

ADJOINING PROPERTY OWNERS FOR 10459 FREDERICK ROAD

Howard County Dept. of Public Works
3430 Courthouse Drive
Ellicott City, MD 21043
(24.003)(25.002)
(43.008)(46.001)
(43.006) (23.002)(23.001)

Thomas & Eileen Sullivan
2939 Poland Springs Drive
Ellicott City, MD 21042-7626
(23.001)

Ann L. Kaulfuss, Trustee
13715 Old Rover Road
West Friendship, MD 21794-9718
(23.001)

"
"

Requested Zoning

Search Street:

FREDERICK RD

Next

Property Information:

Amendment No.: 23.001

Current Zoning: R-20

Requested Zoning: B-1

Tax Account ID.: 1402223619

Map: 23

Grid: 6

Parcel: 99

Lot:

Acres: 0.846

Address: 10459 FREDERICK RD

City/State/Zip: ELLICOTT CITY, MD 21042

Owner:

Name: FRALEY THOMAS MOTT

Email: fraleyleslie@yahoo.com

Phone: 410-465-2506

Mailing Address: 10459 FREDERICK RD

City/State/Zip: ELLICOTT CITY, MD 21042

Representative:

Name: E. Alexander Adams

Email: eaa@a-alaw.com

Phone: 410-489-9888

Mailing Address: P.O. Box 358

City/State/Zip: Glenelg, MD 21738

Decision:

Planning Board Decision:

Planning Board Vote:

Council Decision:

Council Vote:

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Zoning Map Amendment Request Form

**Howard County
Comprehensive Zoning Plan
Department of Planning and Zoning**

[Handwritten/Typed Version]
Before filling out this form, please read the
Instructions section at the end of the form.

A. Property Information (Please print or type)

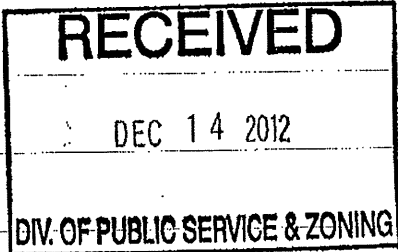
1	Address / Street (Only)	10459	Frederick Rd. (10459 – residence; 10455 – convenience store)		
2	Tax Map Number	23	Grid	6	✓
3	Parcel(s)	99 ✓			
4	Lot(s)	N/A			
5	Tax Account Data:	District	02	Account #	223619 ✓

6	Size of Property:	Acres	Square feet	36,851
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7	The Property is currently zoned:	R20	✓
	I request that the Property be rezoned to:	B-1 (see drawing – 1 acre)	

B. Owner Information

8	Owner Name	Thomas & Leslie Fraley ✓		
9	Mailing street address or Post Office Box	PO Box 7117		
	City, State	Ellicott City, MD		
	ZIP Code	21042		
	Telephone (Main)	410-465-2506		
	Telephone (Secondary)	410-300-9247		
10	E-Mail	fraleyleslie@yahoo.com		



F. List of Attachments/Exhibits

- 14 1. Portion of ZB1064M
- 2. Lease from Howard County to Howard County Youth Program, Inc.
- 3. Howard County Youth Program, Inc.'s tax return
- 4. Photos of signs
- 5. Photos of parking

G. Signatures

15 Owner *Staley*
Date *12-14-2012*

Owner (2) *Lestli D. Staley*
Date *12-14-2012*

Additional owner signatures? **X** the box to the left and attach a separate signature page.

16 Representative Signature *E. Abdul-Rahman*
Date *12-14-12*

DPZ Use Only		Amendment No.	<i>23.001</i>
Notes	<i>Cost 12/19/12</i>		

Fraley:

#13 (Continuation Sheet)

But the main reason R-20 is an inappropriate zoning category for the subject property is the adjacent annual million-dollar entertainment complex being operated by the Howard County Youth Program, Inc. ("HCYP"), a not-for-profit corporation not connected with Howard County Government or the Department of Parks and Recreational Department. Howard County leases the adjacent 24-acre property to this private corporation. In addition to the million-dollar entertainment recreational facility operated by the HCYP, the County has passed a specific sign ordinance, unique to HCYP which allows advertisers to display large poster advertisements on the playing field fences. The result is the largest outdoor advertising venue in Howard County. The total square footage of advertising signs is also the largest single signage permitted in Howard County.

The constant noise level from the large crowds, parking of hundreds of cars on a daily basis on the adjacent R-20 zoned parcel during the season, repeated car alarms going off on a constant basis, high-intensity industrial lighting on a constant basis, and such public health nuisances as spectators using the fence line between the subject property and the playing field as a public restroom, in the aggregate constitute a public nuisance and substantial ongoing violation of the R-20 zoning regulations for the 24 acres leased to a private entity. Since Howard County Maryland owns the property where this nuisance is occurring on a daily basis during the nine-month season, such actions constitute a publicly sanctioned nuisance contrary to law and contrary to all applicable zoning regulations. Attached hereto is a copy of what is believed to be the current Lease between Howard County and HCYP, the Corporation's tax return showing receipts of approximately \$1 million a year, photographs of the extensive signing unique only to this nonprofit organization and photographs of a public parking lot for this million-dollar entertainment complex, all of which are not permitted uses in a R-20 zoning category.

For these reasons Petitioner respectfully requests the property be rezoned to a B-1 zoning category, which is consistent with its historic and current use, plus B-1 zoning immediately across the street.

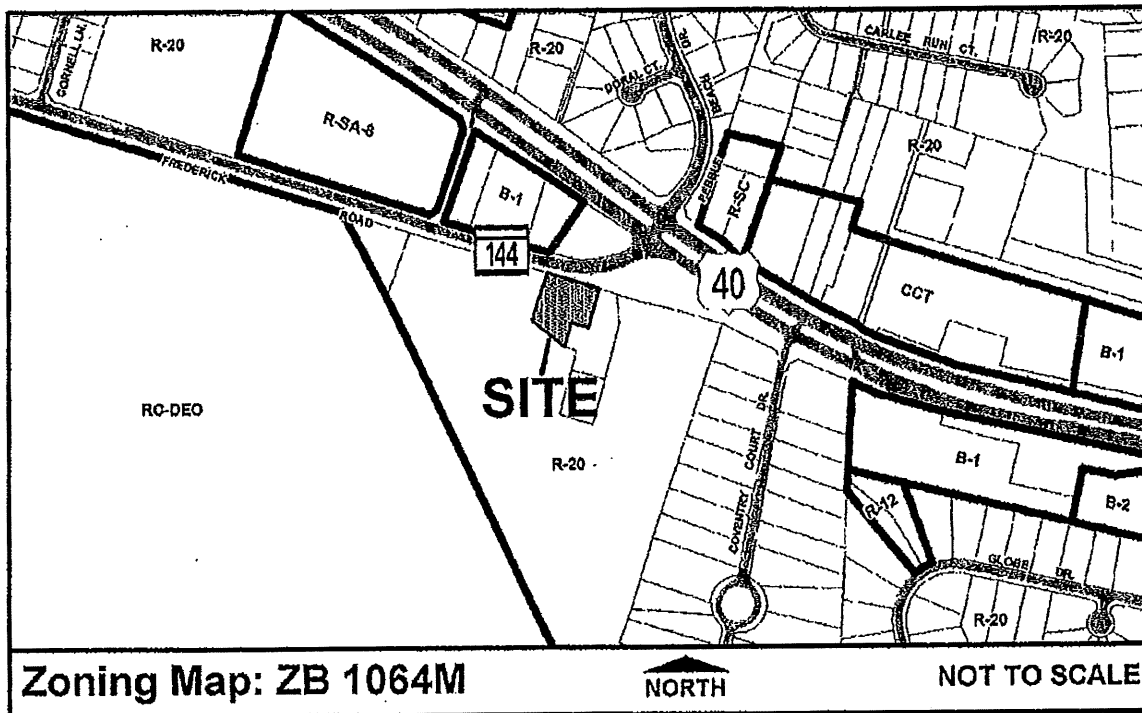
I. DESCRIPTION OF PROPOSAL

- # The Petitioners proposes a Zoning Map Amendment to rezone the Property from the current R-20 (Residential: Single) District designation to the B-1 (Business: Local) District. As justification for this request, the Petitioners include allegations of both substantial change in the character of the neighborhood ("Change") and mistake in the zoning designation ("Mistake").

- # The Petitioners contend that "...the cumulative effect of changes in the neighborhood have made the residential use and zoning of their property inappropriate..."

Adjoining the Property on the west side, and also to the south and east of the Property and two other lots, is the Kiwanis/Wallas Park (the "Park"), which includes multiple ball fields, parking areas, and accessory buildings.

The Petitioners maintain that the use of the Park by the Howard County Youth Program ("HCYP") has intensified since the 2004 Comprehensive Zoning Plan ("2004 CZP") with the installation of playing field lighting near the Property, and an increase in Park generated traffic due to the extended use of the playing fields, and that the Property is no longer suitable for residential use or zoning due to this intensification.



PETITIONER: Thomas & Leslie Fraley

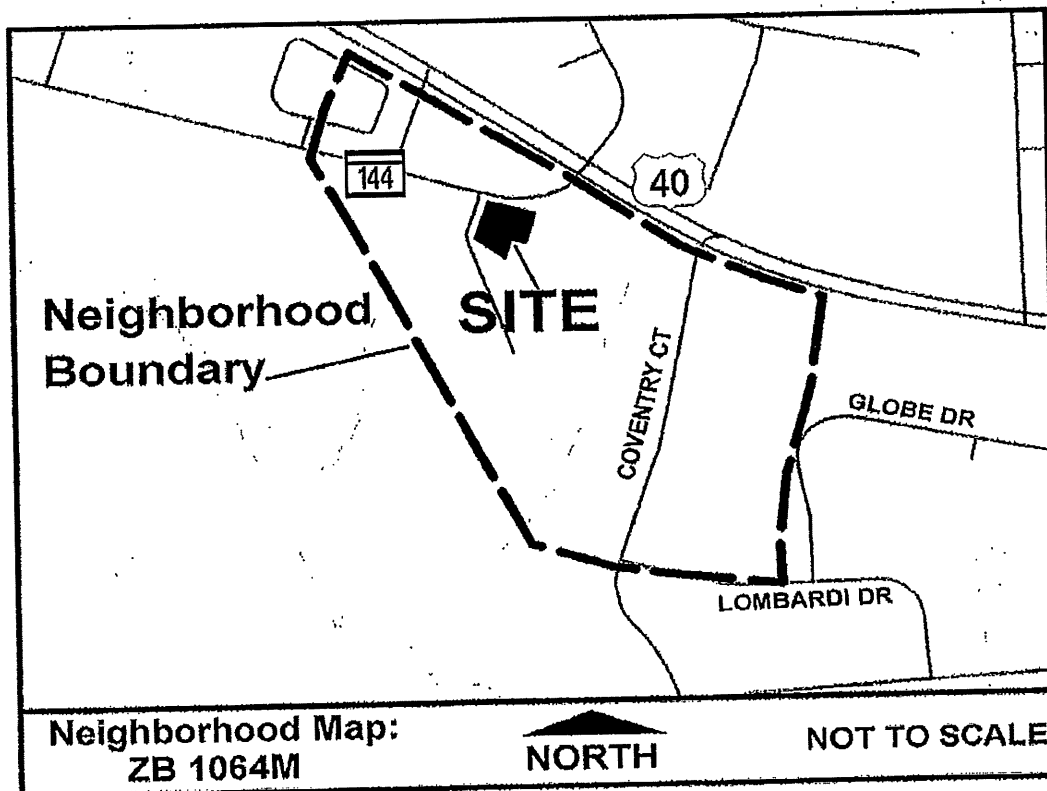
II. ZONING HISTORY

A. Subject Property

- # The 1954 Zoning Map depicts the zoning at the US 40 intersection with MD 144 as being zoned B-2 in an area 300 feet from the US 40 right-of-way on both the north and south sides of US 40.

This zoning map is somewhat imprecise because it does not show individual parcels and the scale is such that the entire County is on one sheet, but it is enough to conclude that this B-2 zoning, 300 feet to the south of the US 40 right-of-way, would have included most of the Property.

- # The 1961 Comprehensive Zoning Plan rezoned the Property to R-20 for the first time. A set of 1961 Land Use Maps, relatively recently discovered during the move to the temporary offices of the County government, clearly show that there was a commercial use on the Property at that time.
- # In the 1977 Comprehensive Zoning Plan, the Property was rezoned to the R (Rural) District. This R District zoning was maintained in the 1985 Comprehensive Zoning Plan.



II. ZONING HISTORY

- # The 1993 Comprehensive Zoning Plan returned the Property to the R-20 District. This R-20 designation was maintained in the 2004 CZP and Comp Lite.
- # On August 21, 2007, the Director of the Department of Planning and Zoning approved NCU 07-003, confirming that an approximately 40 foot by 50 foot frame building with a front porch located at the front of the Property near the MD 144 frontage, and the associated paved parking area around this building, is a valid nonconforming use for a general retail use.

In that case, it was evident that the Petitioners had been operating for many years under the mistaken assumption that their Property was already zoned commercially. This assumption was largely based upon a letter issued by a former DPZ employee in 1973 to a former owner of the Property that stated that the retail commercial use of the Property was legal and valid.

B. Adjacent Properties

- # All the adjoining properties share the same zoning history as the Property. As noted above, the adjacent Parcels 10, 39 and 96 across MD 144 to the northwest shared this same history up to the time of Comp Lite, when they were rezoned to B-1.

For Parcels 10 and 39, according to the Comp Lite records, both the Route 40 Task Force and the Planning Board recommended medium density residential districts for these parcels instead of the requested commercial zoning. It is noteworthy that the County Council disagreed with these recommendations and rezoned Parcel 10 and 39 to B-1, adding Parcel 96 also to B-1 by means of an amendment.

III. BACKGROUND INFORMATION

A. Site Description

- # The Property has an irregular, inverted L-shape. In the northeastern area of the Property is the frame store building and the surrounding paved parking area noted in the section above concerning the nonconforming use confirmation. To the west of this area is an existing single-family detached dwelling which is apparently also used in part for office space according to statements made in the NCU 07-003 case.

In the southeastern area of the Property, behind the store site, is a three-bay detached garage. There is another accessory building in the area generally between this garage and the dwelling. The southwestern area of the Property is predominantly an open lawn located behind the dwelling. The access to the Property from MD 144 is a very wide paved area which directly adjoins the MD 144 paving without a defined entrance or curb and gutter.

B. Vicinal Properties

- # All adjoining properties on the south side of MD 144 and US 40 are zoned R-20. To the east of the Property is Parcel 85, which is improved with a building identified as an animal hospital use which was originally approved in the 1960s as Board of Zoning Appeals Case No. 514-C.
- # Adjoining to the south and west is Parcel 73, which is approximately 24 acres and extends around both the Property and Parcel 85. Parcel 73 is owned by Howard County and is known as Kiwanis-Wallas Park, which is used predominantly for many baseball fields. The areas of Parcel 73 to the west of the Property are used for a parking lot, baseball fields, and batting cages. The areas to the south of the Property are used for a parking lot, an equipment building, a pavilion, and additional baseball fields.

The area of the Park to the east, past Parcel 85, is used for more baseball fields and parking areas, one of which may be located within the right-of-way for US 40. At the southeast area is Kiwanis Hall which is used for assembly purposes.

Past Parcel 73 to the west is farmland that is part of Doughoregan Manor. The area that adjoins Parcel 73 is the front portion of a 221 acre site, extending more than one mile to the south and southeast that is the subject of a recently submitted rezoning request, ZB 1087M, to rezone from RC-DEO to R-ED.

- # To the northwest of the Property, across MD 144, are Parcel 10 and Parcel 39, which are zoned B-1 but are not currently used or developed for commercial purposes. To the north of the Property is a partially open and partially wooded, undeveloped area of land that apparently is part of the public right-of-way for the US 40 and MD 144 intersection.

C. Roads

- # MD 144 in front of the Property has two west-bound travel lanes merging to one lane, and one east-bound lane expanding to two lanes. There is approximately 52 feet of paving within a variable-width right-of-way.
- # The estimated sight distance from the general location of the paved area in front of the store is over 900 feet to the west and approximately 275 feet to the northeast to the wide intersection of MD 144 and US 40.

Precise sight distance measurements may only be determined through a detailed sight distance analysis, however.

- # According to data from the State Highway Administration, the traffic volume on MD 144 west of US 40 was 8,571 ADT (average daily trips) as of 2007.

AMENDED AND RESTATED LICENSE AND AGREEMENT

THIS AMENDED AND RESTATED LICENSE AND AGREEMENT (this "Agreement"), made this 11th day of April, 2005 by and between **HOWARD COUNTY, MARYLAND**, a body corporate and politic (the "County"), and **THE HOWARD COUNTY YOUTH PROGRAM, INC. ("HCYP")**.

WHEREAS, in 1992, the County purchased real property consisting of 23.132 acres, more or less, located in the Second Election District of Howard County, Maryland, shown as parcel 73 on tax map 23, block 6, which is improved by a brick building known as the "Kiwanis-Wallis Recreation Center," a wooden building known as the equipment storage building, a snack bar, parking area, access road, practice area, public restrooms, practice fields and ball fields with fences, lights, dugouts, and bleachers (the "Property").

WHEREAS, HCYP is a private, non-profit corporation organized to provide educational and recreational activities for the citizens of Howard County, Maryland.

WHEREAS, in 1992, HCYP and the County entered into a License and Agreement dated June 15, 1992 for HCYP to use a portion of the Property for softball and baseball programs for the youth of Howard County, Maryland and to maintain the equipment storage building, snack bar, practice areas, public restrooms and ball fields located on the Property (the "Original Agreement").

WHEREAS, HCYP and the County now desire to amend and restate the Original Agreement to permit HCYP to use 170 square feet of the Kiwanis-Wallis Recreation Center, 10481 Frederick Road, for use by HCYP as an administrative office and to extend the term of the Original Agreement to June 15, 2020.

WHEREAS, the County Council of Howard County, Maryland adopted Resolution Number 09-2005 authorizing the County to extend the term of the Original Agreement to June 15, 2020 and to waive the formal competitive bidding requirements to allow the County to enter into this Agreement with HCYP to conduct the recreational activities on a portion of the Property.

NOW, THEREFORE, in consideration of these premises, the agreements set forth hereinafter, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually covenant and agree to amend and restate the Original Agreement as follows:

1. **PROPERTY DESCRIPTION.** The County is the fee simple owner of the Property being specifically described as parcel 73 on tax map 23, block 6, and consisting of 23.132 acres, more or less, located on the south side of Maryland Route 144 at its intersection with the Baltimore National Pike (U.S. Route 40) in the Second Election District of Howard County, Maryland, which is improved by the Kiwanis-Wallis Recreation Center and ancillary improvements as more particularly described in a deed to the County dated October 18, 1991 from the Kiwanis Club of Ellicott City, Maryland, Incorporated and recorded among the Land Records of Howard County, Maryland in Liber 2412, Folio 171.

2. **GRANT OF LICENSE TO HCYP.** The County hereby permits HCYP the non-

exclusive right to use certain portions of the Property, as hereinafter described, on the condition that HCYP complies with all of the conditions of use set forth in this Agreement. The portions of the Property licensed to HCYP, "as is," for its non-exclusive use, are the ball fields, practice areas, practice fields, equipment storage building, public restrooms, snack bar, parking space (collectively, the "Ball Fields") and a 170 square foot portion of the Kiwanis-Wallis Recreation Center for use as an office (the "Office Area"). The Ball Fields and the Office Area are referred to therein as the Licensed Area and are located as shown on the drawing attached hereto as Exhibit A.

3. LICENSE FEE. In consideration of the right to use the Ball Fields as set forth herein, HCYP shall pay the County an annual license fee of \$1.00. In consideration of the right to use the Office Area as set forth herein, HCYP shall pay the County an annual license fee of \$1,000.00 payable in equal quarterly installments, in advance, beginning January 1, 2005 and which license fee may increase as determined by the County but not more than 7% annually. Each installment of the license fee shall be paid by check to the order of the "Director of Finance for Howard County" and sent to the County at the address below.

4. TERM. This Agreement commenced on June 15, 1992. Under the terms of the Original Agreement, HCYP, with the approval of the County, was entitled to renew the original term of five years for four (4) additional terms of five (5) years each resulting in a termination date of June 15, 2012. As of the date of this Agreement, HCYP and the County, agree that the term shall now lapse on June 15, 2020 unless renewed by the County and HCYP (the "Term"). The County and HCYP may agree to renew this Agreement for up to three (3) successive five (5) year renewal terms for a final termination date of June 15, 2035. Each renewal term shall be exercised automatically unless one party gives the other party sixty (60) days prior written notice of its intention to terminate this Agreement. At anytime after June 30, 2007, HCYP may elect to terminate this Agreement with respect to the Office Area by giving notice to the County at least sixty (60) days in advance in accordance with the Notice provision of this Agreement. Upon the termination of HCYP's use of the Office Area, HCYP shall terminate all telephone and computer services and discontinue any mail service delivery to the Office Area. After such notice period, HCYP's obligation to pay rent for the Office Area shall cease but the license and terms of this Agreement for the Ball Fields shall still continue in full force and effect.

5. CONDITIONS OF USE. HCYP hereby agrees to comply with each of the following Conditions of Use:

a. During the Term of this Agreement, HCYP shall use the Licensed Area exclusively for the purpose of providing softball, baseball, and other recreational and sports activities, as approved by the County, for all youth of Howard County, Maryland ("Recreational Purposes") and the administrative tasks associated with the Recreational Purposes.

b. If, as determined by the County, the Licensed Area shall cease to be used exclusively for Recreational Purposes or activities that support recreation programs or if the usage of the Licensed Area by HCYP jeopardizes the tax exempt status of the bonds sold to finance the acquisition of the Property, then the County shall have the right to immediately terminate this Agreement and to abolish HCYP's use of the Licensed Area, or any portion thereof, without any compensation to HCYP. If HCYP, at any time during the Term of this Agreement, determines to discontinue the use of the Licensed Area, or any portion thereof, for Recreational Purposes, HCYP shall notify the County of its intention to discontinue the

use of the Licensed Area for Recreational Purposes and the County shall have the option to terminate HCYP's use of the Licensed Area, or any portion thereof.

c. If HCYP shall default under any term, condition, or provision of this Agreement, as determined by the County, and such default shall continue for a period of thirty (30) days after written notice thereof, then the County may promptly terminate this Agreement.

d. The County reserves the right to conduct recreational programs on the Licensed Area, when such programs are not in conflict with HCYP's use of the Licensed Area, at such times that HCYP is not using the Licensed Area for Recreational Purposes, and when said programs do not potentially damage the fields maintained by HCYP.

e. At its option, HCYP may arrange for the delivery of HCYP's mail to the Office Area.

f. HCYP shall install, at its expense, any telephone and computer service to the Office Area, subject to the County's approval of the location of any lines and antennae required for such service and upon the termination of HCYP's use of the Office Area, shall remove such service at HCYP's expense.

g. HCYP's use of the Office Area shall not disrupt or interfere with the County's programs and activities at the Kiwanis-Wallis Recreation Center. HCYP shall use its access to the Office Area at any time.

6. HCYP'S RESPONSIBILITIES AND DUTIES. Throughout the Term, HCYP agrees to fulfill each of the responsibilities and duties set forth in this Paragraph 6:

(a) HCYP shall maintain and repair at its sole cost and expense, the Licensed Area in good, sanitary, and safe condition for recreational use by the public as required by the County and State's laws and regulations. HCYP shall maintain the Ball Fields, including but not limited to, fertilizing, seeding, watering, mowing, and marking the grassy areas. HCYP shall maintain the interior of the Office Area (and any windows or doors) in a good, clean, and safe condition at its sole cost. All repairs and maintenance shall be performed by licensed professionals in accordance with the County and State regulations.

(b) All equipment and supplies necessary for the maintenance and operation of the Licensed Area shall be supplied by HCYP. HCYP shall use the Licensed Area for Recreational Purposes without regard to race, religion, creed, national origin or marital status of the participants.

(c) HCYP shall at all times maintain and operate, at its sole cost and expense, the Licensed Area in compliance with all federal, state, and local laws, rules, ordinances, resolutions, statutes, and regulations as well as all easements and restrictive covenants affecting the Property or any part thereof. HCYP shall observe the "Park Land Rules and Regulations" set forth in Section 19.200 et seq. of The Howard County Code.

(d) HCYP shall perform the maintenance and repair items indicated on the County's annual inspection list within ninety (90) days of the date of receipt of such list. HCYP shall repair a schedule of completion of such items and submit the schedule to the County within thirty (30) days of the date of receipt of the list.

(e) HCYP shall not permit any commercial or non-profit organization to operate the snack bar or any other concession in the Licensed Area, unless approved by the County.

(f) HCYP shall not create, maintain, or permit any nuisance in or about the Property and shall not commit or permit any waste of or to the Property.

(g) HCYP shall submit to the County for the County's prior approval, all proposed

plans for improvements, changes, additions, or alterations to the Licensed Area. All such improvements, changes, additions, or alterations shall be performed at the sole cost and expense of HCYP and shall become the property of the County. No improvements, changes, additions, or alterations shall be made to the Licensed Area without the County's prior approval, which may be denied in the County's sole discretion. HCYP shall comply with the County's requirements for development and obtain all local, state, and federal permits at its cost. The proposed changes and stipulations for improvements for the Office Area are set forth in Exhibit B. All improvements to the Kiwanis-Wallis Recreation Center within the Office Area shall remain the property of the County upon the termination of the license for the Office Area.

(h) HCYP shall not assign any of its rights under this Agreement.

(i) HCYP shall promptly and timely pay all charges for trash removal and utilities, including, but not limited to, electricity, water, sewer, septic and gas for the Licensed Area. Notwithstanding the foregoing, the County shall pay the cost of electrical service for the Kiwanis-Wallis Recreation Center if the Office Area is not separately metered and if the Office Area is or becomes separately metered, then HCYP shall pay the cost of electrical service to the Office Area.

(j) HCYP shall allow the public to use the Licensed Area and shall allow the public to participate in the programs organized by HCYP, subject to any reasonable fees charged by HCYP and the rules and regulations including but not limited to, league size as determined by HCYP. Prior to the commencement of any program utilizing the Licensed Area, HCYP shall complete and submit to the County, a facility use permit form.

(k) HCYP shall be responsible for the control, direction, and supervision of its recreation programs and shall be responsible for, inter alia, security, traffic and parking control, and first aid.

(l) Upon termination of this Agreement, HCYP shall remove its personalty from the Licensed Area, including all signs and equipment.

7. COUNTY'S RESPONSIBILITIES AND DUTIES. The County shall maintain the parking area, the access road, and, except for the interior of the Office Area (including any windows and doors), the Kiwanis-Wallis Recreation Center. If any incident of repair or maintenance to the electrical, HVAC, and plumbing systems serving the public restrooms or snack bar are in excess of \$500, then the County shall, to the extent of funds available as determined by the Department of Recreation and Parks, assist with such repair or maintenance. The County shall conduct an annual inspection of the Licensed Area and prepare a list of required maintenance and repair items. The County's responsibilities under this Agreement are contingent upon the annual appropriation of funds necessary to perform such responsibilities.

8. INDEMNIFICATION. HCYP agrees to indemnify and hold the County harmless from any and all liabilities, expenses, suits, claims, and actions, including attorneys' fees and the County's cost of defense, in connection with the loss of life, personal injury, property damage, or loss of property (a) arising from or out of the condition of the Licensed Area; (b) arising from or out of the public's use or occupancy of the Licensed Area; (c) arising from or out of any work or activities performed on or with respect to the Licensed Area by HCYP, its agents, employees, licensees, contractors, or invitees; or (d) otherwise arising from HCYP's use of the Licensed Area.

9. INSURANCE. HCYP shall obtain and keep in force, at its own cost and expense,

the insurance listed in this Section. HCYP shall provide to the County copies of certificates of all such policies upon the execution of this Agreement and annually upon the anniversary of this Agreement.

(a) A comprehensive general liability insurance policy against loss or liability in connection with bodily injury or death or property damage or destruction in or upon the Licensed Area, or arising out of HCYP's operation and the use of the Licensed Area by HCYP and the public with minimum limits of One Million Dollars (\$1,000,000.00) for each occurrence. The policy shall name Howard County, Maryland as an Additional Insured. The policy shall include an endorsement for Fire Legal Liability for HCYP's use of the Office Area.

(b) Worker's compensation insurance covering Maryland jurisdiction for any employees;

(c) An all risk property insurance policy covering personal property owned by, or in the care of, HCYP. Howard County shall not be responsible for any damage to property owned by HCYP, its agents, employees, licensees, contractors, or invitees no matter what the cause of damage.

10. TERMINATION. Upon the termination of this Agreement or upon HCYP's termination of a portion of the Licensed Area, HCYP shall vacate all or such portion of the Licensed Area, as the case may be and leave it in a good and clean condition, free of all debris, trash, and personalty.

11. FINANCIAL RECORDS. HCYP shall maintain records of the expenses and revenues pertaining to the operation of the Licensed Area (including the snack bar concession) in accordance with generally accepted accounting practices and such records shall be available for inspection by the County at all reasonable times. Within ninety (90) days of the end of HCYP's fiscal year, HCYP shall provide the County with a reviewed statement of revenues and expenses for that fiscal year in accordance with generally accepted accounting principles.

12. GOVERNING LAW. This Agreement shall be deemed to be a contract made and delivered in the State of Maryland and shall be governed and construed in accordance with the laws of the State of Maryland.

13. AUTHORIZATION. HCYP represents and warrants that this Agreement has been approved by the Board of Directors and stockholders of HCYP and that the officers executing this Agreement have been duly authorized to bind HCYP.

14. CONFLICT OF INTEREST. HCYP certifies that the officers of HCYP have read and understand the provisions of Section 901(a) of the Howard County Charter dealing with conflicts of interest and Section 22.204 of the Howard County Code dealing with conflicts of interest, copies of which are attached hereto as Exhibit C.

15. NOTICES. Any notice to be given hereunder shall be sent as follows:

In the Case of the County:
John Byrd, Chief, Parks and Programs Services,
Department of Recreation and Parks
7120 Oakland Mills Road

In the Case of HCYP:
Thomas H Price III, Esquire
Suite 110
13321 New Hampshire Avenue

Columbia, Maryland 21046
Telephone: 410-313-4640
FAX: 410-313-4646
jbyrd@co.ho.md.us

Silver Spring, Maryland 20904
Telephone: 301-680-8300
FAX: 301-680-0615

The contact for HCYP responsible for the daily operations of HCYP is the Executive Director of HCYP:

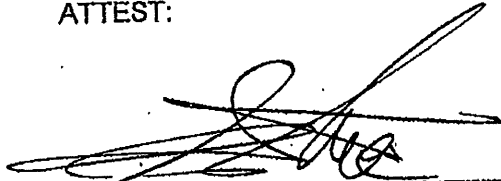
Mike Burroughs
PO Box 471
Ellicott City, Maryland 21041
Telephone 443-472-2255
hcyp-sports@verizon.net *FAX 410-571-0508*

HCYP and the County shall promptly update the notice information set forth in this paragraph as needed, from time to time.

16. ENTIRE AGREEMENT; AMENDMENT. This Agreement contains the entire understanding between HCYP and the County and shall be binding upon the parties and their successors and assigns. Any additions, modifications, or amendments to this Agreement may only be made in a writing executed by the County and HCYP.

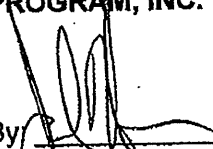
IN WITNESS WHEREOF, the County and HCYP have caused their duly authorized officers to sign and seal this License and Agreement on the date first hereinabove written.

ATTEST:

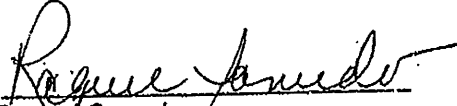


Stephen J. Lee, Treasurer

THE HOWARD COUNTY YOUTH PROGRAM, INC.

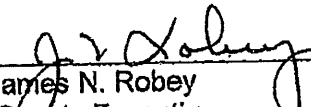
By:  _____ (SEAL)
John Hein, President

ATTEST:

By: 

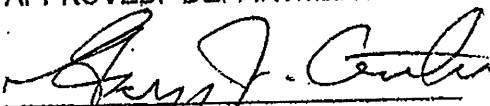
Raquel Sanudo
Chief Administrative Officer

HOWARD COUNTY, MARYLAND

By: 

James N. Robey
County Executive

APPROVED: DEPARTMENT OF RECREATION AND PARKS



Gary Arthur, Director
Office of Law
March 2005

APPROVED: DEPARTMENT OF PUBLIC WORKS

James Irvin 4/4/05
James Irvin, Director

APPROVED FOR SUFFICIENCY OF FUNDS:

Sharon Greisz 4/4
Sharon Greisz, Director
Department of Finance

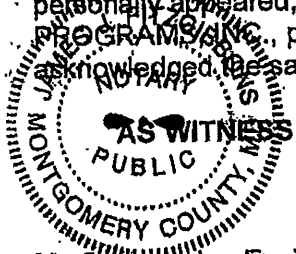
Signatures and notaries continued on next page

APPROVED FOR FORM AND LEGAL SUFFICIENCY: this 4th day of April, 2005

Barbara M. Cook
Barbara M. Cook
County Solicitor

STATE OF MARYLAND, ~~CITY~~/COUNTY OF MONTGOMERY, TO WIT:

I HEREBY CERTIFY that on this 29th day of March, 2005, before me the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared, John Hein, President of THE HOWARD COUNTY YOUTH PROGRAMS, INC., party to the within Amended and Restated License Agreement and he acknowledged the same to be the act of The Howard County Youth Programs, Inc.



AS WITNESS my Hand and Notarial Seal.

[Signature]
Notary Public

My Commission Expires: 9/1/08

STATE OF MARYLAND, HOWARD COUNTY, TO WIT:

I HEREBY CERTIFY that on this 11th day of April, 2005, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid personally appeared James N. Robey, the County Executive for Howard County, Maryland, a party to the within Amended and Restated License Agreement who acknowledged the same to be the act of Howard County, Maryland.

AS WITNESS my Hand and Notarial Seal.

[Signature]
Notary Public

My Commission Expires: 9/03

EXHIBIT B

AMENDED AND RESTATED LICENSE AGREEMENT

HCYP shall, at its cost, design and construct improvements to the "Office Area," the 170 square foot area of the Kiwanis-Wallis Recreation Center (the "Center") as shown on Exhibit A, in accordance with the County and State laws and regulations, to include, but not be limited to, the following:

1. The emergency exit door currently located in the Center shall be discontinued as a general building exit and shall become the primary access for the premises. This door or the adjacent window will contain a mail slot sufficiently large enough for HCYP to receive mail delivery from the United States Postal Service.
2. The concrete sidewalk to the access door to the premises will be extended straight out to the parking lot.
3. A new emergency exit door with all required electrical attachments shall be construed in the main perimeter wall adjacent to the premises. A concrete pad and sidewalk will be laid outside the new door. The downspout will be relocated as necessary so as not to interfere with the door.
4. The existing six foot opening into the premises from the main building will be replaced by the three foot interior door that is currently installed inside the premises. The County will remove the sprinkler head at this location at the County's cost.
5. One window will be added to the outside wall of the premises at the location where a window was originally constructed.
6. All existing interior walls in the premises will be removed to make one office room.
7. Heat and air conditioning will be supplied to the premises by an electrical wall unit to be installed in the wall opposite the entry door.
8. Subject to the County's approval of the design, size, and color, HCYP may, at its expense, place an identification sign at the outside entrance to the Office Area.
9. The County will designate one parking space for which HCYP may, at its expense, place a reserved sign.
10. The construction shall be completed in a timely manner in accordance with all requirements and stipulations of the Howard County Department of Licenses and Inspections.
11. The construction times shall be limited so as to not interfere with ongoing scheduled activities in the Kiwanis-Wallis Recreation Center.

EXHIBIT C
AMENDED AND RESTATED LICENSE AGREEMENT

Section 901. Conflict of Interest.

(a) **Prohibitions.** No officer or employee of the County, whether elected or appointed, shall in any manner whatsoever be interested in or receive any benefit from the profits or emoluments of any contract, job, work, or service for the County. No such officer or employee shall accept any service or thing of value, directly or indirectly, from any person, firm or corporation having dealings with the County, upon more favorable terms than those granted to the public generally, nor shall he receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable by the County, or by any person in connection with any dealings with the County, or by any person in connection with any dealings with or proceedings before any branch, office, department, board, commission or other agency of the County. No such officer or employee shall directly or indirectly be the broker or agent who procures or receives any compensation in connection with the procurement of any type of bonds for County officers, employees or persons or firms doing business with the County. No such officer or employee shall solicit or accept any compensation or gratuity in the form of money or otherwise for any act or omission in the course of his public work; provided, however, that the head of any department or board of the County may permit an employee to receive a reward publicly offered and paid for, for the accomplishment of a particular task.

(b) **Rules of construction; exceptions by Council.** The provisions of this Section shall be broadly construed and strictly enforced for the purpose of preventing officers and employees from securing any pecuniary advantages, however indirect, from their public associations, other than their compensation provided by law.

In order, however, to guard against injustice, the Council may, by resolution, specifically authorize any County officer or employee to own stock in any corporation or to maintain a business in connection with any person, firm or corporation dealing with the County; if, on full public disclosure of all pertinent facts to the County Council by such officer or employee, the Council shall determine that such stock ownership or connection does not violate the public interest.

The County Council may, by ordinance, delegate to the Howard County Ethics Commission the power to make such determinations and to authorize the ownership or connection. Any ordinance which delegates this power shall provide for procedures including a public hearing, and shall establish criteria for determining when the ownership or connection does not violate the public interest.

(c) **Penalties.** Any officer or employee of the County who willfully violates any of the provisions of this Section shall forfeit his office. If any person shall offer, pay, refund or rebate any part of any fee, commission, or other form of compensation to any officer or employee of the County in connection with any County business or proceeding, he shall, on conviction, be punishable by imprisonment for not less than one or more than six months or a fine of not less than \$100.00 or more than \$1,000.00, or both. Any contract made in violation of this Section may be declared void by the Executive or by resolution of the Council. The penalties in this Section shall be in addition to all other penalties provided by law.

Section 22.204. Prohibited Conduct and Interests.

(a) **Participation Prohibitions:** County official and employees subject to this subtitle shall not:

(1) Except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to the matter, participate on behalf of the county in any matter which would, to their knowledge, have a direct financial impact as distinguished from the public generally, on them; their spouse, parent, child, sibling or upon any business interest with which they are affiliated;

(2) Except as exempted by the county council pursuant to Section 901(b) of the Howard County Charter, hold or acquire an interest in a business entity that has or is negotiating a contract with the county or is regulated by the official or employee;

(3) Except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to the matter, participate in any matter involving a business entity with which they, their spouse, parent, child or sibling are negotiating or have an arrangement concerning prospective employment.

(b) **Employment Prohibitions:** Except as exempted by the County Council pursuant to section 901(b) of the Howard County Charter or when the employment or interest does not create an actual or apparent conflict of interest, officials and employees shall not:

(1) Be employed by:

(i) Any entity subject to their official authority;

(ii) Any entity subject to the authority of the Howard County agency, board or commission with which they are affiliated;

(iii) Any entity which is negotiating or has entered into a contract with the Howard County agency, board or commission with which they are affiliated.

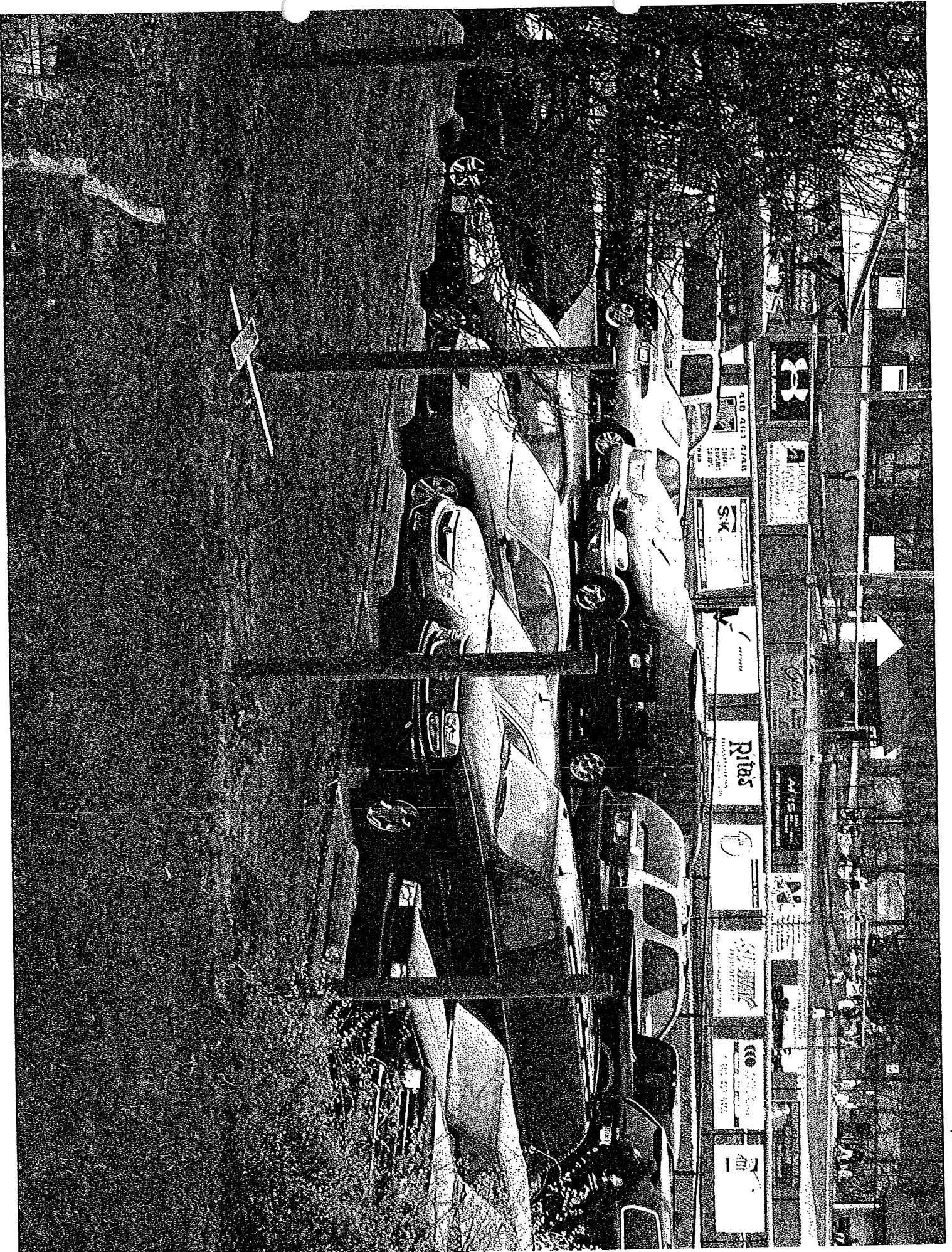
(2) Represent any party for a fee, commission or other compensation before any county body;

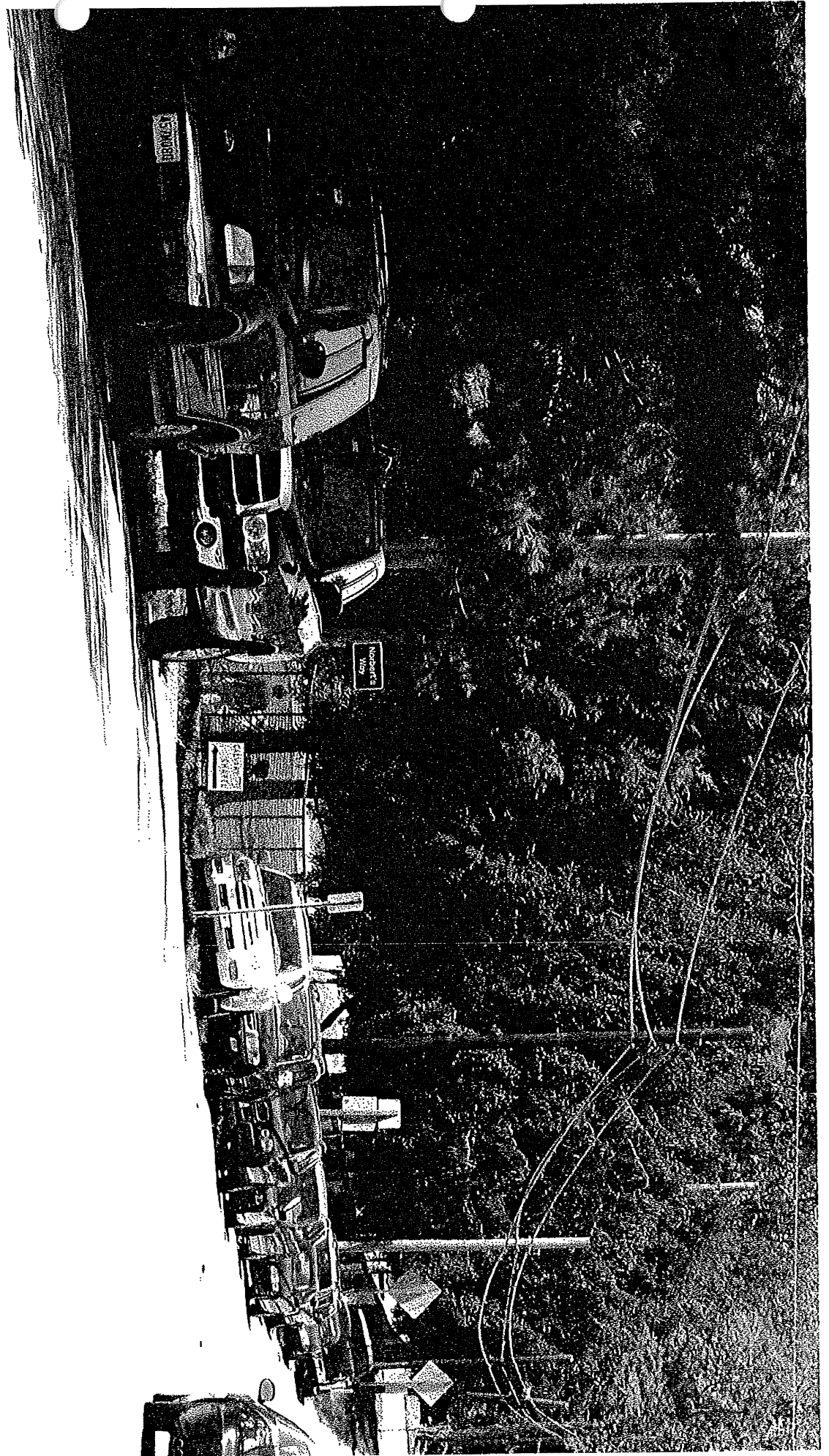
(3) Within 1 year following termination of county service, act as a compensated representative of another in connection with any specific matter in which they participated substantially as a county official or employee.

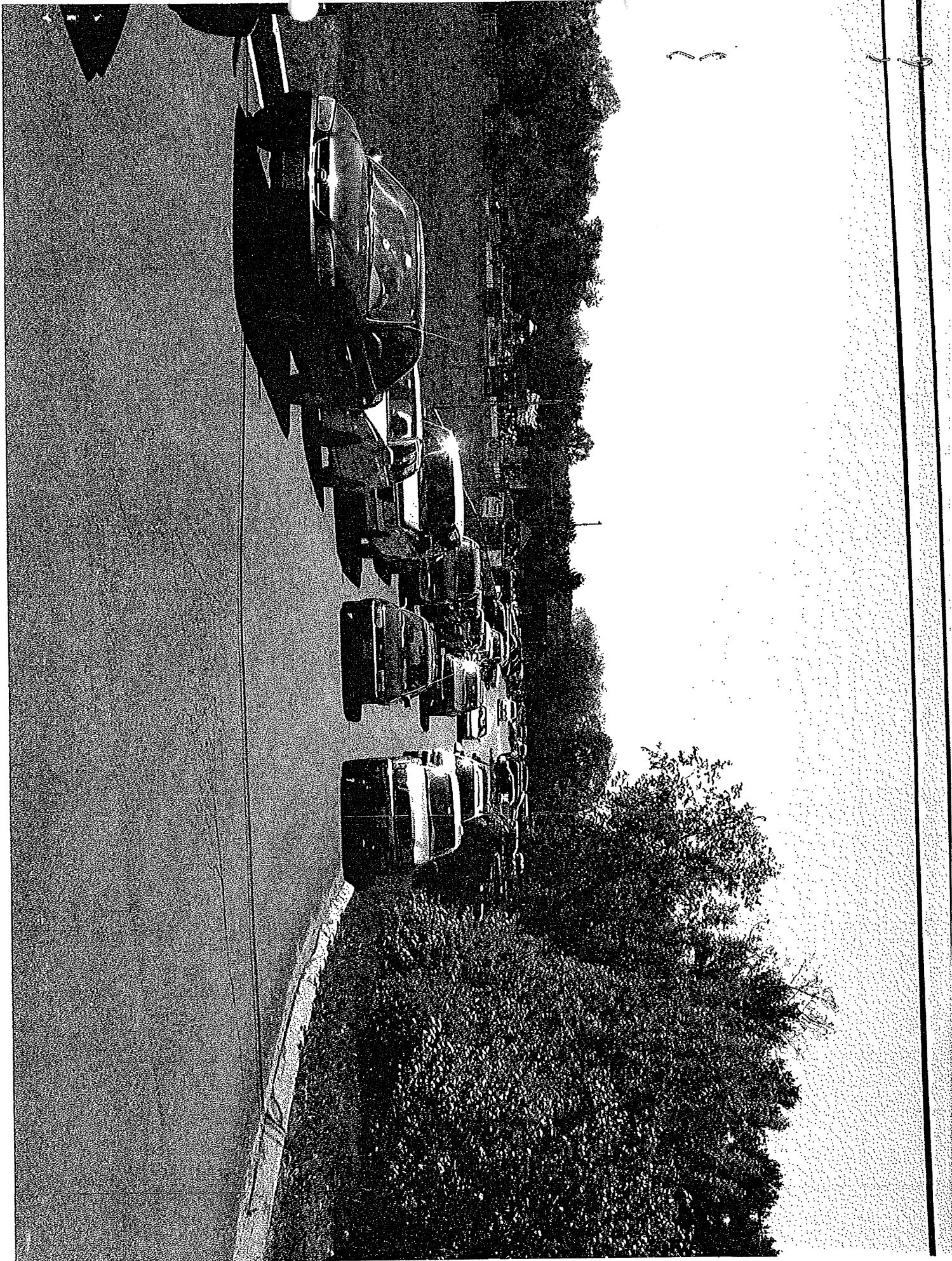
The employment provisions listed above do not apply to:

(1) An official or employee who is appointed to a regulatory or licensing authority pursuant to a requirement that persons subject to its jurisdiction be represented in appointments to it;

(2) Subject to other provisions of law, a member of a board or commission who









Howard County Council

George Howard Building
3442 Court House Drive
Ellicott City, Maryland 21043-4392

COUNCILMEMBERS

Jennifer Terrasa, Chairperson
District 3
Mary Kay Sigaty, Vice Chairperson
District 4
Courtney Watson
District 1
Calvin Ball
District 2
Greg Fox
District 5

March 11, 2013

Mr. Thomas Fraley
10459 Frederick Road
Ellicott City, MD 21042

Dear Mr. Fraley:

You are receiving this letter because you filed a Zoning Map Amendment Request Form/Howard County Comprehensive Zoning Plan or a Zoning Regulation Amendment Request Form/Howard County Comprehensive Plan.

Please be advised that on March 7, 2013, the Howard County Ethics Commission determined that the Zoning Map Request Form needs to be accompanied by certain affidavits and disclosures. The Commission also determined that the Zoning Regulation Amendment Form needs to be accompanied by certain affidavits and disclosures when the Form proposes to "increase the density of the land of the applicant."

The Commission directed me to notify applicants of their obligation to file the affidavit and disclosure. The obligation is set forth in Md. Code Ann., St. Gov't, Sec. 15-849(b), which provides in part, "**the affidavit or disclosure shall be filed at least 30 calendar days prior to any consideration of the application by an elected official.**"

Accordingly, I am enclosing for your use the approved affidavit packet. Completed forms may be mailed to the Administrative Assistant to the Zoning Board at 3430 Court House Drive, Ellicott City, MD 21043.

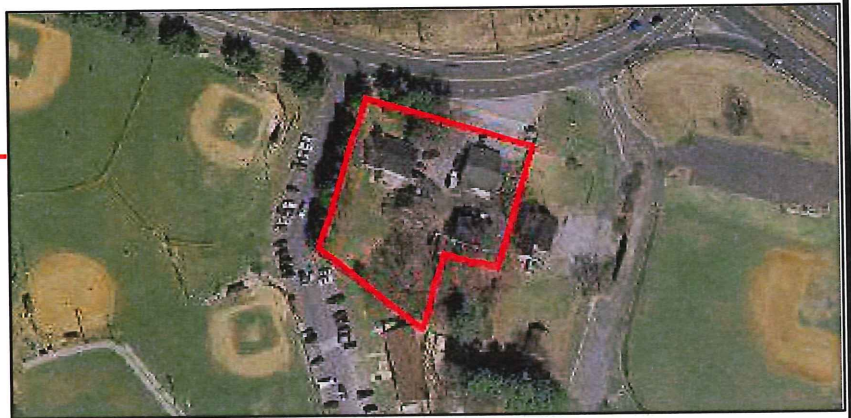
Very truly yours,

Stephen M. LeGendre
Administrator



© 2010 NAVTEQ © AND © 2013 Microsoft Corporation

1	2	3	4	5		
6	7	8	9	10	11	
12	13	14	15	16	17	18
19	20	21	22	23	24	25
	27	28	29	30	31	32
	33	34	35	36	37	38
	39	40	41	42	43	44
		45	46	47	48	
			49	50		



Zoning Map General Plan Amendment: **23.001** Tax ID: **1402223619**
 Current Zoning: **R-20** Council District: **1**
 Tax Map: **23** Grid: **6** Parcel: **99** Lot: **N/A**
 Address: **10459 FREDERICK RD**

April 8th 2013 - PUBLIC HEARING FOR COMPREHENSIVE ZONING PLAN -
HEARING #2

6PM LOCATION; Glenelg High School Auditorium, 14025 Burntwoods Road, Glenelg<
MD 21043

In Protest of Amendment #23.001

TESTIMONY OF LESLIE & THOMAS FRALEY, Residing at 10459 Frederick Road,
Ellicott City, MD 21042 – THE SAID PROPERTY IN DISPUTE WITH THE HOWARD
COUNTY DEPT OF ZONING – CONFLICT OF INTEREST.

We are submitting this written testimony as it was given at the first PUBLIC
HEARING FOR THE COMPREHENSIVE ZONING PLAN ON March 27, 2013 at 6PM
in the Banneker Room, at the George Howard Building, 3430 Courthouse Drive, Ellicott
city, MD 21043 and was to be repeated at the April 8th Hearing (#2).

My, husband and I are requesting the proper and rightful zoning of our property from
the R-20 (residential) to the B-1 (commercial) zoning that the property had for many
years and was even GRANDFATHERED-IN as such and has co-existed in the
community as such with a commercial establishment on the property as well as our
residence. The Property has had a long standing history as a commercial entity; SDAT
records so indicate this zoning usage as a property with dual usage; that is, commercial
usage with a residence on the property and the County is well aware of this fact. The
Property was for a long time in the early zoning years considered as having B-2 zoning
and the County is knowledgeable of this fact too. The Property has been observed and is
accepted by many neighbors and many residents living throughout the county as a
commercial property. These neighbors are quite familiar with it's long standing
commercial use and HAVE NEVER DISPUTED THIS FACT OR IT'S CURRENT
COMMERCIAL USAGE.

We are requesting the rightful zoning for our Property in hopes of preserving the
Property, as it's history has so indicated and as it is presently shares boundaries with
the commercial entertainment sports program the "Howard County Youth Program,

Incorporated" (HCYP, Inc.) which the HCYP, Inc. presently RENTS (rents it privately and is under contract) the Kiwanis Wallace Park grounds (The Park Property) from Howard County (our County Government).

We wish to assist the DPZ by aiding them in their mission to effectively address growth and redevelopment challenges to enhance the highest quality of life, prosperity and stewardship of our natural and cultural resources for the substantial growth that has transpired in the county and the anticipated growth in the future by requesting our rightful zoning.

We have seen the Park grow in commercial use with the County RENTING the ground right next to us to the HCYP, Inc. and with the County purchasing our neighbor's property (Parcel #15 – Doris Jenkin's property at 10439 Frederick Road, EC MD 21042) in 2006 and now with the Doughoregan Manor Donated Property (36 acres) to the County for expansion of the Park (Kiwanis Wallace Park), this past year; we can not believe the DPZ considers our Property to be strictly RESIDENTIAL (R-20) as they are proposing in AMENDMENT 23.001 --- THIS DOES NOT LOGISTICALLY OR MORALLY MAKE ANY SENSE !!!

With construction of 2 additional lanes of traffic directly in front of our Property by the State Highway Administration in August of 2007, making it 4 lanes in front of our home; this fact alone only further indicates the commercialism of our Property, and the absurdity of a R-20 zoning of our Property; along with the very close proximity of the major arterial intersection of Route 40 (Baltimore National Pike) and Route 144 (Frederick Road).

There has been an ever increasing commercial usage of the neighboring property (Kiwanis Wallace Park) with the County leasing the grounds to the HCYP, Inc. When we purchased our property in 1988 there were only 3 (three) ball fields, now there are 12 (twelve) and 5 (five) are illuminated with powerful night lights for night games. The sports entertainment program (HCYP, Inc) has gone from no lights and only day time games to pro league type lighting with lots of night games to accommodate working parents' schedules here in the county. Also with the inception of County Council

Amendment ENRCB8 in 2008, the Park can now boast of the most COMMERCIAL SIGNAGE of anywhere else in the county, as this type of signage is illegal in all other areas of the county. This is commercial outdoor advertising at a very high level. There are other ways to sponsor and support the area's youth program. With all due respect, our youth are a valuable resource and we as county residents do and have supported the HCYP, Inc. We have been good neighbors.

With the County leasing the Park to the HCYP, Inc. there has been an increase in escalating public nuisances.

1. Using our Property's boundary lines as public restrooms (both grown men as well as young boys) within 20 (twenty) feet of our residence.
2. Excessive noise, traffic and light pollution above and beyond acceptable residential codes. in the early morning hours and late at night; again in less than 20 (twenty) feet of our residence.
3. On going vandalism, that is, undesirable night visitors, as the Park gates are not closed at dark like all the other parks in the county.

We are only asking the DPZ to do what is right and ethical and restore our Property's rightful zoning of B-1 (that was taken from us without notice) and not the ridiculous and unethical zoning of R-20 that they are proposing.

Thank you,
Respectfully,

Leslie and Thomas Fraley
10459 Frederick Road
Ellicott City MD 2104

As the late US Legal Scholar and Constitutional Law Expert and Emeritus Professor "Ronald Dworkin" said, "the law should be founded on moral integrity."



1 THOMAS & LESLIE FRALEY, * BEFORE THE
2 PETITIONERS * PLANNING BOARD OF
3 ZONING BOARD CASE ZB 1064M * HOWARD COUNTY, MARYLAND

4 * * * * *

5 MOTION: *To recommend approval of the petition due to substantial change in the*
6 *character of the neighborhood.*

7 ACTION: *Recommended Approval; Vote 4 to 0.*

8 * * * * *

9 On March 4 and March 18, 2010, the Planning Board of Howard County, Maryland, considered the
10 petition of Thomas & Leslie Fraley for an amendment to the Zoning Map to rezone 36,851 square feet from
11 the R-20 District to the B-1 District.

12 The Petitioners were represented by Alexander Adams. There was no testimony in opposition to the
13 petition.

14 The petition, the Department of Planning and Zoning Technical Staff Report and Recommendation,
15 and the comments of reviewing agencies, were presented to the Board for its consideration. The Department
16 of Planning and Zoning recommended denial of the petition based on findings that there is insufficient
17 evidence to establish either substantial change in the character of the neighborhood or mistake in zoning.

18 Mr. Adams stated that the subject property was zoned B-2 in 1954, which he said was probably the
19 correct zone, as he believes there was no rationale to change from that to R-20 as was later done. He noted
20 that the correctness of the zoning should be a significant consideration in this case, and pointed out that the
21 adjoining Kiwanis-Wallas Park (the "Park") is an intense non-residential use, the adjoining animal hospital
22 use is also non-residential, and the property is next to a major highway intersection. Mr. Adams disagreed
23 with the conclusions in the Technical Staff Report, maintaining that the increased intensification of the Park
24 has caused a change in the character of the neighborhood. Mr. Fraley explained the history and changes in the
25 Park since they purchased their property in 1986, stressing how the lessee of the Park has intensified the uses
26 on that property a great deal since that time. He emphasized how there is a considerable amount of early
27 activity every day, including batting cages that operate from 7 a.m. to 10 p.m., and much noise and dust. Mrs.
28 Fraley stated that the lighting for the ball fields went up in 1997 and the use of the ball fields has increased
29 because of that. She said that the area is really commercial and is not residential.

30 Ralph Ballman testified that although he is ordinarily not in favor of spot zoning, he supports the
31 petition because it is an issue of fairness. He stated that he believes there was a significant change in the
32 character of the neighborhood in 2008, when the County legalized the large number of commercial
33 advertising signs in the Park, because this allowed a much greater number of commercial signs than would be

1 permitted on any other property, and due to their great extent, these signs really are a type of commercial use
2 on the Park property.

3 The Board found that it believes there is an obvious inconsistency between the R-20 zoning of the
4 vicinity and the actual uses, and it discussed several aspects that support the allegation of substantial change
5 in the character of the neighborhood over time. The Board found that the evident intensification of the Park,
6 including the addition of all the commercial signage, is an important factor showing change, and it noted that
7 this would only increase with the proposed expansion of the Park that is associated with the Doughoregan
8 Zoning Map Amendment proposal. The Board stated that the inexplicable removal of the subject property
9 from rezoning consideration during the Comprehensive Zoning process is another contributing factor. An
10 additional reason supporting the request is the location of the property next to this major intersection, with
11 two left turn lanes from westbound US 40 to MD 144 passing in front of the property. All agreed that the B-1
12 zoning of the property across MD 144, and the fact that all the adjoining uses are clearly not residential uses,
13 are also significant considerations in this case.

14 Mr. Tzucker made the motion to recommend approval of the petition due to substantial change in the
15 character of the neighborhood, based upon the reasons noted above. Mr. Yelder seconded the motion. The
16 motion passed by a vote of 4 to 0.

17 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 15th day of
18 April, 2010, recommends that Zoning Board Case ZB 1064M, as described above, be APPROVED.

19
20 HOWARD COUNTY PLANNING BOARD

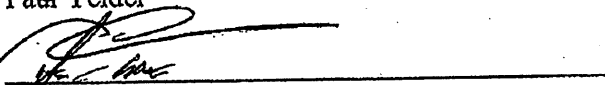
21 
22 Linda A. Dombrowski, Chairman

23 ABSENT

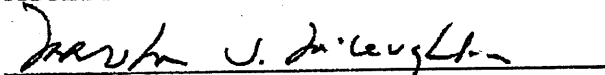
24 
25 David Grabowski, Vice-Chair

26 
27 Tammy J. Citard, Manis

28 
29 Paul Yelder

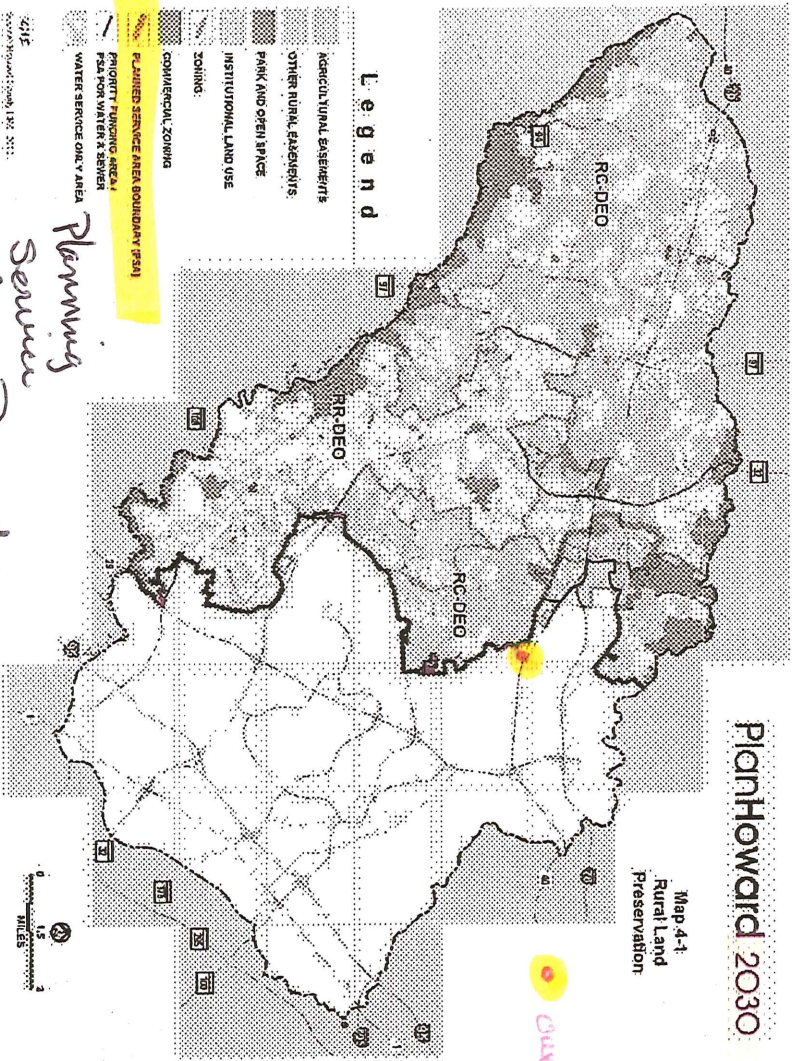
30 
31 Joshua Tzucker

32 ATTEST:

33 
Marsha S. McLaughlin, Executive Secretary

PlanHoward 2030

Map 4-1
Rural Land
Preservation



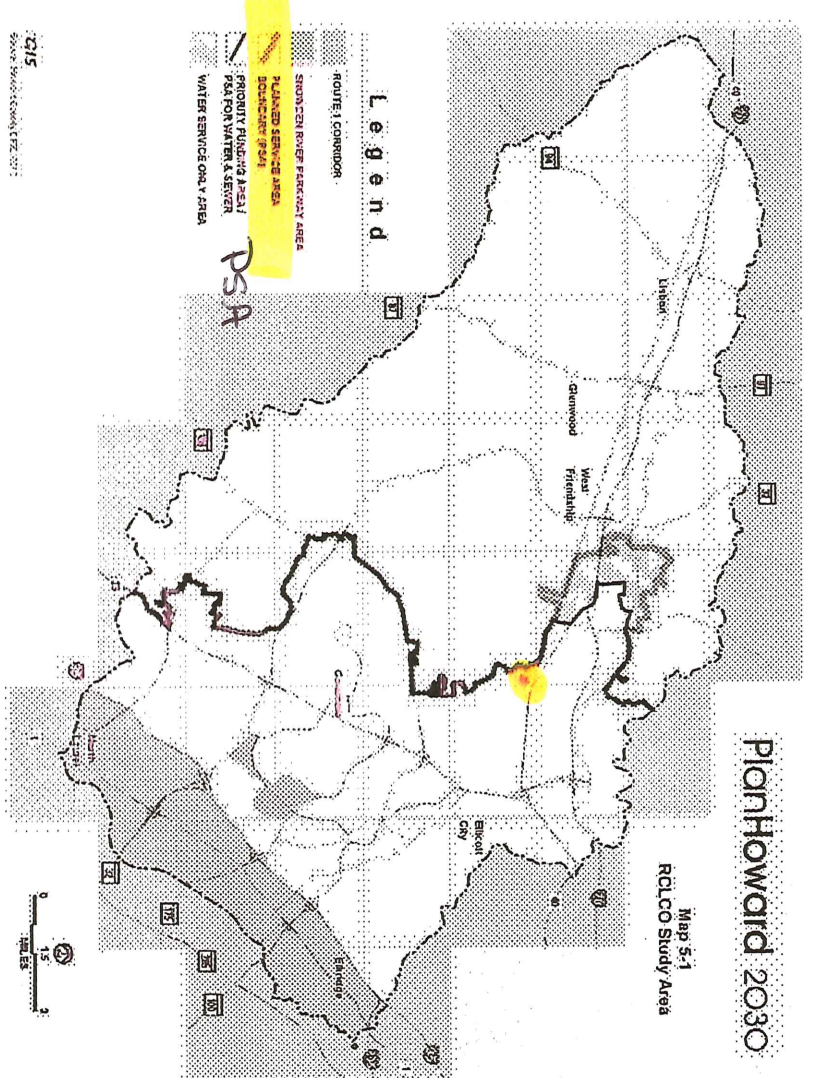
*Planning
Service
Area - Boundary*

- Legend**
- AGRICULTURAL ELEMENTS
 - OTHER RURAL ELEMENTS
 - PARK AND OPEN SPACE
 - INSTITUTIONAL LAND USE
 - ZONING:
 - COMMERCIAL ZONING
 - PLANNED SERVICE AREA BOUNDARY (PSA)
 - PRIORITY FUNDING AREA / PSA FOR WATER & SEWER
 - WATER SERVICE ONLY AREA



PlanHoward 2030

Map 5-1
RCLCO Study Area



PSA

- Legend**
- SHADED RIVER PARKWAY AREA
 - PLANNED SERVICE AREA
 - DOCUMENT PSA
 - PRIORITY FUNDING AREA / PSA FOR WATER & SEWER
 - WATER SERVICE ONLY AREA



Fraley - 10459 Frederick Road, Ellicott City, MD 21042
(adjacent to Wallace baseball fields)

1. Subject property is paying commercial taxes as it is - see Tax card.
2. Advertising square footage- 104 4X8 and 2 4 X 20 = 3488 Square Feet
 - a. Largest concentration of signage anyplace in the County
3. 2 light controlled west bound left lanes of traffic come off of Rt. 40 and approach the property head on for some distance and then merge into one lane immediately in front of the property- so every night “head-on/headlight” traffic shines directly onto the property.
4. The private use of the HCYP operating on County owned R-20 zoned land.
5. Planning Board recommends B-1
6. Immediately across the street (north) this Board has zoned the immediately adjacent property B-1
7. The current privately operated \$1,000,000 annual entertainment complex (operated by private not for profit, HCYP), is a more intense use than Merriweather. Despite numerous complaints to the County, this county owned land is being utilized contrary to its current permitted Zoning Category of R-20 :
 - a. Without a Section 131.N.6 Conditional Use the current 12 field entertainment complex is illegal.
 - b. The real issue if they applied for such a conditional use is they would need at least a minium 50 foot setback, which they don’t currently have, nor could they without elimination of some of the existing 12 playing fields and/or parking. They would need extensive landscaping solid walls,. etc.. More importantly they could not remotely meet a Conditional Use traffic requirements. As it now stands Norbert’s Way, a main ingress/egress access, is at the location where the 2 west bound minor arterial lanes coming off of Rt. 40 *merge into a single lane*. An opposing traffic engineer would have a field day if they attempted to fit the existing size 12 sports entertainment complex into the current size 5 lot size, while providing the setbacks, and currently required traffic provisions implicit in Section 131.N.6.

Maryland Department of Assessments and Taxation
 Real Property Data Search (vw5.1A)
 HOWARD COUNTY

[Go Back](#)
[View Map](#)
[New Search](#)
[GroundRent](#)
[Redemption](#)
[GroundRent](#)
[Registration](#)

Account Identifier: District - 02 Account Number - 223619

Owner Information

Owner Name: FRALEY THOMAS MOTT **Use:** COMMERCIAL
 FRALEY LESLIE DARLENE **Principal Residence:** YES
Mailing Address: 10459 FREDERICK RD **Deed Reference:** 1)/01796/ 00560
 ELLICOTT CITY MD 21042-2101 2)

Location & Structure Information

Premises Address **Legal Description**
 10459 FREDERICK RD .846 A
 ELLICOTT CITY 21042-0000 10459 FREDERICK RD
 ELLICOTT CITY

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No: Plat Ref:
0023	0006	0099		0000				1	

Special Tax Areas **Town** NONE
Ad Valorem 104
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1937	1292	36,851 SF	

Stories **Basement** **Type** **Exterior**
 RETAIL STORE

Value Information

	Base Value	Value		
		As Of	As Of	As Of
Land	221,100	221,000	07/01/2012	07/01/2013
Improvements:	219,700	214,500		
Total:	440,800	435,500	440,800	435,500
Preferential Land:	0			0

Transfer Information

Seller: KOUMBOULIS ANASTASIOS G & WF **Date:** 02/14/1988 **Price:** \$285,000
Type: ARMS LENGTH IMPROVED **Deed1:** /01796/ 00560 **Deed2:**
Seller: **Date:** **Price:**
Type: **Deed1:** **Deed2:**
Seller: **Date:** **Price:**
Type: **Deed1:** **Deed2:**

Exemption Information

Partial Exempt Assessments	Class	07/01/2012	07/01/2013
County	000	0.00	
State	000	0.00	
Municipal	000	0.00	0.00

Tax Exempt: **Special Tax Recapture:**
Exempt Class: NONE

Homestead Application Information

Homestead Application Status: No Application

} {1 **SECTION 108: R-20 (Residential: Single) District**

A. Purpose

The R-20 District is established to permit single family detached dwelling units at approximately two units per acre. The District reflects the established single-family neighborhood characteristics of many of the stable residential areas of the county.

B. Uses Permitted as a Matter of Right

1. **One single-family detached dwelling unit per lot.**
2. Farming, provided that on a lot of less than 40,000 square feet, no fowl other than for the normal use of the family residing on the lot and no livestock are permitted.
3. Conservation areas, including wildlife and forest preserves, environmental management areas, reforestation areas, and similar uses.
4. Convents and monasteries used for residential purposes.
5. Government structures, facilities and uses, including public schools and colleges.
6. Private recreational facilities, such as swimming pools, basketball courts and tennis courts, reserved for the use of on-site residents and their guests. Such facilities shall be located within condominium developments as well as within communities where all properties are included within recorded covenants and liens which govern and provide financial support for operations of the facilities.
7. Carnivals and fairs sponsored by and operated on a nonprofit basis for the benefit of charitable, social, civic or educational organizations subject to the requirements of Section 128.D.3.
 8. Seasonal sales of Christmas trees or other decorative plant materials, subject to the requirements of Section 128.D.4.
 9. Underground pipelines; electric transmission and distribution lines; telephone, telegraph and CATV lines; mobile transformer units; telephone equipment boxes; and other similar public utility uses not requiring a conditional use.
 10. Commercial communication antennas attached to structures, subject to the requirements of Section 128.E.4. Commercial communication towers located on government property, excluding School Board property, and with a height of less than 200 feet measured from ground level, subject to the requirements of Section 128.E.3. This height limit does not apply to government communication towers, which are permitted as a matter of right under the provisions for "Government structures, facilities and uses."
11. Volunteer fire departments.

SECTION 131: Conditional Uses

A. Statement of Legislative Intent

Conditional uses are authorized in specified zoning districts based on the presumption that they are generally appropriate and compatible in the specified districts. However, particular uses in particular locations may have characteristics or impacts that are not typical. Conditional uses are not permitted automatically, but are subject to the regulations of this section and the conditions imposed by the Board of Appeals upon approval of the proposed development.

B. General Standards Required for Approval

The Hearing Authority shall have the power to permit conditional uses, provided the following general standards are met:

1. The proposed conditional use plan will be in harmony with the land uses and policies indicated in the Howard County General Plan for the district in which it is located. In evaluating the plan under this standard, the Hearing Authority shall consider:
 - a. **The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site; and**
 - b. **If a conditional use is combined with other conditional uses or permitted uses on a site, whether the overall intensity and scale of uses on the site is appropriate given the adequacy of proposed buffers and setbacks.**
2. The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the plan under this standard, the Hearing Authority shall consider whether:
 - a. The impact of adverse effects such as noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions will be greater at the subject site than it would generally be elsewhere in the zone or applicable other zones.
 - b. The location, nature and height of structures, walls and fences, and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the

development and use of adjacent land and structures more at the subject site than it would generally in the zone or applicable other zones.

c. Parking areas will be of adequate size for the particular use. Parking areas, loading areas, driveways and refuse areas will be properly located and screened from public roads and residential uses to minimize adverse impacts on adjacent properties.

d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate.

N. Conditional Uses and Permissible Zoning Districts

The Hearing Authority may grant conditional uses in the specified districts in accordance with the following minimum criteria.

6. Athletic Facilities, Outdoor

Except where permitted as a matter of right, a conditional use may be granted in the RC, RR, R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15 or R-MH Districts for the following outdoor athletic facilities: athletic fields, community swimming pools, commercial swimming pools, and tennis courts, provided that:

a. A conditional use shall not be required for facilities which are reserved for use by residents of a community and their guests, and which are located within neighborhoods or communities where all properties are included within recorded covenants and liens which provide for the operation and maintenance of the facilities.

b. Other athletic or recreational uses accessory to these principal uses are permitted if approved by the Hearing Authority.

c. Buildings, parking areas, and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than public road right-of-ways. This buffer area shall not be available for athletic or recreational activities. The Hearing Authority may reduce this setback, if:

(1) The adjoining land is committed to an agricultural or environmental preservation easement or a long term institutional or open space use that provides an equivalent or better buffer for vicinal residential development; or

(2) The petition includes detailed plans for screening, consisting of a combination of a solid fence or wall and landscaping, or an equivalent combination, that presents an attractive and effective buffer for neighboring residential properties.

d. Adequate landscaping or other acceptable forms of buffering will be provided to screen outdoor uses from residential properties.

e. Reasonable standards for hours of operation and a detailed lighting plan shall be proposed by the petitioner and established by the Hearing Authority for each use.

f. Outdoor sound amplification will be permitted only if it will not constitute a nuisance for residential properties in the vicinity. The petition must indicate the purposes of proposed amplification (such as announcing sports events, safety announcements, or entertainment), hours of use and the maximum noise level at the property lines.

ADJOINING PROPERTY OWNERS FOR 10443 FREDERICK ROAD

Howard County Dept. of Public Works
3430 Courthouse Drive
Ellicott City, MD 21043
(24.003)(25.002)
(43.008)(46.001)
(43.006) (23.002)

Thomas & Leslie Fraley
10459 Frederick Road
Ellicott City, MD 21042-2101
(23.002)

"
"

Requested Zoning

Search Street:

FREDERICK RD

Property Information:

Amendment No.: 23.002

Current Zoning: R-20

Requested Zoning: B-1

Tax Account ID.: 1402233428

Map: 23

Grid: 6

Parcel: 85

Lot:

Acres: 0.95

Address: 10443 FREDERICK RD

City/State/Zip: ELLICOTT CITY, MD 21042

Owner:

Name: SULLIVAN THOMAS RICHARD

Email: doctrsully@comcast.net

Phone: 410-203-0324

Mailing Address: 2939 POLAND SPRINGS DR

City/State/Zip: ELLICOTT CITY, MD 21042

Representative:

Name:

Email:

Phone:

Mailing Address:

City/State/Zip:

Decision:

Planning Board Decision:

Planning Board Vote:

Council Decision:

Council Vote:

Zoning Map Amendment Request Form

**Howard County
Comprehensive Zoning Plan
Department of Planning and Zoning**

[Handwritten/Typed Version]
Before filling out this form, please read the
Instructions section at the end of the form.

A. Property Information (Please print or type)

1	Address / Street (Only)	10443 Frederick Road	✓
2	Tax Map Number	23	Grid 6 ✓
3	Parcel(s)	85	✓
4	Lot(s)		
5	Tax Account Data:	District 02	Account # 14 02 233428

6	Size of Property:	Acres 0.952	Square feet ✓
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RECEIVED

DEC 14 2012

DIV. OF PUBLIC SERVICE & ZONING

7	The Property is currently zoned:	R20 ✓
	I request that the Property be rezoned to:	B-1 ✓

B. Owner Information

8	Owner Name	Thomas Richard Sullivan and Eileen Sullivan T/E ✓
9	Mailing street address or Post Office Box	2939 Poland Springs Drive
	City, State	Ellicott City, Maryland
	ZIP Code	21042
	Telephone (Main)	(410) 203-0324
	Telephone (Secondary)	(410) 800-7863
10	E-Mail	doctrully@comcast.net esullivan9876@comcast.net

F. List of Attachments/Exhibits

14	See attachment. = zoning map

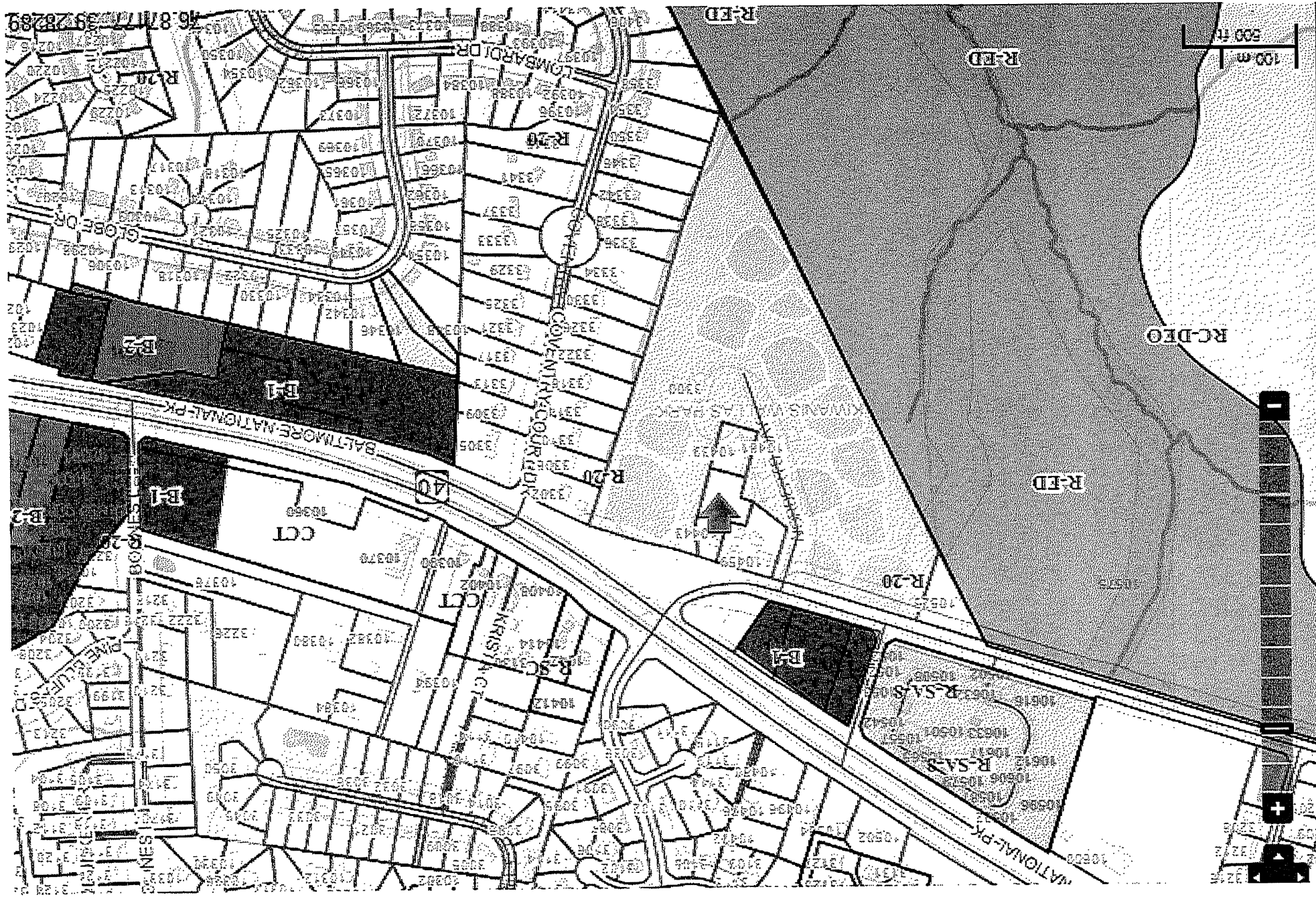
G. Signatures

15	Owner	<i>DO Paul Lee</i>	Owner (2)	<i>Eileen Sullivan</i>
	Date	<i>12/12/12</i>	Date	<i>12/12/12</i>

Additional owner signatures? the box to the left and attach a separate signature page.

16	Representative Signature	
	Date	

DPZ Use Only		Amendment No.	<i>23.002</i>
Notes	<i>CAH</i>	<i>12/19/12</i>	



16.817739, 28.289

100 m
500 ft





Howard County Council

George Howard Building
3443 Court House Drive
Ellicott City, Maryland 21043-4392

COUNCILMEMBERS

Jennifer Terrasa, Chairperson
District 3
Mary Kay Sigaty, Vice Chairperson
District 4
Courtney Watson
District 1
Calvin Ball
District 2
Greg Fox
District 5

March 11, 2013

Mr. Thomas R. Sullivan
2939 Poland Springs Drive
Ellicott City, MD 21042

Dear Mr. Sullivan:

You are receiving this letter because you filed a Zoning Map Amendment Request Form/Howard County Comprehensive Zoning Plan or a Zoning Regulation Amendment Request Form/Howard County Comprehensive Plan.

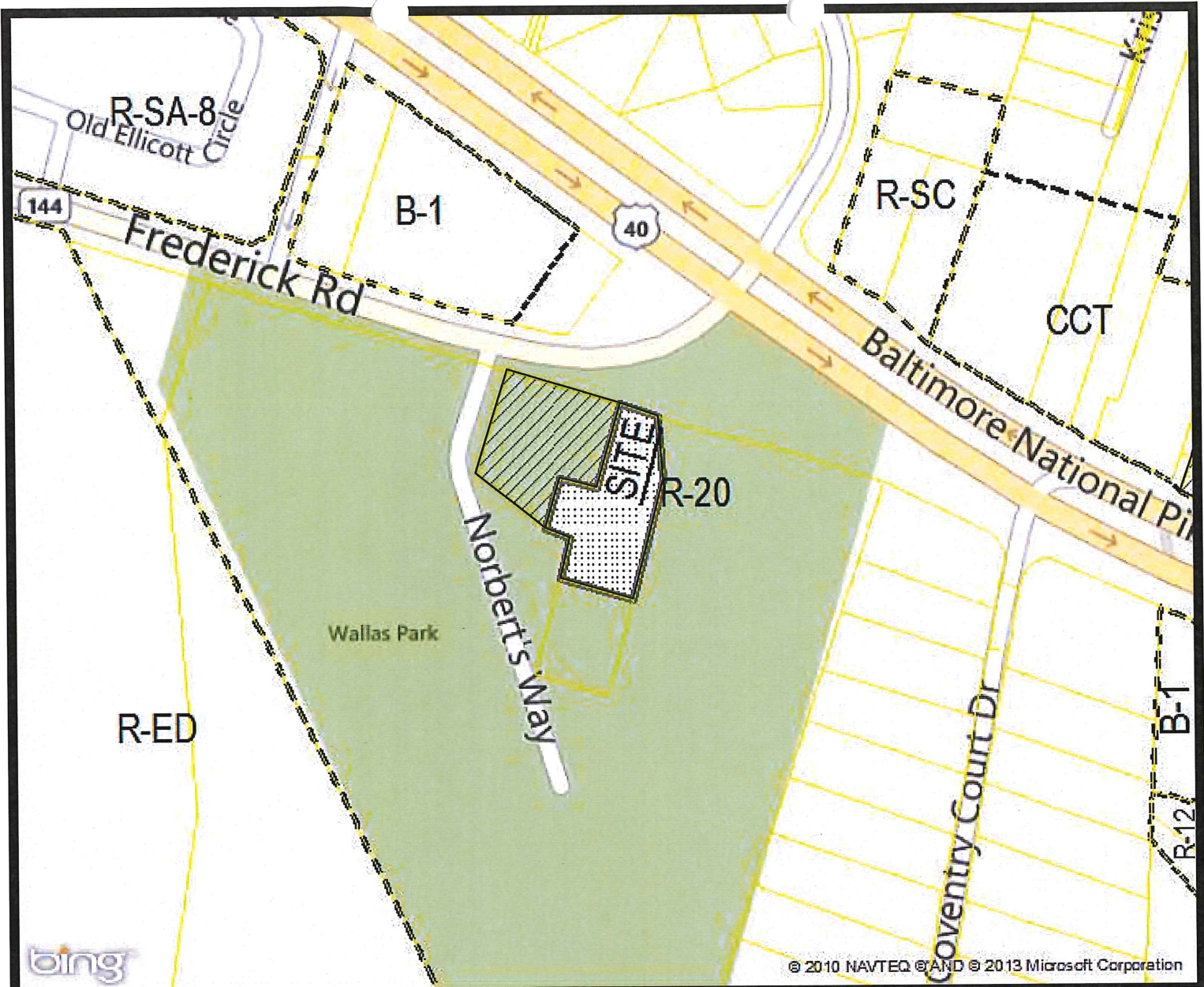
Please be advised that on March 7, 2013, the Howard County Ethics Commission determined that the Zoning Map Request Form needs to be accompanied by certain affidavits and disclosures. The Commission also determined that the Zoning Regulation Amendment Form needs to be accompanied by certain affidavits and disclosures when the Form proposes to "increase the density of the land of the applicant."

The Commission directed me to notify applicants of their obligation to file the affidavit and disclosure. The obligation is set forth in Md. Code Ann., St. Gov't, Sec. 15-849(b), which provides in part, "**the affidavit or disclosure shall be filed at least 30 calendar days prior to any consideration of the application by an elected official.**"

Accordingly, I am enclosing for your use the approved affidavit packet. Completed forms may be mailed to the Administrative Assistant to the Zoning Board at 3430 Court House Drive, Ellicott City, MD 21043.

Very truly yours,

Stephen M. LeGendre
Administrator



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			45	46	47	48	
						50	



Zoning Map General Plan Amendment: 23.002 Tax ID: 1402233428
 Current Zoning: R-20 Council District: 1
 Tax Map: 23 Grid: 6 Parcel: 85 Lot: N/A
 Address: 10443 FREDERICK RD

23002

From: Eileen Sullivan <esullivan9876@comcast.net>
Subject: **Map amendment 23.002 Comprehensive Zoning**
Date: July 13, 2013 4:29:02 PM EDT
To: councilmail@howardcountymd.gov



Dear Council Members,

My husband, Tom Sullivan, DVM, and I own the 0.95 acre lot located at 10443 Frederick Road. We have requested a zoning change on this property from R-20 to B-1. We testified at the Planning Board hearing and they support our request. The Department of Planning and Zoning, however, is not in support of our request stating "sufficient commercial nearby" as the reason for their stand. We would like to explain to you our plans for the property prior to your decision on this matter on July 25, 2013.

The property's location, coupled with progressive changes in the area, have rendered it unsuitable for residential use. The parcel is fronted by multiple heavily trafficked motor lanes and street lights. This area includes the busy intersections of Route 40, Route 144, and Pebble Beach Drive. Additionally, two sides of the property are neighbored by parking lots and ball fields owned by Howard County Parks and Rec and managed by HCYP. The youth program provides beneficial, valued service to the community. Unfortunately, however, it creates a disturbance to immediate neighbors due to abundant bright night time lights, loud speakers, and heavy traffic flow. The remaining side of the property is neighbored by several structures and appears to serve multiple uses. These include a residence, a commercial business with bright advertising signs, two large garages, and a parking lot that in addition to serving a business, stores large shipping and hauling trucks. Also, the property across the street has been zoned commercial and to my understanding has been approved for a Rite Aid store.

As a result, our property appears to be an R20 island in the middle of much activity and an atmosphere of commercial enterprise.

The Ellicott City Veterinary Clinic operated at this location from the early 1960's until 2005. We have owned the property since 1993. Our attempts to improve, modernize, and maintain the aging facility were thwarted by R20 zoning restrictions and a large sinkhole in the middle of the property. The sinkhole resulted for a misguided storm water management project as Howard County attempted to improve the parking situation and traffic flow at the Kiwanis Park ball fields. We were left with no choice but to abandon the veterinary hospital. Shortly thereafter we moved it to a leasehold facility in West Friendship. As the old building on Frederick Road further deteriorated, we razed it at our expense - not wanting it to be a community eyesore.

We are deep rooted members of the community directly impacted by what is done with this property. We have lived with our children, less than one mile away from the parcel for the past 18 years. Our hope would be to gain the proper zoning to construct a modern veterinary hospital and continue our community business where it started. Alternatively, we would be just as eager to recover our investment and sell the property to Howard County Parks and Rec who could fulfill the most logical use for the land.

In response to the concerns of the DPZ on this matter, we wish to remind the council that the property operated as a commercial business under R-20 zoning with a special exception for more than 30 years. A change in zoning to B-1 would therefor not increase the amount of commercial activity in the area. Furthermore, there is currently rapid growth of both residential and commercial enterprises in the Marriottsville Road, Frederick Road, Route 40 area. A recommendation based on the presumed existence of "sufficient commercial nearby" would appear to lack objective criteria and would also be restrictive to the many ongoing projects in this region.

The island parcel of 10443 Frederick Road is unsuitable for residential use. We respectfully ask for your consideration to grant commercial zoning to this property trusting that we will continue to act in the best interest of the community in which we have lived for much of our lives.

Thank you,

Tom and Eileen Sullivan
2939 Poland Springs Drive
Ellicott City, MD 21042

410-203-0324

Re: Map amendment 23.002

Regner, Robin

From: Tolliver, Sheila
Sent: Sunday, July 14, 2013 10:44 AM
To: Eileen Sullivan
Cc: Regner, Robin
Subject: RE: Map amendment 23.002 Comprehensive Zoning

I was answering from my cell phone yesterday and gave you only part of the information about the hearings on your property. The amendment related to the request for rezoning for your property is on the agenda on Monday, July 15 at 3:30 p.m. in the Banneker Room, George Howard Building, 3430 Court House Drive, Ellicott City. It also is on the hearing agenda on Tuesday, July 16 at 6:30 p.m. You may testify on either (but not both) night on the amendment, if you wish. Your written testimony will be included in the record, and it is not necessary to appear at a hearing, unless you wish to do so.

We have an electronic sign-in page on the Council's website. If you plan to testify on Monday or Tuesday, please sign in there. Here's the link: <http://cc.howardcountymd.gov/IframeTemplate.aspx?ID=6442455146>

Thank you for providing the members background related to your request in the e-mail you sent on Saturday.

Sheila Tolliver
Administrator
Howard County Council
410 313-2001

-----Original Message-----

From: Eileen Sullivan [mailto:esullivan9876@comcast.net]
Sent: Saturday, July 13, 2013 4:29 PM
To: CouncilMail
Subject: Map amendment 23.002 Comprehensive Zoning

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Tom and Eileen Sullivan
2939 Poland Springs Drive
Ellicott City, MD 21042

410-203-0324

Re: Map amendment 23.002