

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

CROSS STREET
I, or we, **POULTRY COMPANY, INC.**, legal owner of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof,

hereby petition for a Variance from Section 1A00.2B.20, to permit the construction of a rigid-structure antenna to a height of 330 feet, in lieu of the height limitation of 100 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty) Data Transmission Company ("Datran") has entered into an agreement to purchase approximately two acres of land (the "Subject Property") from the legal owners, Cross Street Poultry Company, Inc. Datran is in the process of assembling a nationwide high-frequency radio communications network for the transmission of computer and other data messages. The Datran network is based upon an antenna system that transmits information across the country on a point-to-point basis. As such, the network requires a clear line of sight between each antenna within the system. Datran is presently taking steps to place an antenna in downtown Baltimore City, and the antenna to be located on the Subject Property would be a vital link in the Datran network. Datran must comply with the applicable regulations of the Federal Communications Commission, and as such is required to coordinate its transmissions system with other users of high-frequency radio communications. These factors, taken together, necessitate locating an antenna on the Subject Property. Further, the physical attributes of the Subject Property necessitate the construction of the antenna to a height of 330 feet, if there is to be a line of sight to other antennas within the Datran network.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

See attached description
COMMISSIONER OF BALTIMORE COUNTY
CROSS STREET POULTRY COMPANY, INC.
William R. Hansen, Attorney-in-Fact
Edward Heyman, Esq., Legal Owner
Address: 8130 Boone Boulevard
Vienna, Virginia 22180
Baltimore, Maryland 21230
William R. Hansen
Attorney for Data Transmission Company
2000 First Maryland Building
Baltimore, Maryland 21201
Protestant's Attorney

ORDERED By The Zoning Commissioner of Baltimore County, this 7th day of January, 1978, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 103, County Office Building in Towson, Baltimore County, on the 3rd day of February, 1978, at 1:00 o'clock.

Zoning Commissioner of Baltimore County.

(over)

DESCRIPTION TO ACCOMPANY
PETITION FOR
VARIANCE AND SPECIAL USE EXCEPTION
PROPERTY TO BE ACQUIRED BY
DATA TRANSMISSION COMPANY
EIGHTH ELECTION DISTRICT
BALTIMORE, COUNTY, MARYLAND

BEGINNING at a point on the South side of a 25 feet wide right-of-way for ingress and egress to and from Ridge Road said point of beginning being distant Northeasterly 2600 feet more or less S 58° 31' 09" E 463.18 feet, 80.96 feet in a southeasterly direction by the arc of a curve to the left having a radius of 275.00 feet and a long chord bearing S 66° 57' 12" E 80.67 feet, 91.94 feet in a southeasterly direction by the arc of a curve to the right having a radius of 110.00 feet and a long chord bearing S 51° 26' 38" E 89.29 feet, S 27° 30' 00" E 88.61 feet, 98.67 feet by the arc of a curve to the left having a radius of 92.00 feet and a long chord bearing S 58° 13' 34" E 94.01 feet, S 88° 57' 08" E 247.80 feet, and S 01° 02' 52" W 12.50 feet from the intersection of the centerline of Ridge Road with the centerline of Green Spring Avenue and running thence S 88° 57' 08" E 360.31 feet to a point on and distant 303.31 feet from the beginning of the Seventh or South 00° 49' 30" West 468.07 feet line of the Firstly described parcel of that land which by deed dated January 4, 1973 and recorded among the Land Records of Baltimore County, Maryland in Liber E.H.R. Jr. 5330 at Folio 510 was granted and conveyed by The United States of America to The Cross Street Poultry Company, Inc., and running thence binding along part of said Seventh line, all of the Eighth line and part of the Ninth line of said parcel of land the three (3) following courses and distances, viz:

- (1) South 00° 48' 32" West 164.76 feet to a concrete monument found,
- (2) South 38° 24' 02" West 105.74 feet to a concrete monument found and

RE: PETITION FOR SPECIAL
EXCEPTION for a Wireless
Transmitting and Receiving
Structure, and
VARIANCE from Section
1A00.2B.20 of the Baltimore
County Zoning Regulations
Beg. 463.18' E. Ridge Road
and 2600' NE Green Spring Ave.:
8th District
Cross Street Poultry Co., Inc.,
Petitioner
Data Transmission Co.,
Contract Purchaser

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY

No. 15-154-XA

and

No. 75-168-A

ORDER OF DISMISSAL

Petitions of Cross Street Poultry Co., Inc. (Data Transmission Co., Contract Purchaser) for special exception for a Wireless Transmitting and Receiving Structure, and for a variance from Section 1A00.2B.20 of the Baltimore County Zoning Regulations, on property located beginning 463.18 feet east of Ridge Road and 2600 feet northeast of Green Spring Avenue, in the Eighth Election District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of a letter of dismissal of appeals filed August 29, 1975 (a copy of which is attached hereto and made a part hereof), from the attorney representing the Petitioners-Appellants in the above entitled matters,

WHEREAS, the said attorney for the said Petitioners-Appellants requests that the appeals filed on behalf of said Petitioners be dismissed and withdrawn as of August 29, 1975.

IT IS HEREBY ORDERED, this 9th day of September, 1975, that said appeals be and the same are DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Reiter, Jr., Chairman

Robert A. Church

John A. Miller

LAW OFFICES OF
PIPER & MARBURY
2000 FIRST MARYLAND BUILDING
25 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
TELEPHONE 30-830-8300

August 27, 1975

Mr. Walter A. Reiter, Jr., Chairman
County Board of Appeals
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Cross Street Poultry Co., Inc.
File Nos. 75-154XA and 75-168-A

Dear Mr. Reiter:

The cases captioned above (the "Appeals") are scheduled for a concurrent public hearing on Tuesday, October 7, 1975, beginning at 10:00 a.m. Please be advised that the Petitioners, Cross Street Poultry Company, Inc., and Data Transmission Company, have elected to withdraw the Appeals. Please remove the Appeals from your docket.

Very truly yours,

William R. Hansen
Attorney for the Petitioners

WRH/na
cc: Daniel O'Connell Tracy, Jr., Esq.
Thomas F. McDonough, Esq.
John W. Hessian, III, Esq.

Rec'd 8/29/75
10:30 AM

LAW OFFICES OF
PIPER & MARBURY
2000 FIRST MARYLAND BUILDING
25 SOUTH CHARLES STREET
BALTIMORE 21201
TELEPHONE 30-830-8300

April 15, 1975

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case Nos. 75-154XA and 75-168-A
(Item 106)

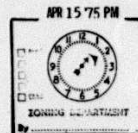
Dear Mr. DiNenna:

As counsel for Cross Street Poultry Company, Inc. and Data Transmission Company, I hereby notice an appeal from the Orders, dated March 27, 1975, of Mr. James E. Dyer in the cases captioned above. I have enclosed a check in the amount of \$340.00, in payment of the fee for appealing this matter to the County Board of Appeals. Please request the Board of Appeals to schedule cases 75-154XA and 75-168A for a concurrent hearing.

Very truly yours,

William R. Hansen
William R. Hansen

WRH:bb
Enclosure



May 2, 1975

Case No. 75-168-A (Item No. 106) - Cross Street Poultry Company, Inc.

Beginning 463.18' E of Ridge Road and
2600' NE of Green Spring Avenue -
8th Election District

Petition for Variance

Description of Property

Letter from William R. Hansen, Esquire, dated January 7, 1975, with Attached Copy of Letter from Charles Burnham to Donald E. Johnston, dated December 30, 1974

Letter of Protest from A. D. McComas, Chairman, Zoning Committee, Falls Road Community Association, dated February 10, 1975

Letter from William R. Hansen, Esquire, dated February 25, 1975, with Attachments

Publication of the Valleys Planning Council, Inc.

Qualifications of Matthew John Vlassides, P.E.

Certificates of Publication

Certificates of Posting (One (1) Sign), with One (1) Photograph

Order of the Deputy Zoning Commissioner, dated March 27, 1975 -
DISMISSED

Letter of Appeal from William R. Hansen, Esquire, on Behalf of the Petitioner, received April 15, 1975

William R. Hansen, Esquire
2000 First Maryland Building
25 South Charles Street
Baltimore, Maryland 21201
Counsel for Petitioner

Daniel O'Connell Tracy, Jr., Esquire
Mercantile-Towson Building
409 Washington Avenue 21204
Counsel for Protestants

Thomas F. McDonough, Esquire
Suite 600, Alex Brown & Sons
102 West Pennsylvania Avenue 21204
Counsel for Mercantile
Safe Deposit and Trust
Company - Protestant

Mr. A. D. McComas
Chairman, Zoning Committee
Falls Road Community Association
P.O. Box 6796 21204
Protestant
(Falls Road Community
Association)

Mr. John J. McCarthy
12529 Greenspring Avenue 21117
Protestant

John W. Hessian, III, Esquire
People's Counsel

BALTIMORE COUNTY, MARYLAND
JEFFERSON BUILDING TOWSON, MARYLAND 21204

DEPARTMENT OF TRAFFIC ENGINEERING
EUGENE J. CLIFFORD, P.E.
DIRECTOR
WM. T. MILLER
DEPUTY TRAFFIC ENGINEER

December 13, 1974

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item 106 - ZAC - December 3, 1974
Property Owner: Cross Street Poultry Co., Inc.
Location: Beginning 710 ft. more or less E of Ridge Rd. 2600 ft. E of Greenspring Ave.
Existing Zoning: R. D. P.
Proposed Zoning: Special Exception for a wireless transmitting & receiving structure, which is a recognized special exception in an RDP zone pursuant to Sec. 1A00.2B Variance from Sec. 1A00.2B.20 to permit the construction of a rigid-structure antenna to a height of 310 ft., in lieu of the height limitation of 100 ft.

No. of Acres: 2.000
District: 8th

Dear Mr. DiNenna:

No traffic problems are anticipated by the request special exception for a wireless transmitting and receiving structure.

Very truly yours,

Michael S. Flanagan
Michael S. Flanagan
Asst. Traffic Engineer

NSP/ljb

RE: PETITION FOR VARIANCE : BEFORE THE
Beginning 463.18' E of Ridge Road : DEPUTY ZONING
and 2600' NE of Green Spring Avenue : COMMISSIONER
8th District :
Cross Street Poultry Company - :
Petitioner : OF
NO. 75-168-A (Item No. 106) : BALTIMORE COUNTY

This Petition represents a request for a Variance to the height requirements of the Baltimore County Zoning Regulations. The Variance requested is intended to permit construction of a rigid structure antenna to a height of 330 feet, more or less. The property, on which the antenna would be constructed, contains two acres, more or less, and is part and parcel of a 16 acre abandoned nuke site, located east of Ridge Road and northeast of Green Spring Avenue, in the Eighth Election District of Baltimore County.

This case is accompanied by a companion case, No. 75-154-XA, in which the Petitioner requests a Special Exception to construct a wireless transmitting and receiving structure. In essence, the Special Exception would permit the construction of said antenna to the height permitted as a matter of right in the R.D.P. Zone. This request is intended to permit construction of said antenna to a height over and above that normally permitted in said zone. For all practical purposes, the two Petition requests were heard collectively. However, since the request was made by two separate case files, separate Orders will be written.

During the course of the hearing, several highly qualified experts in the fields of radio engineering, land planning and structural engineering, together with a representative of the Data Transmission Company (Datran) presented several hours of testimony. The testimony concerned the need for such a structure, the method of operation, the type of construction and the safety precautions in the form of preventive maintenance that would be maintained after the structure is completed.

Several area residents, many of whom had recently moved into the area,

constructed dwellings in the first section of an adjoining development, appeared and testified in protest to the Petitioner's request.

Without reviewing the testimony and evidence presented during the course of the hearing, but based on a thorough review of the Baltimore County Zoning Regulations from which the Variance is requested, the Deputy Zoning Commissioner has concluded that the Variance as requested is not necessary. This conclusion is based on the following facts and regulations, Section 1A00.2B29 reads as follows:

"(20) Wireless transmitting and receiving structures, except that a radio antenna in conjunction with transmitting and receiving facilities used by a resident amateur radio operator's license issued by the Federal Communications Commission shall be considered an accessory structure or, if attached to another structure, an accessory use, and, as such, is permitted without a special exception, provided: (a) that if it is an accessory structure, it shall be subject to the provisions of Section 400; (b) that if it is a rigid-structure antenna, it shall be no higher than 100 feet or the horizontal distance to the nearest property line, whichever is less, above grade level, and no supporting structure thereof shall be closer than 50 feet to any property line; and, further, (c) that it does not extend closer to the street on which the lot fronts than the front building line"

This section simply requires a Special Exception for a wireless transmitting and receiving structure. The paragraph, however, goes on to explain that radio antennas used in connection with amateur radio operators, are excepted from the Special Exception requirements and are to be considered accessory structures or, if attached to another structure, an accessory use. Any such use is further required to meet the requirements of Section 400 as said Section pertains to accessory buildings in residential zones. Additional restrictions for said accessory uses require that if it is a rigid structure antenna it shall not exceed a height greater than 100 feet or the horizontal distance to the nearest property line whichever is less, and that no supporting structure thereof be located closer than 50 feet to a property line or beyond the front building line.

As such, a wireless transmitting and receiving structure other than that of an amateur radio operator must be considered as any other principal structure in a R.D.P. Zone. Section 1A00.3 Height and Area Regulations state that no structure in a R.D.P. Zone shall exceed a height of 35 feet, except as otherwise specially provided in the Zoning Regulations (see Section 300). Section 300.1a under the heading of Article 3 - Exceptions to Height and Area Requirements and Section 300 - Height Exceptions reads:

"The height limitations of these regulations shall not apply to barns and silos, nor to church spires, belltowers, cupolas, domes, radio or television aerials, drive-in theatre screens, observation, transmission or radio towers, or poles flagstaffs, chimneys, parapet walls which extend not more than four feet above the limiting height, bulkheads, water tanks and towers, elevator shafts, penthouses and similar structures provided that any such structures shall not have a horizontal area greater than 25 per cent of the roof area of the building."

This Section clearly permits construction of transmission or radio towers without any limit as to height. The following Section 300.1b states:

"Notwithstanding the provisions of Subsection 300.1a no appurtenances to any building in a B.L., B.M., or B.R. Zone shall exceed the heights specified in Section 231 except any flagstaff, any church spire, and any pole for a radio and television aerial not exceeding 50 feet in height above the base thereof and not displaying any lettering, sign, or other advertising emblem or device."

This Section does place limitations on radio and television aerials in commercial zones but makes no reference or restrictions with regard to radio or transmission towers in residential zones. Section 300.2 deals with buildings for religious, hospital or educational offices and again makes no reference or restriction to the height of transmission or radio towers in residential zones.

In the absence of any additional controls, one must assume that Section 300.1a removes all height requirements with regard to transmission or radio towers, which renders the subject Variance request unnecessary.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 27th day of March, 1975, that the herein Petition to permit a rigid structure antenna to be constructed to a height of 330 feet is unnecessary and is hereby DISMISSED.

James E. Dyer
Deputy Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
DATE March 27, 1975
BY *John W. Hession*

ORDER RECEIVED FOR FILING
DATE March 27, 1975
BY *John W. Hession*

ORDER RECEIVED FOR FILING
DATE March 27, 1975
BY *John W. Hession*

RE: CROSS STREET POULTRY COMPANY, INC. : BEFORE THE
Petitioner for Special Exception for : ZONING COMMISSIONER
a wireless transmitting and receiving :
structure, beginning 463.18 feet East :
of Ridge Road and 2600 feet Northeast :
of Greenspring Avenue, 8th District :
Case No. 75-168-A

ORDER TO ENTER APPEARANCE

Mr. Commissioner:
Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

John W. Hession
John W. Hession, III
People's Counsel for Baltimore County
County Office Building
Towson, Maryland 21204
823-8460

I HEREBY CERTIFY that a copy of the foregoing Order was mailed this 24th day of January, 1975, to William R. Hansen, Esq., Piper & Marbury, 2000 First Maryland Building, 25 South Charles Street, Baltimore, Maryland 21201.

John W. Hession
John W. Hession, III

William R. Hansen, Esquire
Page 2
March 27, 1975

cc: Mr. A.D. McComas
Falls Road
Ceekysville, Maryland 21230

Mr. John J. McCarthy
12529 Greenspring Avenue
Owings Mills, Maryland 21117

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

OFFICE OF ZONING COMMISSIONER

2 ERIC DINENHA
Zoning Commissioner
JAMES E. DYER
Deputy Zoning Commissioner



04-2251
04-3291

March 27, 1975

William R. Hansen, Esquire
2000 First Maryland Building
25 South Charles Street
Baltimore, Maryland 21201

RE: Petition for Variance
Beginning 463.18' E of Ridge Road
and 2600' NE of Green Spring Avenue
8th District
Cross Street Poultry Company -
Petitioner
NO. 75-168-A (Item No. 106)

Dear Mr. Hansen:

I have this date passed my Order in the above captioned matter in accordance with the attached.

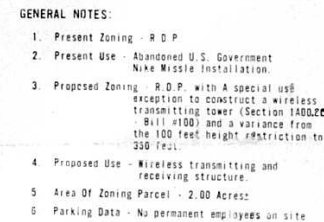
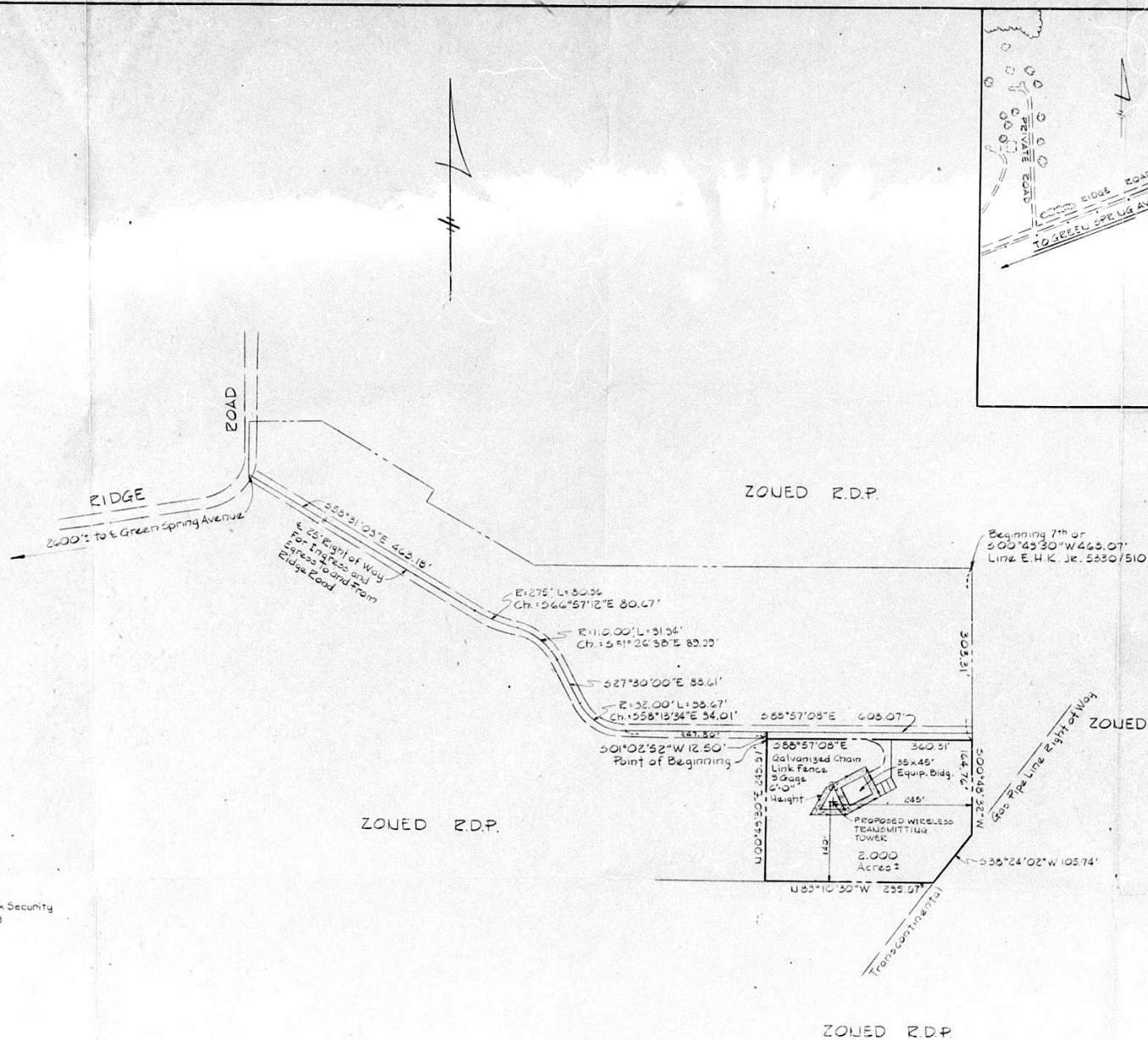
Very truly yours,
James E. Dyer
JAMES E. DYER
Deputy Zoning Commissioner

JED/mc
Attachments

cc: Daniel O'Connell Tracy, Jr., Esquire
409 Washington Avenue
Towson, Maryland 21204

Thomas F. McDonough, Esquire
Suite 600
102 West Pennsylvania Avenue
Towson, Maryland 21204

111 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21204



DATA TRANSMISSION COMPANY
8th Election District Baltimore County, Maryland
Scale: 1"=100'
January 6, 1975

#106 - Cross St. Poultry

PURDUM & JESCHKE
CONSULTING ENGINEERS
& LAND SURVEYORS
1023 N. CALVERT STREET
BALTIMORE, MARYLAND



William D. Purdom Reg. #1932