

LAW OFFICES OF
TALKIN & OH, LLP
COLUMBIA OFFICE
5100 DORSEY HALL DRIVE
ELLICOTT CITY, MARYLAND 21042-7870

410-964-0300
301-596-6500
FAX: 410-964-2008

APPLICANT'S SUPPLEMENTAL MEMORANDUM

To: Baltimore City Council Land Use Committee
From: Christopher DeCarlo, The Law Offices of Talkin & Oh, LLP
Date: October 28, 2020
Re: CB 20-508 Rezoning, 5401 Pulaski Highway, Proposed Findings of Fact

I. INTRODUCTION/BACKGROUND

This firm represents CBK Realty, Inc. (the "Applicant"), at whose request Councilperson McCray has introduced the above-referenced legislation to rezone the property known as 5401 Pulaski Highway (the "Subject Property") from the I-1 Zoning District to the C-4 Zoning District.

The Subject Property is approximately 1.13 acres. It is located on the south side of Pulaski Highway within the Kresson neighborhood and is bordered to the west by the CSX railroad tracks, which sit approximately 15 feet above the Subject Property, and to the east by commercial uses that are predominately motor vehicle oriented. It is bordered to the north, northwest and south by general industrial uses and to the northeast by residential uses.

Shalley and Alex Kim, along with their family, are the owners and operators of CBK Realty, Inc. The Kims are a first-generation Korean American family. They purchased 5401 Pulaski Highway in September 2013. At that time, the Subject Property was zoned M-2-1, which permitted motor vehicle repairs by right, but not motor vehicle sales. The Kims have operated a motor vehicle repair business at the Subject Property since they purchased it. In 2016, in order to expand their family business and match additional services offered by their competitors, the Kims sought, and were approved for, motor vehicle sales as an accessory use. Their accessory use approval, however, has many restrictions including limiting the number of vehicles permitted to be displayed for sale to six.

On November 18, 2016, the adjacent property, 5501 Pulaski Highway ("5501"), which is also a motor vehicle sales business, was rezoned from the M-2-1 Zoning District to

the B-3-2 Zoning District via Ordinance 16-573. This rezoning has allowed 5501 to operate a motor vehicle sales business as a primary use. Despite being located on the adjacent parcel, the Kims are prohibited from using their property for motor vehicle sales as a primary use and are subject to the restrictions of their accessory use approval.

Although being exclusively used for commercial motor vehicle services since at least 2013, the Subject Property, as well as 5501, was rezoned to the I-1 Zoning District in accordance with Transform Baltimore, effective June 5, 2017. The I-1 Zoning District is “intended to provide for a wide variety of light manufacturing, fabricating, processing, wholesale distributing, and warehousing uses.” Neither motor vehicle repairs nor sales are permitted by right in the I-1 Zoning District. Alternatively, the C-4 Zoning District, is “intended for areas of more intense commercial use ... **including uses related to motor vehicles ...**” and permits motor vehicle repairs and sales by right. (**emphasis added**).

At a meeting held on April 16, 2020, the Planning Commission considered Council Bill 20-508 and unanimously found that it did not concur with the recommendation of its departmental staff and recommended approval of the legislation based upon a finding that the City Council made a mistake in fact during the last comprehensive rezoning by rezoning the Subject Property I-1.

In light of the Planning Commission’s recommendation and the letters of support attached as Exhibit A, the City Council Land Use Committee is urged to favorably recommend the enactment of Council Bill 20-508 and to adopt the proposed findings of fact contained herein with respect to the requirement of mistake set forth in Section 10-304(b) of the Land Use Article and Section 5-508(b) of the Baltimore City Zoning Code.

II. REQUIRED FINDINGS PER SECTION 5-508(B)(1) OF THE BALTIMORE CITY ZONING CODE.

The City Council has the authority to change the zoning classification of a property as part of a comprehensive rezoning process or upon a finding that there was either 1) a substantial change in the character of the neighborhood where the property is located, or 2) a mistake in the existing zoning classification. MD. CODE ANN., Land Use § 10-304(b)(2); Baltimore City Code, Article 32 – Zoning § 5- 508(b)(1).

An “error [or mistake] can be established by showing that at the time of the comprehensive zoning the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council’s action was premised initially on a misapprehension.” *Boyce v. Sembly*, 25 Md. App. 43, 51 (1975) (citations omitted).

There was a mistake in fact during the last comprehensive rezoning in which the Subject Property was rezoned I-1. The mistake being that the City Council (and Planning Staff) failed to take into account the existing facts and uses of the Subject Property and neighboring properties and its suitability to be zoned C-4. The proposed rezoning is appropriate to correct that mistake.

During the last comprehensive rezoning, Transform Baltimore, the City Council failed to take into account the fact that (1) the Subject Property has been exclusively used for motor vehicle repairs since at least 2013, and for limited motor vehicle sales since 2016; (2) the CSX rail tracks to the west of the Subject Property are not readily accessible because of their elevation and would require significant investment to access, making the Subject Property undesirable for industrial uses; and (3) that the adjacent property, 5501, has been exclusively used for commercial motor vehicle sales since at least 2016, and was rezoned to the B-3-2 Zoning District on November 18, 2016, weeks before the passage of Transform Baltimore on December 5, 2016.

These facts collectively demonstrate that the City Council's action regarding the Subject Property was premised initially on a misapprehension. Given these facts, the C-4 Zoning District is a more appropriate district for the Subject Property. As indicated above, the C-4 Zoning District is "intended for areas of more intense commercial use ... **including uses related to motor vehicles ...**" (emphasis added). Rezoning the Subject Property to the C-4 Zoning District will allow it to better serve the surrounding community and permit uses that are more reflective of the current commercial automotive character of that portion of Pulaski Highway.

Additionally, the rezoning will allow for beautification of this portion of Pulaski Highway by permitting a commercial use that is more aesthetically pleasing than the currently permitted industrial uses. These enhanced aesthetics will be more compatible with the residential neighborhood directly northeast of the Subject Property. The Applicant has committed to beautifying the Subject Property. This will include exterior improvements that will increase the Subject Property's attractiveness from the road. The Kims have committed to painting the exterior front and side walls and installing attractive, green awnings over the front and two side entrances. They have further committed to installing a visually appealing free-standing sign in the front right portion of the Subject Property, replacing the old fence located in the top left portion of the Subject Property with a new metal fence, and laying stone mill in the rear parking lot. Also, the Kims have committed to updating and beautifying the Subject Property's landscaping by planting azaleas and installing flower beds across the Subject Property's frontage. These proposed improvements will increase the Subject Property's curb appeal as well as the aesthetics along this portion of Pulaski Highway. Attached hereto as Exhibit B is an artistic rendering of the proposed façade and exterior enhancements.

III. REQUIRED FINDINGS OF FACT PER SECTION 5-508(B)(2) OF THE BALTIMORE CITY ZONING.

5-508(b)(2) of the Zoning Code and Section 10-304 of the State Land Use Article require the City Council to make the following findings of fact that address:

(i) Population change:

There has not been a significant change in population in this area since June 5, 2017, when the current Zoning Code and map became effective.

(ii) The availability of public facilities:

The area is well served by public utilities & services and will remain so for the foreseeable future.

(iii) Present and future transportation patterns.

The rezoning of the Subject Property is not anticipated to adversely impact present or future transportation patterns. A rezoning of the Subject Property in fact may reduce the potential for transportation conflicts along this portion of Pulaski Highway. Its current industrial zoning has the potential to be operated by uses that create heavy truck traffic which could greatly intensify traffic congestion along this corridor.

(iv) Compatibility with existing and proposed development for the area.

The proposed action would allow a use that is compatible with the permitted existing and other proposed uses and development in the neighborhood. As discussed above, the property to the immediate east of the Subject Property, 5501, has been operating exclusively as a motor vehicle sales use since at least 2016, and the properties further east on Pulaski Highway are predominately auto-service oriented commercial uses. Approval of this action will create a continuous commercial tract of land uses along this portion of Pulaski Highway. The proposed action will also be compatible with the residential uses to the northeast of the Subject Property by permitting a commercial use with fresh landscaping and exterior improvements, thereby beautifying the area for City residents.

(v) The recommendations of the Baltimore City Planning Commission and the Board of Municipal and Zoning Appeals.

As indicated above, the Planning Commission unanimously recommended approval of the legislation. The Board of Municipal and Zoning Appeals

recommended disapproval.

(vi) The proposed amendment's consistency with the City's Comprehensive Master Plan.

Replacement of the Property's existing I-1 zoning district with the C-4 zoning district is generally consistent with the City's Comprehensive Master Plan's goals of supporting small business development, providing employment opportunities to City residents, and identifying and promoting underutilized areas for economic growth. The Applicant is committed to providing employment opportunities to ex-offenders, persons with substance abuse issues, and others that have difficulty finding employment. The Kims believe it is their responsibility to use their business to provide a valuable asset to the Baltimore Community.

IV. ADDITIONAL STANDARDS PER SECTION 5-508(B)(3) OF THE BALTIMORE CITY ZONING CODE.

Section 5-508(b)(3) of the Zoning Code also mandates that the following additional standards be considered for map amendments:

(i) Existing uses of property within the general area of the property in question.

As discussed above, the predominate uses to the east of the Subject Property along Pulaski Highway are motor-vehicle commercial uses. The proposed rezoning is more compatible with those uses as well as the residential uses to the northeast than the current industrial zoning.

(ii) The zoning classification of other property within the general area of the property in question.

There is a mix of zoning classifications in close proximity. The properties to the north, northwest and south are predominately zoned I-2. The properties to the immediate northeast are zoned R-6. To the immediate east, the properties are zoned C-4. As you move further east, the properties are zoned I-2.

(iii) The suitability of the property in question for the uses permitted under its existing zoning classification.

As discussed above, the Subject Property is better suited for the uses permitted under the C-4 zoning district. It has been used as a motor vehicle commercial

use since 2013 and the C-4 zoning district is intended to accommodate that use. Moreover, although bordered to the west by the CSX rail tracks, the tracks are not readily accessible. The Subject Property sits roughly 15 feet below the tracks. The conversion of the Subject Property to an industrial use with access to the tracks would require significant financial investment.

- (iv) **The trend of development, if any, in the general area of the property in question, including changes, if any, that have taken place since the property in question was placed in its present zoning classification.**

As discussed above, the trend of development and uses to the east of the Subject Property, along Pulaski Highway, are, and have been since at least 2016, commercial motor vehicle uses. There have not been any development changes in this area since the present zoning classification.

EXHIBIT A

Petition For Rezoning

On behalf of Express Tire and Auto Repair located at 5401 Pulaski Hwy, Baltimore MD 21205, we are asking for friendly neighborhood support. We have been in business since 2015, providing an excellent level service for a fair price. However, our prime location and outstanding service do not tell our entire story. We also regard our business as a valuable asset to the great city of Baltimore because we have always tried to make a positive impact on our local community, creating jobs for young adults, many of which struggle to live honest lives. We effectively keep them off the streets by teaching them the values of gainful employment and the benefits of an honest day's work. Day by day, we strive to be part of a better Baltimore by positively impacting the lives of both our customers and employees. However, our zoning situation has not treated us kindly, and has made steady business quite difficult to manage. We kindly ask for a simple signature to support our business in these trying times.

We thank you for your constant support and positivity that fuels us.

Express Tire and Auto Repair

NAME	ADDRESS	SIGNATURE
Lamar Thomas	1200 E Lanvale St	Lamar Thomas
Sm Gh	5007 Pulaski Hwy	[Signature]
[Signature]	5819 Eppm...	[Signature]
Daniel Bonilla	5601 Pulaski Hwy	[Signature]
José Eduardo	353 Bonsal st	[Signature]
Fernando Lopez	49 Broad st PFD	[Signature]
Carlos Miranda	5701 PULASKI HWY	[Signature]
KATHERINE THEODORE	5601 PULASKI HWY	Katherine Theodore
Soe Puerto	5701 Pulaski Hwy	[Signature]

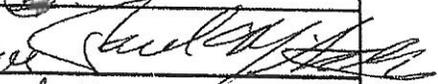
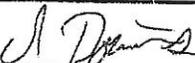
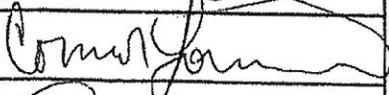
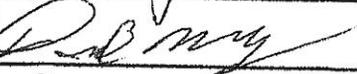
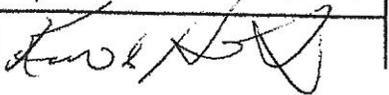
2

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Express Tire and Auto Repair

NAME	ADDRESS	SIGNATURE
HECTOR	3518 Mt Pleasant Ave	
FELICE	3717 Mt Pleasant Ave	
PAUL MITCHELL	3409 MT. Pleasant Ave	
James Davis	507 Milton	
MCKINLEY OLIVER	705 Richwood	
Connor Lowimore	701 Pulaski	
Paul May	3701 Pulaski Hwy	
Corey BOWEN	3803 mitchell ave	
LEONARD COLEMAN	705 Richwood Ave	
Eric D. HOFFMAN	14370 BURTAN	

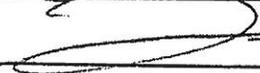
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Express Tire and Auto Repair

NAME	ADDRESS	SIGNATURE
Barbara Camps	401 E. 27 St.	Barbara Camps
ALEX MESA	3524	
LAWRENCE Holloway	6418 O'DONNELL ST BACCO MD 21224	
M. Turner	203 CROCKER DR.	M. Turner
Carmen Flores	4108 Independence St.	Carmen Flores
R. Northe	4029 TURNERWAY	Rebecca Noel
J Sparacco	7305 Edworth	J Sparacco
Dominique Pack	4017 St. Monica Dr.	Dominique Pack
c p meron	7418 Aldworth Rd	c p meron
nicole weaver	604 Regent St.	N. Weaver

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Express Tire and Auto Repair

NAME	ADDRESS	SIGNATURE
CLIFF GILLIS	3216 EVERGREEN AVE	Cliff Gillis
Antonio Hall	4732 Hartford Rd	Antonio Hall
Nelson Williams		Nelson Williams
Serenna Rukawinski	1917 Guyway	S. Rukawinski
Pathe R	1917 Guyway	Pathe R
CARLO VILLINI	1001 MILLER ST.	Carlo Villini
Rafael Peña	4001 Miller St	Rafael Peña
Israon Santan	745 Oliver St Bal	Israon Santan
MARTIN SANTAN	745 OLIVER ST	Martin Santan

Petition For Rezoning

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Express Tire and Auto Repair

NAME ADDRESS SIGNATURE

Houssey Hajj	133 S Central Ave Baltimore, MD	<i>[Signature]</i>
Danielle Klepetka	748 Aidworth Rd	<i>[Signature]</i>
Ant Deltor	420 Kentel	<i>[Signature]</i>

Petition For Rezoning

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Express Tire and Auto Repair

NAME ADDRESS SIGNATURE

①	Mark Augustyniak	350 Townsend Rd	
②	Wade Jan Kopy	1015 Spawick Ave	
③	Amandyln	1008 Evans Way	Amanda Berk
④	Nancy Kriscumias	1008 Evans Way	Taney Kriscumias
⑤	Kayleigh Zu	1003 Evans way	Kayleigh Zu
⑥	Eddie Zerance	1003 Evans Way	Eduard Zu
⑦	Martin Parrish	1000 Evans way	Martin Parrish

	Name	Address	Signature
8	Cindy Parish	1001e Evans Way	Cynthia Rand
9	Jahongui alic	1019 HESTY WAY	Jahongui alic
10	Kathryn Arciaga	1104 Amistad Way	Kathryn Arciaga
11	Linda Welch	5021 Wright Ave	Linda Welch
12	Donna Javed	1019 Hewitt way	Donna Javed
13	Ayub WASEER	5920 PICHAY K WY.	Ayub WASEER
14	Julia [unclear]	1214 Fairfield Ave	Julia [unclear]
15	Michelle Hinson	145 W. OSTEAD ST	Michelle Hinson
16	Tonia Scales	4019 Wilsby Ave	Tonia Scales
17	Tantania Clay	117 Lee Lawrence Court	Tantania Clay
18	Uam @ Man	1212 Mon BOND, ESSAY	Uam @ Man
19	Marcell Nelson	129 Willow Spring Rd Apt. 1A	Marcell Nelson
20			
21			
22			
23			
24			
25			
26			
27			
28			

STORE POLICY

ALL USED TIRE, USED RIM
SALES ARE FINAL, NO REFUND
AND NO WARRANTY

1-23-18
C. Bayler
11-18-17
T.M.E. Co.

Cash
Refund

Frank
AUG 31-17
50 MUCK
C. Bayler
11-18-17

4/11/20

I would like to say Express tire on
5401 Pulaski Hwy Has Helped Me out
in many ways. Oct 5 2018 I was Relested
from Jail that Day I started working for
Them. They Have Helped Me and supported Me
in my efforts in staying on the right track
to success, I started out just doing tires
Many People dont get the Opportunity they
giving me. I became there mechanic
Right Away, and now am the Manager
I really Look up to Them as they
Look up to me to do a good Job and
Stay positive

Martyn Augustyniak


04/15/2020

To Whom It May Concern,

I, Nancy Kriscumas, have lived several blocks away from Express Tire + Repairs along with the car lot at 5401 Pulaski Highway, Baltimore, MD 21205 for as long as they have been open which is approximately 7 years.

I have known the owner Alex Kim since he opened up the business. He has always been honest with me. I have always received reliable fast service at good prices. The employees are very knowledgeable and courteous.

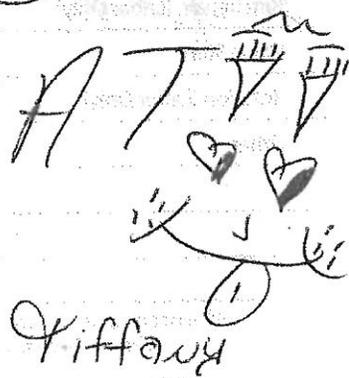
I know Alex Kim is trying to build his business up and needs a zoning change to be able to expand his shop along with the used car dealership.

I fully support him in getting a zoning change.

Thank You, Nancy Kriscumas
1008 Evans Way, Baltimore, MD 21205

(1-23-20)

This
PLACE
IS
GREAT



I Love this shop!

Best service +
prices. Very
fair and honest.

Thank you!
Total tires 5

Lauren
Demmy

To all costumers,
this is my go-to place.
people here are honest
and friendly, and
service is fast and
affordable. I recommend
this place for everyone.

Thank you
for your
service,
Melanie

This place is GREAT!

Good prices, Quality repairs,
Super FAST service, and
great people! I've stopped
here many times and
do not hesitate to
recommend to anyone!

Thank You!
Neal Miller



NorthStar
Family Press

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outstanding
service! I stumbled
across this place
after realizing I
had a hole in
my tire. Staff was
so friendly, I was
greeted by each
staff member as
soon as I walked
in and there was
no delay in getting
my car serviced.
Prices are affordable!
This place is
truly a God send!

-Kuzin
Abner
2/12/20

GREAT
PLACE!

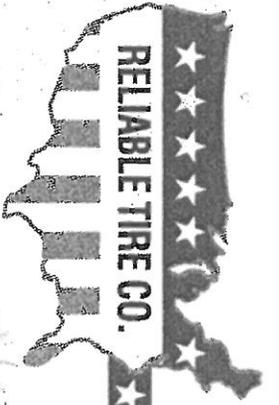
Been coming
here for years!

Very honest!

Laura &
Chris
Selby

Very honest,
affordable
& helpful!

My go to
tire place!



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EXPERIENT

TRADITION / WARRIOR

BEST / PRICE

Very / Honest

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Very / Careful

Very / Fast



Love
Kalesha



GOALS

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I want you Mrs. Shelly

and your workers to know

how much you are valued

and appreciated for your

kindness and generosity to

to people that you do business

with... I love you guys

And Dad

A family business dedicated to yours since 1926



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I made this
"my go to" place
after my first
visit! nice
affordable good
and fast! Mary M

A family business dedicated to yours since 1926

Very nice guys
will be back
for all of my
automotive needs

Danella
Watkins

LAW OFFICES
Jaworski & Gorius
To whom It may pertain

I have been coming
here for years, they
are courteous, hardworking,
friendly, and honest.
I will continue to come
here. Danella Watkins

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7/19/17

Total Time

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Employee's are very friendly and hard working

No where else would I take my car!

Great Guys!
Angie

GOOD SERVICE
ALWAYS HAVE
WHAT I NEED
FRIENDLY STAFF
COME HERE ALL
THE TIME WOULD
RECOMMEND TO
ANY BODY

ALLEN



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TRANSMISSIONS DIFFERENTIALS
TRANSFER CASES CYLINDER HEADS
www.powertrainproducts.net

To All Customers!

11/18/17

Great Prices!

Great Service Had

brakes, caliper and

rotor and paid 1/2

of what other parts

wanted Prices always

come here for parts and

service,
Dan



COATINGS



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Always Great Customer Service

I will always choose here!!

Love it here!!!!

A family business dedicated to yours since 1926

this in line need of mechanical

services for my only vehicle a work truck

and have been around long enough

to know that you can't trust just

anyone to work on your vehicle lets

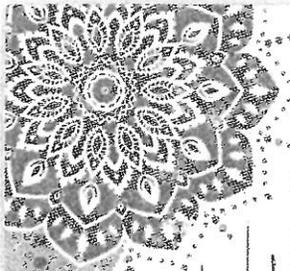
riding by at about 4pm in the evening

and just swiving in to see what they

would say. Muddy and the other guys

handled business and were cool guys

too. I will definitely come back



1/29/28 Notes and Reminders

You Guys Are

AWESOME!!!

I've never went anywhere else.

Very Trust worthy

Ally B.

BEEN 2 many places & this is the best, most honest place I've ever seen, fair, honest & professional, will never go any place else.



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TRANSMISSIONS DIFFERENTIALS
TRANSFER CASES CYLINDER HEADS
www.powertrainproducts.net

Been coming here for years great prices & service

Ally B.



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TRANSMISSIONS DIFFERENTIALS
TRANSFER CASES CYLINDER HEADS
www.powertrainproducts.net

GREAT PLACE
GREAT PRICES
GOOD SERVICE
LUV IT
Doug

4/17/12
Great place to have
work done on your
vehicle. Most honest,
friendliest people.
~~Best~~ Best I found
this place. Will continue
to be a customer.
Patricia Brown

AMPCO
I Second This
Customer
Satisfaction



GOATS

TIRE & AUTOMOTIVE SERVICE EQUIPMENT & SUPPLIES

410.242.2626 800.233.0381

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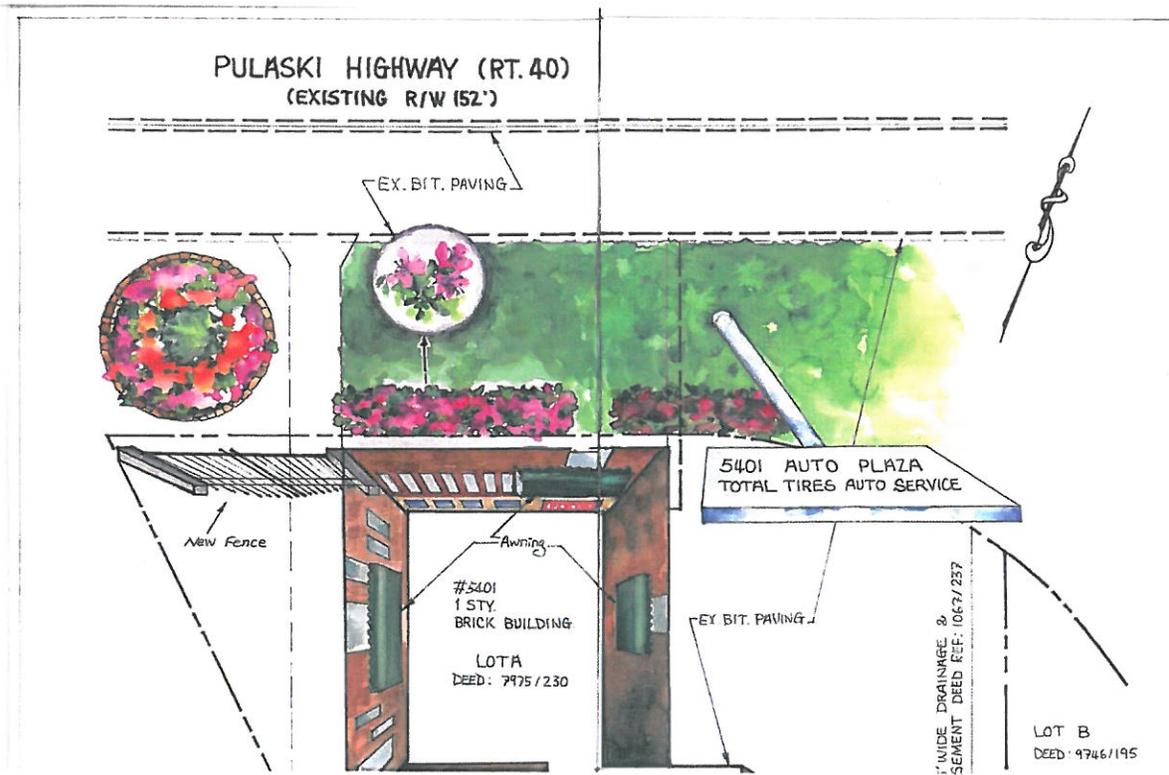
Clifton Dillia

1650 Renaissance Dr.
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I Like to support the Dealerships
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support zoning Change
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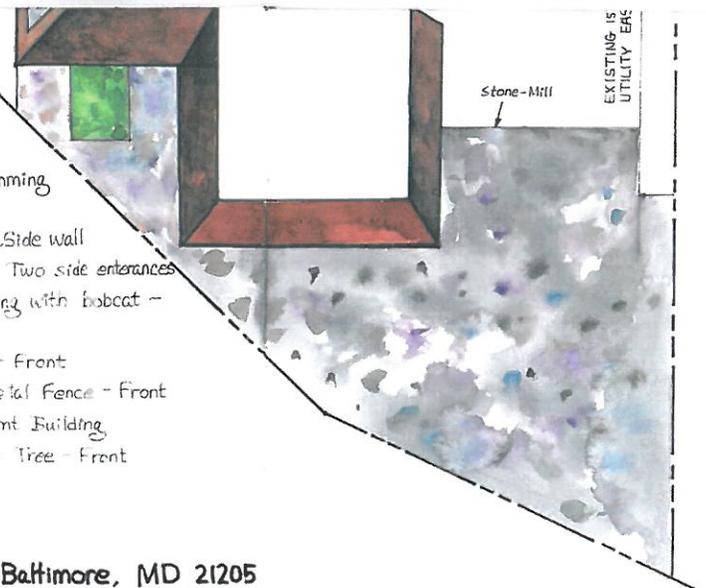
EXHIBIT B

EXHIBIT B



Scope of Work

- Cleaning - Throughout, trimming trees, shrubs in back
- Painting - Exterior Front, Side wall
- Awning - Front entrance, Two side entrances
- Lay stone - Mill, Compacting with bobcat - Rear parking lot
- New Free Standing Sign - Front
- Replace Old fence to Metal Fence - Front
- Plant Azalea Across front Building
- Make Flower Bed Under Tree - Front



CBK REALTY INC
 5401 Pulaski HWY, Baltimore, MD 21205