

*Attachment 5*  
*Letters from Representatives of the*  
*WINX and Dungan Properties*

***Paxton-Mayberry Company, LLC***

**7825 Tuckerman Lane**

**Suite 210**

**Potomac, MD 20854**

**(301) 983-2555**

**(301) 983-6665 (Fax)**

Montgomery County Department of Park and Planning

8787 Georgia Avenue

Silver Spring, MD 20910

Attention: Mr. John Carter, Chief, Community-Based Planning Division

Mr. Khalid Afzal, Team Leader, Community-Based Planning Division

Mr. Frederick Boyd, Community Planner, Community-Based Planning  
Division

January 29, 2003

Gentlemen:

Thank you for taking the time on January 14<sup>th</sup> to meet with me and William Parris concerning the "WINX property" and the proposed Upper Rock Creek Area Master Plan. Pursuant to our meeting, I am forwarding this letter and enclosures to you in order to outline the reasons for the property to be retained in the I-1 Zone. In support of maintaining the I-1 Zone, please consider the following:

1. That approximately one acre of the property, as outlined in Exhibit A, is leased to Multicultural Radio Broadcasting, Inc. through October 2021. The tenant has three radio towers approximately 203 feet high which have been in existence for more than 40 years. Without the towers, the radio station cannot exist and it is not economically feasible to relocate them to another location. Further, there are certain FCC signal and footprint constraints that would make the relocation of the towers impractical. Accordingly, the development of the remaining nine acres of land for other industrial uses would be compatible with the existing radio towers.

2. Our venture, realizing that the center portion of the property is leased for radio tower use, proceeded with the development of the property as a commercial storage lot since sewer and water are presently unavailable. Enclosed are copies of the approved Soil Erosion and Sediment Control Plan and the Drainage Area Map/Storm Water Management Plan. It is anticipated that construction will start in approximately four weeks. The development of the property for the proposed use, with adequate buffers and screening from the residential properties across Ashley Avenue, is an appropriate use in order to accommodate the auto storage requirements for the various new car dealers on Route 355. You will notice by the enclosed plans that there is a substantial conservation easement separating the storage lot from Ashley Avenue and the residentially zoned properties in the Lincoln Park subdivision.

3. That the present use of the contiguous industrial land ("the Eisinger property") which is in the City of Rockville further supports the "WINX property" being retained in the I-1 Zone. The existing automotive use on the "Eisinger property" is very industrial in

Page Two: Montgomery County Department of Park and Planning  
From: Robert E. Reiver  
January 29, 2003

appearance as indicated by the enclosed photographs. Maintaining the industrial zoning for the WINX property would be a compatible use.

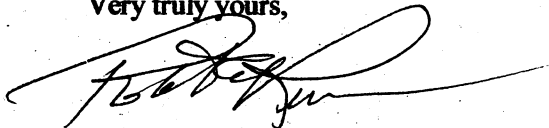
4. There is a need for commercial lot storage and our proposed use will have a minimal traffic impact to the Lincoln Park community. Access is limited to Westmore Avenue, as you can see from the enclosed plans; therefore, cut-through traffic through the neighborhood is discouraged.

5. That before removing the "WINX" property from the I-1 Zone, a complete analysis needs to be done relating to the reduction of industrial zoning that is located in the southern portion of the County. For purposes of long-term growth in the County, it is essential to maintain adequate "close in" industrial zoning in order to service the additional commercial and residential development in the area.

In addition to the above items, I also feel that the financial implications of removing the property from the I-1 Zone should be considered. I know whenever a developer seeks to rezone property or obtain a Special Exception that citizens often testify before the Planning Board concerning the decrease in their property values. I know, in the past, this is considered by the Staff, the Planning Board and the County Council. I believe the same principle should apply when commercial property is being considered for downzoning. At the time when we were obtaining permits to develop the property as a commercial storage lot, our attorneys had the property appraised in "as is" condition with the understanding that the property would ultimately be completed as an auto storage lot. You will notice by the enclosure that the property, in its present, unfinished condition, as of August 9, 2001, had a value of \$3,690,000. Naturally, if the property was removed from the I-1 Zone, there would be a substantial devaluation of the property which we believe would be unjust in light of the numerous reasons for retaining the industrial zoning.

In the event you have any questions concerning the above information, please contact me at the above number.

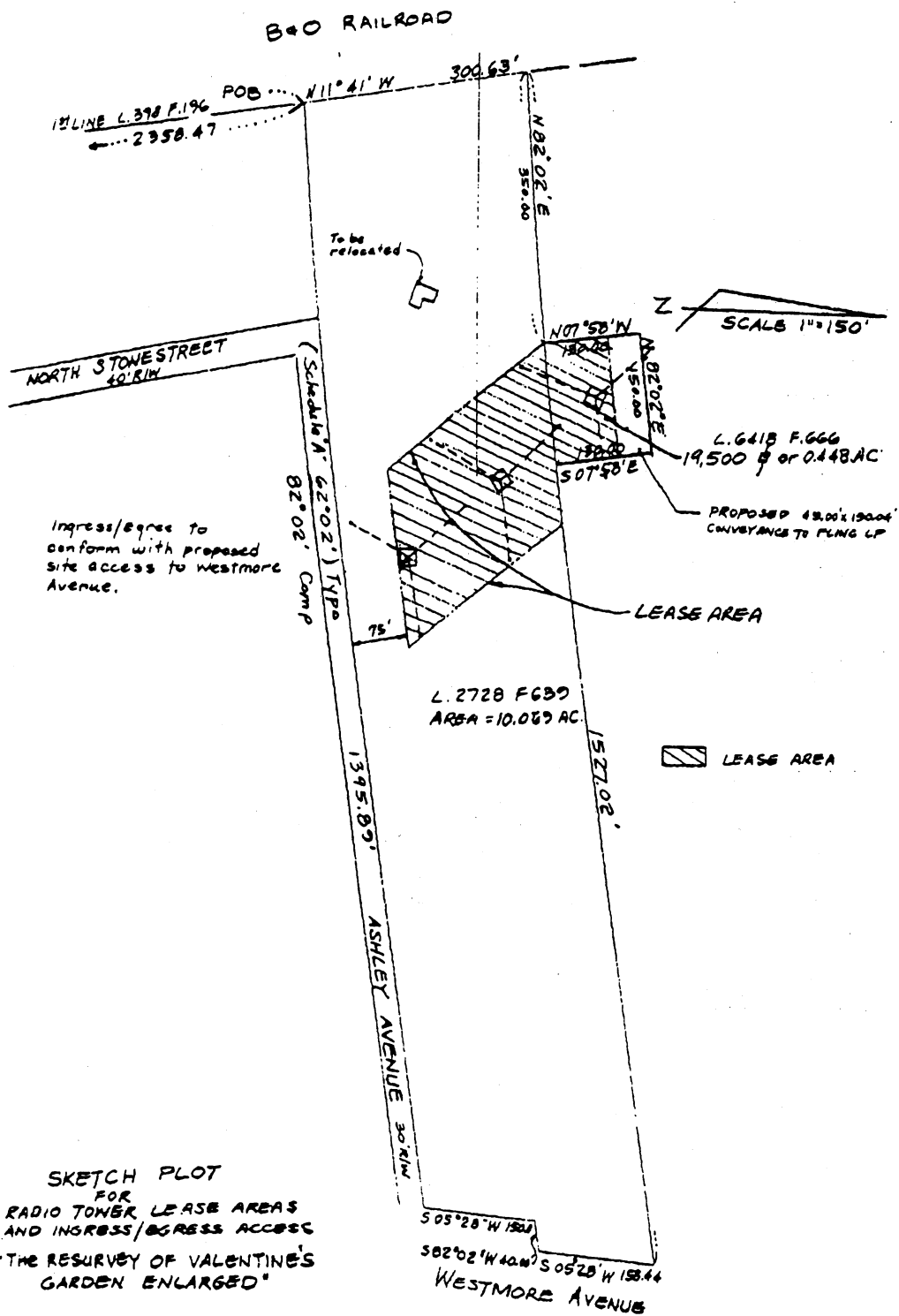
Very truly yours,



Robert E. Reiver

Enclosures  
RER:pa

# Exhibit A



PG ASSOCIATES, INC.  
255 N. WASHINGTON ST.  
ROCKVILLE, MD 20850

# Philip R. Lamb & Co., Inc.

Real Estate Appraisers & Consultants

6533 Garden Grove Way

Laytonsville, MD 20882-1281

(301) 924-5517 (301) 924-5518 FAX



Philip R. Lamb, MAI  
Member

Appraisal Institute

David N. Lamb  
President

Laura G. Lamb  
Vice-President

September 10, 2001

Gordon & Simmons  
131 West Patrick Street, P.O. Box 430  
Frederick, MD 21705

Attn: Roger C. Simmons, Esq.

Re: 950 Stonestreet Avenue (North)  
Rockville, MD 20852  
Parcels P092 & P040  
Tax Map GR343  
4th E. D. in Montgomery County

Dear Mr. Simmons:

As requested, I have made an inspection and *complete appraisal* of the above referenced property and am providing to you the following, narrative *summary report*. The subject property is located at the northernmost end of N. Stonestreet Avenue, abutting the west side of Westmore Road, in the unincorporated portion of Rockville, Maryland.

The subject consists of approximately 450,963 ft<sup>2</sup> OR 10.35 acres of land, improved with a small block building and several, radio towers and guy wires.

The purpose of this investigation was to estimate the investment value of the fee simple interest in the subject, in AS IS and AS IF COMPLETED condition, for possible litigation purposes. This report was prepared exclusively for the benefit of the above named client and is not to be relied upon by any other person(s) for any other use(s).

As a result of my study and analysis, I am of the considered opinion that the investment value of the fee simple interest in the subject property AS IS and AS IF COMPLETED, assuming completion of the proposed improvements and stailized occupancy within one-year, as of the effective date of this appraisal and inspection, August 9, 2001, is

**\$4,530,000 (AS IF COMPLETED)**

**\$3,690,000 (AS IS)**

Respectfully Submitted,

David N. Lamb, President

MD Certified General Appraiser #04-1340

Encl's.

Visit us on the World Wide Web at <http://www.lambcompany.com> OR e-mail us at [davelamb1@lambcompany.com](mailto:davelamb1@lambcompany.com)

**SUMMARY OF SALIENT CHARACTERISTICS:**

**Subject Address:** 950 Stonestreet Avenue  
Rockville, MD 20852

**Legal Description:** Parcels P092 & P040  
Tax Map GR343  
4th E.D., Montgomery County, Maryland  
Ownership: Stonestreet Avenue Venture LLC  
Recorded in Liber 15499 Folio 108 et seq.

**Type of Property:** The subject consists of approximately 450,963 ft<sup>2</sup> OR 10.35 acres of essentially vacant land, except for a very small block building and several radio towers.

**Date & Purpose of Appraisal:** To estimate as of the date of inspection, August 9, 2001, the effective date of this appraisal, the investment value of the Fee Simple Estate in the subject, in AS IS and AS IF COMPLETED, assuming completion of the proposed improvements and stailized occupancy within one-year condition, for possible litigation purposes.

**Property Rights Appraised:** This is an appraisal of all the rights in the fee simple estate form of ownership.

**Zoning:** I-1 (Montgomery County), Light Industrial

**Highest and Best Use:** **AS IMPROVED** - The subject is not currently improved at its highest and best use. It is currently improved with communications transmission towers.

**AS IF VACANT** - If the subject site were vacant, limited uses remain, due to the lack of public water and sewer service. These include the existing transmission tower use as well as storage facilities for materials, and self-storage and parking without on-site offices.

**SUMMARY OF SALIENT CHARACTERISTICS (cont'd):**

**Strengths/Weaknesses:**

The lack of public water and sewer service is clearly a weakness. Annexation into the City of Rockville would make water and sewer service available, however, the City wants the site developed for residential use.

The WSSC has no plans for public water and sewer service within the next 10-years in order to develop the site with other, permitted uses in the I-1 zone that would be more financially productive than those without water/sewer service.

These uses with the site AS IS include the existing transmission tower use as well as storage facilities for materials, and self-storage and parking without on-site offices.

**Final Valuation:**

**\$4,530,000 (AS IF COMPLETED)**

**\$3,690,000 (AS IS)**

as of August 9, 2001 and assuming completion of the proposed improvements and stailized occupancy within one-year

**WAY BROADCASTING**  
**Washington, DC**

January 27, 2003

Montgomery County Department of Park and Planning  
Attention: Mr. Fred Boyd  
8787 Georgia Avenue  
Silver Spring, MD 20910

Dear Mr. Boyd;

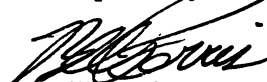
As your department considers its recommendations on the future of what will forever be known as "The WINX Property", I would like your staff to consider the following.

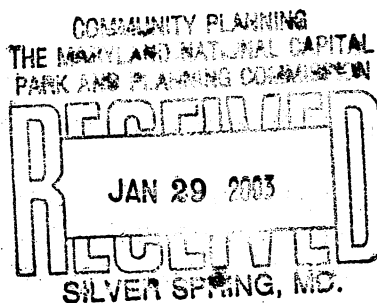
1600 AM, now known as radio station WKDM, has a 5 decade history of service to Montgomery County. As WINX, this unique radio station served the Rockville area with live, local programming, 24 hours a day. Now WKDM programs fulltime to the growing and influential Korean community. WKDM is the full time radio voice of this community, broadcasting live, from and to Montgomery County.

What is at issue is the very existence of this radio community asset and its public service. The three WKDM towers are licensed and regulated by the Federal Communications Commission to serve Montgomery County. Any political relocation of these towers, whose alignment and height is precise, would be so exceedingly difficult as to be practically impossible. Given FCC signal and footprint requirements, our zoning reality and restricted land availability, any disruption of this station's existing structural location, would silence this historical source of community service. The Korean community would lose its only radio service.

WKDM respectfully requests that your staff recommendations do not disturb the current zoning status of this highly unique tract of land.

Respectfully submitted,

  
Bill Parris  
WKDM Radio





Law Offices

# HOLLAND & KNIGHT LLP

3 Bethesda Metro Center  
Suite 800  
Bethesda, Maryland 20814-6301

301-654-7800  
FAX 301-656-3978  
www.hklaw.com

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*Representative Office	

February 20, 2003

**ROBERT R. HARRIS**  
301-215-6607  
rharris@hklaw.com

Mr. Fred Boyd  
Community Based Planning  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Ave  
Silver Spring, MD 20910

Re: Upper Rock Creek Master Plan - Dungan/Casey Properties

Dear Fred:

I have talked with Mike Conley at Winchester Homes who, in turn, has spoken with Dewberry & Davis about the combined concept plan. I understand Mike will obtain a copy of it for you and provide it to you by tomorrow.

I understand that you will be comparing various land use alternatives for the Dungan and Casey properties for a March 6 Planning Board work session. I am enclosing for your consideration a matrix we prepared two weeks ago for that very purpose. I believe, and I hope you will agree, that this comparison shows the strong advantages of a combined Dungan/Casey RNC program. If you have any questions about the analysis, please call.

Cordially yours,



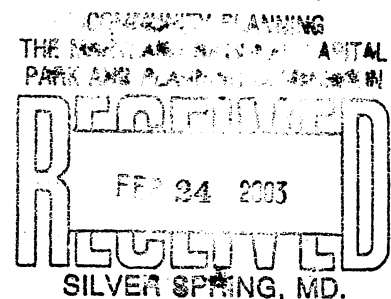
Robert R. Harris

Enclosure

cc: (with enclosure)  
Mike Conley  
Steve Kaufman

BSA1 #22028 v1

(27)



DUNGAN/CASEY PROPERTY ALTERNATIVES

Dungan Property: 132 acres  
 Casey Property: 336 acres  
 Total: 468 acres

	<u>Staff Draft</u>	<u>Owner Request</u>	<u>Joint Plan (A)</u> (transfer Dungan units to Casey with MPDU bonus)	<u>Joint Plan (B)</u> (transfer Dungan units to Casey with MPDU bonus)
Zone	RE-2-(Dungan)  RE-2/RE-2C (Casey)	RNC	RNC	RNC
Market Rate Density	32 – 45 (Dungan) (depending on septic yield) <u>134 (Casey)</u> 166 – 179 (Total)	44 (Dungan) <u>156 (Casey)</u> 200 (Total)	0 (Dungan) <u>212 (Casey)</u> 212 (Total) (6% MPDU bonus density)	0 (Dungan) <u>200 (Casey)</u> 200 (Total)
MPDU's	0	0	38 (15%)	0
Sewer/Septic	Septic (Dungan)  Sewer/Septic (Casey)	Sewer (both)	No development (Dungan)  Sewer (Casey)	No development (Dungan)  Sewer (Casey)
Imperviousness Percentage	11-16%	10%	10%	10%
Public Open Space	0 (Dungan) (none required for RE-2)  Approximately 30 – 40% (Casey)	78% (Dungan)  65% (Casey)	Entire Dungan site; 68% (combined) (approximately 300 acres)	Entire Dungan site; 68% (combined) (approximately 300 acres)

Advantages of Joint Plans

- Achieve protection/public ownership of entire Dungan parcel (132 acres) and major portion of Casey at no public cost.
- Achieve Legacy Open Space objective/expand park and biodiversity buffer.
- Lower imperviousness (10% v. 11 – 16%)
- Avoid road/driveway crossings of stream required for Dungan RE-2 (road access meets Environmental Guidelines; sewer impact is only temporary and has far less impact than a permanent road crossing).
- Avoid any septic lots/environmental impact.
- Produce 38 MPDU's (Joint Plan A)
- Single, walkable community of rural village nature.

