations of time and space, it is impossible to repeat all of the testimony offered herein. Additionally, there were numerous documents, photographs, plats, written memoranda, and other exhibits entered into the record of this case. The testimony and evidence offered by both sides, as well as the issues raised and arguments advanced, were recorded by Paula J. Eliopoulos, with Gore Brothers Reporting.

The subject property under consideration is an irregularly shaped parcel located with frontage on the north and south sides of Southerly Road and the west side of Dulaney Valley Road in Towson. The property is a single lot of record, containing approximately 12.95 acres, zoned R.A.E2 (Resident, Apartment, Elevator, 80.0 density units per acre), one of the highest density residential zones in Baltimore County. The property is improved with a 256-unit apartment complex, known as the Dulaney Valley Apartments, which dates back to the 1950s. As noted above, the Owners/Developers propose a redevelopment of the site with 900 multi-family, luxury apartments/condominiums, which will be housed in four multi-story buildings supported by parking structures located within the interiors of the buildings. Each building will serve as its own community with its own common areas, elevators, trash shoots, and secured parking areas. The main access road through the site will be Southerly Road, which bisects the property.

Pedestrian access and connections to the surrounding communities will be provided throughout the site through enhanced landscapes and pathways around the perimeter of the property.

STANDARD OF REVIEW

A brief comment is in order about the standard of review that the Hearing Officer must apply in this case. As noted in a prior opinion issued by this Office, the development review regulations establish the "rules of the game" insofar as development in Baltimore County. The Developer may argue that these rules are too strict, while the Community may contend that they are not strict enough. Regardless, they are what they are. If the Developer meets the regulations, approval of the plan must follow. Moreover, if the Community can show that the plan should be changed to appropriately mitigate an anticipated negative impact upon the locale, then a restriction/condition to the plan can be imposed.

Pursuant to Sections 32-4-227 and 228 of the Baltimore County Code, which regulates the conduct at the Hearing Officer's Hearing, I am required to first identify any unresolved agency comments or issues. The issues and concerns raised at the hearing and in written memoranda are addressed as follows:

DEVELOPER'S ISSUES

Mr. Hoffman, Counsel for the Owner/Developer, identified no unresolved issues. On behalf of Developer, Mr. Main presented the plan and addressed some of the preliminary community concerns. He began by describing the proposed storm water management system consisting of roof drains and an underground piping system. This system will collect water and channel it to the underground vault located under each parking garage, which will in turn, discharge the water into the public storm drain system under Southerly Road. According to Ali Crawford and Tom Haddaway, these storm drains empty into an existing concrete drainage channel on the west side of Locustvale Road, opposite Southerly Road. Mr. Main explained that there will be four recharging trenches in the grassy areas outside the buildings to provide water quality and peak management of storm water. These trenches also eventually discharge into the storm drain in Southerly Road. Mr. Main confirmed that this system meets County requirements

and testified that the storm water runoff from the site will be managed so that post-development rate of runoff will be consistent with the rate of pre-development runoff. As there is no existing storm water management on the site, the redevelopment should result in improved conditions in terms of runoff and flooding conditions currently experienced in the area.

Although Mr. Main addressed a number of other issues during his presentation, such as the number of parking spaces being provided, the adequacy of surrounding roadways, emergency vehicle access to the area, and the high-density potential of the site, these issues will be dealt with later in this opinion. In sum, Mr. Main concluded by stating that there were no outstanding issues and the plan complies with all development plan comments, rules, regulations and standards and should be approved.

COUNTY ISSUES

As evidenced by the record of this case, the representatives of the reviewing County agencies and State Highway Administration (SHA) identified no outstanding or unresolved issues and recommended approval of the plan. Their respective comments are summarized as follows:

Zoning Review: Joseph Merrey appeared as the representative of the Zoning Review office and indicated that, assuming the requested variances are granted, his office has no outstanding issues with the redlined development plan.

Department of Environmental Protection and Resource Management: Bruce Seeley appeared on behalf of the Department of Environmental Protection and Resource Management ("DEPRM") stated that his department had reviewed the redlined development plan and found the plan to be in compliance with all applicable regulations and requirements.

When questioned by the community, Mr. Seeley specifically confirmed that Developer's design for the storm water management facility had been reviewed by two professional engineers at DEPRM and that each had found that the design meets County and State requirements as required in B.C.C. Section 32-4-224(a)(10).

Office of Planning: Lynn Lanham appeared on behalf of the Office of Planning and indicated that her department had no outstanding issues with the development plan. She further indicated that the Office of Planning had reviewed the plan for compliance with BCZR Section 260 and with Section 32-6-103 of the B.C.C. In both respects, the plan was found to be compliant.

Ms. Lanham further explained that the plan had been subjected to review by the Design Review Panel (DRP) at two separate meetings and the panel had recommended approval of the plan at its second meeting.

Department of Recreation and Parks: Jan Cook of the Department of Recreation and Parks confirmed during the hearing that his department had reviewed the redlined development plan for the Dulaney Valley Apartments and determined that there were no outstanding issues. He confirmed that the Developer had received a waiver from the requirement to provide local open space for the project in accordance with BCC Section 32-6-108(c). See County Exhibit 1.

Bureau of Land Acquisition: Ronald Goodwin appeared on behalf of the Bureau of Land Acquisition and testified that the redlined development plan addressed all issues and that he was satisfied.

Department of Public Works: Rahee Famili appeared on behalf of the Department of Public Works ("DPW") and indicated that his department had reviewed the redlined development plan and that his department recommended approval of the plan.

Fire Department: Fire Specialist Lt. Donald Muddiman of the Fire Department appeared at my request and referred to the Fire Department's general comments of September 1, 2005, regarding future compliance with the Baltimore County Fire Prevention Code.

Mr. Muddiman confirmed that the 24-foot wide lane between Buildings 3 and 4, which led into the parking garages, was wide enough for fire trucks to maneuver, but asked that the plan indicate that this area be designated as a "fire lane." Mr. Main redlined the plan accordingly. Otherwise, Mr. Muddiman confirmed that the plan met all of his department's requirements for "fire department access" and safety.

State Highway Administration: Steven Foster of the Maryland State Highway Administration issued a development plan conference comment on September 28, 2005, revising an earlier comment, both of which are included in the file, indicating that his agency had no objection to approval of the plan.

PROTESTANTS' CONCERNS

The community and designated official spokespersons raised certain concerns with regard to the size of the proposal. Those concerns are summarized as follows:

Traffic/Vehicular Access/Public Safety: There was a significant amount of testimony and evidence offered by both sides relating to traffic issues. Most residents of Dulaney Towers and the 11 homes on Locustvale Road would like to see the project scaled back. They believe that the Developer's traffic study is vague and provides unrealistic data. Michelle Eucharis conducted traffic counts, which are 15% higher than those done by The Traffic Group. She feels the proposed development, coupled with Goucher College students using Locustvale to get to and from the college and the horrific parking problems they have endured, mandate traffic calming devices and a relining of the "no parking" areas. Additionally, there is a great deal of skepticism regarding the Developer's demographics and who will actually occupy the residential units. Whether older couples, empty-nesters, or young professionals, they argue that 1,703 internal parking spaces provided is inadequate, given the fact that most will own two cars and have friends, relatives, and children who will visit.

As explained by Mr. Main, the Developer proposes parking garages, internal to the buildings, to provide parking for the residents and guests of the project. According to Baltimore County's Zoning Regulations, the proposed 900 units would require only 1151 parking spaces. The Developer is proposing almost 50% more parking than required. Mr. Main testified that based on his experience with similar projects, the amount of parking to be provided is more than adequate for this site.

With regard to surrounding roadways and how the additional traffic from the proposed apartments/condominiums would impact the roads, the Development Regulations require that a

developer show on its development plan "existing and proposed County, State and private streets, along with estimated proposed average daily trips." BCC § 32-4-224(a)(5).

Mr. Hoffman produced overwhelming testimony and evidence to demonstrate that the surrounding roadways are "adequate" to handle the anticipated level of traffic from the project. See BCC § 32-6-104 ("*Building permits* may not be issued unless an applicant meets the requirements of: (1) §§ 32-4-405 and 32-4-407 of this article; and (2) § 4A02 of the Baltimore County Zoning Regulations.") Glen Cook, an expert traffic engineer, reviewed the existing traffic conditions in the area and analyzed this information in light of the anticipated use of the Dulaney Valley Apartments property. He testified that the Dulaney Valley Apartments property does not lie within a failing traffic shed according to Baltimore County's 2005 Basic Services Transportation Area Map. He confirmed that all of the signalized intersections in the vicinity of the property are currently operating at satisfactory levels of service under Baltimore County's "loaded cycle methodology."

According to Baltimore County's methodology, the lowest rated intersection is that of MD 146 (Dulaney Valley Road) and Fairmount Avenue, which is rated at a "D" level of service, an acceptable level of service. Mr. Cook testified that he conducted his own independent counts to verify existing traffic conditions and to predict future conditions of the roads, which the County's "loaded cycle methodology" is not equipped to do. To make such projections, Mr. Cook utilized the widely accepted "critical lane volume methodology" or CLV. This method, which is used by the SHA, relies on existing levels of traffic and adds to that a projected amount of future traffic, based on the contemplated use of a property with the end result being a projection of how the surrounding intersections will operate with the proposed development in place.

As explained, Mr. Cook taking no deduction for the existing 256 apartments, assumed 1156 units on the site (256 plus the proposed 900). Based on the results of his analysis, Mr. Cook determined that, post-development, all of the intersections in the study area are projected to operate at acceptable CLV levels of service of "D" or better with the exception of the intersection

of MD 45 and Fairmount Avenue, which is currently a CLV level of service "F" and will continue to operate at that level after development of this site.

Although not required by Baltimore County, Mr. Cook looked into possible solutions for improving the operation of certain intersections and/or roads at the Developer's expense to calm some of the community's concerns. For example, he looked at the intersection of MD 45 and Fairmount Avenue. He proposes to provide a double left turn movement for vehicles turning south on York Road from Fairmount Avenue. He also proposes to adjust the phasing of the traffic lights at this intersection. He stated that these changes would significantly improve conditions at that intersection. Mr. Cook has reviewed this proposal with the SHA, who agree that it is a "good solution." This intersection will operate better with the development in place than under present conditions, and Developer is willing to make this improvement at its expense.

Additionally, he examined ways to improve the function of the unsignaled intersection of Fairmount Avenue and Locustvale Road, a concern voiced by those in attendance due to increased congestion from vehicles exiting the new apartments/condominiums onto Locustvale. Mr. Cook's advice to improve that intersection is to widen the throat of Locustvale at its intersection with Fairmount, within the existing right-of-way, to allow two outbound lanes, one left turn lane and one right turn lane. This would reduce the queuing of vehicles behind those waiting to turn left. Mr. Cook confirmed that this proposed change has been reviewed and approved by the County. Again, the Developer is willing to make this improvement.

Lastly, Mr. Cook looked into the possibility to providing some traffic calming measures along Locustvale Road in an attempt to slow traffic. He suggests the possibility of installing a choker (narrowing of the roadway) on Locustvale Road, as shown on Developer's Exhibit 17, but explained that the County would only permit it if there is agreement among the residents of that street. In the event the residents are able to come to an agreement and the Developer obtains the County's consent within a reasonable period of time (approximately 18 months from the date of any final approval), the Developer would agree to pay for the installation of the choker as shown on Developer's Exhibit 17.

It is clear that the Developer has gone well beyond what is required by Baltimore County Code. The Developer produced more than sufficient evidence as to the adequacy and safety of the surrounding roadways and intersections and has also confirmed that the proposed apartments/condominiums will not adversely impact the surrounding neighborhoods. Thus, the plan shall not be denied on the basis of traffic issues.

Recreational Space Requirements: At the hearing, Patrick Semone, Ann Davis and others complained about the loss of green space or open space that would result if the site were redeveloped as proposed. Their complaints were general in nature, and made no allegation that the development plan failed to meet a specific standard or requirement other than it was out of rhythm and not compatible with this area of Towson. In some instances, the complaints were related to a possible increase in storm water runoff (addressed previously), and, in others, the complaints related to the psychological impact of losing green space.

BCC Section 32-6-108 requires that an applicant for development plan approval demonstrate compliance with the requirements pertaining to the "Recreational Space." In this section of the Code, an applicant is required to provide a certain amount of local open space unless a waiver is obtained from the Director of the Department of Recreation and Parks. As Mr. Cook confirmed, Developer requested and received a waiver in accordance with BCC Section 32-6-108 and, thus, was in compliance with all requirements for development plan approval. See County Exhibit 1.

It was explained that the Baltimore County Council specifically gave the Director of Recreation and Parks the authority to grant such waivers for RAE zoned properties. It is undisputed that the open space required for this project would be greater than the actual acreage of the site. The 900 units proposed would require 900,000 square feet of local open space or over 20 acres. The entire site has a gross area of only 16.22 acres. Therefore, the high-density designation would be meaningless if a waiver were not permitted. Because a waiver is permitted and was properly granted, I must find the development plan to be in compliance with the requirements for local open space.

Mr. Robert E. Latshaw, Jr., a real estate broker and consultant was accepted as an expert in economic and real estate matters in the Towson area. Previously a member of the County's Planning Board, Mr. Latshaw testified that Towson greatly needed a project of this caliber and size to create economic opportunities. He attended the Design Review Panel meetings and stated the multi-story buildings proposed were compatible with the neighborhood and addressed all the residential guidelines of the Comprehensive Manual of Development Policies (CMDP) and the Towson Community Plan Design Guidelines for the Fairmount and Dulaney Valley areas. He stated that the proposed 4- and 5-story buildings were preferable to the 12-story buildings allowed in this area.

Mr. Parsons questioned Mr. Latshaw's opinion. It was the position of the GTCCA that a project like Dulaney Valley Apartments did not represent a "quality destination feature" and that the economic concerns of Towson would be better addressed by providing economic incentives prior to housing needs of this magnitude. Mr. Latshaw countered and stated that projects of this caliber were indeed needed as a catalyst to create the economic base in Towson needs.

While I am appreciative of the fact that the neighbors who actually reside in the area are no doubt familiar with existing conditions in the locale, I am not persuaded by the conclusions that they draw with regard to the proposed development. Simply stated, I am not convinced that their unsupported allegations are meritorious and that redevelopment of the subject property as proposed will adversely impact adjacent properties or aggravate off-site conditions. The Protestants were unable to point to a specific failure of the development plan to comply with the applicable regulations. As discussed above, where certain individual property owners and community representatives expressed generalized complaints or concerns over the proposed development, they failed to point to a specific deficiency that would prevent plan approval. The Developer produced strong and substantial evidence that the Dulaney Valley Apartments development plan fully complies with all requirements, regulations, and standards for development in Baltimore County. Thus, the five-page development plan, with the redlined

changes, for should be approved, subject to the ongoing review processes mandated by Phase II of the review process and the conditions attached below to traffic concerns.

ZONING RELIEF

As noted above, the Developer has requested a series of variances from Section 201.3.C.1 of the B.C.Z.R. to allow reduced street and centerline setbacks for Buildings 1A, 1B and 2, 3 and 4 from Southerly Road, and, if necessary, for Buildings 1A and 1B from Fairmount Avenue. In addition, relief is requested from Section 201.3.C.2 thereof to permit a minimum distance between the centers of facing windows of different apartments on the same lot to be as close as 20 feet in lieu of the required 75 feet for Buildings 1A, 1B, 2, 3 and 4.

An analysis of the requested zoning relief must first begin with an understanding that this particular piece of property has been slated for high-density residential development since 1996, when the property was rezoned to RAE-2. As early as 1992, it was recognized that high-density residential development was appropriate for this site. As indicated above, RAE-2 zoning would permit 1297 density units on this property, although the history of this site discloses that in 1996, the prior owner agreed with the community to limit development of the property to 900 units. (See Developer's Exhibit 6). The Developer's proposal to construct a 900-unit apartment/condominium project is not only a use permitted by the underlying zoning, but it is, also, consistent with the prior owner's agreement with the Towson Park Community Corporation. This agreement limited future development of the site in terms of density, height, etc. and restricted the ability to seek "external" variances, but not "internal" variances. The Restrictive Covenant Agreement revised in May 2003 acts as a site constraint on Developer in terms of designing this project.

The contractual constraints imposed by these agreements coupled with the configuration of the property, which is a single lot of record, separated by a public road – Southerly Road, creates a uniqueness in a zoning sense. Ms. Becker and the GTCCA dispute that a public road bisecting a community or single lot of record can be considered unique. They point to Knollwood, Garden and Donnybrook Roads as winding through communities. Mr. Hoffman

called Michael Mannes, a real estate attorney, who testified that in his opinion, this particular configuration is rare and that he cannot recall having seen a situation like this in his 34 years of practicing real estate law. It was also pointed out that the existing public utilities located under Southerly Road precluded the Developer from closing or relocating the road. As Michael Poole, architect for the project, explained, Southerly Road "has driven an awful lot of the design" because the project had to be designed around the resulting physical and regulatory (setback) constraints.

Testimony and evidence demonstrated that the Developer factored these unique constraints into its final design of the project and attempted to work with Baltimore County (*i.e.*, Economic Development, the Office of Planning, and the Design Review Panel), as well as various community representatives and neighboring property owners to satisfy their concerns. According to Jeffrey Price, President of Lane Northeast, certain community members had long expressed a desire for the buildings to be kept low to lessen the impact on the surrounding communities and for the external setbacks to be respected and, if possible, expanded. Jeffrey Long, Deputy Director of the Office of Planning, was next called to testify. He confirmed that his office, early in the process, also expressed a preference for the width of Southerly Road to be reduced and for the buildings to be brought closer to the road in order to create a streetscape experience, even though he knew this change would necessitate variance requests. This design had the added advantage of the proposed buildings being moved further away from the external property lines.

The Design Review Panel, whose recommendations and design approvals are binding on this Hearing Officer, requested revisions of the Developer's initial plan, knowing these changes would subject Mr. Price's company to obtain variance relief. I shall explain.

As required by the B.C.C., the Developer had presented the plan to the Baltimore County Design Review Panel for its recommendation. At that first meeting, the Design Review Panel recommended that Developer "consider breaks in the buildings" to break up the façades and reduce massing of the buildings. Developer's Exhibit 20A. Following that first meeting, the Developer revised its plan in accordance with the Design Review Panel's recommendations.

Everyone was aware that the revised plan would require the Developer to obtain variances with regard to building setbacks to Southerly Road and, possibly, the underground encroachment of the building setbacks to Fairmount Road. Moreover, as a result of the DRP's request for "breaks in the buildings," a variance was necessary with regard to internal window to window setbacks. The revised plan was presented at a second meeting in June of 2005. Not only did the Design Review Panel approve the revised design, but, as described by Andrea Van Arsdale, Director of the Baltimore County Community Revitalization Program, it gave the project high compliments when it said this project has set "a new bar in Baltimore County." It is this design, as approved by the Design Review Panel, which is shown on the Development Plan.

Based upon the undisputed history presented to me and testimony and evidence offered, I find that the Developer/Petitioner has satisfied the requirements of Section 307.1 of the B.C.Z.R. for relief to be granted. The property is unique, given its unusual shape and the fact that a public road encumbered with underground utilities bisects the property. In addition, the property is subject to restrictive covenants, inuring to the benefit of the surrounding community. These are special circumstances and conditions that are peculiar to the subject property and the proposed improvements. All of these circumstances drive the need for variance relief. Moreover, I find that strict application of the regulations would be unduly burdensome and restrictive on the proposed redevelopment of this site and result in practical difficulty upon the Developer. Finally, I find that relief can be granted without detrimental impact to adjacent properties. In this regard, variances 1, 2 and 5 are considered internal to the project and thus, will have no adverse impact on adjacent properties or the surrounding locale. Variances 3 and 4 are requested, if necessary, to allow for an underground parking structure to be located in closer proximity to Fairmount Avenue than otherwise permitted. In this regard, the Developer was uncertain at the time of filing the Petition as to whether variances 3 and 4 would be required because these areas of encroachment are below-grade and not visible to the community. I find that variances 3 and 4 are necessary and should be granted.

Pursuant to the advertisement, posting of the property and public hearing held, and the zoning and development regulations of Baltimore County as contained with the B.C.Z.R. and Article 32, Section 4 of the B.C.C., the redlined development plan (Developer's Exhibits 3A – 3E) shall be approved consistent with the comments contained herein and the Petition for Variance relief, as shown on Developer's Exhibit 3B shall be granted, subject to the restrictions set forth below.

THEREFORE, IT IS ORDERED by this Zoning Commissioner/Hearing Officer for Baltimore County, this 21st day of October, 2005, that the amended, redlined development plan for Dulaney Valley Apartments, identified herein as Developer's Exhibit 3A-3E, be and is hereby APPROVED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 201.3.C.1 of the Baltimore County Zoning Regulations (BCZR) as follows: (1 & 2) to permit a building to street centerline setback of 30 feet in lieu of the required 60 feet and a building to street line setback of 0 feet in lieu of the required 15 feet for Buildings 1A, 1B, 2, 3 and 4 along Southerly Road; and, if necessary, (3 & 4) to permit a building to street centerline setback of 55 feet in lieu of the required 60 feet and a street line setback of 0 feet in lieu of the required 15 feet for Buildings 1A and 1B along Fairmount Avenue; and, (5) from Section 201.3.C.2 of the B.C.Z.R. to permit a minimum distance between the centers of facing windows of different apartments on the same lot to be as close as 20 feet in lieu of the required 75 feet for Buildings 1A, 1B, 2, 3 and 4, in accordance with Developer's Exhibit 3B, be and is hereby GRANTED, subject to the following conditions:

- 1) The Developer/Petitioner is permitted to proceed, however, the Developer/Petitioner is hereby made aware that doing so shall be at their own risk until the thirty (30) day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein could be rescinded.
- 2) A revised Zoning Plan will be filed with the Zoning Office to be placed in the record of Case No. 06-079-A, which includes all of the redline revisions identified on the approved Development Plan Developer's Exhibit 3B.

- 3) Developer at its own expense, shall be required to complete the proposed improvements to the intersection of Maryland Route 45 (York Road) and Fairmount Avenue, as reflected on Developer's Exhibit 15, and the proposed improvements to the intersection of Locustvale Road and Fairmount Avenue, as shown on Developer's Exhibit 16.
- 4) In the event Locustvale Road residents are able to come to an agreement and obtain Baltimore County's consent for the installation of a "choker," then within 18 months from the date of this Order, the Developer, at its own expense shall be required to install the choker as noted on Developer's Exhibit 17.

Any appeal of this Order shall be taken in accordance with Baltimore County Code Section 32-3-401 and Section 32-4-281.



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

WJW:bjs

The Daily Record

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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:

10/8/2019

Order #: 11797769
Case #: 2019-0431-SPH
Description:

NOTICE OF ZONING HEARING - CASE NUMBER:
2019-0431-SPH


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 herein as follows:

CASE NUMBER: 2019-0431-SPH

13709 A Harcum Road

South of Intersection of Manda Hill

10th Election District - 3rd Councilman's District

Legal Owners: Summer Hill Club, Inc.

Special Hearing to make changes to prior Zoning Order 68-151-X to include changes in number and type of family membership, to approve existing lighting, to approve hours of operation, to approve music and loud speaker equipment, to permit members to bring alcoholic beverages, to change the permitted means of filling the pool.

Hearing: Monday, October 28, 2019 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Michael Mallinoff

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 410-837-3868.

(2) FOR INFORMATION CONCERNING THE FILE ANVOR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-837-3391.

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CERTIFICATE OF POSTING

Date: 10-6-19

RE: Case Number: 2019-0431-SFH

Petitioner/Developer: Summer Hill Club, Inc

Date of Hearing/Closing: 10-28-19 10AM

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 13709 A Harcum Rd

The signs(s) were posted on 10-6-19
(Month, Day, Year)

J. Lawrence Pilson
(Signature of Sign Poster)

J. LAWRENCE PILSON
(Printed Name of Sign Poster)

ATTACH PHOTOGRAPH

1015 Old Barn Road
(Street Address of Sign Poster)

Parkton, MD 21120
(City, State, Zip Code of Sign Poster)

410-343-1443
(Telephone Number of Sign Poster)

ZONING NOTICE

CASE # 2019-0431/SPH

A PUBLIC HEARING WILL BE HELD BY
ADMINISTRATIVE JUDGE
IN TOWSON, MD

PLACE: JEFFERSON BUILDING ROOM 205
105 WEST CHESAPEAKE AVE. TOWSON 21204

DATE AND TIME: MON. OCT. 28, 2019, 10 AM

REQUEST: SPECIAL HEARING TO MAKE CHANGES TO PRIOR
ZONING ORDER 68-151-X TO INCLUDE CHANGES IN NUMBER
AND TYPE OF FAMILY MEMBERSHIP TO APPROVE EXISTING
LIGHTING TO APPROVE HOURS OF OPERATION TO APPROVE MUSIC
AND LOUD SPEAKER EQUIPMENT TO PERMIT MEMBERS TO BRING
ALCOHOLIC BEVERAGES TO CHANGE THE PERMITTED MEANS OF
FILLING THE POOL

IF CONDITIONS ARE SOMETIMES NECESSARY
FOR THE PROPER ENFORCEMENT OF LAW
AND DISCIPLINARY OF LAW

ZONING NOTICE

CASE # 2019-0431-SPH

A PUBLIC HEARING WILL BE HELD BY
ADMINISTRATIVE LAW JUDGE
IN TOWSON, MD

PLACE: JEFFERSON BUILDING ROOM 205

105 WEST CHESAPEAKE AVE. TOWSON 21204

DATE AND TIME: MON. OCT. 28, 2019 10 AM

REQUEST: SPECIAL HEARING TO MAKE CHANGE TO PRIOR ZONING
ORDER 63-51-X TO INCLUDE CHANGES IN NUMBER AND TYPE OF
FAMILY MEMBERSHIP TO APPROVE EXISTING LIGHTING TO APPROVE
HOURS OF OPERATION TO APPROVE MUSIC AND LOUD SPEAKER
EQUIPMENT TO PERMIT MEMBERS TO BRING ALCOHOLIC BEVERAGES
TO CHANGE THE PERMITTED MEANS OF FILLING THE POOL

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

DO NOT REMOVE THIS SIGN AND POSTER. ONLY APPROVED PERSONNEL MAY REMOVE.

CASE NAME Bozzuto Group
CASE NUMBER 2019-0450-A
DATE 10/31/19

[illegible]

SMAN (GRAGO) @
M/NEW

450.4. E 29 sq ft.

295 1, 2, 3 bdrn apts

Dulany Valley + Southside

5 lane road at this intersect - UNIQUE

WONDSHIP - See, Kenneth L Mall case

reduce traffic confusion

will work to bring office signage

Debra Wiley

flu
10-31
10 Am

From: Sarah M. Nyren <snyren@gejlaw.com>
Sent: Wednesday, October 30, 2019 3:11 PM
To: Administrative Hearings
Subject: Case No.: 2019-0450-A - Entry of Appearance
Attachments: Entry of Appearance 10.30.19.pdf

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

To whom it may concern:

Attached please find my entry of appearance in the above-captioned case. Should you have any questions, or require more documentation, please do not hesitate to contact me.

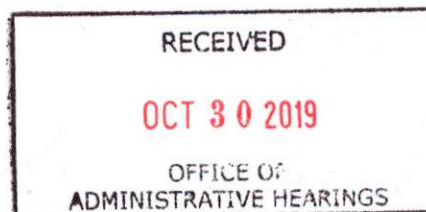
Best regards,

Sarah Nyren

Sarah M. Nyren

TEL: 410 951 1413 / FAX: 410 468 2786
218 N Charles Street, Suite 400, Baltimore, MD 21201
snyren@gejlaw.com

GALLAGHER
GALLAGHER EVELIUS & JONES
ATTORNEYS AT LAW



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IN RE: PETITION FOR VARIANCE

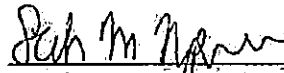
(913 Southerly Road)
9th Election District
5th Council District
Bozzuto Group
Legal Owner
Petitioner

* BEFORE THE OFFICE
* OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
*
* **CASE NO. 2019-0450-A**

* * * * *

NOTICE OF ENTRY OF APPEARANCE

Please enter the appearance of Sarah M. Nyren and Gallagher Evelius & Jones as counsel
for Bozzuto Group.



Sarah M. Nyren (CPF #1512150270)
Gallagher Evelius & Jones LLP
218 N. Charles Street, Suite 400
Baltimore, MD 21201
(410) 727-7702
Fax: (410) 468-2786
snyren@geljlaw.com
Counsel for Bozzuto Group

C H E C K L I S T

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
_____	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	_____
9/13	DEPS (if not received, date e-mail sent _____)	NO Comment
_____	FIRE DEPARTMENT	_____
10/24	PLANNING (if not received, date e-mail sent _____)	NO Objection
9/9	STATE HIGHWAY ADMINISTRATION	NO Objection
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. <u>related case: 06-0079-A</u>)	
NEWSPAPER ADVERTISEMENT	Date: <u>10/11/19</u>	
SIGN POSTING (1 st)	Date: <u>10/10/19</u>	by <u>O'Keefe</u>
SIGN POSTING (2 nd)	Date: <u>10/27/19</u>	by <u>O'Keefe</u>
PEOPLE'S COUNSEL APPEARANCE	Yes ☒ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____

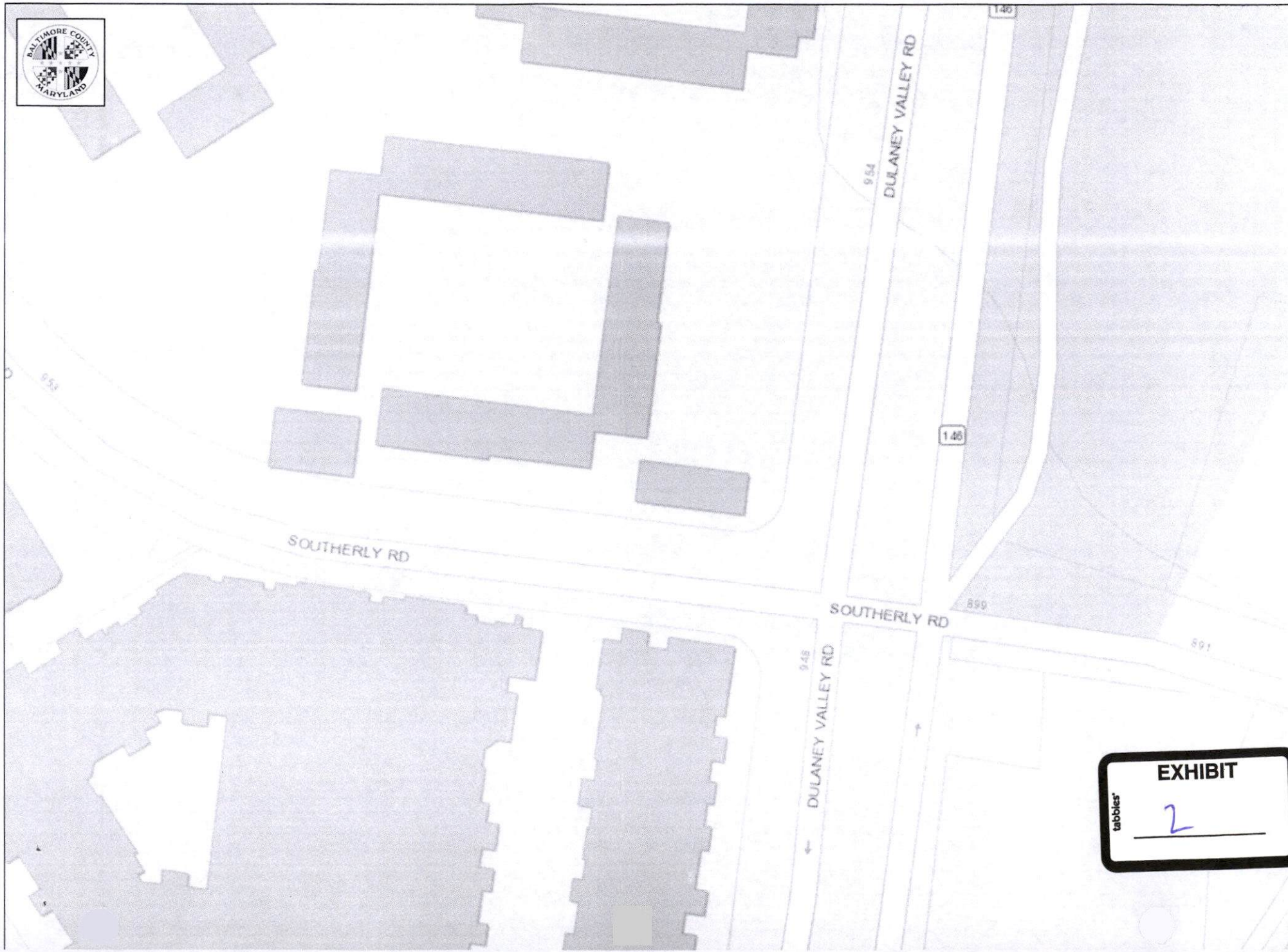
Real Property Data Search

Search Result for BALTIMORE COUNTY

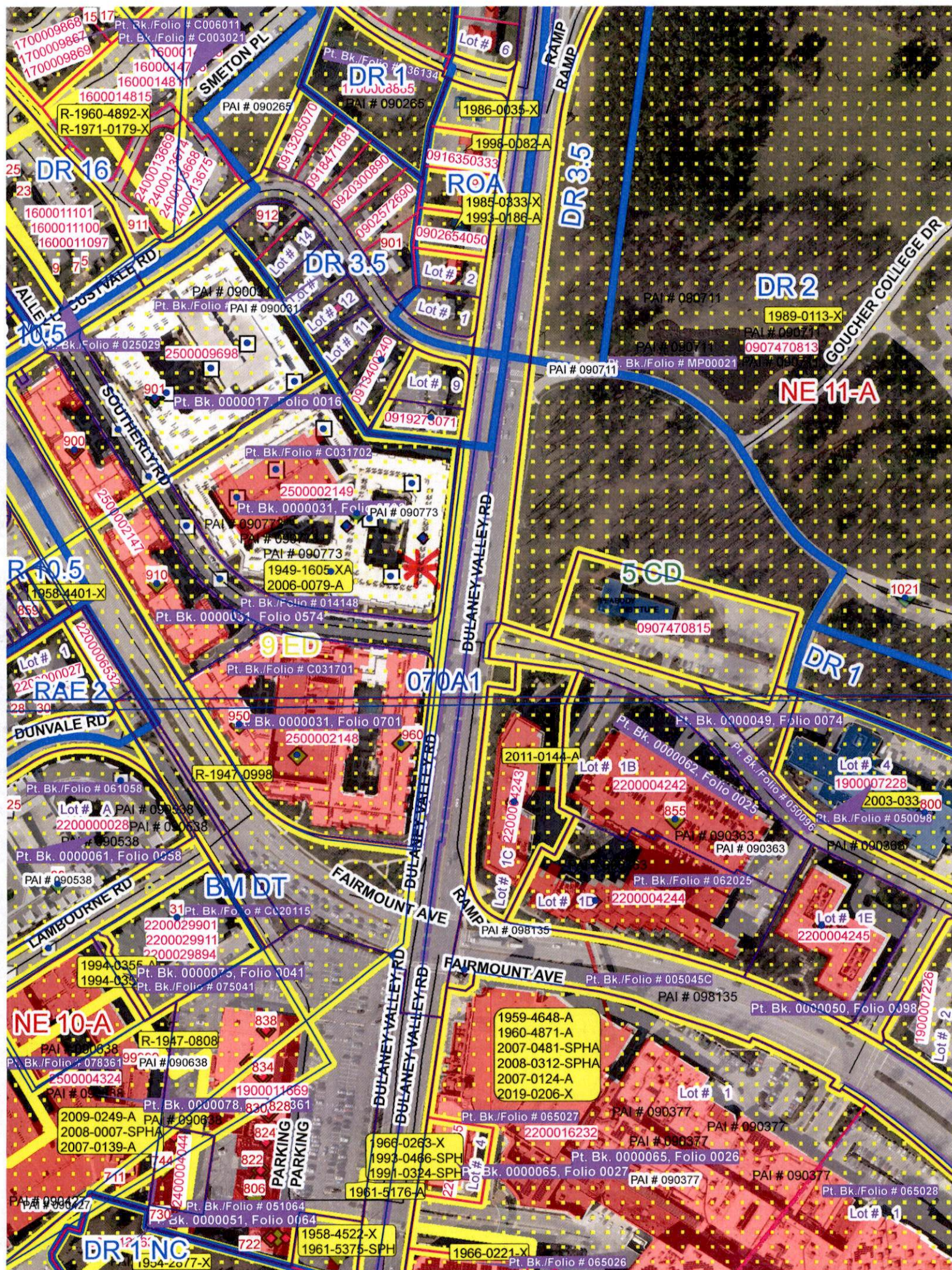
View Map		View GroundRent Redemption		View GroundRent Registration	
Tax Exempt: None		Special Tax Recapture: None			
Exempt Class: None					
Account Identifier:		District - 09 Account Number - 2500002149			
Owner Information					
Owner Name:	BROWNLEE WINTHROP MANAGEMENT LLC			Use: Principal Residence:	APARTMENTS NO
Mailing Address:	1250 N CALVERT ST BALTIMORE MD 21202-			Deed Reference:	/39539/ 00008
Location & Structure Information					
Premises Address:	DULANEY VALLEY RD BALTIMORE 21204-0000			Legal Description:	4.2227 AC LAND UNIT A DULANEY VALLEY RD NWS DULANEY LAND CONDOMINIUM
Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section: Block: Lot: Assessment Year: Plat No: Plat Ref: 0031/ 0702
0070	0002	0125	20000.04	0000	2020
Special Tax Areas: None			Town: None Ad Valorem: None Tax Class: None		
Primary Structure Built 2015	Above Grade Living Area 409,464 SF	Finished Basement Area		Property Land Area 4,2200 AC	County Use 11
Stories	Basement	Type	Exterior	Quality	Full/Half Bath
		APARTMENT	/	C4	
Value Information					
	Base Value	Value As of 01/01/2017	Phase-in Assessments As of 07/01/2019 As of 07/01/2020		
Land:	13,795,400	13,795,400			
Improvements	36,834,000	36,834,000			
Total:	50,629,400	50,629,400	50,629,400		
Preferential Land:	0				
Transfer Information					
Seller: DULANEY VENTURE LLC		Date: 10/23/2017		Price: \$84,000,000	
Type: ARMS LENGTH IMPROVED		Deed1: /39539/ 00008		Deed2:	
Seller: DULANEY VALLEY APARTMENTS LLC		Date: 11/30/2012		Price: \$9,500,000	
Type: ARMS LENGTH IMPROVED		Deed1: /32850/ 00036		Deed2:	
Seller:		Date:		Price: \$0	
Type:		Deed1: /16481/ 00574		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2019		07/01/2020	
County:	000	0.00			
State:	000	0.00			
Municipal:	000	0.00		0.00	
Tax Exempt: None		Special Tax Recapture: None			
Exempt Class: None					
Homestead Application Information					
Homestead Application Status: No Application					

Homeowners' Tax Credit Application Status: No Application

Date:

**tablets***

2

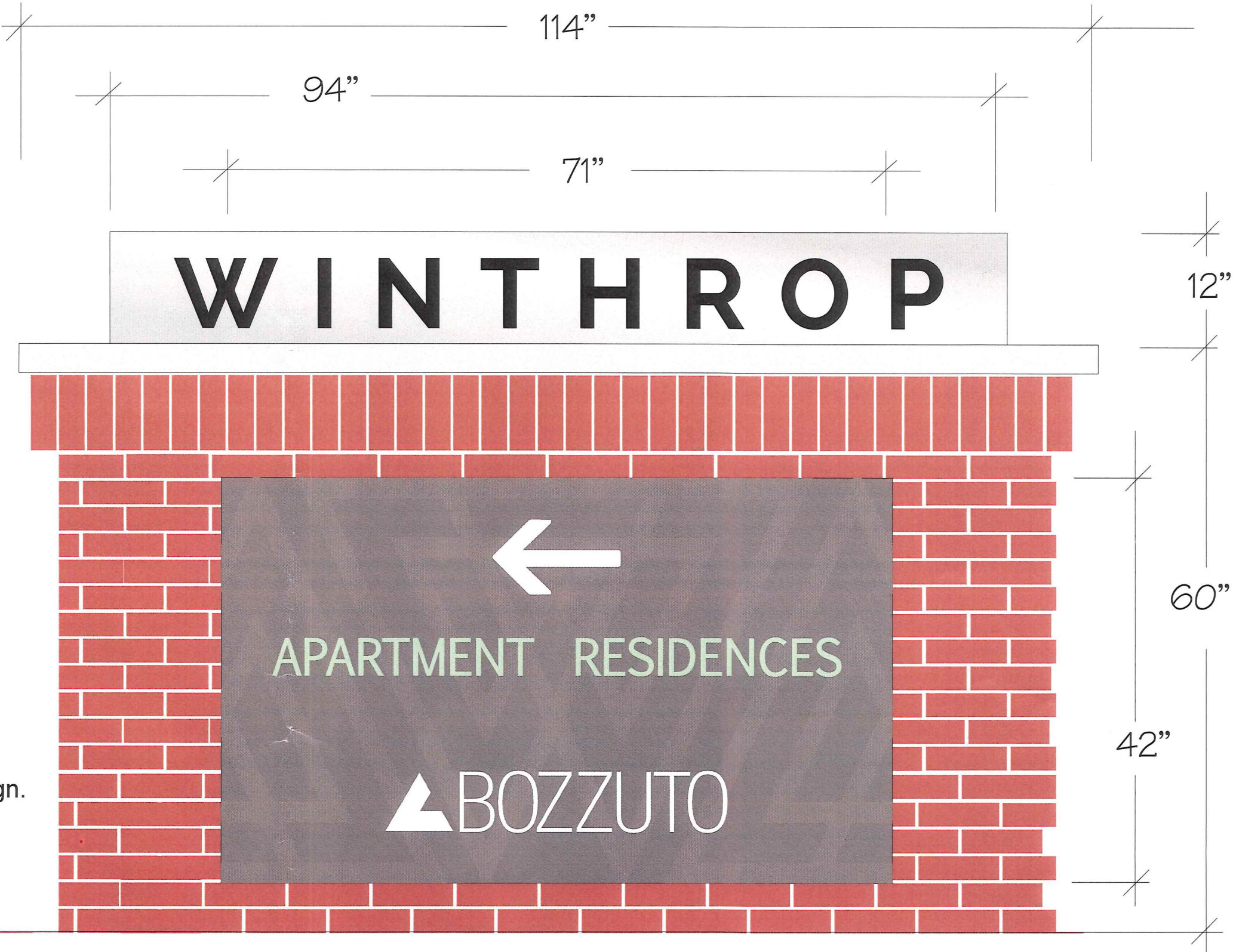






Existing Sign: Corner of MD-146 and Southerly Road

- * Change existing sign message by placing a solid panel on top of the existing sign structure and changing the main message of the sign to be more of a permanent building identifier. Winthrop logos and the "Now Leasing" to be removed and a message showing Apartment Residences with direction arrow and logo to go in its place.
- * Add the LED apartment name to the top of the existing brick monument for recognition from both sides of the sign.



SC FRONT ELEVATION
SCALE: 1"=1'

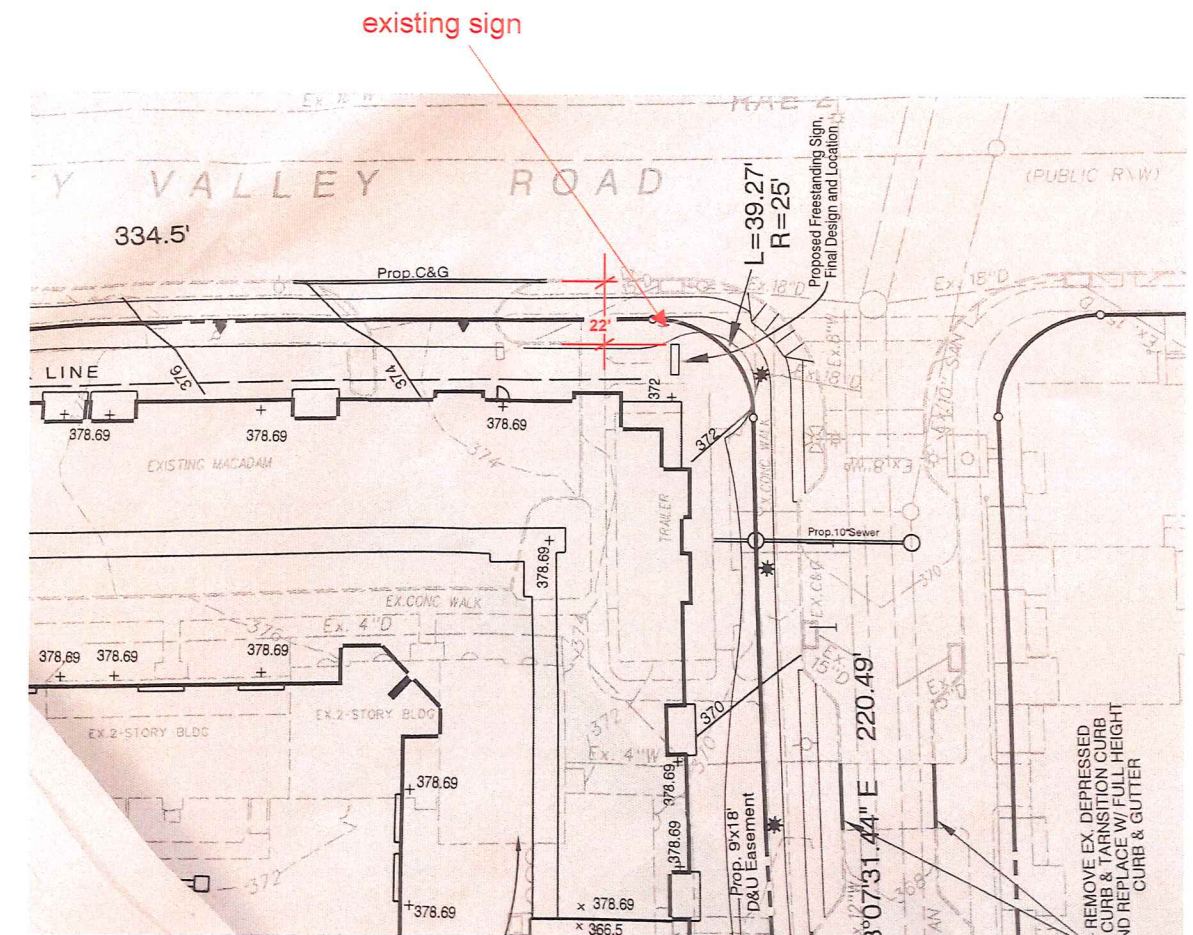
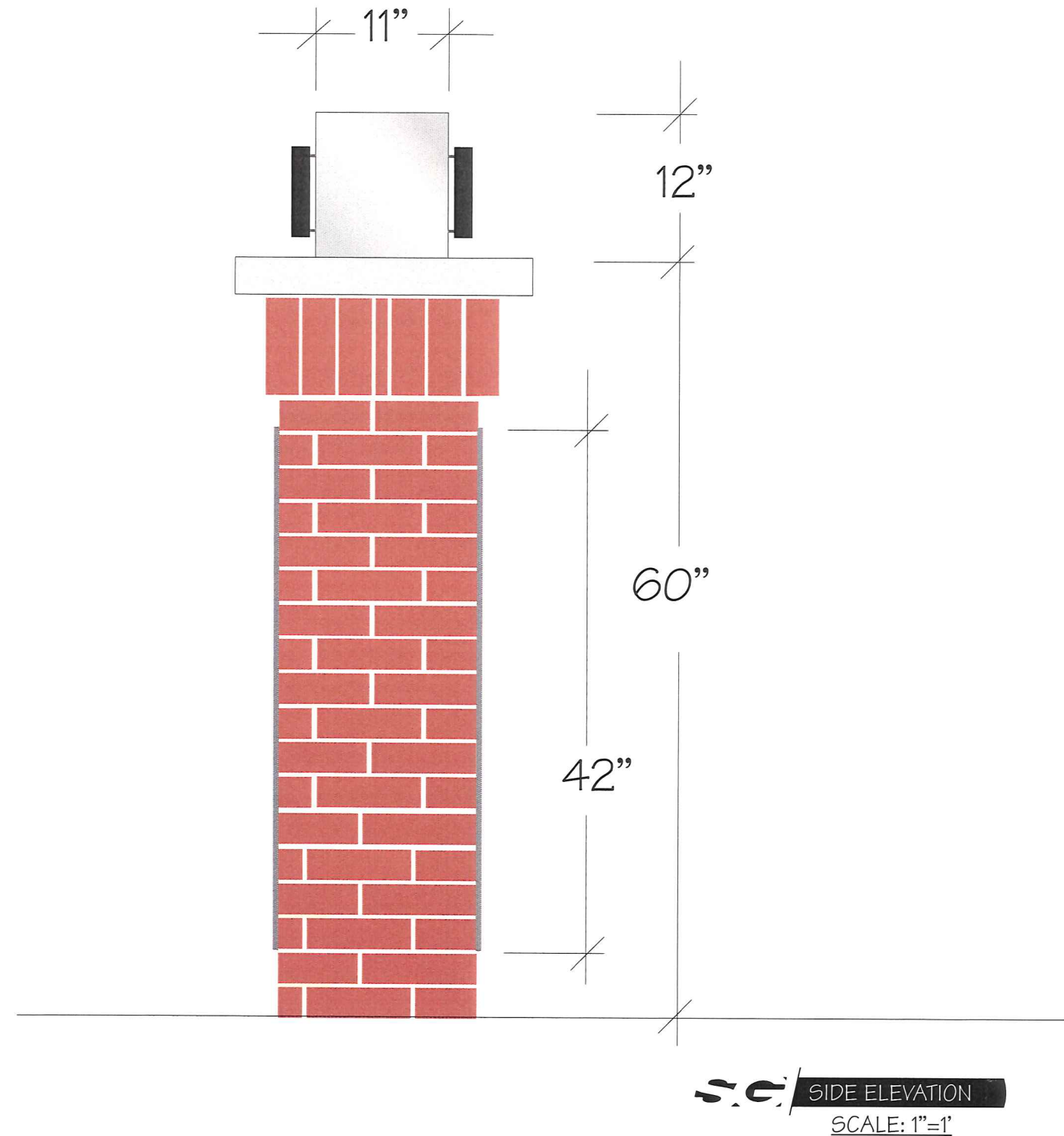
2019-0450-A



7590 RITCHIE HIGHWAY, GLEN BURNIE, MD 21061 800-825-9134

Project Number _____ Sales Rep _____
Customer _____ Date _____

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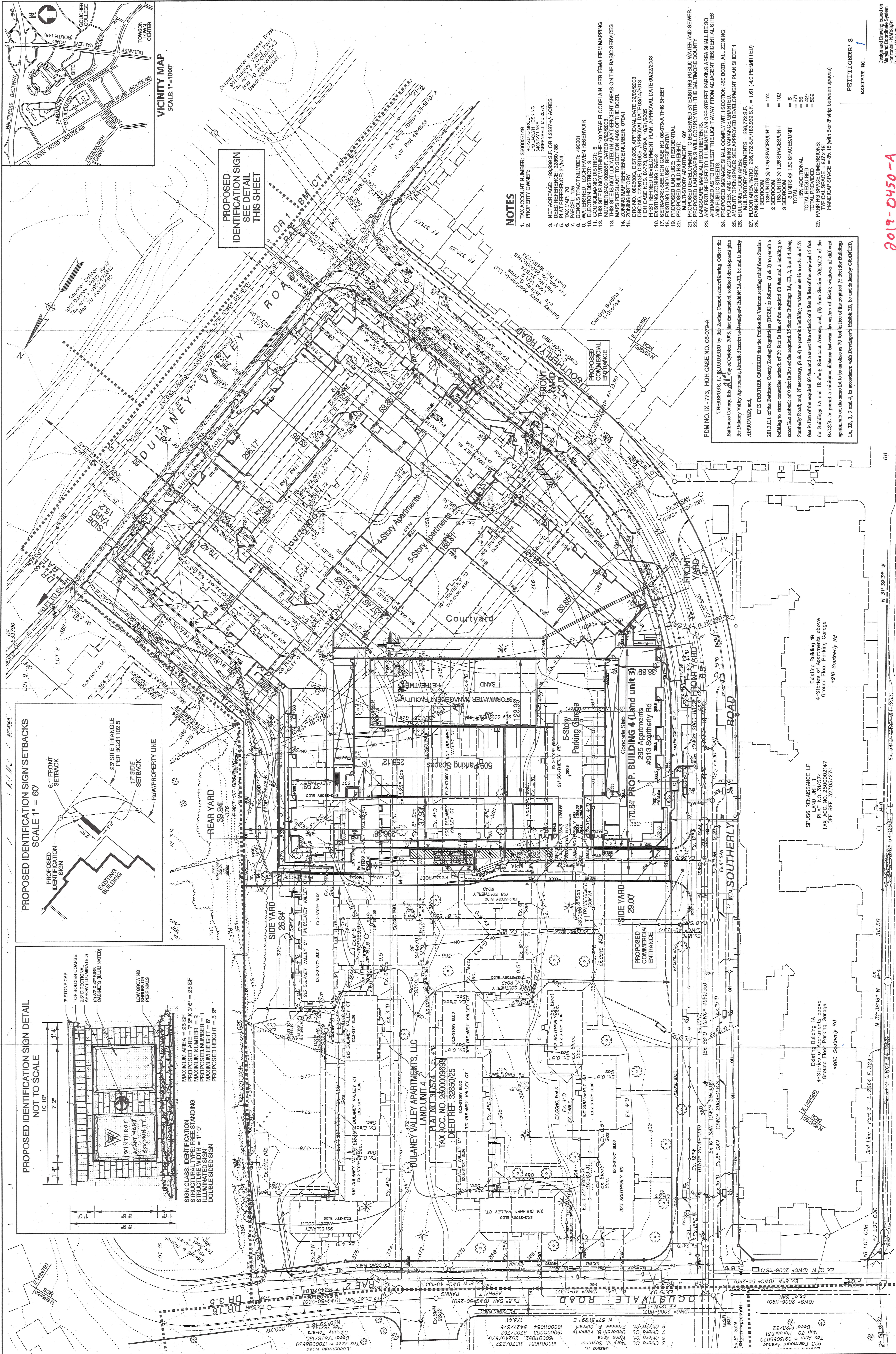
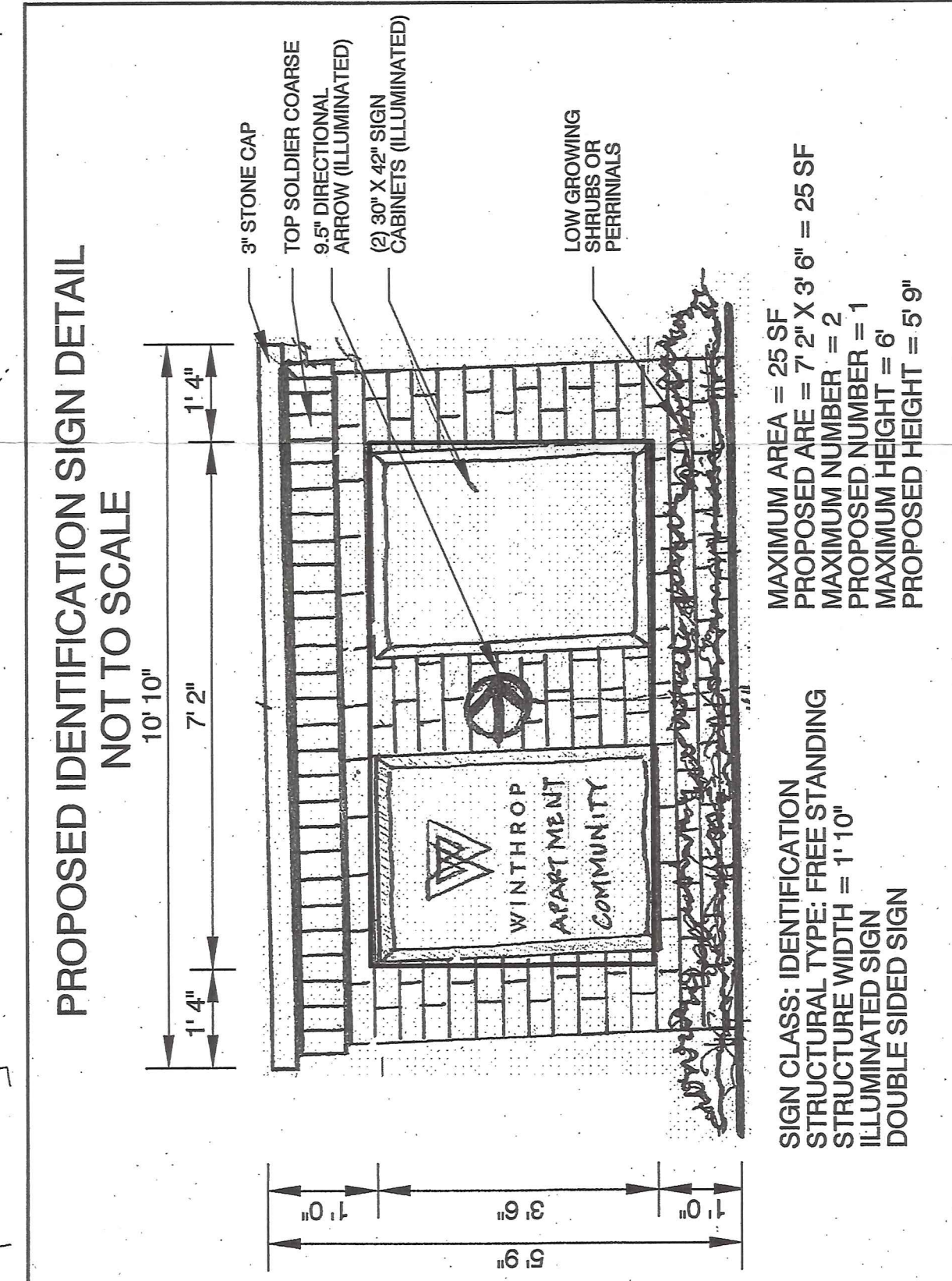
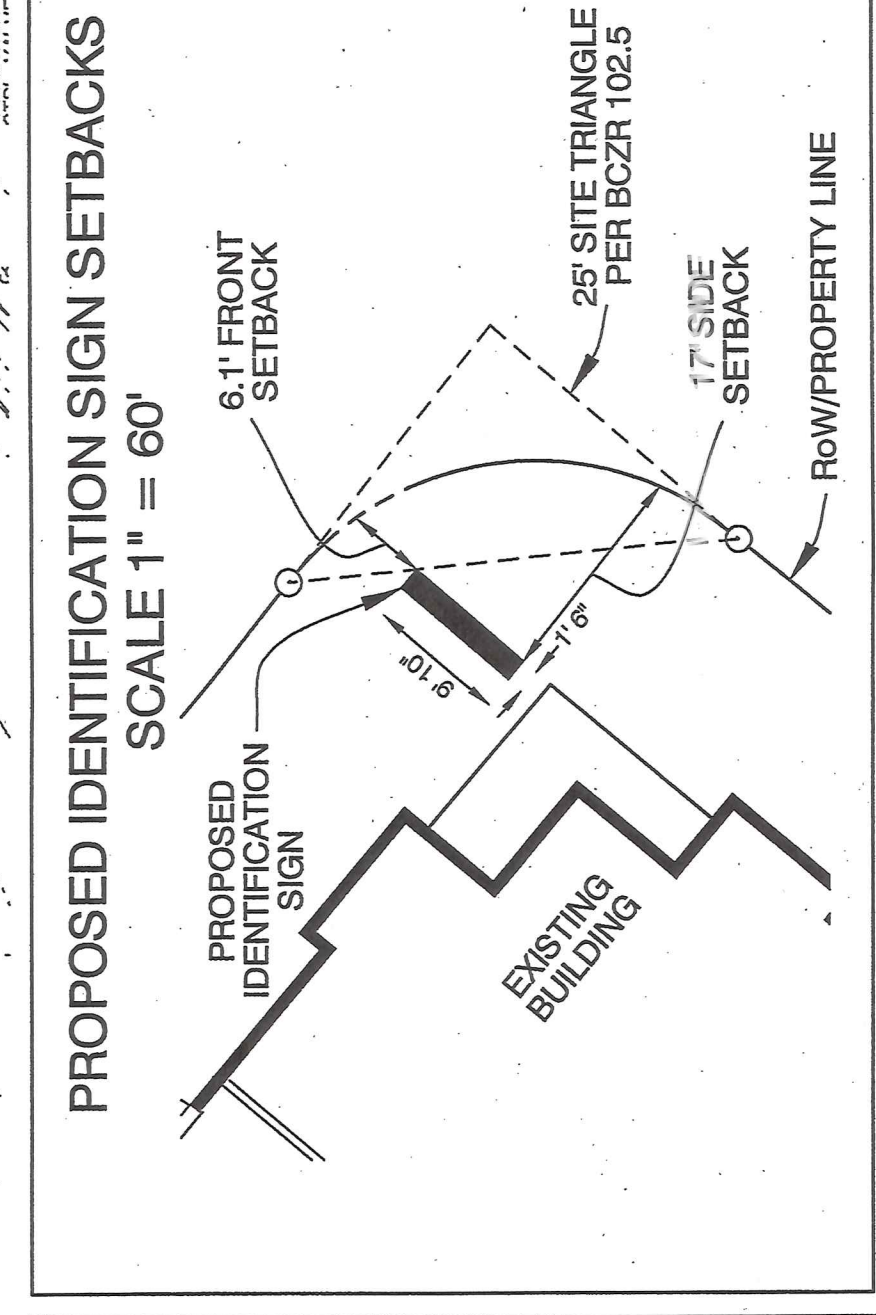
2019-0450-A



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Project Number _____ Sales Rep _____
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[illegible]

THEREFORE, IT IS ORDERED by this Zoning Commissioner/Planning Officer for Baltimore County, this 21st day of October, 2005, that the amended, re-zoned development plan for Delaney Valley Apartments, identified herein as Knowledge@ Exhibit 2A-3B, be and is hereby APPROVED and

IT IS FURTHER ORDERED that the Petition for Variances seeking relief from Section 20-3.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1. & 2) to permit a building to store container stacks of 20 feet in line of the required 60 feet and a building to store nine stacks of 0 feet in line of the required 15 feet for Buildings 1A, 1B, 2, 3 and 4 and a building to store nine stacks of 0 feet in line of the required 15 feet for Buildings 1A, 1B, 2, 3 and 4 along Southernly Road; and, if necessary, (& 4) to permit a building to store container stacks of 55 feet in line of the required 60 feet and a street line building to store container stacks of 15 feet in line of the required 60 feet in line of the required 15 feet for Buildings 1A and 1B along Pinchum Avenue; and, (& 9) from Section 20-3.3.C.2 of the B.C.Z.R. to permit a minimum distance between the centers of hanging windows of different apartments on the same lot to be as close as 20 feet in line of the required 75 feet for Buildings 1A, 1B, 2, 3 and 4, in accordance with Developer's Exhibit 3B, be and is hereby GRANTED.

PETITIONER'S
EXHIBIT NO. 7

2019-0450-A

Design and Drawing based on
Monard Coordinates System

MATISWARFIELD
Consulting Engineers

10540 York Road, Suite M • Hunt Valley, Maryland 21038
410.883.7004 PHONE 410.883.7198 FAX

PROFESSIONAL CERTIFICATION
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR
APPROVED BY ME, AND THAT I AM A DULY LICENCED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND.
LICENSE NO. 21162
EXPIRATION DATE: 03-20-2016

OWNER/ DEVELOPER
DULANEY VENTURE, LLC
C/O JON MAYERS
CHESAPEAKE REALTY PARTNERS
4750 OWINGS MILLS BLVD
OWINGS MILLS, MD 21117

REVISIONS

[illegible]

Site Plan to Accompany Sign Permit Application

SP-01

SHEET NO. 1 OF 1

DATE: 07-13-2015

SCALE: 1"=30'