

ORDINANCE NO. 3604

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED “AN ORDINANCE TO PROVIDE FOR THE CLOSING OF THE ALLEY LOCATED BETWEEN EAST AND WEST INDUSTRIAL BOULEVARD FROM PARCEL 1885 TO VIRGINIA AVENUE IN THE CITY OF CUMBERLAND, MARYLAND.”

WHEREAS, the Mayor and City Council of Cumberland received a petition from Cumberland Redevelopment, LLC requesting the closing of the alley described in the titling of this Ordinance; and

WHEREAS, the City Clerk served a personal notice in writing upon each property owner to be affected by the passage of the proposed Ordinance more than ten (10) days before January 8, 2008; and

WHEREAS, in the opinion of the Mayor and City Council of Cumberland, the public welfare and convenience require that the alley as described in the titling of this Ordinance be closed.

NOW, THEREFORE,

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that the following be and is hereby closed:

ALL that piece or parcel of land described in the Exhibit A attached hereto and made a part hereof as Exhibit A.

Together with and subject to any restrictions, reservations, covenants, right of ways, et cetera as of record, and as shown on the plat attached hereto as Exhibit B.

SUBJECT, HOWEVER, to an easement in favor of the Mayor and City Council of Cumberland and public utility companies for the full length and width of the sanitary easement shown on the plat attached hereto as Exhibit B for installation, repair, replacement and/or maintenance of any needed utility lines.

SUBJECT, HOWEVER, to an easement in favor of the Mayor and City Council of Cumberland and the public at large to allow access to and from the portion of the subject alley not being closed, as shown on the eastern side of the plat attached hereto as Exhibit B, to and from West Industrial Boulevard and East Industrial Boulevard.

SUBJECT, HOWEVER AND CONTINGENT UPON, Cumberland Redevelopment, LLC's purchase of the lots fronting East Industrial Boulevard as shown on the plat attached hereto as Exhibit B and the recordation of the deeds effecting those property transfers.

SECTION 2: AND BE IT FURTHER ORDAINED, that the said Mayor and City Council of Cumberland shall ascertain whether any, and what amount, and the value of the damage to be caused by the aforesaid closing, for which the owners or possessors of any property located along said alley, or portions thereof, should be compensated, and shall assess and levy generally on the property of the persons benefitted the whole or any part of the expense which shall be incurred in closing the same.

SECTION 3: AND BE IT FURTHER ORDAINED, that the said Mayor and City Council of Cumberland shall, within fifteen (15) days of the passing of this Ordinance, submit a report to the City Clerk setting forth any and what amount of damages shall have been caused by the closing as aforesaid, and the names of the owners or possessors of such property along which said streets now pass, and the amount of damages for which they shall be compensated or benefits for which they shall be assessed, and whether said damages arising from the closing

shall be assessed generally on the whole assessable property within the City of Cumberland or specially on the property of the person benefitted by the closing; and, in the event of any of said damages being assessed and levied in whole or in part on any property of the persons benefitted, the names of the owners of the property specially benefitted, with a description of said property by reference to the Land Records of Allegany County, and the amount so levied and assessed.

SECTION 4: AND BE IT FURTHER ORDAINED, that any person feeling aggrieved or injured by the decision of said Mayor and City Council of Cumberland shall have the right of an appeal to the Circuit Court at a trial by jury, as provided in Section 128 of the Charter of the City of Cumberland (1991 Edition), upon filing a written notice of appeal with the City Clerk within thirty (30) days after the Mayor and City Council of Cumberland shall have made their return.


SECTION 5: AND BE IT FURTHER ORDAINED, that the benefits assessed by said Mayor and City Council of Cumberland shall be liens upon the property of the persons benefitted to the extent of such assessment, and shall be payable within sixty (60) days after the submission of said Report by the Mayor and City Council, and the collection of the same shall be enforced by *scire facias* in the same manner as paving liens are collected by the Mayor and City Council; and said Report shall, upon its ratification, be filed for records and reported in the Mechanics' Lien Record in the Clerk's Office in the Circuit Court for Allegany County, and the assessment therein shall be liens upon the properties respectively assessed from the time of such record, providing the same to be recorded with sixty (60) days after the submission of said report by the Mayor and City Council.

SECTION 6: AND BE IT FURTHER ORDAINED, that upon the collection of all benefits assessed and the payment of the damages ascertained, or the waiver of this provision by

the parties interested, the said alley particularly described in Section 1 hereof be closed.

SECTION 7: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed, the 22nd day of January, 2008.



Lee N. Fiedler, Mayor

ATTEST:



Sharon S. Clark, City Clerk

1st Reading	<u>01/08/2008</u>
2nd Reading	<u>01/22/2008</u>
3rd Reading/Adoption	<u>01/22/2008</u>

EXHIBIT A

**METES AND BOUNDS DESCRIPTION
ALLEY CLOSING
PART OF
SOUTH SIDE ADDITION SUBDIVISION
LIBER 70 FOLIO 496
4TH ELECTION DISTRICT
CITY OF CUMBERLAND
ALLEGANY COUNTY, MARYLAND**

BEGINNING AT THE POINT OF INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LIMITS OF VIRGINIA AVE. (VARIABLE WIDTH RIGHT-OF-WAY), WITH THE DIVISION LINE BETWEEN THE LANDS OF ANTHONY P. FLANAGAN (LIBER 1252 FOLIO 502), ON THE NORTH AND A 10' WIDE PUBLIC ALLEY AS SHOWN ON A PLAT ENTITLED, "SOUTH SIDE ADDITION SUBDIVISION" (LIBER 70 FOLIO 496), ON THE SOUTH, THENCE WITH SAID DIVISION LINE;

- 1. SOUTH 57 DEGREES – 46 MINUTES – 23 SECONDS EAST, 339.20 FEET TO A POINT OF, THENCE LEAVING SAID DIVISION LINE AND WITH A LINE RUNNING THROUGH SAID PUBLIC ALLEY;**
- 2. SOUTH 32 DEGREES – 13 MINUTES – 37 SECONDS WEST, 10.00 FEET TO THE SOUTHERLY SIDE OF A 10' WIDE PUBLIC ALLEY, THENCE WITH THE SOUTHERLY SIDE OF SAID 10' WIDE PUBLIC ALLEY;**
- 3. NORTH 57 DEGREES – 46 MINUTES – 23 SECONDS WEST, 338.38 FEET TO THE POINT OF INTERSECTION OF SAID SOUTHERLY BOUNDARY WITH THE EASTERLY RIGHT-OF-WAY LIMITS OF VIRGINIA AVE., THENCE WITH SAID EASTERLY RIGHT-OF-WAY LIMITS OF VIRGINIA AVE;**
- 4. NORTH 25 DEGREES – 10 MINUTES – 20 SECONDS EAST, 5.94 FEET TO A POINT, THENCE CONTINUING WITH SAID EASTERLY RIGHT OF WAY LIMITS;**
- 5. NORTH 31 DEGREES – 01 MINUTE – 26 SECONDS EAST, 4.10 FEET TO THE PLACE OF BEGINNING.**

CONTAINING 3,389 SQUARE FEET OR 0.078 ACRES

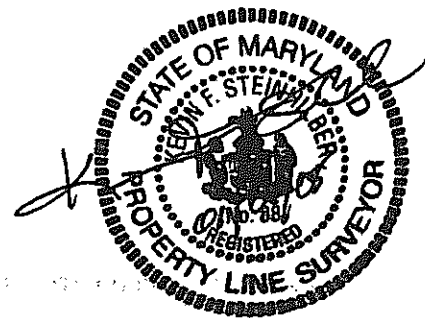
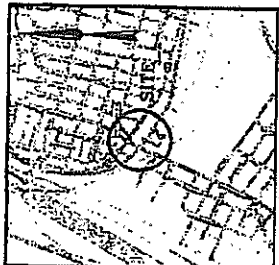
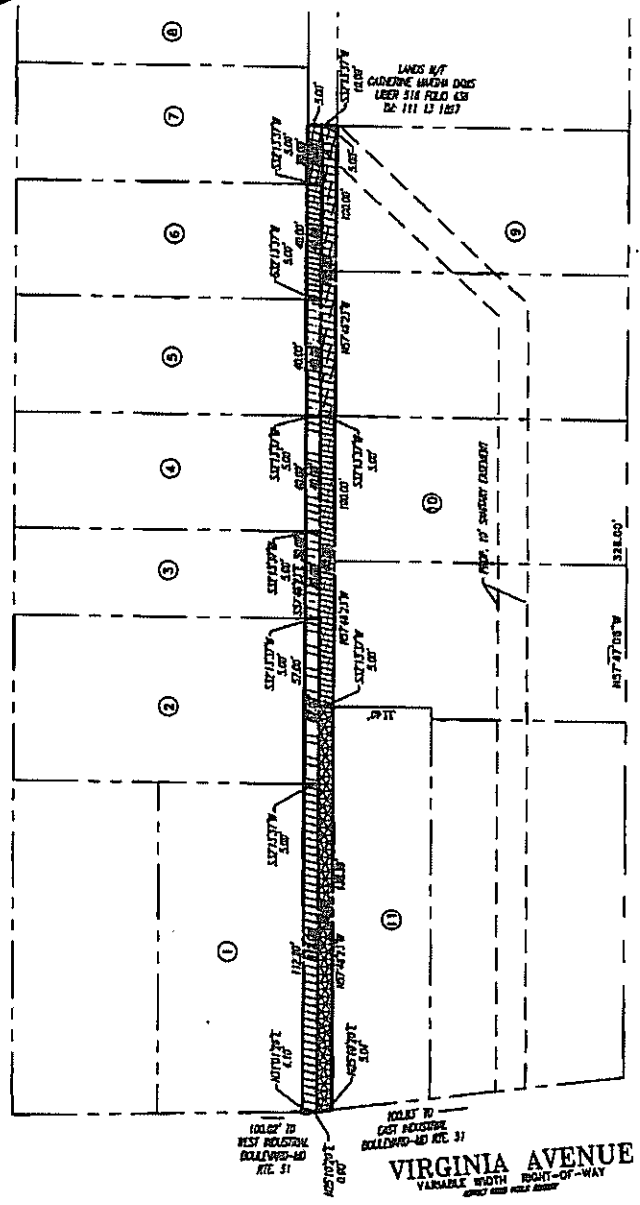


EXHIBIT B



- ① LANDS W/T
ANDREW P. TRANSON
LIBER 1232 FOLIO 502
TR: 111 14 2789
AREA: 581 S.F. OR 0.0139 AC.
- ② LANDS W/T
CLISE ENTERPRISES, LLC
LIBER 643 FOLIO 413
TR: 111 14 0890
AREA: 265 S.F. OR 0.0063 AC.
- ③ LANDS W/T
JAMES L. WELLS
LIBER 668 FOLIO 227
TR: 111 14 0890
AREA: 130 S.F. OR 0.0034 AC.
- ④ LANDS W/T
WALTER L. SWANER AND
WALTER A. SWANER
LIBER 517 FOLIO 031
TR: 111 14 0890
AREA: 280 S.F. OR 0.0069 AC.
- ⑤ LANDS W/T
ROBERT J. SHUGLER
LIBER 1288 FOLIO 147
LIBER 1288 FOLIO 150
TR: 111 14 1807
AREA: 200 S.F. OR 0.0046 AC.
- ⑥ LANDS W/T
WALTER J. APPLE AND
CAROL A. APPLE
LIBER 519 FOLIO 028
TR: 111 14 1808
AREA: 200 S.F. OR 0.0046 AC.
- ⑦ LANDS W/T
CARY E. KOSKAMP AND
MARY B. KOSKAMP
LIBER 589 FOLIO 112
TR: 111 14 1808
AREA: 100 S.F. OR 0.0023 AC.
- ⑧ LANDS W/T
DAVID A. HOOKE
LIBER 599 FOLIO 289
LIBER 598 FOLIO 320
TR: 111 14 1804
AREA: 500 S.F. OR 0.0115 AC.
- ⑨ LANDS W/T
CAROL W. REIDER AND
FRANK R. REIDER
LIBER 605 FOLIO 722
LIBER 605 FOLIO 544
TR: 111 20 1895
AREA: 500 S.F. OR 0.0115 AC.
- ⑩ LANDS W/T
CHARLES WELLS INLER
LIBER 521 FOLIO 182
TR: 111 14 2307
AREA: 601 S.F. OR 0.0139 AC.

WEST INDUSTRIAL BOULEVARD—MD RTE. 51
50' RIGHT-OF-WAY
20' FRONT SETBACK



NOTES:
SITE PLAN
INT'S.

1. PROPERTY OWNER IS TO PROVIDE ACCESS TO THE EAST INDUSTRIAL BOULEVARD AND WEST INDUSTRIAL BOULEVARD FROM THE EXISTING ALLEY AT ALL TIMES.
2. PUBLIC UTILITIES IN THE FORMER ALLEY WILL BE PROVIDED EASEMENTS NEAR THE SEWER EASEMENT OR AT ANOTHER SUITABLE LOCATION.

ALLEY CLOSING
ACROSS
SOUTH SIDE ADDITION
SUBDIVISION

LIBER 70 FOLIO 496
4TH ELECTION DISTRICT
CITY OF CUMBERLAND
ALLEGANY COUNTY, MARYLAND
SCALE: 1"=40'
REVISED: DECEMBER 10, 2007
OCTOBER 31, 2007
REVISED: DECEMBER 17, 2007
SHEET 1 OF 1



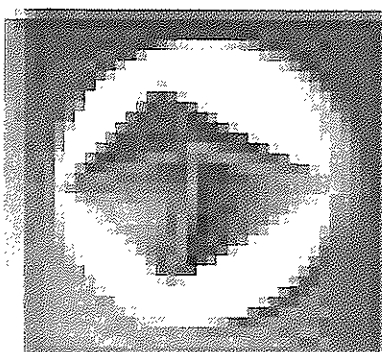
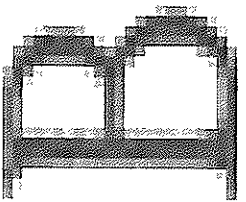
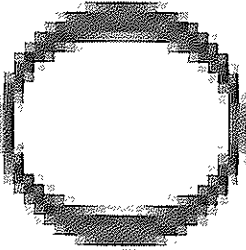
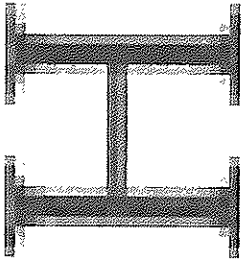
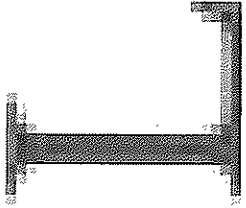
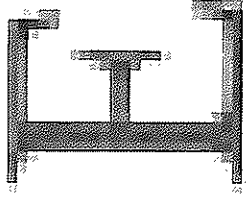
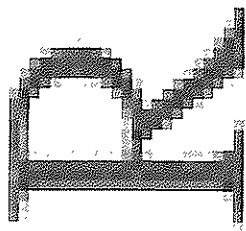
KEVIN F. STEINHILBER
MARYLAND REGISTERED PROFESSIONAL SURVEYOR NO. 88

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12/11/07
DATE



METES AND BOUNDS DESCRIPTION
PROPOSED 10' WIDE SANITARY SEWER EASEMENT

THE LANDS OF
DAVID A. KNOCHE
LIBER 590 FOLIO 299
LIBER 558 FOLIO 928

AND THE LANDS OF
EARL W. BEELER AND RUTH N. BELLER
LIBER 605 FOLIO 722
LIBER 605 FOLIO 544
4TH ELECTION DISTRICT
CITY OF CUMBERLAND
ALLEGANY COUNTY, MARYLAND

BEGINNING AT A POINT IN THE EASTERLY RIGHT-OF-WAY LIMITS OF VIRGINIA AVENUE (VARIABLE WIDTH RIGHT-OF-WAY), SAID POINT OF BEGINNING LYING SOUTH 25 DEGREES – 10 MINUTES – 20 SECONDS WEST, 56.77 FEET FROM THE INTERSECTION OF SAID EASTERLY RIGHT-OF-WAY LIMITS WITH THE SOUTHERLY LIMIT OF A 10' WIDE PUBLIC ALLEY, PART OF SOUTH SIDE ADDITION SUBDIVISION (LIBER 70 FOLIO 496), THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY LIMITS AND WITH A LINE THROUGH THE LANDS OF DAVID A. KNOCHE (LIBER 590 FOLIO 299 AND LIBER 558 FOLIO 928) AND THE LANDS OF EARL W. BEELER AND RUTH N. BEELER (LIBER 605 FOLIO 722 AND LIBER 605 FOLIO 544), THE FOLLOWING SIX COURSES AND DISTANCES;

1. SOUTH 57 DEGREES – 47 MINUTES – 08 SECONDS EAST, 266.53 FEET TO A POINT, THENCE;
2. CONTINUING, NORTH 75 DEGREES – 01 MINUTE – 15 SECONDS EAST, 90.32 FEET TO A POINT, THENCE;
3. CONTINUING, SOUTH 57 DEGREES – 46 MINUTES – 23 SECONDS EAST, 3.53 FEET TO A POINT, THENCE;
4. CONTINUING, SOUTH 32 DEGREES – 13 MINUTES – 37 SECONDS WEST, 10.91 FEET TO A POINT, THENCE;
5. CONTINUING, SOUTH 57 DEGREES – 01 MINUTE – 15 SECONDS WEST, 89.08 FEET TO A POINT, THENCE;
6. NORTH 57 DEGREES – 47 MINUTES – 08 SECONDS WEST, 269.66 FEET TO A POINT IN THE EASTERLY RIGHT-OF-WAY LIMITS OF SAID VIRGINIA AVENUE, THENCE WITH THE SAID EASTERLY RIGHT-OF-WAY LIMITS OF VIRGINIA AVENUE;
7. NORTH 25 DEGREES – 10 MINUTES – 20 SECONDS EAST, 10.08 FEET TO THE POINT OF BEGINNING.

CONTAINING 3597 SQUARE FEET OR 0.0826 ACRES.

