



Washington County MARYLAND

WASHINGTON COUNTY PLANNING COMMISSION ZONING ORDINANCE MAP AMENDMENT APPLICATION

FOR PLANNING COMMISSION USE ONLY

Rezoning No. RZ-23-008

Date Filed: 10-4-23

RECEIVED

OCT 4 2023

Williamsport Storage Bins Inc

Applicant

1825 Howell Road, Suite 4
Hagerstown, MD 21740

Address

Todd Snook

Primary Contact

1825 Howell Road
Hagerstown, MD 21740

Address

☒ Property Owner

☐ Attorney

☐ Other: _____

☐ Contract Purchaser

☐ Consultant

WASHINGTON COUNTY
DEPT. OF PLANNING & ZONING

301-667-2873

Phone Number

todd@valleystorage.com

E-mail Address

429 & 431 South Artizan St, Williamsport, MD 21795

Property Location: _____

56

14

1052/352

.74

Tax Map: _____

Grid: _____

Parcel No.: _____

Acreage: _____

02030114

HI- Highway Interchange

RT-Residential Transition

Current Zoning: _____

Requested Zoning: _____

Reason for the Request:

☐ Change in the character of the neighborhood

☒ Mistake in original zoning

PLEASE NOTE: A Justification Statement is required for either reason.

MICHAEL LEE FISHER
Notary Public - State of Maryland
Washington County
My Commission Expires Feb 19, 2027

[Signature]

Applicant's Signature

Subscribed and sworn before me this 2nd day of OCTOBER, 20 23.

My commission expires on 02/19/2027

[Signature]

Notary Public

FOR PLANNING COMMISSION USE ONLY

☒ Application Form

☒ Fee Worksheet

☒ Application Fee

☒ Ownership Verification

☒ Boundary Plat (Including Metes
& Bounds)

☒ Names and Addresses of all Adjoining
& Confronting Property Owners

☒ Vicinity Map

☒ Justification Statement

☒ 30 copies of complete Application
Package

OCT - 4 2023

WASHINGTON COUNTY
DEPT. OF PLANNING & ZONING

September 29, 2023

Washington County Department of Planning & Zoning
Jill Baker, Director
747 Northern Ave
Hagerstown, Maryland 21742

Re: Justification Statement for Piecemeal Rezoning of Tax Map 0056, Parcel 1052 (429 S. Artizan St.) and Tax Map 0056, Parcel 0352 (431 S. Artizan St.), Williamsport, Maryland 21795.

Dear Ms. Baker:

Frederick, Seibert and Associates represents *Williamsport Storage Bins Inc.* (referred to as the "Applicant"). On behalf of the Applicant please accept this letter as the required Justification Statement for the requested rezoning of the property described below from its current HI (Highway Interchange) classification to RT (Residential Transition) classification. All referenced exhibits are hereby incorporated as part of this letter.

Williamsport Storage Bins Inc. is the title owner 429 S. Artizan st. (Map 56, Parcel 1052) and 431 S. Artizan St. (Map 56, Parcel 352). For the purpose of this letter, the term "**Lot 1**" shall refer to 429 S. Artizan St (Map 56, Parcel 1052) and the term "**Parcel 2**" shall refer to 431 S. Artizan St. (Map 56, Parcel 352). The two parcels collectively shall be referred to as the "**Property**". The Property is depicted on the attached drawing, **Exhibit 1**.

Background

The Property is currently undeveloped and has frontage and access onto S. Artizan Street, a public road owned and maintained by Washington County. Lot 1 contains 0.47 acres and was created by subdivision in 1998 **Exhibit 2**. Parcel 2 contains 0.27 acres and is a parcel of record created by deed in 1954. Parcel 2 contained a single family dwelling constructed in the 1950s and was demolished in the early 1990's due to a fire and its deteriorating condition. Public water and sewerage service is available to the property via existing lines located in S. Artizan Street. Public water is provided by the Town of Williamsport. Public sewerage is provided by Washington County. The property is classified as W-1, S-1 (existing service) according to the adopted Washington County Water and Sewerage Plan.

Current zoning

A vicinity map showing the current HI Zoning of the Property as well as the zoning classification of the adjacent and surrounding properties is attached as **Exhibit 3**.

The Property's current HI zoning was established as part of the Comprehensive Rezoning of the Urban Growth Area in 2012; prior to that, the property was zoned HI-2.

Mistakes in 2012 Comprehensive Rezoning

The applicant contends that the HI zoning assigned to the Property in 2012 constituted a mistake. As per Maryland case law, to sufficiently demonstrate "mistake" the petitioning party must show that existing facts, or reasonable future projects or trends were not taken into consideration at the time of the zoning. See generally *Boyce v. Smebly* 334 A.2d 137,142-143 (Md. App. 1975); and *White v. Spring*, 109 Md. App. 692, 675 A.2d

1023 (1996). Moreover, with regard to the question of original mistake, “when the assumption upon which a particular use is predicated proves, with the passage of time, to be erroneous, this is sufficient to authorize a rezoning.” Mayor and Council of Rockville v. Stone, 271 Md. 655, 662 (Md. 1974).

In this case, at the time of the 2012 Rezoning, the County did not take into account that,

1. The property consists of two small lots associated with existing residential development along S. Artizan street, established in the 1950s.
2. Access to the property is provided by and limited to a local street through existing residential development.
3. The configuration of the property severely limits its ability to be developed under the provisions of HI zoning.
4. The property remains vacant. The assumption that the property would be developed per the HI zoning has proved with the passage of time to be erroneous.

These mistakes are set forth in greater detail below.

Prior to the 2012 Comprehensive rezoning of the Urban Growth Area the property was zoned HI-2. The HI-2 designation permitted a combination of both residential and commercial use. At that time, HI-1 zoning was reserved for commercial and light industrial uses. Subsequently, the HI-1 and HI-2 zoning designations were eliminated and replaced with HI, (HI-1 repealed and deleted in its entirety 10/11/16, RZ-13-003/ORD 2016-18. HI-2 repealed and deleted in its entirety 7/1/12, RZ-10-005/ORD-2012-07).

The purpose of the HI district is stated below:

Section 19.1. Purpose The Highway Interchange District is established to provide suitable locations for commercial activities or light industrial land uses that serve highway travelers, provide goods and services to a regional population, or uses that have a need to be located near the interstate highway system to facilitate access by a large number of employees, or the receipt or shipment of goods by highway vehicles. In addition to providing accessible locations, the Highway Interchange District is intended to protect the safe and efficient operation of the interchange and to promote its visual attractiveness. Site design guidelines will balance the needs for visibility with moderation of visual clutter, signs, and excessive lighting. Section 19.2. Principal Permitted Uses (a) All Principal Permitted Uses allowed in the BL, BG, PB, and ORT District.

The HI zoning district provides for commercial and industrial development that has easy access and visibility to the interstate highway system. The subject property has neither. Furthermore, development in the HI district requires additional buffer yards when development is adjacent to existing residential development. The subject properties are surrounded by residential zoning (RT) and residential use on 2 sides. The required buffers are between 25 'and 75 'in distance to adjoining residential property lines. Lot 1 is approximately 100 'wide. Imposition of the required buffers on this lot would essentially render it unusable under its current HI zoning. Imposition of the required buffers on Parcel 2 would be even more onerous due to its width of approximately 80 ' at its widest point.

The Property has been vacant for over 20 years, the “reasonable possibility of fruition” of the property being developed under its existing HI zoning has proven over the passage of time to be erroneous.

Proposed Zoning to be Logical and Appropriate

Applicant is requesting that the Property be rezoned to RT-Residential Transition. The purpose of the RT district is provided below:

Section 7A.0 Purpose The purpose of the Residential, Transition District is to provide appropriate locations for single-family and two-family residential development in Urban and Town Growth Areas. The Residential, Transition District is usually located on the outer fringes of the Growth Areas, rather than the inner core, and is intended to be the least dense residential district in the Growth Areas at a density of between 2 and 4 dwelling units per acres.

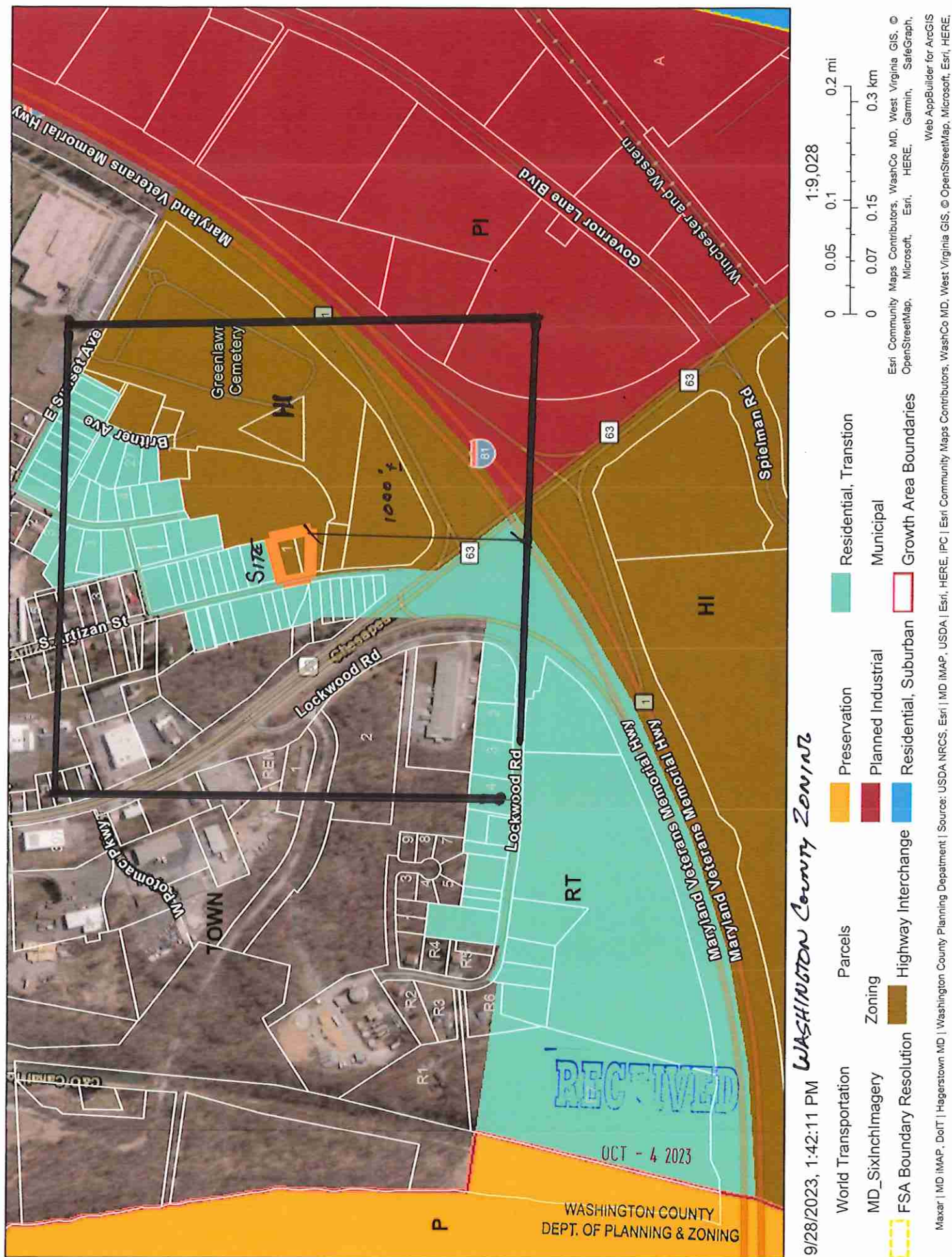
Property along the west side of S. Artizan street from the Corporate boundary of the Town of Williamsport to the end of the street is currently Zoned RT. Property along the east side of S. Artizan St is also zoned RT from the Corporate boundary of Williamsport to the north property line of Lot 1. Property directly behind and to the south of the subject property is zoned HI and is associated with Green Lawn Cemetery (see Exhibit 3). Zoning of the subject property to RT would be a logical extension of the large expanse of existing RT zoning in the neighborhood. The size and configuration of Lot 1 and Parcel 2 is consistent with RT zoning.

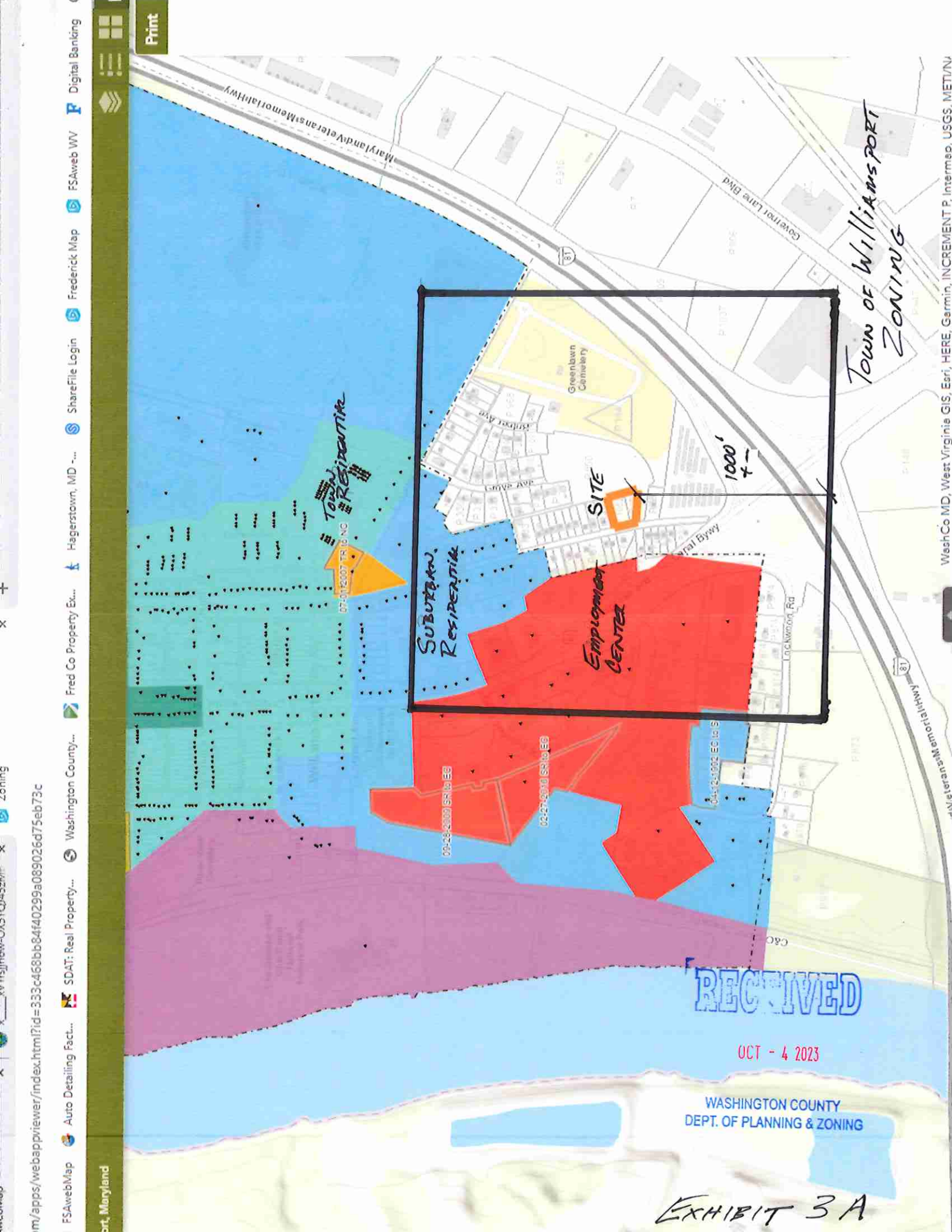
Conclusion

The applicant respectfully submits that a piecemeal rezoning of the Property is justified due to a mistake, that the property is not a suitable location for commercial or light industrial development as called for in section 19.1 and the requested RT zoning is the most logical and appropriate designation.

Respectfully,

Frederick, Seibert & Associates





Town of Williamsport
ZONING

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WASHINGTON COUNTY
DEPT. OF PLANNING & ZONING

EXHIBIT 3A



9/29/2023, 1:28:30 PM

World Transportation

Parcels

MD_SixInchImagery

1:2,257

0 0.01 0.03 0.04 0.05 mi

0 0.02 0.04 0.09 km

Esri Community Maps Contributors, WashCo MD, West Virginia GIS, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

Maxar, Microsoft | MD IMap, DoIT | Hagerstown MD | Washington County Planning Department | Source: USDA NRCS, Esri | MD IMap, USDA | Esri, HERE, iPC | Esri Community Maps Contributors, WashCo MD, West Virginia GIS, © OpenStreetMap, Microsoft, Esri, Web AppBuilder for ArcGIS

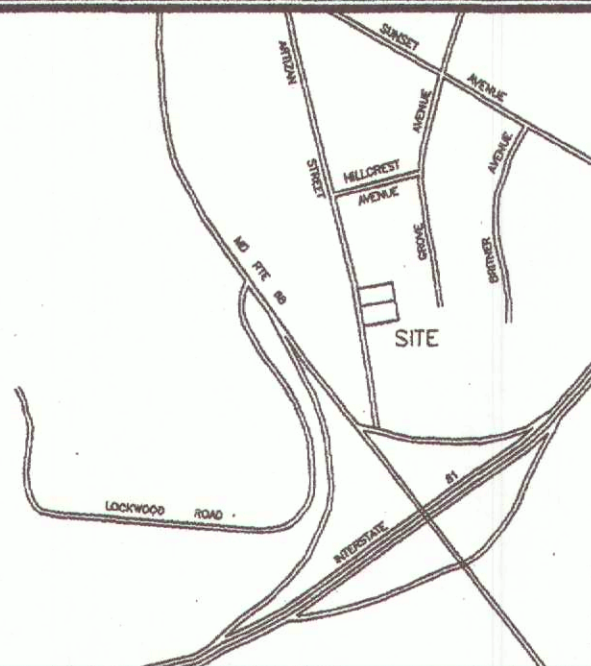
Adjacent Owners List, Williamsport Storage Bins, Inc.

[illegible]

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OCT - 4 2023

WASHINGTON COUNTY
DEPT. OF PLANNING & ZONING



Vicinity Map Scale: 1"=1000'

Certificate of Approval
FINAL APPROVAL GRANTED

DATE: 6-15-98

By: Robert C. Amb
Washington County Planning Commission

Dedication for Corporations

We, Todd Snook, Vice President, and Debra Pappas, Secretary, of Greenlawn Cemetery Co., Inc., a Maryland Corporation, do hereby certify that the corporation is a legal and true owner of the property shown and described on this plat and that the said corporation does adopt this Plan of Subdivision, establish the minimum building restriction lines, dedicate to public use all utility and drainage easement areas and all alley, street and road rights of way designated on this plat, agree to keep open all spaces and recreation areas shown, and agree that the dedications shall not impose any responsibility on the Board of County Commissioners of Washington County regarding the subjects of such dedications until legal acceptance thereof by said Board, and said corporation does hereby reserve the fee simple title to the land underlying said easements, rights of way, open spaces and recreation areas and, with regard to the said easements and rights of way, hereby agrees to convey the same to said Board, for the use of said Washington County, without consideration, upon the legal acceptance of said easements and/or rights of way by said Board.

This deed and agreement of dedication shall be binding upon the corporation's grantees, assigns, and successors.

I/We also certify that the community water and/or community sewerage system proposed for this subdivision will be available to all lots offered for sale. I/We also certify that plans for the community water supply and/or community sewerage system facilities, including any necessary point of discharge, have been approved by the Maryland Department of the Environment.

There are no suits, actions at law, leases, liens, mortgages, trusts, easements, or rights of way affecting the property included in this plan of subdivision except the following:

and all parties and interests thereto have hereto affixed their signatures, indicating their assent to this plan of subdivision.

We hereby assent to this plan of subdivision

Date: 5/19/98

By: Todd M. Snook
Vice President

Attest: Debra Pappas
Secretary

Witness: Rick S. Kinsler

Certificate of Approval of Community Water and Sewerage

I hereby certify that the use of community water and sewerage for this subdivision is in conformance with the County Water and Sewerage Plan.

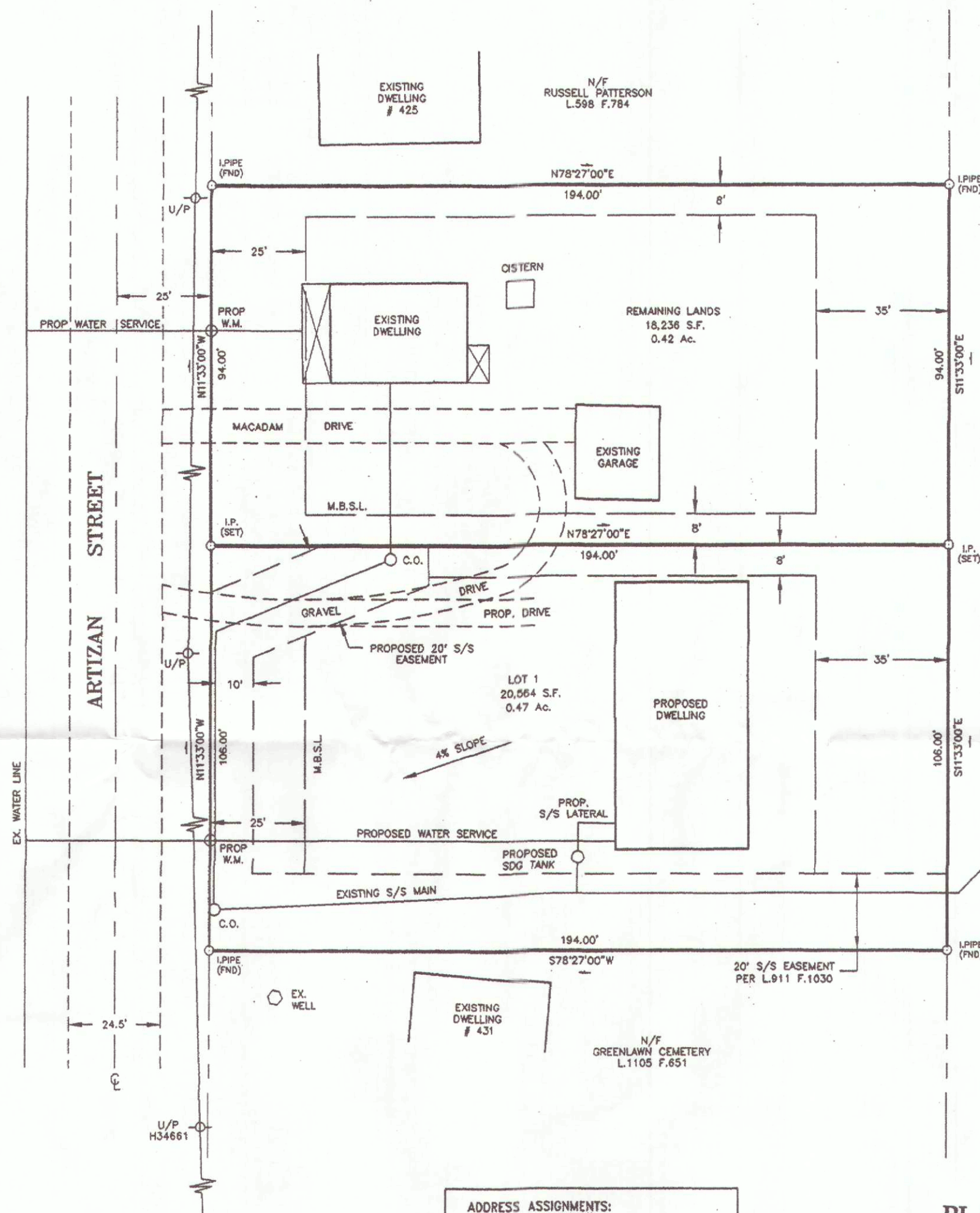
Date: June 18, 1998 Robert C. Amb
County Health Officer RM

Land Surveyor's Certification

I hereby certify that the plan shown hereon is correct; that it is a subdivision of part of the lands conveyed by Robert B. Mitchell to Greenlawn Cemetery Company, Inc., a Maryland Corporation by deed dated May 5, 1998 and recorded in the Land Records of Washington County, Maryland in Liber No. 1408, folio 1 and that stones marked D and/or bars marked O have been placed as indicated.

Date: May 19, 1998 Fredrick M. Seibert
Professional Land Surveyor

- General Notes**
1. This lot to be served by public water and public sewer.
 2. There is a 10 ft. wide drainage and utilities easement along all front lot lines and an 8 ft. wide drainage and utilities easement along all side and rear lot lines hereby reserved unless otherwise shown hereon.
 3. Bearings based on deed North.
 4. Soil type is HgC2.
 5. Minimum Building Setbacks: front yard-25'; side yard-8'; rear yard-35'. Minimum Building Setback Lines are based on the current Washington County Zoning Ordinance. Accessory Structures may be constructed in accordance with Section 4.10 and Section 23.5 (b). Zoned HI-2 - Highway Interchange.
 6. Total upstream watershed affecting this subdivision: less than 400 Ac.
 7. Parcel does not lie in the 100 year floodplain per FEMA Flood Insurance Rate Map No. 240070 0155 A, Flood Zone C.
 8. There are no floodplains, steep slopes, streams and related buffers, or habitat of threatened or endangered species identified by the U.S. Fish and Wildlife Service per 50 CFR 17 as required to be shown by Sections 306 and 314 of the Washington County Subdivision Ordinance and Section 4.21 of the Washington County Zoning Ordinance.

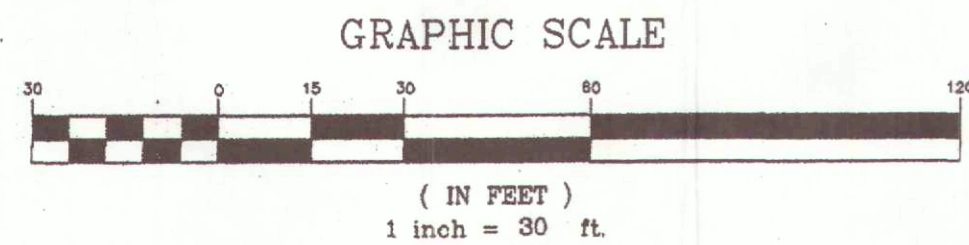


ADDRESS ASSIGNMENTS:

Lot 1 429 Artizan Street
Rem. Lands 427 Artizan Street

Note: Each address is based on the entrance as shown on this plat. If the driveway is constructed at a different location from that shown hereon, the address listed above may VOID and the owner/developer of the lot must reapply to the Planning Commission for a new address assignment.

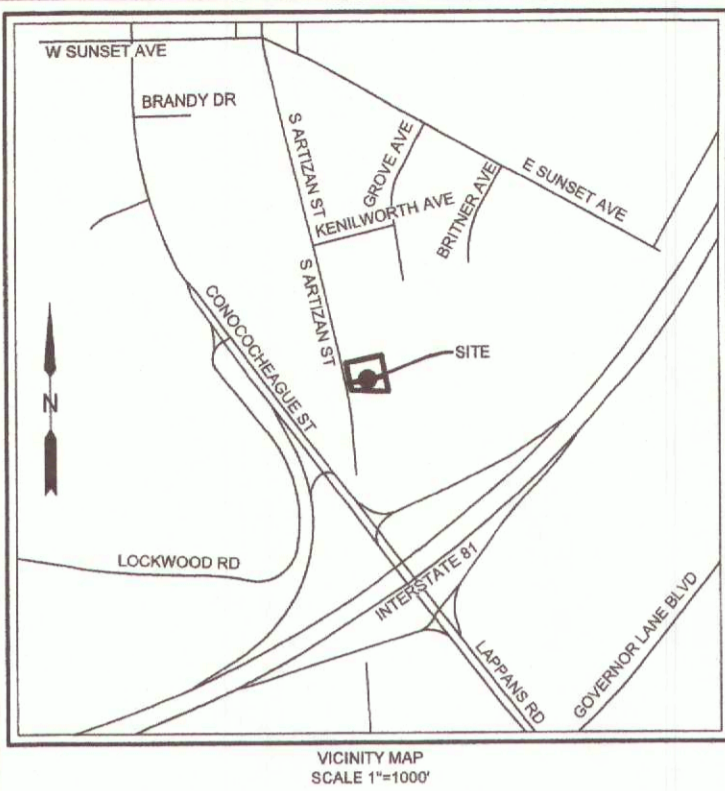
PLAT NO. 5723
DATE JUL 15 1998
WASHINGTON COUNTY



OWNER:
GREENLAWN CEMETERY CO. INC.
c/o TODD SNOOK
127 BRITNER AVENUE
WILLIAMSPORT, MD 21795

TAX MAP 56-14-79 DISTRICT 2		FREDERICK SEIBERT & ASSOCIATES, INC. ©1998 CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS 128 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740 10 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225 (301) 791-3850 (301) 416-7478 (717) 597-1007 FAX (301) 738-4858	JOB NUMBER 3620.0
DRAWING NUMBER 1 OF 1			
DRAWN BY: M. CESSNA	DATE: 6/5/98		
CHECKED BY:	DATE:		
SCALE: 1" = 30'			

Preliminary / Final Plat
of Subdivision
of
LOT 1
of
GREENLAWN CEMETERY CO., INC.
Situate along the east side
of Artizan Street
WASHINGTON COUNTY, MARYLAND



General Notes

1. Parcels are currently zoned HI - Highway Interchange
2. Proposed zoning is RT - Residential Transition
3. This Rezoning Exhibit was prepared without the benefit of a title report and therefore may not indicate all encumbrances on this property.

Land Surveyor's Certification

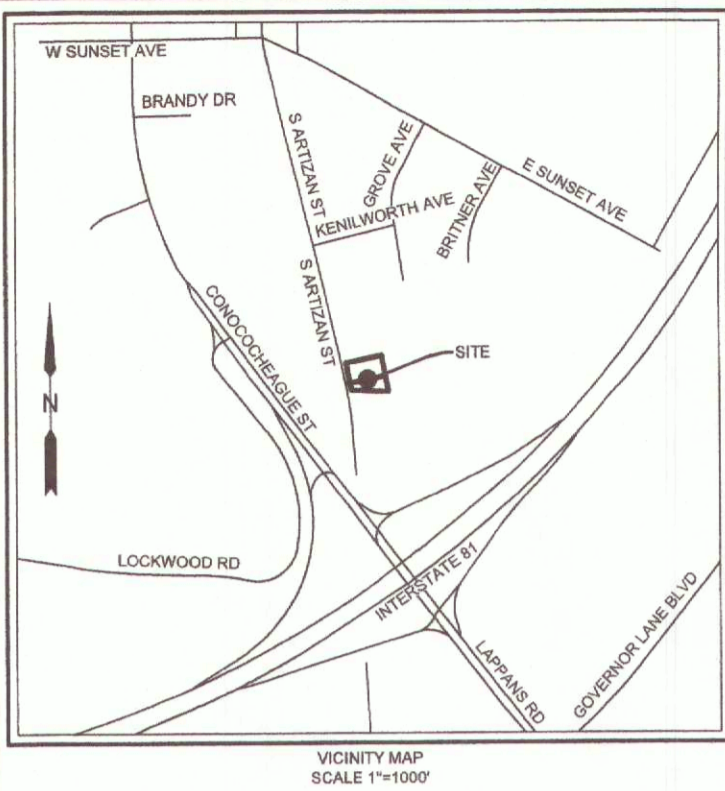
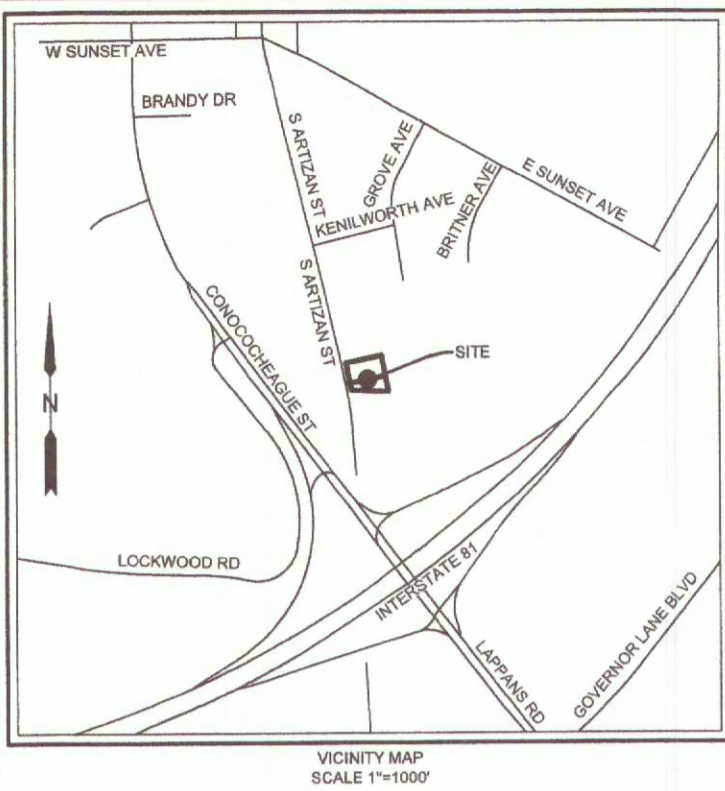
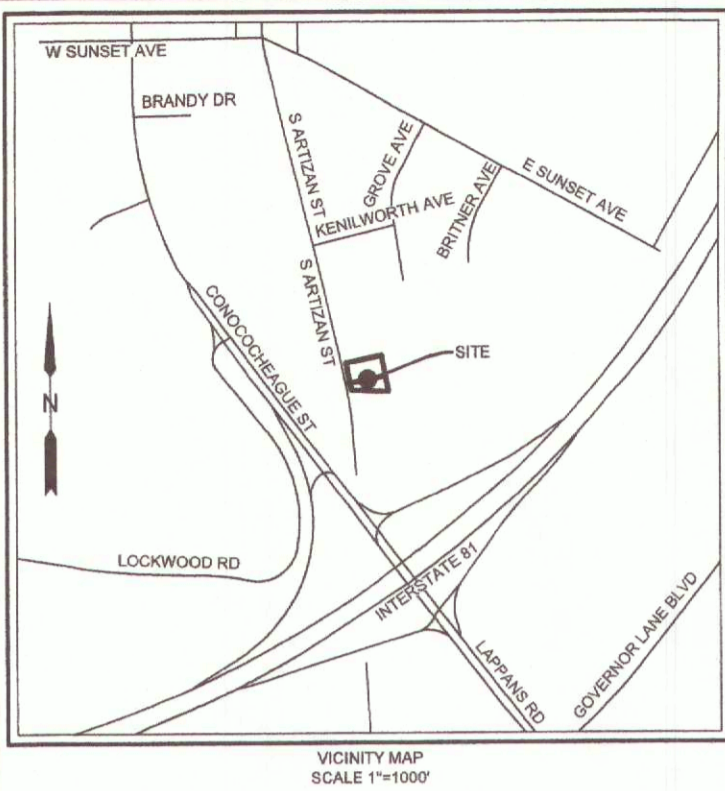
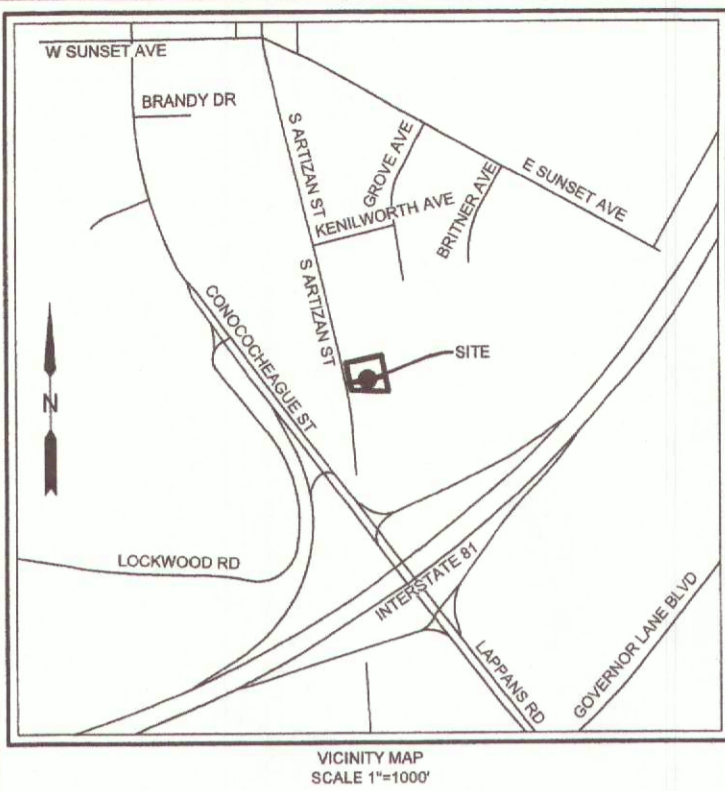
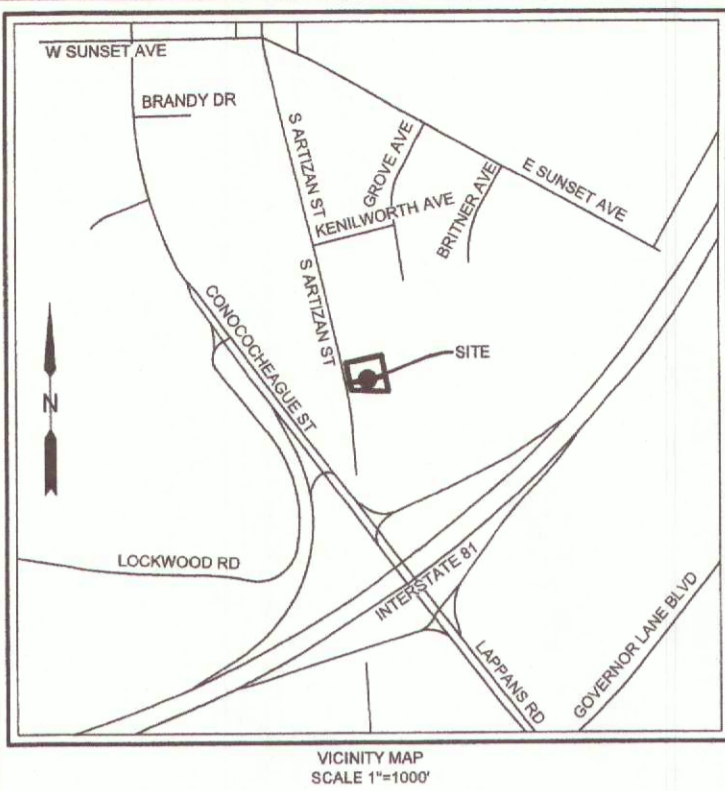
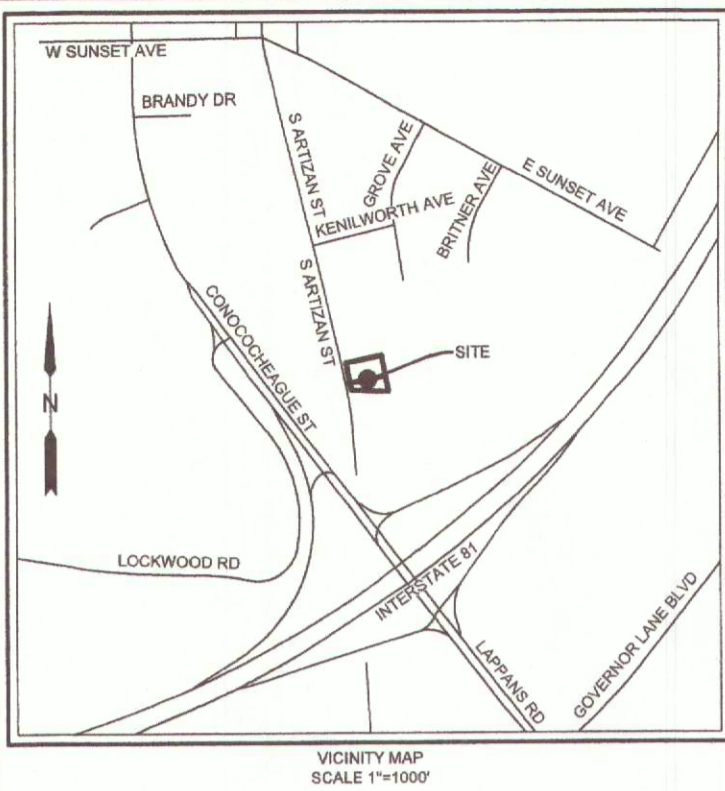
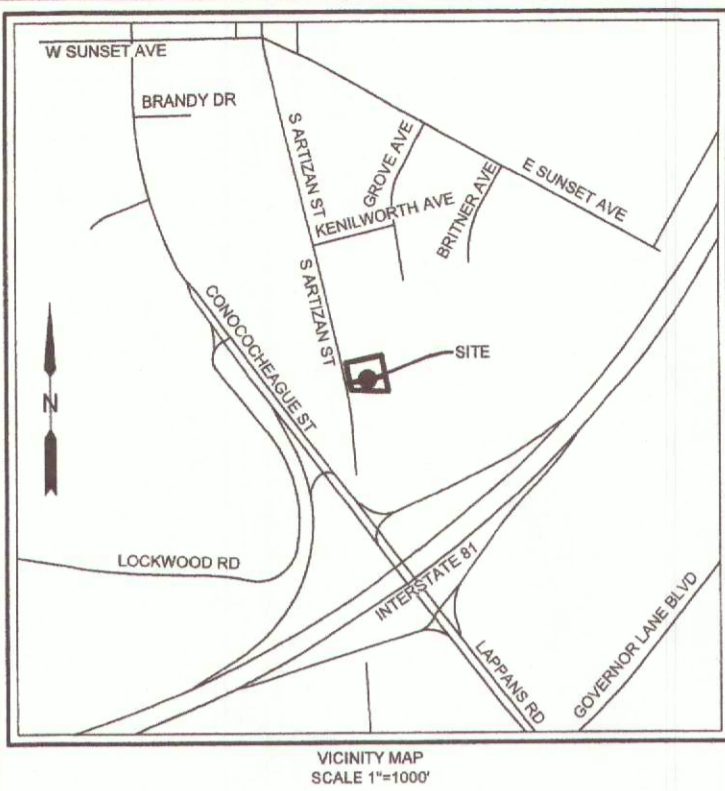
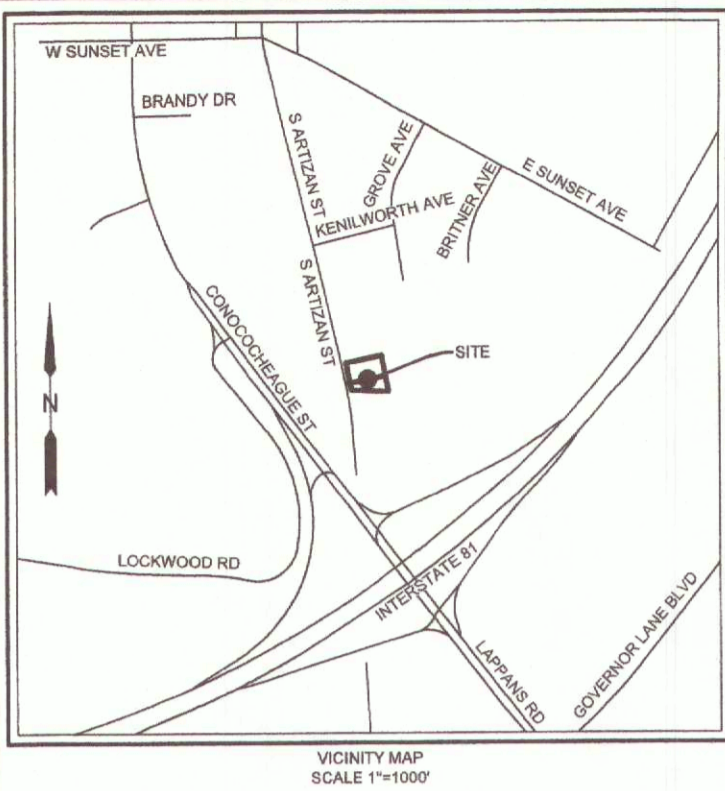
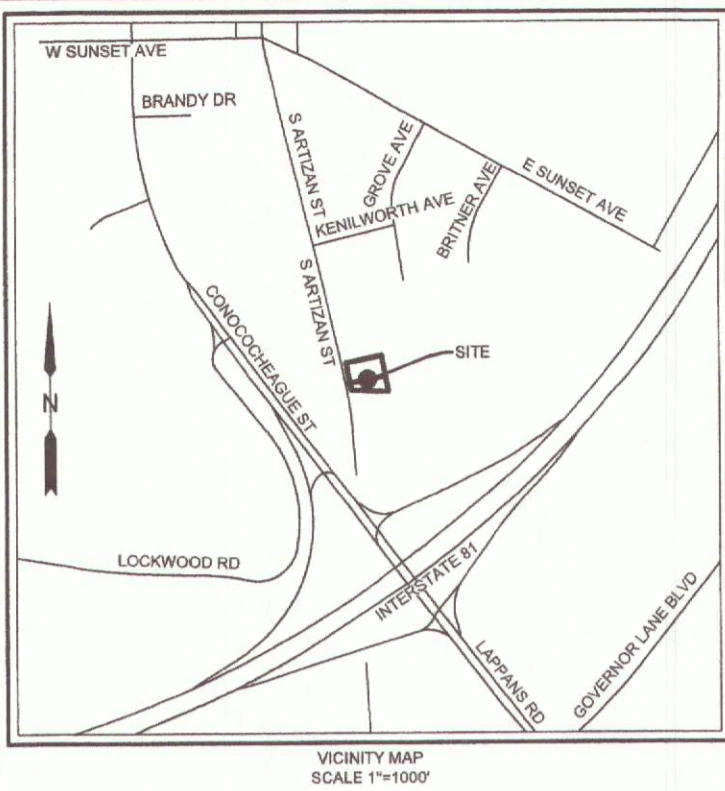
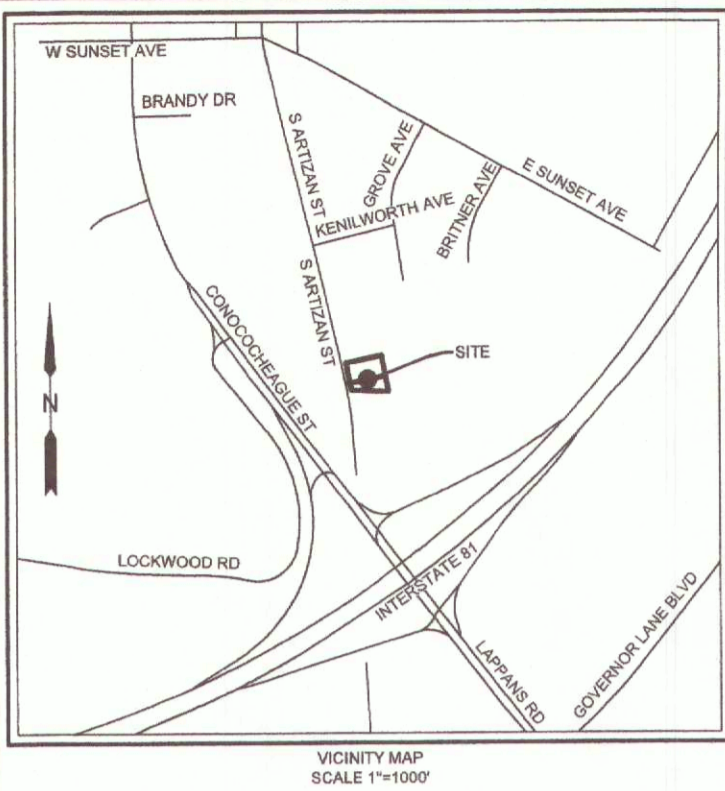
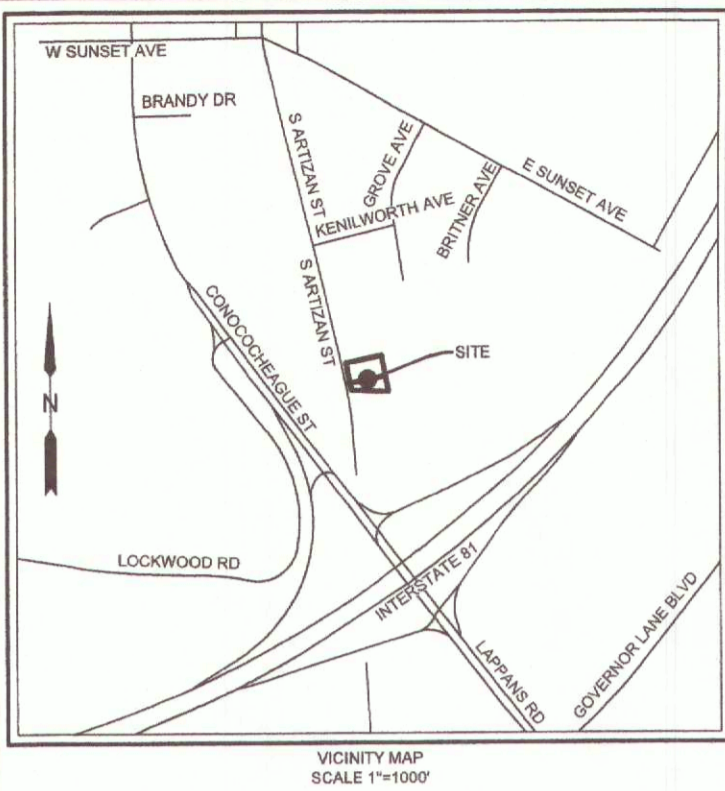
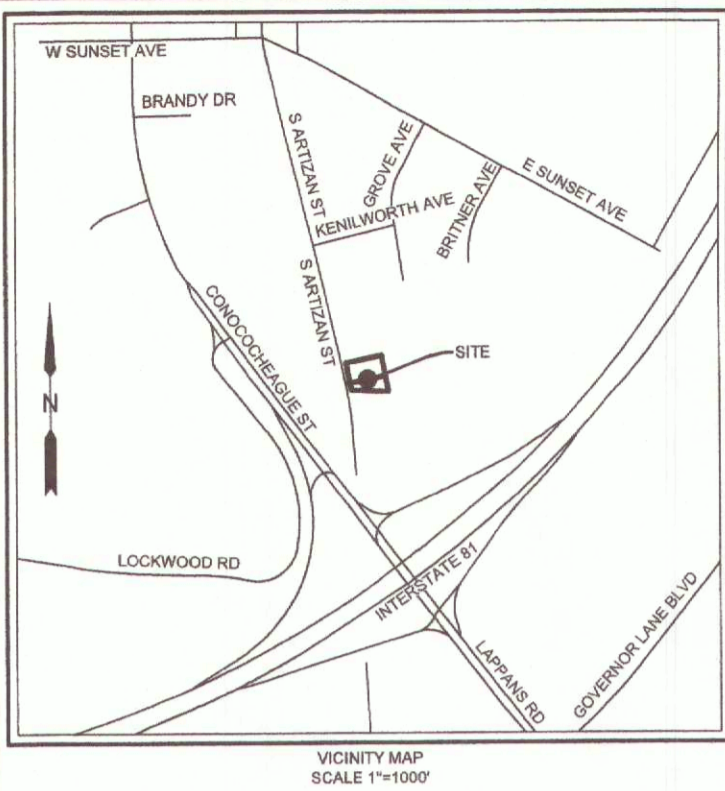
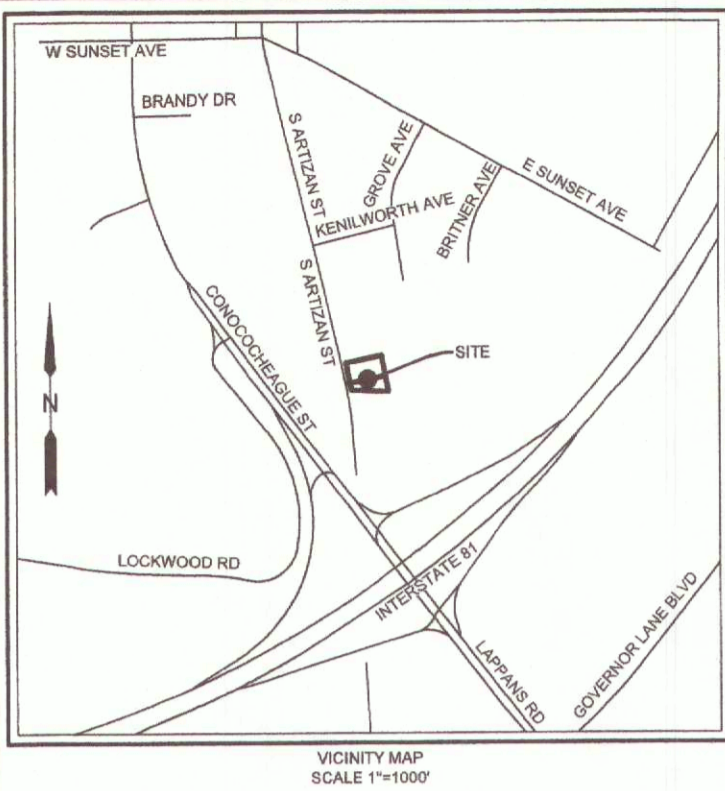
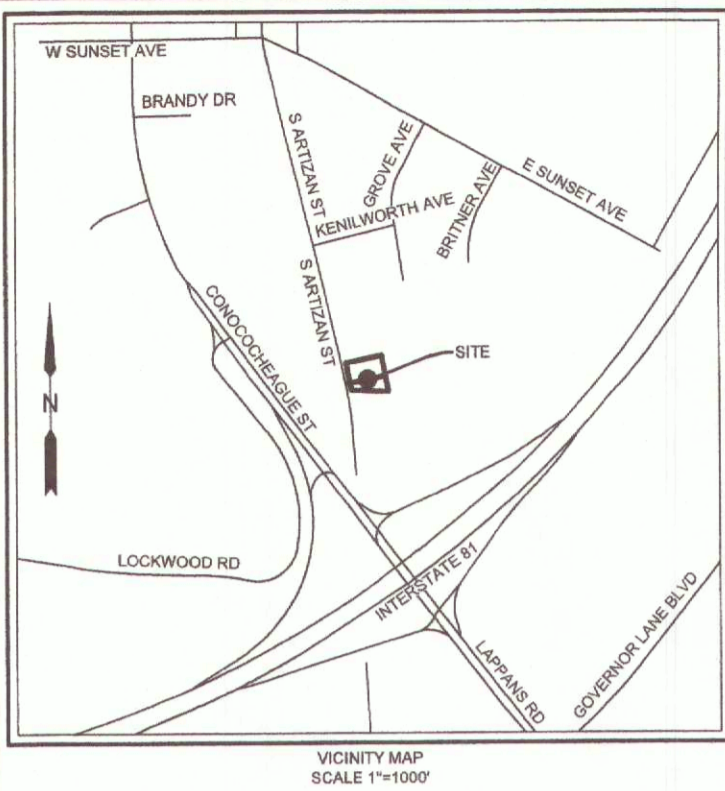
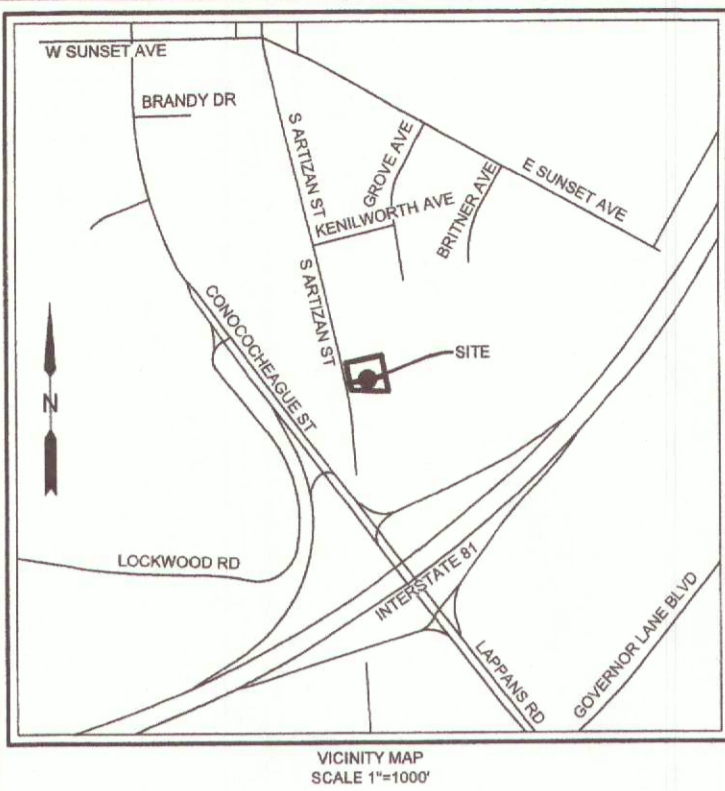
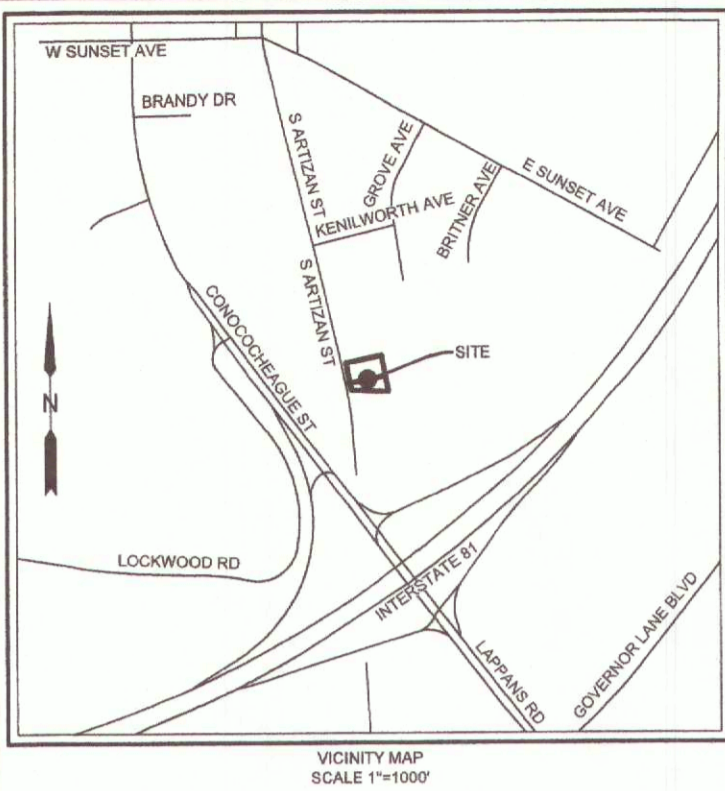
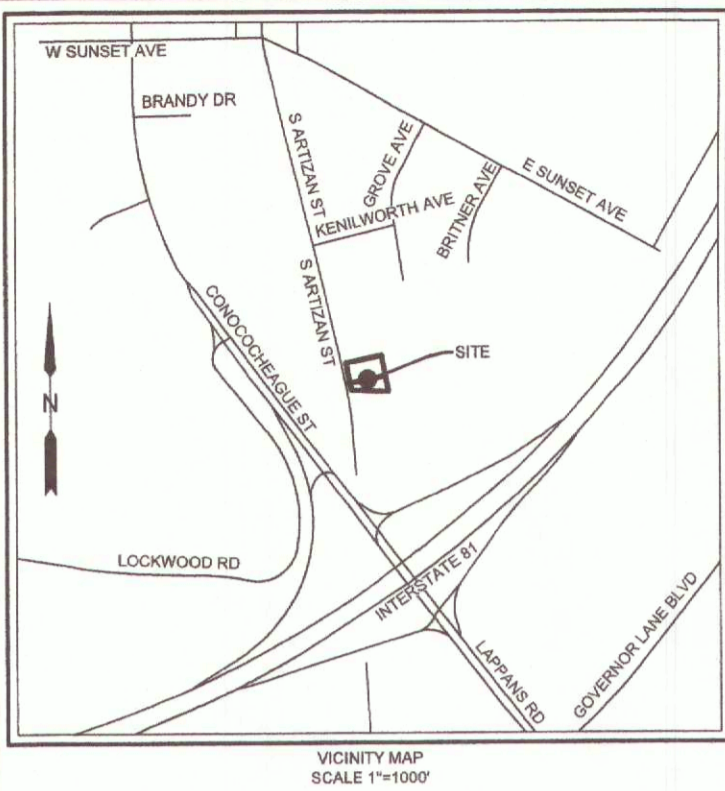
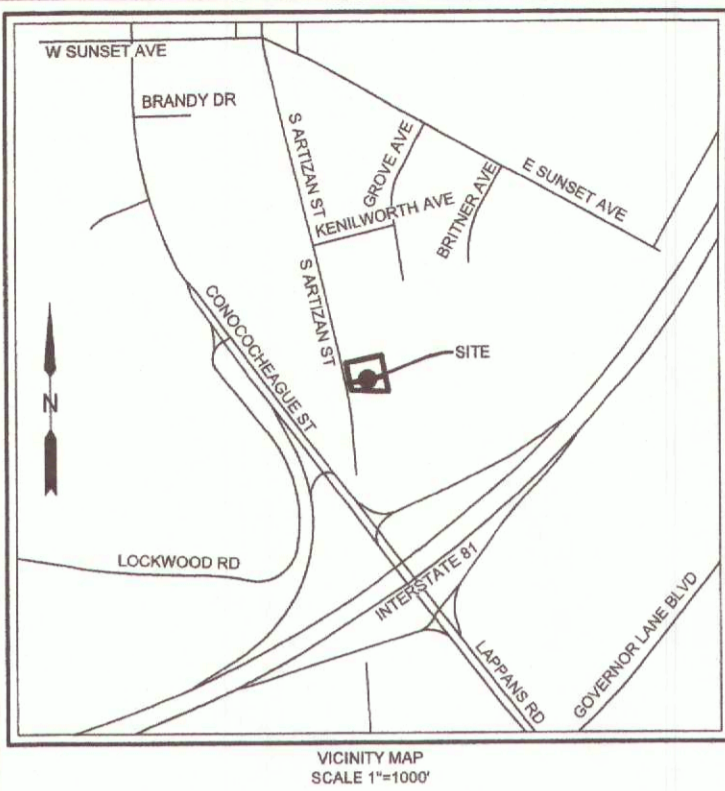
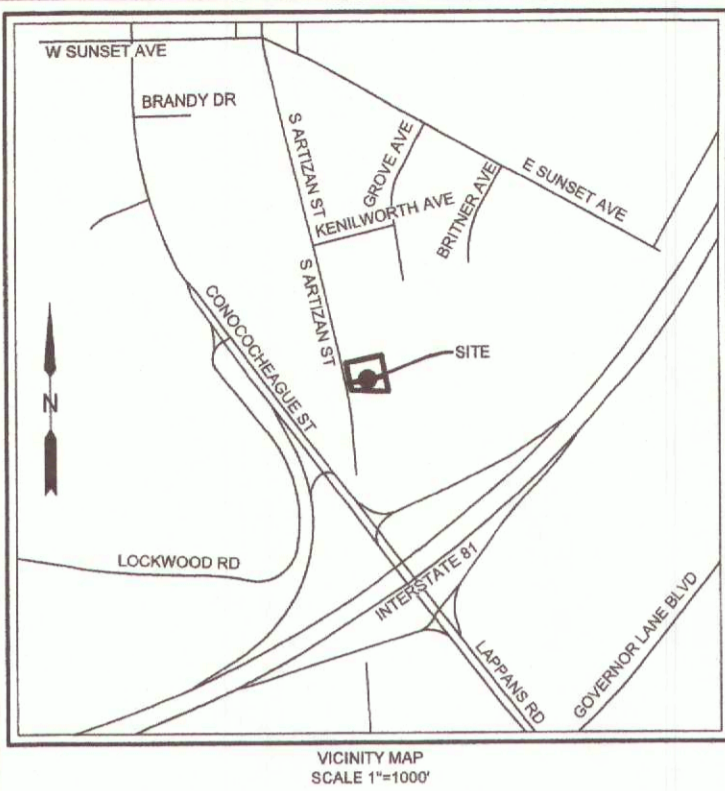
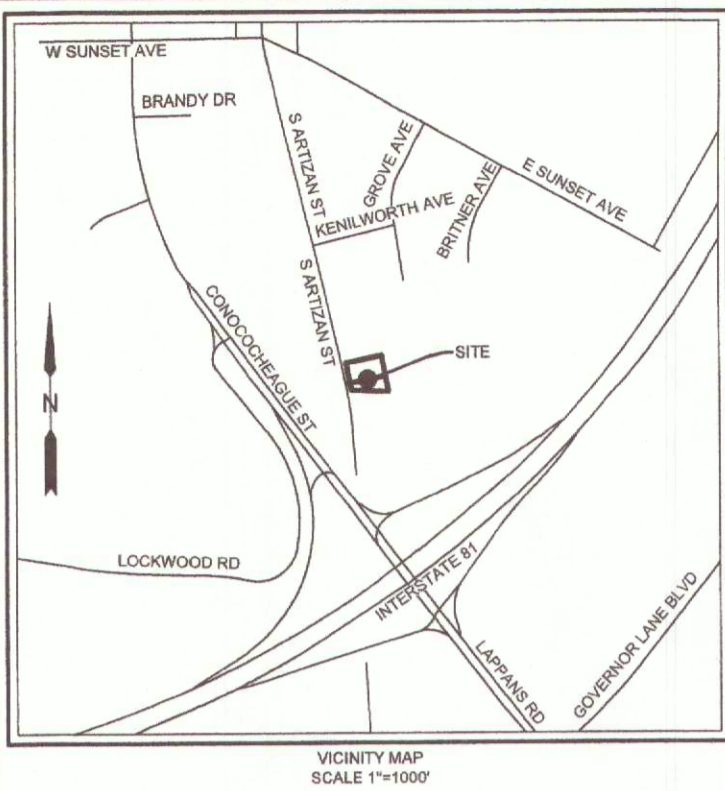
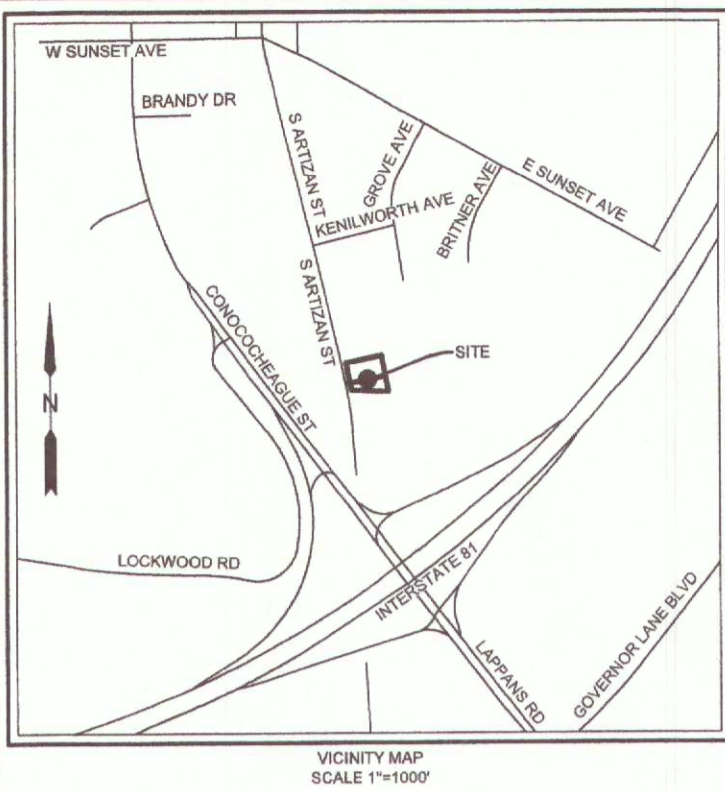
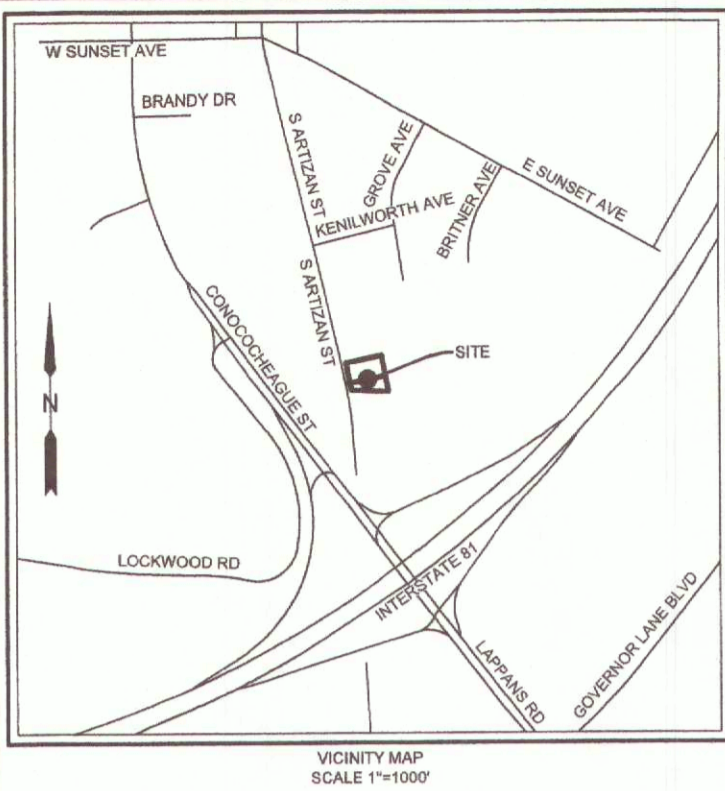
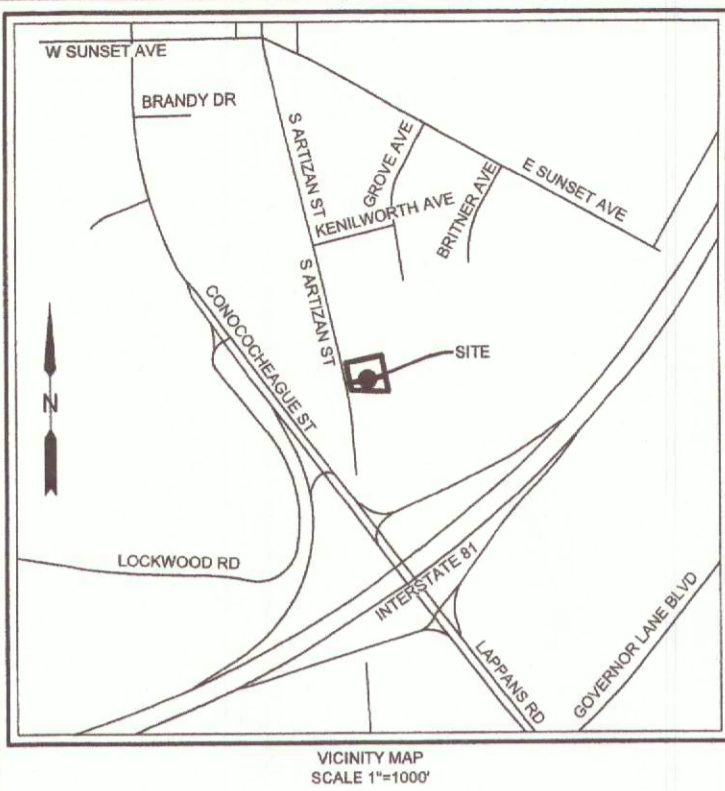
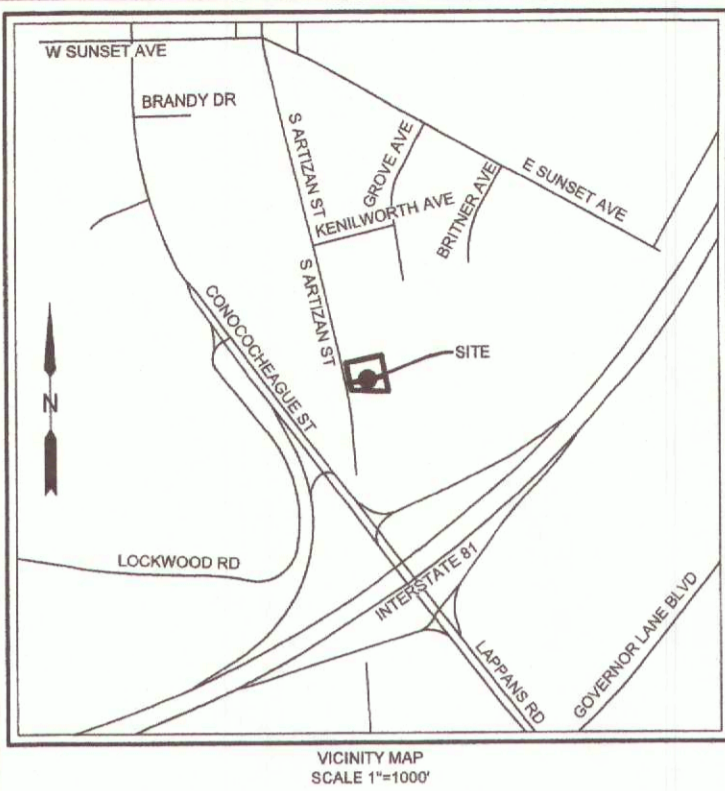
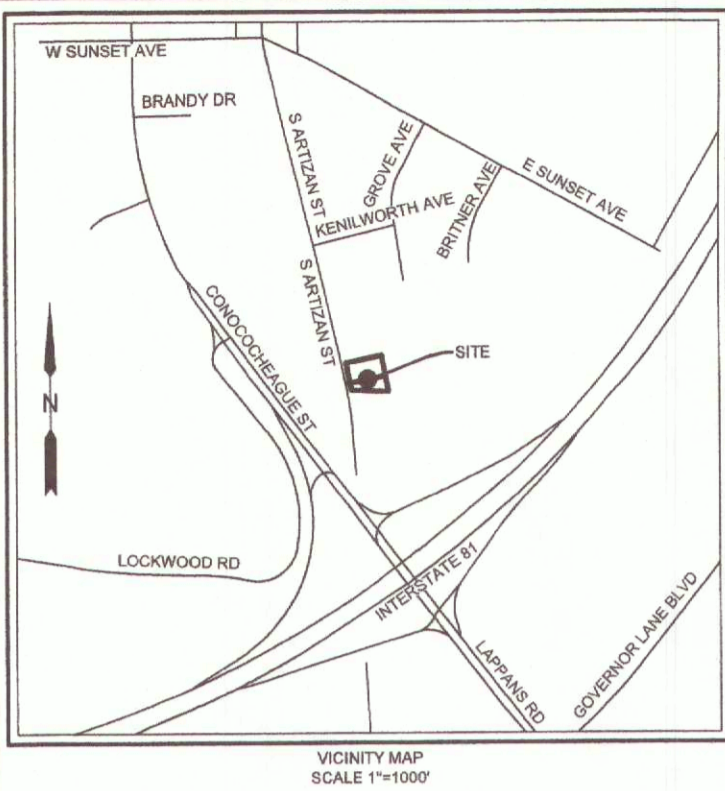
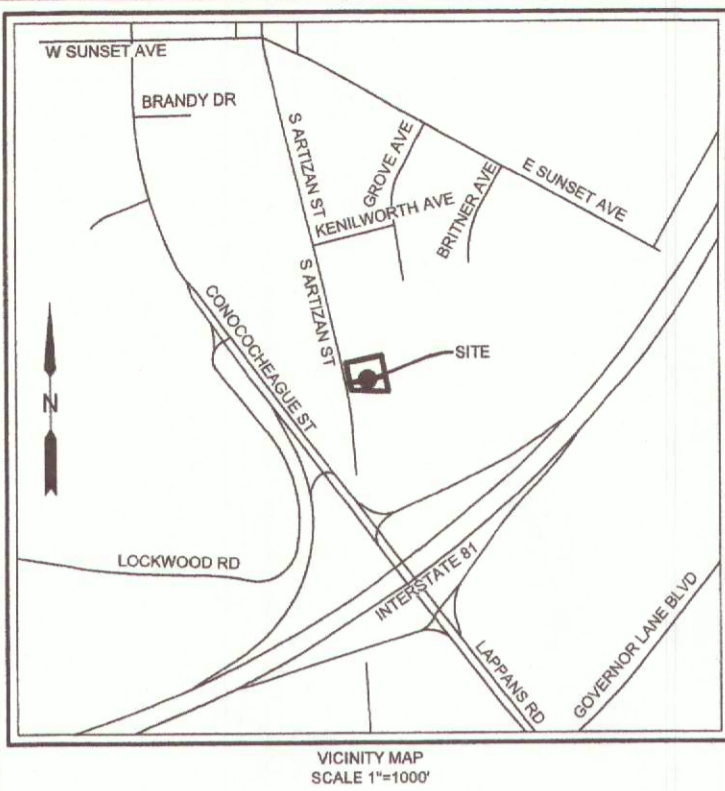
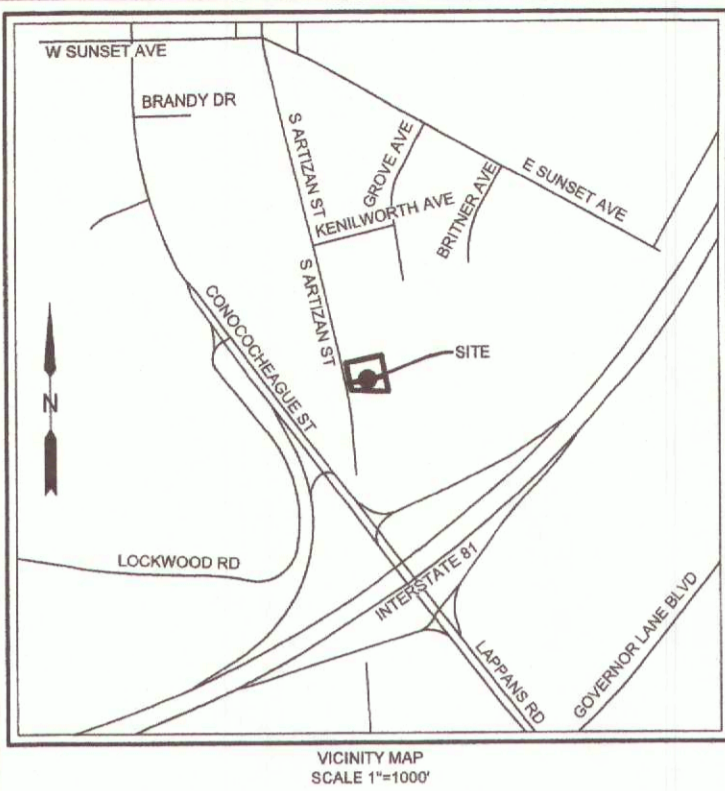
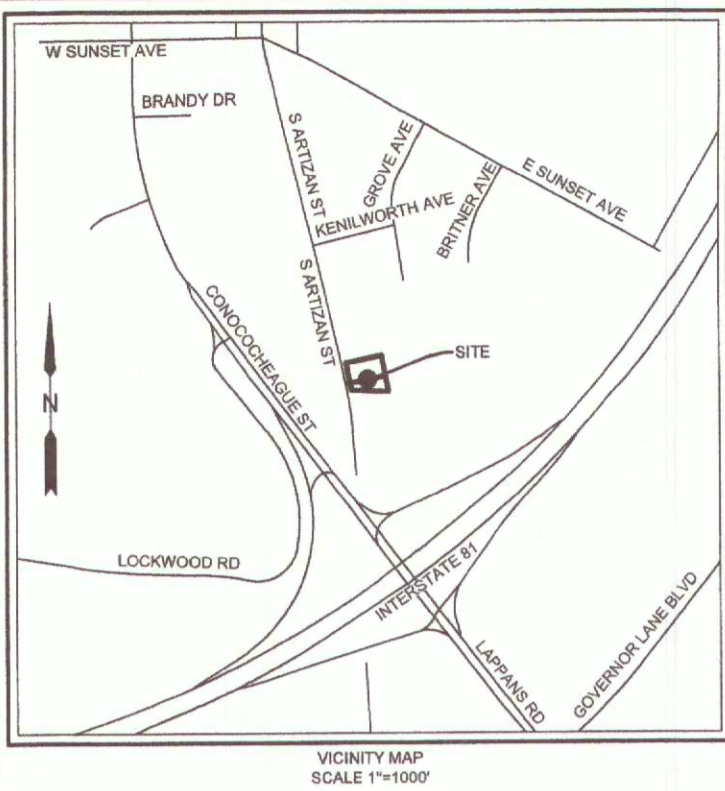
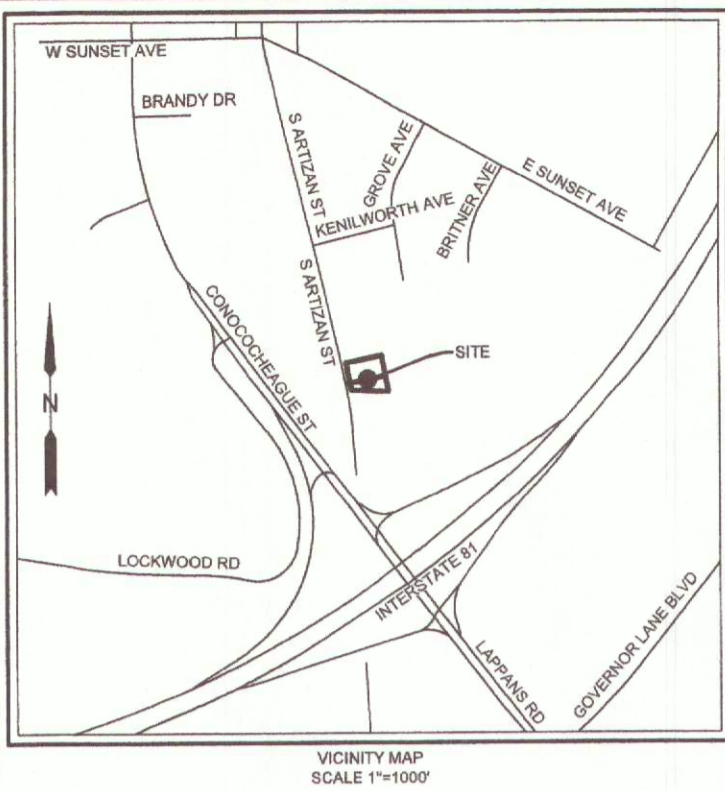
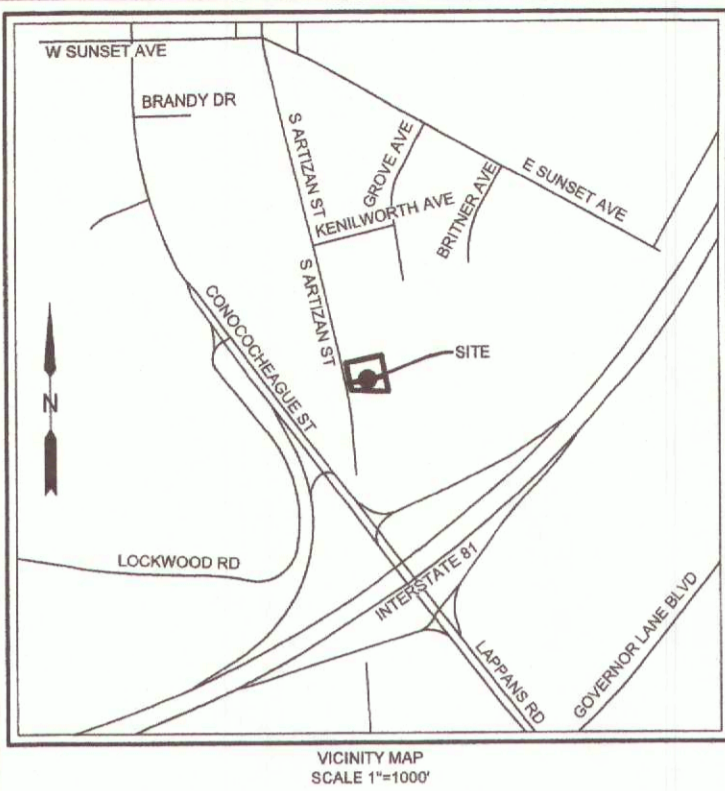
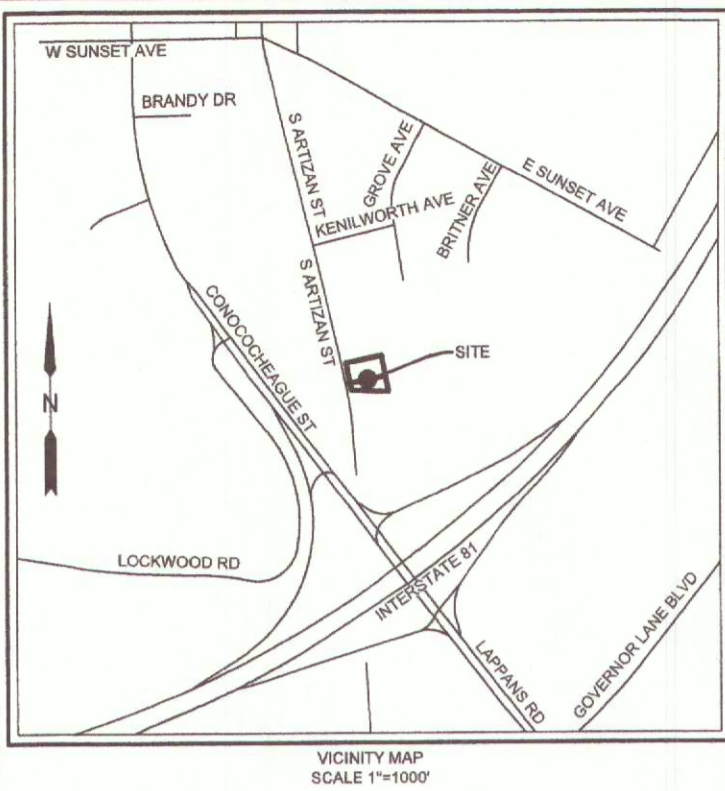
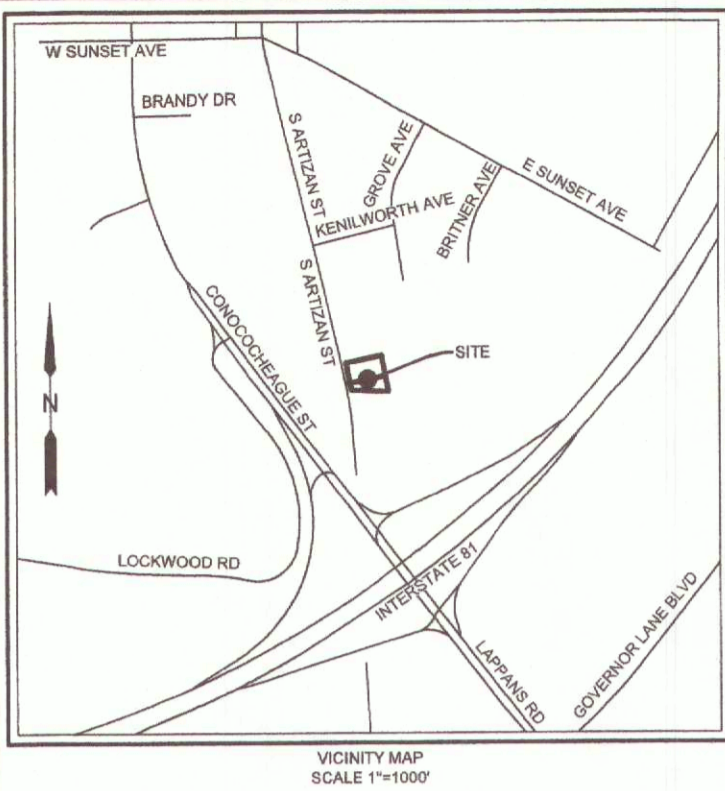
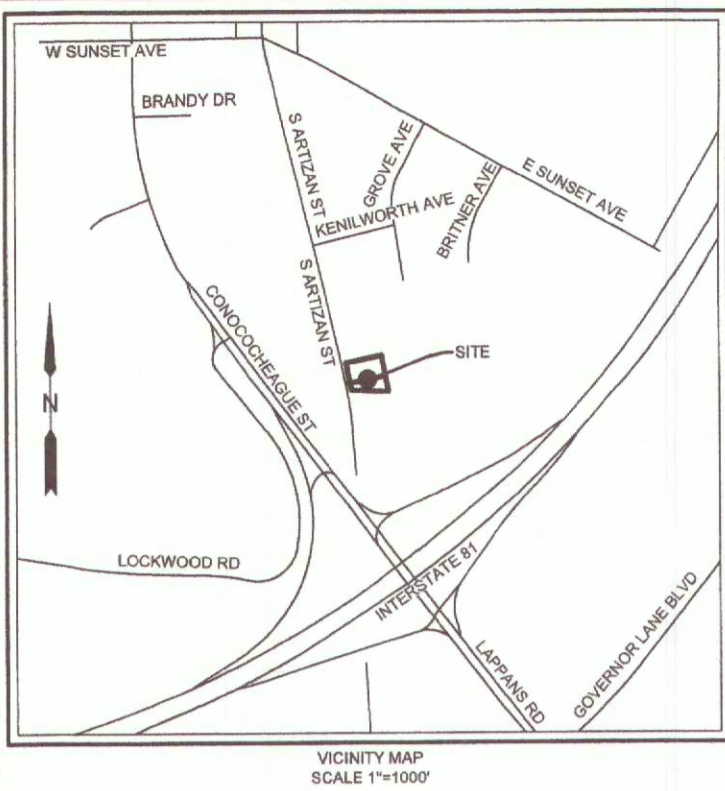
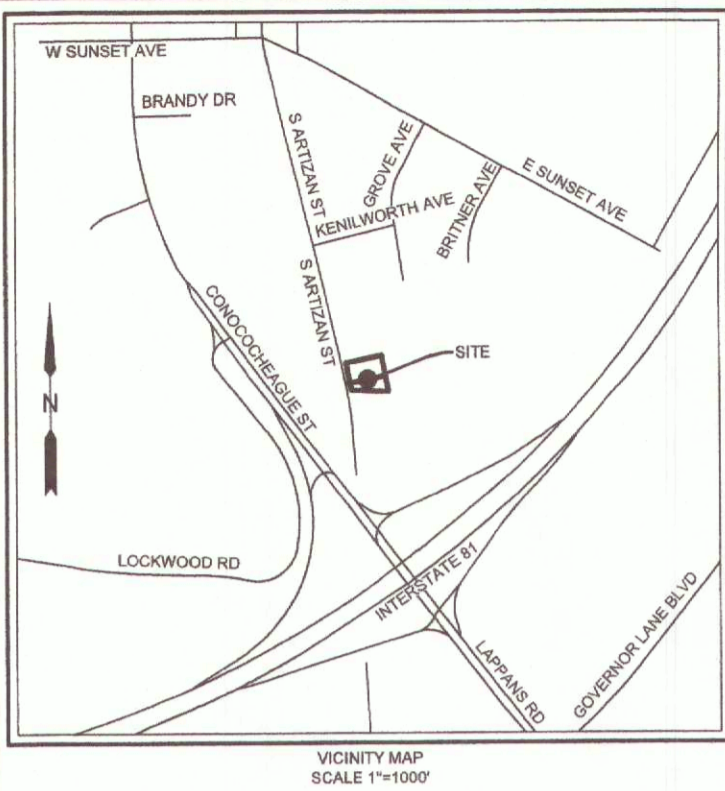
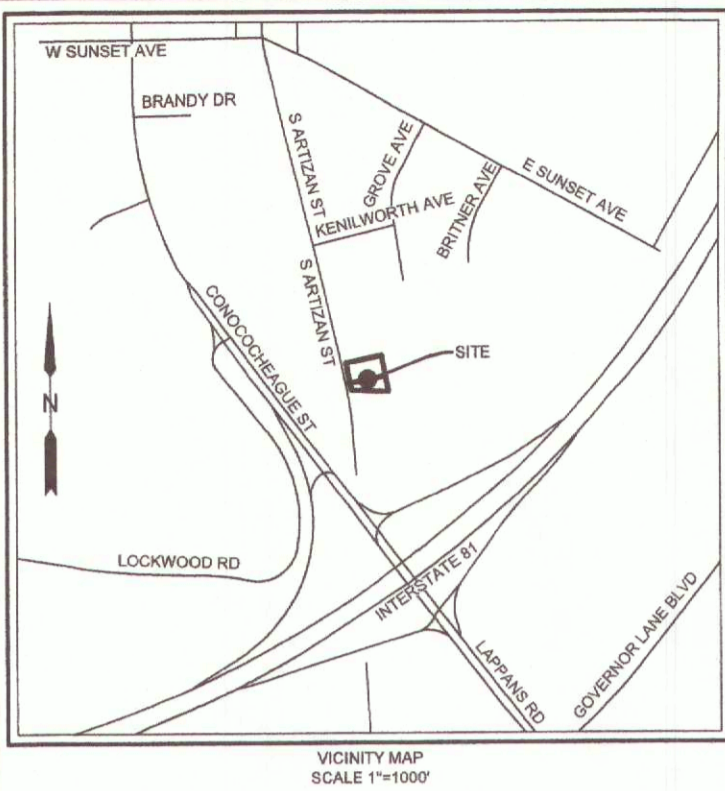
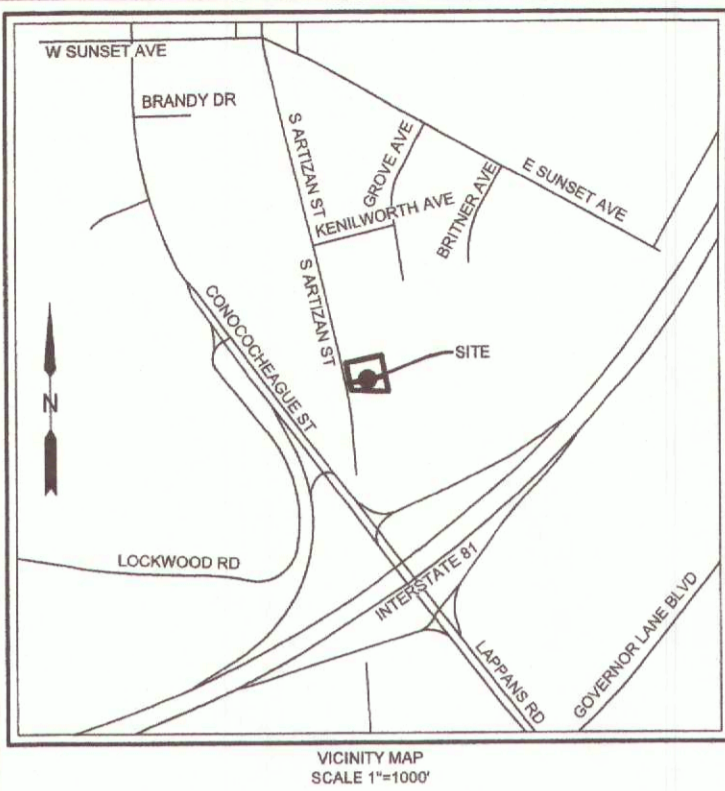
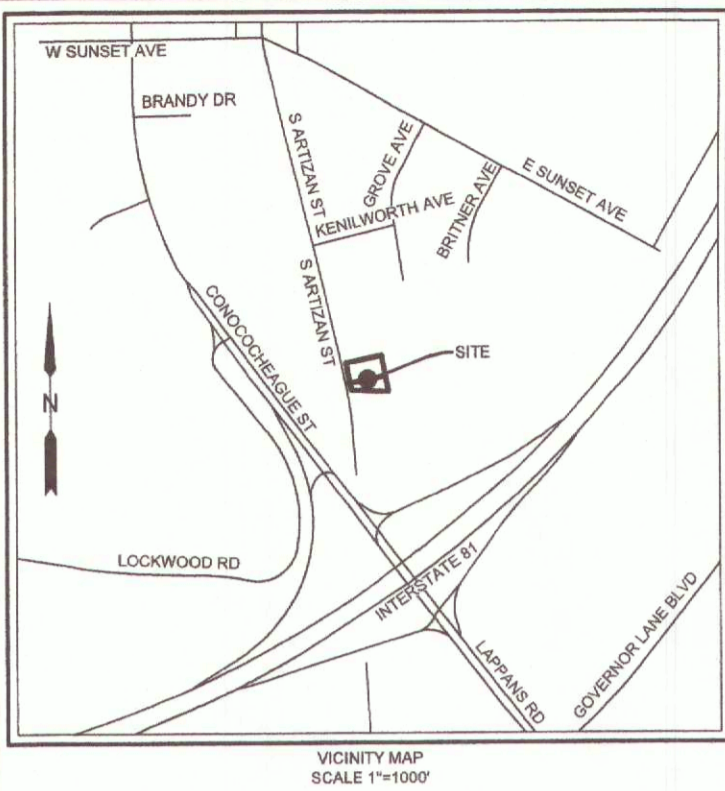
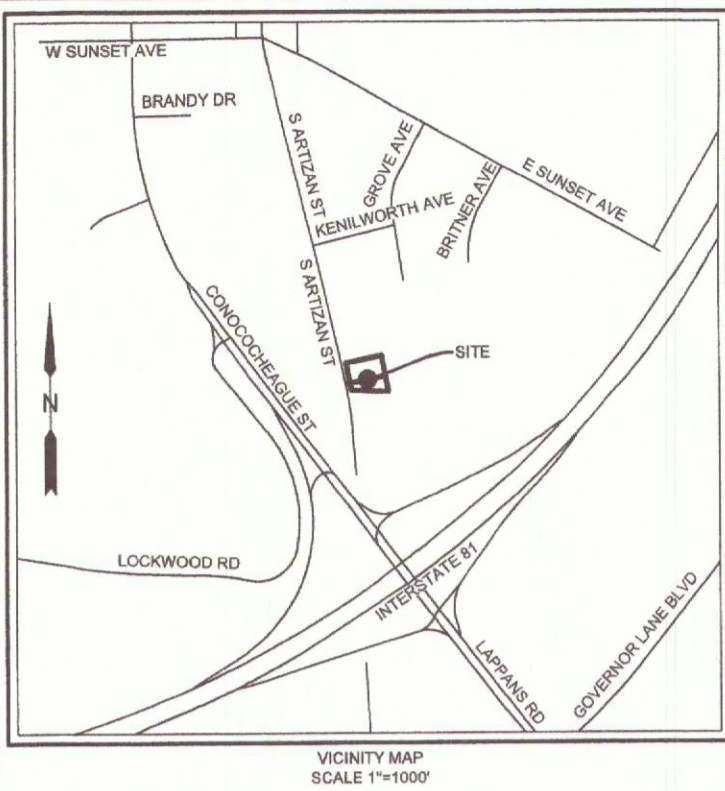
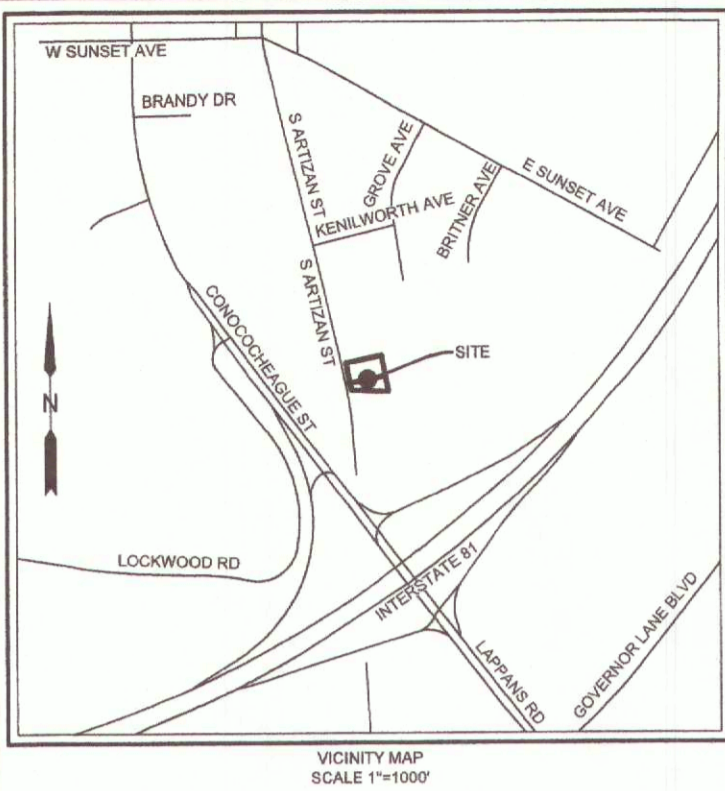
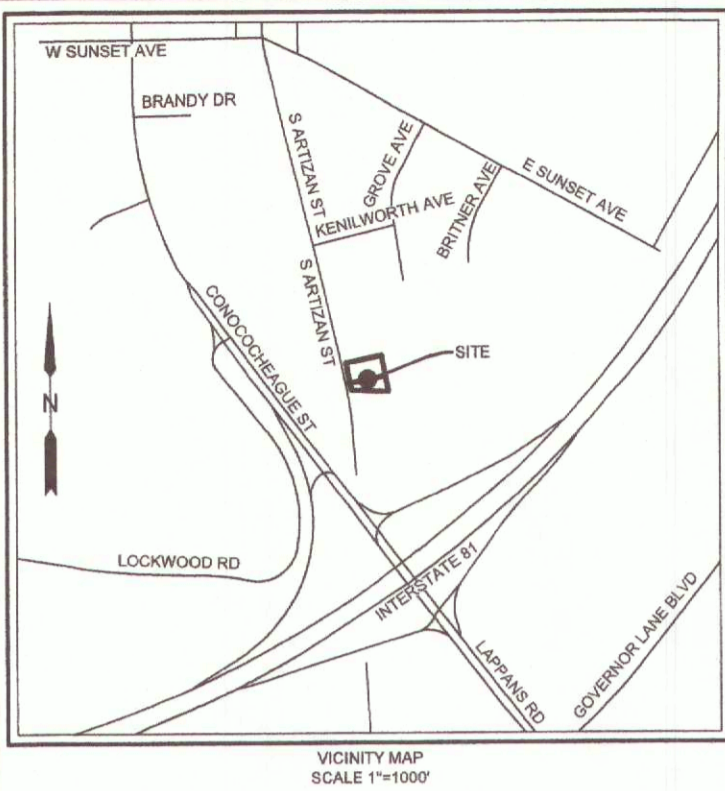
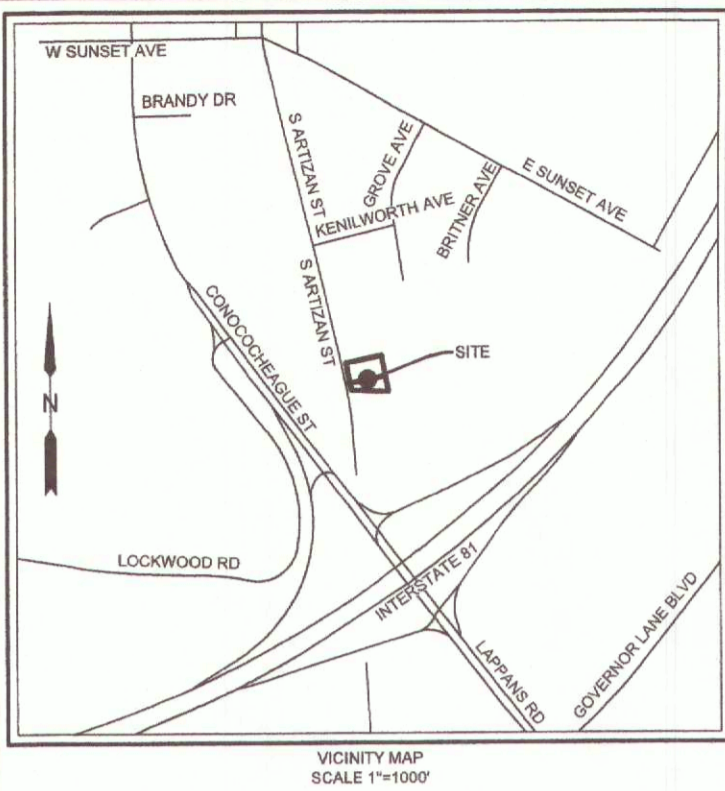
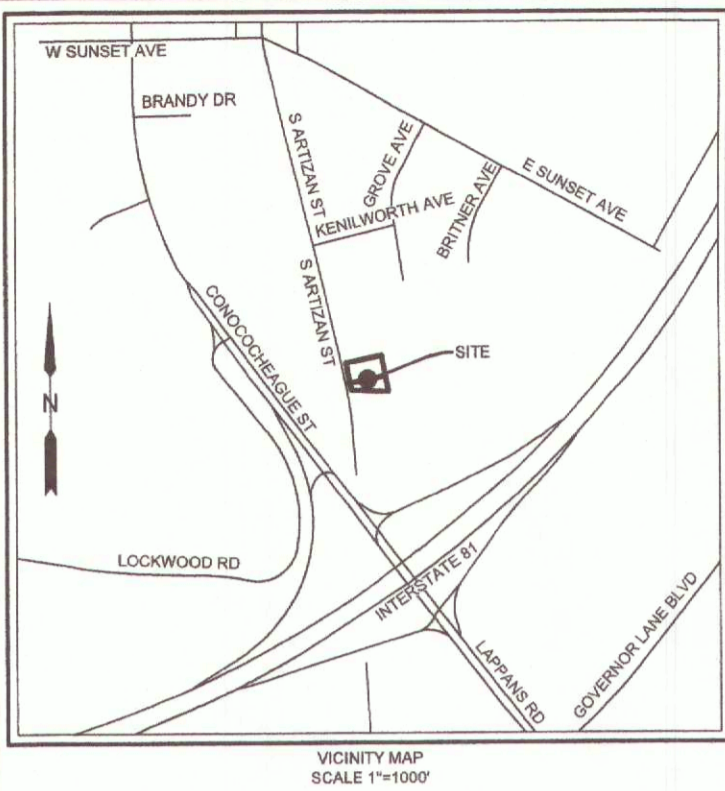
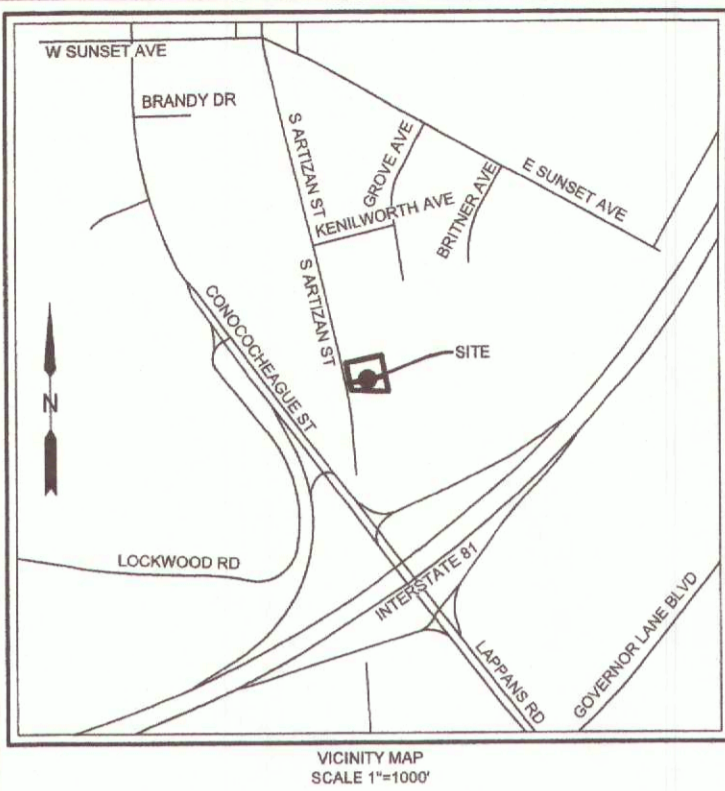
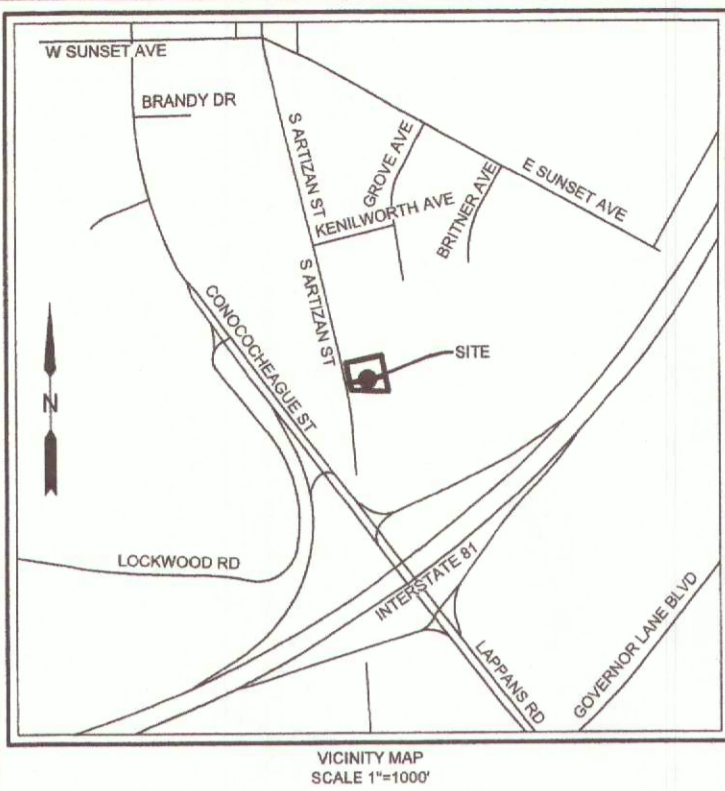
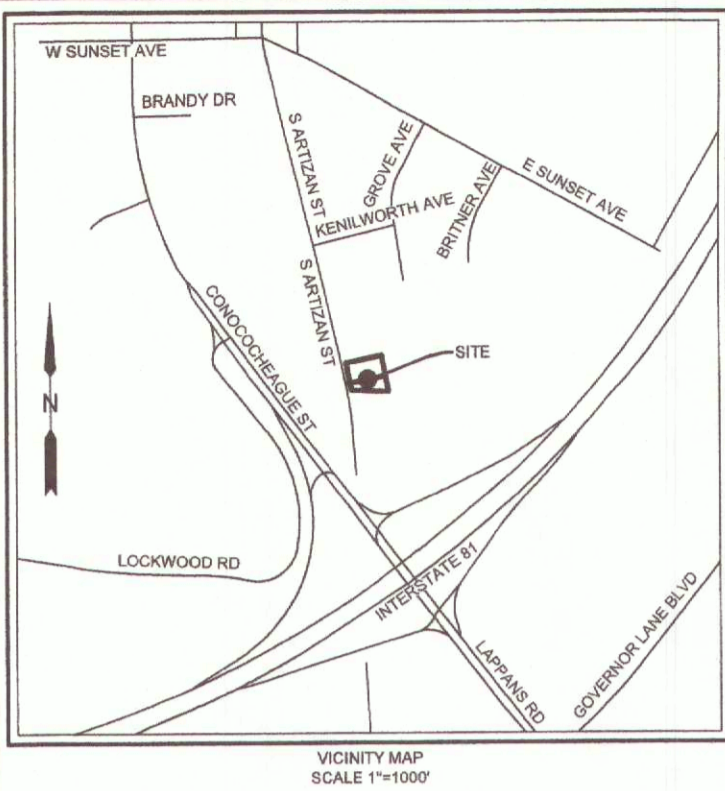
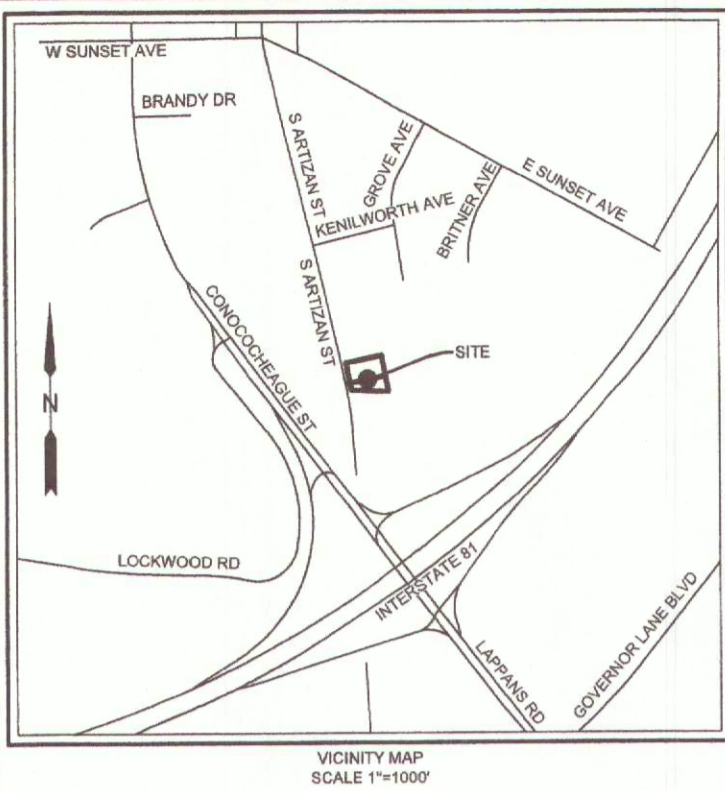
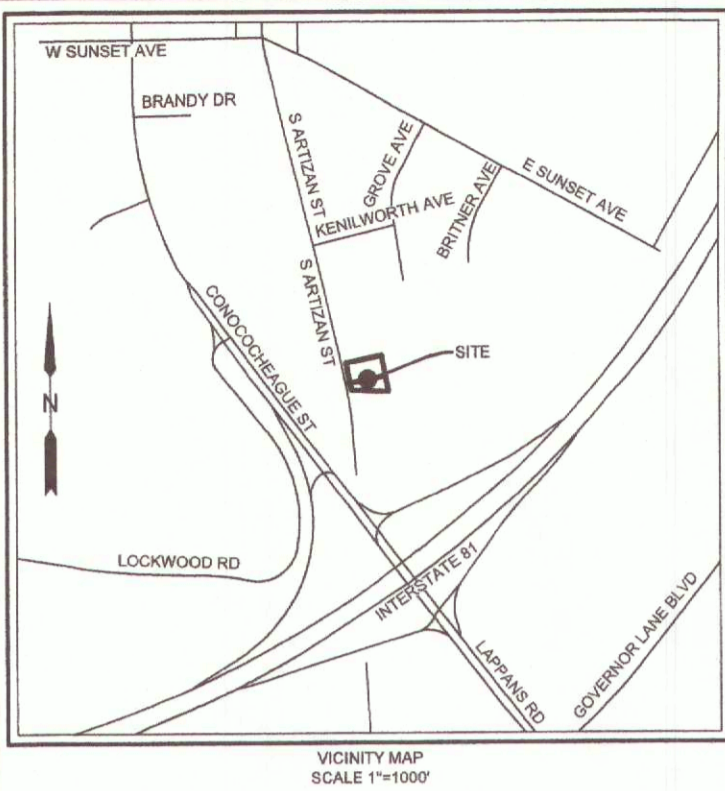
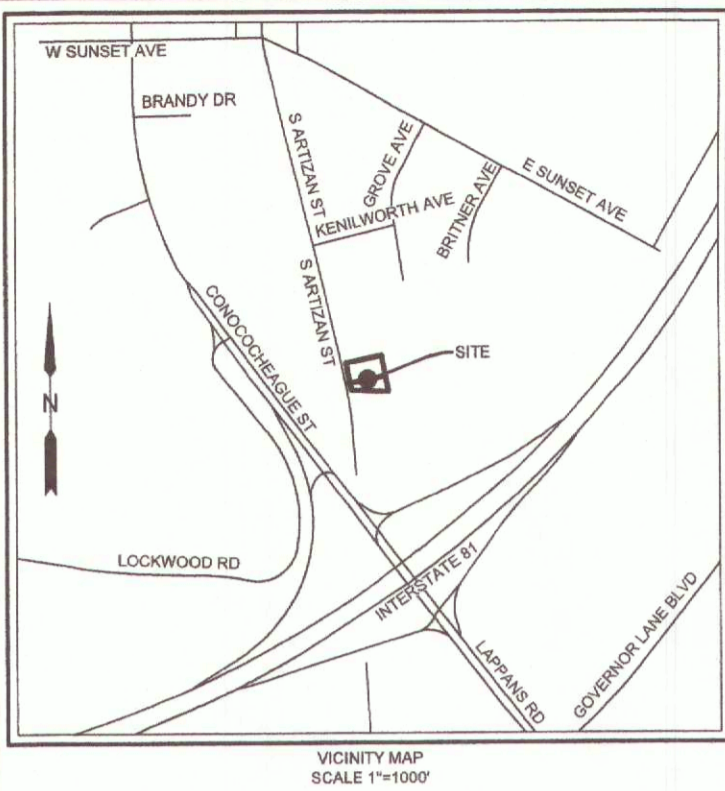
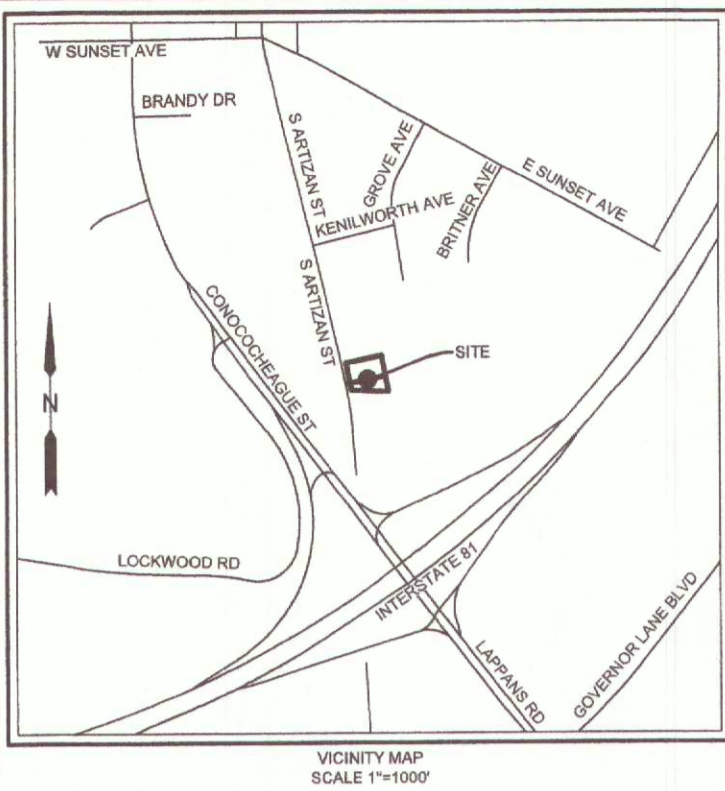
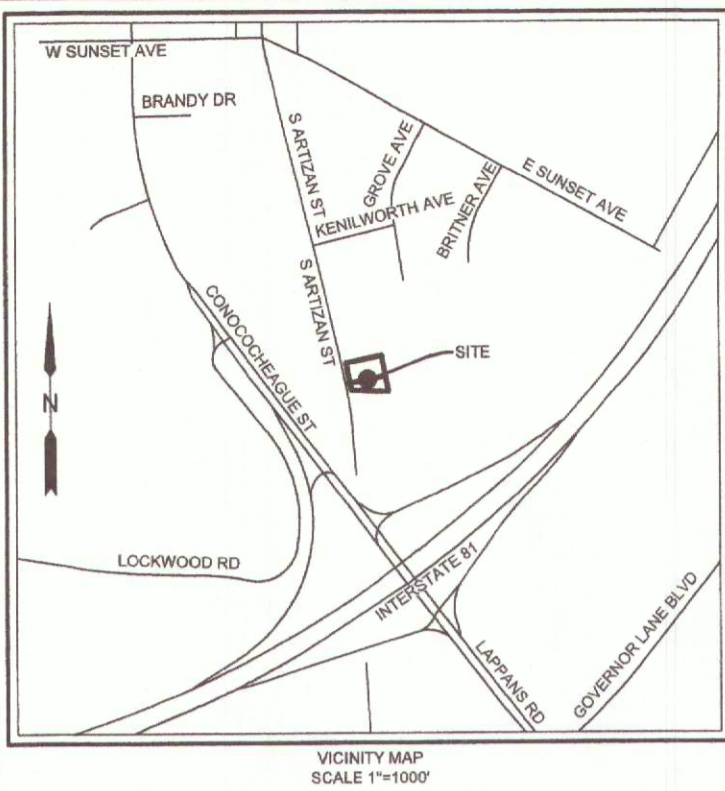
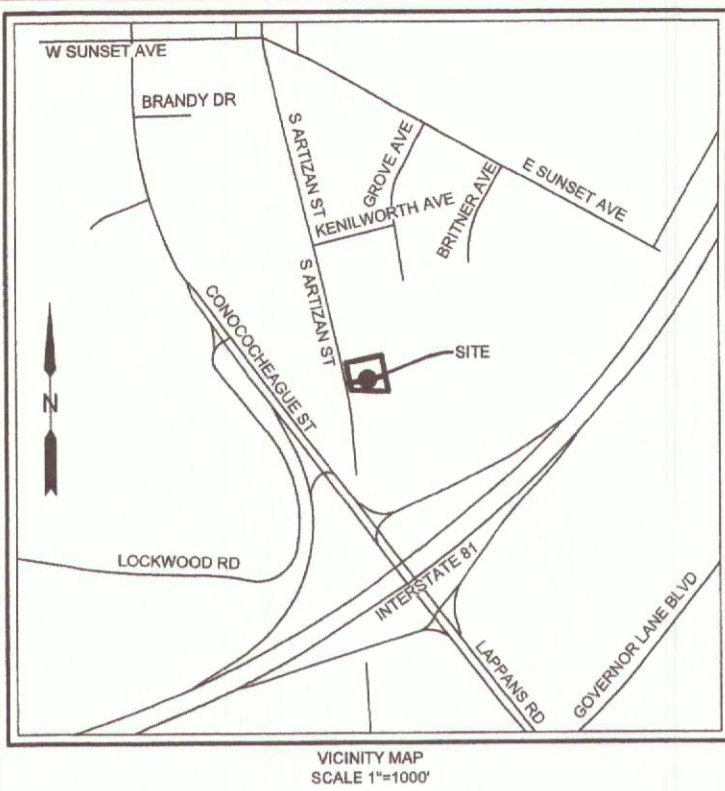
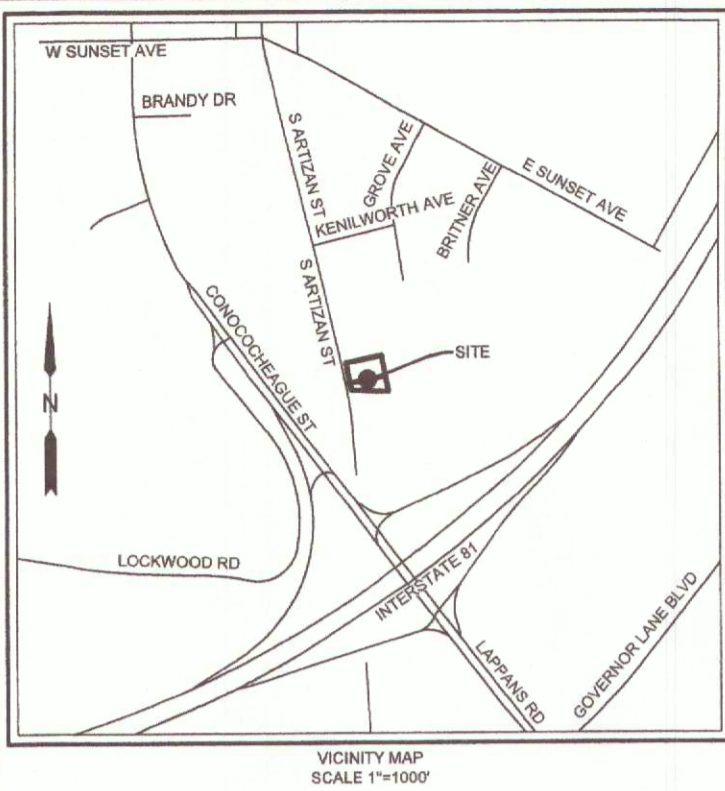
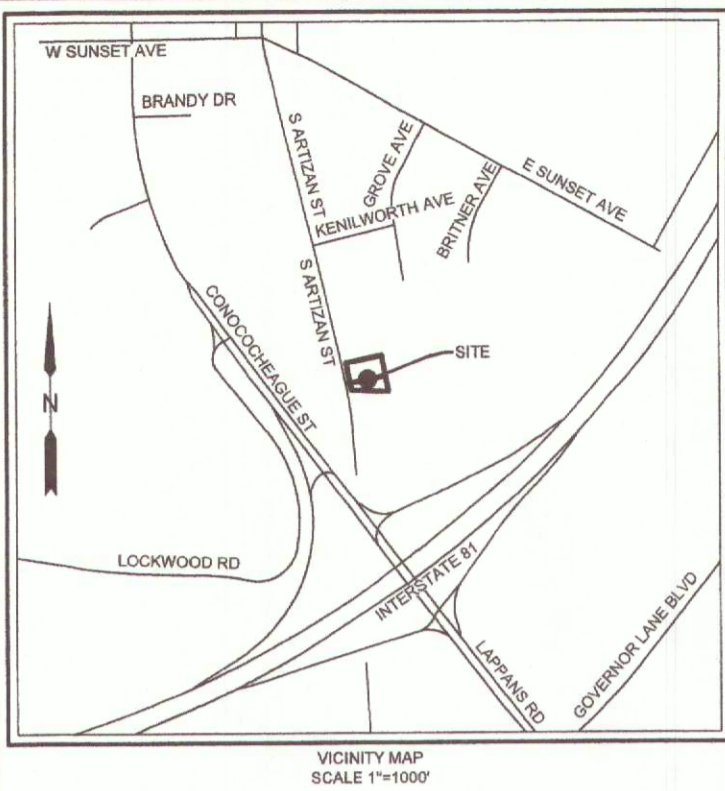
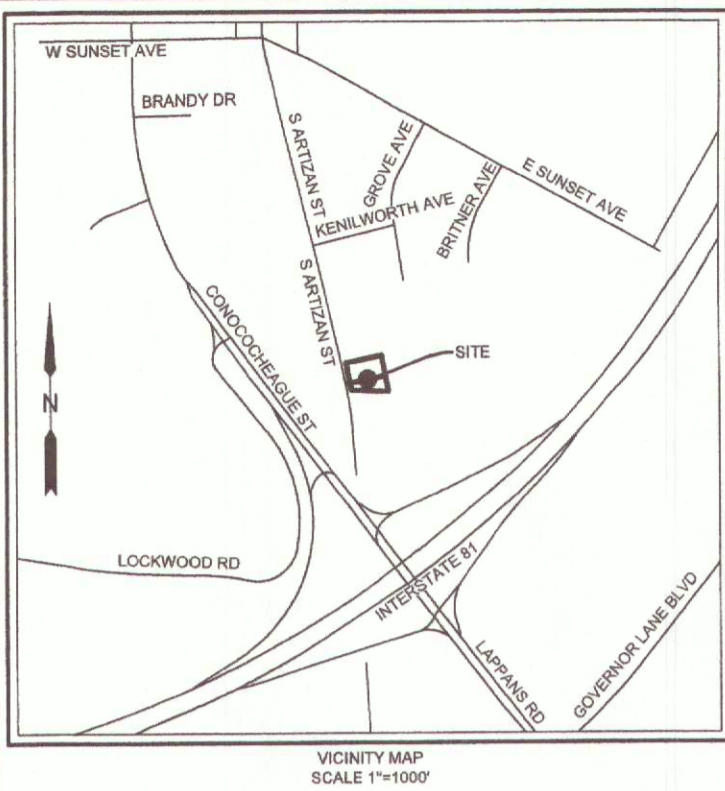
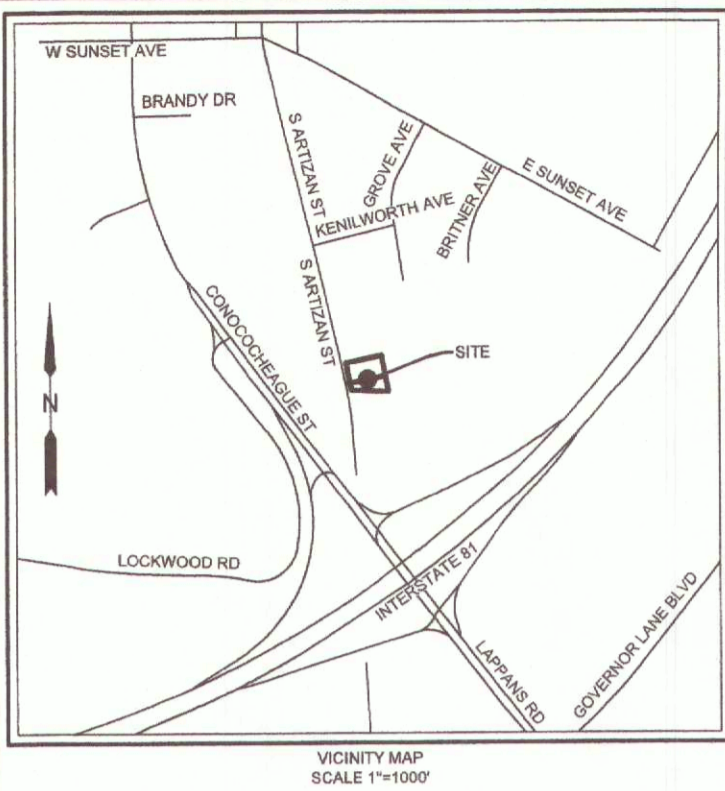
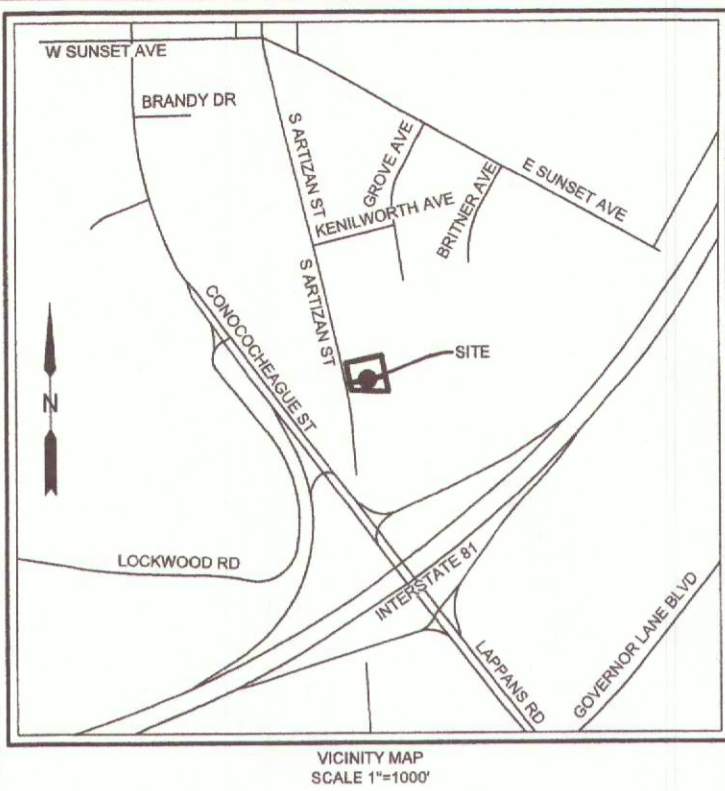
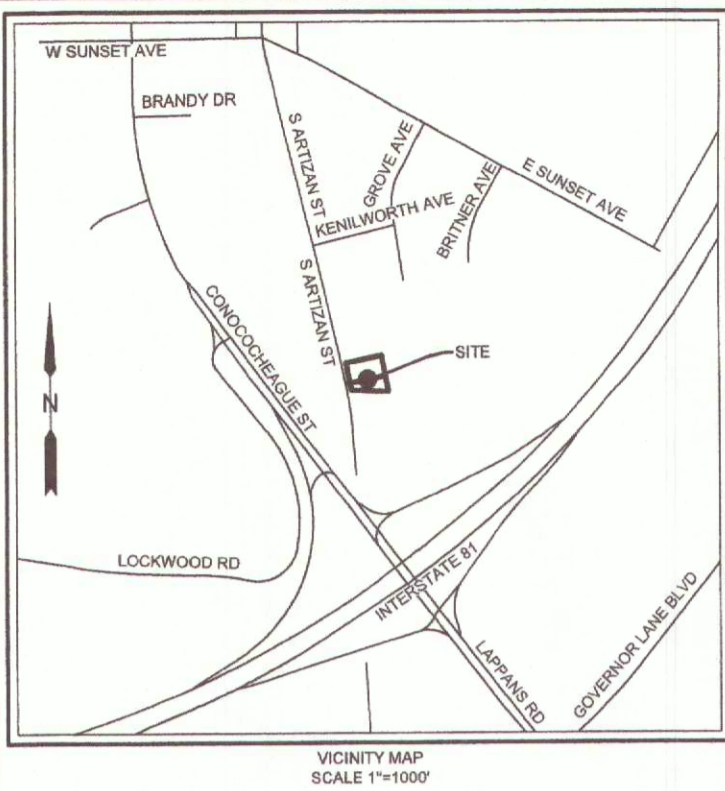
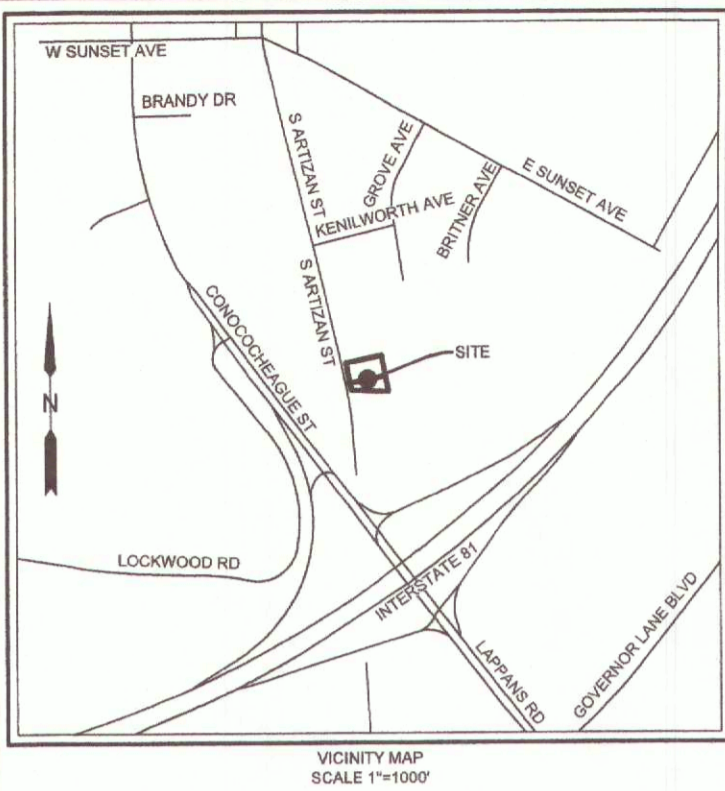
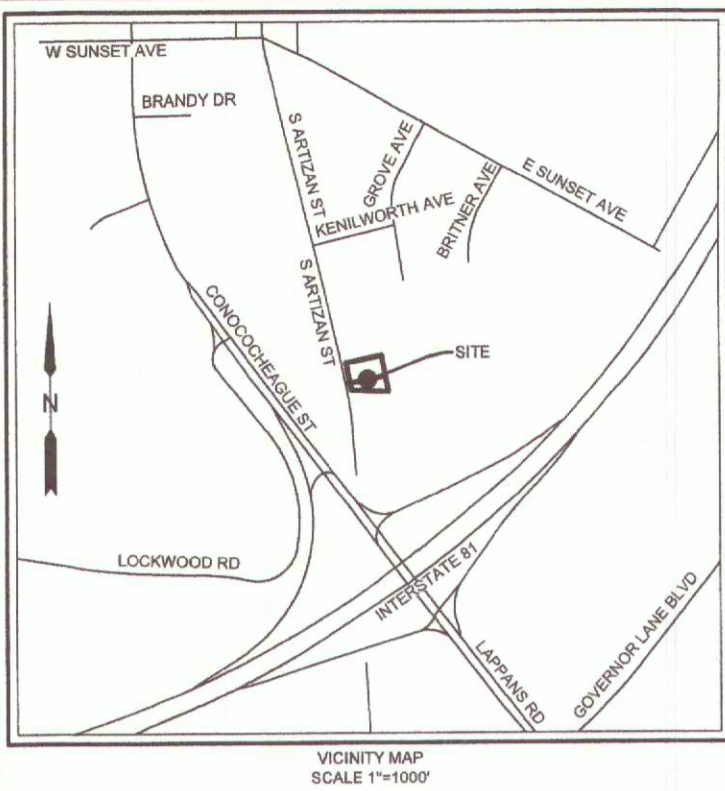
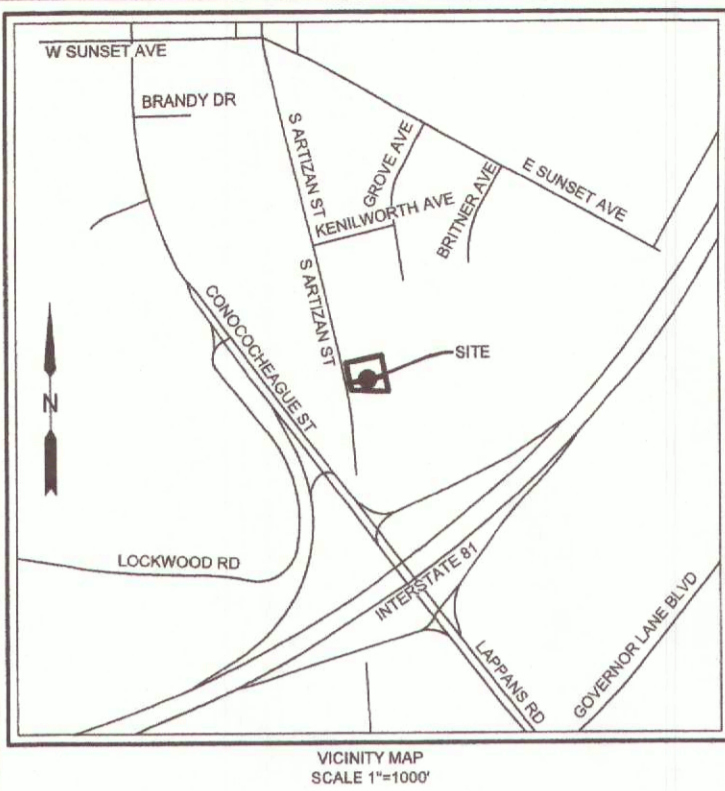
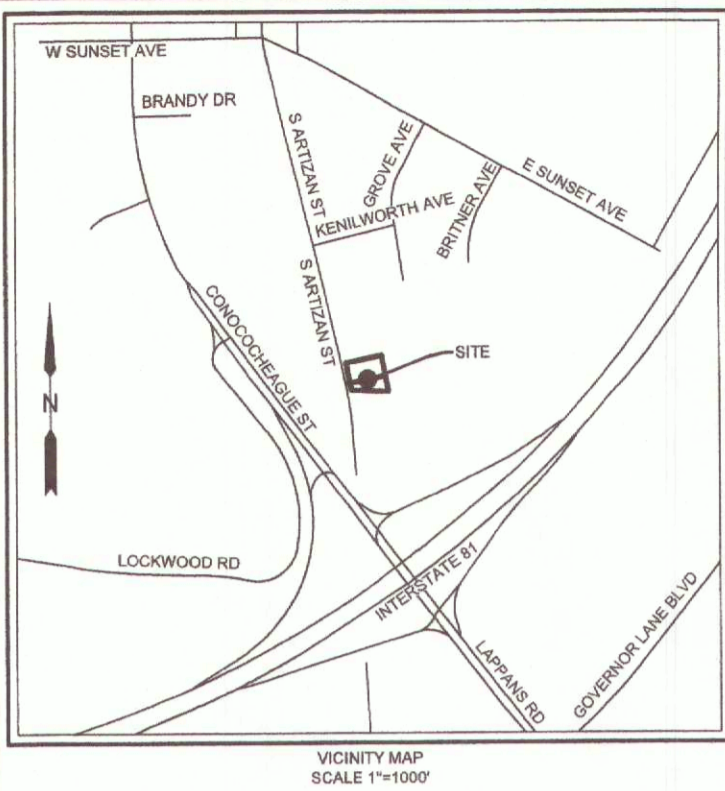
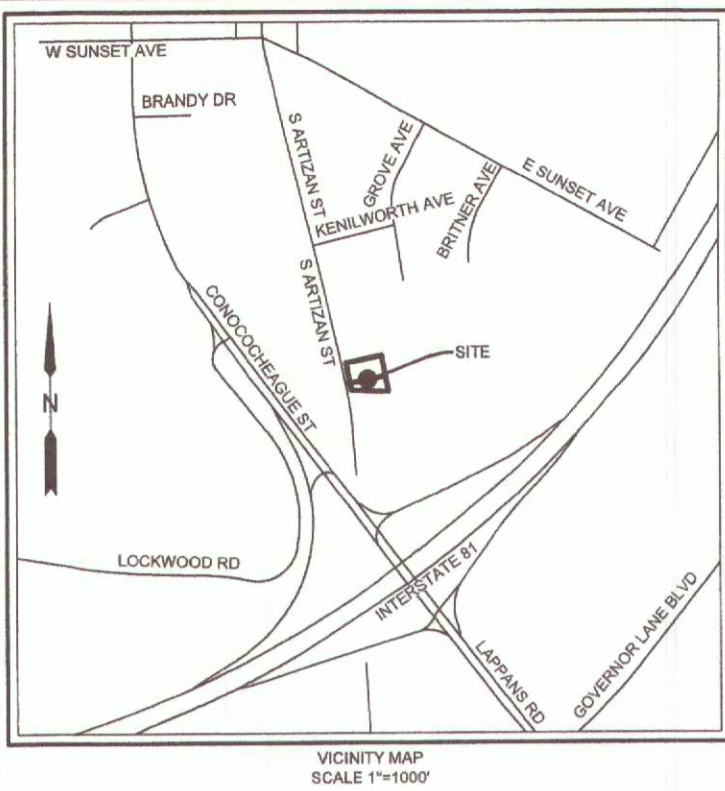
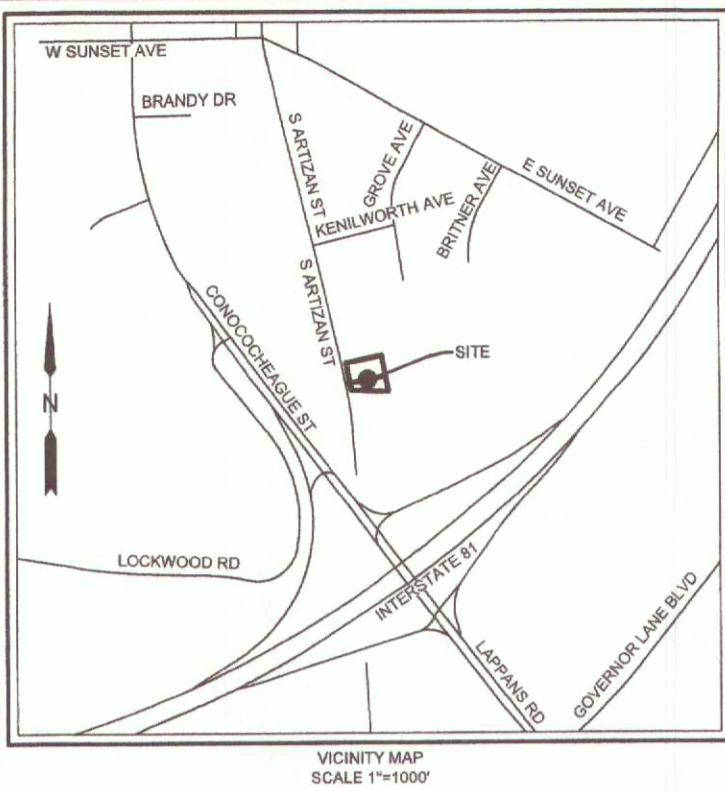
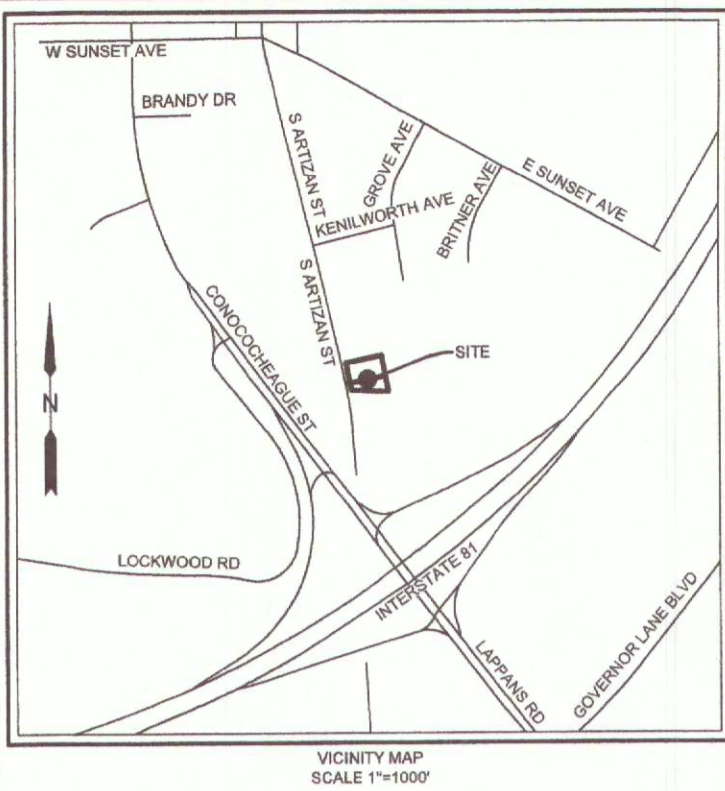
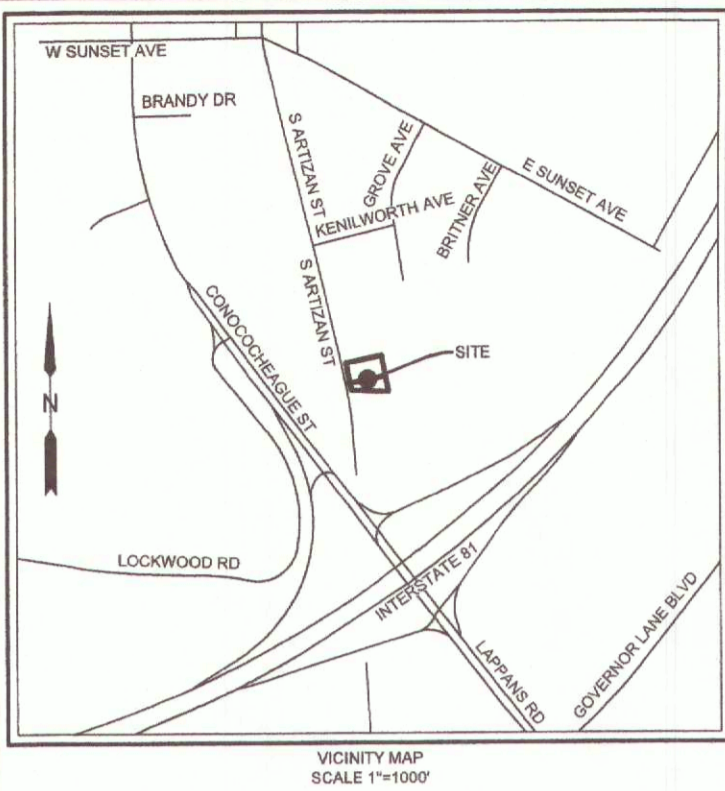
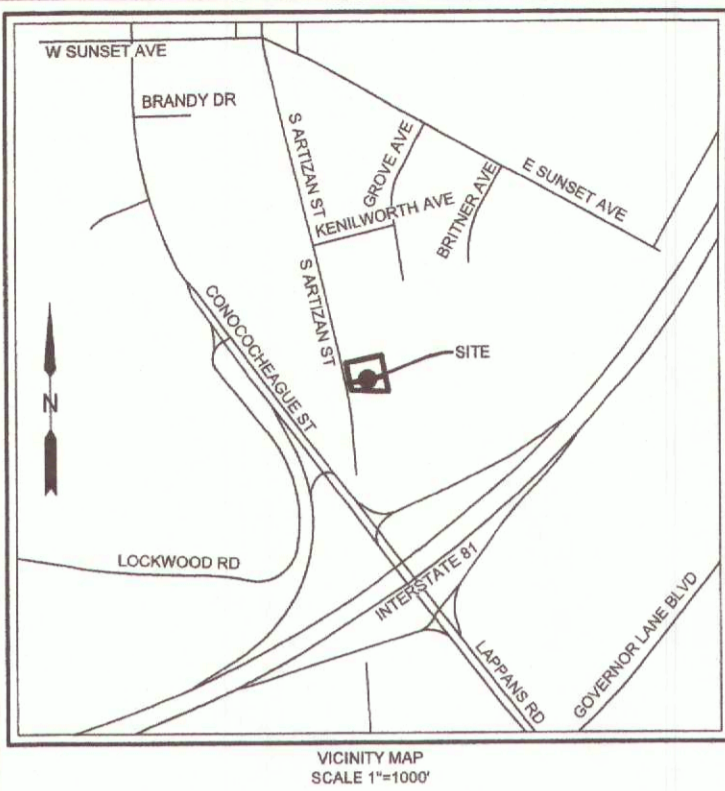
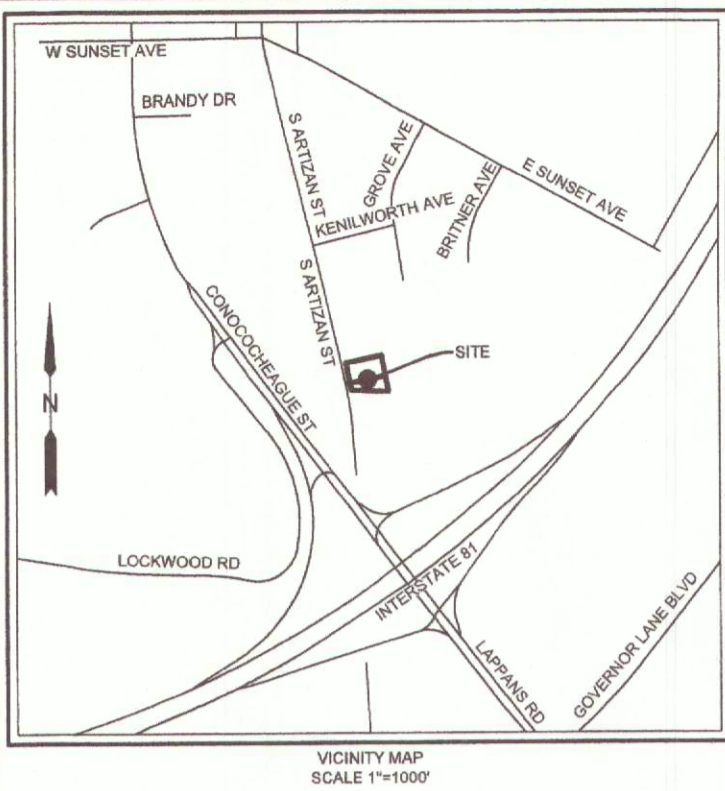
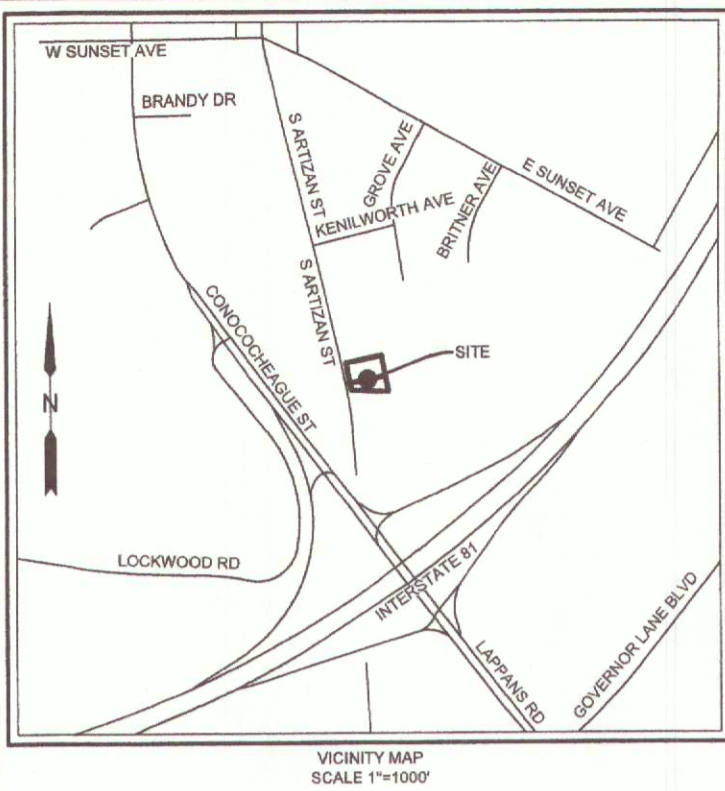
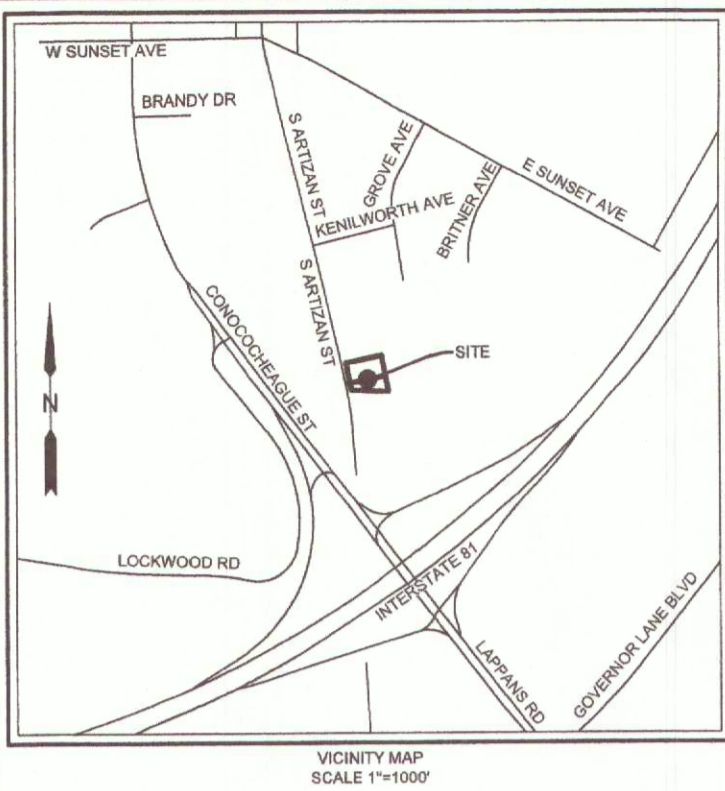
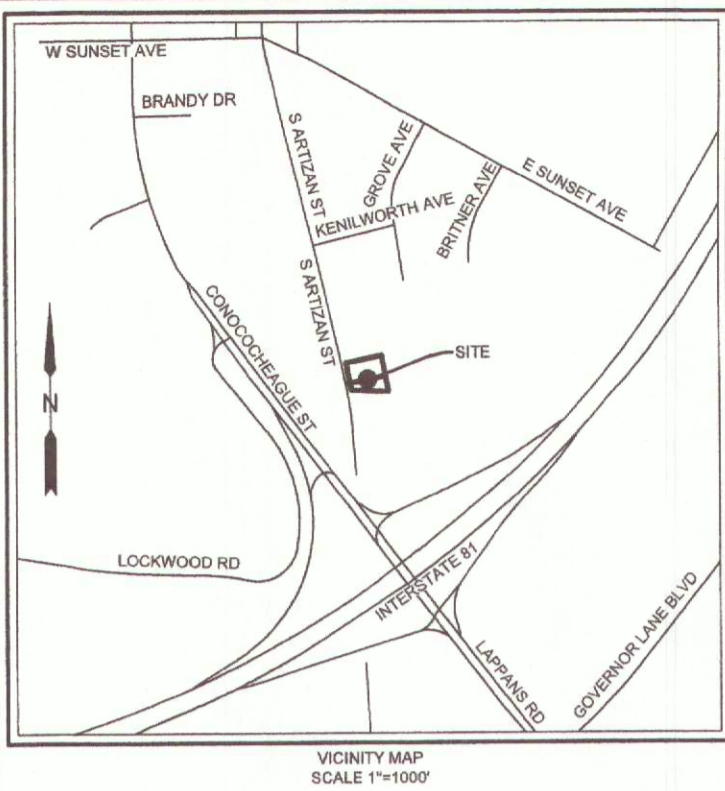
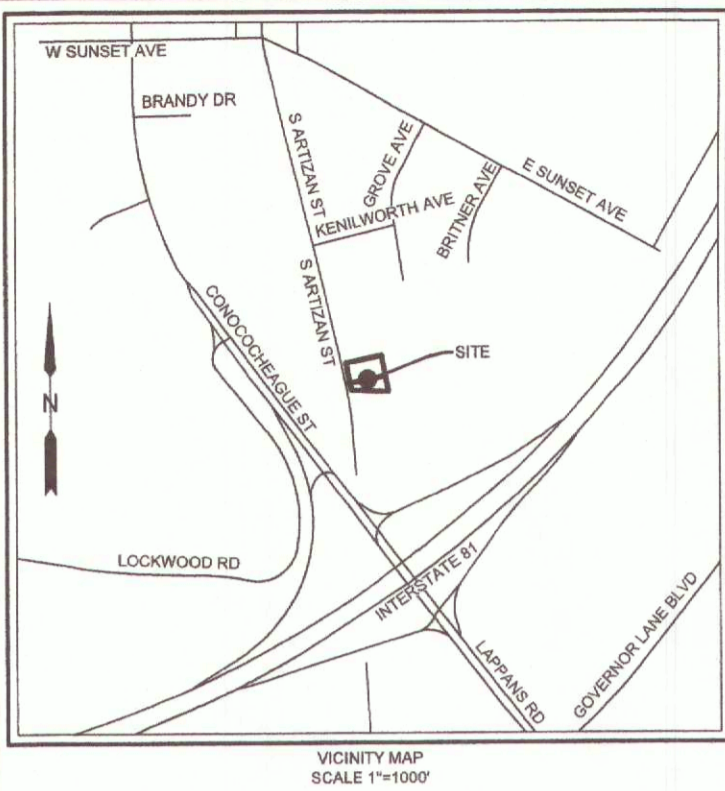
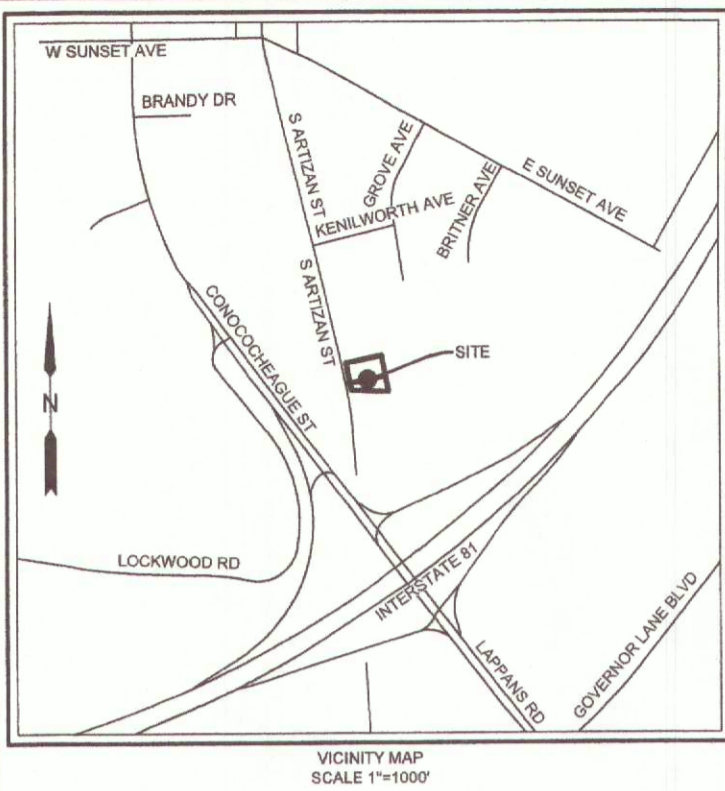
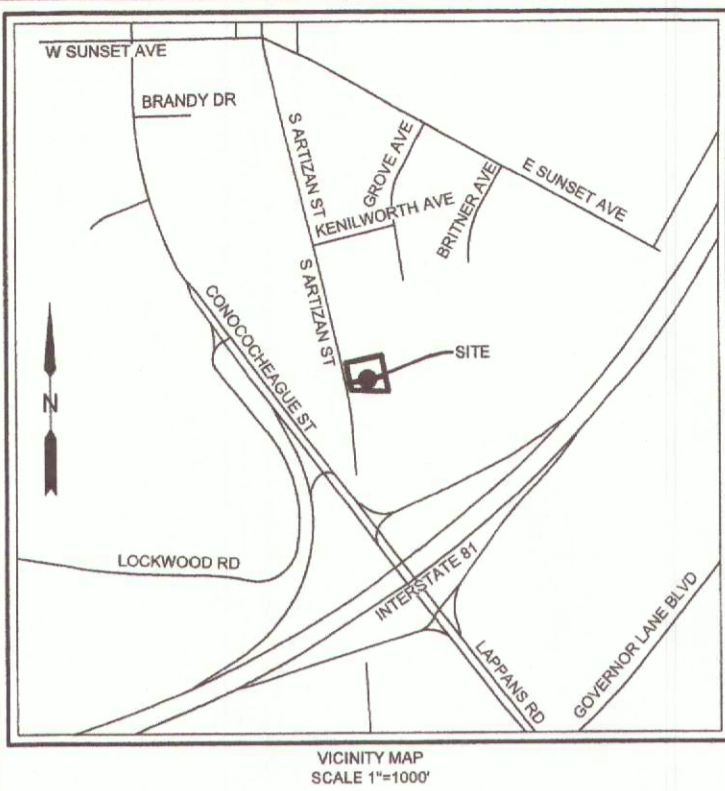
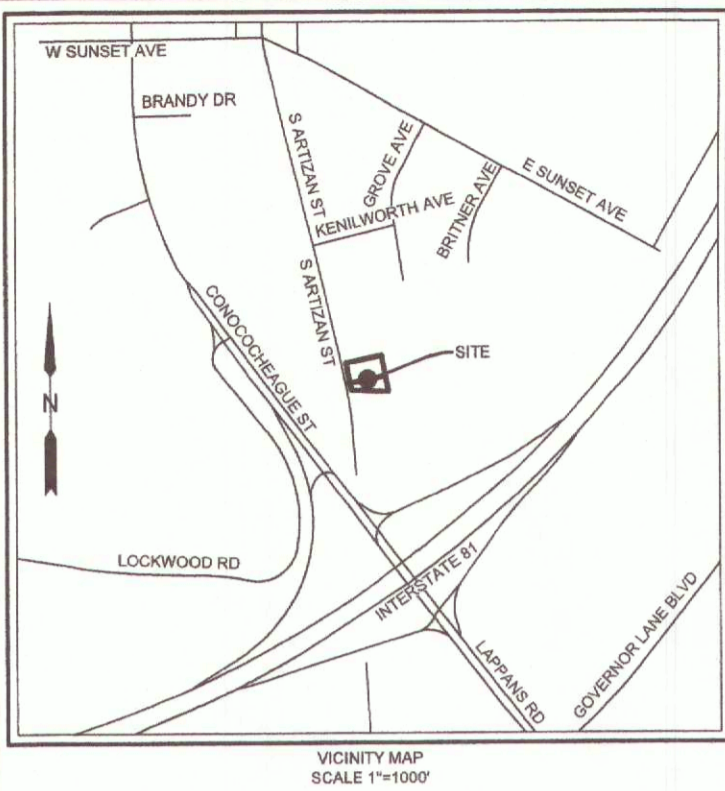
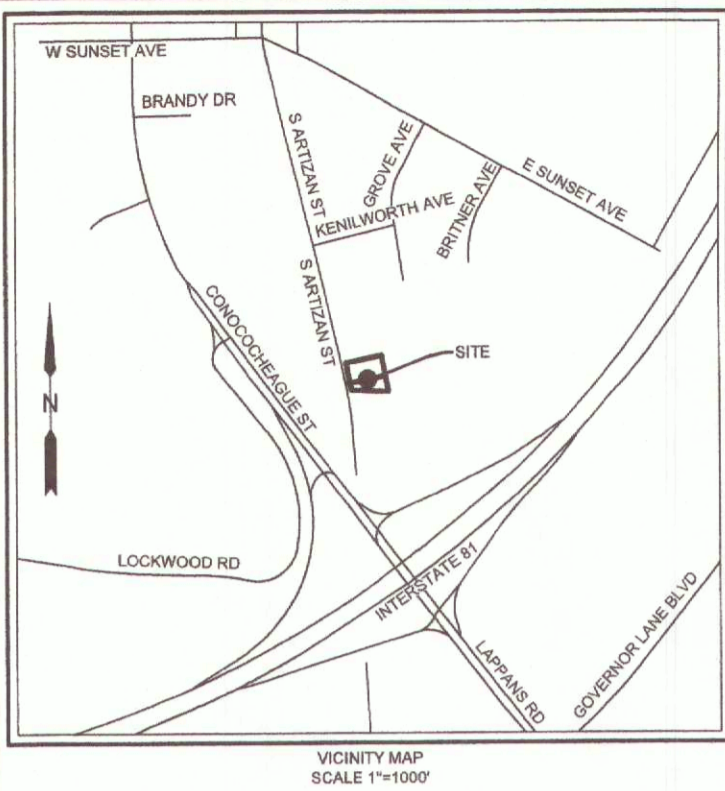
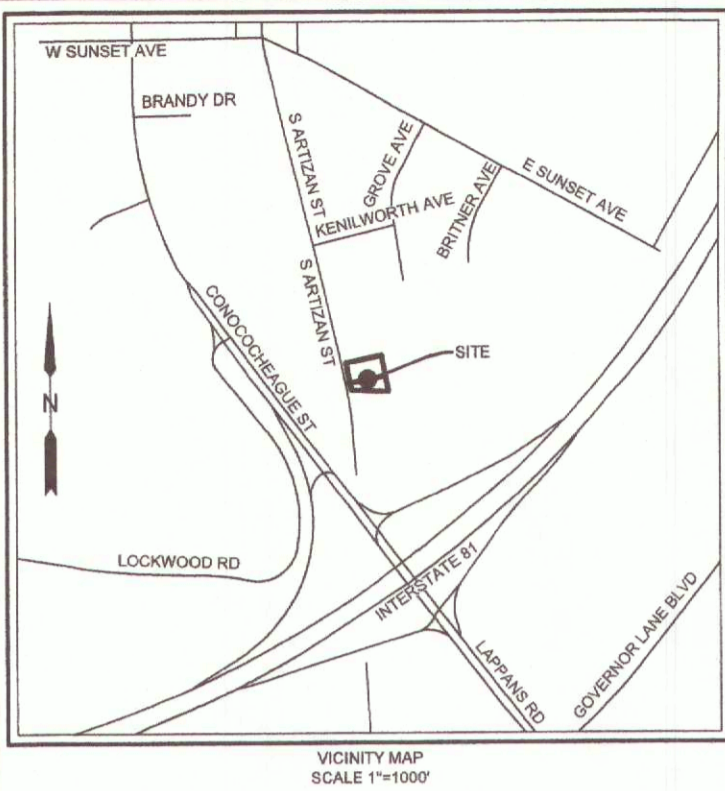
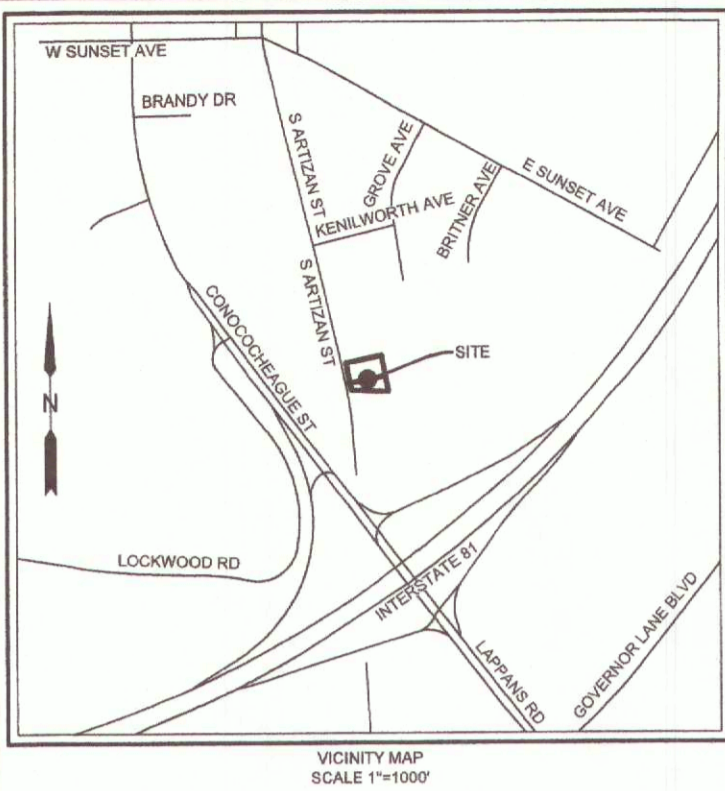
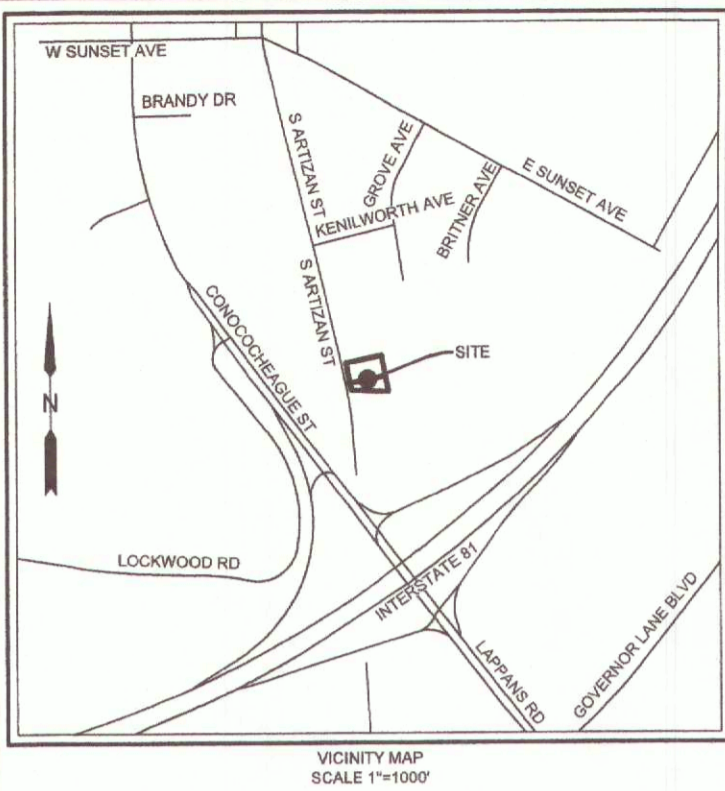
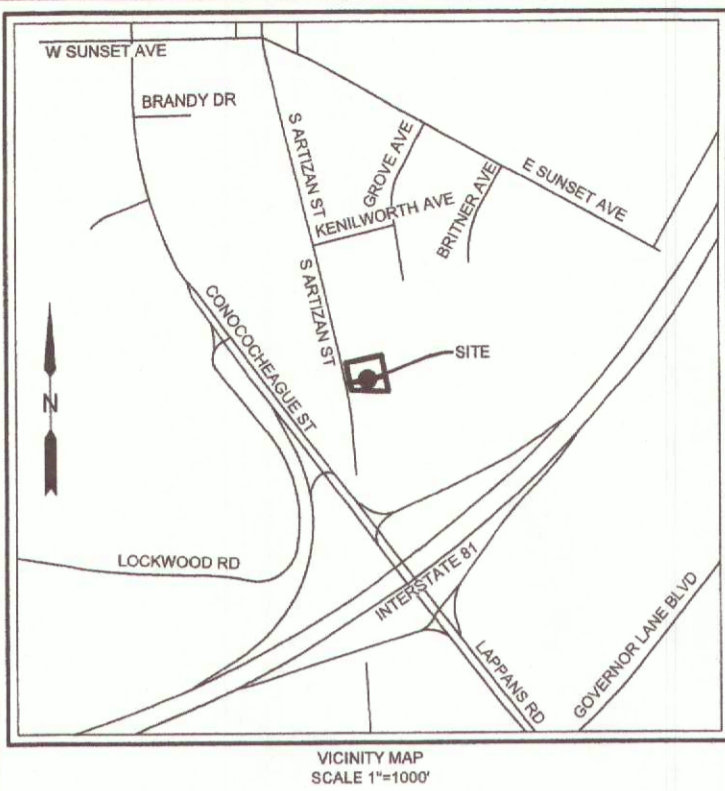
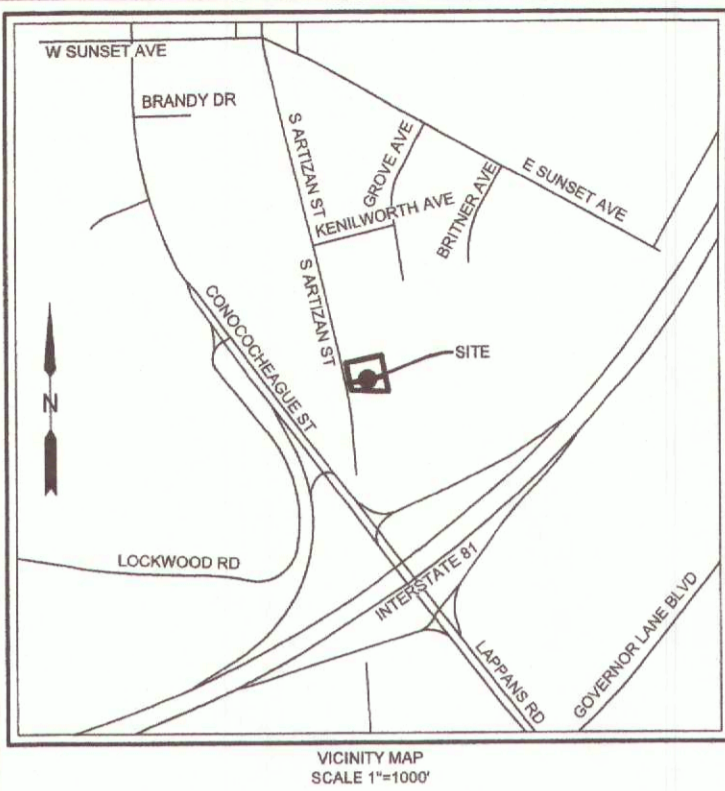
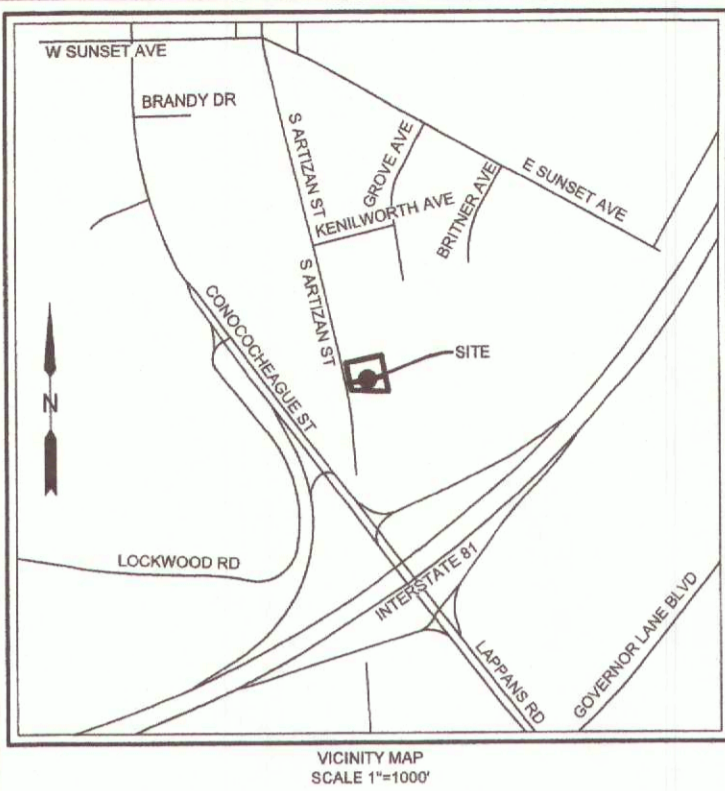
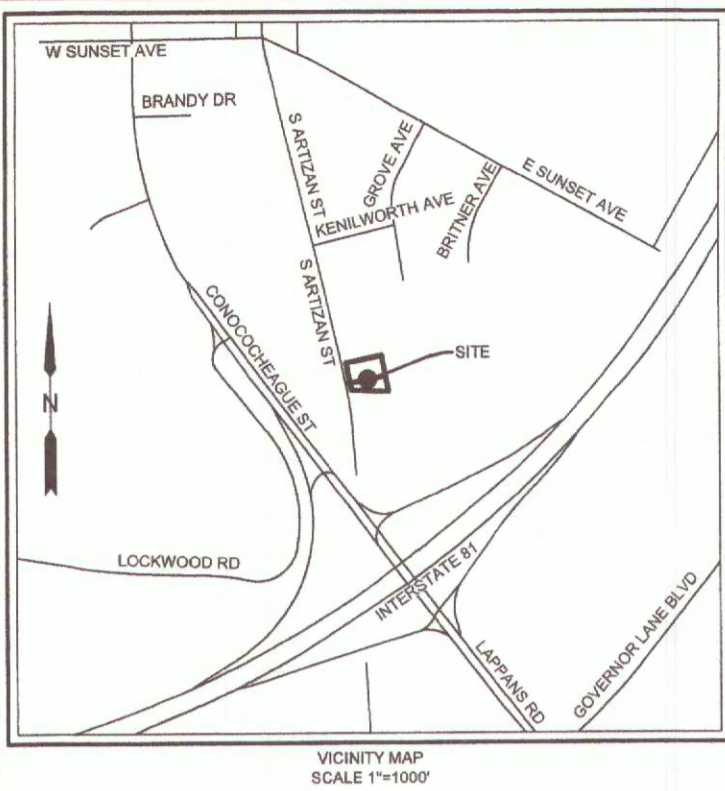
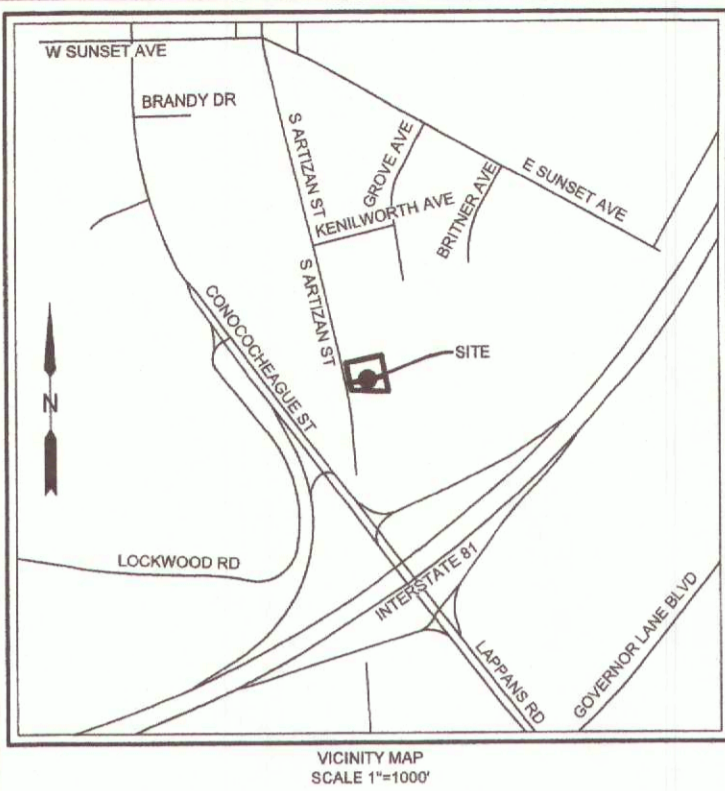
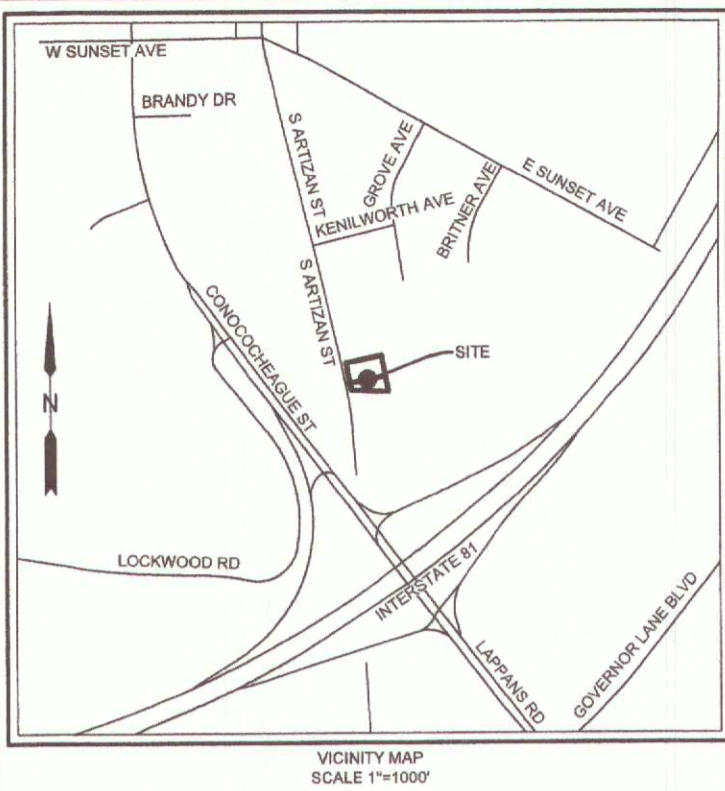
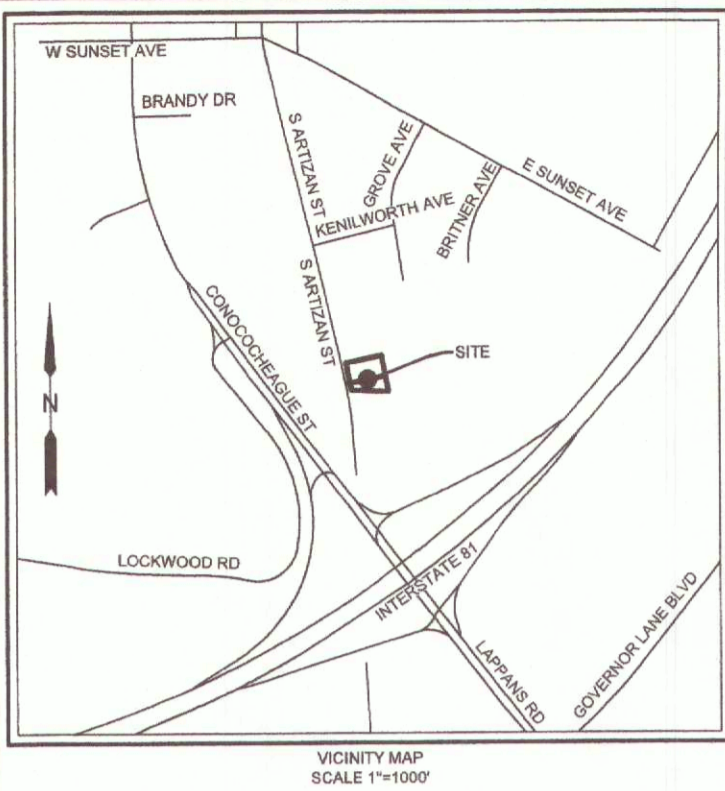
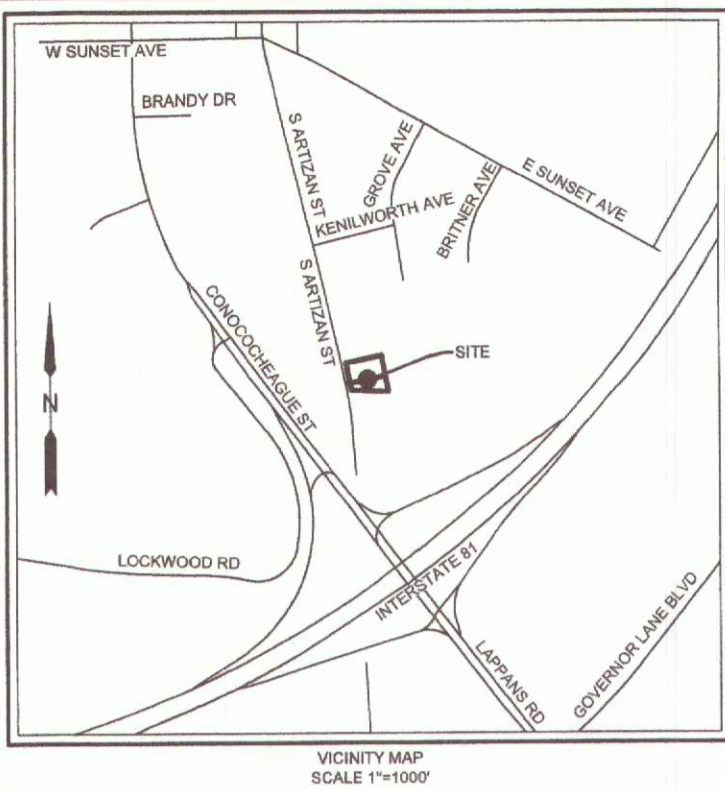
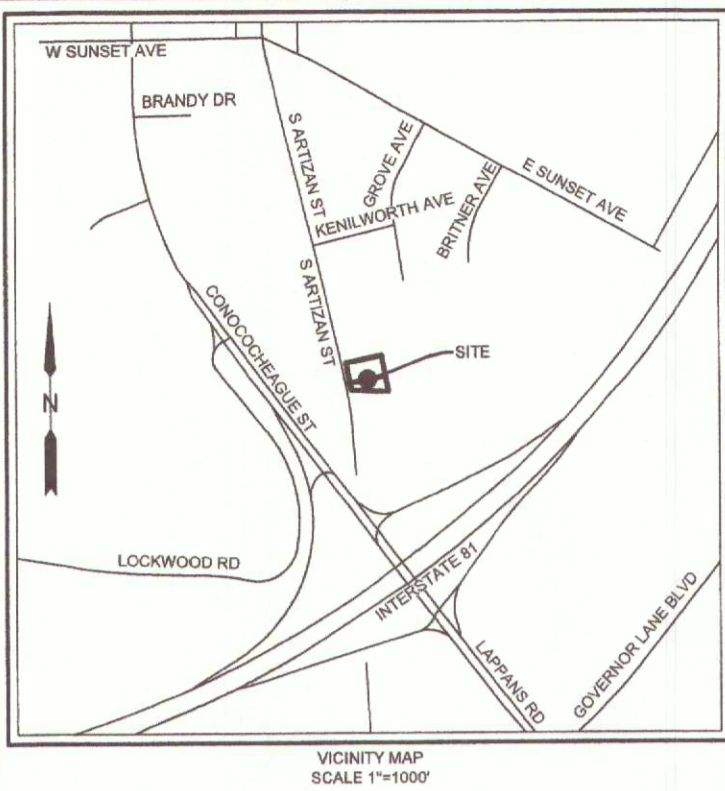
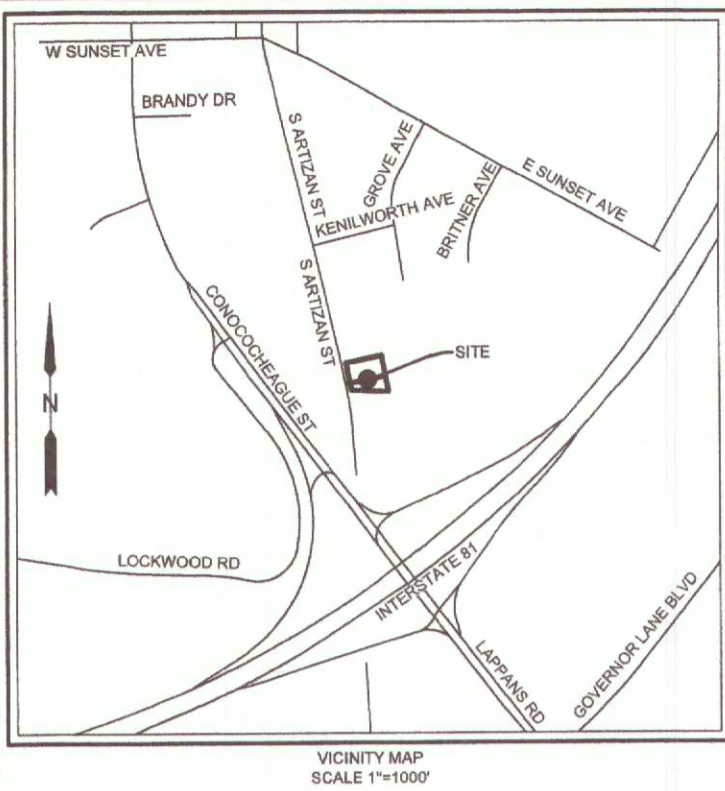
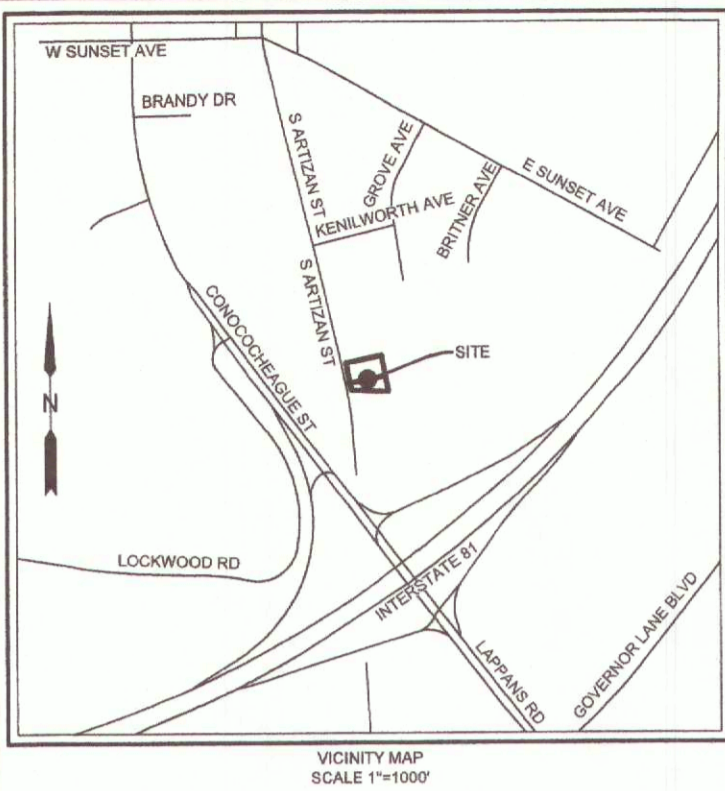
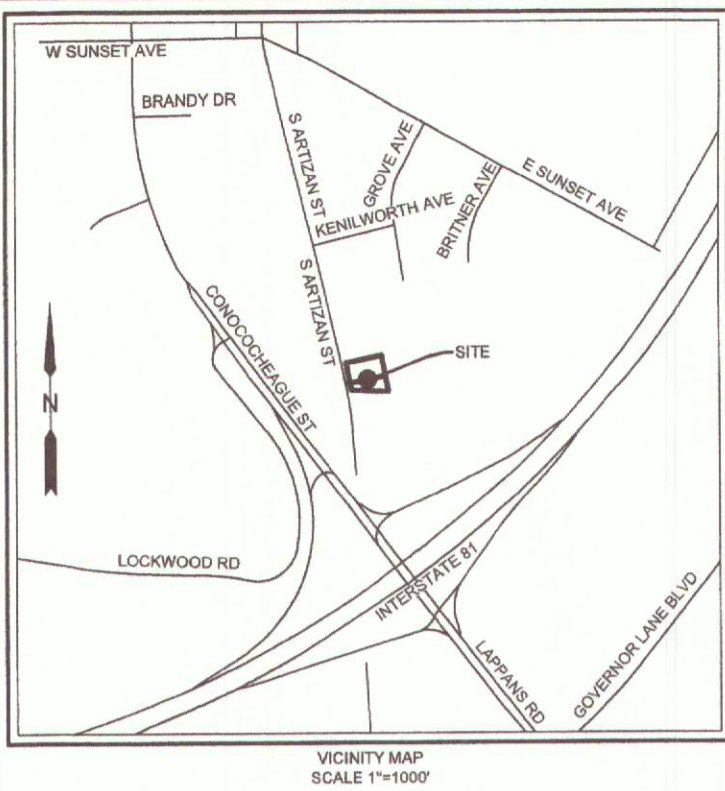
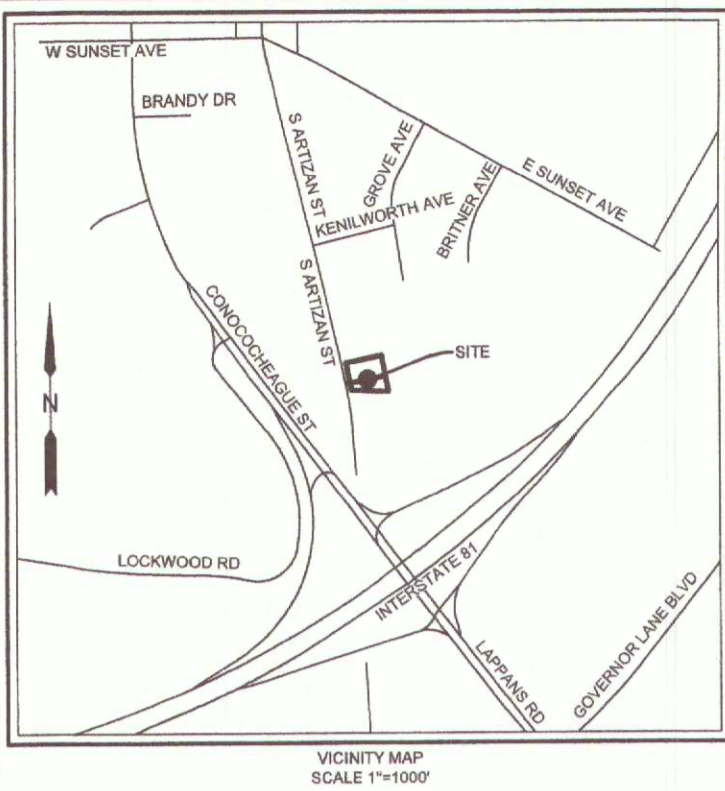
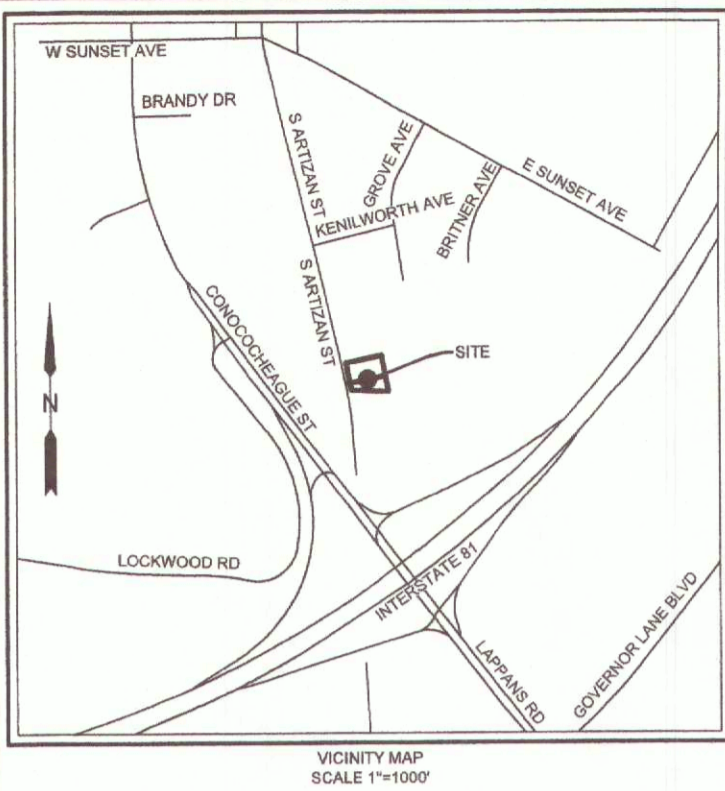
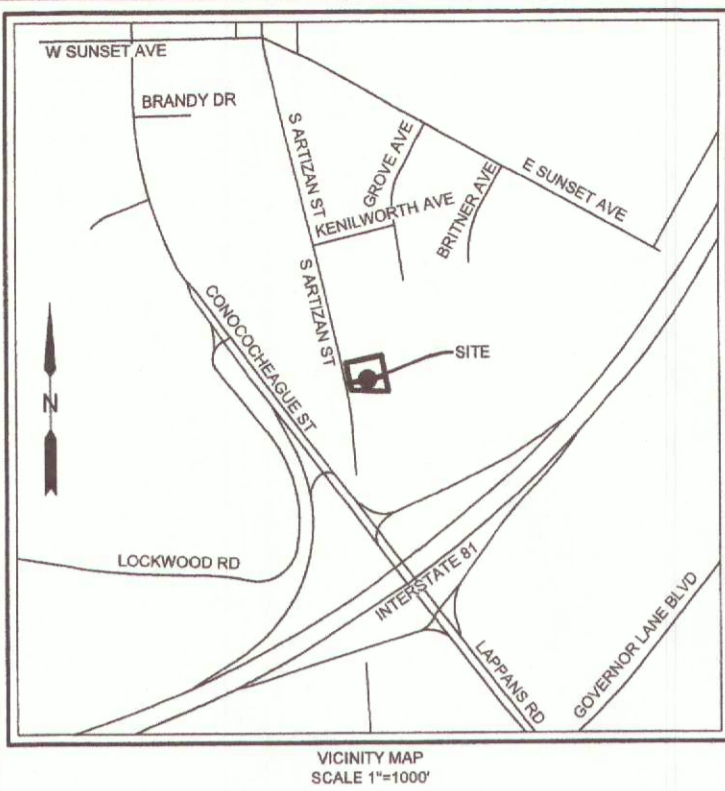
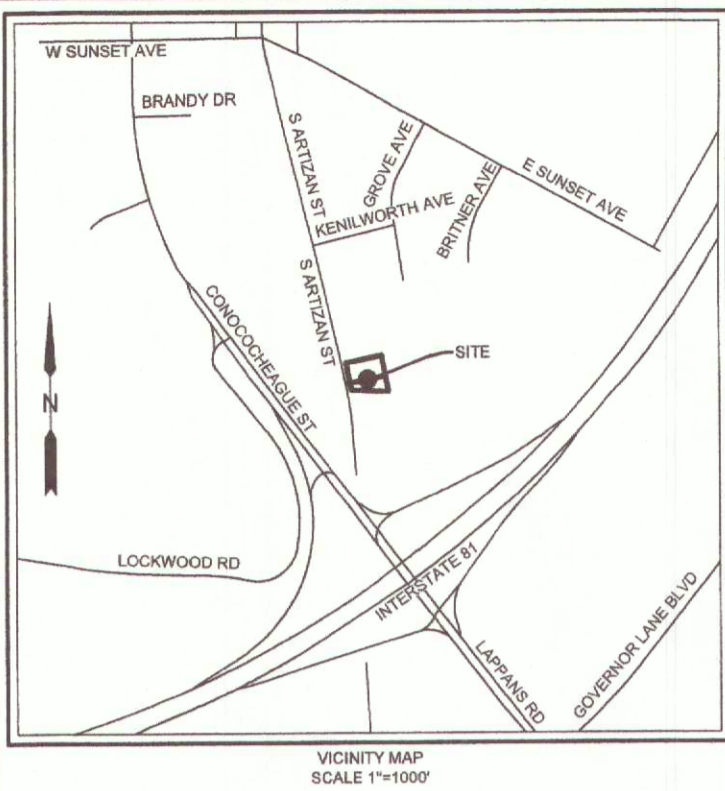
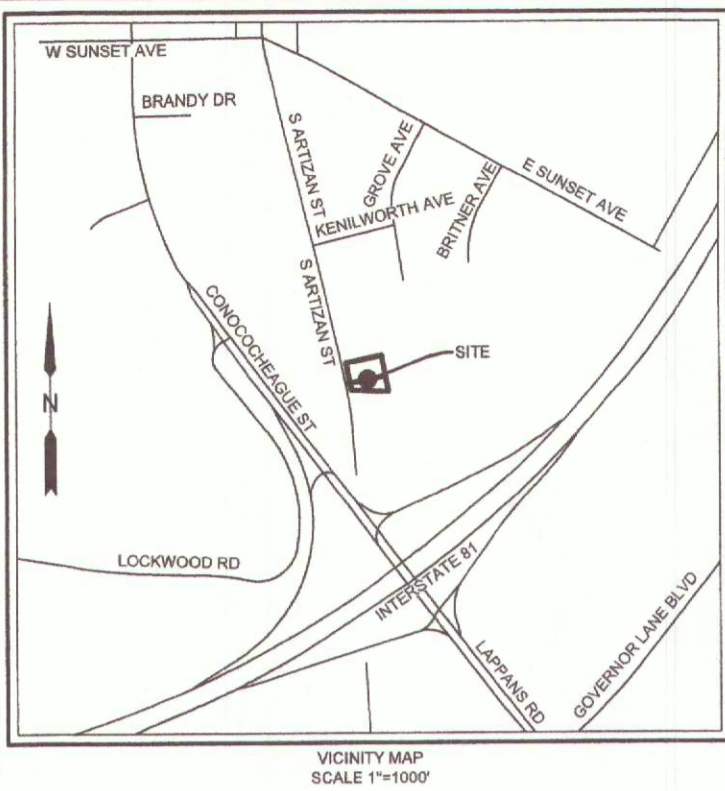
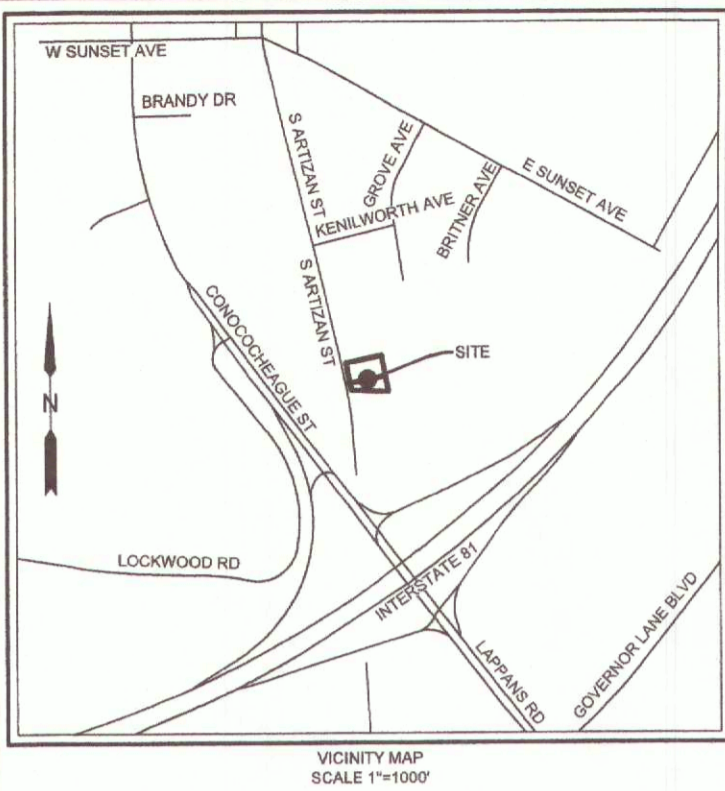
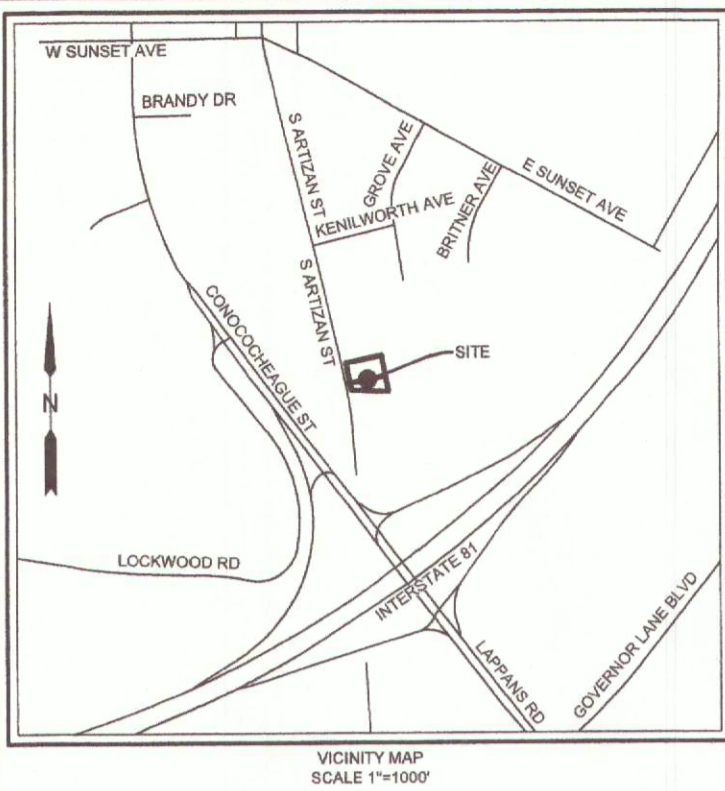
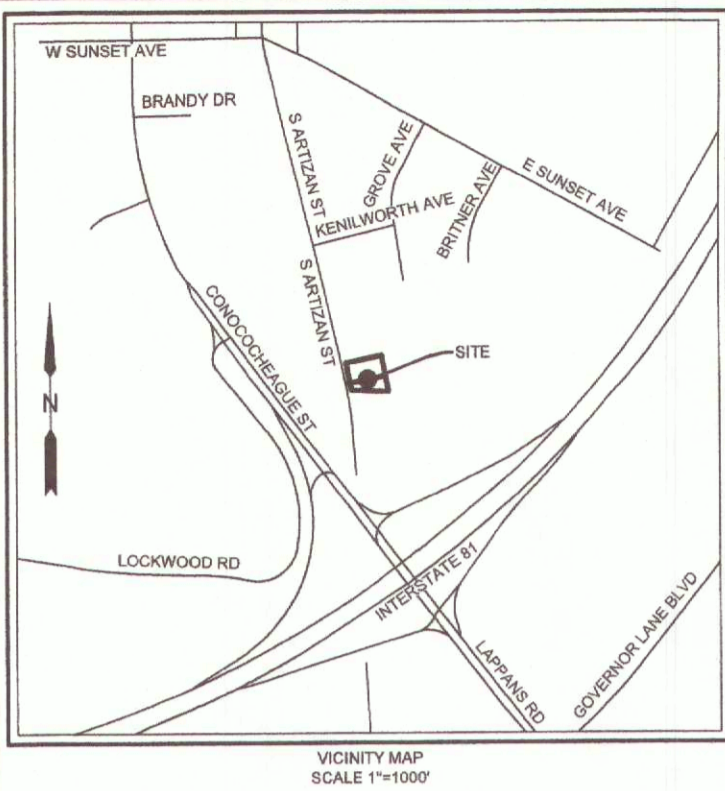
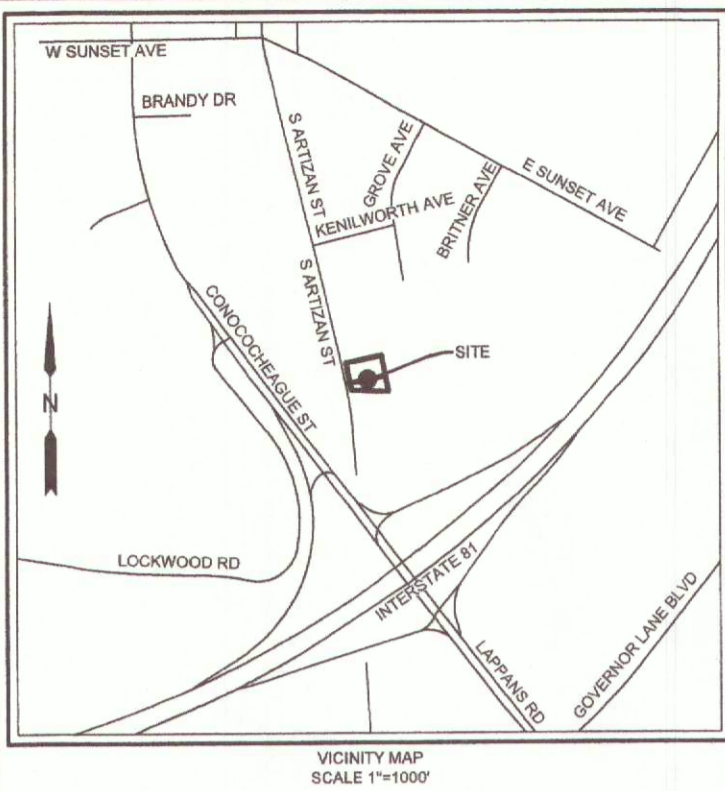
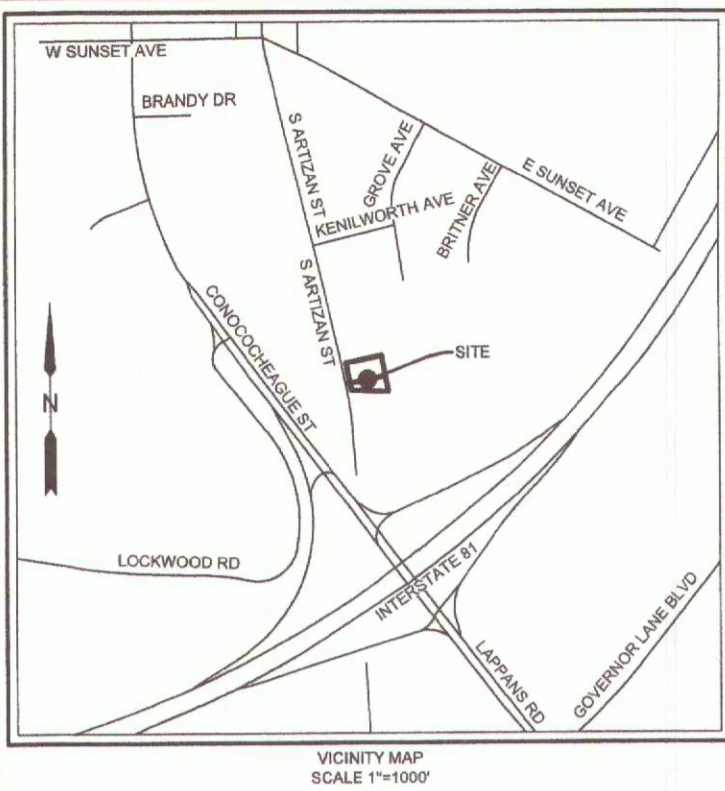
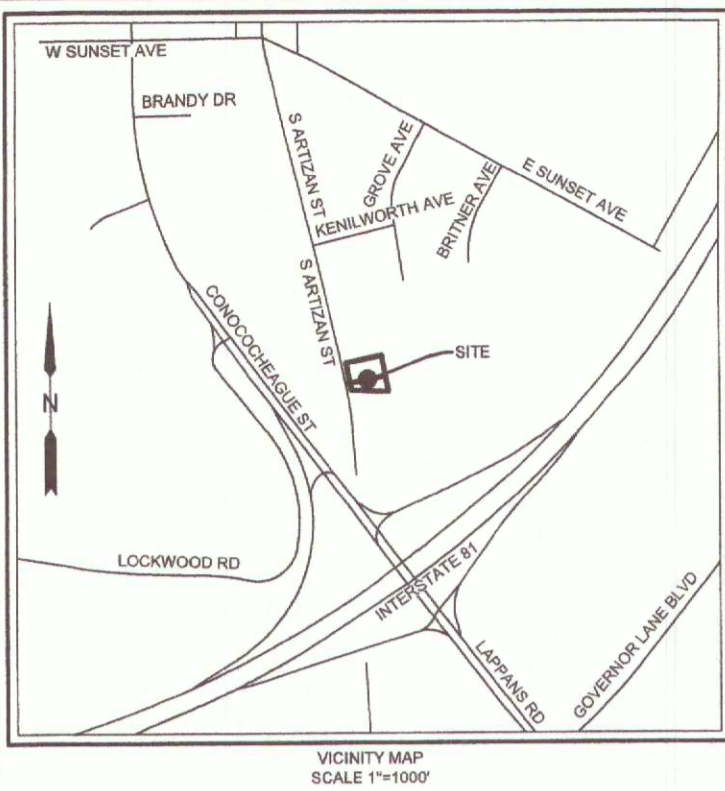
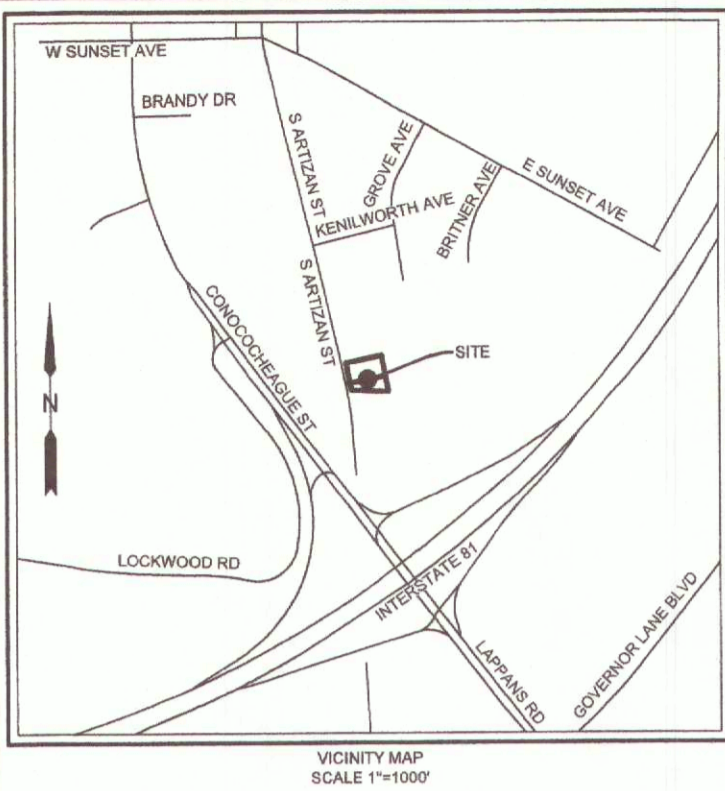
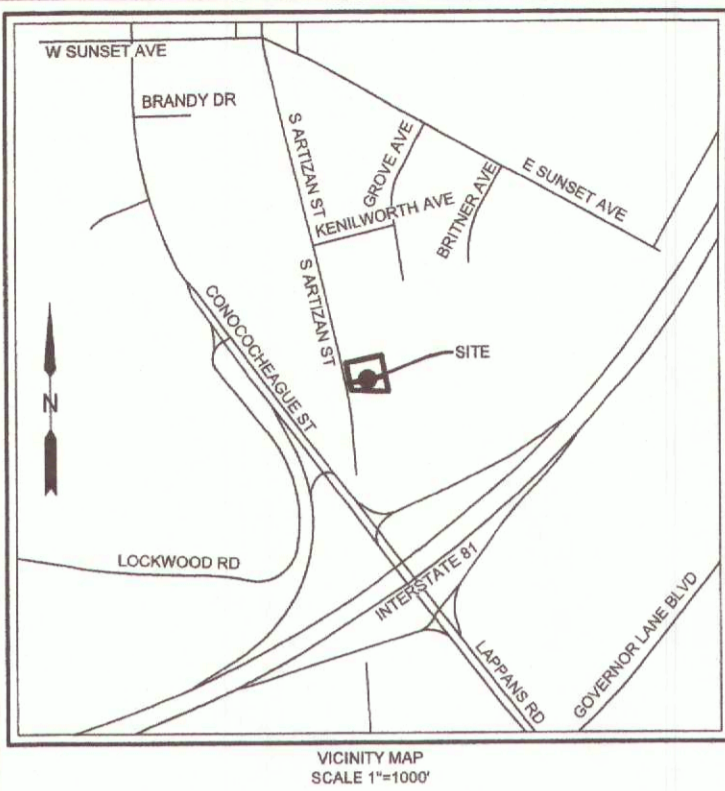
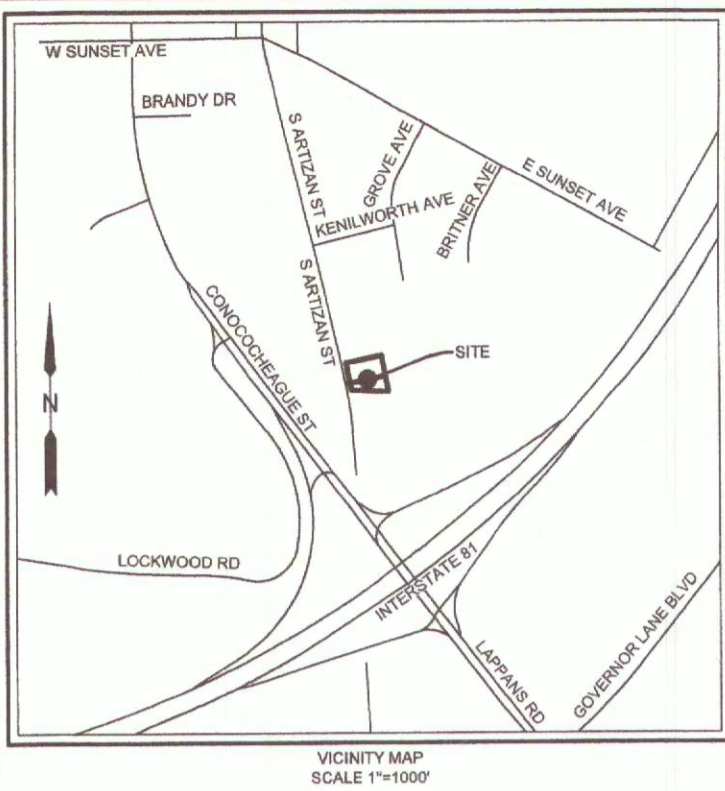
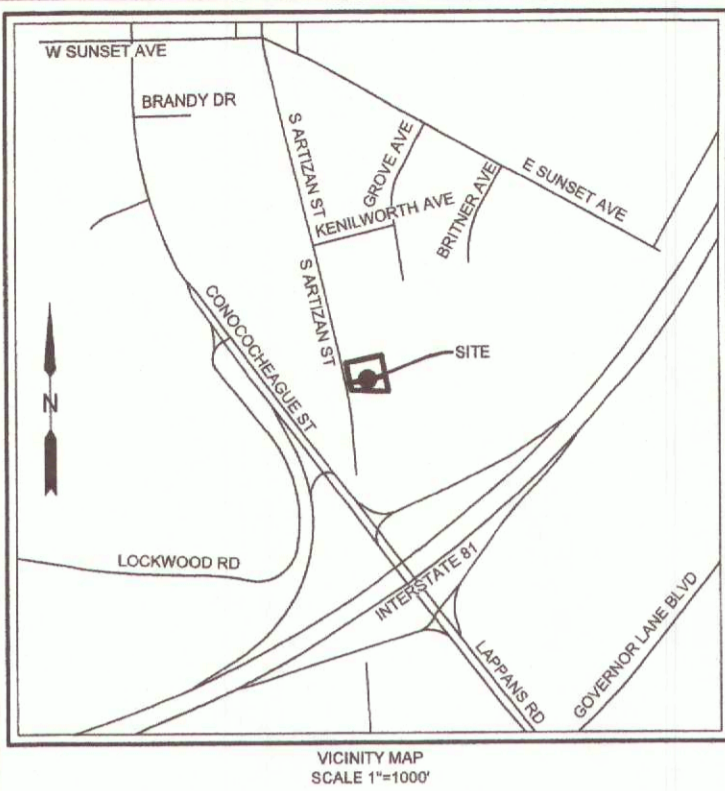
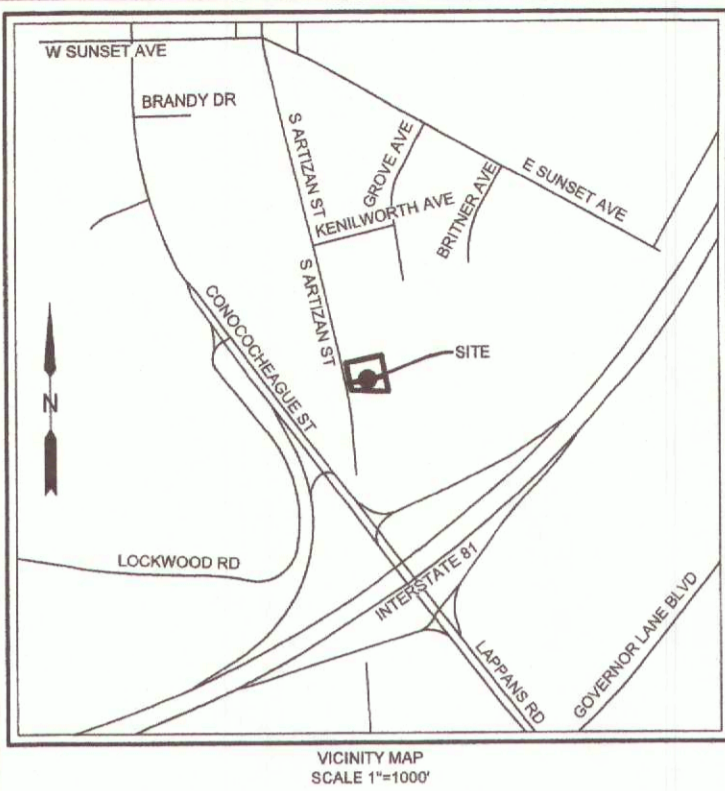
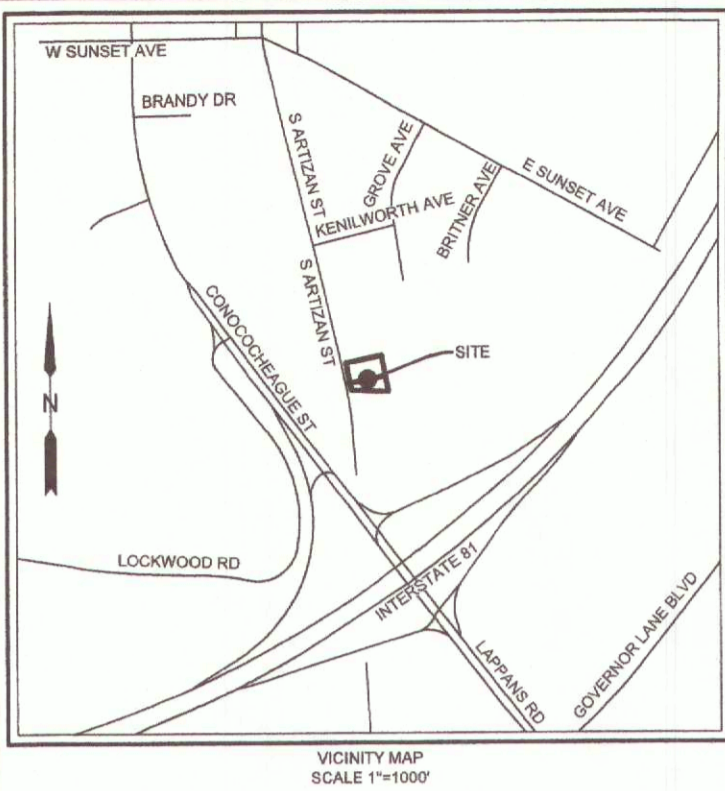
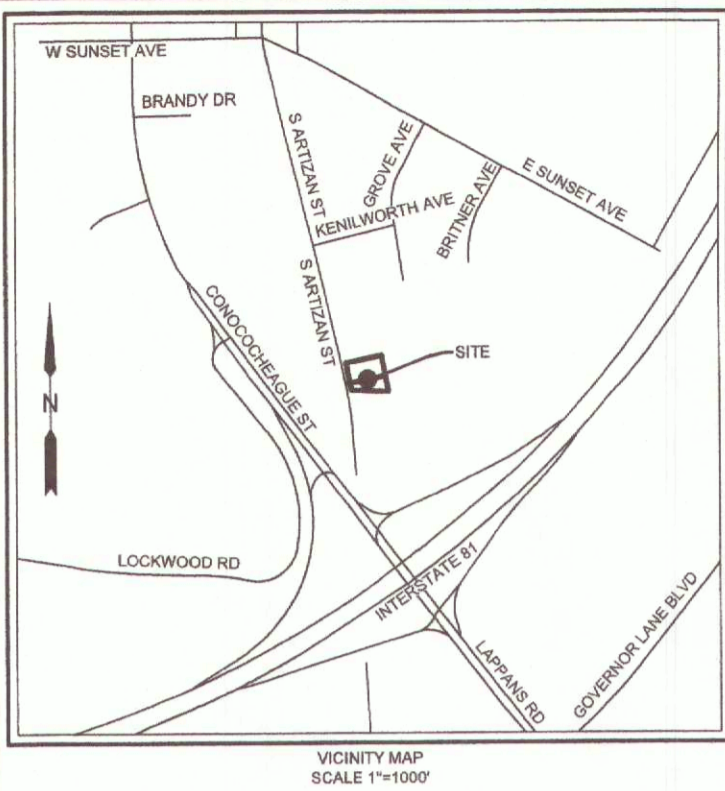
I hereby certify to the best of my professional knowledge and belief that the plan shown hereon is correct; that it is all of the lands as conveyed by Valley Pet, Inc., to Williamsport Storage Bins, Inc. by deed dated December 28, 2017, recorded among the Land Records of Washington County, Maryland in Liber 5664, folio 471; that this document was prepared by myself and that the survey work reflected hereon is in compliance with the requirements set forth in COMAR 09.13.06.12 in effect at the time this survey was performed.

I also certify that I am a duly licensed Professional Land surveyor under the laws of the State of MD. License No. 10731, Expiration on January 16, 2024.

6-15-2023

Date

Professional Land Surveyor



**Application for Map Amendment
Staff Report and Analysis**

Property Owner(s)	:	Williamsport Storage Bins, Inc.
Applicant(s)	:	Williamsport Storage Bins, Inc.
Location	:	429 & 431 South Artizan St., NW I-81/MD-63 Interchange
Election District	:	#2 – Williamsport
Comprehensive Plan		
Designation	:	Low Density Residential
Zoning Map	:	56
Parcel(s)	:	P. 1052, 352
Acreage	:	.74 acres
Existing Zoning	:	HI – Highway Interchange
Requested Zoning	:	RT- Residential Transition
Date of Meeting	:	January 8, 2024

I. Background and Findings Analysis:

1. Site Description



The proposed rezoning site encompasses two undeveloped parcels, totaling .74 acres, which are located at 429 and 431 South Artizan Street just outside the Town of Williamsport. South Artizan Street dead ends roughly 500 feet south of these properties, in the immediate vicinity of the I-81/MD-63 interchange (Exit 1). Both properties are located within the Urban Growth Area (UGA) that surrounds the City of Hagerstown and the Towns of Williamsport and Funkstown.

According to updated mapping, both parcels contain floodplain areas that drain into the Potomac River, roughly ½ mile west of the subject site. The majority of Parcel 352, the southern of the two parcels, falls within the floodplain.

2. Population Analysis

To evaluate the change in population, information was compiled from the US Census Bureau over a thirty-year time frame. A thirty-year horizon was chosen to show long term population trends both in the election district of the proposed rezoning, and the County as a whole.

The properties subject to this rezoning are located within the Williamsport Election District (#2). As shown in the table below, the population in this district has grown more slowly than the County has over the thirty-year time frame between 1990 and 2020. District 10 has grown 17.2% over the thirty-year period (or .5% per year) while the County as a whole has increased in population by 27.4% (.91% per year) during the same period.

More recently however, the rate of population growth in the Williamsport Election District has outpaced the County overall. Between 2010 and 2020, the District grew at a rate of 16.7% over that ten-year period (or 1.7% per year) while the County grew by only 4.9% (.49% per year).

Table 1: Williamsport Election District Population Trends

Population Trends 1990 - 2020			
Year	Area	Population	% change from previous decade
1990	District	4,345	
	County	121,393	
2000	District	4,275	-1.6%
	County	131,932	8.7%
2010	District	4,362	2.0%
	County	147,430	11.7%
2020	District	5,091	16.7%
	County	154,705	4.9%

Source: US Census Bureau

3. Availability of Public Facilities

A. Water and Sewerage

The adopted Water and Sewerage Plan for the County establishes the policies and recommendations for public water and sewer infrastructure to help guide development in a manner that helps promote healthy and adequate service to citizens. By its own decree, the purpose of the Washington County Water and Sewerage Plan is "...to provide for the continued health and well-being of Washington Countians and our downstream neighbors..."¹ This is achieved through implementing recommendations within the County Comprehensive Plan and the Water and Sewerage Plan to provide for services in a timely and efficient manner and by establishing an inventory of existing and programmed services.

Water:

W-1-Existing Service (Town of Williamsport)

Public water is currently available at the site. The site is given the W-1 designation in the County's 2009 Water and Sewerage Plan, denoting the service. Water service is provided by the Town of Williamsport. Williamsport is one of three municipalities in Washington County (along with Funkstown and Smithsburg) who own and maintain drinking their own water distribution systems, but purchase water from the City of Hagerstown. These Towns pay a wholesale rate based upon permitted allocation agreements.

¹ Washington County, Maryland Water and Sewerage Plan 2009 Update, Page I-2

A copy of the application was routed to the Town of Williamsport. No comments were received.

Wastewater:

S-1- Existing Service (County)

Public sewer service is also available to the site of this rezoning. The S-1 Existing Service designation is applied to these parcels in the Water and Sewer Plan. The area is served by the Conococheague Wastewater Treatment Plant.

The Washington County Department of Water Quality stated that “*there shall be no building, cut, fill or pavement within the county sewer easement*” when routed a copy of the application for review.

B. Emergency Services

Fire and Emergency Services:

Williamsport Volunteer Fire Company (2 Brandy Drive) – .5 miles away

The proposed rezoning site is located within the service area of the Williamsport Volunteer Fire Company. This same entity also provides the nearest emergency medical services. Their station is located approximately ½ mile away from the subject properties.

A copy of this application was sent to the Washington County Division of Emergency Services. No comments were received.

C. Schools

Elementary - Lincolnshire, Middle – Springfield, High School - Williamsport

School capacity is regulated by the County’s Adequate Public Facilities Ordinance (APFO). The subject site is within the school districts of Lincolnshire Elementary, Springfield Middle and Williamsport High. The requested zoning classification, Residential Transition (RT), does permit residential development.

The APFO however, does not apply to lots subdivided prior to the effective date of the Ordinance (2004). Lot 1 (429 South Artizan St.) was created in 1998 on Washington County Plat 5723. 427 South Artizan Street is shown as remaining lands on this same plat. Minor subdivisions are also exempt from mitigation requirements. Therefore, there would be **no school capacity mitigation requirements** for pupil generation under the APFO.

4. Present and Future Transportation Patterns

Highways – Access and Traffic Volume

The proposed rezoning site is located on South Artizan Street which would provide access to the sites. The Functional Road Classification for South Artizan Street is a Local Road in the Transportation Element of the 2002 Comprehensive Plan. This classification accounts for mobility and access characteristics of the roadway in its categorization. **Local Roads** are designed to carry less than 2,000 Average Daily Traffic in rural areas, and greater than 2,000 vehicles daily in urban areas. The County’s road classification system is based upon the Federal Highway Functional Classification System, but modified to reflect local road conditions.

In addition to evaluating access points of subject properties for rezoning purposes, it is also important to evaluate traffic generation from proposed development in the context of existing traffic volumes. This is commonly accomplished through the analysis of prior traffic counts and any existing traffic impact studies.

As the proposed rezoning site is located on a local road, the only relevant data on traffic in the vicinity comes from a recent count taken on East Sunset Avenue near the intersection of Grove Avenue approximately 1/3 mile from the subject properties. The County's Division of Engineering collected single day traffic counts at this location in 2022. 1,700 vehicles were counted at this location over a 24-hour period. Since these were first time collections at this location, trends cannot be discerned. This count does however give us an idea of traffic volume occurring in the "neighborhood."

Washington County Engineering Plan Review had no comment after receiving a copy of the rezoning application.

Public Transportation

Route 441 (Williamsport) of the County Commuter stops at the intersection of Potomac and Conococheague Streets in the center of Williamsport roughly ¾ mile northwest of the site.

5. Compatibility with Existing and Proposed Development in the Area:

A. Zoning

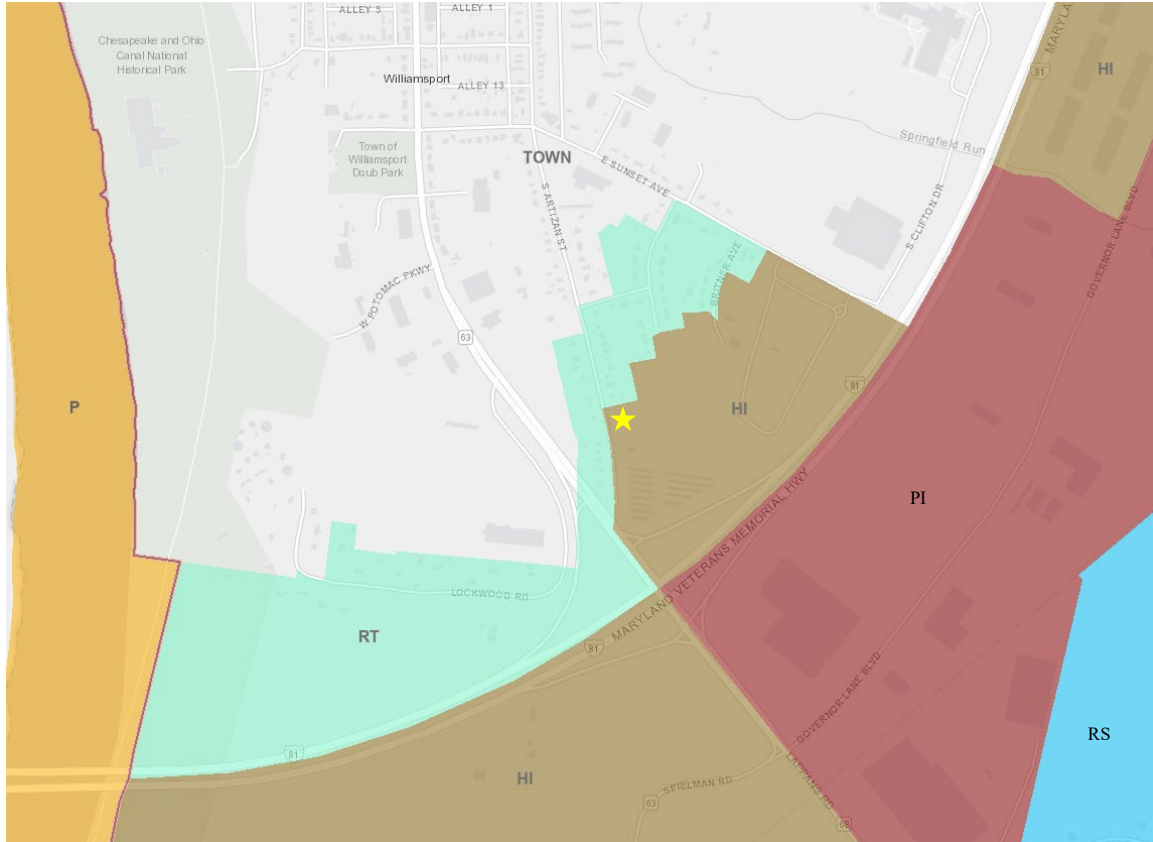
The subject parcels are currently zoned Highway Interchange (HI) and are requesting to rezone to Residential Transition (RT). The purpose of the RT zoning district is to:

*"...provide appropriate locations for single-family and two-family residential development in Urban and Town Growth Areas. The Residential, Transition District is usually located on the outer fringes of the Growth Areas, rather than the inner core, and is intended to be the least dense residential district in the Growth Areas at a density of between 2 and 4 dwelling units per acre."*²

RT is primarily a residential zoning designation that allows for single-family, two-family, and semi-detached dwellings. Aside from residential land uses, other principal permitted uses are primarily of an institutional nature (i.e. – churches, community centers, etc). Special exception uses are mostly service-industry oriented (i.e.- barbershops, small B&Bs, etc.).

² Washington County Zoning Ordinance, Article 7A

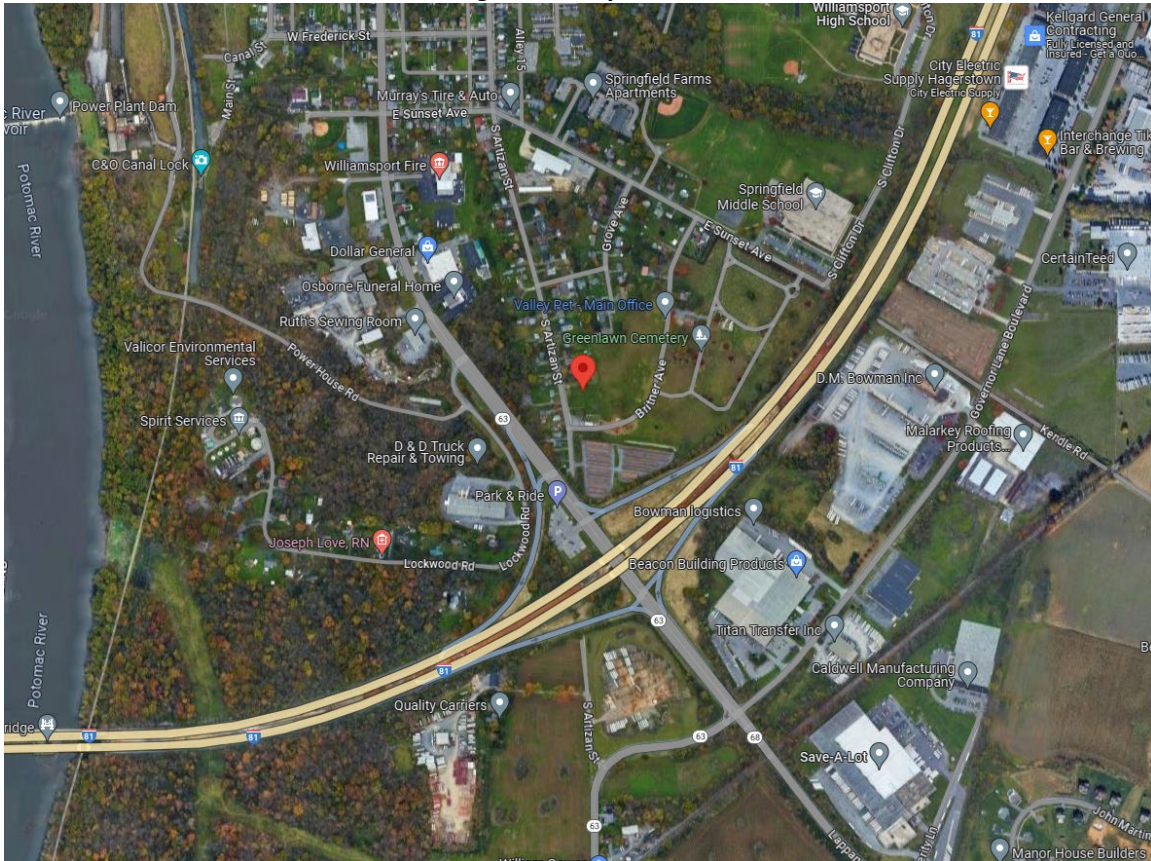
Map 1: Surrounding Zoning Classifications



Zoning in the area of these subject properties is defined to a significant degree by proximity to the I-81/MD-63 interchange (Exit 1). County lands on the Williamsport side of the interchange are primarily zoned RT (adjacent to the Town boundary) or Preservation ("P" - along the C&O Canal National Historic Park). These properties do fall within the outer limits of a small block of HI properties that abut the interchange. East of the interchange, zoning allows for greater land use intensity, as most lands are either HI or Planned Industrial (PI).

B. Land Use

Image 1: Vicinity Land Use



Source: Google Maps

In terms of land use, the I-81 interchange again segments property usage in the immediate vicinity into varying types and intensities. The two subject properties are found on County lands just outside of what is the southernmost extent of residential development in the Town of Williamsport. A self-contained neighborhood of sorts, which includes these properties, is bounded by South Artizan Street and East Sunset Avenue. This triangular wedge of properties is predominantly residential in nature, excepting Greenlawn Cemetery and a building supply store at the intersection of the two roads noted above.

On the other side of East Sunset Avenue is the Williamsport public school complex. Along MD-63 to the west are a mix of commercial or industrial uses such as Dollar General, D&D Truck Repair & Towing, Valicor Environmental Services and the park-and-ride lot.

Much of the land to the west of the I-81 interchange includes the range of planned industrial uses along Governor Lane Boulevard. A number of Bowman properties, used for trailer storage, are southwest of the interchange.

C. Historic Sites

Another important component of compatibility is the location of historic resources on, or in the vicinity of, the parcels being proposed for rezoning. As noted previously, the subject site is located immediately outside the Town of Williamsport. Williamsport's Historic District was listed on the National Historic Register in 2001. It includes 337 contributing historic resources.

Accordingly, there are numerous historic sites located within ½ mile or less from the location of this rezoning. For example, nearly every house on South Artizan Street above its intersection with East Sunset Avenue was included in the Maryland Inventory of Historic Properties and most are included as contributing resources on the National Historic Register listing. As a result, the compatibility of the current and proposed zoning with the historic character of the surrounding area should be a primary consideration in deliberating on the merits of this proposal.

6. Relationship of the Proposed Change to the Adopted Plan for the County:

The purpose of a Comprehensive Plan is to evaluate the needs of the community and balance different types of growth and development to foster compatibility between different land uses. In general, this is accomplished through the evaluation of existing conditions, projections of future conditions, and creation of a generalized land use plan that provides a blueprint to achieving this compatibility while maintaining the health, safety, and welfare of the general public.

Numerous land use policy areas are defined in the text of Chapter 12 of the 2002 Comprehensive Plan, which includes the Land Use Plan Map. Both of the subject properties are located in the **Low Density Residential** sub-policy area. The Comprehensive Plan offers the following definition for this policy area:

"This policy area designation would be primarily associated with single-family and to a lesser degree two-family or duplex development. It is the largest policy area proposed for the Urban Growth Area and becomes the main transitional classification from the urban to rural areas."³

7. "Change or Mistake" Rule

When rezonings are not part of a comprehensive rezoning by the governing body, individual map amendments (also known as piecemeal rezonings) are under an obligation to meet the test of the "Change or Mistake" Rule. The "Change or Mistake" Rule requires proof by the applicant that there has been either: a substantial change in the character in of the neighborhood since the last comprehensive zoning plan (2012), or a mistake in designating the existing zoning classification.

As part of the evaluation to determine whether the applicant has proven whether there has been either a change or mistake in the zoning of a parcel, the Maryland Annotated Code Land Use Article and the Washington County Zoning Ordinance state that the local legislative body is required to make findings of fact on at least six different criteria in order to ensure that a consistent evaluation of each case is provided. Those criteria include:

1) population change; 2) the availability of public facilities; 3) present and future transportation patterns; 4) compatibility with existing and proposed development for the area; 5) the recommendation of the planning commission; and 6) the relationship of the proposed amendment to the local jurisdiction's Comprehensive Plan.

Even when change or mistake has been sufficiently sustained, it merely allows the local governing body the authority to change the zoning; it **does not require** the change. When conditions are right for a change the new zone must be shown to be appropriate and logical for the location and consistent with the County's Comprehensive Plan.

II. Staff Analysis:

³ 2002 Washington County, Maryland Comprehensive Plan, Page 243

The analysis of a rezoning request begins with a strong presumption that the current zoning is correct. It is assumed that the governing body performed sufficient analysis, exercised care, and gave adequate consideration to all known concerns when zoning was applied to a parcel of land. However, there are instances by which a case can be established to show that the governing body either erred in establishment of the proper zoning of a property or that the neighborhood surrounding the property has changed enough since the governing body's last assessment to require a new evaluation of the established zoning designation.

The applicant of this case has indicated in their justification statement that they believe that a **mistake** was made by the local legislative body to rezone the property in 2012. As noted in the prior section describing the "Change or Mistake" Rule, the Washington County's Zoning Ordinance requires data to be presented to the local legislative body on factors such as population change, present and future traffic patterns, the availability of public facilities, the relationship of the proposed change to the Comprehensive Plan and its compatibility with existing and proposed development in order to determine how the area subject to rezoning has evolved since the comprehensive rezoning.

1. Evidence for Mistake in the Current Zoning

In order to demonstrate that a mistake was made by the regulatory body in applying the existing zoning classification to the parcel, the applicant must establish that an error occurred as a result of factors such as:

1. A failure to take into account projects or trends probable of fruition;
2. Decisions based on erroneous information;
3. Facts that later prove to be incorrect;
4. Events that have occurred since the current zoning; or
5. Ignoring facts in evidence at the time of zoning application.

The last Comprehensive Rezoning in Washington County was completed in 2012, affecting the Urban Growth Area (UGA) that surrounds the City of Hagerstown and the towns of Williamsport and Funkstown. The Rezoning affected approximately 17,000 parcels and 38,000 acres of land.⁴ Information such as population projections, growth trends, transportation and infrastructure data, and the recommendations of the Comprehensive Plan were considered as a part of this effort. The input of property owners, local officials, County staff and the general public was also solicited and considered in the assignment of each parcel affected by the Comprehensive Rezoning. Landowners were also given the opportunity to appeal the rezoning of their property at that time if they felt aggrieved by the Board's decision.

The applicant contends that the Board of County Commissioner's (BOCC) erred in their decision during the 2012 UGA Comprehensive Rezoning to rezone the lots in question to HI. The applicant claims that factors such as following were not fully considered by the Board in their 2012 decision:

- The properties consist of two small lots associated with existing residential development along South Artizan Street;
- Access to the property is provided by and limited to a local street through existing residential development;
- The configuration of the property severely limits its ability to be developed under the provisions of HI zoning;
- The property remains vacant, proving the assumption that the property would be developed under the HI zoning incorrect with the passage of time.

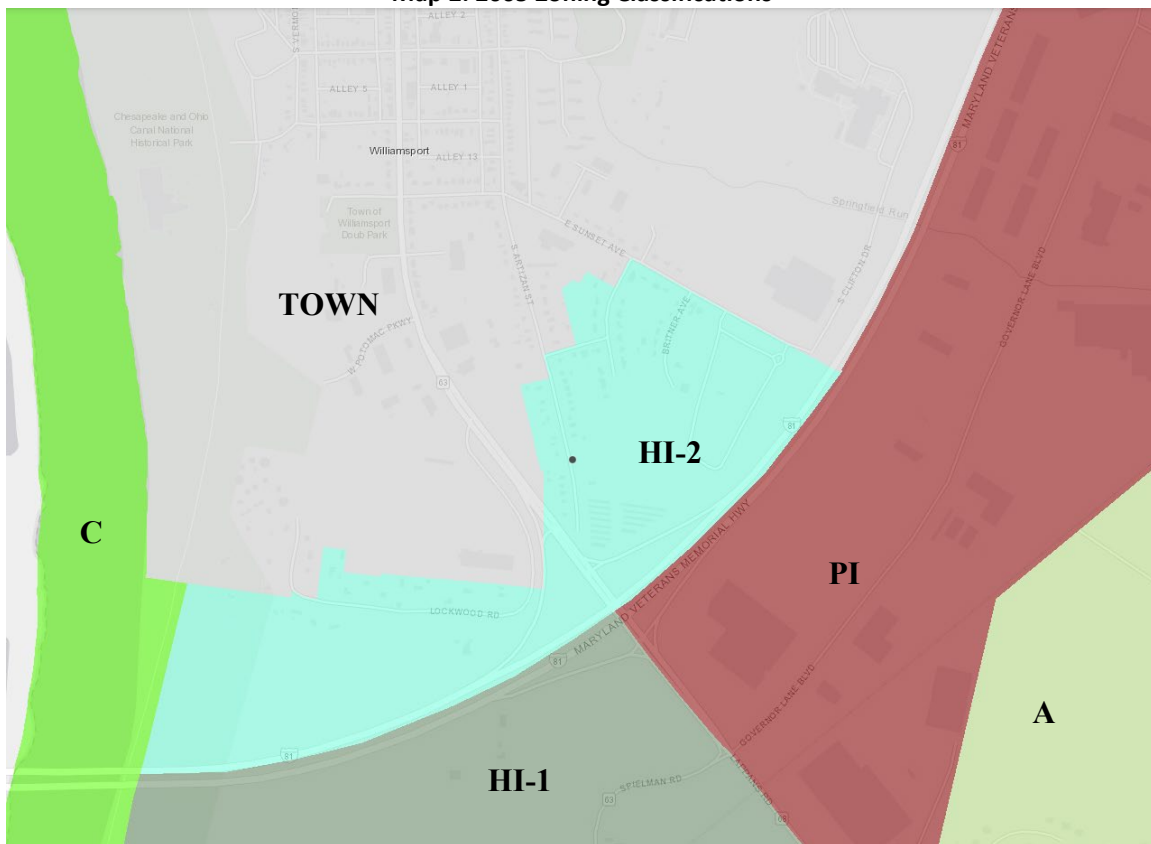
⁴ Washington County Ordinance No. ORD-2012-08

i. Recent Zoning History

- Prior to 2012, they were zoned Highway Interchange District **HI-2**.

The HI-2 zoning district was intended to serve as a transitional zone between HI-1 zones and nearby residential areas. Typically, HI-1 areas were designated on lands closest to interstate highway interchanges, with HI-2 zones then buffering adjacent lands in the vicinity of the interchanges. In this case, the HI-2 zoning was applied to a block of properties north of the I-81 interchange to serve as a transitional buffer between it and the Town of Williamsport. South of the interchange, properties were given either the HI-1 or PI zoning designation, anticipating a greater intensity of land uses beyond the limits of the Town and adjoining the interstate highway.

Map 2: 2005 Zoning Classifications



HI-2 allowed low intensity business and industrial uses as well as a residential development at varying densities. Permitted uses were pulled from the BT, RM, PUD, IT, RR, RS and RU Districts. It did not require connection to public water and sewer, but merely allowed higher density development if connection was possible. The HI-2 zoning district was eliminated during the 2012 UGA Rezoning.

- These properties were rezoned to the present **HI** designation in conjunction with the Comprehensive Rezoning of the Urban Growth Area in 2012 (RZ-10-005).

No specific comments were received on the subject properties at the time of the 2012 Comprehensive Rezoning, which would serve to illuminate the specific circumstances for applying

the HI zoning designation at that time. As described in greater detail above, however, with the elimination of the former HI-2 and HI-1 zoning districts, there became a choice as to how to reassign zoning to parcels formerly given these designations.

As shown in Map 1 on page 6, the logic in reassigning the parcels around the interchange may have followed a similar line of thinking as described above. Parcels south of the interchange retained the higher intensity zoning districts of HI and PI. Those properties located north of the interchange were given either the RT or HI zoning classifications. In attempting to distinguish why some properties were assigned RT v. HI in 2012, key differences in the area assigned HI which may have played a role include:

- The existence of Greenlawn Cemetery, which encompasses much of this area - Funeral establishments are a principal permitted use in an HI zoning district (pulling from the BL)
- The existence of Williamsport Storage Bins (built in 1988 according to tax assessment records) - another large parcel adjoining the interchange
- Smaller parcels surrounding the two above land uses assigned HI were vacant land at the time of the Comprehensive Rezoning

In contrast, the rest of the lands north of the interchange that were assigned RT were either already developed small residential parcels, or larger parcels which bordered these same residential communities or sensitive resource lands within or adjacent to the C&O Canal National Historic Park.

ii. Limitations on Developing Under HI

Although there was some logic in assigning the HI designation to the subject properties, following the line of reasoning described above, they have not been successfully developed under the current zoning classification. As asserted by the applicant in their justification statement, there are a number of limitations posed by the specific characteristics of these two small properties which make their development difficult under an HI classification. These are noted briefly below:

- **Zoning setbacks** – the small size of these properties (.74 total acres) makes meeting HI setback requirements difficult.
 - The buffer yard requirement is 75' for HI land uses that originate from the IR or ORT zoning districts, and 25' from uses originating from BL, BG, or PB districts. Any outside storage of equipment, materials, or goods must provide a buffer yard of 50'. These setbacks apply when the adjoining lot is not zoned HI and is either zoned for or contains dwellings, hospitals, nursing homes, schools, or other institutions for human care.
 - These setbacks, when coupled with other site planning requirements for a commercial or industrial use such as parking and stormwater management facilities, would leave little space available for development.
 - The notable amount of floodplain would further reduce the developable area on these parcels. Meeting the requirements of the County's Floodplain Management Ordinance may be more feasible for a residential land use versus a commercial or light industrial one given these constraints.
- **Road Access** – South Artizan Street is a relatively narrow local road without direct access to the interchange.
 - Commercial traffic originating from the subject site must travel roughly 1 mile away to encounter the north and southbound ramps for I-81 at Exit 1, including travel through residential neighborhoods. Depending on the time of day, school buses could be traveling portions of the same route.

- **Compatibility with the Neighborhood**– the character of this neighborhood has been detailed in multiple sections of this report. The area immediately around the subject site is almost entirely small residential lots or the open space of the cemetery. The only notable exception is the storage units located at the dead end of South Artizan Street.
 - Though occurring prior to the 2012 cutoff for evaluating a mistake in the zoning, it is also worth noting that these lots were originally subdivided as residential parcels on Washington County plat 5723 in 1998 and their historical use for residential purposes preceding that date.

iii. Consistency With the Comprehensive Plan

As noted previously in this report, both of the subject properties were given the Low-Density Residential classification in the 2002 Comprehensive Plan's Land Use Plan. The HI zoning classification applied in 2012 to these two parcels is therefore not consistent with the adopted Comprehensive Plan. The draft land use plan for the Comprehensive Plan update currently in progress, also currently proposes to retain the Low-Density Residential classification.

III. Conclusion:

The applicant has claimed that a mistake was made to rezone these properties from HI-2 to HI in 2012 because of their inadequate size to serve most commercial or industrial uses allowed under the current zoning, the existing context of the neighborhood and due to inadequacy of the road.

The burden of the applicant in a "Mistake" case is to provide evidence that the Board:

1. Failed to take into account projects or trends probable of fruition,
2. Made decisions based on erroneous information,
3. Used facts that later prove to be incorrect,
4. Couldn't have foreseen Events that have occurred since the current zoning
5. Ignored facts in evidence at the time of zoning application.

Based upon the available evidence, the characteristics of the property which make it difficult to develop under an HI zoning classification today, would also have been present in 2012 at the time of the Comprehensive Rezoning.

- The small size of the parcels makes meeting zoning requirements difficult, even before considering other site planning requirements that would have to be met for a commercial or light industrial land use to be successfully permitted.
- The roads in the immediate vicinity are not of a capacity to serve substantial traffic flows, and do not provide immediate access to the I-81 interchange.
- There was notable prior precedent for the usage of these properties in a residential context, which was more in keeping with the character of the surrounding neighborhood.

Accordingly, staff concludes there is evidence to suggest that a mistake may have been made in applying the HI zoning classification to these properties in 2012. Further, the requested RT zoning classification would be logical and appropriate for the area where these properties are found.

Respectfully Submitted,

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