

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) 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 Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for Excavations controlled pursuant to Section 248.4 of the Baltimore County Zoning Regulations.

Property is to be posted and advertised as prescribed by Zoning Regulations

I, or we, agree to pay expenses of above Special Exception 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.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contact Purchaser: Leroy M. Merritt
(Type or Print Name)
Signature: [Signature]
Address: 210 Allegheny Avenue
City and State: Towson, Md. 21204
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: Cook, Howard, Downes & Tracy, Inc. 210 Allegheny Ave. Towson, Md. 21204 823-4111

Attorney for Petitioner: John B. Howard
Address: 210 Allegheny Avenue
City and State: Towson, Md. 21204
Attorney's Telephone No.: 823-4111

Subscribed By The Zoning Commissioner of Baltimore County this 4th day of August, 1982, 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 held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County on the 21st day of October, 1982, at 9:45 o'clock.

[Signature]
Zoning Commissioner of Baltimore County.

(over)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William E. Hammond
Zoning Commissioner
Norman E. Gerber, Director
Office of Planning and Zoning
FROM: Office of Planning and Zoning
SUBJECT: Zoning Petition No. 83-103-X
Leroy M. Merritt

Date: October 19, 1982

If granted, it is assumed that a sediment control plan will be submitted to the Soil Conservation Service for their approval. It is also suggested that the hours of operation be limited as noted on the site plan. Finally, air-borne particulate matter should be controlled by spraying or similar methods.

[Signature]
Norman E. Gerber,
Director of Planning and Zoning

N:G:JGR:sk

cc: Arlene January
Shirley Hess

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE Bldg.
111 W. Chesapeake Ave.
Towson, Maryland 21204

October 8, 1982

John B. Howard, Esquire
210 Allegheny Avenue
Towson, Maryland 21204

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Road Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

RE: Case #83-103-X (Item No. 17)
Petitioner-Leroy M. Merritt
Special Exception Petition

Dear Mr. Howard:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

In view of your client's proposal to utilize the subject property for controlled excavation, this hearing is required. This property was the subject of a previous hearing (Case #78-21-P) in which a request to change the zoning to B.R. was eventually dismissed.

Particular attention should be afforded to the comments of the State Highway Administration, Department of Permits and Licenses and Current Planning. For further information and/or explanation of these comments, you may contact Mr. George Wittman at 659-1351, Mr. Ted Burham at 694-3987 and Mr. Jack Wimbley at 494-3335, respectively. In addition at the time of this writing, the comments from the Health Department were not available. Therefore, I suggest you contact Mr. Rob Powell at 494-2762 to discuss this matter prior to the hearing.

Case #83-103-X (Item No. 17)
Petitioner-Leroy M. Merritt
Page 2

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

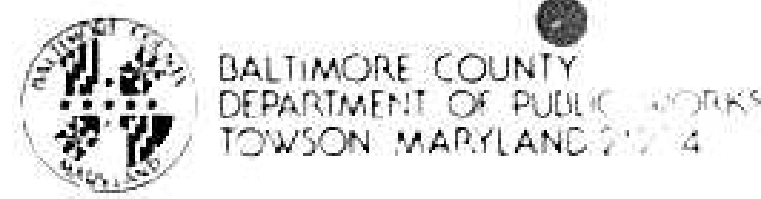
[Signature]
NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:inch

Enclosures

cc: James Petrica & Assoc., Inc.
409 Jefferson Bldg.
Towson, Maryland 21204

MICROFILMED



HARRY J. BUSH, P.E.
Director

August 17, 1982

Mr. William E. Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #17 (1982-1983)
Property Owner: Leroy M. Merritt
JWS Washington Blvd., 510' N/E from centerline
of Victory Avenue
Acreage: 63.627 District: 13th

Dear Mr. Hammond:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Comments were supplied in conjunction with the Zoning Advisory Committee review of this property in connection with Item 1, Zoning Cycle 1 (April-October 1977).

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 17 (1982-1983).

Very truly yours,

[Signature]
ROBERT A. MORTON, P.E., Chief
Bureau of Public Services

RAE:AM:FWP:SS

cc: Jack Kinstry

G-SW Key Sheet
18 & 19 SW 11 & 12 Pos. Sheets
SW 5 C Topo
109 Tax Map

Attachment

MICROFILMED

April 26, 1977

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

Re: Item #1 (Cycle 1 April-October 1977)
Property of Mr. Leroy Merritt
Beginning 530' M/W of the centerline intersection of
Victory Ave. and Washington Blvd.
Existing Zoning: M.L.R. - I.M. District
Proposed Zoning: M.L. - I.M. and B.R. - I.M.
District, 13th No. of Acres, 50.799

Dear Mr. DiNenna:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Comments were supplied the Baltimore County Bureau of Public Services September 24, 1976 in connection with the preliminary site development plan entitled "Beltway Business Center" (Project #6124). A copy of these comments which remain valid and applicable are attached herewith for your consideration.

The Baltimore County Highway Design Section has suggested that the horizontal alignment for the proposed public road extension through this site should preferably use compound curvature in lieu of the indicated broken-back type of curve.

Very truly yours,
[Signature]
DONALD W. TUCKER, P.E.
Acting Chief
Bureau of Engineering

DWT:EAM:FWP:SS

cc: R. Morton
P. Koch
J. Trenner

Attachment

G-SW Key Sheet
18 & 19 SW 11 & 12 Pos. Sheets
SW 5 C Topo
109 Tax Map

MICROFILMED



LAVELL K. BRIDGES
Secretary
M. S. CECILIO
Administrator

August 4, 1982

Mr. William Hammond
Zoning Commissioner
County Office Bldg.
Towson, Md. 21204

Attention: Mr. N. Commodari

Re: ZAC Meeting of 7-17-82
ITEM: #17.
Property Owner: Leroy M. Merritt
Location: N/W side Washington Blvd. (Route 1-5), 510' N/E from centerline of Victory Ave.
Existing Zoning: M.L.R.-IM
Proposed Zoning: Special Exception for excavations, controlled
Acreage: 63.627
District: 13th

Dear Mr. Hammond:

On review of the site plan of June 23, 1982 and field inspection, the State Highway Administration offers the following comments.

The proposed plan for controlled excavation appears to be generally acceptable.

The developer shall be responsible for the placement of any and all sediment and erosion control devices that may be necessary during excavation of the site.

The site should be reviewed and approved by Baltimore County Soil Conservation District prior to issuance of any County permits.

All access to the Mining & Borrow Operations should be by way of the existing Mushroom Road (private) as shown on drawing no. 1 of 1.

With the haul road connection shown on drawing no. 3 of 4 to Mushroom Road an agreement or letter of consent should accompany any application for permit to Baltimore County.

MICROFILMED

If telephone number is (301) 659-1350

383 7555 Baltimore Metro - 1-800-451-D.C. Metro - 1-800-492-5000 Statewide Toll Free
P.O. Box 717, 707 North Calver St., Baltimore, Maryland 21201-0717

ORDER RECEIVED FOR FILING

BY [Signature]
REC-10-1

Washington Blvd., 510' N/E from centerline of Victory Ave.
13 of 13

Leroy M. Merritt 83-103-X
NW/5 Washington Blvd., 510' NE of
CL of Victory Ave.
13th

MICROFILMED

MICROFILMED

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations having been met and the health, safety, and general welfare of the community not being adversely affected, the special exception should be granted.

Therefore, it IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 1st day of February, 1983, that the herein Petition for Special Exception for controlled excavations, in accordance with the site plan prepared by James Petrica & Associates, Inc., dated June 23, 1982, is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions:

1. A sediment control plan shall be approved by the Baltimore County Soil Conservation District and the Department of Public Works prior to any excavation.
2. The hours of operation shall be from 7:30 a.m. to 4:00 p.m., Monday through Friday.
3. Compliance with the comments submitted by the Maryland Department of Transportation, dated August 4, 1982, the Current Planning and Development Division/Office of Planning and Zoning, dated October 6, 1982, and the Department of Health, dated October 4, 1982.
4. Air-borne particulate matter shall be controlled by spraying or similar methods.
5. No junk or debris shall be stored on the site.
6. Compliance with all air, water, and noise pollution regulations, as well as Section 403 of the Baltimore County Zoning Regulations.
7. Approval of the aforementioned site plan by the Maryland Department of Transportation, the Department of Public Works, and the Office of Planning and Zoning.

Jan M. H. Jung
Deputy Zoning Commissioner of
Baltimore County

August 1, 1982

Mr. W. Hammond

With a direct outfall connection from the sediment basin on drawing no. 2 of 4 to the existing Storm Drain System of the State Highway Administration, the developer will be required to provide a complete Storm Water Management plan to the S.H.A. Bureau of Highway Design's Hydraulics Section for review and comments.

The proposed 80' right of way for Washington Blvd. appears to be generally acceptable.

The proposed "Beltway Business Center" plan drawing no. 1 of 1 has been forwarded to the District Traffic Engineer for his review and comments.

Upon completion of the S.H.A.'s hydraulic review and comments from the District #4 Traffic Engineer additional comments will be forwarded to you.

Any additional access to the site either temporary or permanent beside the Mushroom Road access must be through permit from the State Highway Administration.

If you have any questions, please do not hesitate to call this office.

Very truly yours,

Charles Lee
Charles Lee, Chief
Bureau of Engineering
Access Permits

By: George Wittman

CL:GW:vr

cc: Mr. J. Wimbley

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494 3211
NORMAN E. GERBER
DIRECTOR

October 6, 1982

Mr. William Z. Hammond, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #17, Zoning Advisory Committee Meeting, July 27, 1982, are as follows:

Property Owner: Leroy M. Merritt
Location: NW/4 Washington Blvd 510' N/E from centerline of Victory Ave.
Acres: 63.627
District: 13th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

If the petition is granted, the developer must comply with Bill #56-82.

Very truly yours,

John L. Wimbley
John L. Wimbley
Current Planning & Development

JLW:ri

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BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494 3350
STEPHEN E. COLLINS
DIRECTOR

August 25, 1982

Mr. William Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

RE: ZAC Meeting of July 27, 1982

Dear Mr. Hammond:

The Department of Traffic Engineering has no comments for items number 16, 17, 18, 19, 21 and 22.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Engineering Associate II

MSF/ri

MICROFILMED

BALTIMORE COUNTY
DEPARTMENT OF HEALTH
TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE & COUNTY HEALTH OFFICER

September 27, 1982

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #17, Zoning Advisory Committee Meeting of July 27, 1982, are as follows:

Property Owner: Leroy M. Merritt
Location: NW/4 Washington Blvd. 510' N/E from centerline of Victory Avenue
Existing Zoning: MIA-IM
Proposed Zoning: Special Exception for excavations, controlled
Acres: 63.627
District: 13th

Metropolitan water and sewer are available to serve the property.

Connection to metropolitan sewer is subject to the allocation schedule for the Patapsco sewer shed.

Approval will be granted for the installation of an interim septic system; as noted on the plans submitted; providing that satisfactory soil percolation tests have been conducted and connection to sewer has been delayed due to the aforementioned allocation schedule. When the allocations for the connection to sewer are available, the building must be immediately connected to public sewer and the septic system abandoned and backfilled.

This approval will be for the building in Phase I only until the restrictions are removed from the public sewer.

Very truly yours,

Ian J. Forrest
Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/als

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7310

ALAN H. REINHOLD
CHIEF

September 1, 1982

Mr. William Hammond
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Cuccinelli, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Leroy M. Merritt

Location: NW/4 Washington Blvd. 510' N/E from centerline of Victory Avenue

Item No.: 17

Zoning agenda: Meeting of July 27, 1982

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

(X) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 100 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWED BY: *[Signature]* Noted and Approved: *[Signature]*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/mb/cm

MICROFILMED

BALTIMORE COUNTY
DEPARTMENT OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494 3200

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

August 16, 1982

Dear Mr. Hammond:

Comments on Item #17, Zoning Advisory Committee Meeting of July 27, 1982, are as follows:

Property Owner: Leroy M. Merritt
Location: NW/4 Washington Blvd. 510' N/E from centerline of Victory Ave.
Acres: 63.627
District: 13th

The items checked are applicable:

- A. All structures shall conform to the Baltimore County Building Code 1981/Ordinal 1111 - 47 State of Maryland Code for the Handicapped and Aesthetics and other applicable codes.
- B. A building permit shall be required before beginning construction.
- C. Residential: When lots of construction drawings are required to file a permit application, Architect/Engineer seal is not required.
- D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- E. In used from construction an exterior wall erected within 6'0" of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 1'0" lot line. A firewall is required if construction is on the lot line, see Table 401, line 2, Section 401 and Table 402.
- F. Requested variance conflicts with the Baltimore County Building Code, Section 401.
- G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that, the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 401.

X.1. Comments: At time of filing for building permits structures shall comply with the applicable net back, fire resistiveness and areas as permitted in Section 505, 506, 507, Table 505, 507, 401. Please review the definition of "Fire separation, exterior fire exposure" as it relates to the above sections of building Code (See page 29) 1981 edition B.C.C.A.

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit.
If desired additional information may be obtained by visiting Room #172 (Plans Review) at 111 West Chesapeake Ave., Towson.

Very truly yours,

Charles E. Burman
Charles E. Burman, Chief
Plans Review

MICROFILMED

BALTIMORE COUNTY
DEPARTMENT OF HEALTH
TOWSON, MARYLAND 21204
DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE & COUNTY HEALTH OFFICER

October 4, 1982

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #17, Zoning Advisory Committee Meeting of July 27, 1982, are as follows:

Property Owner: Leroy M. Merritt
Location: NW/4 Washington Blvd. 510' N/E from centerline of Victory Avenue
Existing Zoning: MIA-IM
Proposed Zoning: Special Exception for excavations, controlled
Acres: 63.627
District: 13th

The applicant is advised that Regulations Governing the Control of Air Pollution in the State of Maryland require that reasonable precautions are to be taken to prevent particulate matter from becoming airborne as determined by the control officer. Such precautions may include yet not be limited to:

- A. Use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or clearing of land.
- B. Application of asphalt, oil, water or suitable chemicals on dirt roads, material stockpiles and other surfaces which can create airborne dusts.
- C. Covering, at all times when in motion, open bodied vehicles transporting materials likely to create air pollution. Alternative methods may be employed to achieve desired results.
- D. Paving of roadways and their maintenance in a clean condition.
- E. Removal from paved streets of earth or other material which has been transported there by trucks or earth moving equipment or erosion by water.

Very truly yours,

Ian J. Forrest
Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/als

MICROFILMED

83-103-X

MICROFILMED

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dabel, Superintendent

Towson, Maryland - 21204

Date: July 23, 1982

Mr. William E. Hammond
Zoning Commissioner
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Z.A.C. Meeting of: July 27, 1982

RE: Item No: 16, 17, 18, 19, 20, 21, 22
Property Owners:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. Hammond:

All of the above have no bearing on student population.

Very truly yours,
Nick Petrovich
Mr. Nick Petrovich, Assistant
Department of Planning

KMP/tp

MICROFILMED

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER
NW/5 of Washington Blvd., 510'
NE of the centerline of Victory Ave.,
13th District : OF BALTIMORE COUNTY

LEROY M. MERRITT, Petitioner : Case No. 83-103-X

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 therefor, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 24th day of September, 1982, a copy of the foregoing Order was mailed to John B. Howard, Esquire, 210 Allegheny Avenue, Towson, Maryland 21204, Attorney for Petitioner.

John W. Hession, III
John W. Hession, III

MICROFILMED

LANSLOWNE BUSINESS AND PROFESSIONAL ASSOCIATION, INC.

INFORMAL ACTION OF THE BOARD OF DIRECTORS

* * *

June 1983

The undersigned, constituting all of the Directors of LANSLOWNE BUSINESS AND PROFESSIONAL ASSOCIATION, INC., a Maryland corporation (hereinafter referred to as the "Corporation"), in accordance with Section 2-408 (c) of the Corporations and Associations Article of the Annotated Code of Maryland do hereby take the actions below set forth, and to evidence their waiver of any right dissent from such actions, do hereby consent as follows:

RESOLVED: That the Corporation favors and supports the Petition for a Special Exception filed by Leroy M. Merritt, requesting the use of his property on Washington Boulevard as a controlled excavation.

RESOLVED: That Nolley Fisher, or any other member of the Board of Directors, appear before the County Board of Appeals of Baltimore County on behalf of the Corporation, in support of the proposed use of the aforementioned property as a controlled excavation.

WITNESS the execution hereof, the day and year first above written.

Joseph M. Hart
Joseph Hart

Charles Koon
Charles Koon

Nolley Fisher
Nolley Fisher
J. Dennis Grace
J. Dennis Grace

Dennis Harting
Dennis Harting
Clyde J. Blumberg
Clyde J. Blumberg

2

STATE OF MARYLAND
COUNTY OF BALTIMORE
NOLLEY FISHER, being first duly sworn, deposes and says:

1. That he is the President of Lansdowne Business and Professional Association, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Maryland, and on whose behalf he makes this Affidavit.

2. That the following individuals are currently the duly elected members of the Board of Directors:

Joseph Hart	Dennis Harting
Charles Koontz	J. Dennis Grace
Nolley Fisher	Clyde J. Blumberg

IN WITNESS WHEREOF, said Corporation has caused the above instrument to be executed on its behalf, pursuant to the authority of its Board of Directors, by its President, and attested by its Secretary, this 16th day of June, 1983.

ATTEST
Charles Koontz
Charles Koontz
By: *Nolley Fisher* (SEAL)
Nolley Fisher, President

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 16th day of June, 1983, before me, a Notary Public and for the State aforesaid, personally appeared NOLLEY FISHER, who acknowledged himself to be the President of Lansdowne Business and Professional Association, Inc., a body corporate, and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Corporation by himself as President.

AS WITNESS my hand and notarial seal.

Notary Public
Notary Public

My Commission Expires: July 1, 1986.

I. Resolution to be adopted at meeting and inserted in minutes of meeting.

Upon Motion duly made, seconded and carried, it was:

RESOLVED: That the responsibility for review and action on all zoning matters, including but not limited to the Petition for a Special Exception for a controlled excavation, filed by Leroy M. Merritt, be placed on the Board of Directors.

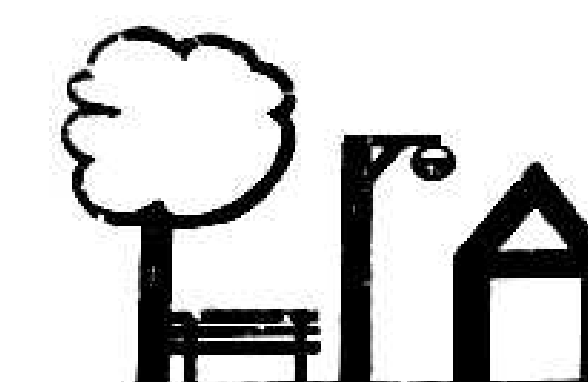
II. Certificate to be typed at end of copy of minutes and executed by the appropriate officers.

I, Nolley Fisher, President of Lansdowne Business and Professional Association, Inc. hereby certify that the foregoing is a true and accurate copy of the original.

Attest:

Charles Koontz
Charles Koontz, Secretary

Nolley Fisher
Nolley Fisher, President



The Lansdowne Improvement Association

June 20, 1983

To whom it may concern:

The following is a portion of the Minutes from the June 14, 1983 meeting of the Lansdowne Improvement Association. It contains the motion passed by the entire attending body, giving Mrs. Mary Theresa Lowry permission to speak on behalf of the Lansdowne Improvement Association at the Zoning Appeal Hearing against the special exception allowing Leroy Merritt to excavate his property on Washington Blvd.

Old Business;

Mrs. Lowry, President, brought the Association up to date on the Zoning Appeal against Leroy Merritt. Mr. John Murphy has been asked to help the Association in this appeal. The resolution was passed unanimously to authorize Mr. Murphy, specifically to represent the Lansdowne Improvement Association in this zoning appeal. There were no exceptions.

The resolution was also passed to authorize the President, Mrs. Lowry to speak, to oppose the excavation, on behalf of the Lansdowne Improvement Association. The entire body of members in good standing, there present, unanimously passed the resolution.

Respectfully,

Marie R. Cannon
Marie R. Cannon,
Recording Secty.

Spina Lucy Mrs.



The Lansdowne Improvement Association

June 20, 1983

To whom it may concern:

The following is a portion of the Minutes from the June 14, 1983 meeting of the Lansdowne Improvement Association. It contains the motion passed by the entire attending body, giving Mrs. Mary Theresa Lowry permission to speak on behalf of the Lansdowne Improvement Association at the Zoning Appeal Hearing against the special exception allowing Leroy Merritt to excavate his property on Washington Blvd.

Old Business;

Mrs. Lowry, President, brought the Association up to date on the Zoning Appeal against Leroy Merritt. Mr. John Murphy has been asked to help the Association in this appeal. The resolution was passed unanimously to authorize Mr. Murphy, specifically to represent the Lansdowne Improvement Association in this zoning appeal. There were no exceptions.

The resolution was also passed to authorize the President, Mrs. Lowry to speak, to oppose the excavation, on behalf of the Lansdowne Improvement Association. The entire body of members in good standing, there present, unanimously passed the resolution.

Respectfully,

Marie R. Cannon
Marie R. Cannon,
Recording Secty.

E. 6
RE: PETITION FOR SPECIAL EXCEPTION
for Excavation, Controlled
N.E. corner of Ebenezer Road and
Bird River Beach Road
15th District
Baltimore County
Petitioner
Shancill Contracting Company
Contract Purchaser
No. 75-18-X

OPINION

This case came before the Board on an appeal by the Petitioner from a decision of the Zoning Commissioner, which denied a requested special exception for the subject property. This property is located at the northeast corner of Ebenezer Road and the Bird River Beach Road, in the 15th Election District of Baltimore County.

At the outset of this hearing the original petition was amended to reflect the now fee simple owner of the subject property. Originally this case was filed by the estate of Ida F. Surgy, with the Shancill Contracting Company as contract purchaser. In 1974 the Shancill Contracting Company completed the purchase of the subject and is now the owner of same. Hence the petition was amended accordingly and the case before the Board is brought by the Petitioner, the Shancill Contracting Company. It was stipulated by the parties to this case that the land is zoned R.D.P. The Petitioner seeks a special exception for a controlled excavation, namely, the excavation of sand and gravel. The Zoning Commissioner denied the request for the special exception. This case comes de novo before the Board of Appeals, and the Petitioner must convince the Board that the use sought via the special exception will not violate any of the sections and/or provisions of Section 502.1 of the Baltimore County Zoning Regulations. In furtherance of this burden the Petitioner presented seven witnesses to the Board. This Opinion will not attempt to detail the testimony of each of these witnesses. However, it will summarize those witnesses which most significantly contributed to the evidence presented.

Terry Shancill, the Secretary-Treasurer of the Shancill Contracting Company, testified before the Board that the proposed excavation would be approximately 75 feet deep and would be approximately 100 feet wide. He also testified that the excavation would be approximately 100 feet long and would be approximately 100 feet wide.

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Ida F. Surgy - No. 75-18-X
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morely 45 acres of this area. The product sought is a clean siliceous type sand and the excavation would reach a depth of approximately 75 feet. At the termination of and all during the mining process a lake would fill the mine area. Mr. Shancill told the Board that preliminary tests indicated that the 45 acres mentioned is the only area of the subject property which might be anticipated to yield the quality and quantity of sand sought for commercial use. He said that this was an excellent sand deposit and did not contain much gravel. He felt that the life of this deposit was approximately fifteen years, and a conservative estimate of the quantity was approximately eight million tons.

Although the testimony throughout the case was not totally consistent concerning the amount of production, Mr. Shancill did indicate that while the market place dictates the production schedules, that it could be anticipated that about 800,000 to 900,000 tons per year would be taken from the subject property. The production could be anticipated five and one-half days per week, with about 2000 tons per work day being produced. As to the truck traffic, the Petitioner indicated the capacity per truck was about 20 tons, and that there would be about 75 to 100 loads per day, and therefore approximately 150 to 200 trips per day at the subject site. A plant would be built for the washing and grading of the sand and the silting material produced would be a minimum. A six foot high berm around the mine area, with screening atop same is proposed. The only entrance to the subject mining area would be from Ebenezer Road; there would be no entrance from the Bird River Beach Road. This particular entrance was selected as some provided the best sight clearance, and hence the best location for ingress and egress to and from the subject property.

Further noting the planned operation, Mr. Shancill said that same would be a recirculating fresh water system and that the actual mining would be by dragline to pull the material up from below the water table. He did indicate that as the mining approached the 75 foot depth that perhaps different types of dragline equipment would be required. This testimony was rather vague and relied in part by a subsequent expert witness for the Petitioner. Mr. Shancill spoke of that need of plans for the entrance roads and planned treatment for these roads to keep the dust problem as minimal as

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Ida F. Surgy - No. 75-18-X
3.
possible. He felt that noise from the operation would be well buffered by the woods that would surround same, and he noted that it was proposed that the processing plant would be constructed in these woods. The nearest home to the plant would be approximately 1350 feet away. As to the traffic leaving the site from Ebenezer Road, the Petitioner felt that about sixty-five percent would go to Route 40.

The Petitioner felt that the proposed operation would satisfy all the provisions of Section 502.1. On cross-examination the Petitioner acknowledged that Petitioner's Exhibit No. 1 had not yet been offered to the Planning and Zoning Department of Baltimore County. Since the Board must specifically look at the proposal of the Petitioner when judging Section 502.1 against the proposed use of the special exception, the fact that the Planning Staff could not have a specific and detailed plan with which to make further recommendations to the Board makes somewhat more difficult the decision to be rendered in this instance.

Mr. Shancill noted that the employees of the plant would be protected, as the operation would be under the scrutiny of the "Federal Mining Enforcement and Safety Administration." Some insight into the magnitude of this project was provided to this Board when the Petitioner noted that one-half of the Baltimore area market for sand and gravel could be supplied from the subject property.

William Sudeck, an engineer associated with the G.W. Stephens Engineering Firm, testified for the Petitioner. Mr. Sudeck's testimony located the closest residence to the proposed mining operation. That residence is the property of William T. Hackett. Same is about 130 feet from the center line of Bird River Beach Road and about 270 feet from the edge of the mining operation itself, and ultimately the proposed lake.

(NOTE: William T. Hackett, the owner of the above described nearby residence, was appointed as a Democratic alternate member of this Board of Appeals in January of 1975. The date of his appointment, of course, followed the Zoning Commissioner's decision and the subsequent appeal by the Petitioner to this Board. Mr. Hackett and his wife have been present at all hearings in this case. Mr. Hackett has taken no part in this case before the Board, either as a member of same or as a proponent. Mrs. Hackett likewise offered no testimony in this case.)

Mr. Sudeck noted that as far back as 1966 he prepared studies for the relocation of the culverts on Ebenezer Road over Windless Run. The same were never completed, although they were shown in studies as late as 1977-78. He noted that the

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James Murphreeville, a consulting geologist from Lancaster, Pennsylvania, offered expert testimony for the Petitioner. This expert conducted studies upon the subject property in 1972 and in March and August of 1973. Exhibits summarizing his efforts are part of this record. In general, his conclusion as to the effect of the subject petition upon wells in the area was that the "Hackett's well" would be adversely affected. However, no other wells in the area would be so affected.

David Mangon, a traffic expert with MCA Engineering Corporation, presented the usual traffic testimony on behalf of the Petitioner. The 3.8 mile length of Ebenezer Road between Route 40 and Eastern Avenue is the traffic to be analyzed. He noted that this road had a 35 mile an hour speed limit for the entire 3.8 mile length, and that it was basically a straight road with excellent sight distances and a collector highway in this area. As to the level of service theory, Mr. Mangon said that the subject road was at level of service "D" during the peak hours only period. Mr. Mangon went into some detail about the anticipated traffic from the subject site if the mining operations are approved. This quantity of traffic did not exactly coincide with the previous testimony of Mr. Shancill but was basically sufficient to give this Board some idea as to the traffic that would be existing from the subject site if the special exception for the sand and gravel operation would be permitted. The road which was described to be about 24 feet paved and the road was described as presenting no particular undue hazards. The conclusion of this witness was that the mining operation and its resultant traffic would have no operational effect on the Ebenezer Road. On cross-examination Mr. Mangon stated that his studies were done in August of 1975, and that they were based on traffic as it existed today, with the addition of the mining operation, but really did not take into consideration potential new residential development in the area.

The last witness for the Petitioner was William H. Baldwin, a real estate expert, who told the Board that it was his judgment that the mining operation would have no deprecating effect on the surrounding residential properties.

Protestants and People's Counsel presented four expert witnesses and a number of neighborhood residents who were in opposition to the granting of this special exception.

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Ida F. Surgy - No. 75-18-X
5.

Carl W. A. Supp, a professional engineer and geologist, testified for the Protestants. He testified at length and presented to this Board detailed technical testimony concerning the effect or possible effect of the proposed petition upon the surrounding property owners. In summary, Mr. Supp described how the water supply from the various wells in this area could significantly and adversely be affected by the mining operation at the subject property. Noting that it was the petition's intent to mine to an approximate depth of 75 feet, Mr. Supp's proposal restricting the operation to the Perseus aquifer could not be accomplished if the 75 foot depth was sought. In the mind of this expert witness, the operation at the subject property could diminish the water in some of the surrounding wells and/or could pollute the water in some of the surrounding wells. With the resulting lake, the witness pointed out that there was the ever present possibility of the dumping of foreign materials and/or chemicals into the lake, with the result being that same would eventually pollute the lower wells in the subject area. Because of the nature of the wells in the subject area, and the extent of the proposal of the mining operation at the subject property, this witness concluded that the area water supply could be significantly and adversely affected by the Petitioner's proposal.

Norman Gerbey, a planner for Baltimore County, told the Board that the 1974 plan calls for the installation of public water in the subject area somewhere in the eleven to thirty year plan.

Michael Flanagan, a traffic expert in the employ of Baltimore County, presented testimony to the Board. He told the Board of the traffic counts on Ebenezer Road, and also of the incidents of traffic accidents on said road. It was Mr. Flanagan's opinion that Ebenezer Road is sufficient for the existing traffic. He estimated the paved width of Ebenezer Road to be approximately 20 to 22 feet.

Ernest Radocel, the Chief for bridges in Baltimore County, also testified. It is his duty to inspect all bridges in the County at least every two years, and along Ebenezer Road there are two bridges between Eastern Avenue and U.S. Route 40. These bridges traverse White Marsh Run and Windless Run and each has a rating of a 25 ton limit. He described existing bridge and noted that there were plans to eventually replace both bridges. A state present time construction was planned for 1982.

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Mr. William Barkuloo, an area resident since 1941, told the Board various reasons as to why he is opposed to the granting of this petition. This witness lives about 1500 feet from the subject property and it was his opinion that if this petition be granted his property value would be seriously affected. This witness felt that the noise, the air pollution, the effect upon his private water supply, and the safety hazards presented by the trucks from the subject property would each contribute detrimentally to his property and to his enjoyment of same. This witness reviewed the potential of the subject site over in fifteen year life, and felt that this 100 truck per day impact upon his property and himself would be devastating. He noted that it was logical to think that the trucks would be concentrated in the morning and afternoon as they went about the normal course of coming in and out of the sand and gravel operation. This witness was not happy with the potential safety problem, which would result after the mining operation was finished and the lake would be present. He also noted that to him the existing truck traffic often seemed to intimidate other drivers on the road and to him represented the worst sort of traffic increase that could result.

The additional neighborhood witnesses each described to the Board the particular effect that the subject petition might have on their properties. Basically and summarily the objections centered around noise, dust, traffic, safety and potential adverse effect upon their private water supplies. As cited previously in this Opinion, the sole question to be decided by this Board is whether the proposal of the Petitioner can satisfy Section 502.1 of the Baltimore County Zoning Regulations. The petitioned special exception is allowable in the R.D.P. zoning if the Petitioner can convince compliance with said Section. Section 502.1 of the Zoning Regulations cites:

"Be detrimental to the health, safety, or general welfare of the locality involved;"

It is the judgment of the Board that the Petitioner has not evidenced that his proposal will satisfy this subsection.

As to the private water supplies at the subject property, there are opinions of two experts in this case; one for the Petitioner and one for the Protestants. As best, the Petitioner's expert's conclusion is that the water will be detrimentally affected.

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by the Petitioner's proposal, this being the well of William T. Hackett. This would not in and of itself be sufficient to deny the special exception in this instance, as the Board feels it must weigh carefully the provisions of Section 502.1 against the principal of "not general" and of the uncontradicted need for the most efficient method of saving and utilizing the minerals of the County. The need for this product is also uncontradicted. However, the Board is not sure that just one well might be affected. In reviewing the testimony of the Protestants' geologist, Mr. Supp, the Board can not be convinced that it is possible that many more private water supply systems in the area could be adversely affected by this planned mining operation. Note that the effect could be both a lowering or disturbing of the available capacity of these wells, as well as the possibility of polluting of said wells by foreign matter introduced into the lake of the mining operation.

Furthermore, the Petitioner's explanation for the operation was not specific. There was offered little testimony concerning the duty to day protection of this property. In an area which has some density (more than a hundred homes within close proximity to the subject property), the Board feels that the Petitioner has not sufficiently evidenced protective procedures that would insure the community that the operation of the large quarry and subsequent lake would not prove to be an attractive area which would lead itself to potential problems to the younger members of the community, as far as safety and their general well-fare might be concerned. Of course, the Board could envision policing and fencing that might minimize this problem. However, suffice it to say the Petitioner's day in court has come and gone and the question has not been answered, so that the Board might feel comfortable in granting a special exception, particularly as same might go to the protection of the community from this particular safety and general welfare aspect of the proposed mining operation.

The Petitioner's testimony as to whether or not the operation would have a detrimental effect upon surrounding property owners was minimal. There was no specific evidence presented to the Board concerning this factor. There was nothing by way of comparison to other mining operations in and around the Baltimore metropolitan area that might indicate to the Board whether or not surrounding property values have been detrimentally

Ida F. Surgery - No. 75-18-X

affected by such a quarrying business. Likewise, the statements of the surrounding property owners that they felt their land would be depreciated by this operation is really not backed up with any concrete evidence one way or the other. Since the Petitioner must carry the burden of satisfying the provisions of Section 502.1 at the very least, the Board is forced to say it really has no specific evidence before it as to whether or not the proposed operation would in fact have a detrimental effect on the surrounding property values. Hence one is forced to say that this burden is to the general welfare of the locality involved must be left unmet and therefore unmet. Noting that the operation is planned to last at least fifteen years, it would seem reasonable for the Petitioner to have evidenced some sort of comparisons as to the effect that this operation might specifically have on surrounding property owners.

Section 502.1 b. states: "Tend to create congestion in roads, streets, or alleys therein".

A review of the traffic testimony again leaves before the Board contradictory testimony, the Petitioner claiming that the additional trucks on the road would not, in fact, tend to create congestion, while the Traffic Engineer for Baltimore County testified on behalf of the Protestants and indicated an opposite effect.

There were no projections made based upon the existing zoning in the area and its potential development over the next fifteen or so years in which this project would operate on Ebanzer Road. The Petitioner's expert also indicated that Ebanzer Road at peak hours operated at traffic level "D". This level is barely acceptable, if, in fact, it is acceptable as a level of traffic movement. Considering the existing traffic level "D", the calculable increase of heavy truck traffic from the subject property and the lack of any projection for added traffic to the existing road as a result of development in the subject area on the lands as now zoned, it seems to the Board rather obvious that the petition must be considered as one which, in fact, would cause or tend "to create congestion in the road".

Other factors presented in this case which might be deemed as detrimental to the general welfare of the locality involved were the elements concerning the noise, air

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pollution and storm water runoff pollution of the nearby existing stream and river.

Before concluding, the Board would cite that it has carefully weighed the testimony and evidence presented in this instance. Particularly considering that the nature of a special exception is that it is allowable within this zoning classification, provided all sections of 502.1 have been satisfied. Also present in this instance is the nature of the special exception sought herein. One must carefully consider the need that would be satisfied by the minerals that apparently lie beneath the surface at the subject site, and this fact of their presence here, and only in certain given limited locations, such as the subject property, one must add to the final judgment, consideration of the principal of not granting in that the mining of these minerals must take place where they exist.

Having carefully weighed these elements against the testimony and evidence presented as applicable to Section 502.1, the Board's decision is that the Petitioner has failed in his burden of proof. The Petitioner has not evidenced to this Board that, in fact, the granting of this petition would not be detrimental to the health, safety and general welfare of the locality involved (Section 502.1 a.) nor has the testimony in evidence proved to the Board that the granting of the special exception would not "tend to create congestion in the road" (Section 502.1 b.).

Therefore, for the reasons set out above, the Board, in the Order which follows, will deny the Petitioner's special exception.

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ORDER

For the reasons set forth in the foregoing Opinion, the Board affirms the Order of the Zoning Commissioner of Baltimore County dated November 25, 1974, and it is this 3rd day of March, 1976, by the County Board of Appeals ORDERED, that the Special Exception petitioned for be and the same is hereby DENIED.

Any appeal from this decision must be in accordance with Rules 8-1 to 8-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

G. W. Jones
Brian D. Jones, P.E.
James P. Fisher, Jr.
James P. Fisher, Jr., P.E.

PHONE: 810-0000
CIRCLE 8-1000
CIRCLE 7-0100
CIRCLE 8-0113

GITTINGS AUTO PARTS, INC.

355 WASHINGTON BOULEVARD
HALETHORPE, MD. 21227

May 1, 1976

Mr. CHARLES FARLEY
Dept. of Distribution
Towson, Maryland 21204

Dear Mr. Farley:

I would like to take this opportunity to inform you the new owner of GITTINGS AUTO PARTS property on which you own the fill. The new owner is Mr. Leroy Merritt, call house Industrial and Commercial Building.

Although we have some type of agreement with Mr. Merritt about the removal of fill dirt in the future.

After due consideration by all parties involved I suggest you consider directly with Mr. Merritt. Mr. Merritt can be contacted at 825-2777 or 1940 Norton Rd., Baltimore, Maryland 21204. Thanking you for a many year of dealings through good and bad weather.

Very truly yours,

Donald J. Smith
Donald J. Smith

Sincerely, Mr. Leroy Merritt

PERMIT

THIS PERMIT MUST BE POSTED

NOTE - A SEPARATE PERMIT IS REQUIRED FOR ALL ELECTRICAL & PLUMBING WORK WHICH MUST BE DONE BY AN ELECTRICIAN OR PLUMBER LICENSED IN BALTIMORE COUNTY.

APPLICATION FOR PERMIT
BALTIMORE COUNTY MARYLAND
OFFICE OF THE BUILDING ENGINEER
TOWSON, MARYLAND 21204

DATE ISSUED: 6-15-77

DATE EXPIRES: 6-15-78

RENEWAL OF 67 73226 (839-751).

APPROVAL OF THIS APPLICATION
DOES NOT WAIVE COMPLIANCE WITH
STATE AIR POLLUTION REGULATIONS

RENEWAL OF 67 73226 (839-751).

APPROVAL OF THIS APPLICATION
DOES NOT WAIVE COMPLIANCE WITH
STATE AIR POLLUTION REGULATIONS

OWNERSHIP

ALL CALLS REQUESTING INSPECTIONS MUST BE MADE BETWEEN 8:00 A.M. AND 4:00 P.M. GIVING THE PERMIT NUMBER AND CONTROL NUMBER. 24 HOUR NOTICE REQUIRED ON ALL INSPECTIONS EXCEPT OCCUPANCIES WHICH REQUIRE 48 HOUR NOTICE. PHONE 494-3953.

The fee of these inspections shall be called for as soon as the trenches for footings are completed. Also a site inspection will be required before pouring slab.

The second inspection shall be called for when the foundation has been waterproofed before backfilling.

The third inspection shall be called for when the structural members are in place, but before covering same with soil or masonry or other covering, or installing of insulation.

Final inspection shall be called for before structure is occupied.

PERMIT EXPIRATION: This permit shall expire one year after the date of issue.

Lansdowne Business & Professional Association, Inc.
348 HOLLINS FERRY ROAD
LANSDOWNE, MD. 21227
242-4141

October 18, 1982

To Whom It May Concern:

Concerning the Petition for Special Exception for Excavation 83-103-X Item #17. The Lansdowne Business & Professional Association, Inc. has voted to support Mr. Leroy Merritt in his effort to gain this petition.

If additional information is required you may contact me at the above number and address.

Thank you,

Molley P. Fisher, Jr.
Molley P. Fisher, Jr.
President
Lansdowne Business & Professional Assn., Inc.

PETITIONER'S
EXHIBIT 2

JAMES PETRICA, P.E.
BRIAN D. JONES, P.E.

889-6000

JAMES PETRICA AND ASSOCIATES, INC.
Consulting Engineers
409 JEFFERSON BUILDING
TOWSON, MARYLAND 21204

July 12, 1982

DESCRIPTION OF PROPERTY
TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
CONTROLLED EXCAVATION IN A M.L.R. ZONE

All that parcel of land in the thirteenth election district of Baltimore County described as follows:

Beginning for the same at a point 510 feet northeasterly from the centerline intersection of Victory Avenue and Washington Boulevard; said point being on the northwest right-of-way line of Washington Boulevard, 70 feet wide. Thence from the said point of beginning the following courses viz: (1) N 26°00'46"E, 302.57 feet, (2) N 63°31'51"W, 318.60 feet, (3) N 26°28'09"E, 275.00 feet, (4) S 86°20'11"E, 90.05 feet, (5) S 63°31'51"E, 93.08 feet, (6) N 26°28'09"E, 37.00 feet, (7) S 63°31'51"E, 144.00 feet, (8) N 26°03'36"E, 180.22 feet, (9) N 23°54'34"E, 196.22 feet, (10) N 22°57'50"E, 86.34 feet, (11) N 16°11'56"E, 47.40 feet, (12) N 61°00'45"W, 673.45 feet, (13) N 28°59'17"E, 530.00 feet, (14) N 58°59'00"W, 291.17 feet, (15) S 31°55'50"W, 466.89 feet, (16) N 45°44'44"W, 969.03 feet, (17) S 15°13'20"W, 719.53 feet, (18) S 29°39'53"E, 624.90 feet, (19) S 54°30'44"W, 27.49 feet, (20) S 55°25'57"W, 450.46 feet, (21) S 59°13'14"W, 396.16 feet, (22) S 06°08'00"W, 62.99 feet, (23) S 05°51'05"W, 159.24 feet, (24) S 25°34'44"E, 381.37 feet, (25) S 14°32'19"E, 109.66 feet, (26) S 38°40'58"E, 158.52 feet, (27) S 51°05'42"E,

100.00 feet, (28) S 47°02'54"E, 60.00 feet, (29) N 43°56'27"E, 560.42 feet, (30) S 82°49'33"E, 356.36 feet, (31) S 09°49'33"E, 379.50 feet, (32) S 12°30'23"W, 55.21 feet, and (33) S 87°55'13"E, 137.33 feet to the point of beginning.

Containing 63.627 acres of land more or less.

Being all of that parcel of land which by deed dated November 12, 1974 was granted and conveyed by Gittings Auto Parts, Inc. to Leroy M. Merritt and recorded among the land records of Baltimore County in Liber EHK Jr. 5490 page 383.

Being also all of that parcel of land which by deed dated February 5, 1975 was granted and conveyed by Robert F. Cutariar, et. al. to Leroy M. Merritt and recorded among the land records of Baltimore County in Liber EHK Jr. 5507 page 904.

Being also all of that parcel of land which by deed dated September 8, 1981 was granted and conveyed by the State of Maryland, State Highway Administration to Jean Merritt, trustee, and recorded among the land records of Baltimore County in Liber EHK Jr. 6639 page 581.



Leroy M. Merritt
Case No. 83-103-X

3.

Counsel for the Protestants was obviously well prepared as were his witnesses. Counsel for the Protestants was most persuasive in his arguments and in his presentation. However, as Petitioner's Counsel pointed out, this issue is not one of reclassification or sediment control. The sole issue is that of a special exception.

This Board is therefore persuaded that the requested special exception does not present an imminent danger to the community, that the Petitioner is in compliance with Sec. 502.1 of the Baltimore County Zoning Regulations and that no adverse affect to the health, safety and general welfare of that community exists. We are, however, mindful of the inherent right of the community to maintain their quality of life and do, therefore impose the restrictions noted in the Order following this Opinion.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 26th day of July, 1983, by the County Board of Appeals, ORDERED that the decision of the Deputy Zoning Commissioner, dated February 1, 1983, granting a Special Exception for controlled excavation, with restrictions, is AFFIRMED and, therefore Petitioner's request for Special Exception is GRANTED in accordance with the site plan submitted, subject, however, to the following restrictions:

1. A sediment control plan shall be approved by the Baltimore County Soil Conservation District and the Department of Public Works prior to any excavation.
2. The hours of operation shall be from 7:30 a.m. to 4:00 p.m., Monday through Friday.
3. Compliance with the comments submitted by the Maryland Department of Transportation, dated August 4, 1982; the Current Planning and Development Division/Office of Planning and Zoning, dated October 6, 1982; and the Department of Health, dated October 4, 1982.
4. Air-borne particulate matter shall be controlled by spraying or similar methods.
5. No junk or debris shall be stored on the site.

Leroy M. Merritt
Case No. 83-103-X

4.

6. Compliance with all air, water, and noise pollution regulations, as well as Section 403 of the Baltimore County Zoning Regulations.
7. Approval of the aforementioned site plan by the Maryland Department of Transportation, the Department of Public Works, and the Office of Planning and Zoning.
8. A macadam road shall be required and maintained on the property from Washington Boulevard up to the area being excavated, during the entire period of excavation.

Any appeal from this decision must be in accordance with Rules B-1 thru

B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William B. Evans, Acting Chairman

Leroy M. Merritt

Patricia Phipps

THERESA LOWRY, et al
Appellants
vs
LEROY M. MERRITT
Appellee
IN THE BOARD OF APPEALS
FOR
BALTIMORE COUNTY
Baltimore County Board
of Appeals Case No. 83-103-X

ORDER FOR APPEAL

Please note the appeal of the Appellants in the above referenced case and the entry of the undersigned as Attorney for the Appellants.

John V. Murphy
John V. Murphy, Esquire
6th Floor-Tower Building
Baltimore, MD 21202
539-6525
Attorney for Appellants

I HEREBY CERTIFY that on this 26th day of August, 1983, a copy of the foregoing Order for Appeal was mailed postage prepaid to the Baltimore County Board of Appeals, Old Court House, Towson, Maryland 21204.

John V. Murphy
John V. Murphy, Esquire
Attorney for the Appellants

LAW OFFICE
JEROME E. MICHAELSON
TOWSON BUILDING
BALTIMORE, MD 21202

LAW OFFICE
JEROME E. MICHAELSON

August 23, 1983

Clerk of the Circuit Court
for Baltimore County
New Courts Building
Towson, MD 21204

ATTENTION: Law Section

RE: Appeal of Case 83-103-X
of the Baltimore County
Board of Appeals

Dear Mr. Clerk:

Please find attached our Order for Appeal to the Circuit Court of the July 26, 1983 decision by the Board of Appeals in Case No. 83-103-X. Our check for \$45.00 for the filing fee is attached. Our petition will follow shortly.

Yours truly,

John V. Murphy
John V. Murphy

JVM/cmy

Enclosure

cc: John Howard, Esquire
John Hession, Esquire
Baltimore County Board of Appeals
Mrs. Theresa Lowry, L.I.A.

*Starts
Lorenson*

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
FROM: William T. Hackett, Chairman
County Board of Appeals
SUBJECT: Certified copies of zoning documents

Date: Aug. 25, 1983

Attached please find the necessary documents from the Zoning Commissioner's file which must be certified as True Test copies for the Circuit Court.

Please certify these documents and return same to this office.

Very truly yours,

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204

August 25, 1983

John B. Howard, Esq.
210 Allegheny Ave.
Towson, Md. 21204

Dear Mr. Howard:

Re: Case No. 83-103-X
Leroy M. Merritt

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holmen
June Holmen, Secretary

Encl.
cc: Leroy M. Merritt
John W. Hession, Esq.
J. Dyer
J. Jung
A. Jablon
N. Gerber
J. Hoswell

August 25, 1983

BILLED TO: John V. Murphy, Esq.
6th Fl. - Tower Bldg.
Baltimore, Md. 21202

Cost of certified documents filed
in Case No. 83-103-X \$25.00

Leroy M. Merritt
NW/4 Washington Blvd., S10' NE of
centerline of Victory Ave.
13th District

MAKE CHECKS PAYABLE TO: Baltimore County, Maryland

REMIT TO: County Board of Appeals
Rm. 200, Court House,
Towson, Md. 21204

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204

August 25, 1983

John V. Murphy, Esq.
6th floor, Tower Building
Baltimore, Md. 21202

Dear Mr. Murphy:

Re: Case No. 83-103-X
Leroy M. Merritt

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zoning appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

June Holmen
June Holmen, Secretary

Encls.
cc: Mrs. Theresa Lowry
Mr. Gladys Parker
Nellie P. Fisher, Jr.

IN THE MATTER OF
THE APPLICATION OF
LEROY M. MERRITT
FOR SPECIAL EXCEPTION
FOR EXCAVATIONS, CONTROLLED
PURSUANT TO SEC. 248.4 OF THE
BALTIMORE COUNTY ZONING
REGULATIONS
On property located on the northwest
side of Washington Blvd., 510' north-
east of the centerline of Victory Ave.,
13th District
Theresa Lowry, et al,
Protestants-Appellants
Zoning File No. 83-103-X

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW
Misc. Doc. No. 15
Folio No. 334
File No. 83-M-299

CERTIFICATE OF NOTICE

Mr. Clerk:
Pursuant to the provisions of Rule 8-2(d) of the Maryland Rules of
Procedure, William R. Evans, Leroy M. Merritt and Patricia Phipps, constituting the Court
Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal
to the representative of every party to the proceeding before it; namely, John V. Murphy,
Esq., 6th fl., Tower Building, Baltimore, Md. 21202, Counsel for Appellants; Theresa Lowry,
et al., Lansdowne Improvement Assn., 2517 Hammonds Ferry Rd., Baltimore, Md. 21227,
Protestants-Appellants; Gladys Parker, 2608 Myrtle Ave., Baltimore, Md. 21227, Protestant
Nalley P. Fisher, Jr., President, Lansdowne Business & Professional Assoc., Inc., 3318
Hollins Ferry Rd., Lansdowne, Md. 21227; John B. Howard, Esq., 210 Allegheny Ave.,
Towson, Md. 21204, Counsel for Petitioner; Leroy M. Merritt, 2066 Lord Baltimore Dr.,
Baltimore, Md. 21207, Petitioner; and John W. Hessian, III, Esq., Court House, Towson,
Md. 21204, People's Counsel for Baltimore County, a copy of which Notice is attached
hereto and prayed that it may be made a part thereof.

John V. Murphy
John V. Murphy
County Board of Appeals of Baltimore County

- (d) That the proposal would interfere with adequate provisions for schools, transportation and other public requirements, conveniences or improvements.
- (e) That the proposal would interfere with adequate light and air.
- (f) That the proposal would be inconsistent with the property zoning classification and also be inconsistent with the spirit and intent of the zoning regulations.
- (g) That the proposal is inconsistent with the impermeable surface and vegetative retention provisions of these zoning regulations.
- (2) The Board's finding of fact regarding the Petitioners and Protestants' evidence is not supported by the testimony of the case in that no probative evidence was before the Board regarding the adverse impact of traffic or zoning consistency; and therefore, the petition must be denied.
- (3) The Board of Appeals' reasoning for granting a special exception is faulty as to the law regarding special exceptions, to wit:
 - (a) That the Board did not recognize the burden of proof under Section 502.1 was on the Petitioner.
 - (b) That the Board used the wrong standard in law in stating that the Board could not make weight life more comfortable for the community.

Leroy M. Merritt
Case No. 83-103-X

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to John V. Murphy, Esq., 6th fl., Tower Bldg., Baltimore, Md. 21202, Counsel for Appellants; Theresa Lowry, et al., Lansdowne Improvement Assn., 2517 Hammonds Ferry Rd., Baltimore, Md. 21227, Protestants-Appellants; Gladys Parker, 2608 Myrtle Ave., Baltimore, Md. 21227, Protestant; Nalley P. Fisher, Jr., President, Lansdowne Business & Professional Assn., Inc. 3318 Hollins Ferry Rd., Lansdowne, Md. 21227; John B. Howard, Esq., 210 Allegheny Ave., Towson, Md. 21204, Counsel for Petitioner; Leroy M. Merritt, 2066 Lord Baltimore Dr., Baltimore, Md. 21207, Petitioner; and John W. Hessian, III, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County, on this 25th day of August, 1983.

John V. Murphy
John V. Murphy
County Board of Appeals of Baltimore County

- (c) That the Board failed to distinguish the difference between the effects on the nearby residential community from this proposal as compared to any development which would require excavation.
- (d) That the Board failed to recognize Section 502.1 g regarding zoning consistency as in effect under Bill 43-82, and the petition cannot be granted without a finding of the proposal's consistency with the present zoning.
- (e) That the Board is in error as a matter of law by reasoning that the Protestants have an obligation to prove that the proposal does present an imminent danger to the community or that special exception could be granted even if there were no showing of imminent danger to the community. The Protestants say that the burden of proof is on the Petitioner and that he must demonstrate that the special exception will not violate the terms of Section 502.1 of the zoning regulations.
- (f) That as a matter of law the presently outstanding Order of the State Health Department against the Petitioner regarding water pollution violates the requirement that the proposal presents no danger to the health, safety and welfare of the community.
- (3) And for such other reasons as may be given at the hearing on this matter.

THERESA LOWRY et al,
Appellants
vs.
LEROY M. MERRITT
Appellee
BOARD OF APPEALS
OF
BALTIMORE COUNTY
PETITION OF SPECIAL
EXCEPTION, CONTROLLED
EXCAVATION
Case No. P3-103-X
Hearing Date 6/30/83
10:00 a.m.

ENTRY OF APPEARANCE
Please enter my appearance on behalf of the Appellants.

John V. Murphy
John V. Murphy, Esquire
6th Floor-Tower Building
Baltimore, Maryland 21202
539-6525
Attorney for Appellants

cc: John Howard, Esquire
John Hessian, Esquire
People's Counsel

LAW OFFICE
JEROME E. MICHAELSON
TOWER BUILDING
BALTIMORE, MD 21202

Rec'd 6-20-83
2:30 PM

John V. Murphy
John V. Murphy, Esquire
6th Floor-Tower Building
Baltimore, Maryland 21202
539-6525
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2 day of September, 1983, a copy of the foregoing Petition was mailed, postage prepaid, to John Howard, Esquire, Towson, Maryland 21204, and John Hessian, Esquire, Suite 603, 102 W. Pennsylvania Avenue, Towson, Maryland 21204, People's Counsel.

John V. Murphy
John V. Murphy, Esquire
Attorney for Appellant

THERESA LOWRY
Appellant
vs.
LEROY MERRITT
Appellee
IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
Case No.: 83 M 299
Docket: 15
Folio: 344
Board of Appeals
Case No. 83-103-X

NOTICE

NOW COMES Theresa Lowry by her attorney, John V. Murphy, Esquire, who appeals the decision of the Board of Appeals of Baltimore County dated July 26, 1983, pursuant to Maryland Rule 87(e), and further says that error was committed in the decision below for the reasons following:

(1) That the Petitioner failed to meet his burden of proof to show that the proposal would meet the requirements of the Baltimore County Zoning Regulations, Section 502.1, as follows:

- (a) That the proposed excavation would be detrimental to the health, safety and general welfare of the locality involved.
- (b) That the proposal would tend to create congestion in roads, streets or alleyways therein.
- (c) That the proposal would create a potential hazard from fire, panic or other dangers.

LAW OFFICE
JEROME E. MICHAELSON
TOWER BUILDING
BALTIMORE, MD 21202

THERESA LOWRY
Appellant
vs.
LEROY MERRITT
Appellee
IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
Case No.: 83 M 299
Docket: 15
Folio: 344
Board of Appeals
Case No. 83-103-X

MOTION FOR TIME EXTENSION

NOW COMES Theresa Lowry by her attorney, John V. Murphy, Esquire, who respectfully requests this Court to allow the Appellant an additional thirty (30) days in order to have the record from the Board of Appeals transcribed and sent to the Circuit Court in the above referenced appeal. This request is based upon unavoidable delays within the Lansdowne Improvement Association in ordering the transcript and the heavy work load of the stenographer for the Board of Appeals.

WHEREFORE, it is respectfully requested that a thirty (30) day extension on the time requirement given by Maryland Rule 8-7 be granted to the Appellants in this case.



John V. Murphy
John V. Murphy, Esquire
6th Floor-Tower Building
Baltimore, MD 21202
539-6525
Attorney for Appellant

I HEREBY CERTIFY that on this 15 day of September, 1983, a copy of the foregoing Motion for Time Extension was mailed, postage prepaid, to John Howard, Esquire, 210 Allegheny Avenue, Towson, Maryland 21204, and John Hessian, III, Esquire, Suite 603, 102 West Pennsylvania Avenue, Towson, Maryland 21204, People's Counsel.

John V. Murphy
John V. Murphy, Esquire
Attorney for Appellant

Rec'd 9-17-83
9am

LAW OFFICE
JEROME E. MICHAELSON
TOWER BUILDING
BALTIMORE, MD 21202

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

Case No.: 83 M 299
Docket: 15
Folio: 344
Board of Appeals
Case No. 83-103-X

ORDER

The Appellant's Motion having been read and considered regarding a thirty (30) day extension to the time limit set by Rule B-7 of the Maryland Rules as the time to have the Board of Appeals transcript delivered to the Circuit Court,

THEREFORE, it is this day of September, 1983, Ordered that the Appellants be granted a thirty (30) day extension on the delivery of the transcript from the above referenced case.

Judge

LAW OFFICE
JEROME E. MICHAELSON
TOWER BUILDING
BALTIMORE, MD 21202

Leroy M. Merritt
Case No. 83-103-X

October 21, 1982 At 9:45 a.m. hearing held on petition by Deputy Zoning Commissioner

February 1, 1983 Order of Deputy Zoning Commissioner that the Petition for Special Exception for controlled excavations, is GRANTED, subject to restrictions

February 28, 1983 Order of Appeal to C.S. of A. from Order of Deputy Zoning Commissioner

June 30, 1983 Hearing on appeal before County Board of Appeals

July 26, 1983 Order of County Board of Appeals ordering that the decision of the Deputy Zoning Commissioner, dated Feb. 1, 1983, be AFFIRMED, and therefore Petitioner's request for special exception is GRANTED, subject to restrictions.

August 25, 1983 Order for Appeal filed in the Circuit Ct. for Baltimore County by John V. Murphy, Esq., on behalf of Appellants.

August 25, 1983 Certificate of Notice sent to all interested parties

September 2, 1983 Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County

November 23, 1983 Petition for extension of time to file transcript until Oct. 26, 1983 Second Extension of Time to file transcript

Transcript of test, any filed

People's Counsel's Exhibit No. 1 - A to M, series of photos

Petitioner's Exhibit No. 1 - Plot showing site

- " " 2 - Balto. County Map (Topo)
- " " 3 - Balto. County Aerial photo, 3/29/72
- " " 4 - Balto. County Aerial photo, 4/5/82

Protestants' Exhibit No. 1 - Plot

- " " 2 - Copies of excavating permits on site.
- " " 3 - Sediment Control Plan
- " " 4 - Balto. County Zoning Map
- " " 5 - Order to Mr. Merritt from R. Nelson, 3/3/83
- " " 6 - Four photos of Victory Ave. homes
- " " 7 - Petition to B. Green & Co. from Lansdowne Imp. Assoc.
- " " 8 - A & B, 2 pool filters (in Bd. of Appeals closet)
- " " 9 - A, B, C, D - 4 photos of Myrtle Ave. property

IN THE MATTER OF
THE APPLICATION OF
LEROY M. MERRITT
FOR SPECIAL EXCEPTION
FOR EXCAVATIONS, CONTROLLED
PURSUANT TO SECTION 248.4
OF THE BALTIMORE COUNTY
ZONING REGULATIONS
On property located on the
northwest side of Washington
Blvd., 510' northeast of the
centerline of Victory Ave.
13th District

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Docket: 15
Folio: 344
File No.: 83-M-299

Zoning File No. 83-103-X

MOTION FOR TIME EXTENSION

NOW COMES Theresa Lowry by her attorney, John V. Murphy, Esquire, who respectfully requests this Court to allow the Appellant a second extension of thirty (30) days in order to have the record from the Board of Appeals transcribed and sent to the Circuit Court in the above referenced appeal. This request is based upon unavoidable delays within the Lansdowne Improvement Association in ordering the transcript and the heavy work load of the stenographer for the Board of Appeals. The transcript has been ordered and is in process.

WHEREFORE, it is respectfully requested that a thirty (30) day extension on the time requirement given by Maryland Rule B-7 be granted in this case.

John V. Murphy, Esquire
6th Floor Tower Building
539-6525
Attorney for Appellant

I HEREBY CERTIFY that on this 19 day of October, 1983, a copy of the foregoing Motion for Time Extension was mailed, postage prepaid, to John Howard, Esquire, 210 Allegheny Avenue, Towson, Maryland 21204.

John V. Murphy, Esquire
Attorney for Appellant

Leroy M. Merritt
Case No. 83-103-X

Protestants' Exhibit No. 1 - A, B, C, D - Photos showing traffic on Wash. Blvd. and Victory Dr.

" " 11 - A, B - 2 photos showing Merritt property, 6/19/83

November 23, 1983 Record of proceedings filed in the Circuit Ct. for Baltimore County

Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Zoning Department of Baltimore County, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations whenever directed to do so by this Court.

Respectfully submitted,

June Holman
County Board of Appeals of Baltimore County

cc: John Howard, Esq.
J. W. Heston, Esq.
John V. Murphy, Esq.

IN THE MATTER OF
THE APPLICATION OF
LEROY M. MERRITT
FOR SPECIAL EXCEPTION
FOR EXCAVATIONS, CONTROLLED
PURSUANT TO SECTION 248.4
OF THE BALTIMORE COUNTY
ZONING REGULATIONS
On property located on the
northwest side of Washington
Blvd., 510' northeast of the
centerline of Victory Ave.
13th District

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Docket: 15
Folio: 344
File No.: 83-M-299

Zoning File No. 83-103-X

ORDER

The Appellant's Motion having been read and considered regarding a thirty (30) day extension to the time limit set by Rule B-7 of the Maryland Rules as the time to have the Board of Appeals' transcript delivered to the Circuit Court,

THEREFORE, it is this 16 day of October, 1983, Ordered that the Appellants be granted a second thirty (30) day extension for preparation and delivery of the transcript from the above referenced case.

Judge

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: Oct. 26, 1983 AMOUNT: \$1.712

AMOUNT: \$25.00

RECEIVED FROM: John V. Murphy, Esq. for certified documents from
FOR: File No. 83-103-X
Leroy M. Merritt case

VALIDATION OR SIGNATURE OF CLERK
8041*****25001a P2687

Theresa Lowry, et al
VS.
Leroy M. Merritt

IN THE CIRCUIT COURT
FOR
BALTIMORE COUNTY

Docket 15 Folio 344
Case No. 83-M-299

NOTICE OF FILING OF RECORD

TO: John V. Murphy John B. Howard June Holman
6th Floor Tower Bldg. 210 Allegheny Ave. Mail Stop 2205
Baltimore, Md. 21202 Towson, Md. 21204

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on Nov. 23, 1983.

Clara A. Hall
Clerk

IN THE MATTER OF
THE APPLICATION OF
LEROY M. MERRITT
FOR SPECIAL EXCEPTION
FOR EXCAVATIONS, CONTROLLED
PURSUANT TO SEC. 248.4 OF THE
BALTIMORE COUNTY ZONING
REGULATIONS
On property located on the northwest
side of Washington Blvd., 510' north-
east of the centerline of Victory Ave.
13th District

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Misc. Doc. No. 15
Folio No. 344
File No. 83-M-299

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE
ZONING COMMISSIONER AND THE BOARD OF
APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William R. Evans, Leroy B. Spurrier and Patricia Phipps, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING COMMISSIONER
OF BALTIMORE COUNTY

No. 83-103-X

August 4, 1982 Petition of Leroy M. Merritt for a special exception for excavations, controlled pursuant to Sec. 248.4 of the Balto. County Zoning Regulations, on property located on the northwest side of Washington Blvd., 510' northeast of the centerline of Victory Ave., 13th District

" " Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for Oct. 21, 1982, at 9:45 a.m.

September 30, " Certificate of Publication in newspaper - filed

October 4, " " Posting of property - filed

October 8, " Comments of Baltimore County Zoning Plans Advisory Committee - filed

October 19, " " Director of Planning - filed

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bayview Avenue
P.O. Box 6754
Towson, Maryland 21204-0754

TO:

John V. Murphy, Esq.

John B. Howard, Esq.

Board of Appeals for Balto. County

Thomas J. Hollinger, Esq.

RE: 83-103-X - 83 M 299 - THESA LOWRY ET AL VS LEROY M. MERRITT

THURSDAY, NOVEMBER 23, 1983, 9:15 a.m.

Appeals 1 hour

HEARING DATE:

ON THE FOLLOWING:

UPON RECEIPT OF THIS NOTICE, Counsel shall contact each other immediately to conform calendars. Clerk of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING TO THE Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments - Joyce Grimm - 694-3887.

SETTLEMENT CONFERENCE: All counsel must secure the assistance of all parties necessary to effect a binding settlement, including clients and their respective representatives. THERE WILL BE NO EXCEPTIONS FOR ORDER OF JUDGE FRANK E. LYONS. Please direct all inquiries to the attention of Joel Naim.

SETTLEMENT: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be set on the record if notice of satisfaction is filed prior to trial.

FILED NOV 23 1983

TERESA LOWRY, et al.
Appellants
V.
LEROY M. MERRITT
Appellee
BOARD OF APPEALS FOR BALTIMORE COUNTY

IN THE
CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
Appeal
Case No. 83-M-299

MEMORANDUM OF OPINION

The Baltimore County Board of Appeals granted a special exception for controlled excavation on property owned by Leroy Merritt on June 30, 1983. The property is located on the northwest side of Washington Avenue 510 feet northeast of the centerline of Victory Avenue. Theresa Lowry and members of Lansdowne Improvement Association, protestants below, have appealed that decision. The appeal was argued before this Court on February 23, 1984.

The scope of review on an appeal from an order granting or denying a special exception is limited. The test applied is whether the issue before the Court is fairly debatable. Sumby v. County Board of Appeals, 269 Md. 177 (1973). This Court cannot overrule the Board's decision unless there is no room for reasonable debate or the record is barren of supporting facts. Wakefield v. Kraft, 302 Md. 136 (1983).

The Court would also point out that controlled excavations are permitted as special exceptions under the Baltimore County Zoning Regulations 248.4. This is, therefore, part of the comprehensive zoning plan and it is presumed to be in the interest of the general welfare. Turner v. Hammond, 270 Md. 41 (1973).

Appellants allege that the Appellee failed to meet his burden of proof as required by Baltimore County Zoning Regulations 502.1. They also challenge the legal basis of the Board's decision. Section 502.1 sets out the principles and conditions for granting a special exception:

"502.1 -- Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:

- Be detrimental to the health, safety, or general welfare of the locality involved;
- Tend to create congestion in roads, streets or alleys therein;
- Create a potential hazard from fire, panic or other dangers;
- Tend to overcrowd land and cause undue concentration of population;
- Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- Interfere with adequate light and air;
- Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor
- Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations."

To examine whether Appellee had met the burden of proof, it is necessary to determine that burden.

"[T]he applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. (Cite omitted) If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden." Anderson v. Sawyer, 23 Md. App. 612, 617 (1974).

The standard for determining whether the affect is adverse was articulated in Schultz v. Pritts, 291 Md. 1 (1981). It must be determined "whether there are facts and circumstances that show the particular use would have any adverse effects above those inherently associated with such a special exception use irrespective of its location." Id. at 22. It is, therefore, not appropriate to consider any problems inherent in excavation.

Appellants' argument focuses on dust in the air from excavation and potential traffic congestion from ninety trips a day to be made by the trucks. The Court finds no merit in the contention that the Board's determination of the problem with dust is not fairly debatable. Further, it is an inherent problem associated with excavation which is not

considered additionally in determining adverse affect.

Appellants contend that Mr. Carroll Loewer, the witness who testified for the Appellee on the traffic issue, was not qualified to testify and if he was qualified, his testimony was inadequate. Mr. Loewer's fifty years in the excavation business and familiarity with the location certainly qualify him to testify on the issue. In reviewing the transcript, however, the Court is unable to find sufficient information adduced from Mr. Loewer on the potential traffic congestion and safety problems for the Board to have adequately considered that issue. "The opinion or conclusion of an expert or lay witness is of no greater probative value than that warranted by the soundness of his underlying reasons and facts." Anderson v. Sawyer, 23 Md. App. 612, 618 (1974).

Appellants have alleged that there is no legal basis for the Board's decision. They rely on Redden v. Montgomery County, 270 Md. 668 (1974) in which the Court enforced the local statutory provision which required the Board to set out its specific findings of fact on each requirement of the zoning ordinance. Baltimore County does not have a similar provision. Therefore, this Court cannot apply Redden to this case.

In oral argument, Appellants point out that the development plan submitted by Appellees was for ML zoning, not the MFR zoning which is currently in effect. They contend that it is improper to submit the ML plan when applying for the special exception. Since controlled excavations are permitted in both ML and MFR zones (248.4c), the Court finds Appellants' argument has no bearing on this appeal. As the Board stated, neither reclassification nor sediment control was an issue before the Board -- nor is it before the Court at this time.

Accordingly, the Board is affirmed on all points with the exception of the potential traffic problems in the vicinity. The Court will remand this case back to the Board of Appeals to take further testimony on traffic congestion and resulting safety problems.

Dated: March 19, 1984

JUDGE JAMES S. SFEEKAS

CIRCUIT COURT FOR BALTIMORE COUNTY

CATEGORY APPEAL

ATTORNEYS

TERESA LOWRY, et al.
Appellants

John V. Murphy
6th Fl. Tower Bldg. (02) 539-6525

LEROY M. MERRITT
Appellee

John B. Howard,
Cook, Howard, Dunnes & Tracy
210 Allegheny Ave. (4) 823-4111

BOARD OF APPEALS FOR BALTIMORE COUNTY

RECEIVED
MAR 23 1984

- (1) Aug. 14, 1983 - Appellants Order for Appeal from the Order of the Baltimore County Board of Appeals fd.
- (2) Aug. 25, 1983 - Certificate of Notice fd.
- (3) Sept. 2, 1983 - Appellant's Petition for Appeal and Memorandum fd.
- (4) Sept. 21, 1983 Appellant's Motion for Extension of Time & Order of Court granting same fd. (EAB) signed 9/20/83
- (5) Sept. 27, 1983 App. of John B. Howard for the Appellee. Same day Answer fd.
- (6) Sept. 27, 1983 Appellee's Motion to Extend Time & Order of Court granting same fd. (AGB)
- (7) Oct. 24, 1983 - Appellant's Motion for Time Extension and Order of Court Granting Same fd. (JHB)
- (8) Nov. 17, 1983 - Appellant's Motion for Time Extension and Order of Court Granting Same fd. (WGB)
- (9) Nov. 23, 1983 - Transcript of Record fd.
- (10) Nov. 23, 1983 - Notice of Filing of Record fd. Copy sent.
- (11) Dec. 22, 1983 Appellant's Amended Memorandum in Support of Petition &
- (12) Dec. 22, 1983 - Appellee's Memorandum in Support of Answer to Petition on Appeal & Exhibit fd.
- Feb. 23, 1984 Hon. James S. Sfeekas. Hearing had. Held sub-curia. Opinion to be filed by the Court.

COSTS 83299
HISC 60.00
L. CLERK 5.00
B. LARRY 15.00
CHECK 110.00
TOTAL 280.00
08/24/83

RECEIVED
MAR 23 1984

DOCKET 15 PAGE 334 IF NO. 83-M-299

CASE NO. 83-M-299

(13) March 20, 1984 - Memorandum Opinion & Order of Court remand this case back to the Board of Appeals to take further testimony on traffic congestion & resulting safety problems fd. (JBS)

TERESA LOWRY, et al.
Appellants
V.
LEROY M. MERRITT
Appellee
BOARD OF APPEALS FOR BALTIMORE COUNTY

IN THE
CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
Appeal
Case No. 83-M-299

MEMORANDUM OF OPINION

The Baltimore County Board of Appeals granted a special exception for controlled excavation on property owned by Leroy Merritt on June 30, 1983. The property is located on the northwest side of Washington Avenue 510 feet northeast of the centerline of Victory Avenue. Theresa Lowry and members of Lansdowne Improvement Association, protestants below, have appealed that decision. The appeal was argued before this Court on February 23, 1984.

The scope of review on an appeal from an order granting or denying a special exception is limited. The test applied is whether the issue before the Court is fairly debatable. Sumby v. County Board of Appeals, 269 Md. 177 (1973). This Court cannot overrule the Board's decision unless there is no room for reasonable debate or the record is barren of supporting facts. Wakefield v. Kraft, 302 Md. 136 (1983).

The Court would also point out that controlled excavations are permitted as special exceptions under the Baltimore County Zoning Regulations 248.4. This is, therefore, part of the comprehensive zoning plan and it is presumed to be in the interest of the general welfare. Turner v. Hammond, 270 Md. 41 (1973).

Appellants allege that the Appellee failed to meet his burden of proof as required by Baltimore County Zoning Regulations 502.1. They also challenge the legal basis of the Board's decision. Section 502.1 sets out the principles and conditions for granting a special exception:

"502.1 -- Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:

- Be detrimental to the health, safety, or general welfare of the locality involved;
- Tend to create congestion in roads, streets or alleys therein;
- Create a potential hazard from fire, panic or other dangers;
- Tend to overcrowd land and cause undue concentration of population;
- Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- Interfere with adequate light and air;
- Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor
- Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations."

To examine whether Appellee had met the burden of proof, it is necessary to determine that burden.

"[T]he applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. (Cite omitted) If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden." Anderson v. Sawyer, 23 Md. App. 612, 617 (1974).

The standard for determining whether the affect is adverse was articulated in Schultz v. Pritts, 291 Md. 1 (1981). It must be determined "whether there are facts and circumstances that show the particular use would have any adverse effects above those inherently associated with such a special exception use irrespective of its location." Id. at 22. It is, therefore, not appropriate to consider any problems inherent in excavation.

Appellants' argument focuses on dust in the air from excavation and potential traffic congestion from ninety trips a day to be made by the trucks. The Court finds no merit in the contention that the Board's determination of the problem with dust is not fairly debatable. Further, it is an inherent problem associated with excavation which is not

considered additionally in determining adverse affect.

Appellants contend that Mr. Carroll Loewer, the witness who testified for the Appellee on the traffic issue, was not qualified to testify and if he was qualified, his testimony was inadequate. Mr. Loewer's fifty years in the excavation business and familiarity with the location certainly qualify him to testify on the issue. In reviewing the transcript, however, the Court is unable to find sufficient information adduced from Mr. Loewer on the potential traffic congestion and safety problems for the Board to have adequately considered that issue. "The opinion or conclusion of an expert or lay witness is of no greater probative value than that warranted by the soundness of his underlying reasons and facts." Anderson v. Sawyer, 23 Md. App. 612, 618 (1974).

Appellants have alleged that there is no legal basis for the Board's decision. They rely on Redden v. Montgomery County, 270 Md. 668 (1974) in which the Court enforced the local statutory provision which required the Board to set out its specific findings of fact on each requirement of the zoning ordinance. Baltimore County does not have a similar provision. Therefore, this Court cannot apply Redden to this case.

In oral argument, Appellants point out that the development plan submitted by Appellees was for ML zoning, not the MFR zoning which is currently in effect. They contend that it is improper to submit the ML plan when applying for the special exception. Since controlled excavations are permitted in both ML and MFR zones (248.4c), the Court finds Appellants' argument has no bearing on this appeal. As the Board stated, neither reclassification nor sediment control was an issue before the Board -- nor is it before the Court at this time.

Accordingly, the Board is affirmed on all points with the exception of the potential traffic problems in the vicinity. The Court will remand this case back to the Board of Appeals to take further testimony on traffic congestion and resulting safety problems.

Dated: March 19, 1984

JUDGE JAMES S. SFEEKAS

FILED MAR 20 1984

RECEIVED
MAR 23 1984

Copies to:
County Board of Appeals
John V. Murphy, Esquire
John B. Howard, Esquire
Court File

3/14/83 - Following were notified of hearing set for Thurs. June 30, 1983, at 10 a.m.:

John Howard, Esq.
Leroy Merritt
Theresa Lowry
Gladys Parker
Nolley Fisher
Jack Hession
J. Dyer
J. Jung
W. Hammett
N. Gerber
J. Hoswell

8/24/84 - Above notified of hearing set for Thursday, November 1, 1984, at 10 a.m.

IN THE MATTER OF
THE APPLICATION OF
LEROY M. MERRITT
FOR SPECIAL EXCEPTION
FOR EXCAVATIONS, CONTROLLED
PURSUANT TO SECTION 248.4
OF THE BALTIMORE COUNTY
ZONING REGULATIONS
On Property located on the
northwest side of Washington
Blvd., 510' northeast of the
centerline of Victory Avenue
13th District

BEFORE THE
COUNTY BOARD
OF APPEALS OF
BALTIMORE COUNTY
Case No. 83-103-X

**WITHDRAWAL OF PETITION AND
MOTION TO DISMISS**

Leroy M. Merritt, Petitioner, by John B. Howard and
Cook, Howard, Downes & Tracy, his attorneys, hereby
withdraws this Petition for Special Exception for Excavations,
Controlled pursuant to Section 248.4 of the Baltimore County
Zoning Regulations, and therefore moves that this case
be dismissed.

John B. Howard
John B. Howard
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204
(301) 823-4111
Attorney for Petitioner

TO: _____
DATE: 10/29/84 TIME: 2:25 PM
WHILE YOU WERE OUT
BY: Edith T. Eisenhart
OFF: Howard's office
PHONE: _____
TELEPHONED: ☒ PLEASE CALL
CALLED TO SEE YOU: ☒ WILL CALL AGAIN
WANTS TO SEE YOU: ☒ URGENT
RETURNED YOUR CALL: ☒
MESSAGE: Will be withdrawing petition on behalf of L. Merritt. Will file formal Order.
Operator: _____

peaks of Baltimore County
0 Court House (Hearing Room #218)
Baltimore 21204
(410) 494-3180
August 24, 1984

F. ASSIGNMENT

(AND) ()
ATED WITHOUT GOOD AND SUFFICIENT
MENTS MUST BE IN WRITING AND IN
ULE 2(b). ABSOLUTELY NO POSTPONE-
TEEN (15) DAYS OF SCHEDULED HEAR-
ULE 2(c), COUNTY COUNCIL BILL #59-79

LEROY M. MERRITT

NW/S Washington Blvd., 510' NE of
c/l of Victory Avenue

13th District

SE-Controlled excavations, Sec. 248.4.

3/19/84 - REMANDED to the Board by
Judge Sfekas to take further testimony
on traffic congestion and resulting safety
problems.

THURSDAY, NOVEMBER 1, 1984, at 10 a.m.

ASSIGNED FOR:

cc: John B. Howard, Esq.

Mrs. Theresa Lowry

Ms. Gladys Parker

Nolley P. Fisher, Jr.

Leroy M. Merritt

John V. Murphy, Esq.

People's Counsel

J. E. Dyer

J. Jung

A. Jablon

N. Gerber

J. Hoswell

Counsel for Petitioner

Protestant

"

Petitioner

Counsel for Appellants

June Holmen, Secy.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31 day of October,
1984, a copy of the foregoing Withdrawal of Petition and Motion
to Dismiss was mailed to John V. Murphy, Esquire, Arnold,
Beauchemin & Tingle, 16 East Lombard Street - 3rd Floor,
Baltimore, Maryland, 21202, and to Phyllis Friedman, Peoples'
Counsel for Baltimore County, Old Courthouse, Towson, Maryland,
21204.

John B. Howard
John B. Howard



County Board of Appeals of Baltimore County

Room 203 Court House
Towson, Maryland 21204
(301) 494-3180

November 14, 1984

Mrs. Theresa Lowry
Lansdowne Improvement Assn.
2517 Hammonds Ferry Road
Baltimore, MD 21227

Re: Case No. 83-103-X
Leroy M. Merritt

Dear Mrs. Lowry:

Enclosed herewith is a copy of the Order of Dismissal
of Petition passed today by the County Board of Appeals in the above
entitled case.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

Enclosure

cc: John B. Howard, Esquire
Ms. Gladys Parker
Nolley P. Fisher, Jr.
John V. Murphy, Esquire
Leroy M. Merritt
Phyllis Cole Friedman
A. Jablon
Jean M. H. Jung
James E. Dyer
Norman E. Gerber
James G. Hoswell
Judge James S. Sfekas

CIRCUIT COURT FOR BALTIMORE COUNTY

CATEGORY APPEAL

TERESA LOWRY, et al
Appellants

LEROY M. MERRITT
Appellee
BOARD OF APPEALS FOR BALTIMORE COUNTY

ATTORNEYS

John V. Murphy
6th Fl. Tower Bldg. (C2) 539-6525

John J. Howard,
Cook, Howard, Downes & Tracy
210 Allegheny Ave. (4) 823-4111

- DOCKET 15
- (1) Aug. 24, 1983 - Appellants Order for Appeal from the Order of
the Baltimore County Board of Appeals fd.
 - (2) Aug. 25, 1983 - Certificate of Notice fd.
 - (3) Sept. 2, 1983 - Appellant's Petition for Appeal and Memorandum fd.
 - (4) Sept. 21, 1983 Appellant's Motion for Extension of Time & Order of Court
granting same fd. (HAD) signed 9/20/83
 - (5) Sept. 27, 1983 App. of John B. Howard for the Appellee. Same day Answer
fd.
 - (6) Sept. 27, 1983 Appellee's Motion to Extend Time & Order of Court granting
same fd. (AOH)
 - (7) Oct. 24, 1983 - Appellant's Motion for Time Extension and Order of
Court Granting Same fd. (CHH)
 - (8) Nov. 17, 1983 - Appellant's Motion for Time Extension and Order of
Court Granting Same fd. (WRB)
 - (9) Nov. 23, 1983 - Transcript of Record fd.
 - (10) Nov. 23, 1983 - Notice of Filing of Record fd. Copy sent.
 - (11) Dec. 22, 1983 Appellant's Amended Memorandum in Support of Petition fd.
 - (12) Dec. 23, 1983 - Appellee's Memorandum in Support of Answer to Petition
on Appeal & Exhibit fd.
- Feb. 23, 1984 Hon. James S. Sfekas. Hearing had. Held
sub-curia. Opinion to be filed by the Court.

COSTS
MISC # 83299 #
L-CLERK 60.00
B-LIBRY 5.00
CHECK TL 65.00
NOTARIAL 110.00
08/24/83

RECEIVED
COUNTY BOARD OF APPEALS
NOV 19 1984

DOCKET 15

PAGE 334

CASE NO. 83-M-299

IN THE MATTER OF
OF THE APPLICATION OF
LEROY M. MERRITT
FOR SPECIAL EXCEPTION
FOR EXCAVATIONS, CONTROLLED
PURSUANT TO SECTION 248.4
OF THE BALTIMORE COUNTY
ZONING REGULATIONS
On Property located on the
northwest side of Washington
Blvd., 510' northeast of the
centerline of Victory Avenue
13th District

ON REMAND FROM THE
CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
TO THE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Case No. 83-103-X
Court File No. 83-M-299

ORDER OF DISMISSAL

Petition of Leroy M. Merritt for special exception for Excava-
tions, Controlled, pursuant to §24.4 of the Baltimore County Zoning Regulations,
on property located on the northwest side of Washington Boulevard 510 feet
northeast of the centerline of Victory Avenue, in the Thirteenth Election
District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of "Withdrawal of
Petition and Motion to Dismiss" filed October 31, 1984 (a copy of which is
attached hereto and made a part hereof) from the attorney representing the
Petitioner in the above entitled matter; and

WHEREAS, the said attorney for the said Petitioner requests that
the petition filed on behalf of said Petitioner be withdrawn as of October 31,
1984,

IT IS HEREBY ORDERED, this 14th day of November, 1984, that
said petition be and the same is withdrawn and dismissed.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman
Leroy B. Spurr
Leroy B. Spurr
Lawrence E. Schmidt
Lawrence E. Schmidt

CASE NO. 83 M 299

- (13) March 20, 1984 - Memorandum Opinion & Order of Court ~~remand~~ this case back to the Board of
Appeals to take further testimony on traffic congestion & resulting safety problems fd. (JSS)
(14) Nov. 16, 1984 - Copy of Order of Dismissal fd.

RECEIVED
COUNTY BOARD OF APPEALS
NOV 31 1984

LEROY M. MERRITT
NW 1/4 Washington Blvd., 510' NE of
21 of Victory Ave.
SE-Excavations, Controlled (Sec. 248.4)

Aug. 4, 1982 Petition filed
Oct. 21, " Hearing held on petition by D.Z.C.
Feb. 1, 1983 Order of D.Z.C. that petition be granted
Feb. 28, " Order for Appeal from Order of D.Z.C.
June 30, " Hearing before the Board
July 26, " Order of the Board AFFIRMING D.Z.C.'s
Order
Aug. 25, " Order for Appeal to the Cir. Ct. by John V.
Murphy, Esq., on behalf of appellants
Aug. 25, " Certificate of Notice sent
Nov. 23, " Record of proceedings filed in the Circuit Ct.
Mar. 19, 1984 Board AFFIRMED on all points with the exception
of the potential traffic problems in the
vicinity. REMANDED to take further testimony
on traffic congestion and resulting safety
problems. Judge James S. Sfikas
cc: Zoning (A. January)
Planning (Hoswell)
Oct. 31 Withdrawal of Petition and Motion to Dismiss
case filed by John B. Howard, Esq. Attorney
for Petitioner
Nov. 14 Order of Dismissal of PETITION passed by the
Board (Hackett, Spurrier, Schmidt)
" 16 Dismissed on Court Docket

IN THE MATTER OF
THE APPLICATION OF
LEROY M. MERRITT
FOR SPECIAL EXCEPTION
FOR EXCAVATIONS, CONTROLLED
PURSUANT TO SECTION 248.4
OF THE BALTIMORE COUNTY
ZONING REGULATIONS
On Property located on the northwest
side of Washington Blvd., 510' north-
east of the centerline of Victory Ave.
13th District

OPINION

The above captioned matter comes before the Board on an appeal by the
Protestants from a decision of the Deputy Zoning Commissioner which granted, with
restrictions, the Special Exception for controlled excavations.

The Petitioner produced evidence to establish his reasons for the requested
Special Exception. According to the Petitioner's evidence, the following facts exist:

1. the subject site is a collector of junk and debris.
2. the subject site is in atrocious condition.
3. the special exception, if granted would not adversely affect the
health, safety and general welfare of the community.
4. no residential property is contiguous to the subject site.
5. no flooding across Washington Boulevard has occurred.
6. the sediment ponds on the subject site are now being cleaned
pursuant to a Baltimore County Order.
7. the proposed excavation, if permitted, will be in accordance with
all State and County regulations.
8. dumping at the subject site shall be prohibited.
9. that although excavation, by its nature, creates dust, the subject
site shall create less of a problem for the residents of the community
because -

- a. the residential community is across Washington Boulevard and
not contiguous or in close proximity to the subject site.
- b. the excavators will treat the soil so as to curtail air-borne
particles.
- c. the existence of a paved road on the site shall remove much of
the dust normally generated by truck tires.

MICROFILMED

24-655-30100
Zoning - A. January
FILE
THERESA LOWRY, et al.
Appellants
v.
LEROY M. MERRITT
Appellee
BOARD OF APPEALS FOR BALTIMORE COUNTY
Case No. 83-103-X

MEMORANDUM OPINION

The Baltimore County Board of Appeals granted a special exception for
controlled excavation on property owned by Leroy Merritt on June 30, 1983.
The property is located on the northwest side of Washington Avenue 510 feet
northeast of the centerline of Victory Avenue. Theresa Lowry and members
of Lansdowne Improvement Association, protestants below, have appealed
that decision. The appeal was argued before this Court on February 23,
1984.

The scope of review on an appeal from an order granting or denying a
special exception is limited. The test applied is whether the issue before
the Court is fairly debatable. Remley v. County Board of Appeals, 269 Md.
177 (1973). This Court cannot overrule the Board's decision unless there
is no room for reasonable debate or the record is barren of supporting
facts. Wakefield v. Kraft, 202 Md. 136 (1953).

The Court would also point out that controlled excavations are
permitted as special exceptions under the Baltimore County Zoning regula-
tions 248.4. This is, therefore, part of the comprehensive zoning plan and
it is presumed to be in the interest of the general welfare. Turner v.
Hammond, 270 Md. 41 (1973).

Appellants allege that the Appellee failed to meet his burden of
proof as required by Baltimore County Zoning Regulations 502.1. They also
challenge the legal basis of the Board's decision. Section 502.1 sets out
the principles and conditions for granting a special exception:

10. the dust previously generated by the activity on B. Green &
Co., Inc. property shall not occur because, unlike B. Green
& Co., Inc., the residential properties are not contiguous
and 9 b and c above, shall be employed.
11. that a group of business people in the area and some residents
of the area believe that the controlled excavation, if permitted,
shall improve the appearance of the subject site as well as
curtail the erosion which now occurs at the subject site.

The Protestants produced evidence in opposition to the requested
Special Exception. According to the Protestants, the following facts exist:

1. that the site plan submitted is identical to that submitted in
1978 requesting ML zoning.
2. that the sediment ponds need to be cleaned and, at present,
do not comply with Baltimore County Regulations.
3. that Baltimore County had previously conducted excavation on the
subject site and failed to revegetate or clean the sediment ponds.
4. that the excavation, if done properly, will curtail erosion.
5. that the real problem concerns soil conservation, erosion and
air-borne particles.
6. that there is no objection to the development of the subject
property, merely the special exception for controlled excavation.
7. that the excavation of the subject site shall cause a hazard and
danger for small children.

The Board finds, as a fact, that the concerns expressed by the
Protestants are legitimate, but founded upon the understandable desire to maintain the
integrity and quality of life to which they, and every citizen of Baltimore County, is
entitled to enjoy. Unfortunately, this Board is not empowered with the authority to
deny requests for special exceptions or reverse the Zoning Commissioner for the purpose
of making life more comfortable for the residents of a particular community. The
zoning existing on the subject site permits via special exception, controlled excavations.
Indeed, the Board is compelled to state that the Protestants clearly indicated that the
subject site required improvement and suggested commercial or industrial development.
However, any development would necessitate excavation and, consequently, the
Protestants' fears would, necessarily be the same.

"502.1 -- Before any Special Exception may be granted, it must
appear that the use for which the Special Exception is requested
will not:

- a. Be detrimental to the health, safety, or general welfare
of the locality involved;
- b. Tend to create congestion in roads, streets or alleys therein;
- c. Create a potential hazard from fire, panic or other dangers;
- d. Tend to overcrowd land and cause undue concentration of
population;
- e. Interfere with adequate provisions for schools, parks, water,
sewerage, transportation or other public requirements,
conveniences, or improvements;
- f. Interfere with adequate light and air;
- g. Be inconsistent with the purposes of the property's zoning
classification nor in any other way inconsistent with the
spirit and intent of these Zoning Regulations; nor
- h. Be inconsistent with the impermeable surface and vegetative
retention provisions of these Zoning Regulations."

To examine whether Appellee had met the burden of proof, it is
necessary to determine that burden.

"[T]he applicant has the burden of adducing testimony which
will show that his use meets the prescribed standards and
requirements. He does not have the burden of establishing
affirmatively that his proposed use would be a benefit to the
community. (Cite omitted) If he shows to the satisfaction of the
Board that the proposed use would be conducted without real
detriment to the neighborhood and would not actually adversely
affect the public interest, he has met his burden." Anderson v.
Smoyer, 23 Md. App. 612, 617 (1974).

The standard for determining whether the affect is adverse was articulated
in Schultz v. Pritts, 291 Md. 1 (1981). It must be determined "whether
there are facts and circumstances that show the particular use would have
any adverse effects above those inherently associated with such a special
exception use irrespective of its location." Id. at 22. It is, therefore,
not appropriate to consider any problem inherent in excavation.

Appellants' argument focuses on dust in the air from excavation and
potential traffic congestion from ninety trips a day to be made by the
trucks. The Court finds no merit in the contention that the Board's
determination of the problem with dust is not fairly debatable. Further,
it is an inherent problem associated with excavation which is not

Leroy M. Merritt
Case No. 83-103-X

Counsel for the Protestants was obviously well prepared as were his
witnesses. Counsel for the Protestants was most persuasive in his arguments and in his
presentation. However, as Petitioner's Counsel pointed out, this issue is not one of
reclassification or sediment control. The sole issue is that of a special exception.

This Board is therefore persuaded that the requested special exception
does not present an imminent danger to the community, that the Petitioner is in
compliance with Sec. 502.1 of the Baltimore County Zoning Regulations and that no
adverse affect to the health, safety and general welfare of that community exists. We
are, however, mindful of the inherent right of the community to maintain their quality
of life and do, therefore impose the restrictions noted in the Order following this Opinion.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 24th day
of July, 1983, by the County Board of Appeals, ORDERED that the decision of the
Deputy Zoning Commissioner, dated February 1, 1983, granting a Special Exception for
controlled excavations, with restrictions, is AFFIRMED and, therefore Petitioner's
request for Special Exception is GRANTED in accordance with the site plan submitted,
subject, however, to the following restrictions:

1. A sediment control plan shall be approved by the Baltimore
County Soil Conservation District and the Department of
Public Works prior to any excavation.
2. The hours of operation shall be from 7:30 a.m. to 4:00 p.m.,
Monday through Friday.
3. Compliance with the comments submitted by the Maryland
Department of Transportation, dated August 4, 1982, the
Current Planning and Development Division/Office of
Planning and Zoning, dated October 6, 1982, and the
Department of Health, dated October 4, 1982.
4. Air-borne particulate matter shall be controlled by spraying or
similar methods.
5. No junk or debris shall be stored on the site.

MICROFILMED

considered additionally in determining adverse affect.

Appellants contend that Mr. Carroll Lower, the witness who testified
for the Appellee on the traffic issue, was not qualified to testify and if
he was qualified, his testimony was inadequate. Mr. Lower's fifty years in
the excavation business and familiarity with the location certainly qualify
him to testify on the issue. In reviewing the transcript, however, the
Court is unable to find sufficient information adduced from Mr. Lower on
the potential traffic congestion and safety problems for the Board to have
adequately considered that issue. "The opinion or conclusion of an expert
or lay witness is of no greater probative value than that warranted by the
soundness of his underlying reasons and facts." Anderson v. Smoyer, 23
Md. App. 612, 618 (1974).

Appellants have alleged that there is no legal basis for the Board's
decision. They rely on Redden v. Montgomery County, 270 Md. 668 (1974) in
which the Court enforced the local statutory provision which required the
Board to set out its specific findings of fact on each requirement of the
zoning ordinance. Baltimore County does not have a similar provision.
Therefore, this Court cannot apply Redden to this case.

In oral argument, Appellants point out that the development plan
submitted by Appellee was for ML zoning, not the MUR zoning which is currently
in effect. They contend that it is improper to submit the ML plan when
applying for the special exception. Since controlled excavations are
permitted in both ML and MUR zones (248.4c), the Court finds Appellants'
argument has no bearing on this appeal. As the Board stated, neither
reclassification nor sediment control was an issue before the Board -- nor
is it before the Court at this time.

Accordingly, the Board is affirmed on all points with the exception of
the potential traffic problems in the vicinity. The Court will remand this
case back to the Board of Appeals to take further testimony on traffic
congestion and resulting safety problems.

dated: 7/19/84

JAMES S. SFIKAS
JUDGE JAMES S. SFIKAS

Leroy M. Merritt
Case No. 83-103-X

6. Compliance with all air, water, and noise pollution regulations,
as well as Section 403 of the Baltimore County Zoning Regulations.
7. Approve if the aforementioned site plan by the Maryland Department
of Transportation, the Department of Public Works, and the Office
of Planning and Zoning.
8. A macadam road shall be required and maintained on the property
from Washington Boulevard up to the area being excavated, during
the entire period of excavation.

Any appeal from this decision must be in accordance with Rules 8-1 thru
8-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William B. Evans, Acting Chairman

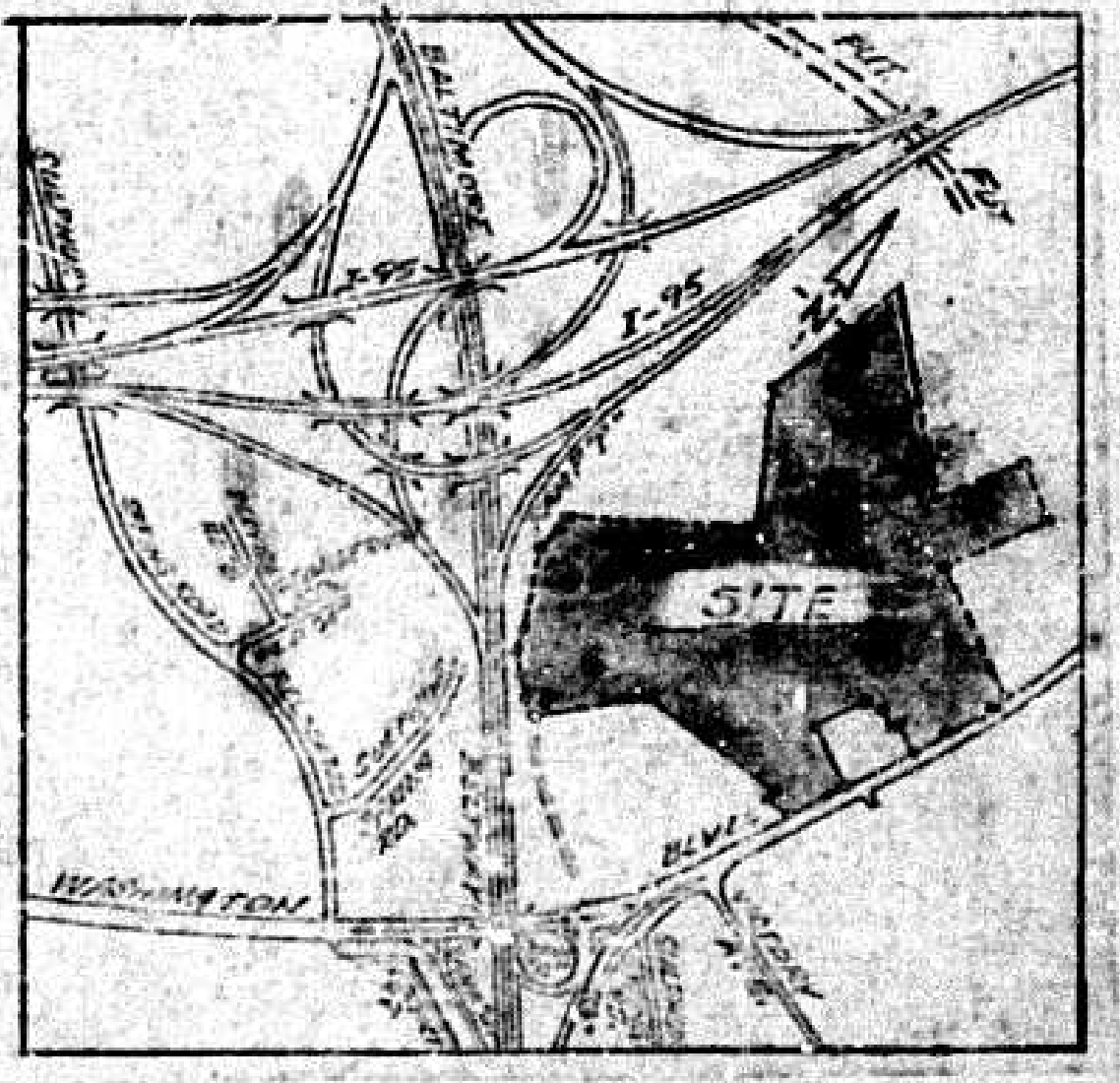
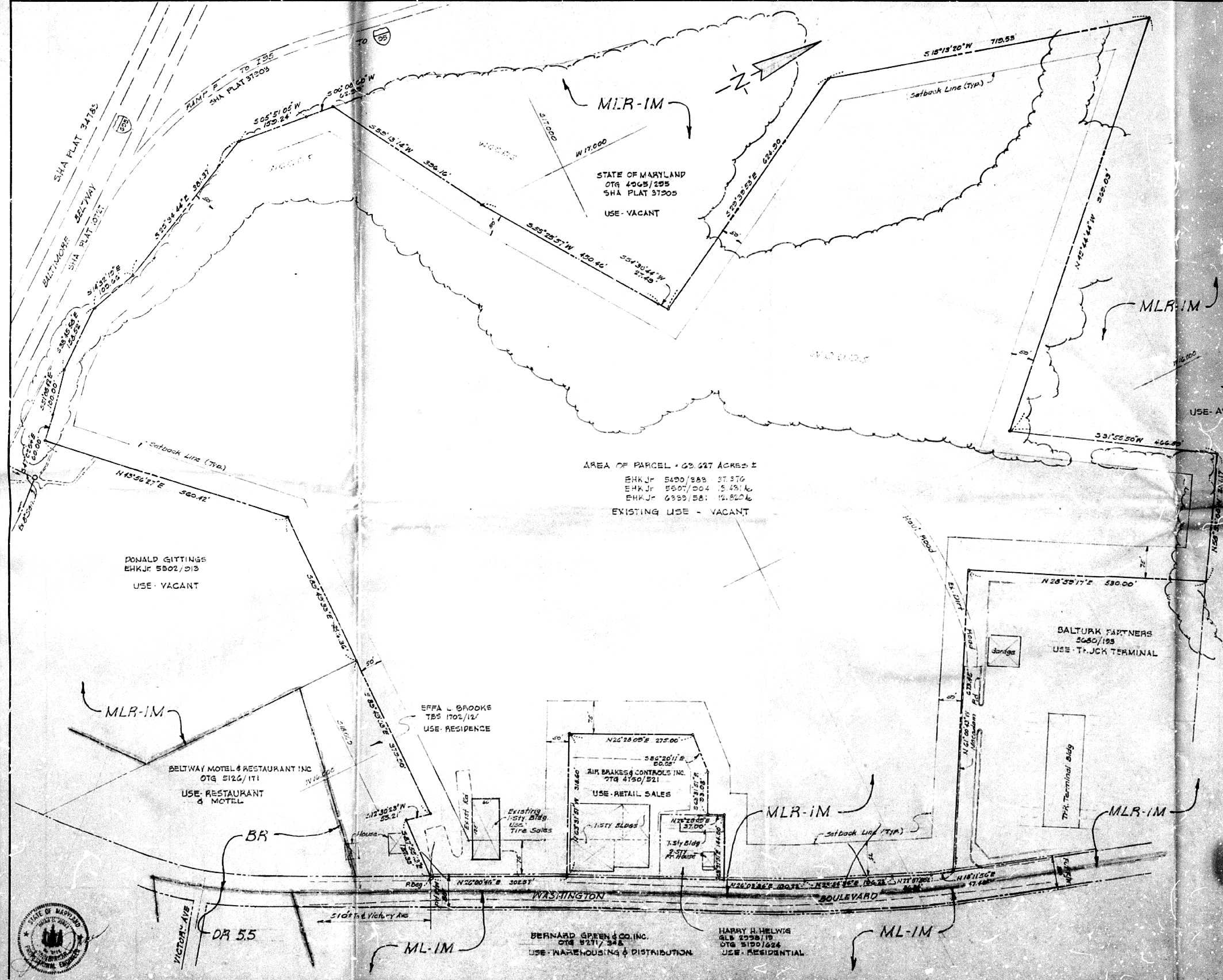
Patricia Chipp

Patricia Chipp

Patricia Chipp

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VICINITY MAP
SCALE: 1"=1000'

GENERAL NOTES

1. Property Outline is based in part on field surveys performed by G.W. Stephens Jr. & Assoc. June 1974 and upon deeds of record and does not constitute a boundary survey.
2. All controlled excavations shall be restricted to the area within the setback lines shown.
3. Detailed plans showing grading after excavation are identified as Borrow Grading Plan & Sediment & Erosion Control Measures - Sheets 1 Thru 4.
4. Finished Grade contours shown on the Borrow Grading Plan delineate the lowest allowable grades for controlled excavations.
5. Anticipated Controlled Excavation Typical Operations:
 - a. 5 days per week
 - b. 8 hours per day (7:30 am to 4:00 pm)
 - c. ADTC - 10 to 50 trips per day

JOHN EICHELMAN
GLB 2417/320

USE - AUTOMOBILE JUNK YD.

AREA OF PARCEL = 0.927 ACRES ±

EHKJF 5490/583 37.376
EHKJF 5507/004 13.4916
EHKJF 6933/581 12.8206

EXISTING USE - VACANT

DONALD GITTINGS
EHKJF 5502/013
USE - VACANT

BALTURK PARTNERS
5050/195
USE - TRUCK TERMINAL

EFFA L BROOKS
TBS 1702/121
USE - RESIDENCE

BELTWAY MOTEL & RESTAURANT INC
OTG 5126/171
USE - RESTAURANT & MOTEL

AIR BRAKES & CONTROLS INC.
779 4150/521
USE - RETAIL SALES

BERNARD GREEN & CO. INC.
OTG 8271/348
USE - WAREHOUSING & DISTRIBUTION

HARRY H. HELWIG
GLB 2238/19
OTG 5120/034
USE - RESIDENTIAL



N 20° 00' 00" E
516.00'

DR 5.5

JAMES PETRICA & ASSOCIATES, INC.
CONSULTING ENGINEERS
409 JEFFERSON BUILDING
TOWSON, MARYLAND

PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
CONTROLLED EXCAVATION USE IN A MLR ZONE

OWNER: LEROY M. MERRITT
2066 LORD BALTIMORE DRIVE
BALTIMORE MARYLAND 21207

BELTWAY BUSINESS CENTER
Baltimore County Maryland Elec. Dist. No. 13

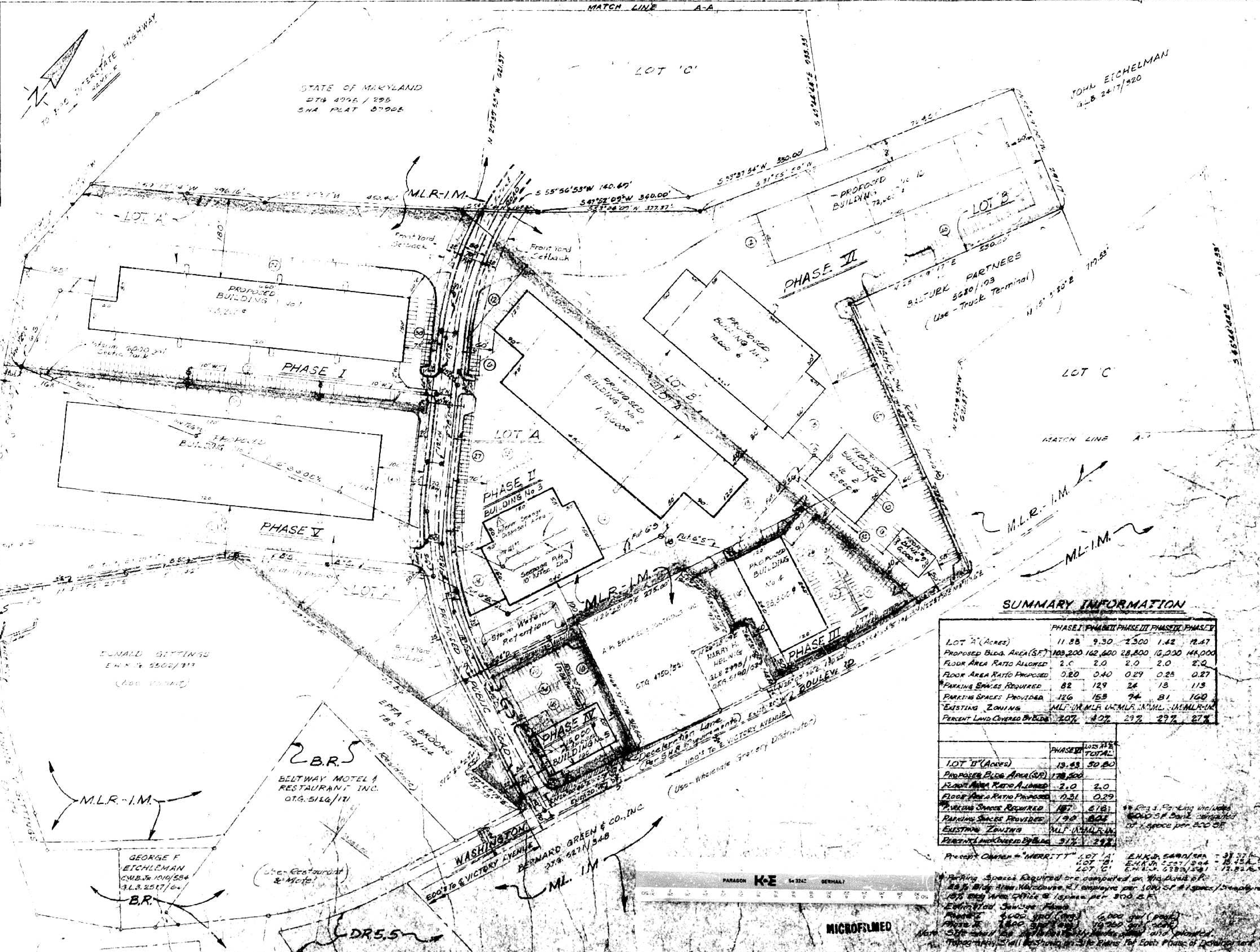
SCALE: 1"=100'
DATE: JUNE 23, 1982
SHEET NO. 1 OF 1
PROJECT NO. 77012
DRAWING NO. ZP-1

MICROFILMED



VICINITY MAP

Scale: 1" = 1,000'



SUMMARY INFORMATION

	PHASE I	PHASE II	PHASE III	PHASE IV	PHASE V
LOT A (Acres)	11.88	9.30	2.300	1.42	12.47
PROPOSED BLDG. AREA (SF)	103,200	162,400	28,800	16,000	146,000
FLOOR AREA RATIO ALLOWED	2.0	2.0	2.0	2.0	2.0
FLOOR AREA RATIO PROPOSED	0.80	0.40	0.29	0.28	0.27
PARKING SPACES REQUIRED	82	129	24	13	113
PARKING SPACES PROVIDED	126	153	74	81	160
EXISTING ZONING	MLT-1	MLT-1	MLT-1	MLT-1	MLT-1
PERCENT LAND COVERED BY BLDG.	2.07	2.07	2.07	2.07	2.07

	PHASE I	LOT B TOTAL
LOT B (Acres)	19.43	50.80
PROPOSED BLDG. AREA (SF)	178,500	
FLOOR AREA RATIO ALLOWED	2.0	2.0
FLOOR AREA RATIO PROPOSED	0.31	0.29
PARKING SPACES REQUIRED	185	818
PARKING SPACES PROVIDED	190	808
EXISTING ZONING	MLT-1	MLT-1
PERCENT LAND COVERED BY BLDG.	5.17	2.92



JAMES PETRICA & ASSOCIATES, INC.
CONSULTING ENGINEERS
409 JEFFERSON BUILDING
TOWSON, MARYLAND

SITE DEVELOPMENT PLAN

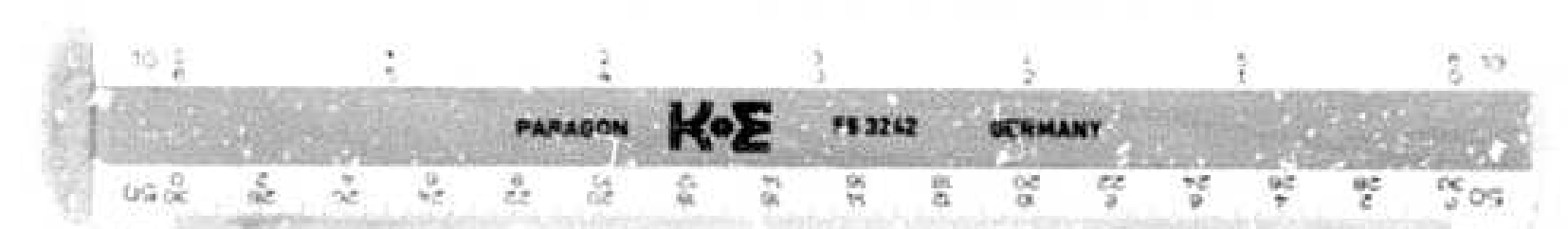
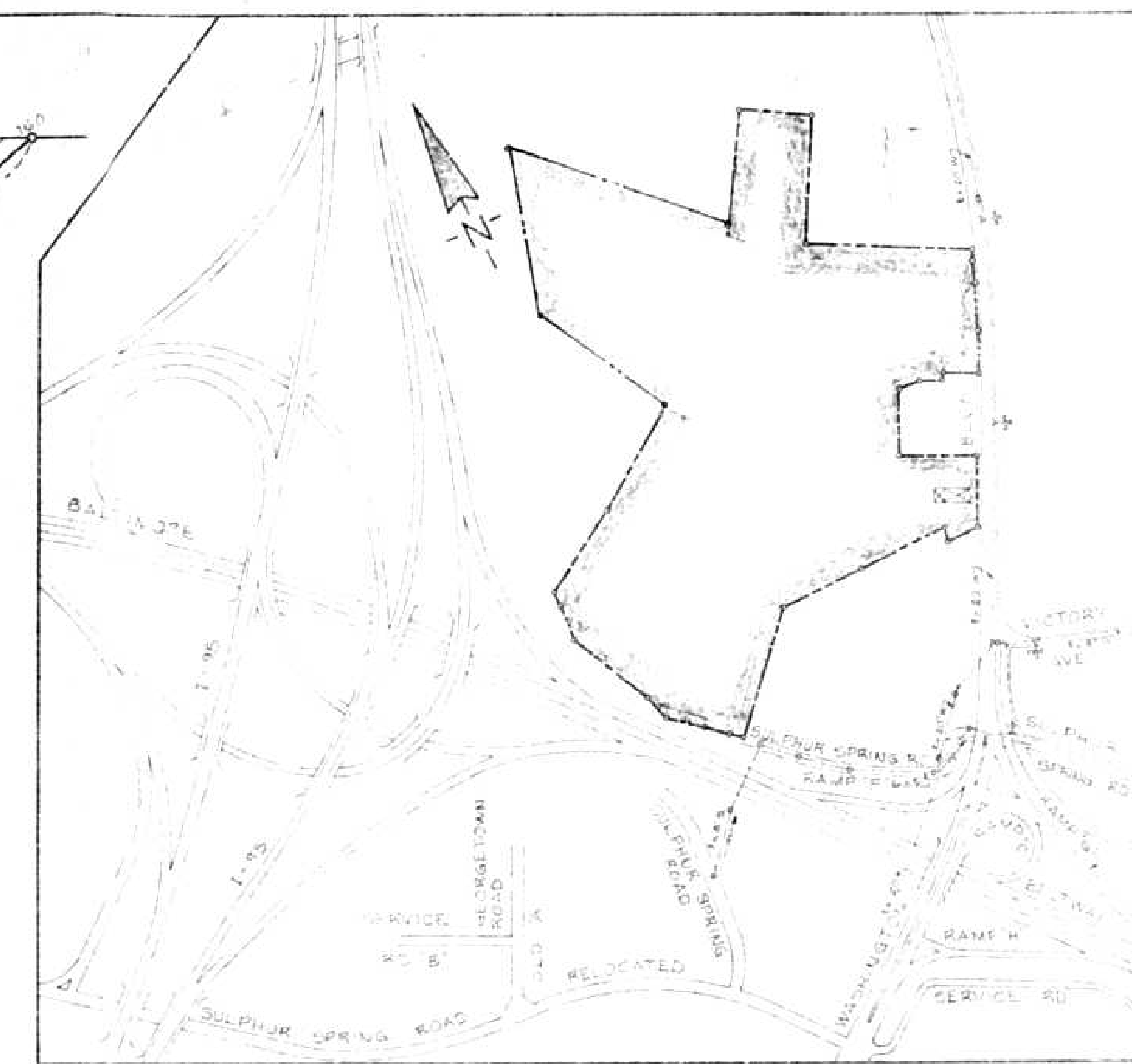
OWNER: LEROY M. MERRITT
1340 RUXTON ROAD
TOWSON, MARYLAND 21204

BELTWAY BUSINESS CENTER

SCALE: 1" = 100'
DRAWING NO. 1
OF 1

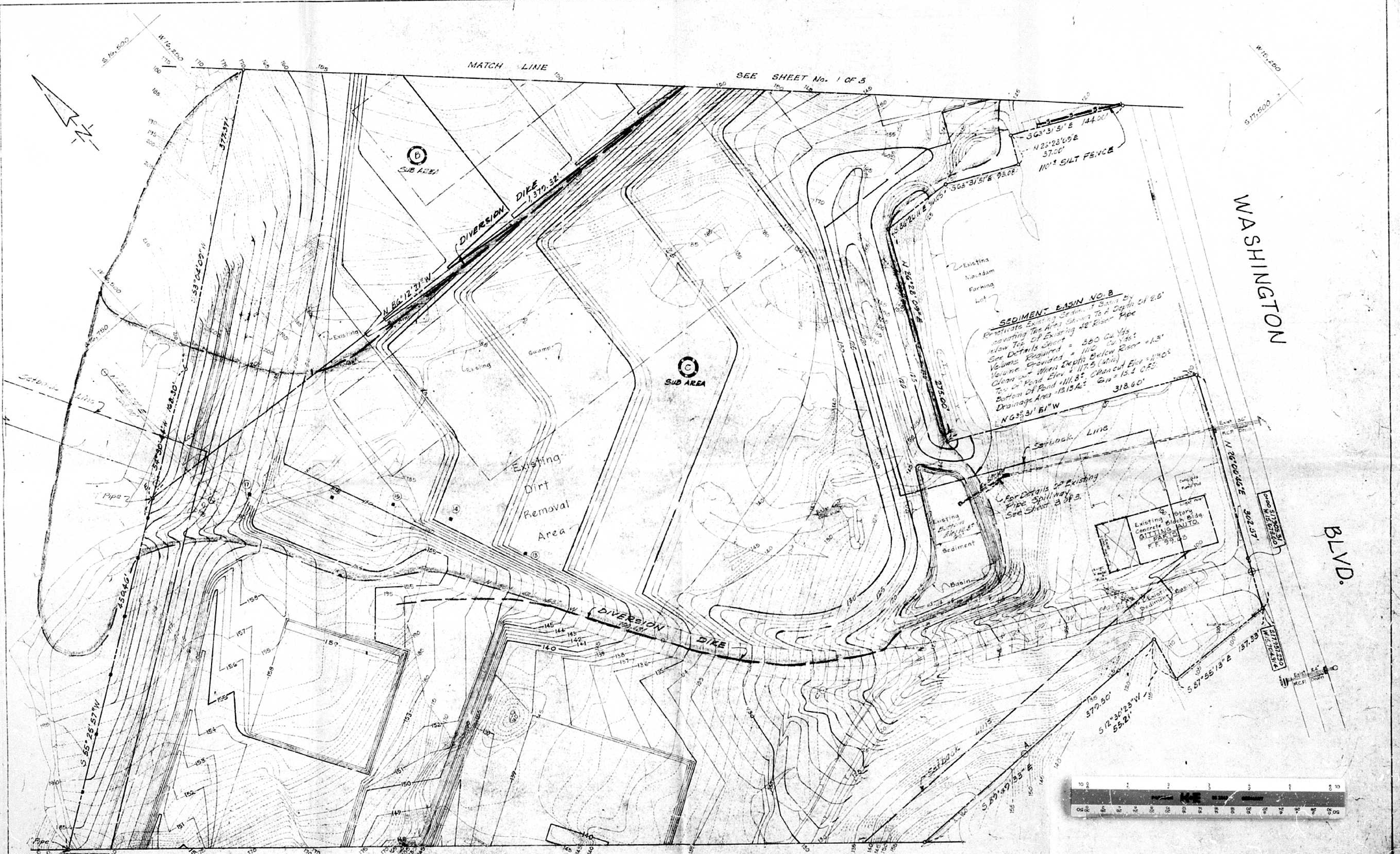
BALTIMORE COUNTY, MARYLAND
ELECTION DISTRICT 13

DATE: JAN 20, 1977

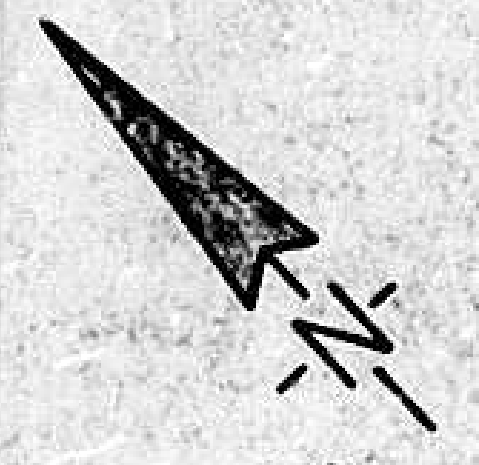


MICROFILMED

JAMES PETRICA & ASSOCIATES, INC. CONSULTING ENGINEERS 409 JEFFERSON BUILDING TOWSON, MARYLAND	BORROW GRADING PLAN & SEDIMENT & EROSION CONTROL MEASURES	OWNER: LEROY M. MERRITT 1940 RUXTON ROAD TOWSON, MARYLAND 21204	BELTWAY BUSINESS CENTER BALTIMORE COUNTY, MARYLAND DATE: 1-26-1976 ELECTION DISTRICT No. 13	SCALE AS SHOWN	DRAWING NO. 1 OF 4	B.D.J. R.J.H. H.R.S.
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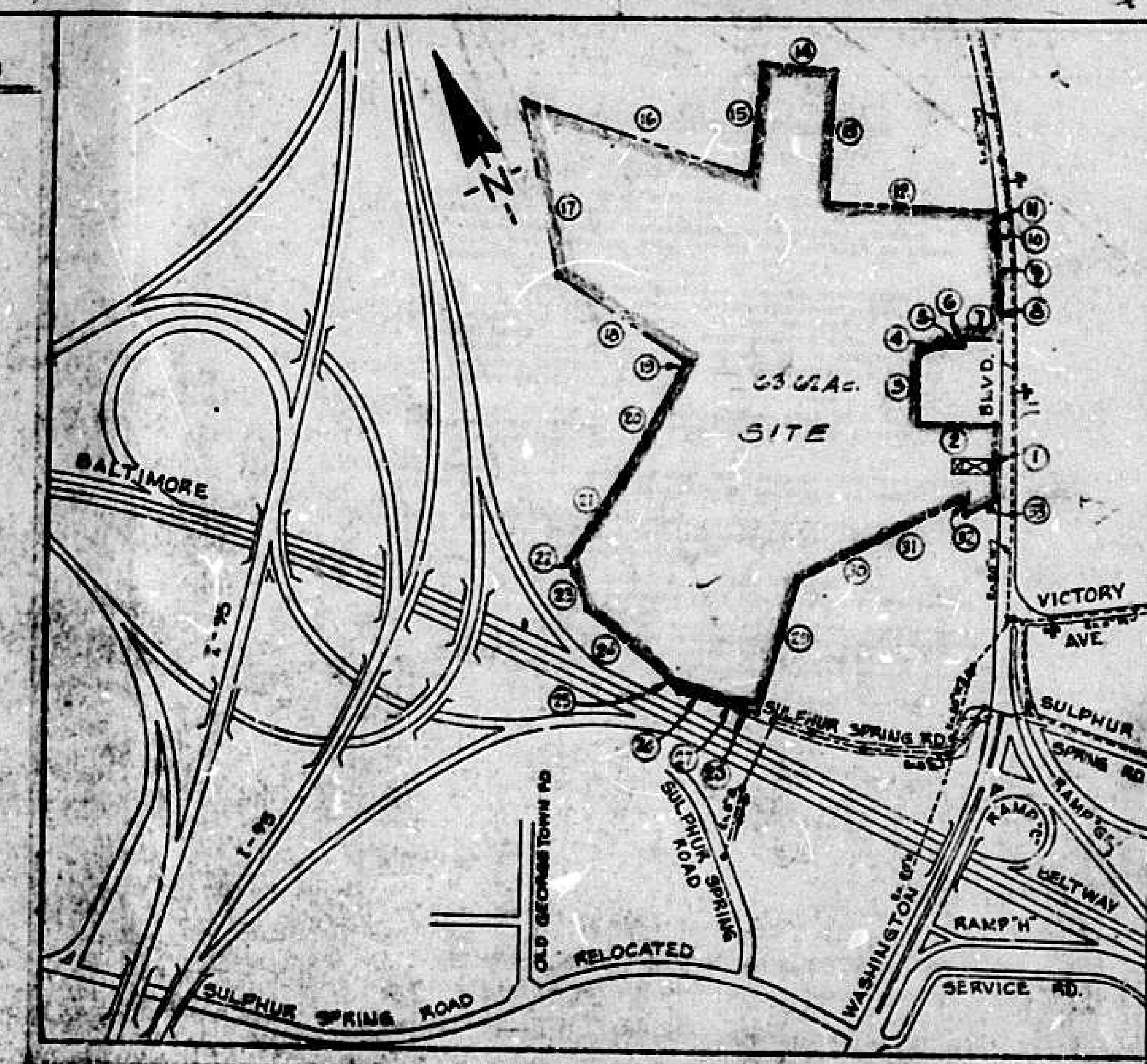


JAMES PETRICA & ASSOCIATES, INC. CONSULTING ENGINEERS 409 JEFFERSON BUILDING TOWSON, MARYLAND	BORROW GRADING PLAN & SEDIMENT & EROSION CONTROL MEASURES	OWNER: LEROY M. MERRITT 1940 RUXTON ROAD TOWSON, MARYLAND 21204	BELTWAY BUSINESS CENTER BALTIMORE COUNTY, MARYLAND LANEDOWNE	SCALE AS SHOWN	DRAWING NO. 2 OF 4	B.D.J. R.J.H. R.R.S.
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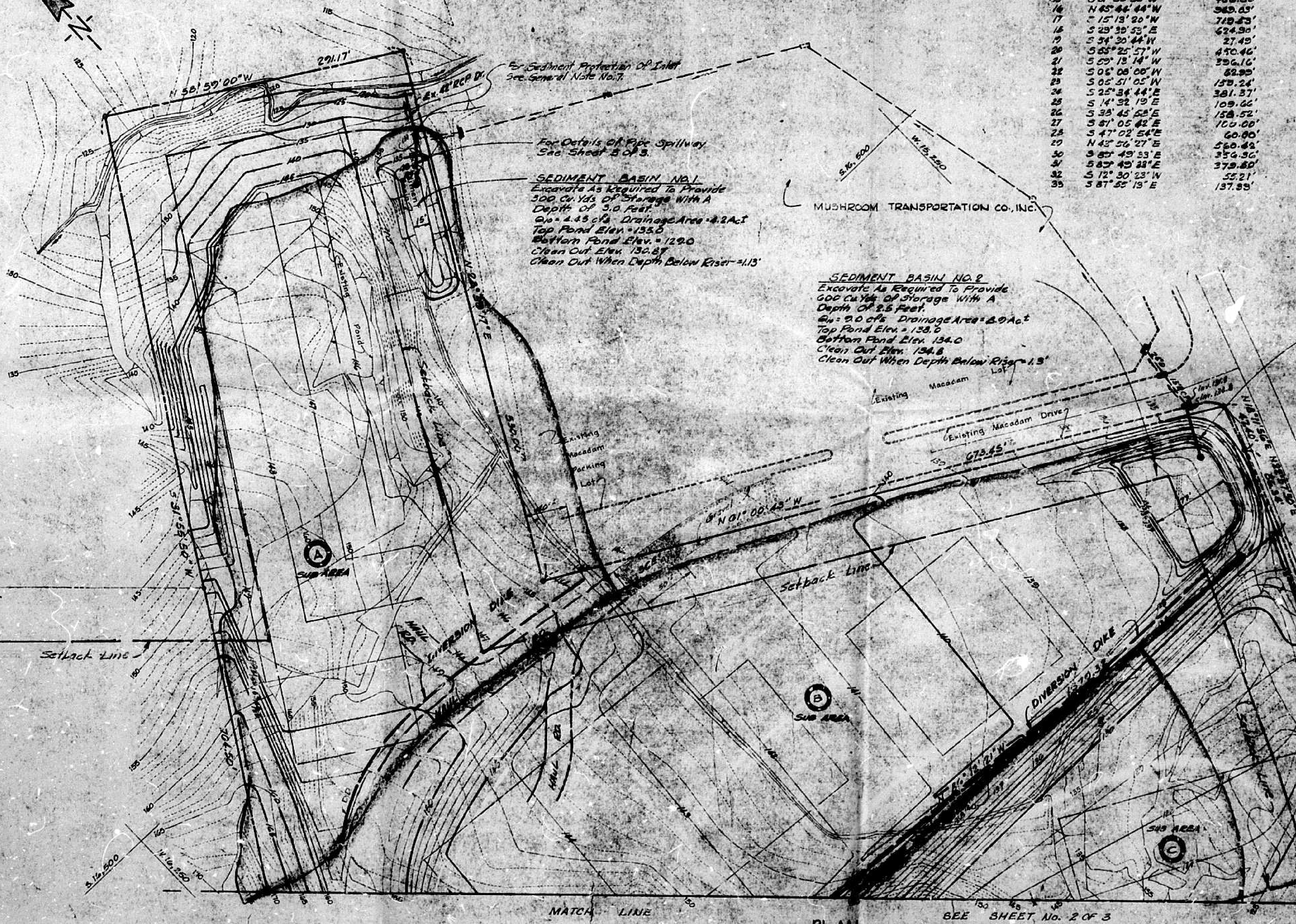


PROPERTY OUTLINE COURSES & DISTANCES

1	N 85° 00' 40" E	302.87'
2	N 63° 31' 34" W	318.66'
3	N 26° 28' 09" E	278.60'
4	S 88° 20' 11" E	96.05'
5	S 68° 31' 51" E	93.08'
6	N 26° 20' 07" E	37.00'
7	S 63° 31' 34" W	104.60'
8	N 26° 05' 56" E	160.82'
9	N 23° 54' 34" E	196.22'
10	N 38° 57' 50" E	26.34'
11	N 48° 11' 56" E	47.80'
12	N 61° 00' 43" W	428.68'
13	N 28° 07' 17" E	594.00'
14	N 38° 57' 50" W	291.17'
15	S 31° 58' 50" W	466.83'
16	N 45° 44' 44" W	383.03'
17	S 15° 13' 20" W	719.43'
18	S 29° 39' 53" E	624.90'
19	S 34° 30' 44" W	27.45'
20	S 63° 25' 57" W	470.40'
21	S 69° 15' 14" W	356.16'
22	S 06° 08' 00" W	62.90'
23	S 05° 51' 05" W	150.24'
24	S 25° 34' 44" E	381.37'
25	S 14° 32' 19" E	109.66'
26	S 33° 45' 58" E	158.52'
27	S 51° 05' 42" E	165.00'
28	S 47° 02' 54" E	60.00'
29	N 42° 56' 27" E	560.42'
30	S 85° 49' 33" E	354.30'
31	S 85° 49' 33" E	379.80'
32	S 72° 30' 23" W	55.21'
33	S 81° 52' 13" E	137.85'



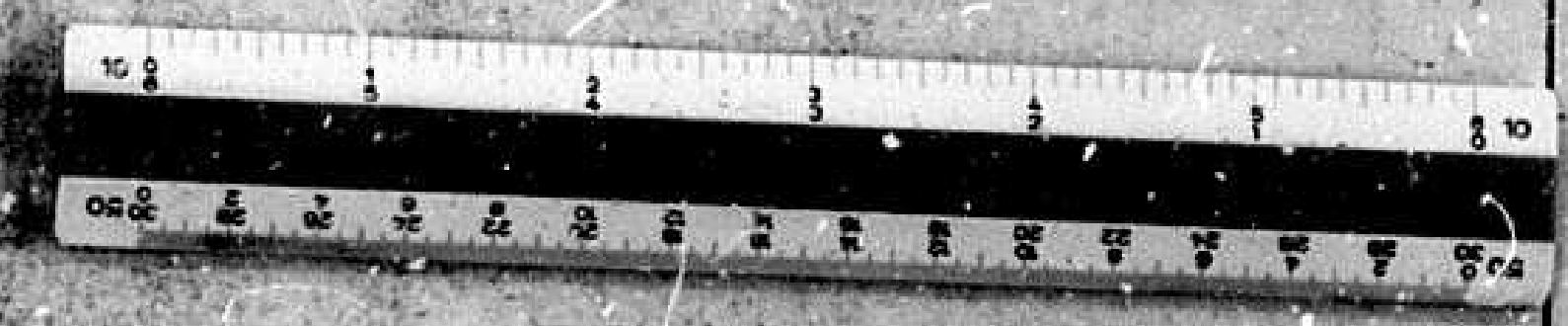
VICINITY MAP
SCALE: 1"=500'

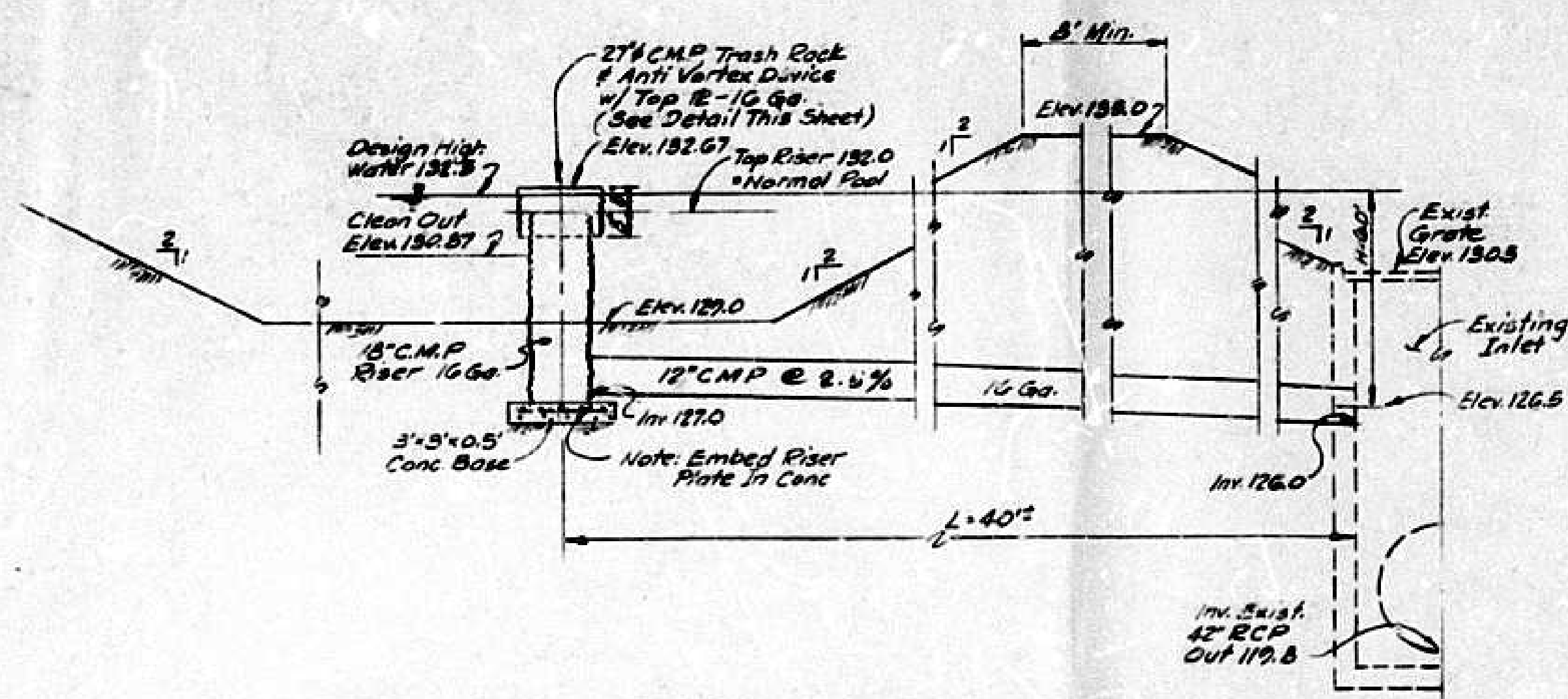


SEDIMENT BASIN NO. 1
Excavate As Required To Provide
500 Cu Yds. of Storage With A
Depth Of 3.0 Feet.
Q₁₀ = 4.45 cfs. Drainage Area = 4.2 Ac.
Top Pond Elev. = 135.5
Bottom Pond Elev. = 129.0
Clean Out Elev. 130.87
Clean Out When Depth Below Rise = 1.15'

SEDIMENT BASIN NO. 2
Excavate As Required To Provide
600 Cu Yds. of Storage With A
Depth Of 2.5 Feet.
Q₁₀ = 2.0 cfs. Drainage Area = 2.9 Ac.
Top Pond Elev. = 138.2
Bottom Pond Elev. 134.0
Clean Out Elev. 134.8
Clean Out When Depth Below Rise = 1.3'

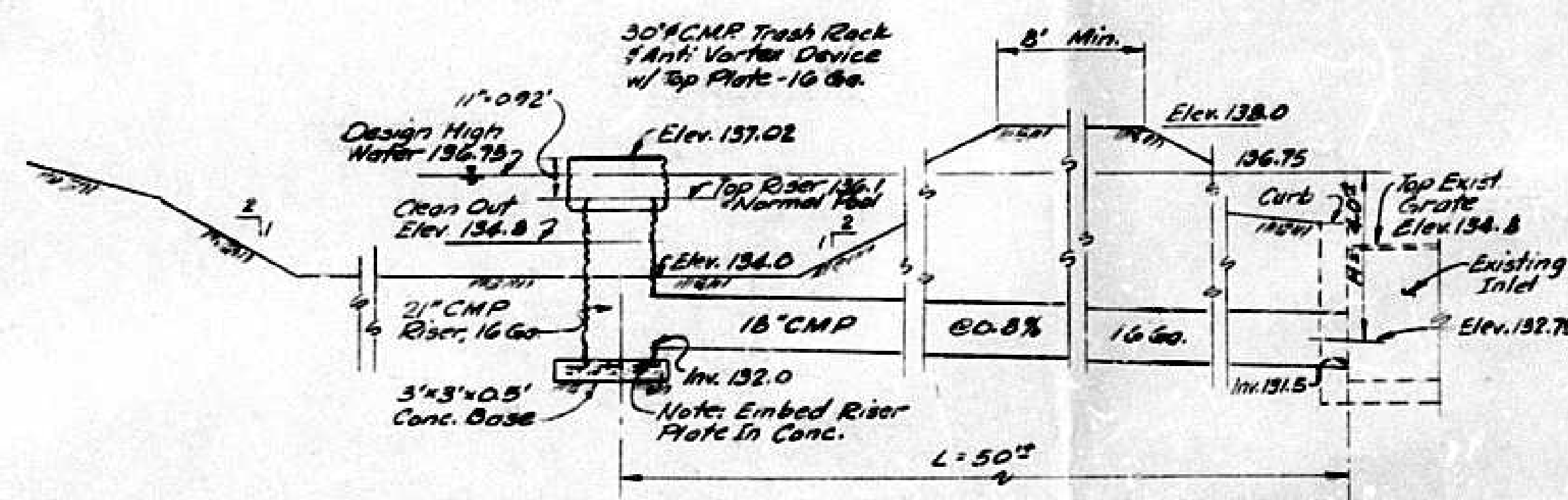
For Details Of Pipe Spillway
See Sheet 3 of 3.





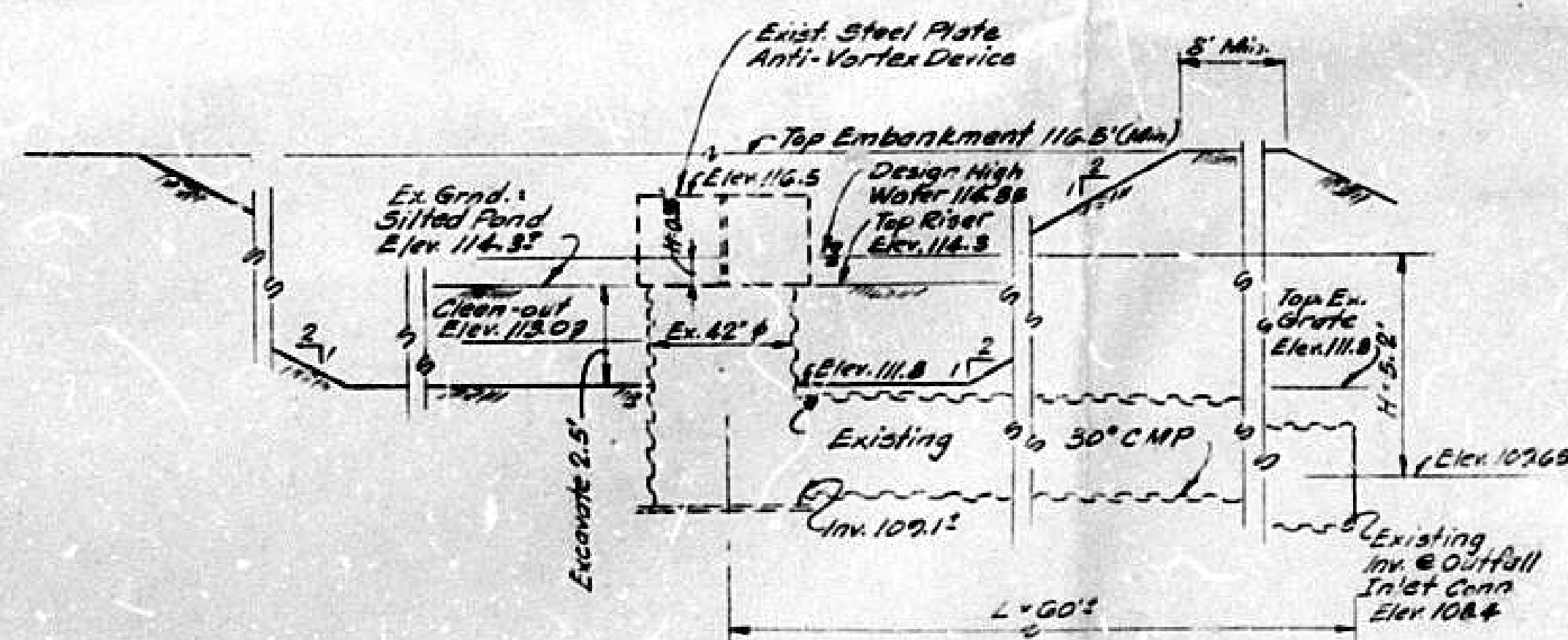
SECTION - PIPE SPILLWAY-SEDIMENT BASIN NO. 1

Not To Scale



SECTION - PIPE SPILLWAY-SEDIMENT BASIN NO. 2

Not To Scale



SECTION - EXISTING SEDIMENT BASIN NO. 3

Not To Scale

ENGINEER'S CERTIFICATION

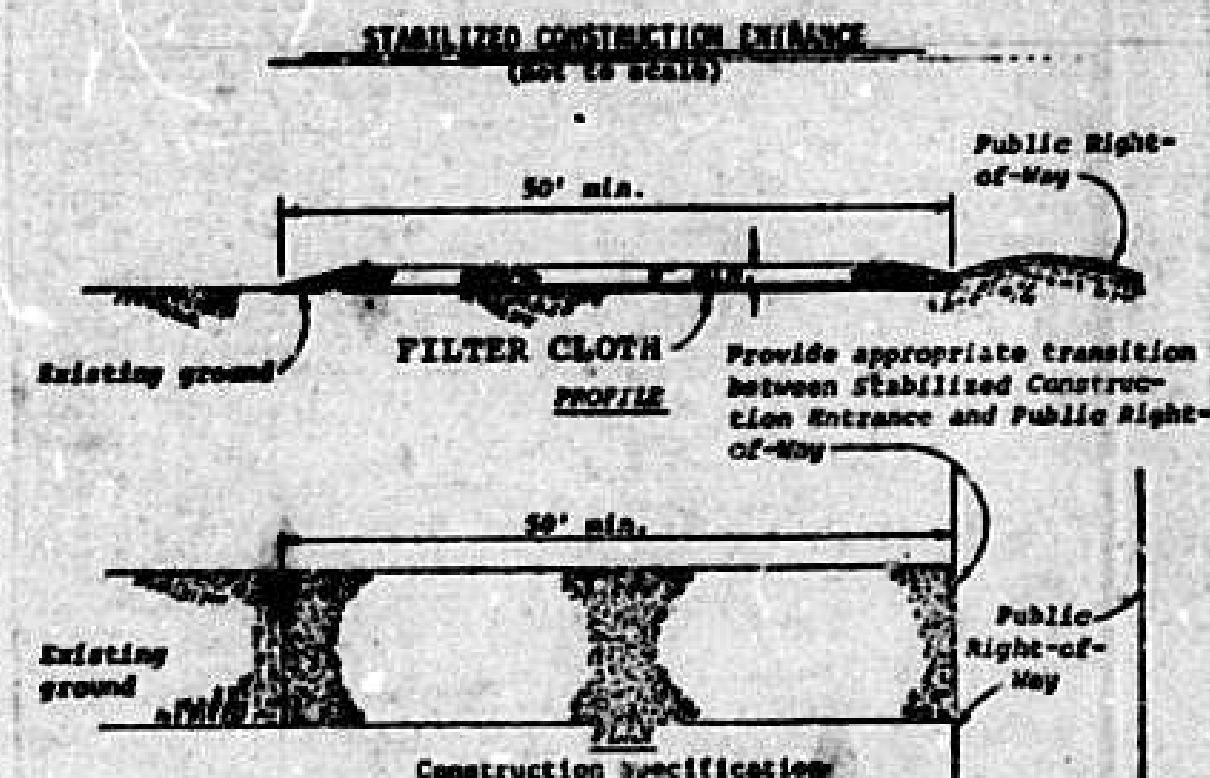
I hereby certify that this plan has been prepared in accordance with the U.S. Standards and Specifications for Soil Erosion and Sediment Control in Developing Areas dated July, 1975 and Baltimore County Design Standards dated 1964.

Professional Engineer, No. 95515
November 12, 1981
Date

OWNER/DEVELOPER CERTIFICATION

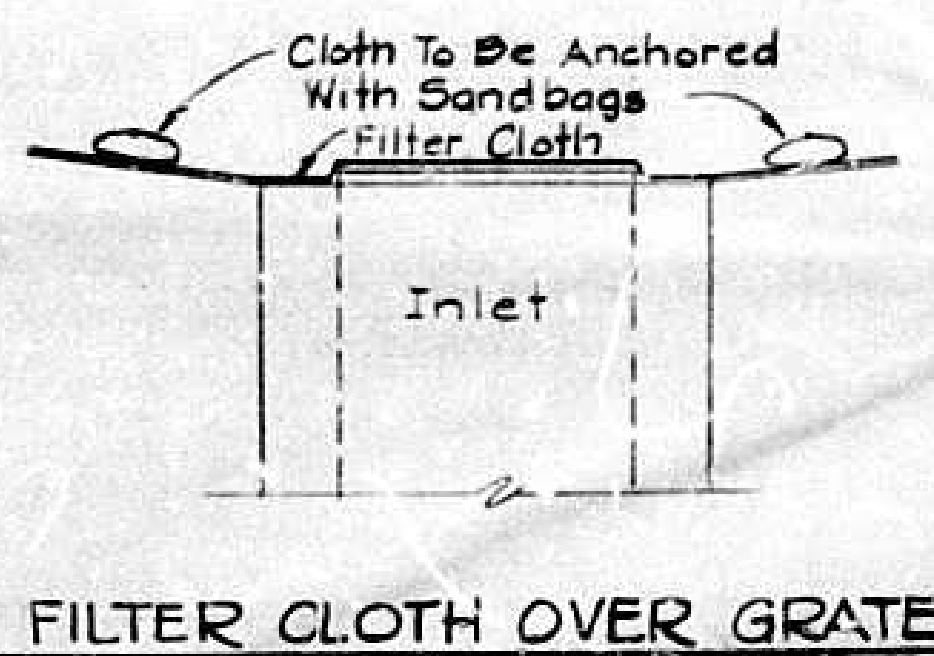
I have hereby certify that any clearing, grading, construction or development will be done pursuant to this plan, and that any responsible personnel involved in the construction project will have a certificate of attendance at a Department of Natural Resources approved training program for the control of sediment and erosion before beginning the project.

Owner/Developer (Name and Title)
Date

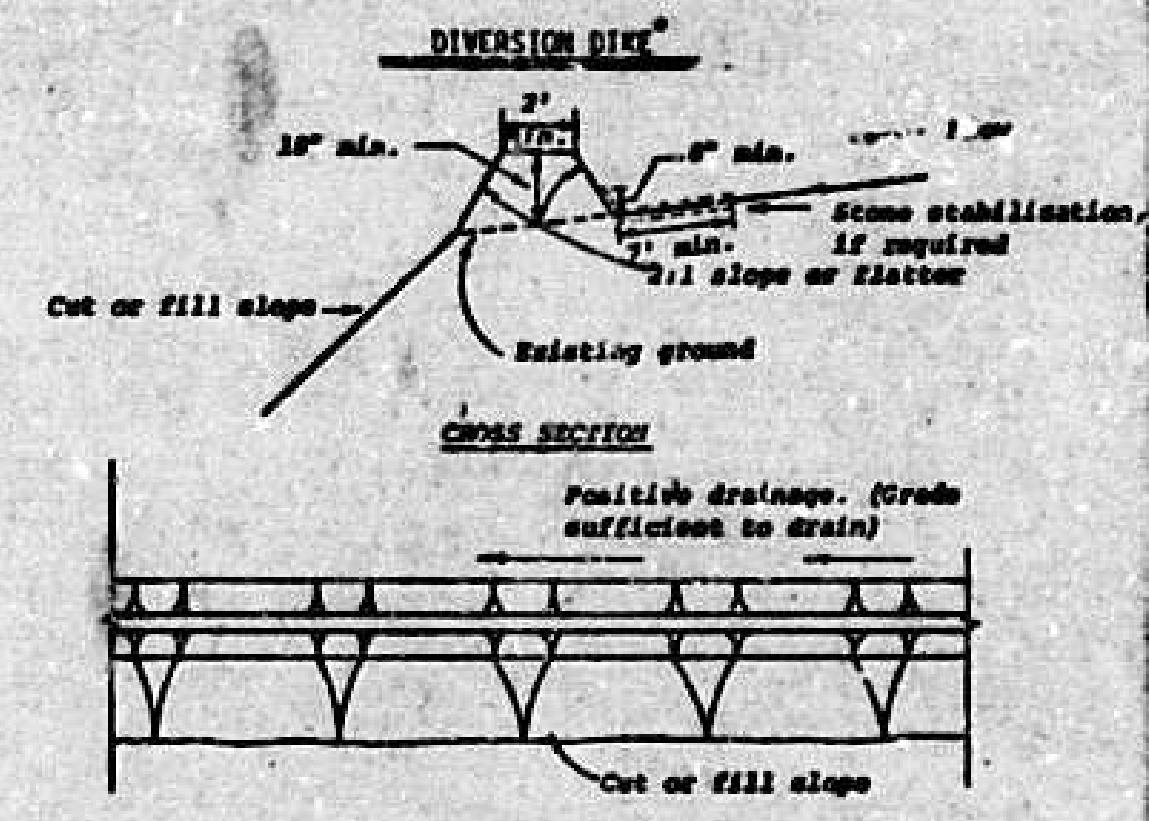
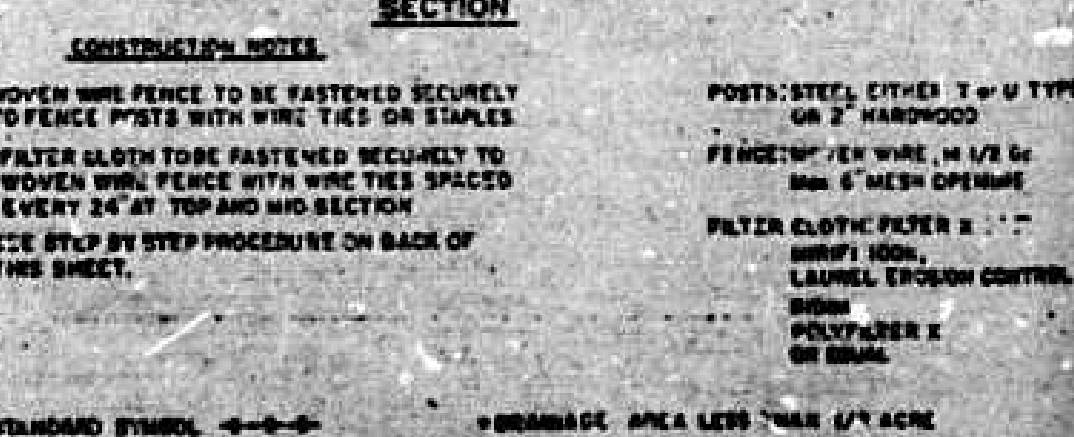
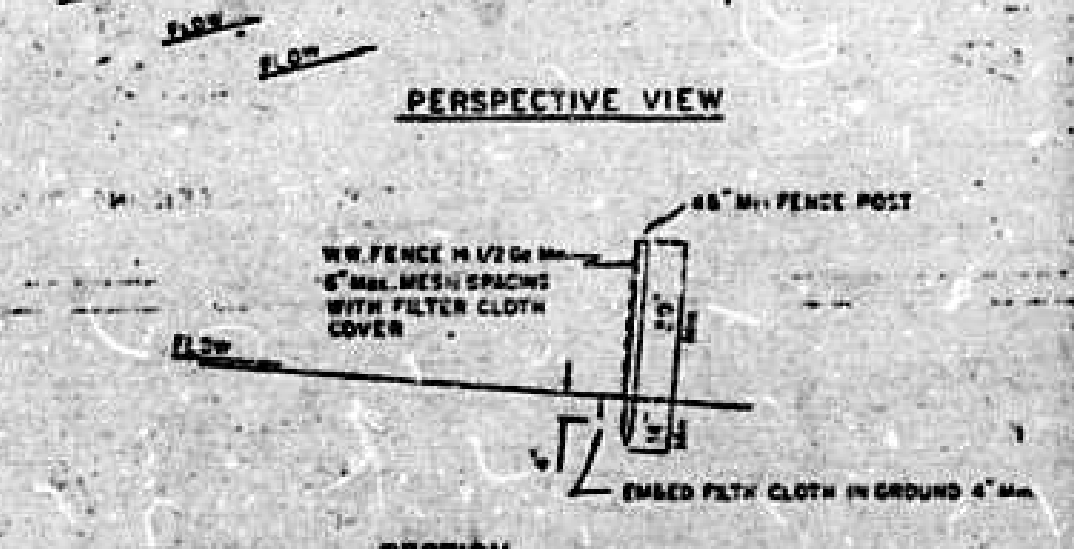
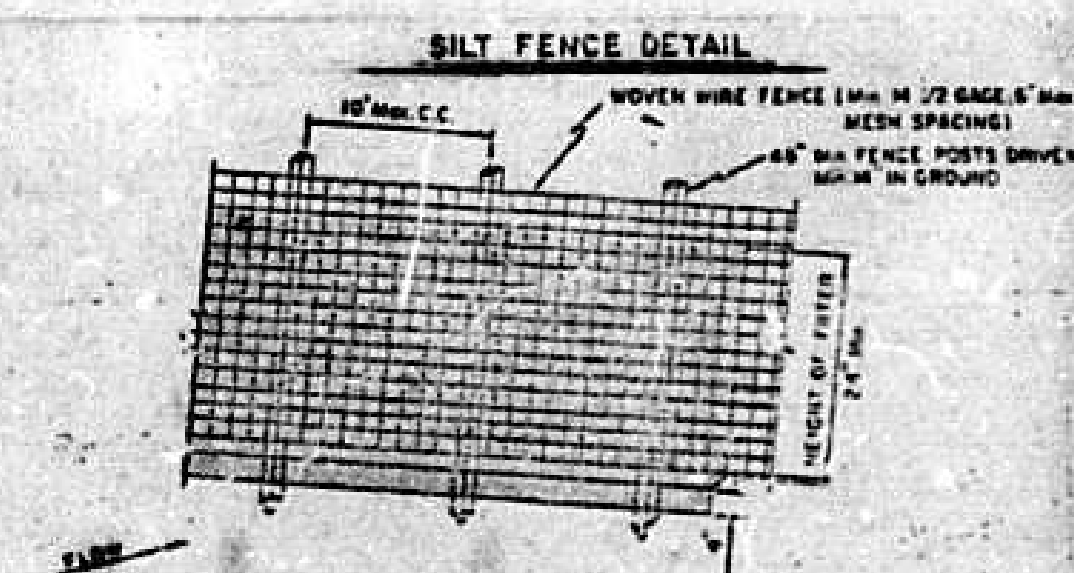


1. Stone size - Use MSHA size No. 2 (2-1/2" to 1") or AASHTO designation M43, size No. 2 (2-1/2" to 1-1/2"). Use crushed stone.
2. Length - As effective, but not less than 50 feet.
3. Thickness - Not less than eight (8) inches.
4. Width - Not less than full width of all points of ingress or egress.
5. Washing - When necessary, stone shall be cleaned to remove sediment prior to entrance onto public right-of-way. When washing is required, it shall be done on an area stabilized with crushed stone which drains into an approved sediment trap or sediment basin. All sediment shall be prevented from entering any storm drain, ditch, or watercourse through use of sand bags, gravel, boards or other approved methods.
6. Maintenance - The entrance shall be maintained in a condition which will prevent tracking or flowing of sediment onto public right-of-way. This may require periodic top dressing with additional stone as conditions demand and repair and/or cleanout of any measures used to trap sediment. All sediment spilled, dropped, washed or tracked onto public right-of-way must be removed immediately.

Standard Symbol

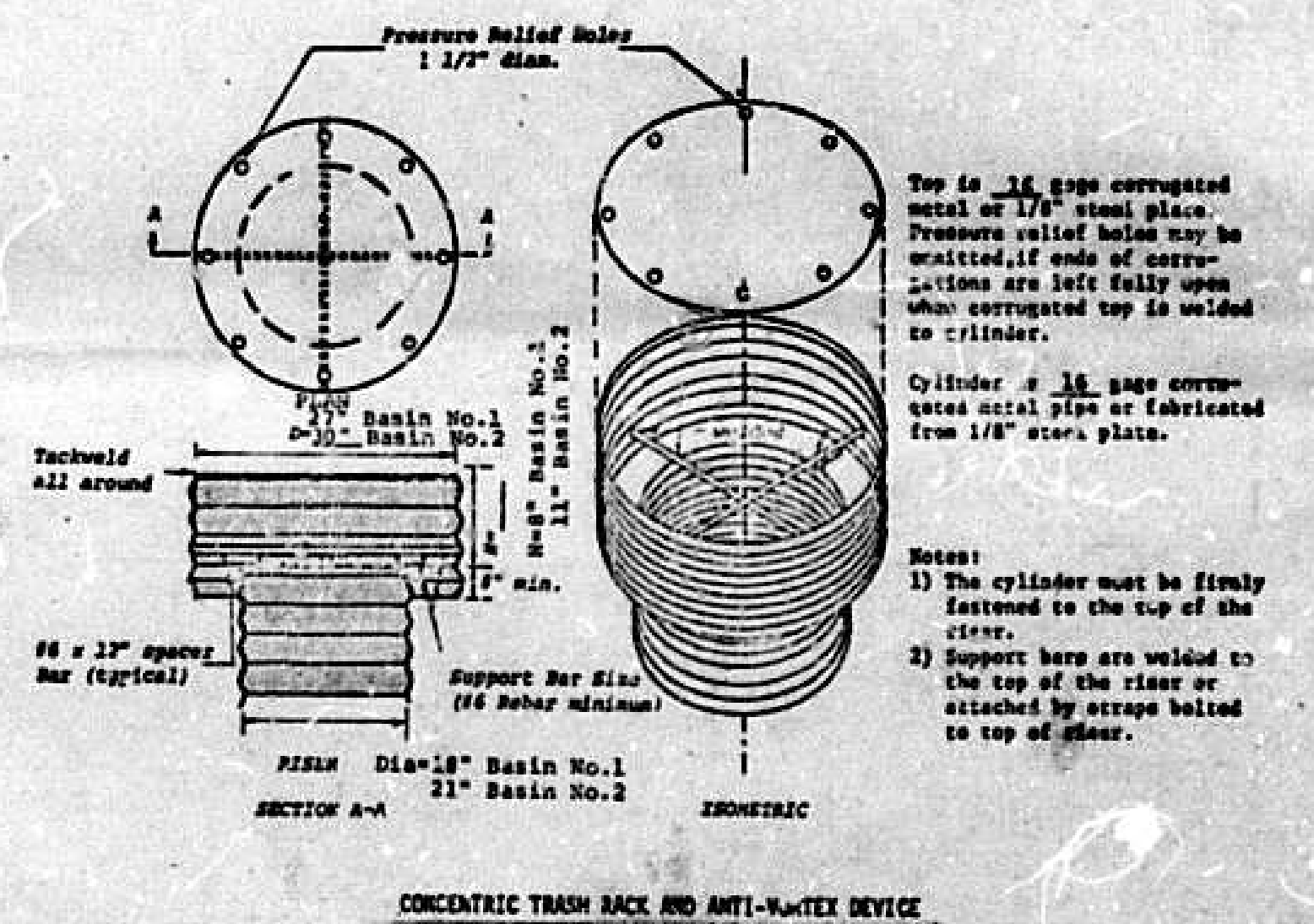


FILTER CLOTH OVER GRATE

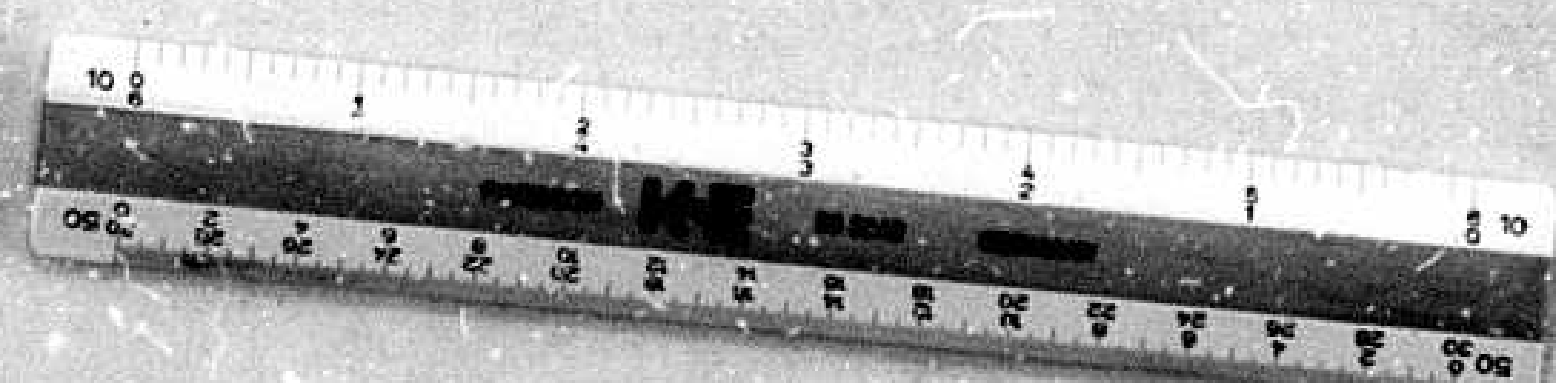


1. All dikes shall be machine compacted.
2. All diversion dikes shall have positive drainage to an outlet.
3. A. Diverted runoff from a protected or stabilized area shall outlet directly to an undisturbed stabilized area or into a level eroder or grade stabilization structure.
3. B. Diverted runoff from a disturbed or exposed upland area shall be conveyed to a sediment trapping device such as a sediment trap or a sediment basin or to an area protected by any of these practices.
4. Stabilization, as specified by the plans, shall be: (1) in accordance with Standard and Specifications for Grassed Waterway, and the area to be stabilized shall be the channel (flow area); or (2) the flow area shall be lined with stone that meets MSHA size No. 2 or AASHTO M43 size No. 2 or 34 which is placed in a 3 inch thick layer and pressed into the soil. The area covered by the stone shall be as shown on the drawing above.
5. Periodic inspection and required maintenance shall be provided.

Standard Symbol



CONCENTRIC TRASH RACK AND ANTI-VORTEX DEVICE



SEDIMENTATION & EROSION CONTROL MEASURES

GENERAL NOTES

1. Refer to U.S.D.A. "Standards and Specifications for Soil Erosion and Sediment Control in Developing Areas" for Standard Drawings and Detailed Specifications of such practices, and specific requirements and details as shown on these drawings.
2. During the layout of the sediment control practices required on this plan, minor field adjustments may and will be made to insure the proper control of any sediment before it leaves the construction site. Sediment control practice changes require prior approval of the Sediment Control Inspector and the Baltimore County Soil Conservation District.
3. Any changes to the grading proposed on this plan will require it to be resubmitted to the Baltimore County Soil Conservation District.
4. At the end of each working day, all sediment control practices will be inspected and left in operational condition.
5. It is the Contractor's responsibility to provide a hauling or borrow site that has been approved by the Baltimore County Soil Conservation District.
6. Disturbed earth left idle for periods of more than 30 days shall be seeded in accordance with the Temporary Vegetative Specifications shown herein.
7. Storm Drain Inlets shall be protected from sediment carryover by installing filter cloth over the grates and anchoring the cloth with sandbags or other suitable material as detailed herein.

SEQUENCE OF OPERATIONS - MINING OR BORROW AREAS

1. Notify Sediment Control Division 48 hours prior to start of operation.
2. Clear and grub for sediment control measures.
3. Grade for sediment control measures in designated areas.
4. Install sediment control measures.
5. Clear and grub area to be mined.
6. Commence mining or borrow operation.
7. Stabilize area to be revegetated.
8. Remove temporary sediment control measures in stabilized areas after approval is obtained from the Baltimore County Sediment Control Inspector.

VEGETATIVE SPECIFICATIONS

All disturbed areas which are not to be paved, shall be stabilized in accordance with the permanent vegetative specifications listed herein, except where temporary vegetative measures are authorized or directed by the Baltimore County Sediment Control Inspector.

PERMANENT VEGETATION

Seeding Preparation: Loosen upper 3 inches of soil by raking, disking or other acceptable means before seeding.

Soil Amendments: Apply 2 tons per acre dolomitic limestone (92 lbs./1,000 sq. ft.) and 400 lbs. per acre 0-20-20 fertilizer (14 lbs./1,000 sq. ft.). Harrow or disk lime and fertilizer into upper three inches of soil. At time of seeding, apply 400 lbs. per acre (92 lbs./1,000 sq. ft.) of 30-0-0 ureaform fertilizer and 500 lbs. per acre (11.5 lbs./1,000 sq. ft.) of 10-20-20 fertilizer.

Seeding: For the periods March 1 thru April 30, and August 1 thru October 15, seed with 40 lbs. per acre (1.4 lbs./1,000 sq. ft.) of Kentucky 31 Tall Fescue. For the period May 1 thru July 31, seed with 40 lbs. Kentucky 31 Tall Fescue per acre and 2 lbs. per acre (.80 lbs./1,000 sq. ft.) of weeping lovegrass. During the period of October 16 thru February 28, protect site by: Option (1) - 3 tons per acre of well anchored straw mulch and seed at 100 lbs. or less in the spring. Option (2) - use sod. Option (3) - seed with 40 lbs./acre Kentucky 31 Tall Fescue and mulch with 2 tons/acre well anchored straw.

Mulching: Apply 1-1/2 to 3 tons per acre (70 to 90 lbs./1,000 sq. ft.) of untreated small grain straw immediately after seeding. Anchor mulch immediately after application using 200 gallons per acre (3 gallons/1,000 sq. ft.) of emulsified asphalt on flat areas. On slopes 6 feet or higher, use 300 gallons per acre (6 gallons/1,000 sq. ft.) for anchoring.

Maintenance: Inspect all seeded areas and make needed repairs, replacements and seedings.

TEMPORARY VEGETATION

Seeding Preparation: Loosen upper 3 inches by raking, raking, or other acceptable means.

Soil Amendments: Apply 400 lbs. per acre (11 lbs./1,000 sq. ft.) of 10-20-20 fertilizer.

Seeding: For the periods March 1 thru April 30, and from August 15 thru November 15, seed with 3-1/2 lbs./1,000 sq. ft. of annual ryegrass. For the period May 1 thru August 14, seed with 3 lbs./acre (.67 lbs./1,000 sq. ft.) of weeping lovegrass.

Mulching: Apply 1-1/2 to 3 tons per acre (70 to 90 lbs./1,000 sq. ft.) of untreated small grain straw immediately after seeding. Anchor mulch immediately after application using 200 gallons per acre (3 gallons/1,000 sq. ft.) of emulsified asphalt on flat areas. On slopes 6 feet or higher, use 300 gallons per acre (6 gallons/1,000 sq. ft.) for anchoring.

SITE ANALYSIS

TOTAL AREA OF PROPERTY	50.00 ACRES
SUB AREA A	4.00 ACRES
SUB AREA B	4.00 ACRES
SUB AREA C	4.00 ACRES
SUB AREA D	4.00 ACRES
AREA TO BE REVEGETATED	4.00 ACRES
AREA TO BE REVEGETATED (CHANNING)	4.00 ACRES

JAMES PETRICA & ASSOCIATES, INC.
CONSULTING ENGINEERS
405 JEFFERSON BUILDING
TOWSON, MARYLAND

SEDIMENT & EROSION CONTROL
DETAILS

OWNER: LEROY M. MERRITT
1900 RUXTON ROAD
TOWSON, MARYLAND 21204

BELTWAY BUSINESS CENTER
BALTIMORE COUNTY, MARYLAND
LANSDOWNE

SCALE: AS SHOWN
DRAWING: NO. 4 OF 4
DATE: 11-15-81
ELECTION DISTRICT: NO. 13