

The totality of the testimony and evidence presented by both the petitioner and the protestants underscores the desirability of compatibility, not just between bonded and unbonded residential areas, but for any proposed development in the agriculturally-related areas of Baltimore County. Other than an "abstract concern" of bondholders, common sense would argue for an attempt to preserve any environment and what they perceive to be historic land as well as the "large acreage" that is a reflection of the bonded environment in high density development, residents' impact on property values and impact on the quality of life on their property and, conversely, the effect on the property because of the bondholder's problem. They do not expect a new, non-bond, new facility.

NOTICE FOR SPECIAL HEARING
Case No. 88-21-XSPMA
Caves Farm Investment Company

Property is to be owned and situated as provided by zoning regulations.

1/10th of the entire district and other, under the provisions of property, that 1/10th of the entire district of the property which is the subject of this Petition.

Current Owners:
Caves Farm Investment Company
204 W. Pennsylvania Avenue
Baltimore, Maryland 21204
City and State

Legal Owner(s):
Caves Farm Investment Co.
204 W. Pennsylvania Avenue
Baltimore, Maryland 21204
City and State

Attorney for Petitioner:
Stephen J. Nolan
204 W. Pennsylvania Avenue
Baltimore, Maryland 21204
City and State

Attorney for Respondent:
William E. Hackett
204 W. Pennsylvania Avenue
Baltimore, Maryland 21204
City and State

ESTIMATED DURATION OF HEARING - 1/2 HR.
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHER
EVENING: 6 PM DATE 4/10

Case No. 88-21-XSPMA
Caves Farm Investment Company

settlement that the protestants have selected the towers and the on-site settlement as a means of protecting from development their entire area, and the Board is of the opinion that this choice is a rational one. It is therefore the opinion of this Board that the proposed special exception should be granted and also the necessary variances to complete the project and will so order.

ORDER

It is therefore this 12th day of January, 1988 by the County Board of Appeals ORDERED that the special exception and variances requested on the Petition and further specified on the plat known as Petitioner's Exhibit No. 13 be and the same are GRANTED.

IT IS FURTHER ORDERED that the on-site settlement agreement entered as Petitioner's Exhibit No. 35 shall be incorporated with the deed transferring the property and made a part thereto and shall be so recorded among the Land Records of Baltimore County.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William E. Hackett
William E. Hackett, Chairman

Arnold G. Foreman

Harry E. Bucheister, Jr.

OPINION

This case came before this Board on appeal from a decision of the Zoning Commissioner dated August 3, 1987, in which he denied the Petition for Special Exception and the Petition for Zoning Variances associated therewith. The case was heard this day in its entirety.

DMB-Baltimore Broadcasting Corporation (hereinafter referred to as "DMB"), holder of an option from Caves Farm Investment Company, et al. to purchase 103 acres as part and parcel of an entire holding of 393 acres, all of which is presently in agricultural use, requests a special exception to erect four wireless transmitting and receiving towers on the site and setback variances to permit same.

It was agreed by all parties that the case now before the Board of Appeals is somewhat different than the case before the Zoning Commissioner in that the site plan and other conditions have been altered to better comply with the Baltimore County Zoning Regulations (B.C.Z.R.). The principal revision reduces the height of the proposed towers from 373 feet to 350 feet and, in so doing, reduces the scope of the variances needed. The revised plan has been reviewed by all parties of record and agreement reached that the plan as now proposed is acceptable. In the presentation of testimony, Petitioner presented seven witnesses either by direct testimony or by agreed to proffer of their

IN RE: PETITIONER'S SPECIAL EXCEPTION, SPECIAL HEARING, AND ZONING VARIANCES
E/S of Garrison Forest Road, 2,145' S of the centerline of Crondall Lane - 4th Election District
Caves Farm Investment Company, Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 88-21-XSPMA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special exception for four wireless transmitting and receiving structures (towers) and associated variances to permit setbacks of 86 feet and 101 feet to property lines for tower No. 1, a setback of 246 feet to a property line for tower No. 2, setbacks of 106 feet and 146 feet to property lines for tower No. 3, and a setback of 261 feet to a property line for tower No. 4, all in lieu of the required 746 feet; a horizontal distance from the towers to the boundary of a historical district of 1,505 feet in lieu of the required 3,730 feet; and to waive the required landscaping on the lower portion of the structure. The Petitioner, concomitant with the variance request to permit the towers within 1,505 feet of a historical district, requests an interpretation as to whether the required historical district area setback from which a variance is being requested in fact variable under the Baltimore County Zoning Regulations (BCZR). The proposed towers and setbacks are more particularly described on Petitioner's Exhibit 1.

The Petitioner, by DMB-Baltimore Broadcasting Corporation, Contract Purchaser, by Owen Weber, Vice President and General Manager, appeared and testified and was represented by Counsel. Testifying on behalf of the

Case No. 88-21-XSPMA
Caves Farm Investment Company

testimony. The Board in this Opinion will briefly note the essence of each witness's testimony but in no way infer that it details their testimony.

James Wesley, President and Chief Executive Officer of DMB, testified that they purchased radio station W2AO in 1984. He testified that the station originated in 1941 and was still operating on that original equipment which is now in badly deteriorated condition. He testified that a diligent search has been made for a new site and this site is the only one that meets their requirements.

Julius Cohen, a Registered Professional Electrical Engineer and Electromagnetics Engineer, testified as to the adaptability of this site to their needs and its compliance with all environmental requirements.

Todd L. Morrill, Real Estate Broker, testified as to the diligent search conducted to find a suitable site, this being the only one out of 23 potentials that was satisfactory.

Richard L. Smith, Project Engineer for Kidde Consultants, testified that his firm drew the plans, the latest of which is dated December 14, 1987. He noted all the amenities indicated on the plan and addressed the area variances requested on the petition.

Carey W. Burch, Environmental Planner and Terrestrial Ecologist, submitted an environmental impact statement attesting to no detrimental environmental results from the proposed four towers.

Edward Griffith, Real Estate Broker and Appraiser, testified that he did a market analysis of this site and a comparison of land values in proximity to other towers, and testified there was no detrimental effect to land values.

William Kirwin, a land planner, testified as to the soil conditions existing on the site, its adaptability for agricultural use, and expressed his opinion that the towers were one of the least objectionable uses possible for this site.

Petitioner were Richard Smith, a registered civil engineer; Bernard Segal, a registered civil engineer specializing in electronics engineering; Alan Orman, a real estate agent; Carey Burch, Chief of the Environmental Assessment Branch for Versar, Inc., an environmental planner; Edward Griffin, a real estate appraiser; David Gleason, a registered architect who has experience in rehabilitating historic buildings; and James Wesley, President and CEO for DMB. The Caveswood Association and the Valley Planning Council appeared in opposition and were also represented by Counsel, and numerous other protestants appeared and testified.

Testimony indicated that the subject property is located on the east side of Garrison Forest Road near Caves Road, consists of 103 acres out of a total of 400 acres, and is zoned R.C.2. The property and the closest of the towers is within one and one-half miles of the Greenspring Valley historical district. The Petitioner proposes to place four AM-frequency transmitting towers, measuring 373 feet high from grade level and from two feet to thirty inches at the base, on the property in a pattern necessary for transmitting the AM frequency of the Petitioner's radio station, W2AO.

Mr. Segal testified that the FCC requires radio towers to provide adequate coverage to the community it serves while not interfering with other stations. The existing towers, located on Park Heights Avenue near the Beltway, are not adequately serving the radio station. The licensed signal pattern has deteriorated, and new towers are needed to stem that deterioration. Other sites were examined but rejected, and the present site satisfies the requirements mandated for the station's purposes. His testimony was supported by Mr. Wesley and Mr. Orman, who testified that over 20 sites were investigated and were rejected for one reason or another. Mr. Smith and Mr. Segal testified that, in their opinion, the conditions precedent in

Case No. 88-21-XSPMA
Caves Farm Investment Company

Mitchell Kolkin, attorney for the Protestants, testified that, in view of all the foregoing and most especially the on-site settlement agreement between DMB and the Valley Planning Council, Inc., and the Caveswood Association, they would have no further objection to the special exception and variances.

From the testimony and evidence received, the Board is of the opinion that all sections of 502.1 have been complied with. The variances requested on Tower No. 1 are from 700 feet to 645 feet and 700 feet to 660 feet from existing farm land. On Tower No. 2, the variance requested is from 700 feet to 500 feet from existing farm land. The variances requested for Tower No. 3 are from 700 feet to 640 feet from existing farm land and 700 feet to 600 feet from Garrison Forest Road. The variance requested on Tower No. 4 is from 700 feet to 405 feet from Garrison Forest Road and the yard area of three existing homes. The Board will note that in all these variances the distance from the property line to the tower is far in excess of the height of the tower. Since the towers cannot be erected without these variances, and since the variances are in no way a use variance but merely an area variance, the Board would be arbitrary if they were to be denied.

The real deciding factor in this case is the on-site settlement agreement reached between DMB and the various affected area residents. The on-site settlement agreement perpetuates an agricultural use for the 103 acres less the approximately three acres needed for the installations. It would appear that, while the towers may not be in complete conformity to the pure agricultural use of the area, the on-site agreement perpetuates the agricultural use and prevents the further intrusion of any residential development into this pure agricultural area. It would appear from the agreement reached through this

Section 502.1, BCZR, would be satisfied and that the Petitioner would face a practical difficulty in that the towers could not be constructed if the requested variances were not granted.

All of the testimony presented by the Petitioner comports to the necessity for the new towers and the satisfaction of the relevant zoning requirements or variances therefrom, without which the towers could not be constructed, and the requisite representation that the instant site is the only one available.

The Protestants, without any great astonishment, disputed the allegations and representations presented by the Petitioner and argued that the proposed site is too close (one-half mile) to the historical district, which the Baltimore County Council (Council) wanted to protect from towers by specifically adopting legislation. The Protestants' testimony and evidence was uniformly consistent; i.e., no towers are needed in Greenspring Valley.

The Petitioner seeks relief from Section 1A01.2.C.23, pursuant to Sections 502.1 and 502.7.A, BCZR, and from Section 502.7.C, pursuant to Section 307, BCZR.

The totality of the testimony and evidence presented by both the Petitioner and the protestants underscores the divergence of compatibility, not just between towers and undeveloped residential areas, but for any proposed development in the agriculturally-zoned areas of Baltimore County. This constant "protectionism" offered by communities in such areas is an attempt to prevent any encroachment onto what they perceive to be their right to solitude and large acreage. They all too often view even low-level intrusion as high density development, negatively impacting property values and rights to the quiet enjoyment of their properties. Towers are objectionable simply because they can never be hidden. They do not require schools, hospitals, new roads,

or other public services. They are quiet and present no danger to the surrounding neighborhood; however, no one wants them. In fact, the proposal presented here will not be determined by the weight of the protestants' opposition, but by the evidence presented by the Petitioner, which unfortunately for it has not satisfied the burden of proof required by law.

Section 502.7.A requires that all towers above 350 feet in height be located at least one and one-half miles from the historical districts delineated therein. The Petitioner asked first whether this requirement could be varied, and if so, requested that it be. The special exception and variance from Section 502.7.C could then be determined. However, if it cannot, the Petitioner proposes to reduce the height of the towers to 350 feet, thereby negating the impact of Section 502.7.A, pursuant to Section 502.7.B.(1), BCZR. The issue is whether the one and one-half mile stricture is an area requirement, variable pursuant to Section 307, or whether it is a use requirement, which cannot be varied.

The Court of Special Appeals has noted the distinction between a use variance which changes the character of the zoning district and an area variance which does not. Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974). A use variance allows a landowner to use existing property in a manner not permitted by ordinance and inconsistent with uses in the surrounding area. Alumni Control Board v. City of Lincoln, 137 Md. 800 (Md., 1965). An area variance authorizes deviations from restrictions upon the construction and placement of buildings and other structures; it allows modification of area, yard, height, floor space, frontage, density, setback, and similar restrictions. Bienz v. City of Dayton, 566 P.2d 904 (Ore., 1977); Ivanovich v. Tucson Bd. of Adj., 529 P.2d 242 (Ariz., 1974). An area variance does not affect the use of land and is

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not associated with the advent of an incompatible use; i.e., the use itself has already been determined to be permitted by right or by special exception. Assoc. for Pres. v. D.C. Bd. of Adj., 384 A.2d 674 (D.C., 1978). In contrast, a use variance generally allows land to be used for a purpose which is inconsistent with the basic character of the area. Conley v. Town of Brookhaven, 353 N.E.2d 994 (N.Y., 1976). It is one which permits a use other than one prescribed by the zoning ordinance in the particular district; it permits a use which the ordinance prohibits. An area variance authorizes deviations from restrictions which relate to a permitted use rather than limitations on the use itself, i.e., restrictions on the bulk of buildings or relating to their height, size, and extent of lot coverage; minimum habitable area; or the placement of buildings and structures on the lot with respect to required yards. Variances made necessary by the physical characteristics of the lot itself are area variances. An area variance permits deviation from strict compliance with the law; i.e., the physical characteristics of the premises as long as the purposes for which the premises are intended to be used are permitted by law. Croissant v. Zoning Bd. of Appeals, 442 N.Y.S.2d 215 (1981). A use variance proposes a change in the character of the premises and involves a use not otherwise permitted. Croissant, supra.

It is clear that the BCZR permits the use requested by the Petitioner in an R.C.2 Zone by special exception. It is equally clear that the request for a variance from Section 502.7.A for the required one and one-half mile setback is an area variance, not a use variance. A tower is a use permitted by special exception, and the proposed deviation is from the physical character of the property. There is no request to permit a use other than what is permitted. Additionally, if the Council had intended to deny the Zoning

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Commissioner the authority to consider variances from this requirement, it would have said so. See Section 1801.1.B.1.b.7, BCZR, for example. Unfortunately, this does not help the Petitioner.

The intent of the Council was to place additional limitations and to make it more difficult to achieve special exceptions for towers in areas adjacent to historical districts. It is not one new condition, but many, and the Petitioner is requesting variances from most. It is the intent of the Council, by way of its legislation, to permit towers, but the conditions precedent in Section 502.7 and those found in Section 502.1 must be satisfied.

The Petitioner has presented much testimony and evidence to support the requested special exception and variances, but the totality of that which was presented fails to satisfy the necessary burden of proof. Certainly, the testimony and evidence presented supports the contention that most of those conditions precedent as delineated in Section 502.1 have been satisfied, but there is one that has not been. Section 502.1.g, BCZR, requires the requested special exception use to be consistent with the purposes of the property's zoning classification and to be consistent with the spirit and intent of the BCZR. Section 307 requires the same consistence. The reference to spirit and intent is not just to the proposed use and the specific conditions referred to in Section 502.1, but to the entire BCZR, including but not limited to Section 502.1. Section 502.7 must also be read in conjunction with Section 1A01.2.C.23, BCZR, and Section 502.1, as well as with Sections 1A01.1.B, 1A01.2.A, and 1A01.2.C, BCZR.

R.C.2 is a distinct and unusual zone, different and unique from all other zones and more different than the other zoning classifications are from each other. One only has to review its objectives and purposes to clearly see the

intended character of such a zone. The Council intended that certain conditions other than those delineated in Section 502.1 be considered. They even underscored that intention by adding other conditions for specific uses permitted by special exception. When reviewing the sum of conditions, one can see that the burden of proof required to be met by a petitioner for a special exception for a tower is far in excess of that which is otherwise required for a special exception in any other zone and even for those other special exception uses permitted within the R.C.2 Zone.

This additional burden of proof has not been satisfied. For the relief requested by the Petitioner to be granted, the spirit and intent of the total package of conditions precedent would be violated. In order for the proposed towers to be located on the subject site, all of the conditions set out in Section 502.7 would need to be varied, i.e., conditions from which the towers need to be excepted. This Commissioner does not believe that the herein proposal would satisfy the conditions required to be met.

Schultz v. Pritts, 432 A.2d 1319 (1981) requires a special exception to be granted if the facts and circumstances of the use proposed do not show that the proposed use at the particular location described would have any adverse impact above and beyond that inherently associated with such a special exception use irrespective of its location within the zone. Schultz does not limit conditions that may be established, but does require uniformity and objectivity in their application. If the proposed towers required only a special exception, without associated variances, there would be no hesitation to grant it based on the evidence and testimony presented, but to place them on this particular site with the need to except them from Section 502.7.C would create problems otherwise not inherently attached.

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Beyond the special exception, the Petitioner has failed to satisfy the burden required by Section 307. A three-pronged burden is established for a variance to be granted; i.e., the Petitioner must satisfy the spirit and intent of the BCZR; create no adverse impact to the health, safety, and welfare of the community; and face a practical difficulty if denied. The conditions are not disjunctive, but conjunctive. The Petitioner has failed to establish that the towers would be in "strict harmony" with the spirit and intent of the area regulations if the variances were granted.

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

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 3rd day of August, 1987, that the Petition for Special Exception for four wireless transmitting and receiving structures (towers) in an R.C.2 Zone and, additionally, the Petition for Zoning Variances associated therewith be and are hereby DENIED.

Zoning Commissioner of
Baltimore County

AJ/srl

cc: Stephen J. Nolan, Esquire
Mitchell Kolkin, Esquire
People's Counsel

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APPEAL

Petitions for Special Exception, Special Hearing, and Zoning Variances
E/S of Garrison Forest Road, 2,145' S of the c/l of Crondall Lane
4th Election District - 3rd Councilmanic District
Caves Farm Investment Company - Petitioner
Case No. 68-21-XSFHA

Petitions for Special Exception, Special Hearing and Zoning Variances
Description of Property

Certificate of Posting

Certificates of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1) Plat of Property dated 2/26/87

2) Plat of Topography of Property dated 7/14/87

3) Location & Site Plan of Property dated 2/26/87

4) Aerial Map of Property dated 1/88

5) Letter dated 7/16/87 from Bernard B. Segal, P.E. to Erich Steinagle, WAO

6) Engineering Considerations by Bernard B. Segal dated 7/14/87

7) Copy of Mailgram dated 8/23/88

8) Letter dated 8/26/88 from Arnold Jablon to Erich Steinagle, WAO

9) Letter w/attachment dated 5/27/87 from Jules Cohen, P.E. to Mr. Michael Sylvester, Mass Media Bureau of the FCC

10) Listing of other sites considered w/nap

11) Environmental Impact Assessment dated 7/16/87

11a) Supplement Letter to EIA dated 7/20/87

12) Topographic Map (Locations of Potential Aesthetic Impact) w/attached photographs

13) Letter dated 12/12/88 from Arnold Jablon to Stephen J. Nolan, Esquire

14) Historic District Maps (2 sheets)

15) Letter dated 6/22/87 from Owen Weber, V.P. and Gen. Mgr. of WAO to Stephen J. Nolan, Esquire

Correspondence dated 7/27/87 from Stephen J. Nolan, Esquire to Arnold Jablon with attached Petitioner's Memorandum of Law

Protestant's Exhibits: 1) Signatures of Residents Opposed to Project (2 yellow lined sheets)

2) National Register of Historic Places Inventory Nomination Form signed 1/11/80

3) Documentary prepared by R. J. Harpel

Correspondence on behalf of Protestants dated 7/27/87 from Mitchell Kolkin, Esquire to Arnold Jablon with attached Protestants' Post-Hearing Memorandum

Numerous letters of opposition from various residents

Zoning Commissioner's Order dated August 3, 1987

Order for Appeal received August 4, 1987 from Stephen J. Nolan, Esquire, Attorney for Petitioners

Stephen J. Nolan, Esquire, Attorney for Petitioners
Nolan, Plumbhoff & Williams
206 W. Pennsylvania Avenue, Towson, Md. 21204

Mr. Owen Weber
Vice President and General Manager
BWM-Baltimore Broadcasting Corporation
8001 Park Heights Avenue, Baltimore, Md. 21208

Mitchell Kolkin, Esquire, Attorney for Protestants
Venable, Baetjer & Howard
2 Hopkins Plaza, Suite 1800, Baltimore, Md. 21201

Phyllis Cole Friedman, Esquire,
People's Counsel of Baltimore County
Rm. 203, Old Courthouse, Towson, Maryland 21204

Request Notifications
Norman E. Gensky, Director of Planning
James Boswell, Office of Planning & Zoning
Arnold Jablon, Acting Commissioner
John M. H. Jones, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Margaret E. Gubala, Deputy Clerk

RECEIVED
JUL 21 1987

ZONING OFFICE

Mr. Wade Allan
114 Greenespring Valley Road
Owings Mills, Maryland 21117

July 20/87
My reason for writing
is to strongly urge you
against allowing radio towers
on the Garrison Forest Road
site. The area is a historic
and scenic area. The towers
will be an eyesore and will
degrade the quality of the
area. I urge you to deny the
application for the towers.

AD
FICE

JULES COHEN & ASSOCIATES, P.C.
CONSULTING ELECTRONICS ENGINEERS

400 M STREET, N.W.
WASHINGTON, D.C. 20006
Telephone (202) 692-0200
Teletype (202) 692-0200

John Cohen, P.E.
Donald R. Segal, P.E.
William C. King, Jr., P.E.
Alan E. Goring, P.E.

William F. Sells
Andrew L. Mendenhall
Edward Letts
John A. Gotsch

July 16, 1987

VIA FEDERAL EXPRESS

Mr. Erich Steinagel
Chief Engineer
Station WCAO
8001 Park Heights Avenue
Baltimore, Maryland 21208

Dear Erich:

We have evaluated the Rice's Lane property for suitability for use by WCAO. I regret to advise that the parcel is not suitable for two reasons. The first is that the acreage is only 32.5 and a minimum of 50 acres is needed to accommodate the towers and ground system for satisfactory operation. Moreover, the site is located west of Baltimore and with the radiation pattern properly configured to protect other stations, nighttime coverage of Baltimore as required by FCC rules, would not be achieved.

Sincerely yours,

Bernard R. Segal
Bernard R. Segal, P.E.

cc: Mr. Owen Weber

EXHIBIT 5

MAILGRAM SERVICE CENTER
BIDDELETON, VA. 22015
2799

Union **Mailgram**

1-012341234 00/27/86 ICS IPHWSL NTH BALA
63251 MUONESTYNN NJ 00-27 1028P EST P02K

DEM BALTIMORE BROADCASTING CORP
RADIO STATION WCAO AM
8001 PARK HEIGHTS AVE
BALTIMORE MD 21208

1-0151934234 00/27/86
ICS IPHWSL NTH
02031 P02K NV 00-27 0446P PDT NYNE
ICS IPHWSL NTH FUNE 3010332200 COLLECT
1-013440234 00/27/86
ICS IPHWSL NTH
02550 NL COLLECT HNWASHINGTON DC 00-27 520P EDT
PDS DEM-BALTIMORE BROADCASTING CORP FONE AND MAIL
FALIC STATION WCAO(AM) (301 653 2200)
ECU; PARK HEIGHTS AVENUE
BALTIMORE MD 21208

THIS IS A CONFIRMATION COPY OF A MESSAGE ADDRESSED TO YOU

REFERENCE NY10-PP. REURLET 8-8-86. SPECIAL FIELD TEST
ALLOCATION ACCORDANCE SECTION 73.1915 FCC RULES NOT
HEPLOT NOT GRANTED TO OPERATE DAYTIME HOURS ON FREQUENCY
650 MHz/112. IT HAS BEEN DETERMINED THAT CONSIDERABLE
T-14C ADJACENT CHANNEL OVERLAP WITH RADIO STATION WCBP
BALTIMORE, MARYLAND WILL OCCUR. NECESSARY TO INVESTIGATE
THE USE OF OTHER FREQUENCY THAT MAY NOT CAUSE OVERLAP.

THOMAS N. ALBERS, CHIEF
OF STATION
MAY BRADFIELD LUMP ANALYST
FAS FALIA BUREAU FCC

1434 EST

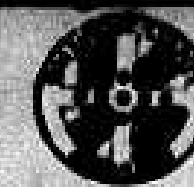
2124 EST

0134 EST

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EXHIBIT 7

PAGE 514 - USE SIDE FOR WESTERN UNION'S TOLL FREE PHONE NUMBERS.



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

26 August 1986

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

Mr. Erich Steinagel
c/o WCAO radio
8001 Park Heights Ave.
Baltimore, Maryland 21208

Re: Earl Shaw property

Dear Mr. Steinagel,

Pursuant to our telephone conversation today, please be advised that your planned testing as you have described which requires the placement of a small tower on site for a period not to exceed seven (7) days would not be in violation of the Baltimore County Zoning Regulations. You will need, of course, approval of the property owner.

Sincerely,

Arnold Jablon
Arnold Jablon

ALJ/aj

EXHIBIT 8

JULES COHEN & ASSOCIATES, P.C.
CONSULTING ELECTRONICS ENGINEERS

400 M STREET, N.W.
WASHINGTON, D.C. 20006
Telephone (202) 692-0200
Teletype (202) 692-0200

John Cohen, P.E.
Donald R. Segal, P.E.
William C. King, Jr., P.E.
Alan E. Goring, P.E.

William F. Sells
Donald R. Segal
Andrew L. Mendenhall
Edward Letts

May 27, 1987

HAND CARRIED

Mr. Michael Sylvester
AM Branch, Room 342
Audio Services Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Sylvester:

After receiving your telephone call today relative to the application by WCAO, Baltimore, Maryland, for change of transmitter site, I checked our files for a finding of "No Hazard" from the FAA. The Eastern Regional Office of the FAA did notify us, in an April 14, 1987, "Acknowledgment" that "The proposed construction would not exceed FAA obstruction standards and would not be a hazard to air navigation."

A copy of the notice is being supplied herewith.

Please let us know if anything more is needed with respect to this application.

Sincerely yours,

Jules Cohen
Jules Cohen, P.E.

Enclosure
cc: Antenna Survey Branch, Rm. 728
Mr. Owen Weber
Mr. Erich Steinagel
(each with enclosure)

EXHIBIT 9

JULES COHEN & ASSOCIATES, P.C.
CONSULTING ELECTRONICS ENGINEERS
WASHINGTON, D.C. 20006

**ENGINEERING CONSIDERATIONS
FOR WCAO SITE RELOCATION**

WCAO's operation is regulated by the Federal Communications Commission (FCC) and the Rules of that agency must be adhered to in relocating WCAO. Among the many concerns of the FCC are the ones which require a station to provide a prescribed minimum signal strength over the community of license while yet affording protection from interference to other stations located on the same and adjacent channels.

In the instance of WCAO, the need to afford protection to stations located to the east-northeast, north, west and southwest dictate use of a site to the northwest of Baltimore in order to permit the design of a system affording the requisite suppressed radiation in protection directions while directing the major portion of radiated energy southeasterly over Baltimore. The four-tower design achieved is the minimum that will permit compliance with FCC criteria.

The land must be of sufficient size to accommodate the towers and the radial wire ground system surrounding those towers. For satisfactory operation, the land on which the towers are located must be reasonably flat and substantially clear of trees. Also, the site must not have closely high tension electrical transmission towers or other towers that could interact with the antenna system, thereby preventing attainment of the desired radiation pattern. The site must be so situated with respect to airports and airways that the towers will not present a hazard to air navigation. The site should be accessible and close to a supply of electrical power.

EXHIBIT 6

JULES COHEN & ASSOCIATES, P.C.
CONSULTING ELECTRONICS ENGINEERS
WASHINGTON, D.C. 20006

Engineering Considerations
WCAO, Baltimore, Maryland

Page 2

The site now proposed for use for WCAO, of all the sites considered, is the only one that fulfills all the constraints which must be simultaneously satisfied.

Bernard R. Segal
Bernard R. Segal
Registered Professional Engineer

July 14, 1987

U.S. Department of Transportation
Federal Aviation Administration

Location: Rogers
Federal Building
John F. Kennedy International Airport
Jamaica, New York 11430

ACKNOWLEDGEMENT OF NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION					
CITY	STATE	LATITUDE/LONGITUDE	MSL	AGL	AMSL
OWINGS MILLS	MD	39-25-47 76-45-42	580	373	953

DEM BALTIMORE BROADCASTING CORP.
C/O JULES COHEN & ASSOCIATES, P. C.
1730 M STREET, NW, SUITE 400
WASHINGTON, D. C. 20036

AERONAUTICAL STUDY
No: 87-AEA-0265-OE

Type Structure: ANTENNA TOWER 600 KHZ 5 KW AM

The Federal Aviation Administration hereby acknowledges receipt of notice dated 02/17/87 concerning the proposed construction or alteration contained herein.

A study has been conducted under the provisions of Part 77 of the Federal Aviation Regulations to determine whether the proposed construction would be an obstruction to air navigation, whether it should be marked and lighted to enhance safety in air navigation, and whether supplemental notice of start and completion of construction is required to permit timely charting and notification to airmen. The findings of that study are as follows:

The proposed construction would not exceed FAA obstruction standards and would not be a hazard to air navigation. However, the following applies to the construction proposed:

The structure should be obstruction marked and lighted per FAA Advisory Circular AC 70/7460-1, "Obstruction Marking and Lighting". CHAPTERS: M-3 M-4 M-5 [1]-6 [1]-7 [1]-8 M-9.

Supplemental notice is required at least 48 hours before the start of construction and within five days after construction reaches its greatest height (use the enclosed FAA form).

This determination expires on 10/14/87 unless application is made, (if subject to the licensing authority of the Federal Communications Commission), to the FCC before that date, or it is otherwise extended, revised or terminated.

If the structure is subject to the licensing authority of the FCC, a copy of this acknowledgement will be sent to that Agency.

NOTICE IS REQUIRED ANYTIME THE PROJECT IS ABANDONED OR THE PROPOSAL IS MODIFIED

FORWARDED: *Frank Jordan*
Frank Jordan
ASST DIR: Jamaica, New York
Specialist, Airspace Planning Branch
(718) 917-1231/1232
ON 04/14/87 AEA-510

EXHIBIT 13



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

12 December 1986

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

Stephen J. Nolan, Esq.
Nolan, Plumbhoff & Williams
204 West Pennsylvania Ave.
Towson, Maryland 21204

Re: Towers

Dear Mr. Nolan,

I have reviewed Bill No. 117-84, and I conclude that a special exception cannot be granted for any such facility as described if it is within $1\frac{1}{2}$ miles of an historic landmark or district, as specifically delineated, and if the horizontal distance from the facility to the property line of such district does not exceed ten times the height of the facility, unless I find that the facility would not be detrimental to the values of the district. If the horizontal distance from facility does exceed ten times the height of the facility, there is a question whether a special exception can be granted. It would appear that the intent was that if the distance exceeded ten times the height, then a special exception could be granted, but the wording seems to confuse this issue. Also, it would appear that subsection C, §502.1, permits variances only to the requirements specified in that subsection. Whether a variance could be considered to the horizontal distance requirement would be determined by special hearing to insure that the request was not for a "use" variance.

Sincerely,

Arnold Jablon
Arnold Jablon

W/aj

PETITIONER'S
EXHIBIT 13

Versar^{INC}

**PETITIONER'S
EXHIBIT 11 a**

July 20, 1987

Nolan, Plumhoff & Williams
204 West Pennsylvania Avenue
Towson, Maryland 21204

Attention: Mr. Steve Nolan, Attorney

Subject: Balloon Test for Visual Impacts; Garrison Forest Road Tower Site
Versar Job No. 6116.1.1.

Dear Steve:

The purpose of this letter is to document the results of a balloon test for potential visual (e.g., aesthetics) impacts from the proposed WCAO antennas on Garrison Forest Road. This letter is intended to supplement Versar's environmental assessment report, dated July 16, 1987.

On July 16, 1987, at approximately 11:45 am, a balloon test was conducted at the site of the proposed WCAO antennas. The purpose of the test was to provide a visual check of the potential visibility of the proposed antennas; thereby serving as a model of the potential aesthetic effects on surrounding areas. Orange balloons, inflated to an approximate diameter of 30 to 36 inches, were floated aloft on a cord from the approximate center of the antenna array site. Triangulation via a second cord was used to determine the appropriate height (373 feet) of the balloons. After the balloons were airborne, visual checks were made from public roads in the area to identify areas from which the antennas might be visible. These visual checks were compared in the field to photographs containing scaled drawings of the towers (prepared as part of Versar's environmental assessment). In all cases, the photographic documentation provided presents greater visibility of the antennas than was indicated by the balloon test. These results are due to several factors:

The scaled drawings of the antennas are "worst case" models:

- Ground elevations are in 20 foot contours, and are rounded up or down in line of sight calculations to present a worst case.
- The drawings of the antenna appear several times wider than the actual antennas would be due to the technical difficulty in drawing a line small enough.

Verano

Mr. Steve Nolan

2

July 20, 1987

- As the antennas are overlain onto the photographs, there is no reduction in visibility associated with haze, smog, etc.; thus the antennas appear sharper and clearer than they would in reality.

In conclusion, the photographic documentation presented in the report provides an accurate, if worst case, model of the aesthetic effects of the antennas. the balloon test does not effect our findings or conclusions regarding potential aesthetic effects.

Sincerely,

Carey

Carey Burch, AICP
Chief

Environmental Assessments Branch

CB/pcj
0051x

Residents of Caves Valley Area
Opposed to the Building of Radio
Towers In Our Neighborhood

- 1 Name
1. A. Algeth Due
2 W. Torres Hovind
3 Kathleen Pintore

11000000
452 Garretts Rd.

29 Chaffin Hill Rd. 2117

2522 Caves Rd OM 2117

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

June 19, 1987

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

ooo

Chairman

MEMBERS

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

Steven J. Nolan, Esquire
Nolan, Plumhoff & Williams
204 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 412 - Case No. 88-21-XSPHA
Petitioner: Caves Farm Investat. CO.
Petition for Special Exception,
Special Hearing & Zoning Variance

Dear Mr. Nolan:

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.

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,

James E. Dyer, Jr.
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:bjjs

Enclosures

cc: Kilde Consultants, Inc.
1020 Cromwell Bridge Road
Towson, Maryland 21204



BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STAFFING RECORD
C. Richard Moore
Acting Director

May 11, 1987

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

The Bureau of Traffic Engineering has no comments for items number 396, 404, 409, 410, 414, 415, 411, 412, and 406.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

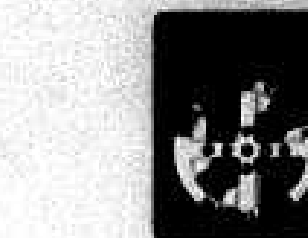
MSF:lt

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reinke
Chief

April 23, 1987

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204



Dennis F. Rasmussen
County Executive

Re: Property Owner: Caves Farm Investment Company

Location: E/S Garrison Forest Road, 2145' S centerline Crondall Lane

Item No.: 412

Zoning Agenda: Meeting of 4/21/87

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.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ 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.
- (X) 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.

REVIEWER: *John F. O'Neill*
Planning Group
Special Inspection Division

Noted and
Approved:

Fire Prevention Bureau

* Proposed parhandle driveway must be a minimum of 16' wide and of a hard surface capable of supporting emergency apparatus, weighing 50,000 lbs. on two axles.

/s/

CAMPUS DE FORT GARRISON?
by R. J. Mergel

In April 1963 David Ziskin, a student at the Milford Mill High School, working on a history project located the remains of an old stone building with an appearance that immediately suggested a fort type structure. The structure is located in a deserted area known as the "Caves", between Forest Road and Caves Road in Baltimore County Maryland. An area that age and antiquity surrounds the field stone and masonry construction. The three and one half walls still standing. It is roofless and barren in its loneliness. This structure is located on the crest of a hill and commands a view of the southwestern portion of Northampton Valley.

The defense type appearance of this building is suggested by rows of stone slabs, vertical slits, measuring approximately six inches on the outside and fourteen inches on the inside wall, with a height of thirty inches. Slits occur on all four walls and at two different levels. Could these slits have been designed for rifle embrasures? The location of these slits in the wall at two different levels further suggest that the structure, at one time may have had two floors or possibly a catwalk platform for the upper level.

After some preliminary investigation concerning the history of this area, David Ziskin contacted the author of this report and it was decided to carry out further research concerning the origin and history of this interesting old structure. With the assistance of Mr. Jack Bridner, an amateur group of local archaeologists was formed at Milford Mill High School. This group was called Operation Dig Dig.

A search through available historical records revealed that this structure within the range of possibilities for the site of old Fort Garrison built in 1693. The Garrison Fort formed a part of the defense chain for the protection of the Maryland Colony during its frontier

conflicts, first with the Indians and later with the supposed and expected French and Indian uprisings between 1755 and 1763. This chain of small forts extended from Fort Garrison to the Susquehanna River and was patrolled regularly. Part of the original plans also included protection for Elkridge Landing and the tobacco trade on Rolling Road. Militia was barracked at Fort Garrison between 1755 and 1763.

The exact location of old Fort Garrison is difficult to ascertain, primarily due to the dearth of original source material. The Archives of Maryland fail to state the design of the building or the materials used in its construction.

In October, 1963, "Operation Dig Dig" started field work at this site with a series of excavations which have continued until the present time. Mapping and measurements of the old foundations revealed that the building was originally constructed so that each of the four walls faced the cardinal points of the compass. The main entrance faces due south approximately 300 yards north of the Whabasca Estate, (1744) and about one-half mile northeast of Saint Thomas' Episcopal Church, (1740). On the east, west, and south sides are a series of seven field stone and mortar columns, one foot by two feet wide, and five to seven feet tall; depending on their location on the sloping land. These columns are evenly spaced eight feet from the walls. There are no columns on the north side, however, the north wall has been extended on its east and west ends eight feet to line up with the end columns.

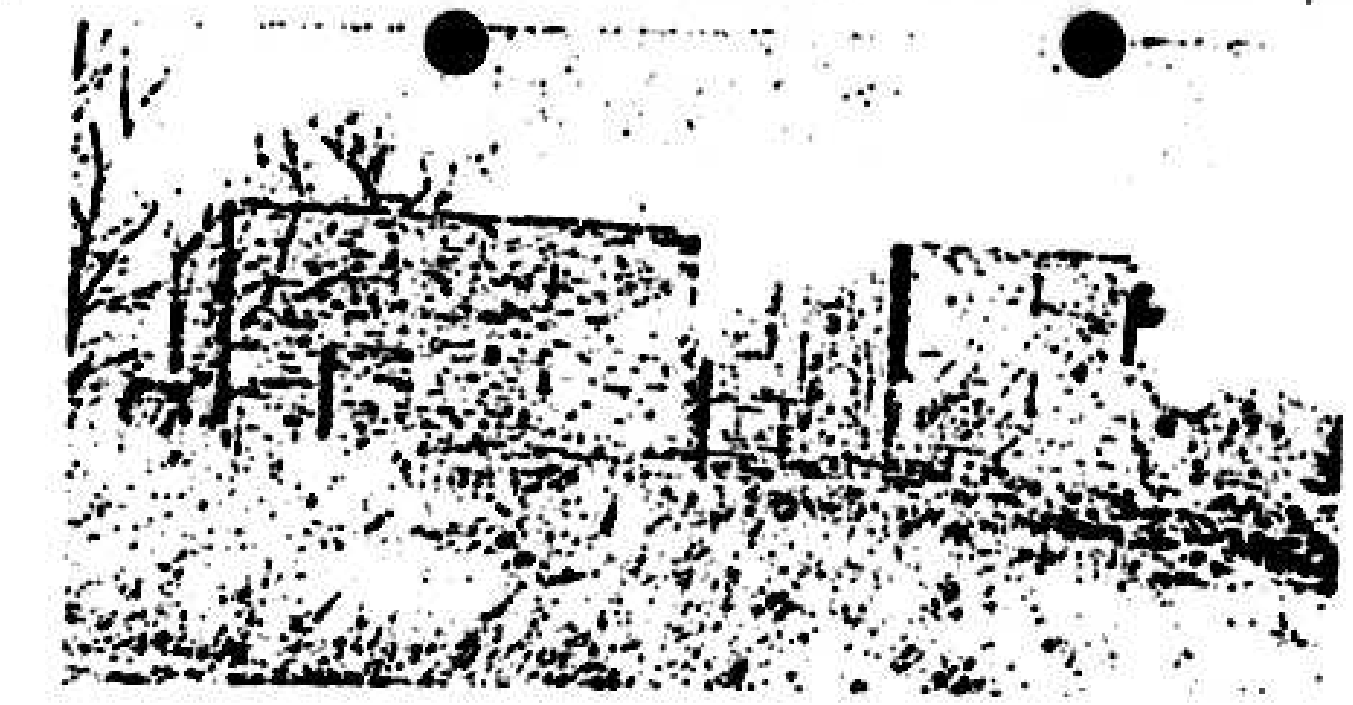
Excavation on the interior of the building revealed a series of foundations which measured thirty one feet by thirty five feet. These foundations on the east side are three feet below the present ground level, on the west side they are level with the surface. The nature of the stone and the texture of the mortar suggests an earlier age than the existing wall structure which goes back to around 1770 to 1780. Along with several ages of colonial potsherds and glass many types of nails have been found running the chronological gamut from around

1750 into the 1900's. A more significant find has been a green glass bottle, octagonal in shape, and handblown. This bottle has been given a general dating in the 1750's by John Witthoft and along with a few old nails, are the oldest datable artifacts recovered so far. The present wall structure, along with many of the artifacts found, denote the building's previous use as a barn. These excavations also supported evidence to indicate that at least three different modifications and face liftings have been made to the original structure.

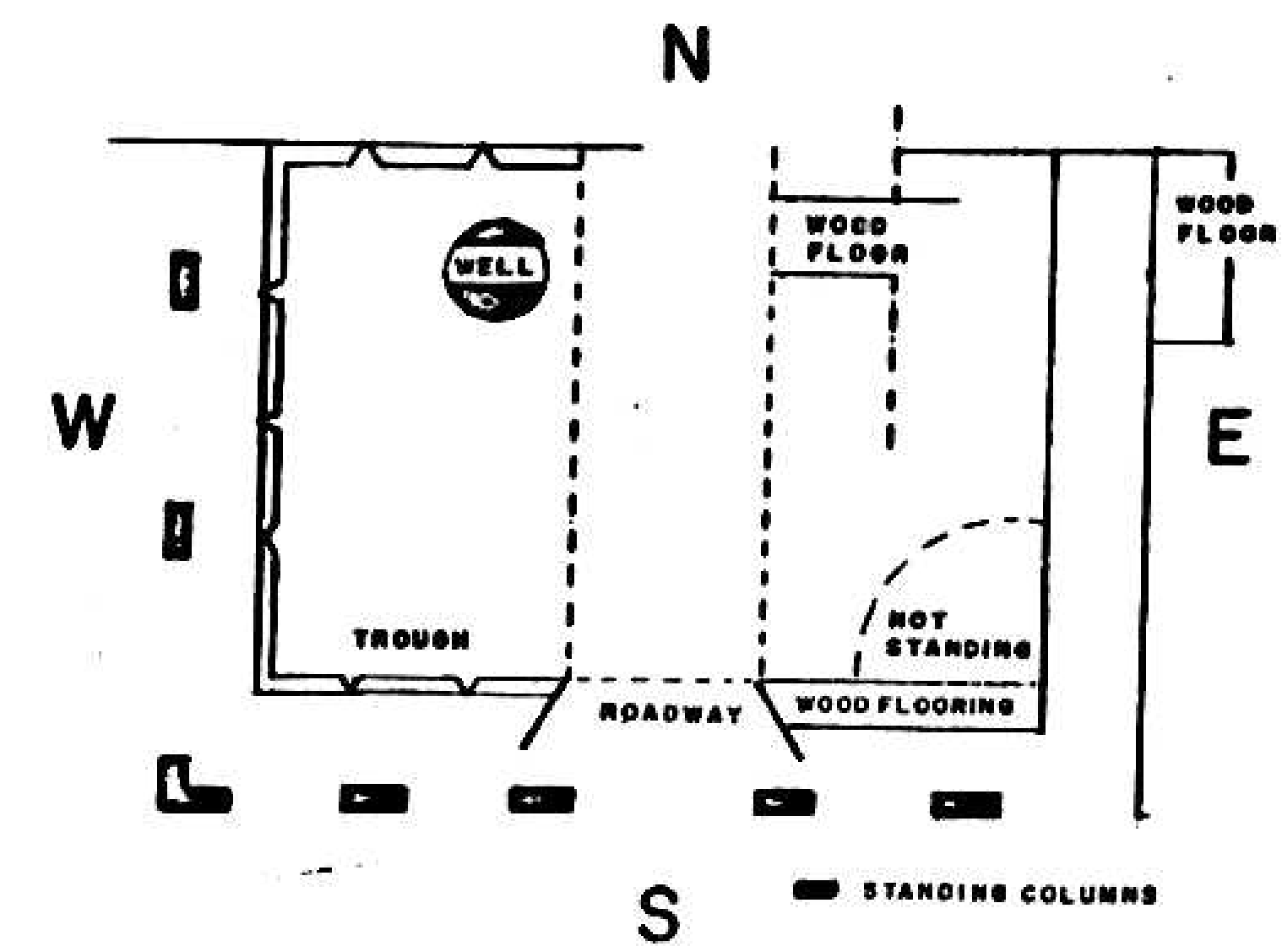
When our group started excavating our supposed Fort Garrison, we were not aware of other like efforts being conducted elsewhere. Our earliest knowledge came as we discovered that a historical marker had been removed from a nearby building located on Garrison Farm Road. This structure has been known locally (as has our site on Garrison Forest Road) as old Fort Garrison. The similarity of these two names immediately suggest something more than coincidence. To me, the implication is that at sometime in the past, the two areas were joined and as a result of the deposition of William Cocky, in 1754, the new Survey plat, while not following the line of the original plat, did include the entire area under the general name of Garrison Forest. The name, Garrison Forest, was taken from the fact that the new plat included within its boundaries, the old garrisoned structure of Oldham's (Oulton's) and Disten's days. Just where this structure was located, is still difficult to determine because of the confusion surrounding the old archive records, such as place, names and semantics resulting from the spelling of a single word. That 'word' can be either 'formally' or 'formaly', depending on its usage, correct or incorrect spelling, and the intent of the original writer.

Further questions come to mind as we viewed and reviewed our findings:

1. What is, or was located underneath the sunken southeast corner wall, subsequently taken down by the owner because of its unstable condition?



STANDING REMAINS OF BARN WITH ORIGINAL FORT BELIEVED COVERED.



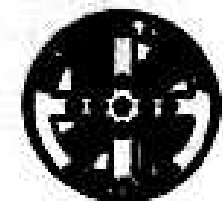
FLOOR PLAN OF SITE BEING WORKED.

2. Where did the overgrown wagon road lead to, from the south entrance?
3. Were there originally columns built in front of the north wall as well as the other three walls?
4. Why were horses kept inside the southwest wall, or was this area outside the uncovered foundations mentioned earlier?
5. Why the remains of a well inside a barn, or was the well outside the above-mentioned foundations?

Because of these small but important points, as well as others for which space does not permit discussion, suffice it to say at this point our researches show that neither the Garrison Farm Site, nor the present wall structure of the Garrison Forest Site, have produced anything to prove either to be "Fort Garrison". The entire structure has been measured twice, plans drawn, the surrounding property explored, and final "blueprints" of this area will be forthcoming in the near future. The area itself has been searched, researched and photographed. Excavations have been carried out by trenching methods, though they are not complete as of this date.

At the present time, our group, now duly constituted as the Milford Mill High School Junior Chapter of the Northwest Chapter of the Archaeological Society of Maryland, Inc., continues its periodic digs, consulting and conferring whenever possible with various authorities, such as Dr. Chatelaine, of the University of Maryland. Our original question, however, remains to be answered satisfactorily. "Can This be Fort Garrison?"

Reynolds J. Harpel
5507 Fernpark Avenue
Baltimore, Maryland 21207



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3100

September 30, 1987

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79.

CASE NO. 88-21-XSPHA

CAVES FARM INVESTMENT CO., ET AL

E/s of Garrison Forest Road, 2,145' S
of the c/l of Crondall Lane

4th Election District
3rd Councilmanic District

SE -4 wireless transmitting & receiving towers
VAR -setbacks
Special Hearing -setback variance from historic
district and to confirm that request is not
for "use" variance

8/03/87 -Z.C. denied Petition for Special
Exception and Petition for Zoning Variances
associated therewith.

ASSIGNED FOR:

Wednesday, December 16, 1987 at 10:00 a.m. and
Thursday, December 17, 1987 at 10:00 a.m.

cc: Stephen J. Nolan, Esquire
Mr. Owen Weber -DKM-Balto Broadcasting
Caves Farm Investment Co.
Mitchell Kolkin, Esquire
Gary C. Duvall, Esquire
Phyllis Cole Friedman
Norman E. Gerber
Frank H. Fisher
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Margaret E. du Bois

Counsel for Petitioners
Contract Purchaser
Petitioner/Owner
Counsel for Protestants
Co-Counsel for Protestants
People's Counsel

REC
OCT 2 1987

ZONING OFFICE

Kathi Weidenhammer
Administrative Secretary

Confile
88-6322

Marjorie A. Corwin
3019 Caves Road
Owings Mills, Maryland 21117

RECEIVED
AUG 4 1987

ZONING OFFICE

August 3, 1987

Mr. Arnold Jablon
County Office Building
111 West Chesapeake Avenue
Room 106
Towson, Maryland 21204

88-21-XSPHA

Re: WCAO Radio Towers, Garrison Forest Road

CAVES FARM INVESTMENT COMPANY

Dear Mr. Jablon:

I am writing to you as a homeowner in Owings Mills concerning the property of Garrison Forest Road in the Caves Valley area proposed for rezoning as commercial to accommodate four radio tower structures. I pass by this property on a regular basis. My family and I strongly oppose the construction of commercial radio towers in this area.

I am sure you are familiar with this property. It is surrounded by fields. It also is near to residential single-family homes and planned residential facilities. Commercial radio towers looming over this valley and these homes is inappropriate and incongruous with the existing and planned uses for the area. More importantly, such a commercial rezoning poses a significant danger to our children and the existing wildlife in the area.

We implore Baltimore County not to allow the proposed commercial rezoning in this area and not to allow radio towers to be built. It would be contrary to all the planning that has been undertaken by Baltimore County for this area and to all representations that have been made to homeowners concerning growth in the area.

Very truly yours,

Marjorie A. Corwin
Marjorie A. Corwin

88-6321

VENABLE, BAETJER AND HOWARD
ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

WASHINGTON, D.C. OFFICE
SUITE 1200
1301 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004
(202) 682-4300

REAR 111 VENABLE (202) 682-4300
EDWIN S. BAETJER (202) 682-4300
CHARLES M. HOWARD (202) 682-4300

MITCHELL KOLKIN

1800 MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201
(301) 244-7400

WRITER'S DIRECT NUMBER IS
244-7656

July 27, 1987

RECEIVED
JUL 27 1987

ZONING OFFICE

The Honorable Arnold Jablon
Zoning Commissioner of Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 88-21-XSPHA
(WCAO Radio Towers)

Dear Mr. Jablon:

Enclosed please find Protestants' Post-Hearing
Memorandum for the above-captioned matter.

Very truly yours,

Mitchell Kolkin

MK:sem
Enclosure

cc: Stephen J. Nolan, Esq. (w/encl.)

By Hand

6111M/88

91-359
Confile

VENABLE, BAETJER AND HOWARD
ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

WASHINGTON, D.C. OFFICE
SUITE 1200
1301 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004
(202) 682-4300

REAR 111 VENABLE (202) 682-4300
EDWIN S. BAETJER (202) 682-4300
CHARLES M. HOWARD (202) 682-4300

MITCHELL KOLKIN

1800 MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201
(301) 244-7400

WRITER'S DIRECT NUMBER IS
244-7656

July 27, 1987

VIRGINIA OFFICES
PLAZA SUITE THREE
441 NORTH HENDERSON ROAD
ARLINGTON, VIRGINIA 22203
(703) 243-5000

SUITE 500
2000 CORPORATE RIDGE
MCLEAN, VIRGINIA 22102
(703) 749-1500

RECEIVED
JUL 30 1987

ZONING OFFICE

Phyllis Cole Friedman, Esq.
People's Counsel
Court House, Second Floor
Towson, Maryland 21204

Re: Case No. 88-21-XSPHA
(WCAO Radio Towers)

Dear Phyllis:

Enclosed please find a copy of our Post-Hearing
Memorandum in the above-referenced case.

Very truly yours,

Mitchell Kolkin

MK:km
Enclosure
9145M-1

cc: Hon. Arnold Jablon
Stephen J. Nolan, Esq.

COPY

VENABLE, BARTER AND HOWARD

July 27, 1987

The Honorable Arnold Jablon
Zoning Commissioner of Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 88-21-XSPHA
(MCAO Radio Towers)

Dear Mr. Jablon:

Enclosed please find Protestants' Post-Hearing
Memorandum for the above-captioned matter.

Very truly yours,

Mitchell Kolkin

MK:am
Enclosure

cc: Stephen J. Nolan, Esq. (w/encl.)

By Hand

cc:am/ee

IN RE • BEFORE THE
PETITIONS OF CAVES FARM • BALTIMORE COUNTY
INVESTMENT CO. AND DKM- • ZONING COMMISSIONER
BALTIMORE BROADCASTING •
CORPORATION FOR SPECIAL •
EXCEPTION FOR WIRELESS •
TRANSMITTING AND RECEIVING •
FACILITIES IN AN RC 2 ZONE •
AND FOR ZONING VARIANCES •
FROM PROPERTY SETBACK AND •
LANDSCAPING REQUIREMENTS • Case No. 88-21-XSPHA
AND FROM HISTORIC DISTRICT •
SETBACK REQUIREMENTS •
• • • • •

POST-HEARING MEMORANDUM

This memorandum is being submitted by the undersigned
counsel for Protestants to summarize our position on the
applicable law and facts of this Case.

I. Status of Petitions

Protestants, of course, request that the subject
Petitions for Special Exception and for Zoning Variances, as
filed, be denied. At the conclusion of Petitioners' direct
testimony at the Hearing of this Case on July 20, 1987, its
counsel for the first time requested leave to petition, in the
alternative, for a special exception for radio towers not
higher than 350 feet above grade level. Protestants request
that this alternative petition be denied, with prejudice, for

8674W

all of the reasons set forth below which are applicable to the
original, filed Petitions and for the additional reason that
Petitioners have failed to make any affirmative showing, much
less to have carried their burden, of satisfying the
requirements of paragraph (1) of §502.7C of the Baltimore
County Zoning Regulations ("BCZR") with respect to 350'
towers. (See pages 7-8 and 9-10, infra.)

If the Zoning Commissioner is not persuaded that
Petitioners' alternative petition for 350' towers should be
denied on the basis of BCZR, then Protestants submit that there
is, nevertheless, an insufficient procedural basis for granting
it. First, Protestants have not had a full and fair
opportunity to prepare their opposition to the alternative
petition. Whereas the Commissioner put counsel for Petitioners
on notice as early as his letter dated December 12, 1986, of
the very real possibility that a variance to the historic
district setback requirements of BCZR §502.7A was not within
his authority, and counsel for Petitioners therefore had over
seven months in which to consider the strategic advisability of
an alternative petition for 350' towers, the undersigned
counsel for Protestants had no notice that Petitioners may have
been considering an alternative petition and adapted his
strategy, preparation and resources accordingly. For example,
Protestants have not yet engaged professional experts in the
fields of radio technology or environmental assessment and have
relied instead primarily upon cross-examination of Petitioners'

8674W

consultants as to these topics. Second, as a result of the
timing of the alternative petition, Protestants did not have an
opportunity at the Hearing to cross-examine Petitioners'
witnesses as to the new issues presented by the alternative
petition. (See page 7, infra.)

Finally, in the event that any of the subject filed
Petitions or the alternative petition are granted by the Zoning
Commissioner, Protestants respectfully request that the Zoning
Commissioner stay the issuance of any building permits for the
subject facilities, on the basis of the foregoing substantive
and procedural considerations and in light of the potentially
irreparable damage which the commencement of construction would
cause to farming activity currently being conducted on the
subject site.

II. Greenspring Valley Historic District

Protestants respectfully submit that the plain
language of BCZR §502.7A establishes that in order to erect an
over 350' radio tower within 1-1/2 miles of the Greenspring
Valley Historic District ("GSVHD"), both of two requirements
must be satisfied: (1) the tower must be set back at least ten
times its height from the GSVHD and (2) that Commissioner must
affirmatively find that the tower will not be detrimental to or
detract from documented values of the GSVHD. Unlike the
preamble to BCZR §502.7C relating to towers in RC zones, no
power is conferred by Bill No. 117-84 to grant variances from
the specific setback requirements imposed by BCZR §502.7A to

protect historic districts. Nor is that authority conferred upon the Commissioner under §307 of BCZR.

Finally, under the rule of Anderson v. Board of Appeals, 22 Md. App. 28, 37-38 (1974), the variance from historic district setback requirements requested by Petitioners constitutes a "use" variance, since Petitioners seek to locate a radio tower in a "district" (described under §502.7A as the GSVHD plus a buffer zone equal to ten times tower height) from which it has been unequivocally excluded. That the buffer zone prescribed by the County Council will vary depending upon the height of the tower is not inconsistent with this conclusion, especially since the Council has, in §502.7B, recognized the relevance of tower height in imposing the §502.7A setback requirements at all. Counsel for Petitioners has already conceded that, on the basis of a finding that Petitioners have requested a "use" variance alone, its filed Petitions must be denied.

Even if a variance from the historic district setback requirements could be granted, there was, we respectfully submit, clear and compelling evidence adduced at the Hearing that the height, placement and visibility of the towers would be not merely detrimental to or detracting from the GSVHD's documented values (the low threshold established by §502.7A) but, indeed, substantially so. See, for example, the testimony of John W. McGrain, Stiles T. Colwill and Albert L. Cummings, as well as the letter to the Zoning Commissioner from Norman E.

Gerber, Director of the Office of Planning and Zoning, dated July 7, 1987 (the "Gerber letter"), the Nomination Form for the GSVHD submitted to the United States Department of the Interior on January 29, 1980, and the Maryland Historical Society's two-volume treatise, The Green Spring Valley: Its History and Heritage, authored by Dawn F. Thomas, which was authenticated by Mr. Colwill at the Hearing and of which Protestants respectfully request that the Zoning Commissioner take judicial notice. Neither the importance of these documented values nor the fact that the proposed towers will have a detrimental or detracting impact has been seriously challenged by Petitioners. (See testimony of David M. Gleason.) Indeed, Protestants respectfully submit that given the magnitude of the requested variance (almost one-half of a mile and 60% of the legislatively directed minimum), the Zoning Commissioner can find as a matter of law that the towers will be detrimental and will detract.

III. Radio Towers in an RC Zone

§502.7C stipulates eleven specific, additional requirements which must be satisfied in order to place a radio tower in an RC zone. In the absence of a valid variance, these requirements are clearly stated and must be strictly applied, even if the tribunal disagrees with them. See Kassab v. Burkhardt, 34 Md. App. 699, 705 (1977). See also, Gotach Center for Health v. Board of County Commissioners of Frederick County, 60 Md. App. 477, 485 (1984), holding that the Gow

standard remains applicable where legislatively directed and suggesting, Protestants respectfully submit, that where the County Council imposes specific prerequisites (as in the case of §502.7C) to a special exception for a particular zone, the Gow standard applies to the petition for special exception with respect to the particular kinds of impacts (described here in paragraphs (1) through (11) of §502.7C) addressed by the legislation, absent a valid variance.

A. Alternative Sites

1. For 373' Radio Towers

Evidence adduced at the Hearing shows, we respectfully submit, that Petitioners did not make a diligent search for a location within a business, office or industrial zone, as required under paragraph (1) of §502.7C. Of the twenty-one sites which were identified by Bernard R. Segal and Alan Orman, only three (items 6, 7 and 15 on Mr. Orman's list) were affirmatively identified (and even then, without supporting file documents or other substantiation) as being commercially zoned; and of these three sites, only one (the former Colts training complex) met the minimum acreage criteria established by MCAO in directing that a "search" be made.

Protestants also contend that MCAO's existing Park Heights Avenue location is a viable alternative site within the meaning of BCZR §502.7C(1). MCAO's operating performance is satisfactory to its parent company, DKM Broadcasting Corporation, and is asserted to be in compliance

with applicable FCC regulations. The sole apparent motivation for moving is the prospect of enhanced advertising revenues and the profit (evidence as to which was proffered by Protestant's counsel at the Hearing) which MCAO hopes to realize on the swap of its more valuable Park Heights Avenue property for the subject rural site.

2. For 350' Radio Towers

Petitioners' witnesses, including Richard L. Smith and Bernard R. Segal, testified that tower height has a direct effect on minimum acreage requirements and technical constraints in selecting an appropriate site. This relationship is confirmed by simple mathematics (for example, the property line setback requirement is two times tower height under §502.7C(2) of BCZR) and by counsel for Petitioners (who stated in making his alternative petition at the Hearing for 350' towers that the reduction in height would deprive MCAO of the technical ability to transmit stereophonic broadcasts). Applying the foregoing principle, it should obviously be easier -- perhaps substantially easier -- to find alternative sites for shorter towers; however, the record before the Zoning Commissioner is devoid, we respectfully submit, of any showing that Petitioners have made a diligent search for alternative sites suitable for radio towers which are only 350 feet in height. Indeed, the availability of such sites was not even placed at issue by the pleadings in this Case, nor was it at issue at any time during Petitioners' direct testimony at the

Hearing. In light of the foregoing and the unequivocal requirements of §302.7C(1), Protestants respectfully suggest that Petitioners' alternative petition for 350' radio towers can be denied as a matter of law.

Finally, Protestants note that there was no direct evidence adduced by Petitioners at the Hearing to establish whether or not the existing WCAO site at Park Heights Avenue would be a viable alternative for the installation of a new 350-foot tower system which is designed to achieve the reduced operating objectives now contemplated by Petitioners' alternative petition. (See pages 9-10, *infra*.)

B. Surrounding Property Values

While the parties presented conflicting testimony as to whether surrounding property values would be substantially and adversely impacted within the meaning of paragraph (11) of BCZR §502.7C, Protestants respectfully submit that the testimony of W. James Howard was more authoritative and persuasive than that of Edward A. Griffith. Though no doubt well intentioned, Mr. Griffith is a commercial real estate broker with little experience in residential sales, much less residential sales in the Greenspring Valley. Moreover, he was unable to produce any data showing stable or increasing prices for residential properties located in a rural conservation zone or within or in the vicinity of an historic district. Mr. Howard, on the other hand, has established expertise and many years of first-hand experience in residential sales in and

around the GSVHD and is a long-time resident of the Greenspring Valley. As Mr. Howard noted on cross-examination, he cannot offer sales data to illustrate his conclusions for the simple reason that Baltimore County residents have so far been spared the erection of radio towers in such close proximity to rural and historic areas such as the Greenspring Valley. Finally, Protestants respectfully suggest that Mr. Howard's opinions are also consistent with common sense, as reflected by the testimony of James G. Cox and the views of the neighborhood residents whom he represents.

C. Environmental Impact

The environmental impact assessment presented by Carey W. Burch was incomplete and contradicted in several important respects. For example, contrary to Mr. Burch's assertion on page 30 of his report that the towers will not be visible from most vantage points in the GSVHD, the Gerber letter states that vistas at the west end of the Greenspring Valley will be adversely impacted. Furthermore, Mr. Burch's own photographs of the tower site vividly demonstrate that from "vantage points [which] represent the views of the proposed antennas which would be available to most people along public roads in the area" (page 13 of his report), the radio towers would intrude upon what would otherwise be beautiful and uncluttered rural viewsheds. Finally, Mr. Burch has conceded that his assessment of the impact on wildlife in the area was made without the benefit of sophisticated field techniques and

equipment. For these reasons, Petitioners have not satisfied the burdens imposed by paragraph (10) of §502.7C of BCZR.

IV. Standards for Variances

There are at least three separate, cumulative standards under §307 of BCZR which are applicable to this Case.

A. Practical Difficulty or Unreasonable Hardship

As previously noted (See pages 7-8, *supra*), there has been no evidence presented to establish any practical difficulty in designing a 350' tower system on the existing Park Heights Avenue site. Indeed, if as little as 40 acres might have been sufficient for WCAO's purposes with respect to its original plan for 373' towers (note the testimony of Mr. Orman), who is to say that 32 acres will not suffice for 350' towers under its alternative plan, especially in light of the fact that four 305' towers already sit on those 32 acres at Park Heights Avenue? Nor have Petitioners shown unreasonable hardship should their Petitions be denied. James W. Wesley, Jr. testified that WCAO's current operations are financially satisfactory and that it would continue to operate, without undue hardship, if it remains where it is. Moreover, Mr. Wesley has frankly stated that when DKM Broadcasting Corporation acquired WCAO in 1984, it was aware of the technical limitations of the existing Park Heights Avenue site.

B. Strict Harmony with Spirit and Intent of Regulations

Petitioners' rationale for requesting a variance from the landscaping requirements of BCZR §502.7C(5), as articulated

by Mr. Smith, is that the County Council did not "understand" that compliance would cause mechanical problems for WCAO's desired type of antenna/mesh system. Indeed, Mr. Smith strongly suggests that compliance would not be possible for anyone utilizing this design. A more direct contradiction of the "strict harmony" standard enunciated in BCZR §307 is difficult to imagine, for what is being suggested is that the landscaping requirements here be abandoned, notwithstanding the County Council's stated intent that the visual impact of radio towers be minimized in the context of the surrounding, rural countryside. We respectfully submit that the *Kassab* Case (cited at page 5, *supra*) requires that this intent be honored.

Similarly, in justifying the need for property line setback variances, Mr. Smith suggested that the County Council may not have appreciated the effect which compliance would have on site selection, pointing out that 88 "usable" acres would be necessary under BCZR §502.7C(2), rather than the 57 acres which he contends are technically sufficient. Protestants respectfully submit that the Council intended by its property line setback requirements to have precisely this effect, thus protecting neighboring landowners and preserving the rural character of the RC 2 zone for all County residents to enjoy.

Finally, to suggest that a nearly one-half mile, 60% variance from historic district setback requirements is somehow in "strict harmony with the spirit and intent" of Bill No. 117-84 strains one's credulity and can, we respectfully

suggest, be dismissed as a matter of law. (See discussion at pages 3-5, supra.)

Aside from the specific regulations from which variances are being sought in this Case, Protestants respectfully suggest that in applying §307, the Zoning Commissioner should also consider the spirit and intent of the principles of land use planning and rural conservation which have been adopted by the County Council and followed by the Office of Planning and Zoning. These principles are embodied in the Baltimore County Master Plan, and the office primarily responsible for interpreting the Master Plan has concluded that the proposed towers are contrary to the Master Plan. See Gerber letter. In addition, testimony was presented at the Hearing to the effect that the proposed towers would represent the first commercial use of land on the east side of Garrison Forest Road, a critical line of defense in protecting the Greenspring and Caves Valleys from the advancing threat of development from the Owings Mills Tower Center to the west. See, e.g., testimony of Richard B. Buck. Such a breach could place these important areas in serious jeopardy.

C. No Substantial Injury to General Welfare

Evidence adduced at the Hearing established that, in addition to being within 1500 feet of the GSVHD, the proposed radio towers would be within 2100 feet of St. Thomas' Church and within 1000' of Atamasco. The stunning historical and architectural significance of these treasured Baltimore County

resources is incontrovertible. (See testimony and documents referenced at pages 4-5, supra, including cover photograph of Atamasco and pages 212-221 of first volume of Maryland Historical Society treatise, The Green Spring Valley: Its History and Heritage, discussing Atamasco.) In addition, the testimony of Mr. McGrain and Mr. Colwill, as well as the article, "Can this be Fort Garrison?" by Reynolds J. Morpel, suggest an intriguing scholarly discussion of the possibility that the original Fort Garrison may be located on the subject site itself, no more than 750 feet from proposed towers no. 2 and no. 3 and 375 feet from their respective grounding wire networks.

The preservation of significant historical sites is important for the general welfare of the residents of Baltimore County. See, e.g., Baltimore County Master Plan, Open Space and Recreation Plan, volume 4, at page 2 ("Areas noted for their ... historical significance are ... worthy of protection. New development ... near historic sites should be compatible with their historic character."), and the Zoning Commissioner's "Findings of Fact and Conclusions of Law" in Case No. 84-284-X (WGRX radio tower) at pages 10-11 ("The law in Baltimore County is clear; i.e., there is a statutory direction to preserve and protect structures and places of historical value, and certainly, it is for the general welfare of the people of Baltimore County that such consideration must be given. The spirit and intent of the BCZR can only be

satisfied by compliance with the overall intent of the comprehensive plan for the County.") Also see testimony of Mr. McGrain, Mr. Colwill, Mr. Cummings and Wm. Hugh Bagby, all to the effect that the proposed WCAO radio towers are incompatible with the GSVHD, St. Thomas' Church and Atamasco, and that these towers are anathema to the preservation and protection of the GSVHD.

Equally injurious to the general welfare is the substantial adverse impact which the proposed towers would have on existing productive farmland. Petitioners' testimony that the subject site will continue to be farmed is not credible, at least as to the 48 acres to be planted with copper mesh wire under the surface and covered by a web of guy wires above the surface. Moreover, Petitioners have made no specific, detailed commitments to date with respect to agricultural and/or conservation easements which would protect this sensitive and strategically important site from further development.

Finally, Protestants respectfully suggest that the substantial public turnout at the Hearing and the letters which the Zoning Commissioner has received from area residents may be taken as an indication of the widespread and intense opposition which the WCAO radio towers proposal has sparked in the area, and should be respected as a statement of injury to general welfare from the point of view of those who would be most directly affected.

V. Conclusion

For all of the above-mentioned reasons, as well as on the evidence of other adverse effects adduced at the Hearing, we respectfully submit that the Zoning Commissioner should deny the special exception and variances requested in this Case, leaving it to WCAO to re-evaluate its Park Heights Avenue site or to seek another, more appropriate and compatible site without the special and unique features that are threatened here.

Respectfully submitted,

Dated: July 27, 1987

Mitchell Kolkin
Venable, Baetjer and Howard
Two Hopkins Plaza, Suite 1800
Baltimore, Maryland 21201
(301) 244-7400

Counsel for Protestants
The Valleys Planning Council, Inc.,
Caveswood Association and various
individual area residents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of July, 1987,
a copy of the foregoing Post-Hearing Memorandum was mailed to
Stephen J. Nolan, Esquire, Nolan, Plumhoff & Williams, 204 West
Pennsylvania Avenue, Towson, Maryland 21204.

Mitchell Kolkin



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 191-3180

January 12, 1988

RECEIVED
JAN 13 1988
ZONING OFFICE

Stephen J. Nolan, Esquire
NOLAN, PLUMHOFF & WILLIAMS
Suite 1105, Hampton Plaza
300 E. Joppa Road
Towson, MD 21204

RE: Case No. 88-21-XSPHA
Caves Farm Investment Company

Dear Mr. Nolan:

Enclosed is a copy of the final Opinion and Order
passed today by the County Board of Appeals in the subject case.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Secretary

Encl.

cc: Mr. Owen Weber (DKM)
Mitchell Kolkin, Esquire
Caves Farm Investment Co.
Gary C. Duvall, Esquire
Phyllis Cole Friedman, Esquire
Robert A. Hoffman, Esquire
P. David Fields
James G. Hoswell
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Robyn Clark
Arnold Jablon, County Attorney



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

12 December 1986

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

Stephen J. Nolan, Esq.
Nolan, Plumhoff & Williams
204 West Pennsylvania Ave.
Towson, Maryland 21204

Re: Towers

Dear Mr. Nolan,

I have reviewed Bill No. 117-84, and I conclude that a special exception cannot be granted for any such facility as described if it is within 1 1/2 miles of an historic landmark or district, as specifically delineated, and if the horizontal distance from the facility to the property line of such district does not exceed ten times the height of the facility, unless I find that the facility would not be detrimental to the values of the district. If the horizontal distance from facility does exceed ten times the height of the facility, there is a question whether a special exception can be granted. It would appear that the intent was that if the distance exceeded ten times the height, then a special exception could be granted, but the wording seems to confuse this issue. Also, it would appear that subsection C, §502.1, permits variances only to the requirements specified in that subsection. Whether a variance could be considered to the horizontal distance requirement would be determined by special hearing to insure that the request was not for a "use" variance.

Sincerely,

Arnold Jablon
Arnold Jablon

AJ/aj

T TO PETITION FOR ZONING VARIANCE
Petitioners: DKM Broadcasting Corp., et al.

VARIANCE REQUESTED

- Variances are requested from Section 502.7(c)(2) of the BCZR which requires that setbacks shall equal or exceed twice the height of the structure above grade level to the property line (373 x 2 = 746') as follows:
 - Tower No. 1 - variance to east property line of 86' instead of the required 746' (setback of 660') variance to north property line of 101' instead of the required 746' (setback of 645')
 - Tower No. 2 - variance to east property line of 246' instead of the required 746' (setback of 500')
 - Tower No. 3 - variance to southeast property line of 106' instead of the required 746' (setback of 640'); variance to west property line (Garrison Forest Road) of 146' instead of the required 746' (setback of 600')
 - Tower No. 4 - variance to west property line (Garrison Forest Road) of 261' instead of the required 746' (setback of 485');
- Variance requested from Section 502.7A of the BCZR to allow wireless transmitting or receiving facilities to be within 1505' of a historical district on the National Register of historic places (Green Spring Valley) instead of the required 3730' (ten times the height of the tower above grade [373]); a variance of 2225' ;
- Variance requested from Section 502.7(c)(5) of the BCZR (landscaping) to not landscape the lower portion of the structure as the roots of the landscaping material will cause interference with the grounding wires of the antenna structure.

J. EARLE PLUMHOFF
NEWTON A. WILLIAMS
WILLIAM H. HESSON, JR.
THOMAS J. BENDER
WILLIAM F. ENGLISH, JR.
STEPHEN J. NOLAN
ROBERT L. WALKLEY, JR.
ROBERT S. OLSHANSKY
DOUGLAS L. BURGESS
LOUIS G. CLOSE, III
*ALSO ADMITTED IN D.C.

OF COUNSEL
RALPH E. DEITZ
BORN LIBERTY ROAD
RANDBALLTOWN, MARYLAND 21133
(301) 882-8800
RUSSELL J. WHITE

1204 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301) 823-7800

April 9, 1987

MEMO DELIVERY

Mr. W. Carl Richards
Baltimore County Office of
Planning and Zoning
County Office Building
Towson, Maryland 21204

Re: Proposed Wireless Transmitting and
Receiving Facilities for a 103.2 Acre
Portion of the Caves Farm Investment Company
Property - West Side of Garrison Forest Road,
North of Caves Road (Fourth Election District)

Dear Mr. Richards:

Pursuant to our telephone discussion of this morning, I am
enclosing herewith the following petitions, plats and materials
for filing as a new zoning case with regard to the above-
described property:

1. Original and two (2) signed copies of a Petition
for Special Exception;
2. Original and two (2) signed copies of a Petition
for Zoning Variance;
3. Original and two (2) signed copies of a Petition
for Special Hearing. A copy of Commissioner
Jablon's December 12, 1985 letter outlining the
need for a special hearing is also enclosed;
4. Three (3) copies of a Zoning Description as
prepared by Kilde Consultants, Inc.;
5. Ten (10) copies of the Plat to accompany the
petitions;
6. Two (2) copies of the 200 scale zoning map for the
property; and

PETITION FOR SPECIAL HEARING

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 Hearing under Section 506.7 of the Baltimore County Zoning Regulations, to determine whether
or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve
the grant of a horizontal, distance, and setback variance from the historic district
requirements of Bill No. 117-84 [BCZR Section 502.7A] as shown on the accompanying
plat and to confirm that the request is not for a "use" variance.

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

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

Contract Purchaser:
DKM-Baltimore Broadcasting Corporation
(Type or Print Name)
Signature: Owen Weber, Vice President and General Mgr.
8001 Park Heights Ave.
Address
Baltimore, Maryland 21208
City and State

Legal Owner(s):
Caves Farm Investment Co.
(Type or Print Name)
Signature: Leonard I. Farberman, Partner
(Type or Print Name)
Signature
Baltimore, Maryland 21208
City and State

Attorney for Petitioner:
Stephen J. Nolan
(Type or Print Name) Nolan, Plumhoff &
Williams
204 West Pennsylvania Avenue
Address
Towson, Maryland 21204
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Stephen J. Nolan
Name
204 W. Pennsylvania Avenue
Address
Towson, MD 21204
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 15th day
of May, 1987, that the subject matter of this petition be advertised, as
required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout
Baltimore County, that property be posted, and that the public hearing be had before the Zoning
Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore
County, on the 20th day of July, 1987, at 1:30 o'clock
P.M.

Carl J. Jablon
Zoning Commissioner of Baltimore County

Mr. Carl W. Richards
April 9, 1987
Page 2

7. Our firm's check payable to "Baltimore County,
Maryland" in the amount of \$250.00 to cover the
filing costs of the enclosed petitions.

As we discussed, Dick Smith and I last met in your office
on January 7, 1987 with representatives of WCAO Radio Station.
Any assistance your office can provide in expediting a hearing
date in this matter will be greatly appreciated.

Very truly yours,

Stephen J. Nolan
Stephen J. Nolan

SJN/and

enc.

cc: Mr. Owen Weber
Vice President and General Manager
DKM-Baltimore Broadcasting Corp.

Mr. Erich C. Steinagle
Chief Engineer, WCAO/WKTV

Mr. Leonard I. Farberman, Partner
Caves Farm Investment Company

Mr. Todd L. Morrill
W.C. Pinkard & Co., Inc.

Mr. Alvin W. Ferst
Alvin Ferst Associates, Inc.

Robert R. Cohen, Esquire

Mr. Richard L. Smith
Kilde Consultants, Inc.

PETITION FOR ZONING VARIANCE

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
Variance from Section 502.7(c)(2) of the Zoning Law of Baltimore County, for the
following reasons: (Indicate hardship or practical difficulty)

1. Although Petitioner DKM Broadcasting Corporation made a diligent search for an
alternate site location within a business, office or industrial zone or for mounting
on an existing structure, no other appropriate location meeting the bulk requirements
is available due to engineering, technological and other valid considerations.
2. Practical difficulty and unreasonable hardship would result due to the configuration
of the site if strict adherence to the regulations was required and the
impact of the proposed towers would be less buffered than as proposed.

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

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this
petition, and further agree to and are to be bound by the zoning regulations and restrictions of
Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

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.

Contract Purchaser:
DKM-Baltimore Broadcasting Corporation
(Type or Print Name)
Signature: Owen Weber, Vice President and General Mgr.
8001 Park Heights Ave.
Address
Baltimore, Maryland 21208
City and State

Legal Owner(s):
Caves Farm Investment Co.
(Type or Print Name)
Signature: Leonard I. Farberman, Partner
(Type or Print Name)
Signature
Baltimore, Maryland 21208
City and State

Attorney for Petitioner:
Stephen J. Nolan-Nolan, Plumhoff &
Williams
204 West Pennsylvania Avenue
Address
Towson, Maryland 21204
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Stephen J. Nolan
Name
204 W. Pennsylvania Avenue
Address
Towson, MD 21204
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 15th day
of May, 1987, that the subject matter of this petition be advertised, as
required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout
Baltimore County, that property be posted, and that the public hearing be had before the Zoning
Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore
County, on the 20th day of July, 1987, at 1:30 o'clock
P.M.

Carl J. Jablon
Zoning Commissioner of Baltimore County

(over)

NO. PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER
PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE : OF BALTIMORE COUNTY
E/S Garrison Forest Rd., 2145'
S of C/L of Cromwell La.
4th District
Case No. 86-21-NPWA

Caves Farm Investment Co., Petitioner

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the
above-captioned matter. Notices should be sent of any hearing dates
or other proceedings in this matter and of the passage of any preliminary
or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 18th day of June, 1987, a copy
of the foregoing Entry of Appearance was mailed to Stephen J. Nolan, Esquire,
Nolan, Plumhoff & Williams, 204 W. Pennsylvania Ave., Towson, MD 21204,
Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

VARIANCE REQUESTED

Petitioners: DKM Broadcasting Corp., et al.

1. Variances are requested from Section 502.7(c)(2) of the
BCZR which requires that setbacks shall equal or exceed
twice the height of the structure above grade level to
the property line (373' x 2 = 746') as follows:
A. Tower No. 1 - variance to east property line of 86'
instead of the required 746' (setback of 660')
variance to north property line of 101' instead of
the required 746' (setback of 645')
B. Tower No. 2 - variance to east property line of
246' instead of the required 746' (setback of 500')
C. Tower No. 3 - variance to southeast property line of
106' instead of the required 746' (setback of
640'); variance to west property line (Garrison
Forest Road) of 146' instead of the required 746'
(setback of 600')
D. Tower No. 4 - variance to west property line (Garrison
Forest Road) of 261' instead of the required 746'
(setback of 485') ;
2. Variance requested from Section 502.7A of the BCZR to
allow wireless transmitting or receiving facilities to
be within 1505' of a historical district on the
National Register of historic places (Green Spring
Valley) instead of the required 3730' (ten times the
height of the tower above grade [373']); a variance of
2225' ;
3. Variance requested from Section 502.7(c)(5) of the BCZR
(landscaping) to not landscape the lower portion of the
structure as the roots of the landscaping material will
cause interference with the grounding wires of the
antenna structure.

1868A

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 wireless transmitting and receiving facilities in an
E.C. 2 zone.

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.

Contract Purchaser:
DKM-Baltimore Broadcasting Corporation
(Type or Print Name)
Signature: Owen Weber, Vice President and
General Mgr.
8001 Park Heights Ave.
Address
Baltimore, Maryland 21208
City and State

Legal Owner(s):
Caves Farm Investment Co.
(Type or Print Name)
Signature: Leonard I. Farberman, Partner
(Type or Print Name)
Signature
Baltimore, Maryland 21208
City and State

Attorney for Petitioner:
Stephen J. Nolan
(Type or Print Name) Nolan, Plumhoff &
Williams
204 West Pennsylvania Avenue
Address
Towson, Maryland 21204
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Stephen J. Nolan
Name
204 W. Pennsylvania Avenue
Address
Towson, MD 21204
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 15th day
of May, 1987, that the subject matter of this petition be advertised, as
required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout
Baltimore County, that property be posted, and that the public hearing be had before the Zoning
Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore
County, on the 20th day of July, 1987, at 1:30 o'clock
P.M.

Carl J. Jablon
Zoning Commissioner of Baltimore County

KIDDE CONSULTANTS, INC.
Subsidiary of Kilde, Inc.

DESCRIPTION
103.2 ACRE PARCEL
EAST SIDE OF GARRISON FOREST ROAD
SOUTH OF CROMWELL LANE
NORTH OF CAVES ROAD
FOURTH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND
SPECIAL EXCEPTION & VARIANCES IN A RC-2 ZONE
AND PETITION FOR SPECIAL HEARING

BEGINNING AT A POINT in the center of Garrison Forest Road,
distant 2145 feet, more or less, as measured southeasterly along
the centerline of said Garrison Forest Road from its
intersection with the centerline of Cromwell Lane, said point
being on the ninth line of the land described in the deed from
THE EQUITABLE TRUST COMPANY AND MARION TUTTLE COLWILL,
executors, to Caves Farms Investment Company, dated December 18,
1963 and recorded among the Land Records of Baltimore County in
Liber R.R.G. 4245 page 212, at a point which is 125.00 feet from
the beginning of said ninth line; running thence and binding on
the center of said Garrison Forest Road on the ninth through the
twentieth lines of said land the following twelve courses: (1)
South 20 degrees 36 minutes east 202.60 feet (2) South 14
degrees 43 minutes east 86.40 feet (3) South 02 degrees 02
minutes east 414.30 feet (4) South 03 degrees 12 minutes east
495.30 feet (5) South 00 degrees 51 minutes east 687.00 feet (6)
South 03 degrees 21 minutes west 168.30 feet (7) South 02
degrees 03 minutes east 104.20 feet (8) South 04 degrees 31
minutes east 126.50 feet (9) South 12 degrees 38 minutes east
97.50 feet (10) South 25 degrees 52 minutes east 121.10 feet

KIDDE CONSULTANTS, INC.

Subsidiary of Kidde, Inc.

**DESCRIPTION
103.2 ACRE PARCEL
EAST SIDE OF GARRISON FOREST ROAD
SOUTH OF CRONDALL LANE
NORTH OF CAVES ROAD
FOURTH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND
SPECIAL EXCEPTION & VARIANCES IN A RC-2 ZONE
AND PETITION FOR SPECIAL HEARING**

BEGINNING AT A POINT in the center of Garrison Forest Road, distant 2145 feet, more or less, as measured southeasterly along the centerline of said Garrison Forest Road from its intersection with the centerline of Crondall Lane, said point being on the ninth line of the land described in the deed from THE EQUITABLE TRUST COMPANY AND MARION TUTTLE COLWILL, executors, to Caves Farms Investment Company, dated December 18, 1963 and recorded among the Land Records of Baltimore County in Liber R.R.G. 4245 page 212, at a point which is 125.00 feet from the beginning of said ninth line; running thence and binding on the center of said Garrison Forest Road on the ninth through the twentieth lines of said land the following twelve courses: (1) South 20 degrees 36 minutes east 202.60 feet (2) South 14 degrees 43 minutes east 86.40 feet (3) South 02 degrees 02 minutes east 414.30 feet (4) South 03 degrees 12 minutes east 495.30 feet (5) South 00 degrees 51 minutes east 687.00 feet (6) South 03 degrees 21 minutes west 168.30 feet (7) South 02 degrees 03 minutes east 104.20 feet (8) South 04 degrees 31 minutes east 126.50 feet (9) South 12 degrees 38 minutes east 97.50 feet (10) South 25 degrees 52 minutes east 121.10 feet

OFFICE COPY

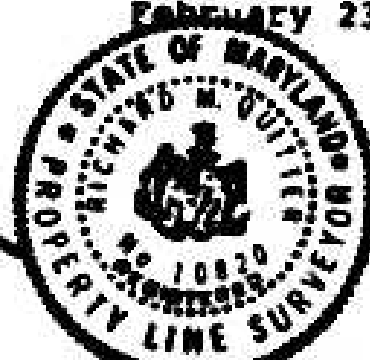
KIDDE CONSULTANTS, INC.
Subsidiary of Kidde, Inc.

103.2 Acre Garrison Forest Road
KCI Job No. 01-86345
February 23, 1987
Page 2

(11) South 32 degrees 19 minutes east 138.10 feet and (12) South 38 degrees 19 minutes east 116.90 feet; thence leaving the center of Garrison Forest Road and binding on the twenty-first, twenty-second, twenty-third, and part of the twenty-fourth lines of said land (13) North 34 degrees 13 minutes east 1620.65 feet, (14) South 53 degrees 07 minutes east 833.64 feet, (15) South 38 degrees 05 minutes west 470.00 feet, (16) South 63 degrees 05 minutes east 400.00 feet; thence for new lines of division the following four lines: (17) North 00 degrees 52 minutes 35 seconds west 2913.35 feet, and then running parallel with the third, fourth and fifth lines of said land recorded in Liber R.R.G. 4245 page 212, and 50 feet southerly therefrom, (18) North 87 degrees 20 minutes 00 seconds west 58.98 feet, and (19) South 86 degrees 48 minutes west 1221.64 feet; thence on a diagonal line which runs 80.00 feet offset southeasterly to the end of the seventh line of said deed in Liber R.R.G. 4245 page 212, (20) South 56 degrees 33 minutes 31 seconds west 829.01 feet to the point of beginning.

CONTAINING 103.2 acres of land, more or less.

RQ/lj1 KCI Job No. 01-86345 February 23, 1987
Revised Layout



PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING, AND VARIANCES

4th Election District - 3rd Councilmanic District

Case No. 88-21-XSPHA

LOCATION: East Side of Garrison Forrest Road, 2145 feet South of Centerline of Crondall Lane

DATE AND TIME: Monday, July 20, 1987, at 1:30 p.m.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Exception for wireless transmitting and receiving facilities in an R.C. 2 Zone

Petition for Special Hearing to determine whether or not to approve the grant of a horizontal distance and setback variance from the historic district requirements of Bill No. 117-84 as shown on the plan and to confirm the request is not for a use variance

Petition for Zoning Variances from 502.7(c)(2) - Tower No. 1 - to east property line of 86 feet in lieu of the required 746 feet - to north property line of 101 feet in lieu of the required 746 feet; Tower No. 2 - to east property line of 246 feet in lieu of the required 746 feet; Tower No. 3 - to southeast property line of 106 feet in lieu of the required 746 feet, to west property line of 146 feet in lieu of the required 746 feet; Tower No. 4 - to west property line of 261 feet in lieu of the required 746 feet; 502.7A - to permit wireless transmitting or receiving facilities within 1505 feet of a historical district in lieu of the required 3730 feet; and 502.7(c)(5) - to not landscape the lower portion of the structure

Being the property of Caves Farm Investment Co., as shown on plan filed with the Zoning Office.

In the event that this Petition(s) is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

July 15, 1987

Stephen J. Nolan, Esquire
204 West Pennsylvania Avenue
Towson, Maryland 21204

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

RE: PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCES
E/S Garrison Forest Rd., 2145' S of c/l of Crondall Ln.
4th Election District - 3rd Councilmanic District
Caves Farm Investment Co. - Petitioner
Case No. 88-21-XSPHA

Dear Mr. Nolan:

This is to advise you that \$155.74 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Do not remove sign from property from the time it is placed by this office until the day of the hearing itself.

Please make the check payable to Zoning Office, Baltimore County, Maryland, and remit to the Zoning Office, Baltimore County, Maryland.

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

DATE 7-20-87 ACCOUNT 8-01-615-000

AMOUNT \$ 155.74

RECEIVED FROM Stephen J. Nolan, Esquire

FOR Advertising and Posting Case 88-21-XSPHA

8 8013*****12418 8212

VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF PUBLICATION

TOWSON, MD., July 2, 1987.

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on July 2, 1987.

THE JEFFERSONIAN,

Publisher

By Order of
ARNOLD JABLON
Zoning Commissioner
of Baltimore County
7017 July 2

LANDMARK COMMUNITY NEWS

Westminster.

THIS IS TO CERTIFY that the advertisement was published for one (1) x to the 2nd day of July

- ☐ Carroll County Times.
☐ in Westm
☐ Randallstown News a
☒ Community Times a

LANDMARK COMMUNITY NEWS

PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING, AND VARIANCES

as shown on plan filed with the Zoning Office

LOCATION East Side of Garrison Forrest Road, 2145 feet South of Centerline of Crondall Lane

DATE AND TIME: Monday, July 20, 1987, at 1:30 p.m.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

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Being the property of Caves Farm Investment Co., as shown on the plan filed with the Zoning Office

In the event that this Petition(s) is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER
PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCES : OF BALTIMORE COUNTY
E/S Garrison Forrest Rd., 2145' :
S of C/L of Crondall La. : Case No. 88-21-XSPHA
4th District

CAVES FARM INVESTMENT CO., Petitioner
: : : : :
: : : : :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the
above-captioned matter. Notices should be sent of any hearing dates
or other proceedings in this matter and of the passage of any preliminary
or final Order.

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman

Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 18th day of June, 1987, a copy
of the foregoing Entry of Appearance was mailed to Stephen J. Nolan, Esquire,
Nolan, Plumhoff & Williams, 204 W. Pennsylvania Ave., Towson, MD 21204,
Attorney for Petitioner.

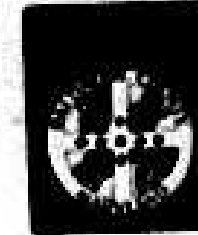
Peter Max Zimmerman

Peter Max Zimmerman

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-2883

J. Robert Haines
Zoning Commissioner

August 11, 1987



Dennis F. Rasmussen
County Executive

Baltimore County Board of Appeals
Old Courthouse, Room #205
Towson, Maryland 21204

RE: Petitions for Special Exception, Special Hearing and Zoning Variances
E/S of Garrison Forest Road, 2,145' S of the c/l of Crondall Lane
4th Election District, 3rd Councilmanic District
Caves Farm Investment Company - Petitioner
Case No. 88-21-XSPHA

Dear Board:

Please be advised that on August 4, 1987, an appeal of the decision
rendered in the above-referenced case was filed by Stephen J. Nolan, Esquire,
attorney for the Petitioners. All materials relative to the case are being for-
warded to your office herewith.

If you have any questions concerning this matter, please do not hesitate
to contact this office.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:bjs

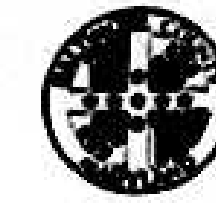
cc: Stephen J. Nolan, Esquire
Nolan, Plumhoff & Williams
204 W. Pennsylvania Ave., Towson, Md. 21204

Mr. Owen Weber, Vice President & General Manager
DKM-Baltimore Broadcasting Corporation
80-1 Park Heights Ave., Baltimore, Md. 21208

Mitchell Kolkin, Esquire
Venable, Baetjer & Howard
2 Hopkins Plaza, Suite 1000, Baltimore, Md. 21201

Phyllis Cole Friedman, Esquire
People's Counsel for Baltimore County
Old Courthouse, Rm. 223
Towson, Maryland 21204

File



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

January 12, 1988

Stephen J. Nolan, Esquire
NOLAN, PLUMHOFF & WILLIAMS
Suite 1105, Hampton Plaza
300 E. Joppa Road
Towson, MD 21204

RE: Case No. 88-21-XSPHA
Caves Farm Investment Company

Dear Mr. Nolan:

Enclosed is a copy of the final Opinion and Order
passed today by the County Board of Appeals in the subject case.

Sincerely,

Fathleen C. Weldenhammer
Fathleen C. Weldenhammer
Administrative Secretary

Encl.

cc: Mr. Owen Weber (DKM)
Mitchell Kolkin, Esquire
Caves Farm Investment Co.
Gary C. Duvall, Esquire
Phyllis Cole Friedman, Esquire
Robert A. Hoffman, Esquire
P. David Fields
James G. Hoswell
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Robyn Clark
Arnold Jablon, County Attorney

9/30/87 - Notice sent to following -hearing set for Wednesday, December 16
and Thursday, December 17 at 10:00 a.m.:

Stephen J. Nolan, Esq.
Mr. Owen Weber -DKM-Balto Broadcasting
Caves Farm Investment Co
Mitchell Kolkin, Esquire
Gary C. Duvall, Esq.
Phyllis Cole Friedman, Esq.
Norman E. Gerber
Frank H. Fisher
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Marga.et E. du Bois

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

88-21-XSPHA

District 4th Date of Posting June 30, 1987
Posted for Special Exception, Special Hearing & Petition
Petitioner Caves Farm Investment Co.
Location of property E/S of Garrison Forest Road, 2145' S of the
Old of Crondall Lane
Location of Signs East side of Garrison Forest Road, Opposite
150' south of Rosewood Lane
Remarks _____
Posted by A. J. [Signature] Date of return _____
Number of Signs 4

Baltimore County
Zoning Commission
Office of Planning & Zoning
Towson, Maryland 21204
494-5553

J. Robert Haines
Zoning Commissioner

August 11, 1987



Baltimore County Board of Appeals
Old Courthouse, Room #205
Towson, Maryland 21204

RE: Petitions for Special Exception, Special Hearing and Zoning Variances
E/S of Garrison Forest Road, 2,145' S of the c/l of Crondall Lane
4th Election District, 3rd Councilmanic District
Caves Farm Investment Company - Petitioner
Case No. 88-21-XSPHA

Dear Board:

Please be advised that on August 4, 1987, an appeal of the decision rendered in the above-referenced case was filed by Stephen J. Nolan, Esquire, attorney for the Petitioners. All materials relative to the case are being forwarded to your office herewith.

If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:bjs

cc: Stephen J. Nolan, Esquire
Nolan, Plumbhoff & Williams
204 W. Pennsylvania Ave., Towson, Md. 21204

Mr. Owen Weber, Vice President & General Manager
DKM-Baltimore Broadcasting Corporation
80.1 Park Heights Ave., Baltimore, Md. 21208

Mitchell Kolkin, Esquire
Venable, Baetjer & Howard
2 Hopkins Plaza, Suite 1000, Baltimore, Md. 21201

Phyllis Cole Friedman, Esquire
People's Counsel for Baltimore County
Old Courthouse, Rm 223
Towson, Maryland 21204

File

78-0335

J. EARLE PLUMHOFF
NEWTON A. WILLIAMS
WILLIAM M. HESSON, JR.
THOMAS J. KENNER
WILLIAM P. ENGLEHART, JR.
STEPHEN J. NOLAN
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW
DOUGLAS L. BURGESS
LOUIS G. CLOSE, III

*ALSO ADMITTED IN D.C.

LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERS
204 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301) 823-7800

OF COUNSEL
RALPH E. DEITZ
9026 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
(301) 822-2121
RUSSELL J. WHITE

July 27, 1987

RECEIVED
JUL 27 1987

HAND DELIVERY

Honorable Arnold Jablon
Zoning Commissioner of Baltimore County
County Office Building
Towson, Maryland 21204

ZONING OFFICE

Re: Case No.: 88-21-XSPHA,
Item No.: 412--
Caves Farm Investment Co., et al.,
Date of Hearing: July 20, 1987

Dear Commissioner Jablon:

On behalf of the Petitioners, Caves Farm Investment Company and DKM-Baltimore Broadcasting Corporation, I am hand delivering herewith an original and one copy of Petitioners' Memorandum of Law.

We appreciate your consideration of this matter.

Very truly yours,

Stephen J. Nolan
Stephen J. Nolan

SJN:kab

cc: Mitchell Kolkin, Esquire
Phyllis Cole Friedman, Esquire
Peter Max Zimmerman, Esquire
Mr. Owen Weber
Mr. Erich C. Steinnagel
Mr. Alvin Furst
Mr. Richard L. Smith

Zoning Commissioner
County Office Building
Towson, Maryland 21204

ZONING OFFICE

My wife and I own our residence at 10909 Garrison Forest Road and are one of two property owners that would be most affected if WCAO Radio's zoning petition is approved.

We strongly oppose WCAO's request.

Our house may have been built as early as 1690 and is one of the few prerevolutionary houses still standing in Green Spring Valley. It has an interesting history, having been occupied by Christopher Gist, who in 1753 served as a guide to General Washington. Later Betsy Patterson, who married Jerome Bonaparte brother of Napoleon, was a frequent visitor. Over the last thirteen years we have spent a great deal of time and money in restoring the house, which had been allowed to decline.

Our opposition to the variance request is based on the following:

- It will likely be the opening wedge to destroy a quiet, historic, residential neighborhood.

- The change in land use from "farm use" to "radio antenna's for AM broad casting station" is in direct conflict with the county's policy to retain land in farm use, that is currently being farmed.

- The Historical District and St. Thomas' Church, which is on the National Register, would be severely adversely affected by reducing the set back requirement by 60', or from the required 1,730 feet to 1,505 feet. We feel it is very important to continue to protect this historic area from deterioration.

- The tower setback variances are so substantial and numerous that, if granted, they will change the whole character of the neighborhood. For example:

Tower	Property Line	Setback		Reduction Amount	ft
		Required	Requested		
1	East	746'	660'	86'	12'
	North	746'	645'	101'	14'
2	East	746'	500'	246'	33'
3	SE	746'	640'	106'	14'
	West	746'	600'	146'	20'
4	West	746'	485'	261'	35'

RECEIVED
JUL 30 1987

July 20, 1987

Petition 88-21-XSPHA

CAVES FARM INVESTMENT CO.

Tower 3 affects us most and we are very opposed to a variance that would place it closer to our property line than is currently allowed. We do not want something that will look like a carnival, with it's flashing red lights, steel structure and numerous guy wires overloading our house and yard. WCAO says they will allow the land to be farmed. We feel this is very doubtful as their present acreage is not being farmed while other small plots in the general area are being farmed. Also we do not feel they would risk damage to an expensive, buried grounding system which could easily be the result, if the land was plowed.

We feel that it is very unfortunate that WCAO, which is now located adjacent to the Beltway, wants to move into an old historic residential neighborhood. I know of no compelling reason(s) for them to move, other than perhaps it is an opportunity to make some money by selling their valuable property and then move to a less expensive location. If WCAO wants to relocate, than they should find an area that does not require substantial variances to accomodate them.

A. L. Cummings
A. L. Cummings
M. C. Cummings
M. C. Cummings

cc: Councilman Ruppertsberger
Old Court House
Towson, Maryland 21204

Caveswood Assn. station
c/o James G. Cox, President
24 Caveswood Lane
Owings Mills, MD 21117

Jul. 20, 1987

Mr. Arnold Jablon
Zoning Commissioner
Baltimore County

Dear Commissioner Jablon:

The Caveswood Association, a neighborhood community voluntary association, would like to go on record opposing the proposed WCAO radio towers on Garrison Forest Road. Our association is composed of neighbors on Caveswood Lane, Caves Road and Garrison Forest Road, and of those families who have been polled, no one is in favor of the project. However, several families are on vacation and could not be reached this past week.

Our members are opposed to the towers because of their unsightly appearance and because of what their effect will be on property values. Furthermore, we are particularly concerned that allowing the towers to be built will set a precedent for commercial activity along Garrison Forest Road.

Very truly yours,

James G. Cox
James G. Cox, President
Caveswood Association

24 Caveswood Lane
Owings Mills, MD 21117
July 20, 1987

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Dear Mr. Jablon:

We are writing to express our displeasure and objection to the proposed construction of WCAO radio towers in the Caves Valley area. The area is one of historical and esthetic significance. Allowing this commercial intrusion would set a precedent for further commercial development which would disrupt the serene country atmosphere that originally drew us to this area. While we realize the growth spurt that is occurring in the Owings Mills area is economically beneficial to the area, there must be a line drawn somewhere. That line can start with not allowing WCAO to erect the radio towers on Garrison Forest Road. There is a need for maintaining the quiet country atmosphere. Flashing red lights atop a radio tower would prove to be an unwanted, unneeded and unnecessary interruption.

Thank you for your consideration.

Sincerely,

Dr. and Mrs. Louis A. Shpritz
Dr. and Mrs. Louis A. Shpritz



The Reverend William P. Baxter, Jr.
Rector

July 20, 1987

Mr. Arnold Jablon
Zoning Commissioner
County Office Bldg.
111 West Chesapeake Ave.
Towson, MD. 21204

Dear Mr. Jablon,

St. Thomas' Episcopal Church was built in 1742 as a "Chapel of Ease for the inhabitants of the Forest". Since that date members of the congregations and Vestries have supported the efforts to maintain the area of the Caves, Green Spring and Worthington Valleys as an open space and farming area, without commercial intrusion.

The erection of such radio towers, visible from the Church, and requiring a special exception to the existing zoning regulation greatly threatens the beauty and peace of this historical area. The commercialization of the Reisterstown road corridor would seem to afford ample opportunity for station WCAO's project.

Accordingly, the Vestry of St. Thomas' Church urges that the proposed special exception relating to the radio towers be rejected by the Zoning Commissioner.

Respectfully,

Howard Baetjer, II
Howard Baetjer, II
Registrar

HB:vbs



Mailed 7/10/87
BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE
June 19, 1987

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

000

Chairman

MEMBERS

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

Steven J. Nolan, Esquire
Nolan, Plushoff & Williams
204 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 412 - Case No. 88-21-XSPHA
Petitioner: Caves Farm Invest. Co.
Petition for Special Exception,
Special Hearing & Zoning Variance

Dear Mr. Nolan:

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.

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,

James E. Dyer, Jr.
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:bjs

Enclosures

cc: Kilde Consultants, Inc.
1020 Cromwell Bridge Road
Towson, Maryland 21204



BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEWART E. KENNEDY
CHIEF
C. Richard Moore
Acting Director

May 11, 1987

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

The Bureau of Traffic Engineering has no comments for items number 396, 404, 409, 410, 414, 415, 411, 412, and 406.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

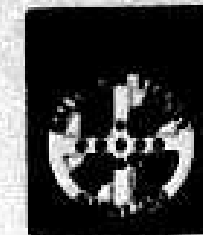
MSF:lt

Baltimore County
Fire Department
Towson, Maryland 21204-5506
494-4999

Paul H. Roberts
Chief

April 23, 1987

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204



Dennis P. Rasmussen
County Executive

Re: Property Owner: Caves Farm Investment Company

Location: E/S Garrison Forest Road, 2145' S centerline Crondall Lane

Item No.: 412

Zoning Agenda: Meeting of 4/21/87

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.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ 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.

- (X) 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 comment at this time.

REVIEWER: *John F. O'Neill*
Planning Group
Special Inspection Division
Noted and Approved: _____
Fire Prevention Bureau

* Proposed panhandle driveway must be a minimum of 16' wide and of a hard surface capable of supporting emergency apparatus, weighing 50,000 lbs. on two axles.

/s/

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
TO: Zoning Commissioner Date: July 8, 1987

Norman E. Gerber, AICP, Director
FROM: Office of Planning and Zoning

SUBJECT: Zoning Petition No. 88-21-XSPA

The site abuts the Greenspring Valley Historical District. The proposed towers, including beacons, would adversely impact the vistas at this end of the Valley; as such, the proposal is contrary to the adopted Baltimore County Master Plan 1979-1990. "The County should preserve scenic open space by encouraging high quality locational and design standards for both public improvements and private development that ensure compatibility with the natural surroundings."

The original submittal did not include any details of any study to show compliance with Section 507.C.1. of the Baltimore County Zoning Regulations (see County Council Bill NO. 64-86). Such information should be available for review well in advance of the hearing.

Norman E. Gerber
Norman E. Gerber AICP
Director

REG:JGH:sib

RECEIVED

JUL 10 1987

ZONING OFFICE

EXETER AND FLEET STREETS BALTIMORE, MARYLAND 21202 TEL (301) 727-6880
WASHINGTON, D.C. AREA 521-4555

7/2/87
8
The
Bagby
Furniture
Company

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JUL 21 1987

July 17, 1987

ZONING OFFICE

Mr. Arnold Jablon
County Office Bld. Room 106
111 W. Chesapeake Ave.
Towson, MD 21204

88-21-XSPA
CAVES FARM SUBSTANT

Dear Mr. Jablon:

I want to record my opposition to the granting of zoning variances to WCAO, for the erection of their transmitting towers on Garrison Forest Rd. I reside at 425 Garrison Forest Rd, aprox 2 blocks from the proposed site.

As a neighbor and a parishioner of St. Thomas Church, there is no reason to permit any encroachment on the Historic district. Once an exception is made, it will set the president for further exceptions.

Yours Very Truly,

W. Hugh Bagby
Wm. Hugh Bagby, Jr.

WHBjr/mkw

86-1262
Complete

EDWIN B. JARRETT, JR.
11315 Garrison Forest Rd.
Owings Mills, Md. 21117

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JUL 22 1987

ZONING OFFICE

July 21, 1987

88-01-XSPHA

Mr. Arnold Jablon
Zoning Commissioner
Baltimore County, Maryland
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: WCAO vs Garrison Forest Residents/Valley Planning Council

Dear Mr. Jablon,

Having attended the hearing on Monday, July 20th, I wish to make known our complete support for the Garrison Forest Residents and The Valley Planning Council.

Very truly yours,

E. B. Jarrett, Jr.
Edwin B. Jarrett, Jr.

Reisterstown
639 Main Street
Reisterstown, Maryland 21136
833-3888

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JUL 23 1987

ZONING OFFICE

July 21, 1987

Mr. Arnold Jablon
Zoning Commissioner
111 West Chesapeake Avenue
Court Office Bldg.
Towson, Md. 21204

88-01-XSPHA

Dear Mr. Jablon:

I attended the hearing July 20th on the W.C.A.O. property issue. I am a member of St. Thomas Episcopal Church, Garrison, Md, which is on the Historical Register. I am opposed to the building of any towers in the area.

On a more pleasant note- Good luck in your new job starting August 1, 1987. It has been a pleasure working with you in the past on Zoning issues.

Sincerely,

Betsy Kohler

7/23/87
T. file
8

Robert E. Glaser
3213 Patmor Road
Owings Mills, MD 21117
(301) 363-6626

July 24, 1987

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JUL 27 1987

ZONING OFFICE

Arnold Jablon
Zoning Commissioner
111 West Chesapeake Ave.
Towson, MD 21204

Dear Mr. Jablon:

This letter is in reference to the request for a zoning variance by WCAO radio to permit it to construct new radio towers in my neighborhood. I regret that I was unable to attend the meeting earlier this week and voice my opinion at that forum.

I strongly believe that no variance should be granted, for a number of reasons. This area is a quiet residential area, heavily wooded and unperturbed by commercial enterprises. We have more than our fill of commercial development less than a mile away on Reisterstown Road; it should be kept on the west side of that demarcation as much as possible. Construction of radio towers in my quiet neighborhood would be an obvious corruption to the surrounding community.

We have zoning regulations for a specific purpose, and they should not be violated willy-nilly by those who would perturb overall county planning. In particular, it is an insult to injury that the very area concerned is an historic district, and requires protection. Clearly the property values in the area will be affected, and I do not at all appreciate this direct affect on my personal worth.

Much has been said, I believe, about the visual disturbance that the radio towers would make. To this, I agree. However, yet another disruption would pervade the nearby community -- that of radio frequency interference (RFI). Placing a powerful AM radio station directly adjacent to homes causes a number of headaches to the residents. The strong signal is picked up by all electrical conductors in the vicinity, and is most often rectified by metal-to-metal joints, causing interference of various types. This includes difficulty with telephones, cable systems, and stereo home entertainment devices, not to mention the difficulty in receiving any other AM stations. While it is theoretically true that this interference can be filtered and corrected, in practice it is often much more difficult than that to eliminate. The result is usually that such problems are attacked until they are reduced to an "acceptable" level, after which the residents just resign themselves to live with the intrusion. I know of what I speak -- I previously lived near WBAL AM radio, and the entire community suffered continued interference. In that case, however, the radio station was in existence prior to the construction by developers of residences, and in a sense of fairness, I cannot equitably blame WBAL. In this case, the residences are here now, and people moved into this area with every expectation that no such interfering

radio stations would be placed at our back doors at a later date. WCAO should not be permitted to alter these reasonable expectations.

I am not, in general, against technical development -- I just believe that commercial enterprise which directly affects adjacent residences should alternately be located at more appropriate spots. Do not interpret my grumblings as that of an uninformed untechnical person. I have a PhD degree in electrical engineering from Johns Hopkins, and a General Radiotelephone Operator License from the Federal Communications Commission (which replaces the First Class license). The latter is the highest license issued by the FCC, and grants me the authority to legally be responsible for any radio or television station in the United States.

In closing, I vigorously entreat you to deny absolutely the request for a zoning variance which, if granted, would adversely affect the existing community, and offer not a single benefit to it.

Sincerely,

Robert E. Glaser

VENABLE, BAETJER AND HOWARD
ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

WASHINGTON, D.C. OFFICE
SUITE 300
1301 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004
(202) 638-4300

MEMBERS OF THE VIRGINIA BAR
AND THE DISTRICT OF COLUMBIA BAR

MITCHELL KOLKIN

1800 MERCHANTS BANK & TRUST BUILDING
2 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201
(301) 244-7540

WINTER'S DIRECT NUMBER IS
244-7556

VIRGINIA OFFICES
PLAZA SUITE THREE
200 NORTH HENDERSON ROAD
ARLINGTON, VIRGINIA 22203
(703) 833-3000

SUITE 300
2000 CORPORATE CENTER
ALEXANDRIA, VIRGINIA 22304
(703) 746-3500

July 21, 1987

RECEIVED
JUL 23 1987
ZONING OFFICE

The Honorable Arnold Jablon
Zoning Commissioner of Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 88-21-XSPA
(WCAO Radio Towers)

Dear Mr. Jablon:

Enclosed for your file is a copy of the photograph of Atamasco appearing on the front cover of the first volume of the Maryland Historical Society's two-volume treatise, The Green Spring Valley: Its History and Heritage, authored by Dawn F. Thomas, as well as the ten-page discussion of Atamasco appearing at pages 212-221 of that volume. During Protestant's direct testimony at yesterday's hearing, this treatise was authenticated by Mr. Stiles T. Colwill of the Maryland Historical Society and the cover photograph and ten-page excerpt were identified and discussed by Mr. Albert L. Cummings, the present owner of Atamasco.

I apologize for my oversight in not requesting that the enclosed be formally accepted as an exhibit yesterday evening, but wanted to be sure that a copy was available to you, inasmuch as I intend to refer to it in my Post-Hearing Memorandum.

Thank you for your kind consideration.

Very truly yours,

Mitchell Kolkin

MR:km
Enclosure
4339W-46
cc: Stephen J. Nolan, Esq. (w/encl.)

1800 Mercantile Bank & Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

(301) 244-7540

July 22, 1987

Mr. Arnold Jablon
County Office Building
Room 106
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. Jablon:

I am a resident of the Caves Valley area. I am opposed to the proposal of WCAO to construct radio towers on the agricultural property at the west end of Caves Valley.

The reason for my opposition is that WCAO proposes to locate at the west end of Caves Valley on 100 acres zoned for agricultural purposes and at the edge of some of the most exquisitely beautiful countryside in Baltimore County.

The sole purpose for selecting that site is, I understand, financial. Industrial properties more suitable for radio towers are available but WCAO prefers Caves Valley because the other properties would cost WCAO more to acquire. Furthermore, WCAO could remain on its present property. If it did so, it would be unable to increase its broadcast coverage and accordingly its profits to the extent that it would like to increase them.

WCAO should not be permitted to increase its profits at the expense of valuable agricultural land and at the expense of the natural beauty of the general area.

Very truly yours,

George C. Doub, Jr.

GCD:bb
2541Y/2
cc: Mr. James Cox

Stemmer House

Publishers, Inc./2827 Caves Road/Oring Mills
Maryland 21117/Telephone 301 968-8818/Cable Stembooks

July 21, 1987

Mr. Arnold Jablon
County Office Bldg.
111 West Chesapeake Avenue
Room 106
Towson, Maryland 21204

Dear Mr. Jablon:

As a landowner on Caves Road, I wish to protest vigorously the plan to erect four radio towers and a transmitter building which WCAO has proposed.

These tall, unsightly and intrusive structures would disfigure the landscape that is unquestionably one of the great treasures of Baltimore County and the state of Maryland.

In addition their presence would erode real estate values, and therefore real estate tax revenues, in the entire area within which they would be a dominating eyesore.

Moreover, the precedent thus established would open up the prospect of continuing concessions to requests for commercial zoning in the Caves Valley area. We who live here and who have a vested interest in the preservation of the area as a residential zone free of commercial blight and rich in environmental beauty will not tolerate encroachments such as that proposed by WCAO.

Yours sincerely,

Barbara Moldridge

RECEIVED
JUL 24 1987
ZONING OFFICE

SAMUEL P. MORTON
(1908-1988)
JOHN STEWART MORTON, JR.
(1908-1987)

JOHN STEWART MORTON, JR.
REALTOR - (RETIRED)
SUCCESSION TO SAMUEL P. MORTON & SON - 1987, 1988

ADDRESS ALL MAIL TO:
P. O. BOX 1
GARRISON, MARYLAND 21030
(301) 263-1000

20 July, 1987.

Mr. Arnold Jablon
County Office Building
111 West Chesapeake Ave. (0106)
Towson, MD. 21204

Dear Mr. Jablon:

This letter is being written in vehement protest of the application of radio station WCAO for a zoning exception for the erection of four (4) towers and a transmitting station on the east side of Garrison Forest Rd. opposite Rosewood State Hospital.

It is my understanding that the towers may be constructed on that site with a certain set-back from the road and the property lines but that WCAO desires the approval of the exception so that the towers can be built closer to the road and property lines than the current zoning permits.

My wife and I have lived in Garrison since 1953 and have attended St. Thomas' Church since 1947, the latter covering a period of forty years. Garrison Forest Road winds through one of the most beautiful residential areas I have ever seen. It is zoned for residences and the residents have invested considerable sums of money in their homes. This is easily attested to be the assessments, and the property owners deserve some protection by the County Zoning Board. I cannot believe that WCAO cannot locate suitable acreage elsewhere to meet its requirements.

During a recent hearing at St. Thomas' Parish House, a representative of WCAO stated that only two (2) of the four (4) towers would require a light. That may well be the regulation now; however is it not possible that the Federal Communication Commission or the Federal Aeronautics Administration might change their requirements so that each tower might have to be illuminated like a Christmas tree?

Mrs. Morton and I join with other residents in the area in protesting against this request for a change in this zoning. Unfortunately I shall be out of the city later today; otherwise I would be present at the hearing this afternoon.

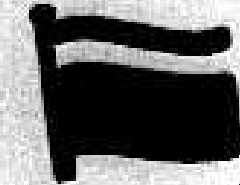
Yours very truly,

LETITIA LEE MORTON

JOHN STEWART MORTON, JR.

JUL 21 1987

ZONING OFFICE



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Incorporated
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MEMBERS: NEW YORK STOCK EXCHANGE, INC. AND OTHER LEADING EXCHANGES

REPLY TO: P.O. BOX 515
BALTIMORE, MD 21203

July 21, 1987

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JUL 22 1987

ZONING OFFICE

Mr. Arnold Jablon
County Office Building
111 West Chesapeake Avenue
Room 106
Towson, MD 21204

Dear Arnold:

I am not going to be in town Monday, July 20th but wanted you to know my opinion on WCAO relocating their transmission towers to Caves Valley on Garrison Forest Road.

Since I was formerly employed by WBAL and WBSB I know that transmission tower location is critical to the livelihood of the station. WCAO may be picking up more listeners from the greater height of the proposed towers but it certainly would be at the expense of existing homeowners. I firmly believe that this kind of land use would cause more harm than good and that WCAO should remain at Park Heights and the Beltway. Please keep our rural neighborhoods looking like neighborhoods—unblighted by this kind of urban landscape.

Thank you.

Sincerely,

Stephen J. Kelly
211 Garrison Forest Road
Owings Mills, MD 21117

SJK:ts

112 GREEN SPRING VALLEY ROAD
OWINGS MILLS, MARYLAND 21117

RECEIVED
JUL 22 1987

ZONING OFFICE

July 20, 1987

The Honorable Arnold Jablon
Zoning Commissioner of
Baltimore County
111 W. Chesapeake Avenue
County Office Building
Towson, Maryland 21204

Re: Radio Tower

Dear Judge Jablon:

We want to add our names to those of many other concerned neighbors who are very upset about the proposal to locate the transmitter towers of WCAO on Garrison Forest Road because we feel that a change in the zoning would create a very unfortunate precedent for the future.

Very truly yours,

Thomas D. Washburne

Katharine M. Washburne
Katharine M. Washburne

LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
204 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301) 823-1800

OF COUNSEL
RALPH E. DEITZ
901 G. LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
(301) 822-2100

December 15, 1987

HAND DELIVERY

Kathi Weidenhammer
Administrative Secretary
County Board of Appeals for
Baltimore County
Court House
Towson, Maryland 21204

Re: Case No.: 88-21-SXPHA
Petitioners: Caves Farm Investment
Company and DKM-Baltimore Broadcasting
CORPORATION

Dear Ms. Weidenhammer:

On behalf of DKM-Baltimore Broadcasting Corporation, one of the Petitioners, I am enclosing herewith an original and three (3) copies of the pre-hearing memorandum. I will appreciate your filing this memorandum in the above case and providing the Board members with the enclosed copies.

Thank you for your kind assistance.

Very truly yours,

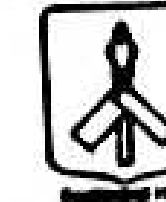
Stephen J. Nolan
Stephen J. Nolan

SJN/emd

enc.

cc: Mitchell Kolkin, Esquire
Gary C. Duvall, Esquire
Mr. Owen Weber
Phyllis Cole Friedman, Esquire

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COUNTY BOARD OF APPEALS
JAN 15 1988



St. Thomas' Church
Catholic Parish
223 St. Thomas Lane
Owings Mills, Maryland 21117

88-21-SXPHA
Caves Farm Inv. Co.

July 20, 1987

The Reverend William P. Benter, Jr.
Rector

Mr. Arnold Jablon
Zoning Commissioner
County Office Bldg.
111 West Chesapeake Ave.
Towson, MD. 21204

Dear Mr. Jablon,

St. Thomas' Episcopal Church was built in 1742 as a "Chapel of Ease for the inhabitants of the Forest". Since that date members of the congregations and Vestries have supported the efforts to maintain the area of the Caves, Green Spring and Worthington Valleys as an open space and farming area, without commercial intrusion.

The erection of such radio towers, visible from the Church, and requiring a special exception to the existing zoning regulation greatly threatens the beauty and peace of this historical area. The commercialization of the Reisterstown road corridor would seem to afford ample opportunity for station WCAO's project.

Accordingly, the Vestry of St. Thomas' Church urges that the proposed special exception relating to the radio towers be rejected by the Zoning Commissioner.

Respectfully,

Howard Bastjer
Howard Bastjer, II
Registrar

HB:vba

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COUNTY BOARD OF APPEALS
JAN 27 1988

VENABLE, BARTNER AND HOWARD

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

WILMINGTON, D.C. OFFICE
SUITE 1500
1500 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004
(202) 462-4500

1500 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004
(202) 462-4500

VENABLE OFFICE
PLAZA SUITE THREE
400 NORTH HENDERSON ROAD
BALTIMORE, MARYLAND 21204
(301) 821-6000

VENABLE OFFICE
SUITE 500
2000 CORPORATE WIDE
MILLEN VILLAGE DRIVE
FARMERS BRANCH, VIRGINIA 22039
(703) 749-5800

WRITER'S DIRECT NUMBER IS
844-7656

August 12, 1987

Mr. Kathleen C. Weidenhamer
Administrative Secretary
County Board of Appeals of
Baltimore County
Room 200, Court House
Towson, Maryland 21204

Re: MCAO Radio Towers (Appeal of Zoning
Commissioner's Case No. 88-21-XSPHA)

Dear Kathi:

This letter will confirm that Protestants have
retained Gary Duval as co-counsel in this matter. His address
and telephone number are as follows:

Gary C. Duval, Esq.
Miles & Stockbridge
401 Washington Avenue
Towson, Maryland 21204
(301) 821-6565

By copy of this letter I am requesting that other
counsel please include Mr. Duval, in addition to myself, on
all future distributions of pleadings, orders, notices and the
like.

Thank you for your kind consideration.

Very truly yours,
Mitchell Kolkin
844-7656

NR:km
9151M-21
cc: Stephen J. Nolan, Esq.
Phyllis Cole Friedman, Esq.
Gary C. Duval, Esq.

August 25, 1987

Mr. Arnold Jablon
County Office Building
111 West Chesapeake Avenue
Room 106
Towson, MD 21204

Dear Mr. Jablon:

I was away on vacation and missed the July 20th hearing regarding
the proposed construction of radio towers on Garrison Forest Road in
Caves Valley.

As a long-term (12 years) nearby resident I strongly oppose this
proposal and believe that it would have a seriously damaging environ-
mental effect to the entire extended region.

I trust adequate notice and full information will be provided in
connection with any further county consideration of this matter.

Sours very truly,
Roy E. Williams
280 Chantolane Hill Road
Bridges Mills, MD 21117

cc: Lisa Keir, Valley Planning Council

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ZONING OFFICE

LAW OFFICES

NOLAN, PLUMHOFF & WILLIAMS

J. EARLE PLUMHOFF
NEWTON A. WILLIAMS
WILLIAM H. HESBOL, JR.
THOMAS J. NOLAN
WILLIAM R. HOLLEMAN, JR.
STEVEN J. NOLAN
ROBERT L. HANLEY, JR.
ROBERT S. OLUSHAKOV
COLLEEN L. RUPPES
LOUIS O. CLOSE, III
ALSO ADMITTED IN D.C.

204 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301) 823-7800

OF COUNSEL
RALPH E. DEITZ
8025 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
(301) 822-2121

September 16, 1987

HAND DELIVERY

Mr. William T. Nockett, Chairman
County Board of Appeals of Baltimore Co.
Old Court House
Room 200
Towson, Maryland 21204

Re: Appeal Dated August 4, 1987 -
E/S of Garrison Forest Road
Caves Farm Investment Company, et al. - Petitioners
Case No. 88-21-XSPHA

Dear Mr. Nockett:

On behalf of the Petitioner-Appellants in the above case, I
am respectfully requesting that a hearing be scheduled as soon
as the Board's docket will permit. I would estimate that
approximately 2 or 3 days will be needed for the hearing.

Thank you for your kind assistance.

Very truly yours,

Stephen J. Nolan
Stephen J. Nolan

SJN/emd

cc: Gary C. Duval, Esquire
Attorney for Protestants
Mr. Owen Weber
Mr. Erich C. Steinagle
Robert R. Cohen, Esquire
Mr. Alvin M. Ferst

Phyllis Cole Friedman, People's Counsel
Peter Max Zimmerman, Deputy People's Counsel

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COUNTY BOARD OF APPEALS
SEP 16 P 4 13

VENABLE, BARTNER AND HOWARD

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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1500 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004
(202) 462-4500

1500 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004
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(301) 821-6000

VENABLE OFFICE
SUITE 500
2000 CORPORATE WIDE
MILLEN VILLAGE DRIVE
FARMERS BRANCH, VIRGINIA 22039
(703) 749-5800

September 21, 1987

Stephen J. Nolan, Esquire
Nolan, Plumhoff & Williams
204 West Pennsylvania Avenue
Towson, Maryland 21204

Re: MCAO Radio Towers
(Case No. 88-21-XSPHA)

Dear Steve:

Please note that we remain counsel to Protestants and
that Gary Duval has been engaged as co-counsel. Would you
therefore please ask your secretary to include me in all future
correspondence, notices and other distributions.

Thank you.

Very truly yours,

Mitchell Kolkin

NR:km
2581W
cc: Mr. William T. Nockett
Gary C. Duval, Esquire
Robert R. Cohen, Esquire
Phyllis Cole Friedman, Esquire
Peter Max Zimmerman, Esquire

RECEIVED
COUNTY BOARD OF APPEALS
SEP 23 A 9 51

County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 491-3100

September 30, 1987

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT
REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND
IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO
POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF
SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY
COUNCIL BILL #59-79.

CASE NO. 88-21-XSPHA

CAVES FARM INVESTMENT CO., ET AL.
E/S of Garrison Forest Road, 2,145' S
of the c/l of Crondall Lane
4th Election District
3rd Councilmanic District
SE -4 wireless transmitting & receiving towers
VAR -setbacks
Special Hearing -setback variance from historic
district and to confirm that request is not
for "use" variance
8/03/87 -Z.C. denied Petition for Special
Exception and Petition for Zoning Variances
associated therewith.

ASSIGNED FOR:
Wednesday, December 16, 1987 at 10:00 a.m. and
Thursday, December 17, 1987 at 10:00 a.m.

cc: Stephen J. Nolan, Esquire
Mr. Owen Weber -DKM-Balto Broadcasting
Caves Farm Investment Co.
Mitchell Kolkin, Esquire
Gary C. Duval, Esquire
Phyllis Cole Friedman
Norman E. Gerber
Frank H. Fisher
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Margaret E. du Bois

Kathi Weidenhamer
Administrative Secretary

IN RE: PETITIONS FOR
SPECIAL EXCEPTION
AND ZONING VARIANCES,
E/S of Garrison Forest
Road, 2,145' S of the
centerline of
Crondall Lane -
4th Election District
Caves Farm Investment
Company, et al.
Petitioners

PETITIONER'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

DKM-BALTIMORE BROADCASTING CORPORATION, one of the
Petitioners herein, by its attorneys, Stephen J. Nolan and
Nolan, Plumhoff and Williams, Chartered, submits this hearing
memorandum setting forth the proposed findings of fact and
conclusions of law which the Petitioners respectfully request
be incorporated as part of the Board's opinion and order herein
based upon the substantial evidence to be presented on behalf
of the Petitioners at the Board hearing commencing December 16,
1987.

INTRODUCTION

This case comes before the Board as an appeal from the
Order of the Zoning Commissioner of Baltimore County dated
August 3, 1987, which denied the Petitioners' Petition for
Special Exception for four wireless transmitting and receiving
structures (towers) in an R.C.2 Zone and which also denied a

Petition for Zoning Variances associated therewith.¹

The Petitioners are the owner and option holder,
respectively, of a 103 acre² westernmost portion of a 393
acre² tract of land situated along the east side of Garrison
Forest Road, north of Caves Road and opposite the Rosewood
State Hospital facility. Petitioner Caves Farm Investment
Company as legal owner granted an option to purchase the
subject 103 acre portion (hereinafter the "Site") to
DKM-Baltimore Broadcasting Corporation ("DKM") which owns and
operates MCAO-AM and WXYV-FM radio stations from its present
location near Park Heights Avenue and the Baltimore Beltway.
On April 9, 1987, the Petitioners filed three separate zoning
petitions to enable DKM to relocate to the Site the towers and
ground system serving its AM station.

At the Zoning Commissioner hearing on July 20, 1987,
substantial opposition was expressed by nearby residents and
representatives of the Caves Valley community due to the
possible long term impact of the towers on the agricultural
character of the Caves Valley, as well as the Petitioners'
requests for a variance from the distance/historic district
requirements of Bill No. 117-84, a variance from the landscape

¹ The Petitioners also had filed a Petition for Special
Hearing seeking a determination from the Commissioner that the
requirements of Bill NO. 117-84 relating to the setback of
towers from nearby historic districts could be variances. That
issue was rendered moot by the Commissioner's Order and, as
discussed below, it remains moot here.

plan requirements of Bill No. 64-86 (Section 502.7.C of the
Baltimore County Zoning Regulations) and other variances. The
Zoning Commissioner denied the petitions on August 3, 1987 on
the basis that they were not in strict harmony with the spirit
and intent of the Baltimore County Zoning Regulations ("BCZR").

As a response to the community's concerns, to promote the
agricultural character of the Caves Valley on a permanent
basis, and to substantially reduce the nature and extent of the
variances being sought, the Petitioners are submitting a
recently revised site plan which, inter alia, accomplishes the
following:

1. Lowers the tower heights from 373' as originally
proposed to 350' thereby eliminating the need for a
variance from Bill NO. 117-84 relating to historic
districts;
2. Reduces the setback variances for the four towers by
46' each;
3. Eliminates the requested variance from the landscape
plan requirements of Section 502.7.C.5.; and
4. Grants the Valley Planning Council, Inc. ("VPC") and/or
Caveswood Association ("CA") and/or their designee(s) a
perpetual conservation easement.

As discussed more fully below, Petitioners respectfully
contend that these substantial revisions to the site plan and
the proposed tower facility warrant a determination by this
Board that the grant of the requested special exception and
more limited variances is consistent with the letter and spirit
of Baltimore County's zoning regulations.

PROPOSED FINDINGS OF FACT

At the hearing commencing December 16, 1987, DKN proposes to present substantially the evidence and testimony which is summarized as follows:

The corporate president of DKN, James W. Wesley, Jr., will testify² that WCAO began broadcasting at its present Park Heights Avenue site in 1941 and that the station was acquired by DKN in October of 1984. This first witness will also testify concerning the inability of the present tower facility and deteriorated ground system to effectively serve the new growth areas of Baltimore County which did not have nearly the same concentrations of population when the existing site was built in 1946.

Because of the acreage needed for AM sites, Mr. Wesley will testify concerning the substantial difficulty encountered by AM stations such as WCAO who desire to relocate in order to improve the quality of their radio signal and increase their coverage area. Given the pressures facing AM radio stations, WCAO may not be able to arrest the possibility of long term decline unless it makes the investment now in an upgraded, new site.

² In the event there are no protestants and subject to the approval of the Board, DKN may request the opportunity to proffer the testimony of some of the approximately seven witnesses it had planned to call. However, Petitioner DKN reserves the right to call other witnesses which it may deem necessary.

Jules Cohen, the Petitioner's electronic engineering consultant and expert in the areas of electromagnetics and electromagnetic radiation, will testify concerning the main reasons for the relocated and improved tower facility. In addition to the greatly improved services to the population growth areas, the new site which is approximately four miles away from the existing facility will enable WCAO to correct its deteriorated ground system and replace the existing self-supporting towers with much slimmer, guyed towers which achieve a better electrical current distribution. Mr. Cohen will also describe the permissible site location some which is available to WCAO in evaluating eligible relocation areas and he will stress that not all areas within the zone are possessed with equal suitability. In addition to meeting the protection and coverage requirements of the Federal Communication Commission, this some of site suitability is also limited by other technical constraints such as other radio stations, high tension power lines, topographical conditions as well as other features such as historic districts.

According to this engineering expert, the limited size and outdated condition of the 1941 site where the present four towers are in an in-line configuration present a compelling need for the new Site where, for technical reasons, the four towers will be erected in a parallelogram array or configuration. Mr. Cohen will also describe the other technical

features of the proposed tower facility. The height of the towers is determined mathematically and is proportional to the wavelength of WCAO's frequency at 600 kilohertz. This witness will also testify concerning the test tower which was permitted by the Zoning Commissioner and used to evaluate the site.

Mr. Cohen will also testify concerning his extensive work over the past ten years in the field of nonionizing radiation effects and electromagnetic radiation management. As a member of the Accredited Standards Committee C95 and Subcommittee IV of the American National Standards Institute (ANSI), he actively worked on the development of ANSI Standard C95.1 which constitutes the United States standard or accepted level for radio frequency (RF) emissions from tower facilities. He continues to work on the ANSI Committee which is developing a revised RF emissions standard. According to Jules Cohen, the power densities of the RF emissions beyond the fenced areas of the proposed tower bases will be substantially below the maximum permitted levels under U.S. standards. In other words, Mr. Cohen will testify that in his expert opinion and to a reasonable degree of engineering certainty the proposed radio towers will not present a danger to the health, safety and welfare to nearby residents or the community in compliance with BCZR Sections 502.1 and 502.7.C.6.

Mr. Cohen will testify concerning the obligations imposed on DKN by the FCC to avoid and remedy any unusual interference

problems to nearby receivers if it occurs at all. Lastly, Petitioner's expert will set forth examples of other AM radio sites with coexisting agricultural uses.

Petitioner will also present testimony of Todd L. Morrill, a Vice President with W.C. Pinkard & Co., Inc., DKN's real estate consulting firm which began the site search in early 1985. Mr. Morrill will testify concerning WCAO's specifications for the site search and describe the steps taken to comply with the "diligent search" requirements of Section 502.7.C.1. According to Mr. Morrill, a total of approximately 24 specific alternate sites were investigated on DKN's behalf both before and after the Zoning Commissioner's August 4, 1987 Order. Due to the minimum area needed of approximately 50 acres (88 acres² assuming a perfect array and adherence to the 2 to 1 setback requirements of Section 502.7.C.2), business, office or industrial zoned properties were sought but no other appropriate location was found to be available "due to valid considerations, including, but not limited to, location, economic, elevation, engineering or technologic feasibility." BCZR Section 502.7.C.1. For the Board's information, Mr. Morrill will also briefly describe the basic provisions governing DKN's option and purchase agreement with the owners of the 103 acre² Caves Farm Site.

Richard L. Smith, an associate with the engineering firm of Kilde Consultants, Inc. and DKN's expert site planner, will

testify that his firm authored the revised site plan dated December 9(7), 1987. Mr. Smith will testify concerning the location of the Site and he will describe in detail the nature and extent of the reduced setback variances sought. In this regard, Mr. Smith will produce an exhibit which depicts the extremely limited extent to which the variances from the 2 to 1 setback requirements (now 700' from each tower) theoretically and minimally impacts the adjacent properties to this 103 acre² Site. Mr. Smith will also testify concerning the proposed 26' x 44' accessory equipment building, the fencing to be used, the landscape plan, and the approximately 100 acres which will continue to be available for agricultural uses at the Site.

Carey W. Burch, an environmental planner and terrestrial ecologist, is the Chief of the Environmental Assessments Branch of Versar, Inc. of Springfield, Virginia. Mr. Burch testified concerning the environmental impact requirements of BCZR Section 502.7.C.10. According to this expert witness, the results of his comprehensive environmental assessment disclosed that the proposed cluster of four towers will not pose any significant adverse effects to migratory birds or other wildlife. Because compatible agricultural uses of nearly all but 3 acres of the Site will continue after the erection of the towers, there will be no detrimental ecological or environmental effects triggered by the proposed tower facility.

Mr. Burch will also present his findings concerning the visual impact assessment conducted by his firm which was aided in part by tower height simulations using floated balloons above the Site. As conducted in the summer and late fall of this year, Mr. Burch pointed out that these simulations utilized test balloons with larger diameters than the guyed towers which will have a 24 inch face and be substantially shorter than the existing Channel 67 tower which is over 600' and which is visible from the Caves Farm Site.

With regard to the requirements of BCZR Section 502.7.C.11, Petitioner DKN will present the testimony of Edward A. Griffith, an expert real estate appraiser and licensed real estate broker. After describing the neighboring uses, Mr. Griffith will testify concerning his analysis of the effects on property values of other similarly situated towers within other areas of Baltimore County. Mr. Griffith will furnish sales data concerning residential areas neighboring Channel 67's tower on Bonita Avenue, WCAO's existing towers at Park Heights Avenue, the three towers along Rolling Road, and Bell Atlantic's cellular tower along northern Park Heights Avenue.

In his expert opinion and based upon his studies, Mr. Griffith will testify that WCAO's proposed tower facility at the Site will not have "a substantial adverse impact on surrounding property values, park lands or open space." BCZR Section 502.7.C.11.

The Petitioner will also present testimony and evidence from William F. Kirwin, a professional land planner and registered landscape architect. Mr. Kirwin will testify concerning the site review which his firm conducted and his investigation concerning the soils, slopes, topography, vegetation and on site activities. Mr. Kirwin will also set forth his preparation of a land use/land management concept for the Site as well as report the substance of his discussion with U.S. Department of Agriculture officials.

According to this expert, a study was undertaken on DKN's behalf to determine whether the proposed use is compatible with the surrounding agricultural land use and to also determine that the intended tower uses will not adversely effect the surrounding uses on the continuation of farming or other agricultural uses on the site. A favorable resolution of these issues is required pursuant to BCZR Section 1A01.2.C with regard to uses permitted by special exception in an R.C.2 Zone.

Accordingly, Mr. Kirwin has prepared and will testify concerning the land management plan developed for the Site as well as the land management compatibility matrix using on-site factors to determine the level of compatibility as related to natural habitat and agricultural uses.

It is well recognized among landscape architects and land planners familiar with the Caves Valley and nearby valleys, that the floors and walls of Caves Valley should be preserved

from development in order to encourage agricultural uses and in order to protect the fragile aquifer which underlies the Caves Valley. Mr. Kirwin will testify that the construction of the WCAO towers and the implementation of the land management plan intended by DKN and required by the on-site settlement agreement will foster those objectives in several respects:

1. The 103-acre site contains soils, slopes, topography and vegetation which are well-suited to continued agricultural use of the site. Under the plan the property will continue to be used for agricultural purposes.

2. Conflicts occur when residential developments are placed in proximity to agricultural land. The perpetual easement prohibiting residential and other development on the site will encourage continued agricultural uses of adjacent properties, by avoiding such conflicts.

3. Septic systems associated with residential development have the potential to contaminate the underlying aquifer. Continued agricultural use of the property is likely to avoid or minimize that threat, since fertilizers and chemicals for agricultural use tend to run off rather than penetrate to the depths of the aquifer.

4. The existence of the agricultural easement on the 103-acre site will tend to protect the western end of Caves Valley from efforts of developers to upgrade the RC-2 zoning in that area.

5. The proposal will preserve agricultural uses and open spaces on the site. Therefore, the proposed use of the property for radio towers will be more in harmony with the neighborhood and surrounding properties than would residential development of the site.

Noting that he was a member of the Baltimore County Planning Board at the time the Resource Conservation Zone Legislation was written, Mr. Kirwin will testify and explain that it is his expert opinion DKN's revised tower proposal for the subject Site:

- Meets the compatibility requirement with the intent of the agricultural zone;
- Is entirely compatible with the spirit and intent of the zoning regulations taken as a whole;
- Is not adverse to the requirements of Section 502.1(e) through (h);
- Satisfies the practical difficulty etc. and "strict harmony" requirements of Section 307;
- Will not adversely affect the agricultural uses on or in the vicinity of the Site;
- Will not adversely affect the soils on the site which are well suited for farming and other agricultural uses; and
- Presents no adverse impact above and beyond that inherently associated with such a special exception use irrespective of its location within the R.C.2 zone. [Schultz v. Pritts, 291 Md. 1, 22-23 (1981)].

Finally, Mr. Kirwin will testify concerning the long term benefits which will inure to the Site due to the proposed implementation of the land management plan and conservation easement.

As discussed above, Petitioner DNM has made a concerted and good faith effort to modify its original zoning requests to address the concerns voiced at the Zoning Commissioner hearing in July and to significantly revise its site plan to be responsive to the Commissioner's August 3, 1987 Order concerning the overuse of variances. Although DNM sincerely believes that the evidence and testimony³ as summarized above

³ To the extent questions are raised at the Board hearing, Petitioner DNM may call as an expert witness its historic preservation architect, David M. Gleason.

constitutes substantial evidence to support the grant of the requested special exception and reduced variances, an important added feature of this ~~an~~ ^{an} ~~presentation~~ ^{presentation} involves the valuable input and concurrence of nearby residents, The Valleys Planning Council, Inc. (VPC) and the Coveswood Association (CA).

Specifically, Petitioner DNM will call as a witness Mitchell Kolkin who is counsel for the VPC and CA in this matter and who has been active on behalf of the community throughout all stages of the community's review of WCAO's proposed relocation to the subject Caves Farm Site commencing with the hearing before Commissioner Jablon.

After reviewing the modifications which have been made to the site plan since the date of the Zoning Commissioner's denial, Mr. Kolkin will outline and describe the terms and conditions of the On-Site Settlement Agreement and the Off-Site Settlement Agreement by and among DNM, VPC and CA both of which agreements are dated as of December 16, 1987. Copies of those agreements will be submitted to the Board on the morning of the December 16 hearing.

According to Mr. Kolkin and pursuant to the express terms of the settlement agreements, the parties (DNM, VPC and CA) have entered into the agreements in order to promote the following land use planning objectives:

- to seal off the southwest end of the Caves Valley from the encroachment of land uses which are inconsistent or incompatible with preferred agricultural uses under the R.C.2, rural agricultural zoning classification;

- to assure that there will be no future change in circumstances or conditions relating to the existing use of the Site for agricultural purposes.

- to preserve the Site in a manner which is consistent with the Baltimore County Master Plan;

- to establish a permanent buffer zone between Garrison Forest Road and floor of the Caves Valley; and

- to confirm the role of Garrison Forest Road as a line of demarcation between Resource Conservation (R.C.) uses to the east and other more intensive uses to the west.

Mr. Kolkin also will testify concerning the fact that the On-Site Settlement Agreement is expressly referred to on the revised site plan and that, assuming all necessary zoning approvals and building permits are granted to DNM and immediately upon closing on the acquisition of the Site, both settlement agreements will be recorded among the Land Records and a permanent and perpetual conservation easement will be granted by DNM unto VPC and/or CA and/or their designee(s).

With these important settlement agreements and the related easement firmly in place, Mr. Kolkin will testify that the VPC and CA which he represents were withdrawing opposition to and cooperating with DNM's zoning requests, as revised. On that basis, Mr. Kolkin will not be cross-examining witnesses or presenting testimony in opposition.

CONCLUSIONS OF LAW

Before any special exception may be granted, this Board must conclude that the petition and the revised site plan dated December 14, 1987, meet the requirements of the following provisions of the Baltimore County Zoning Regulations (BCZR):

Section 502.1.a through h;
Section 502.7.C.1. through 11; and
Section 1A01.2.C.23.

Petitioner DNM's revised site plan also requires the granting of variances, pursuant to Section 307 and Section 502.7.C.2., BCZR, due to the fact that the 2 to 1 tower setback requirement is not fully met.

The site plan as originally submitted and heard by the Zoning Commissioner on July 20, 1987 was found not to be in strict harmony with the spirit and intent of the BCZR. As more fully discussed hereinabove, Petitioner DNM respectfully contends that substantial evidence does exist and will be presented to support what Petitioner hopes will be this Board's determination that the site plan as revised and coupled as it is with the perpetual conservation easement feature does meet all applicable zoning requirements in law and in fact.

Special Exception uses are provided in the zoning regulations as part of the comprehensive zoning plan. As such, such uses share the presumption that they are in the interest of the general welfare, and therefore, valid. *Turner v. Hammond*, 270 Md. 41, 310 A.2d 543 (1973). Special Exception uses are pre-

sumptively permissible. *Montgomery County v. Merlands Club, Inc.*, 202 Md. 279, 96 A.2d 261 (1953). As noted above, the Baltimore County Council has legislatively predetermined that a special exception use is conditionally compatible with the uses permitted as of right in a particular zone. The condition placed upon approval is that the Board must decide pursuant to BCZR Sections 502.1 and 1A01.2.C whether the presumptive compatibility exists in fact. *Cresswell, supra*.

The general special requirements will be addressed by most if not all of the Petitioner's expert witnesses. Section 502.1 states:

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; and
- Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

Because of the characteristics of the tower structures and use, the considerations set forth in subsections b, d, e and f

above will not be impacted as they might be with residential development on this RC-2 site. With regard to the remaining provisions, DNM will present testimony from Carey Burch and William F. Kirwin concerning the lack of detrimental effects on the environment and Mr. Burch's environmental impact assessments pursuant to Section 502.7.C.10. With regard to Section 502.7.C.6 requirements concerning "radiation emissions, and 502.1.a. requirements concerning health and safety considerations, Jules Cohen, P.E., an electromagnetics engineer who has served on the ANSI Committee, will testify concerning the fact that the maximum power density at the edge of the site will be more than 250 times ~~below~~ ^{below} the Eastern European frequency exposure guidelines which are recognized as the most restrictive in the world. Mr. Cohen will also testify that the tower will not present any "potential hazard from fire, panic or other dangers." Section 502.1.C., BCZR.

Petitioner's expert real estate appraiser, Edward A. Griffith, will fully address the "impact on surrounding property values" pursuant to Section 502.7.C.11. According to William Kirwin, the tower facility coupled with the perpetual conservation easement will not have a substantial adverse impact to surrounding park lands or open space. As noted on page 7 above, Todd L. Morrill and Jules Cohen will establish that the "diligent search" requirements of Section 502.7.C.1 have also been met.

In addition to meeting the requirements of Bill No. 64-86 (Section 502.7.C.), the tower facility will also meet or more than meet the requirements of section 502.1 as will be explained by William Kirwin on a subsection by subsection basis.

The most important requirement which the Petitioners must satisfy is the special added standard imposed on special exception uses in any R.C.2 zone as set forth in BCZR Section 1A01.2.C which provides:

C. Uses permitted by Special Exception.¹ The following uses, only, may be permitted by special exception in any R.C.2 zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 24, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses: [Bill No. 178-79] [subsections 1-22 are omitted]

23. Wireless transmitting or receiving facilities as principal uses [Bill No. 178, 1979.]

The chief witness on behalf of the Petitioner with regard to the determination of whether the proposed tower "use would not be detrimental to the primary agricultural uses in its vicinity" will be Petitioner's land planner and landscape architect, William F. Kirwin. As noted hereinabove at pages 10-12, the proposal will actually preserve agricultural uses and open spaces on the site. With the revisions to the site plan and the perpetual conservation easement, the grant of the special exception and variances will, according to Mr. Kirwin,

substantially meet the compatibility requirement with the intent of the agricultural zone and the grant of the requested zoning approvals will be entirely compatible and in strict harmony with the spirit and intent of the zoning regulations taken as a whole. Section 307, BCZR. Practical difficulty and unreasonable hardship clearly exists in this case by virtue of the numerous and at times competing constraints which severely restrict the permissible zone of available sites⁴. Also noted above, Mr. Kirwin will testify that the proposed tower facility, as revised, presents no adverse impact above and beyond that inherently associated with a special exception use irrespective of its location within the R.C.2 zone. *Schultz v. Pritts*, 291 Md. 1, 22-23 (1981).

Petitioner DNM respectfully contends that substantial evidence will exist in the record of this appeal which demonstrates that presumptive compatibility does exist in fact and that all of the statutory, regulatory and common law standards have been satisfied to support the board's grant of the subject special exception and variances.

Where, as here, the Petitioner has entered into agreements with the community associations involved which provide for long term benefits to the continuation of agricultural uses on the

⁴ Petitioner DNM does not contend that this case has any precedent effect and believes instead that the case should be governed by the specific facts on this appeal.

site, substantial basis exists for the Board to conclude that the grant of the requested zoning approvals will ultimately serve the community and the property which the Baltimore County Zoning Regulations are designed to protect.

Based upon the foregoing, the Petitioner, DNN-Baltimore Broadcasting Corporation, respectfully requests that the special exception and variances be granted and the revised site plan be approved.

Stephen J. Nolan
Stephen J. Nolan

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of December, 1987, a copy of the foregoing pre-hearing memorandum was hand delivered to:

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and

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Towson, Maryland 21204

and
Phyllis Cole Friedman, Esquire
People's Counsel for Baltimore County
Court House, Second Floor
Towson, Maryland 21204

Stephen J. Nolan
Stephen J. Nolan

RE: Petition for Special Exception, Special Hearing and Variances
E/S Garrison Forest Road, 2148' S of e/1 of Crenell Lane
4th Election District
3rd Councilmanic District
Caves Farm Investment Co., et al., Petitioners

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
Case No.: 88-21-NEPMA
Item No. 412

PETITIONERS' MEMORANDUM OF LAW

CAVES FARM INVESTMENT COMPANY and DNN-BALTIMORE BROADCASTING CORPORATION, Petitioners, by their undersigned attorneys, Stephen J. Nolan and Nolan, Plumhoff and Williams, Chartered, file this memorandum of law on the issues raised at the zoning hearing held on July 20, 1987.

STATEMENT OF FACTS

On April 9, 1987, the Petitioners, Caves Farm Investment Company, a Maryland general partnership, and DNN-Baltimore Broadcasting Corporation, which owns and operates WCAO A.M. radio station, filed three (3) separate zoning petitions with the office of the Baltimore County Zoning Commissioner. The three zoning requests seek a special exception for a wireless transmitting and receiving facility in an RC-2 zone, a special hearing determination concerning the impact of Bill No. 117-84, as well as variances from certain of the requirements imposed under Bill No. 64-86 (specifically, BCZR Section 502.7.C.2 and portions of subpart 5) and a variance from the distance

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requirements of Bill 117-84. Although the Caves Farm property totals 393 acres, the subject parcel is comprised of the 103.2 acre westernmost portion along the east side of Garrison Forest Road, opposite the Rosewood State Hospital complex.

At the lengthy hearing on July 20, 1987, the Petitioners produced their site planner and engineering consultant, Richard L. Smith, the electrical engineer, Bernard M. Segal, P.E., a representative from the commercial real estate firm which conducted the site search, Alan Orman, their environmental planner, Carey W. Burch, and a local real estate appraiser, Edward A. Griffith. Also testifying on behalf of the Petitioners were a historic preservation architect, David H. Gleason, and the president of the Petitioner broadcasting company, James W. Wesley, Jr.

In all, seven (7) witnesses testified on behalf of the Protestants, two of which were offered as expert witnesses on the historic district issues, namely, John W. McGrain and Stiles T. Colwill. The President of the Valleys Planning Council, Inc., Richard B. Buck, testified in opposition to the requests as did the President of the Caves Valley Association, James G. Cox. However, the latter witness who resided on Caveswood Lane stated that he could not see the experimental balloons floated to tower height, and he was restricted to testifying in his individual rather than representative capacity. The Protestants also relied on the testimony of an

adjacent property owner, Albert L. Cummings, whose house was located outside the boundaries of the Greenspring Historic District, and on a nearby Garrison Forest Road resident, William Hugh Bagby. Although he was unable to produce any specific sales statistics to rebut the appraisal data submitted by the Petitioners' expert, Ned Griffith, the last witness for the Protestants was W. James Howard who presented his general opinion concerning the impact of the proposed tower facility on prospective purchasers touring the area.

Evidence produced in the Petitioners' case established that WCAO radio station has been located in Baltimore County at 8001 Park Heights Avenue since 1941 and that portions of the ground system had been physically lost due to the construction of the Baltimore Beltway and the adjacent Radio Tower Road in the mid and late 1950's. Beginning in 1985, the station's management with the aid of W.C. Pinkard & Company began a diligent site search in order to relocate its A.M. tower facility which is comprised of any array of four (4) radio towers and a ground system of buried copper wire. The site search which encompassed approximately 20 sites investigated by the Pinkard firm and some additional sites which the station explored on its own behalf, was restricted by certain design considerations such as the minimum 56 acre ± area required (exclusive of the Sec. 502.7.C.2. "fall/zone" setbacks), radio frequency signal considerations dictated by the FCC,

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topographical requirements, and nearby obstructions such as high voltage power lines. Although the testimony revealed that WCAO had agreed to pay three (3) times the usual per acre price for the R.C.-2 land which it ultimately selected, economic feasibility is also an appropriate consideration under Section 502.7.C.1. Lastly, it is important to distinguish the subject A.M. facility which is comprised of multiple towers and a ground system from an F.M. site which depends on only one tower.

Testimony also established that WCAO sought and obtained in August, 1985, the necessary clearances to temporarily erect a test tower on the subject site in order to conduct engineering suitability tests in October, 1985. The Petitioners were also cognizant of the ambiguous and confusing language of Bill No. 117-84 and, therefore, requested an informal opinion from the Zoning Commissioner. The Zoning Commissioner's December 12, 1985 reply letter (copy attached) identified the need for a special hearing petition with regard to Bill 117-84.

The Petitioners will not review here the complete details of the remainder of the testimony adduced by them, save and except the expert testimony presented by David H. Gleason, an architect involved in historic renovation work in the Ashland and Oella sections of Baltimore County as well as historic projects in Baltimore City and Annapolis. Partly in response to the questions raised in the Commissioner's December 12, 1985

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letter concerning any potential detrimental effect to the "documented values" of the historic district, Mr. Gleason clearly identified the boundaries of the Greenspring Valley Historic District and stated his expert opinion with regard to the absence of any such detrimental effect given the nature of the proposed project in relation to the scale of the district. Mr. Gleason pointed out that all towers (for example, tower facilities not in excess of 350') were not covered by Bill No. 117-84. He also noted that extremely tall towers might comply with that Bill's distance requirement but still be visible to properties in a historic district such as the Channel 67 tower on Bonita Avenue.

Like the Protestant's witness, John W. McGrain, Mr. Gleason did not place a great deal of historic significance on the ruins of the old stone barn on the subject property, stressing that the tower project would not disturb the same. The Petitioners' historic expert did attach considerable weight to the benefits to be derived to nearby properties by virtue of the long term commitment which the Petitioners had made and were willing to confirm in order that the 103 acre parcel remain in primarily an agricultural use. Based upon his observations within the area which included many views of the experimental balloons which were floated over the property on July 16, 1987, Mr. Gleason stated his opinion that it would be difficult to actually view the towers from the Greenspring

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Valley Historic District given the dense, natural screening, the topography and the ridge line of Caves Road, most of which was outside the district.

Before discussing the applicable law as it relates to the foregoing facts, Petitioners note that immediately following the presentation of their case, they supplemented their petitions by requesting that the Commissioner render his determination on the basis of a 350 foot tower facility if he first concludes that the special hearing petition with regard to Bill No. 117-84 must be denied.

QUESTIONS PRESENTED

I. Are the historic district requirements of Bill No. 117-84 the proper subject for the grant of a horizontal distance and setback variance or is a variance from that Bill necessary at all for the erection of the 373 foot tower facility?

II. Have the Petitioners presented sufficient evidence to warrant the grant of a special exception for a wireless transmitting and receiving facility in an R.C.2 zone?

III. Have the Petitioners adequately met their burden of showing practical difficulty or unreasonable hardship which would entitle them to the variance requested?

DISCUSSION OF LAW

As noted by the Zoning Commissioner at the close of the Petitioners' case, the threshold question which must be first

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decided favorably for the Petitioners is the appropriateness of a variance grant under Bill 117-84. As stated at the hearing, Petitioner WCAO much prefers the 373 foot facility which has been designed to remedy the deterioration of the station's maximum licensed pattern and it only will resort to the 350 foot maximum if it is forced to avoid the potential bar of Bill 117-84.

I. The Historic District Requirements.

On November 25, 1984, Bill No. 117-84 became effective in Baltimore County. By the express terms of the preamble to the Bill, the purpose of the new law was to prohibit "the grant of a Special Exception for a wireless transmitting or receiving facility in certain circumstances; and [to provide] exceptions to such prohibitions." (Emphasis added) Unfortunately, with the exception of the just quoted preamble, the language of the Bill itself is complex, ambiguous and more than a bit confusing. In part, the Bill is a legislative response to a 1984 application of radio station WGMX for a special exception for a 720 foot tower on the southwest side of Dover Road in the Worthington Valley Historic District, which application (Case No. 84-284-X decided August 14, 1984) Petitioner contends is distinguishable from the present case for many reasons, not the least of which are the tower height and the fact that WCAO has been a Baltimore County resident for 46 years.

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As mentioned hereinbefore, the Zoning Commissioner's December 12, 1986 letter suggested the need for a special hearing for the determination of whether a variance could be considered to the horizontal distance requirement of 117-84 in order to insure that such request was not for a "use" variance.

In *Anderson v. Board of Appeals*, 22 Md. App. 28, at 38 (1976), the Court of Special Appeals noted the distinction between a use variance "which changes the character of the zoned district, and an area variance, which does not." Citing with approval *Lynala Loan Association v. Buchman*, 227 Md. 243, 248 (1961), the Court next observed that:

"Use variances are customarily concerned with 'hardship' cases, where the land cannot yield a reasonable return if used only in accordance with the use restrictions of the ordinance and variance must be permitted to avoid confiscatory operation of the ordinance, while area variances are customarily concerned with 'practical difficulty.'"
Anderson, *supra*, at 38.

As adopted by Bill No. 117-84, Section 502.7.A. only is triggered by the enumerated historic districts (as opposed to historic sites which were stricken) and the distance requirements of the Bill expressly do not apply where the "Zoning Commissioner . . . finds that the proposed use will not be detrimental to or detract from the documented values of any such district due to the height of the proposed structure and its placement and visibility relative to such district." Employing the language of *Anderson*, *supra*, Petitioners vigorously contend that a variance from the distance require-

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ments of 117-84 to permit the proposed facility would not result in a change to the character of the zoned district. Indeed, Section 1801.2.C.23, expressly permits a tower use by special exception in the R.C.-2 zone. In the alternative, Petitioner submits that a variance *may* not even be necessary in the event the Commissioner makes the requisite finding as set forth in the Bill with regard to detrimental effect on documented values. Like the findings relative to Section 502.1(a)-(h), an actual zoning variance may not be necessary if the necessary underlying determination is made. Section 502.7.A. does embody certain distance requirements, however, which Section 502.1 does not.

If the Council desired to exclude the distance requirements of Bill No. 117-84 from consideration under Section 307, then the Council may very well have chosen to expressly prohibit such variances as it did by Bill No. 124-81 with regard to the residential transition area requirements in Section 1801.1.B.1.b.7. Although obviously aware of that mechanism, the Council elected not to prohibit such variances.

The testimony presented by Petitioners' historic expert, David Gleason, and its real estate appraiser, Mr. Griffith, clearly establish that no detrimental effect on documented values in the Greenspring Valley Historic District will result by virtue of the proposed tower facility. It was also stated by Mr. Gleason that Caveswood Lane and most of Caves Road as

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well as the Cummings residence are all situated outside the boundaries of the district, and that it was not likely the towers would be readily visible from within the district. Section II of this memorandum will discuss the "practical difficulty" standard as it applies to this case.

At the close of the hearing on July 20, Protestants' counsel cited *Kansah v. Burkhardt*, 34 Md. App. 699 (1977) to support their opposition to Petitioners' zoning requests. As distinguished from the zoning ordinance at issue in *Kansah*, the provisions of Bill No. 117-84 are far from "simple, clear and unambiguous."

The Petitioners respectfully contend that (1) a variance may not be necessary if the Commissioner makes the required finding of lack of detrimental effect, and (2) assuming the need for a variance, Section 307 does apply to the distance requirements of Section 502.7.A. A contrary interpretation could result in the placement of a tower which would meet the technical requirements of the Bill, but one which would nevertheless be even more visible to observers within the historic district.

II. The Variance Request.

Under the provisions of Section 307, the Zoning Commissioner is authorized to grant a zoning variance from the height, distance and area requirements of the Baltimore County Zoning Requirements. Section 502.7.C, as effective July 27,

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1986 pursuant to Bill No. 64-86, expressly permits the granting of Section 307 variances from the eleven (11) enumerated requirements of Section 502.7.C. In addition to the distance requirements of Bill No. 117-84, Petitioner WCAO also seeks variances from Section 502.7.C.2, which requires a setback of two times the tower height in order to accommodate the placement of the required array of four (4) towers on the subject 103.2 acre parcel. The second type of requested variance stems from practical difficulty posed by Section 502.7.C.5, which requires "a landscape plan, designed to minimize the visual impact of accessory buildings and the lower portion of the structure." The Petitioner, DKN-Baltimore, is not seeking to avoid the filing of a landscape plan for the subject property nor does it seek to avoid screening the transmitter/equipment accessory building as required by Bill 64-86. Testimony was presented at the July 20 hearing by Mr. Richard Smith of Kiddle Consultants and Bernard Segal, P.E. with regard to the practical difficulty posed by the requirement that the lower portions of the towers be landscaped and screened. According to Petitioner's electrical engineer, this difficulty will result from the fact that the roots of typical landscape material will jeopardize, or at least interfere with, the subsurface ground system in the vicinity of the tower bases. Furthermore, testimony from the engineer indicated that it was his opinion that the drafters of Bill No. 64-86 did not

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contemplate or foresee the special ground systems which are involved in an A.M. tower facility; thus, the added significance and wisdom of the express reference to Section 307 within the Bill becomes even more apparent. Moreover, Mr. Carey Burch and Mr. Gleason testified that the visual impact of the lower portions of the tower will be mitigated by virtue of the dense screening around the perimeter of the subject tower property.

The Court of Appeals reviewed the requisite showing necessary to support the grant of a Section 307 variance in *McLean v. Soley*, 270 Md. 208, 212-215 (1973), noting that the requirements of "practical difficulty or unreasonable hardship" are in the "disjunctive," the court cited with approval the criteria for determining "practical difficulty" as set forth in 2 Rathkopf, *The Law of Zoning and Planning*, (3 ed. 1972) 45-23, 29:

"1. Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from rising the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2. Whether a grant of the variance applied for would do substantial justice as to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give a substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured." 270 Md. at 214-215.

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Just as was the case in *McLean*, *supra*, the Petitioners respectfully contend that the foregoing requirements are indeed met by the unique facts of this case. Petitioners' Exhibit 3 as prepared by Kiddle Consultants graphically depicts the areas of potential encroachment or overrun in the event Petitioners could observe the two to one distance requirement of Section 502.7.C.2. The maximum areas of arguable encroachment impact the Rosewood facility and the balance of the Caves Farm property. Therefore, strict conformity with the "fall zone" requirements would be unduly burdensome especially in light of the fact that testimony furnished by Messrs. Segal and Burch established that a tower would collapse upon itself in the unlikely event of a fall accident. As noted hereinbefore, Bill No. 64-86 expressly envisioned a situation wherein Section 307 variances might be necessary. In fact, by virtue of his participation in the Council work session on the Bill, counsel for Petitioner states that the drafters recognized that circumstances could develop wherein a variance might help to mitigate tower visibility due to available screening, etc.

Recognizing that the determination of the effect of the variances on other property owners is ultimately for the Zoning Commissioner to decide, the Petitioners contend that the great weight of the hearing testimony and

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evidence demonstrates that the grant of the variances would do substantial justice to the applicant while not substantially impacting other property owners. Contrasted with certain fears of the perceived potential for harm expressed by some of the protestants, many of which admitted that they would most likely not be able to physically see the towers from the vantage points of their respective homes, the evidence submitted by the many experts retained by WCAO to investigate the proposed project has demonstrated by a clear preponderance that the third area of the test, namely public safety and welfare, will be met and satisfied.

This assessment of "practical difficulty" also derives further support when the testimony of Mr. Wesley, the Company's President, and the testimony of Mr. Gleason and Mr. Orman are considered. The unique specifications required by an A.M. site with its ground system, etc. severely limit the suitability of available parcels as seen by Mr. Orman's firm's two year site search. These factors of practical difficulty are further buttressed by Mr. Wesley's testimony concerning the somewhat critical state of the health of A.M. radio in the Baltimore metropolitan area and the need for the station to remedy the deterioration of its ability to utilize its maximum licensed pattern within its permitted frequency range.

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Lastly, Mr. Gleason, the architect who testified concerning the alleged impact on the nearby historic district, observed that a 350 foot tower or a 373 foot tower located 3,730 feet from the district boundary would not be barred by the sole effect of Bill No. 117-84. Mr. Gleason did attach some importance to the compatibility of the proposed tower project with that property's continued use for farming purposes.

As noted by the court in Anderson, supra, 22 Md. App. at 39, the standard of "practical difficulty" is deemed to be a lesser burden or standard because "the impact of an area variance is viewed as being much less drastic than that of a use variance."

In summary, the Petitioners respectfully contend that there has been more than a sufficient showing to support the grant of the three types of variances requested here--namely the two to one distance variance, the partial landscaping variance and the variance from the distance requirements of Bill No. 117-84.

III. The Special Exception Requested.

Aside from the requirements imposed by Bill No. 64-86 (Section 502.7.C) and Section 502.1, a special exception for a wireless transmitting and receiving facility in a R.C.2 zone must also comply with the provisions of BCZR Section 1A01.2.C. which require that

the Zoning Commissioner must find "that the use would not be detrimental to the primary agricultural uses in its vicinity . . ."

There was ample testimony from a number of the Petitioners' witnesses which disclosed that approximately three (3) to five (5) acres of surface area of the subject 103.2 acre parcel would actually be disturbed by or committed to use for the towers, the guy anchors and the equipment building. Messrs. Smith, Burch, Griffith, Gleason and Wesley all testified concerning the Petition WCAO's desire and intention to commit the remaining 100 acres of the parcel to continued agricultural use. Petitioners submit that they have established full compliance with the provisions of Section 1A01.2.C. and that the proposed tower facility will not be detrimental to the primary agricultural uses in its vicinity. Furthermore, such special exception uses are deemed to be presumptively permissible. Montgomery County v. Merlands Club, 202 Md. 279 (1953).

Without detailing all of the hearing testimony on this point, the Petitioners further state that (1) a preponderance of the evidence was submitted which establishes that the requirements of Section 502.1 (a) through (h) have been clearly satisfied, and (2) the clear weight of the evidence presented below discloses the

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absence of any good and sufficient evidence which would tend to demonstrate that Petitioner's special exception would violate the provisions of Section 502.1.

Applying the standard enunciated in Schultz v. Pritts, 291 Md. 1 (1981), Petitioners respectfully contend the evidence at the hearing establishes that the proposed use would not "have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." Schultz, supra, at 22-23. The only alleged adverse effect which dominated the Protestants' case was the alleged visual impact of the proposed A.M. tower facility. Given the County Council's awareness of the potential visibility of a tower facility within the underlying R.C.-2 zone when it legislatively provided for such tower uses by special exception within such a zone, the mere potential that portions of the tower might be visible would not be offensive to the Schultz test. As observed by the court in Lawton T. Sharp Farm v. Somerlock, 52 Md. App. 207, at 20 (1982), it is not permissible to deny a zoning application for the reason that the proposed use is "an annoyance or discomfort to its neighbors."

The Protestants have sought to dilute the importance of the Schultz test by arguing the applicability of Gotach.

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Center v. Board of County Commissioners, 60 Md. App. 477 (1984). With regard to the analysis in Gotach concerning the distinction between the test enunciated in Gowd v. Atlantic Richfield Co., 27 Md. App. 410, 341 A.2d 832 (1975), and the test set forth in Schultz, Gotach's sole applicability to the pending zoning petitioners is arguably in the area of Section 1A01.2.C. as it affects the grant of a special exception in an RC-2 zone. Furthermore, in Lawton T. Sharp Farm, supra, at 207, the Court of Special Appeals characterized the Gowd test as an "erroneous standard" and it preferred instead to apply the Schultz test.

In summary, the special exception use for the tower facility as requested by the Petitioners is one which is expressly permitted by the Baltimore County Council. Where, as here, the Petitioners have satisfied their burden of showing compliance with all of the general requirements of Section 502.1 and the special requirements of Section 1A01.2.C. and 502.7.C., then the requested special exception should be granted.

CONCLUSION

Based upon the foregoing discussion of law as it applies to the underlying facts and circumstances, the Petitioners respectfully submit that the petitions for special hearing, special exception and zoning variances

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are well supported by the full weight of credible hearing evidence and are entirely consistent with the letter and spirit of the applicable Baltimore County Zoning Regulations. The Petitioners' zoning requests should be granted.

Respectfully submitted,

Stephen J. Nolan
STEPHEN J. NOLAN

Nolan, Plummerhoff & Williams
NOLAN, PLUMMERHOFF & WILLIAMS, CHTD
204 West Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

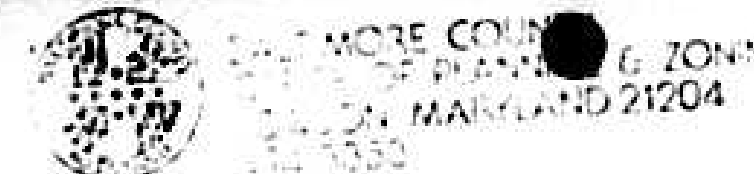
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of July, 1987, a copy of the foregoing Petitioners' Memorandum of Law was mailed postage prepaid to Mitchell Kolkin, Esquire, Venable, Baetjer & Howard, 2 Hopkins Plaza, 1800 Mercantile Bank and Trust Building, Baltimore, Maryland 21201, attorneys for the Protestants; and to Phyllis Friedman, People's Counsel, and Peter Max Zimmerman, Deputy People's Counsel, Court House, Second Floor, Towson, Maryland 21204.

Stephen J. Nolan
STEPHEN J. NOLAN

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NOLAN, PLUMMERHOFF
& WILLIAMS, CHTD
CHARTERED

2908A SJN/amd/caw



ZONING COMMISSIONER

12 December 1986

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

Stephen J. Nolan, Esq.
Nolan, Plummerhoff & Williams
204 West Pennsylvania Ave.
Towson, Maryland 21204

Re: Towers

Dear Mr. Nolan,

I have reviewed Bill No. 117-84, and I conclude that a special exception cannot be granted for any such facility as described if it is within 1 1/2 miles of an historic landmark or district, as specifically delineated, and if the horizontal distance from the facility to the property line of such district does not exceed ten times the height of the facility, unless I find that the facility would not be detrimental to the values of the district, and the horizontal distance from facility does exceed ten times the height of the facility, there is a question whether a special exception can be granted. It will appear that the intent was that if the distance exceeded ten times the height, then a special exception could be granted, but the wording seems to require this issue. Also, it would appear that subsection C, §502.1, permits a special exception to the requirements specified in that subsection. Whether a special exception could be considered to the horizontal distance requirement would be determined by special hearing to insure that the request was not for a "nuisance".

David J. Gable
DAVID J. GABLE

ON-SITE SETTLEMENT AGREEMENT (WCAO RADIO TOWERS)

This Agreement dated as of December 15, 1987, by and among DKM-Baltimore Broadcasting Corporation ("DKM"), The Valleys Planning Council, Inc. ("VPC") and Caveswood Association ("CA" and, collectively with VPC, the "Community Groups").

WHEREAS, DKM filed petitions for a special exception and variances with the Baltimore County Zoning Commissioner on April 9, 1987, for four (4) AM radio towers (the "Towers") and related unmanned accessory equipment buildings to be located on a 103-acre parcel (the "Site") adjacent to and on the east side of Garrison Forest Road, south of Crondall Lane, which petitions were denied in Case No. 88-21-XSPHA on August 3, 1987;

WHEREAS, VPC and CA opposed the original petitions at the hearing before the Zoning Commissioner on July 20, 1987;

WHEREAS, DKM has amended its petitions by submitting a site plan entitled "Plat to Accompany Petition for Special Exception and Variances," dated February 26, 1987 and revised December 9 and 14, 1987 (the "Revised Site Plan"), which (a) reduces the height of its proposed Towers to 350' each, (b) conforms to all applicable landscaping requirements and (c) stipulates that the site will be subject to a perpetual conservation easement (the "Easement"), as more particularly described in this Agreement (the "Site Plan Revisions");

WHEREAS, radio towers are an expressly permitted use by special exception within the RC-2 zoning classification;

WHEREAS, the Revised Site Plan eliminates or reduces all variances requested under the original petitions;

WHEREAS, all but three acres of the 103-acre Site will continue to be used for agricultural purposes or left in open space pursuant to the Easement;

WHEREAS, the parties hereto are entering into this Agreement in order, inter alia, to accomplish the land use planning objectives set forth in Section 1 hereof;

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

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Section 1. Land Use Planning Objectives.

The parties intend by this Agreement to promote the following land use planning objectives:

(a) to seal off the southwest end of the Caves Valley from the encroachment of land uses which are inconsistent or incompatible with preferred agricultural uses under the RC-2, rural agricultural zoning classification;

(b) to assure that there will be no future change in circumstances or conditions relating to the existing use of the Site for agricultural purposes;

(c) to preserve the Site in a manner which is consistent with the Baltimore County Master Plan;

(d) to establish a permanent buffer zone between Garrison Forest Road and the floor of the Caves Valley; and

(e) to confirm the role of Garrison Forest Road as a line of demarcation between resource conservation (RC) uses to the east and other, more intensive uses to the west.

Section 2. Implementation of Revised Site Plan.

In pursuit of the foregoing objectives, DKM will use its best efforts to seek prompt approval of the Revised Site Plan by the Baltimore County Board of Appeals, and the Community Groups will cooperate with all reasonable requests of DKM to support and expedite its petition for the Revised Site Plan. The Revised Site Plan shall expressly note this Agreement, as well as each of the three (3) Site Plan Revisions. The Revised Site Plan may also include such additional revisions or conditions as may be required by the Board of Appeals or a court of competent jurisdiction and are reasonably acceptable to all of the parties hereto. A fully executed and acknowledged counterpart of this Agreement shall be recorded by DKM among the Baltimore County Land Records, as the immediately succeeding document of record after the deed to DKM or its designee for the Site. The parties shall also cooperate in the preparation of a joint press release to publicize this Agreement promptly following the hearing before the Board of Appeals.

Section 3. Perpetual Conservation Easement.

Promptly following the recordation of the Deed, and prior to commencing construction of the Towers, DNM shall record among the Land Records a fully executed and acknowledged counterpart of a permanent and perpetual conservation easement to be prepared by the Community Groups and its counsel. It is expressly understood and agreed that it shall be the prerogative of the Community Groups to establish the terms and restrictions of the Easement, subject only to DNM's right to install, repair and maintain the Towers. Without limiting the generality of the foregoing, the Easement shall include the provisions summarized in Exhibit A attached hereto and such other provisions as the Community Groups may reasonably propose. The Easement shall be granted in favor of VFC and/or CA and/or Land Preservation Trust, Inc. and/or any other land conservation trust and/or such other grantee(s) or co-grantee(s) as the Community Groups may designate, each of which other grantee(s) or co-grantee(s) is hereby acknowledged to be a third party beneficiary of this covenant who may independently enforce DNM's obligations hereunder. Any payments or credits to which DNM may become entitled in consideration or recognition of the Easement shall be for the account of DNM; however, the availability or amount of any such payments or credits shall not be a condition of the granting of the Easement or a restriction upon the Community Groups' right to designate the grantee(s) and/or co-grantee(s) thereof. DNM acknowledges that its obligation to grant the Easement contemplated herein on a timely basis is specifically enforceable, inasmuch as it recognizes the inadequacy of money damages to compensate the Community Groups and other grantee(s) and co-grantee(s) for any failure or refusal to grant the Easement on a timely basis; and DNM hereby consents to the awarding of such injunctive relief as a court of competent jurisdiction may deem appropriate.

Section 4. Survival of Agreement.

This Agreement shall remain in full force and effect notwithstanding the filing and/or prosecution of an appeal by any third person from a favorable order of the Board of Appeals or any appellate tribunal, it being the intention of DNM diligently to seek final approval of DNM's petition for the Revised Site Plan and acquire the Site as soon as possible; provided, however, that DNM may cease in its efforts to obtain such final approval beyond August 1, 1988; and provided, further, that DNM shall be under no obligation to acquire the Site unless and until it has obtained final approval of the Revised Site Plan and such other regulatory approvals and building permits as it may reasonably deem necessary. The Community Groups shall cooperate fully, and at their own

expense, with all reasonable requests of DNM in seeking to obtain final approval of the Revised Site Plan, including (without limitation) the filing of pleadings, appearance in appropriate proceedings and mediation with community residents, governmental officials and other third persons who may object to the Revised Site Plan.

Section 5. Off-Site Agreement.

The parties acknowledge that they have entered into a supplemental, Off-Site Settlement Agreement on the date hereof, which has been fully disclosed to the Board of Appeals but which shall not be noted on the Revised Site Plan.

Section 6. Binding Effect.

This Agreement shall inure to the benefit of and be binding upon each of the parties hereto and their respective successors and assigns, whether by transfer, merger, acquisition, restructuring or otherwise, and including (without limitation) in the case of DNM, Summit-Baltimore Broadcasting Corporation ("Summit") and any other person who may, from time to time, become the legal title owner of the Site. The covenant set forth in Section 3 above to grant the Easement is intended to run with the land as a burden on the Site, as well as to benefit residential property owners in the Caves Valley area.

WITNESS the execution of this Agreement on behalf of each of the parties hereto by its duly authorized officer as of the day and year first above written.

WITNESS:

DNM-BALTIMORE BROADCASTING CORPORATION

By: [Signature] (SEAL)Title: V. C. [Signature]

WITNESS:

THE VALLEYS PLANNING COUNCIL, INC.

By: [Signature] (SEAL)

Title: President

CAVESWOOD ASSOCIATION

WITNESS:

By: [Signature] (SEAL)

Title: President

Exhibit A

Representative Terms of Easement

1. cooperate with historic district application, subject to grandfathering provisions permitting the subject tower facility described in Revised Site Plan
2. permit community to study, refurbish and maintain fort/barn structure at community expense
3. no other improvements, structures, paving; may repair or replace (but not relocate or enlarge) improvements shown on site plan
4. no road-widening grants to County or State, unless required as condition of subdivision or site plan approval
5. no rezoning from RC-2 or any successor classification
6. no public water or sewer
7. no relocation of towers, once installed per site plan
8. no increase in number or height of towers
9. continue to farm or leave in open space, meadows
10. bury copper wire system no less than 18 inches
11. limit type of lighting on towers to single red light at top of 2 of 4 towers and required obstruction lighting, unless otherwise required by regulatory authorities; no strobeoscopic lights
12. no shooting, hunting, archery, motor vehicles (other than vehicles needed in connection with permitted uses by owner), fires, dumping
13. keep open to public for hiking and horseback riding only, subject to reasonable restrictions consistent with permitted uses by owner
14. no fencing, except around structures and (if desired by owner) along Garrison Forest Road or across entrance
15. keep posted re no. 12 above
16. keep clean, free of debris
17. comply with all applicable health and safety regulations

18. right to designate co-grantee(s) at any time; right to convey easement; right to release easement and compel grant of replacement easement on substantially similar terms
19. deforestation limits, except where required for exercise of permitted uses by owner
20. no on-site employees; periodic inspection and maintenance only

State of Maryland,
Baltimore County

I HEREBY CERTIFY that on December 14th, 1987, before me, a Notary Public of the State of Maryland, personally appeared James G. Cox, who acknowledged himself to be the Vice President of DNM-Baltimore Broadcasting Corporation (the "Corporation") and that he, as such officer, being authorized so to do, executed the foregoing instrument on behalf of the Corporation for the purposes therein contained by signing the name of the Corporation by himself as such officer.

WITNESS my hand and Notarial Seal.

[Signature]
Notary Public
My Commission Expires: 7-1-90

State of Maryland,
Baltimore County

I HEREBY CERTIFY that on December 14th, 1987, before me, a Notary Public of the State of Maryland, personally appeared Richard B. Buck, who acknowledged himself to be the President of The Valleys Planning Council, Inc. and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Corporation by himself as such officer.

WITNESS my hand and Notarial Seal.

[Signature]
Notary Public
My Commission Expires: 7-1-90

State of Maryland,
Baltimore County

I HEREBY CERTIFY that on December 14th, 1987, before me, a Notary Public of the State of Maryland, personally appeared James G. Cox, who acknowledged himself to be the President of Caveswood Association (the "Association") and that

he, as such officer, being authorized so to do, executed the foregoing instrument on behalf of the Association for the purposes therein contained by signing the name of the Association by himself as such officer.

WITNESS my hand and Notarial Seal.

[Signature]
Notary Public
My Commission Expires: 7-1-90

VENABLE, BAETJER AND HOWARD
ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

WASHINGTON, D.C. OFFICE
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WASHINGTON, D.C. 20004
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VIRGINIA OFFICE
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440 NORTH HENDERSON ROAD
ARLINGTON, VIRGINIA 22204
(703) 243-9000

WRITER'S DIRECT NUMBER IS
244 7656

July 27, 1987

RECEIVED
JUL 27 1987

ZONING OFFICE

The Honorable Arnold Jablon
Zoning Commissioner of Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 88-21-XSPHA
(WCAO Radio Towers)

Dear Mr. Jablon:

Enclosed please find Protestants' Post-Hearing
Memorandum for the above-captioned matter.

Very truly yours,

[Signature]
Mitchell Polkin

MK:sem
Enclosure

cc: Stephen J. Nolan, Esq. (w/encl.)

By Hand

cc: [Signature]

IN RE * BEFORE THE
PETITIONS OF CAVES FARM * BALTIMORE COUNTY
INVESTMENT CO. AND DKM- * ZONING COMMISSIONER
BALTIMORE BROADCASTING *
CORPORATION FOR SPECIAL *
EXCEPTION FOR WIRELESS *
TRANSMITTING AND RECEIVING *
FACILITIES IN AN RC 2 ZONE *
AND FOR ZONING VARIANCES *
FROM PROPERTY SETBACK AND *
LANDSCAPING REQUIREMENTS * Case No. 88-21-XSPHA
AND FROM HISTORIC DISTRICT *
SETBACK REQUIREMENTS *

POST-HEARING MEMORANDUM

This memorandum is being submitted by the undersigned counsel for Protestants to summarize our position on the applicable law and facts of this Case.

I. Status of Petitions

Protestants, of course, request that the subject Petitions for Special Exception and for Zoning Variances, as filed, be denied. At the conclusion of Petitioners' direct testimony at the Hearing of this Case on July 20, 1987, its counsel for the first time requested leave to petition, in the alternative, for a special exception for radio towers not higher than 350 feet above grade level. Protestants request that this alternative petition be denied, with prejudice, for

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all of the reasons set forth below which are applicable to the original, filed Petitions and for the additional reason that Petitioners have failed to make any affirmative showing, much less to have carried their burden, of satisfying the requirements of paragraph (1) of §502.7C of the Baltimore County Zoning Regulations ("BCZR") with respect to 350' towers. (See pages 7-8 and 9-10, infra.)

If the Zoning Commissioner is not persuaded that Petitioners' alternative petition for 350' towers should be denied on the basis of BCZR, then Protestants submit that there is, nevertheless, an insufficient procedural basis for granting it. First, Protestants have not had a full and fair opportunity to prepare their opposition to the alternative petition. Whereas the Commissioner put counsel for Petitioners on notice as early as his letter dated December 12, 1986, of the very real possibility that a variance to the historic district setback requirements of BCZR §502.7A was not within his authority, and counsel for Petitioners therefore had over seven months in which to consider the strategic advisability of an alternative petition for 350' towers, the undersigned counsel for Protestants had no notice that Petitioners may have been considering an alternative petition and adapted his strategy, preparation and resources accordingly. For example, Protestants have not yet engaged professional experts in the fields of radio technology or environmental assessment and have relied instead primarily upon cross-examination of Petitioners'

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consultants as to these topics. Second, as a result of the timing of the alternative petition, Protestants did not have an opportunity at the Hearing to cross-examine Petitioners' witnesses as to the new issues presented by the alternative petition. (See page 7, infra.)

Finally, in the event that any of the subject filed Petitions or the alternative petition are granted by the Zoning Commissioner, Protestants respectfully request that the Zoning Commissioner stay the issuance of any building permits for the subject facilities, on the basis of the foregoing substantive and procedural considerations and in light of the potentially irreparable damage which the commencement of construction would cause to farming activity currently being conducted on the subject site.

II. Greenspring Valley Historic District

Protestants respectfully submit that the plain language of BCZR §502.7A establishes that in order to erect an over 350' radio tower within 1-1/2 miles of the Greenspring Valley Historic District ("GSVHD"), both of two requirements must be satisfied: (1) the tower must be set back at least ten times its height from the GSVHD and (2) that Commissioner must affirmatively find that the tower will not be detrimental to or detract from documented values of the GSVHD. Unlike the preamble to BCZR §502.7C relating to towers in RC zones, no power is conferred by Bill No. 117-84 to grant variances from the specific setback requirements imposed by BCZR §502.7A to

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protect historic districts. It is the Commission's duty to protect historic districts upon the Commission's own initiative.

Finally, under the provisions of the Appeals, 32 Md. App. 281, 1980, the historic district setback requirements constitute a "use" variance, and a radio tower in a "historic district" described in GSVHD plus a buffer zone equal to ten times its height, which it has been unequivocally excluded, and the height prescribed by the County Council will vary depending on the height of the tower is not inconsistent with this finding, especially since the Council has, in §502.7B, recognized the relevance of tower height in imposing the §502.7A setback requirements at all. Counsel for Petitioners has already conceded that, on the basis of a finding that Petitioners have requested a "use" variance alone, its filed petitions must be denied.

Even if a variance from the historic district setback requirements could be granted, there was, we respectfully submit, clear and compelling evidence adduced at the Hearing that the height, placement and visibility of the towers would be not merely detrimental to or detracting from the GSVHD's documented values (the low threshold established by §502.7A) but, indeed, substantially so. See, for example, the testimony of John W. McGrain, Stiles T. Colwill and Albert L. Cummings, as well as the letter to the Zoning Commissioner from Norman E.

protect historic districts. Nor is that authority conferred upon the Commissioner under §307 of BCZR.

Finally, under the rule of Anderson v. Board of Appeals, 22 Md. App. 28, 37-38 (1974), the variance from historic district setback requirements requested by Petitioners constitutes a "use" variance, since Petitioners seek to locate a radio tower in a "district" (described under §502.7A as the GSVND plus a buffer zone equal to ten times tower height) from which it has been unequivocally excluded. That the buffer zone prescribed by the County Council will vary depending upon the height of the tower is not inconsistent with this conclusion, especially since the Council has, in §502.7B, recognized the relevance of tower height in imposing the §502.7A setback requirements at all. Counsel for Petitioners has already conceded that, on the basis of a finding that Petitioners have requested a "use" variance alone, its filed Petitions must be denied.

Even if a variance from the historic district setback requirements could be granted, there was, we respectfully submit, clear and compelling evidence adduced at the Hearing that the height, placement and visibility of the towers would be not merely detrimental to or detracting from the GSVND's documented values (the low threshold established by §502.7A) but, indeed, substantially so. See, for example, the testimony of John W. McGrain, Stiles T. Colwill and Albert L. Cummings, as well as the letter to the Zoning Commissioner from Norman E.

Gerber, Director of the Office of Planning and Zoning, dated July 7, 1987 (the "Gerber letter"), the Nomination Form for the GSVND submitted to the United States Department of the Interior on January 29, 1980, and the Maryland Historical Society's two-volume treatise, The Green Spring Valley: Its History and Heritage, authored by Dawn F. Thomas, which was authenticated by Mr. Colwill at the Hearing and of which Protestants respectfully request that the Zoning Commissioner take judicial notice. Neither the importance of these documented values nor the fact that the proposed towers will have a detrimental or detracting impact has been seriously challenged by Petitioners. (See testimony of David H. Gleason.) Indeed, Protestants respectfully submit that given the magnitude of the requested variance (almost one-half of a mile and 60% of the legislatively directed minimum), the Zoning Commissioner can find as a matter of law that the towers will be detrimental and will detract.

III. Radio Towers in an RC Zone

§502.7C stipulates eleven specific, additional requirements which must be satisfied in order to place a radio tower in an RC zone. In the absence of a valid variance, these requirements are clearly stated and must be strictly applied, even if the tribunal disagrees with them. See Kassab v. Burkhardt, 34 Md. App. 699, 705 (1977). See also, Gotach Center for Health v. Board of County Commissioners of Frederick County, 60 Md. App. 477, 485 (1984), holding that the Gow

standard remains applicable where legislatively directed and suggesting. Protestants respectfully submit, that where the County Council imposes specific prerequisites (as in the case of §502.7C) to a special exception for a particular zone, the Gow standard applies to the petition for special exception with respect to the particular kinds of impacts (described here in paragraphs (1) through (11) of §502.7C) addressed by the legislation, absent a valid variance.

A. Alternative Sites

1. For 373' Radio Towers

Evidence adduced at the Hearing shows, we respectfully submit, that Petitioners did not make a diligent search for a location within a business, office or industrial zone, as required under paragraph (1) of §502.7C. Of the twenty-one sites which were identified by Bernard R. Segal and Alan Orman, only three (items 6, 7 and 15 on Mr. Orman's list) were affirmatively identified (and even then, without supporting file documents or other substantiation) as being commercially zoned; and of these three sites, only one (the former Colts training complex) met the minimum acreage criteria established by WCAO in directing that a "search" be made.

Protestants also contend that WCAO's existing Park Heights Avenue location is a viable alternative site within the meaning of BCZR §502.7C(1). WCAO's operating performance is satisfactory to its parent company, DKM Broadcasting Corporation, and is asserted to be in compliance

with applicable FCC regulations. The sole apparent motivation for moving is the prospect of enhanced advertising revenues and the profit (evidence as to which was proffered by Protestant's counsel at the Hearing) which WCAO hopes to realize on the swap of its more valuable Park Heights Avenue property for the subject rural site.

2. For 350' Radio Towers

Petitioners' witnesses, including Richard L. Smith and Bernard R. Segal, testified that tower height has a direct effect on minimum acreage requirements and technical constraints in selecting an appropriate site. This relationship is confirmed by simple mathematics (for example, the property line setback requirement is two times tower height under §502.7C(2) of BCZR) and by counsel for Petitioners (who stated in making his alternative petition at the Hearing for 350' towers that the reduction in height would deprive WCAO of the technical ability to transmit stereophonic broadcasts). Applying the foregoing principle, it should obviously be easier -- perhaps substantially easier -- to find alternative sites for shorter towers; however, the record before the Zoning Commissioner is devoid, we respectfully submit, of any showing that Petitioners have made a diligent search for alternative sites suitable for radio towers which are only 350 feet in height. Indeed, the availability of such sites was not even placed at issue by the pleadings in this Case, nor was it at issue at any time during Petitioners' direct testimony at the

Hearing. In light of the foregoing, and the unequivocal requirements of §302.7C(1), Protestants respectfully suggest that Petitioners' alternative petition for 350' radio towers can be denied as a matter of law.

Finally, Protestants note that there was no direct evidence adduced by Petitioners at the Hearing to establish whether or not the existing WCAO site at Park Heights Avenue would be a viable alternative for the installation of a new 350-foot tower system which is designed to achieve the reduced operating objectives now contemplated by Petitioners' alternative petition. (See pages 9-10, infra.)

B. Surrounding Property Values

While the parties presented conflicting testimony as to whether surrounding property values would be substantially and adversely impacted within the meaning of paragraph (11) of BCZR §502.7C, Protestants respectfully submit that the testimony of W. James Howard was more authoritative and persuasive than that of Edward A. Griffith. Though no doubt well intentioned, Mr. Griffith is a commercial real estate broker with little experience in residential sales, much less residential sales in the Greenspring Valley. Moreover, he was unable to produce any data showing stable or increasing prices for residential properties located in a rural conservation zone or within or in the vicinity of an historic district. Mr. Howard, on the other hand, has established expertise and many years of first-hand experience in residential sales in and

around the GSVHD and is a long-time resident of the Greenspring Valley. As Mr. Howard noted on cross-examination, he cannot offer sales data to illustrate his conclusions for the simple reason that Baltimore County residents have so far been spared the erection of radio towers in such close proximity to rural and historic areas such as the Greenspring Valley. Finally, Protestants respectfully suggest that Mr. Howard's opinions are also consistent with common sense, as reflected by the testimony of James G. Cox and the views of the neighborhood residents whom he represents.

C. Environmental Impact

The environmental impact assessment presented by Carey W. Burch was incomplete and contradicted in several important respects. For example, contrary to Mr. Burch's assertion on page 30 of his report that the towers will not be visible from most vantage points in the GSVHD, the Gerber letter states that vistas at the west end of the Greenspring Valley will be adversely impacted. Furthermore, Mr. Burch's own photographs of the tower site vividly demonstrate that from "vantage points [which] represent the views of the proposed antennas which would be available to most people along public roads in the area" (page 13 of his report), the radio towers would intrude upon what would otherwise be beautiful and uncluttered rural viewsheds. Finally, Mr. Burch has conceded that his assessment of the impact on wildlife in the area was made without the benefit of sophisticated field techniques and

equipment. For these reasons, Petitioners have not satisfied the burdens imposed by paragraph (10) of §502.7C of BCZR.

IV. Standards for Variances

There are at least three separate, cumulative standards under §307 of BCZR which are applicable to this Case.

A. Practical Difficulty or Unreasonable Hardship

As previously noted (See pages 7-8, supra), there has been no evidence presented to establish any practical difficulty in designing a 350' tower system on the existing Park Heights Avenue site. Indeed, if as little as 40 acres might have been sufficient for WCAO's purposes with respect to its original plan for 373' towers (note the testimony of Mr. Orman), who is to say that 32 acres will not suffice for 350' towers under its alternative plan, especially in light of the fact that four 305' towers already sit on those 32 acres at Park Heights Avenue? Nor have Petitioners shown unreasonable hardship should their Petitions be denied. James W. Wesley, Jr. testified that WCAO's current operations are financially satisfactory and that it would continue to operate, without undue hardship, if it remains where it is. Moreover, Mr. Wesley has frankly stated that when DKM Broadcasting Corporation acquired WCAO in 1984, it was aware of the technical limitations of the existing Park Heights Avenue site.

B. Strict Harmony with Spirit and Intent of Regulations

Petitioners' rationale for requesting a variance from the landscaping requirements of BCZR §502.7C(5), as articulated

by Mr. Smith, is that the County Council did not "understand" that compliance would cause mechanical problems for WCAO's desired type of antenna/mesh system. Indeed, Mr. Smith strongly suggests that compliance would not be possible for anyone utilizing this design. A more direct contradiction of the "strict harmony" standard enunciated in BCZR §307 is difficult to imagine, for what is being suggested is that the landscaping requirements here be abandoned, notwithstanding the County Council's stated intent that the visual impact of radio towers be minimized in the context of the surrounding, rural countryside. We respectfully submit that the Kassab Case (cited at page 5, supra) requires that this intent be honored.

Similarly, in justifying the need for property line setback variances, Mr. Smith suggested that the County Council may not have appreciated the effect which compliance would have on site selection, pointing out that 88 "usable" acres would be necessary under BCZR §502.7C(2), rather than the 57 acres which he contends are technically sufficient. Protestants respectfully submit that the Council intended by its property line setback requirements to have precisely this effect, thus protecting neighboring landowners and preserving the rural character of the RC 2 zone for all County residents to enjoy.

Finally, to suggest that a nearly one-half mile, 60% variance from historic district setback requirements is somehow in "strict harmony with the spirit and intent" of Bill No. 117-84 strains one's credulity and can, we respectfully

suggest, be dismissed as a matter of law. (See discussion at pages 3-5, supra.)

Aside from the specific regulations from which variances are being sought in this Case, Protestants respectfully suggest that in applying §307, the Zoning Commissioner should also consider the spirit and intent of the principles of land use planning and rural conservation which have been adopted by the County Council and followed by the Office of Planning and Zoning. These principles are embodied in the Baltimore County Master Plan, and the office primarily responsible for interpreting the Master Plan has concluded that the proposed towers are contrary to the Master Plan. See Gerber letter. In addition, testimony was presented at the Hearing to the effect that the proposed towers would represent the first commercial use of land on the east side of Garrison Forest Road, a critical line of defense in protecting the Greenspring and Caves Valleys from the advancing threat of development from the Owings Mills Tower Center to the west. See, e.g., testimony of Richard B. Buck. Such a breach could place these important areas in serious jeopardy.

C. No Substantial Injury to General Welfare

Evidence adduced at the Hearing established that, in addition to being within 1500 feet of the GSVHD, the proposed radio towers would be within 2100 feet of St. Thomas' Church and within 1000' of Atamasco. The stunning historical and architectural significance of these treasured Baltimore County

resources is incontrovertible. (See testimony and documents referenced at pages 4-5, supra, including cover photograph of Atamasco and pages 212-221 of first volume of Maryland Historical Society treatise, The Green Spring Valley: Its History and Heritage, discussing Atamasco.) In addition, the testimony of Mr. McGrain and Mr. Colwill, as well as the article, "Can this be Fort Garrison?" by Reynolds J. Horpel, suggest an intriguing scholarly discussion of the possibility that the original Fort Garrison may be located on the subject site itself, no more than 750 feet from proposed towers no. 2 and no. 3 and 375 feet from their respective grounding wire networks.

The preservation of significant historical sites is important for the general welfare of the residents of Baltimore County. See, e.g., Baltimore County Master Plan, Open Space and Recreation Plan, volume 4, at page 2 ("Areas noted for their ... historical significance are ... worthy of protection. New development ... near historic sites should be compatible with their historic character."), and the Zoning Commissioner's "Findings of Fact and Conclusions of Law" in Case No. 84-284-X (WGRX radio tower) at pages 10-11 ("The law in Baltimore County is clear; i.e., there is a statutory direction to preserve and protect structures and places of historical value, and certainly, it is for the general welfare of the people of Baltimore County that such consideration must be given. The spirit and intent of the BCZR can only be

satisfied by compliance with the overall intent of the comprehensive plan for the County.") Also see testimony of Mr. McGrain, Mr. Colwill, Mr. Cummings and Wm. Hugh Bagby, all to the effect that the proposed WCAO radio towers are incompatible with the GSVHD, St. Thomas' Church and Atamasco, and that these towers are anathema to the preservation and protection of the GSVHD.

Equally injurious to the general welfare is the substantial adverse impact which the proposed towers would have on existing productive farmland. Petitioners' testimony that the subject site will continue to be farmed is not credible, at least as to the 48 acres to be planted with copper mesh wire under the surface and covered by a web of guy wires above the surface. Moreover, Petitioners have made no specific, detailed commitments to date with respect to agricultural and/or conservation easements which would protect this sensitive and strategically important site from further development.

Finally, Protestants respectfully suggest that the substantial public turnout at the Hearing and the letters which the Zoning Commissioner has received from area residents may be taken as an indication of the widespread and intense opposition which the WCAO radio towers proposal has sparked in the area, and should be respected as a statement of injury to general welfare from the point of view of those who would be most directly affected.

V. Conclusion

For all of the above-mentioned reasons, as well as on the evidence of other adverse effects adduced at the Hearing, we respectfully submit that the Zoning Commissioner should deny the special exception and variances requested in this Case, leaving it to WCAO to re-evaluate its Park Heights Avenue site or to seek another, more appropriate and compatible site without the special and unique features that are threatened here.

Respectfully submitted,



Mitchell Kolkin
Venable, Baetjer and Howard
Two Hopkins Plaza, Suite 1800
Baltimore, Maryland 21201
(301) 244-7400

Counsel for Protestants
The Valleys Planning Council, Inc.,
Caveswood Association and various
individual area residents

Dated: July 27, 1987

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of July, 1987, a copy of the foregoing Post-Hearing Memorandum was mailed to Stephen J. Nolan, Esquire, Nolan, Plumhoff & Williams, 204 West Pennsylvania Avenue, Towson, Maryland 21204.



Mitchell Kolkin

Stephen J. Nolan, Esquire
204 West Pennsylvania Avenue
Towson, Maryland 21204

June 9, 1987

NOTICE OF HEARING

RE: PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING
AND VARIANCES
E/S Garrison Forrest Road, 2145' S of c/l
of Crondall La.
4th Election District - 3rd Councilmanic District
Caves Farm Investment Co. - Petitioner
Case No. 88-21-XSPHA

TIME: 1:30 p.m.

DATE: Monday, July 20, 1987

PLACE: Room 106, County Office Building, 111 West Chesapeake
Avenue, Towson, Maryland

No. 32542

Commissioner
of the County

LANDMARK COMMUNITY NEWSPAPERS OF MARYLAND, INC.

Westminster, Md. July 2, 1987

THIS IS TO CERTIFY that the annexed Req. # M03279 P.O. #89030
was published for one (1) ~~XXXXXX~~ days previous
to the 2nd day of July 1987 in the

- ☐ Carroll County Times, a daily newspaper published
in Westminster, Carroll County, Maryland.
☐ Randallstown News, a weekly newspaper published
in Baltimore County, Maryland.
☒ Community Times, a weekly newspaper published
in Baltimore County, Maryland.

LANDMARK COMMUNITY NEWSPAPERS OF MARYLAND, INC.

Per *Donna Keyser*

RE: Petition for Special
Exception, Special Hearing
And Variances

E/S Garrison Forest Road,
2145' S of c/l of
Crondall Lane
4th Election District
3rd Councilmanic District

Caves Farm Investment
Co., et al., Petitioners

BEFORE THE
ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No.: 88-21-XSPHA
Item No. 412

ORDER FOR APPEAL

Please enter an appeal from the decision of the Zoning
Commissioner dated August 4, 1987. The names and addresses of
the Appellants are as follows:

Caves Farm Investment Company
520 South Caton Avenue
Baltimore, Maryland 21229

DKM-Baltimore Broadcasting Corp.
8001 Park Heights Avenue
Baltimore, Maryland 21208

Stephen J. Nolan
Stephen J. Nolan

RECEIVED

No. 33154

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

DATE 8/5/87 ACCOUNT 8-01-615-000

AMOUNT \$250.00

RECEIVED FROM *Stephen J. Nolan, Esq., Nolan, Plumbhoff & Williams*
204 W. Pennsylvania Ave., Towson, Md. 21204

FOR Appeal Filing & Postage Fees in Case #88-21-XSPHA

8 8092*****2650012 30547

VALIDATION OR SIGNATURE OF CASHIER

neys for Appellants

SERVICE

4th day of August, 1987.

Appeal were mailed, postage

prepaid to Mitchell Kolkin, Esquire, Venable, Baetjer & Howard,
2 Hopkins Plaza, 1800 Mercantile Bank and Trust Building,
Baltimore, Maryland 21201, attorneys for the Protestants;
Phyllis Cole-Friedman, People's Counsel, and Peter Max
Zimmerman, Deputy People's Counsel, Court House, Second Floor,
Towson, Maryland 21204; and to Board of Appeals, Room 200,
Court House, Towson, Maryland 21204.

Stephen J. Nolan
Stephen J. Nolan

3003A

RECEIVED
4th

ZONING OFFICE

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

THE GREEN SPRING VALLEY

History and Heritage



A HISTORY AND HISTORIC HOUSES



R.C.2.

R.C.2

THE CAVES

R. C. 2.

SUBJECT PARCEL

R.C.1

R.C.2.

R.C.2.

D.R.1

D.R.1

R.C.5.

405x12-23

A SINCE THE ZONING COMMISSION ORDER DATED AUGUST 4, 1987 IN CASE NO. 88-21-XFHA, THIS SITE PLAN HAS BEEN REVIEWED AND:

(1) ELIMINATE VARIANCE REQUEST FROM BILL 117-BY REDUCING TOWER HEIGHTS TO 85'; (2) ELIMINATE LATERAL SETBACK VARIANCE REQUEST; (3) REDUCE THE BACKSET VARIANCES FOR THE TOWERS; AND (4) ADD NOTE RE FELLOW PROPERTY OWNERS TO THE FINALITY OF AN ORDER OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY GRANTING THE SAME.

B. THE CITY OF BALTIMORE HAS A HEALTH CARE FACILITY SITUATION ON THE ADJACENT LOT.

C. SHALL IMMEDIATELY UPON ACQUISITION OF THE SUBJECT SITE, BE SUBJECT TO THE TERMS AND CONDITIONS OF AN "IN-SITU SETTLEMENT AGREEMENT" (NCAO RADIO TOWERS) DATED AS OF DECEMBER 16, 1987 BY AND AMONG DKM, THE VALLEYS PLANNING COUNCIL, INC. (VPC) AND CAVEBWOOD ASSOCIATES (NCA). UPON ACQUISITION OF THE SITE, THE SETTLEMENT AGREEMENT SHALL BE PROMPTLY RECORDED AMONG THE PUBLIC RECORDS OF BALTIMORE. NCAO SHALL GRANT A PERPETUAL EASEMENT AND PERPETUAL CONSERVATION EASEMENT AT THE SOLE OPTION OF VPC AND NCA, SUBJECT TO DKM'S RIGHT TO CONTINUED USE OF THOSE PORTIONS OF THE SITE AS SHOWN HEREIN FOR RADIO TOWER AND EQUIPMENT BUILDING USES.

FENCES WILL BE 6 METERS
FROM TOWER BASE OR WILL MEET
OR EXCEED CURRENT FEDERAL
STANDARDS FOR MINIMUM SAFE
DISTANCES FROM TOWERS

TYPICAL PLAN
ANTENNA BASE Δ

LOCATION PLAN

GENERAL NOTES

1. TOTAL AREA OF PROPERTY EQUALS 3230 ACRES
2. AREA OF PROPERTY REQUESTING "SPECIAL EXCEPTION" VARIANCE IS 102.8 ACRES
3. EXISTING ZONING OF PROPERTY "R-2"
4. EXISTING USE OF PROPERTY "FARM USE"
5. PROPOSED USE OF 102.8 ACRES PARCEL "RADIO ANTENNAS FOR A M BROADCASTING STATION"
6. OFF-STREET PARKING DATA
 - A. PROPOSED BUILDING AREA 1184 SQUARES FT. REQUIRING 3.0 SPACES + 4 (YARD G.P.)
 - B. PROPOSED DRIVEWAY AREA 5 SQUARES FT. REQUIRING 0.1 SPACES
7. EXISTING TREE LINES & BUFFER SHADES OUTLINE (PLANT) ARE TO REMAIN UNDISTURBED
8. TRANSMITTER BUILDING WILL HOUSE ELECTRONIC EQUIPMENT (EMERGENCY DIESEL GENERATOR FOR EMERGENCY POWER).

Δ VARIANCE REQUESTED

1. VARIATION REQUIRED (SECTION 304.72(2) OF THE BCES) SETBACK SMALL, LARG, OR BARELY
 1. VARIATION: 1.5 FT. OF 1.5 FT. SETBACK LINE ABOVE REQUIRED 1.5 FT. TO THE PROPERTY LINE (300' x 2' 700')
 1. TOWER N2-1: VARIATION TO 200' PROPERTY LINE OF 40' INSTEAD OF THE REQUIRED 700' (SETBACK OF 1100')
 1. VARIATION TO NORTH PROPERTY LINE OF 55' INSTEAD OF THE REQUIRED 700' (SETBACK OF 645')
 1. TOWER N2-2: VARIATION TO EAST PROPERTY LINE OF 200' INSTEAD OF THE REQUIRED 700' (SETBACK OF 500')
 1. TOWER N2-3: VARIATION TO SOUTHEAST PROPERTY LINE OF 60' INSTEAD OF THE REQUIRED 700' (SETBACK OF 1100')
 1. VARIATION TO WEST PROPERTY LINE (GARRISON HUBST 102) OF 100' INSTEAD OF THE REQUIRED 700' (SETBACK OF 1000')
 1. TOWER N2-4: VARIATION TO WEST PROPERTY LINE (GARRISON HUBST 102) OF 100' INSTEAD OF THE REQUIRED 700' (SETBACK OF 1000')

SECTION 902.7(C) NOTES

1. STRUCTURES SHALL BE LOCATED ON A TOTAL OF 1082 AC. OF LAND MEAS. OR LESS.
2. THE STRUCTURE BASE AND EACH BUT WIRE BOND AND THE TRANSMITTER BUILDING WILL BE ENCLOSED WITH MINIMUM 6 HIGH WIRE SECURITY FENCE WITH 3 STRANDS OF BURIED WIRE ON TOP OF EACH FENCE.
3. A LANDSCAPE PLAN DESIGNED TO MINIMIZE THE VISUAL IMPACT OF ACCESSORY BUILDINGS AND THE LOWEST PORTION OF THE STRUCTURE SHALL BE SUBMITTED TO AND APPROVED BY THE DIRECTOR OF THE DIRECTOR OF THE STATE OF PLANNING & ZONING.
4. ALL ELECTRICAL WIRING AND ALL ELECTRICAL EQUIPMENT AND BUILDINGS RELATIVE TO RADIATION (RADIO FREQUENCY) EMISSIONS SHALL BE MET AT ALL TIMES.
5. NO LIGHTS SHALL BE ILLUMINATED THE STRUCTURES SHALL BE KEPT DARK.
6. IN THE EVENT OF A FIRE OR OTHER IN THE EVENT OF SUBSTANTIAL DAMAGE A CERTIFICATION BY A STATE-licensed PROFESSIONAL ENGINEER SHALL BE FILED WITH THE DEPARTMENT OF PLANNING & ZONING INDICATING THAT THE DAMAGE TO THE STRUCTURE IS SUBSTANTIAL AND THAT THE STRUCTURE IS BEING REPLACED OR REPAIRS ARE REQUIRED TO COMPLY WITH ANY STANDARDS IN THE ZONING REGULATIONS OR TO BRING THE STRUCTURE BACK TO THE ORIGINAL CONDITION OF THE STRUCTURE.
7. NO WIRE OR CABLES SHALL BE EXPOSED.

EXHIBIT

SHOWING 700' RADIUS FROM TOWER

PLAT TO ACCOMPANY PETITION
FOR
SPECIAL EXCEPTION & VARIANCES
VICINITY

GARRISON FOREST ROAD & ROSEWOOD LANE

ELECTION DISTRICT 4

BALTIMORE COUNTY, MD.

SCALE: 1" = 200'

FEBRUARY 26, 1987

KIDDE CONSULTANTS, INC.
LAND PLANNERS • ENGINEERS • LANDSCAPE ARCHITECTS
1020 CROMWELL BRIDGE ROAD, TOWSON, MARYLAND 21204, 301-321-5500

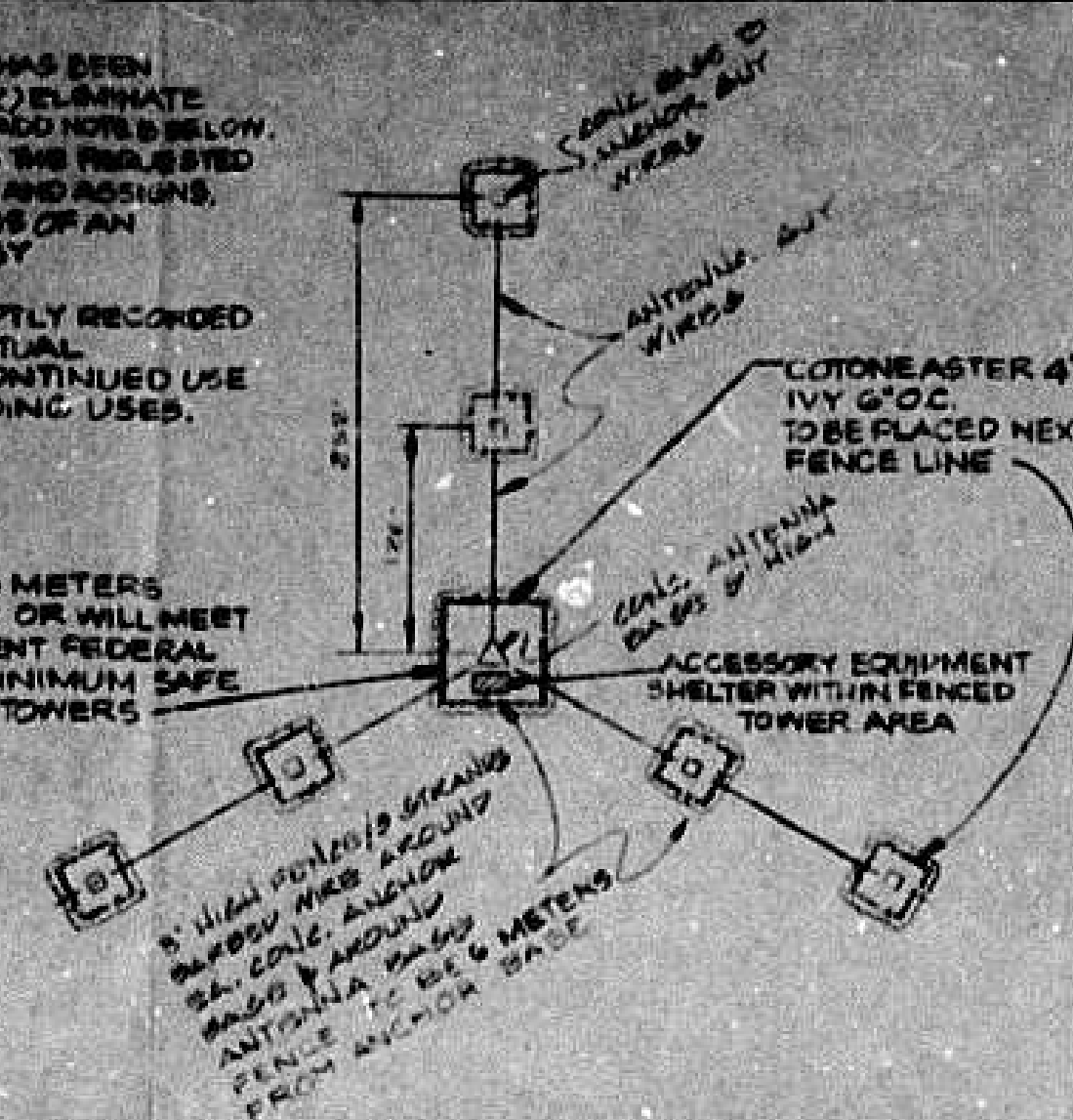
DRAWN: KLB	A	REV'D NOTE 'M' IN NOTE 2, SECTION 502.7(C)	12-14-87
DESIGNED: KLB	A	REV'D TOWER HEIGHT TO 350'. REV'D TOWER ELEV. 175'. REV. TYP. PLAN ANTENNA BASE.	
0		REV'D WINDING NOTES TO REFLECT REMOVED VAR. NOTED: 2-6. ADDED: 1-10. ANTENNA TO ANTENNA BASE PLAN. REV. DIM. NOTE 4. REV. SMT. 502.7 NOTE 4. ADDED NOTES: REV. DIM. TYP. PLAN TRANSMITTER BLDG.	12-19-87
DESIGNED: KLB	No	REVISIONS	DATE

Exh #15

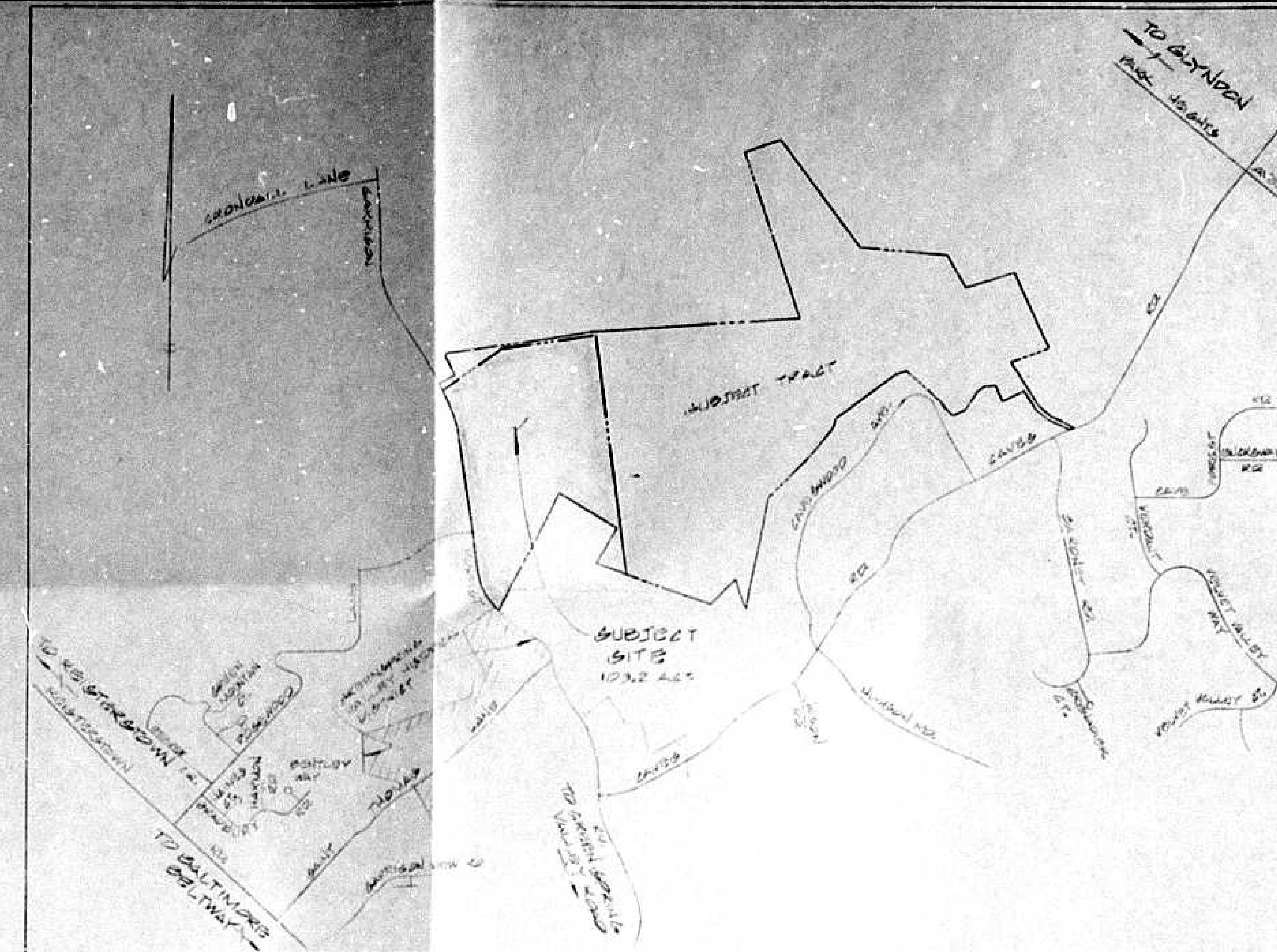


01-52349

FENCES WILL BE 6 METERS FROM TOWER BASE OR WILL MEET OR EXCEED CURRENT FEDERAL STANDARDS FOR MINIMUM SAFE DISTANCES FROM TOWERS



TYPICAL PLAN
ANTENNA BASE Δ



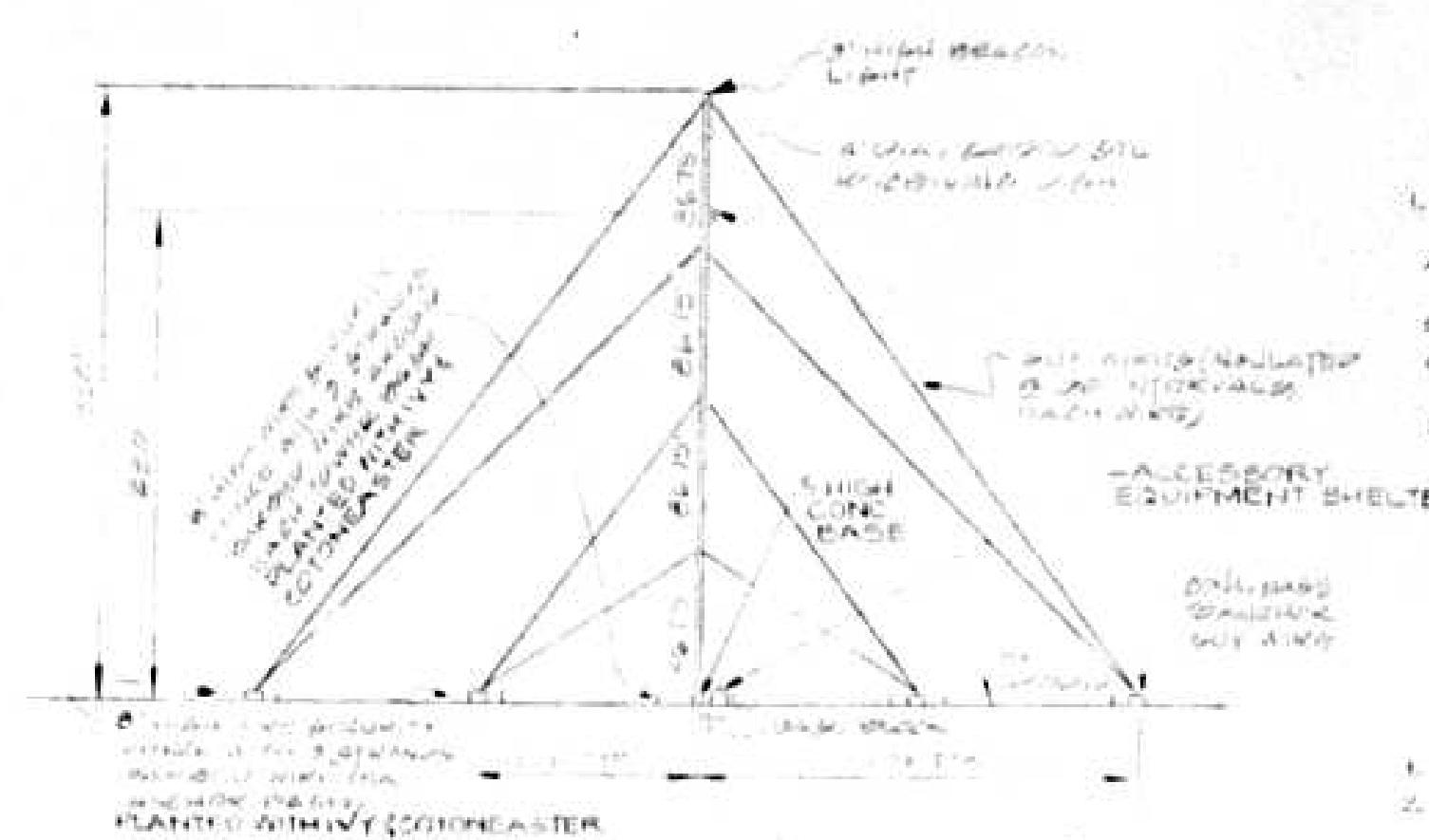
LOCATION PLAN

GENERAL NOTES

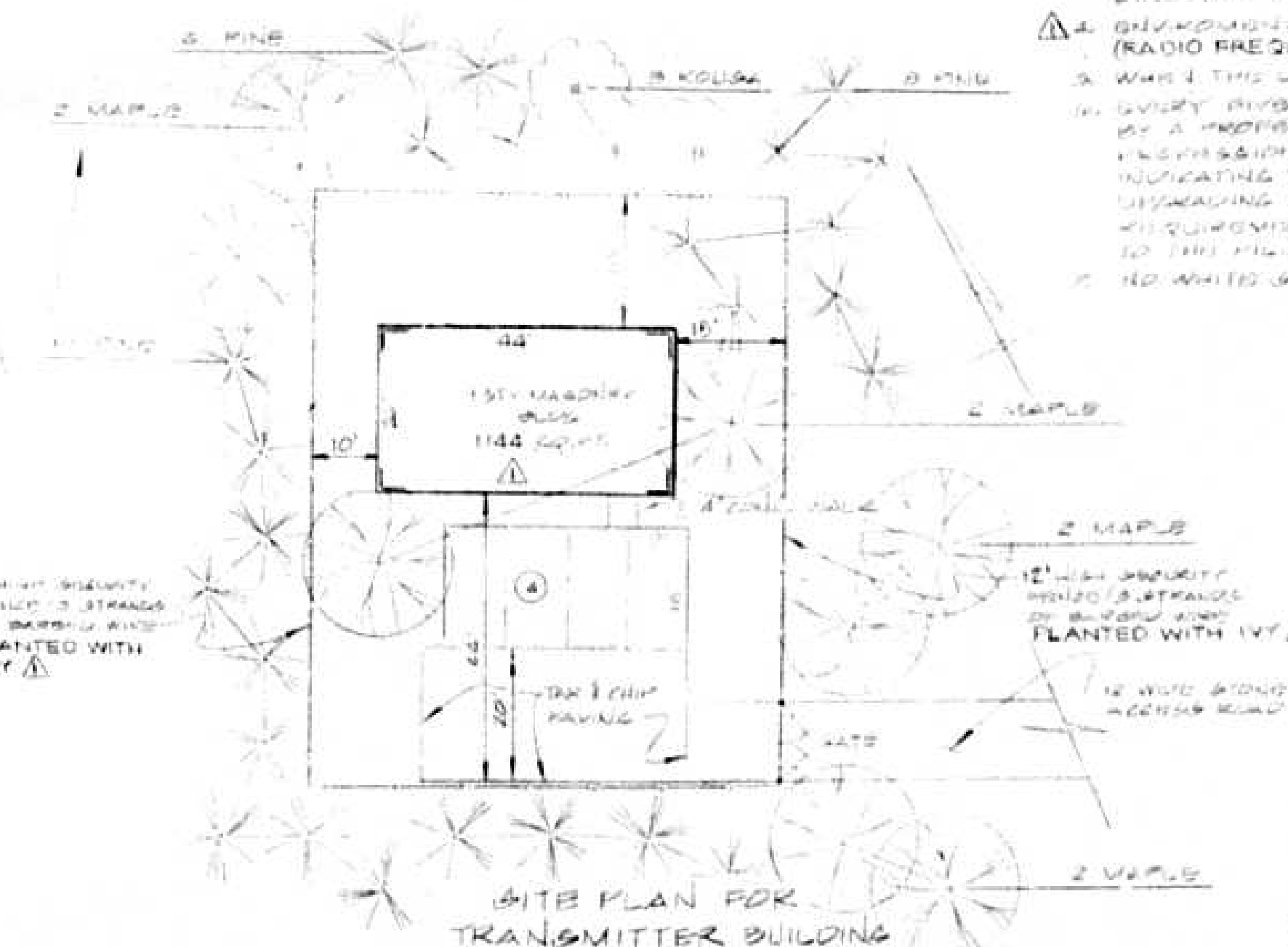
1. TOTAL AREA OF PROPERTY EQUALS 932.2 ACRES
2. AREA OF PROPERTY REQUESTING SPECIAL EXCEPTION & VARIANCES "103.2 ACRES
3. EXISTING ZONING OF PROPERTY "C-2"
4. EXISTING USE OF PROPERTY "PARK USE"
5. PROPOSED USE OF 103.2 ACET PARCEL RANG ANTENNAS FOR A.M. BROADCASTING STATION
6. OFF-STREET PARKING DATA
 - a. PROPOSED BUILDING AREA=1144 SQUARE FT. REQUIRING 38.6 SPACES-4 (N/A) (2015)
 - b. PROPOSED PARKING = 4 SPACES (9'X15) 608 SQ.FT. PLAN.
7. EXISTING TREES WHICH WOULD REMAIN OUTLINE ON PLAT) AND TO REMAIN UNDISTURBED
8. EXISTING UTILITIES WHICH WILL HOLD ELECTRIC EQUIPMENT IMMEDIATELY DISSEB GENERATOR FOR EMERGENCY POWER.

Δ VARIANCE REQUESTED

- [illegible]



TYPICAL ELEVATION OF TOWER Δ



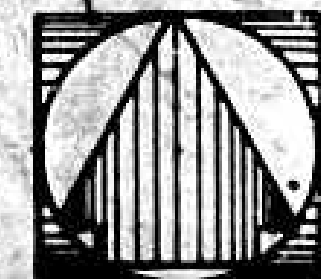
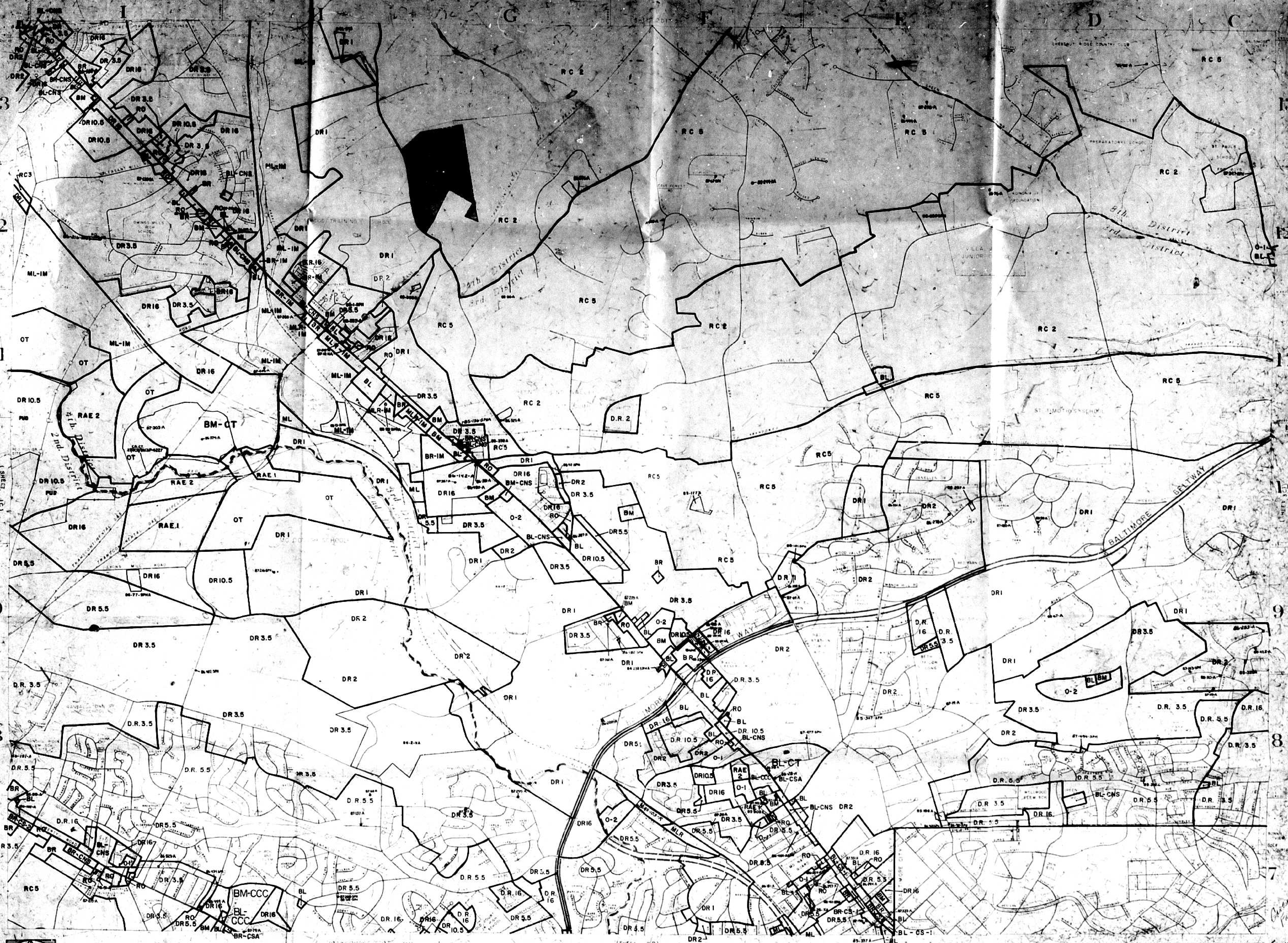
SITE PLAN FOR
TRANSMITTER BUILDING

Petersons
Exh #13

PLAT TO ACCOMPANY PETITION
FOR
SPECIAL EXCEPTION & VARIANCES
VICINITY
GARRISON FOREST ROAD & ROSEWOOD LANE
ELECTION DISTRICT 4 BALTIMORE COUNTY, MD
SCALE = 1" = 200' FEBRUARY 26, 1987

KIDDE CONSULTANTS, INC.
LAND PLANNERS • ENGINEERS • LANDSCAPE ARCHITECTS
1020 CROMWELL BRIDGE ROAD, TOWSON, MARYLAND 21204 301-321-5560

CRANK R/L	2	REV'D NOTE 1, NOTE 2, SECTION 502.3(C)	12-14-87
SWERK R/L	1	REV'D POWER MOUNT TO 550, REV'D TOWER FLOW, REV'D PLAN, ANTENNA BASE	12-15-87
FRANK R/L	1	REV'D VAN ANTENNA BASE, REV'D ANTENNA VAN IN TRF 2, ADDED LAMP/CIRCUIT TO ANTENNA CASE PLUG, REV'D NOTE 4, REV'D NOTE 2 NOTE 4, ADDED NOTE 4, REV'D PLAN, TRANSMITTER BLDG	12-15-87
SWERK R/L	1	REV'D 502.3	12-15-87



**BALTIMORE COUNTY OFFICE
OF PLANNING AND ZONING**

PIKESVILLE

BALTIMORE COUNTY BASE MAP SERIES

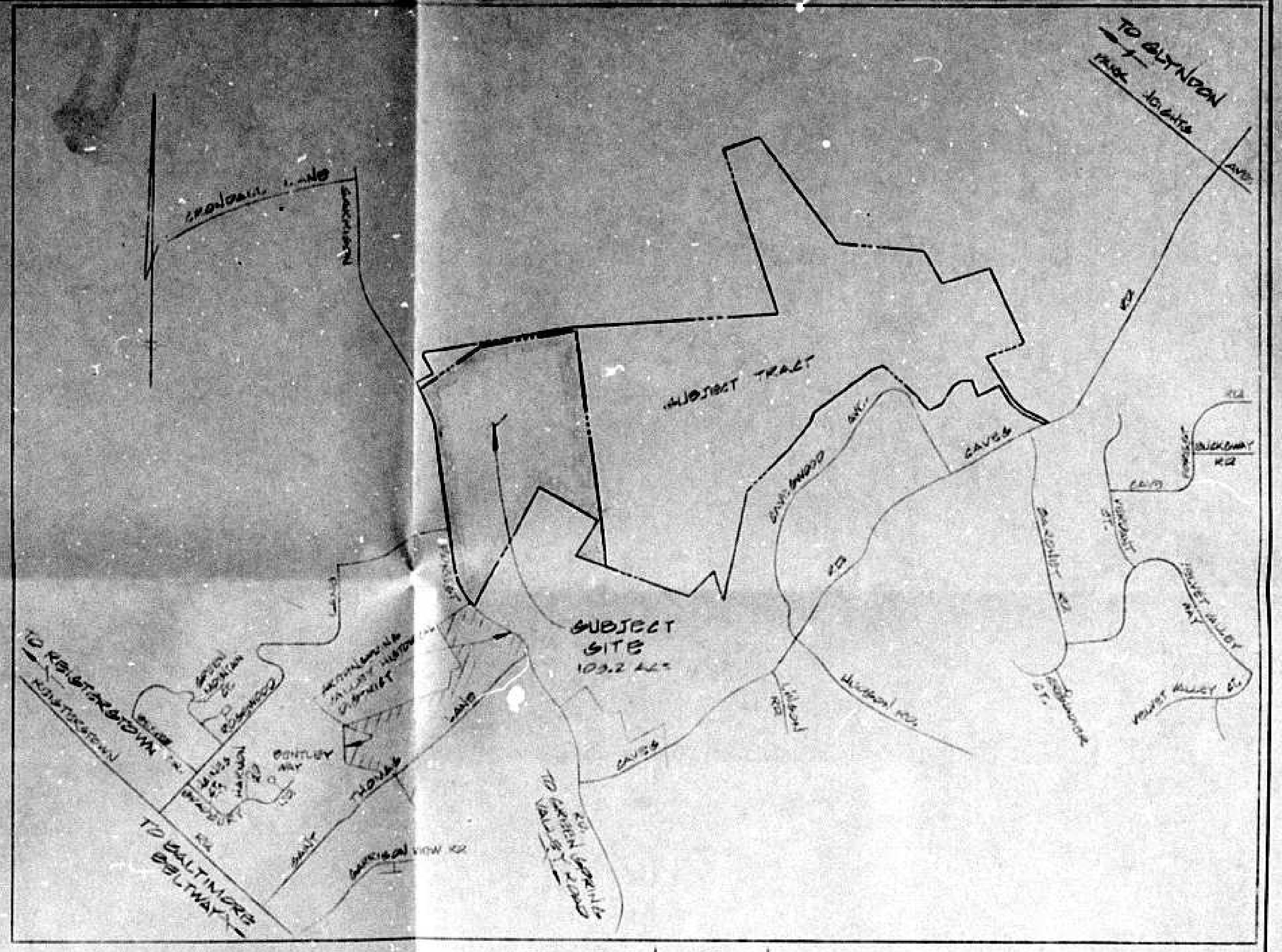
STAYED DATE	
NOV 60	DEC 74
DEC 61	SEPT 74
MAR 66	JUNE 75
AUG 67	FEB 76
SEPT 68	MAY 76
MAR 69	JAN 77
MAY 70	MAR 78
AUG 71	
JAN 73	

2C

A. SINCE THE ZONING COMMISSIONER ORDER DATED AUGUST 1987 IN CASE NO. 87-21-10784, THIS SITE PLANNING AND LANDSCAPE ARCHITECTURE FIRM HAS BEEN REQUESTED TO PREPARE A SITE PLAN FOR THE PROPOSED RADIO TOWER AND TRANSMITTER BUILDING. THE COMMISSIONER HAS ORDERED THAT THE SITE PLAN BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL. THE COMMISSIONER HAS ORDERED THAT THE SITE PLAN BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL. THE COMMISSIONER HAS ORDERED THAT THE SITE PLAN BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL.

FENCES WILL BE 6 METERS FROM TOWER BASE OR WILL MEET OR EXCEED CURRENT FEDERAL STANDARDS FOR MINIMUM DISTANCES FROM TOWERS.

TYPICAL PLAN ANTENNA BASE



LOCATION PLAN

GENERAL NOTES

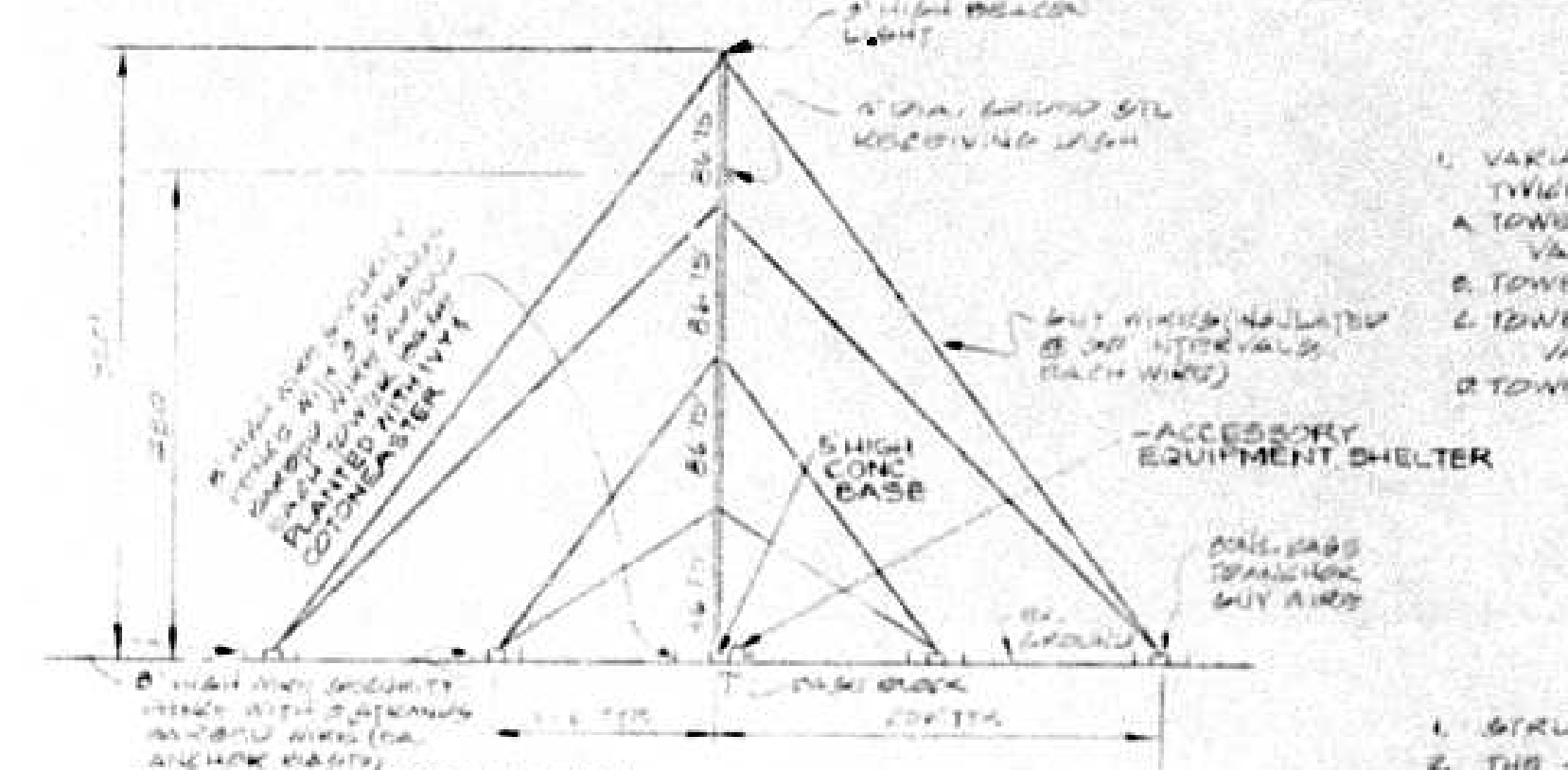
1. TOTAL AREA OF PROPERTY EQUALS 392.0 AC.
2. AREA OF PROPERTY REQUESTING SPECIAL EXCEPTION & VARIANCES 103.2 AC.
3. EXISTING ZONING OF PROPERTY "R-2-2".
4. EXISTING USE OF PROPERTY "FARM USE".
5. PROPOSED USE OF 103.2 AC. PARCEL "RADIO ANTENNA & FOR A.M. BROADCASTING STATION".
6. SITE STREET FRONTAGE DATA: A. PROPOSED BUILDING AREA 1144 SQUARE FT. REQUIRING 3.5 SPACES - 4 (1000 S.F.). B. PROPOSED PARKING 14 SPACES (9' X 18') (SEE SITE PLAN).
7. EXISTING TREES 12 IN. & HIGHER (SHADED OUTLINE ON PLAN) ARE TO REMAIN UNDISTURBED.
8. TRANSMITTER BUILDING WILL HOUSE ELECTRONIC EQUIPMENT, EMERGENCY DIESEL GENERATOR FOR EMERGENCY POWER.

VARIANCES REQUESTED

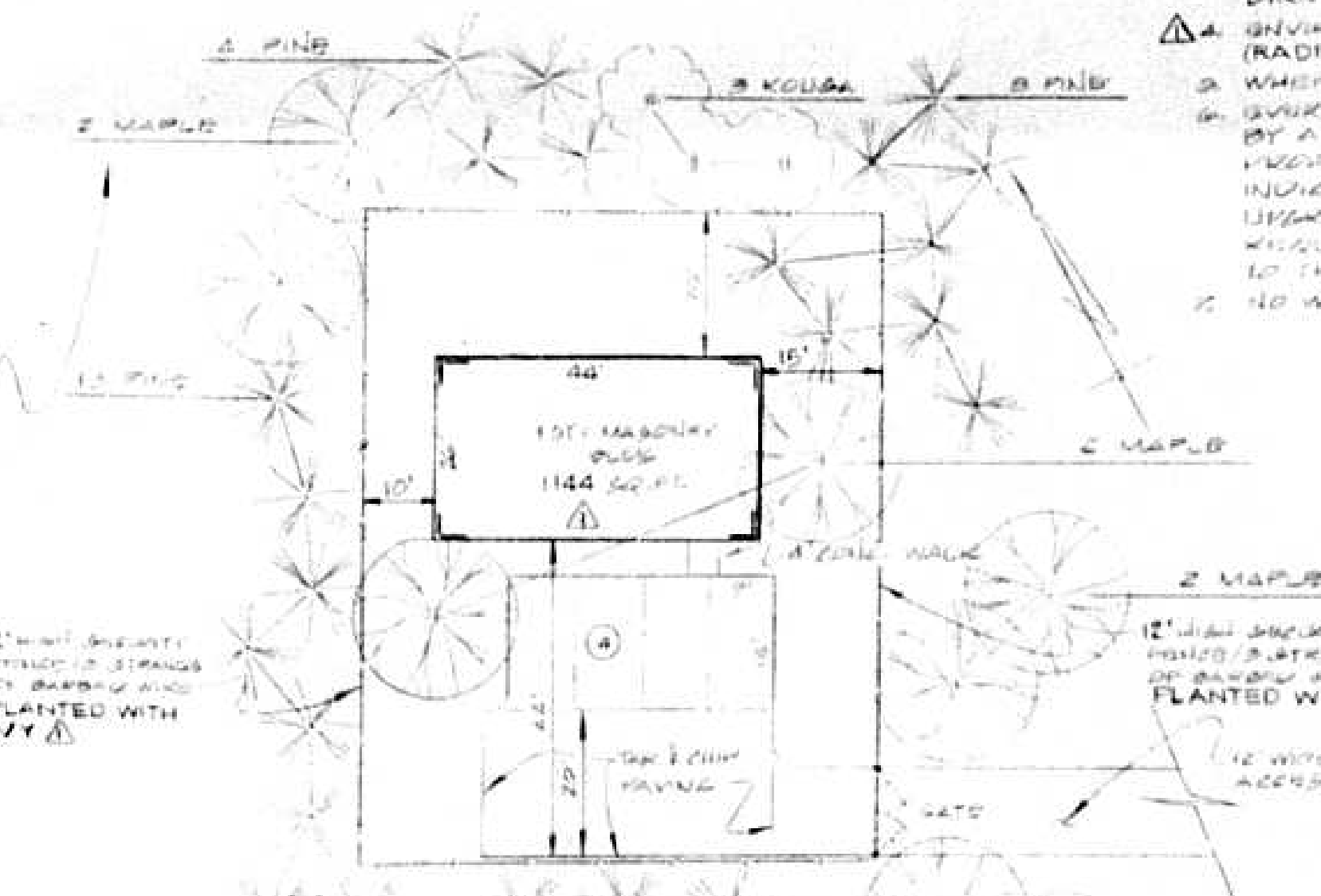
1. VARIANCE REQUESTED SECTION 202.7(2) OF THE ZONING ORDINANCE SHALL BE EXCEEDED TWICE THE HEIGHT OF THE STRUCTURE ABOVE GRADE LEVEL TO THE PROPERTY LINE. (500' X 2' 700')
2. A TOWER N.E. VARIANCE TO EAST PROPERTY LINE OF 40' INSTEAD OF THE REQUIRED 700' (SETBACK OF 600').
3. A TOWER N.W. VARIANCE TO WEST PROPERTY LINE OF 50' INSTEAD OF THE REQUIRED 700' (SETBACK OF 600').
4. A TOWER S.E. VARIANCE TO SOUTH PROPERTY LINE OF 20' INSTEAD OF THE REQUIRED 700' (SETBACK OF 600').
5. A TOWER S.W. VARIANCE TO SW PROPERTY LINE (A-2000' NORTH 80° E) OF 100' INSTEAD OF THE REQUIRED 700' (SETBACK OF 600').
6. TOWER N.E. VARIANCE TO WEST PROPERTY LINE (A-2000' NORTH 80° E) OF 75' INSTEAD OF THE REQUIRED 700' (SETBACK OF 600').

SECTION 202.7(6) NOTES

1. STRUCTURES (A) AT THE STRUCTURE OF ENCLOSED WITH A 12' HIGH WIRE SECURITY FENCE WITH 2 STRANDS OF BARBED WIRE ON TOP OF THE FENCE.
2. A LANDSCAPE PLANTING OF THE LOWER PORTION OF THE STRUCTURE SHALL BE MINIMIZED TO MINIMIZE THE VISUAL IMPACT OF ACCESSORY BUILDINGS AND TRANSMITTER BUILDING. A CERTIFICATION BY A LANDSCAPE ARCHITECT SHALL BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL. THE COMMISSIONER HAS ORDERED THAT THE SITE PLAN BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL.
3. A LANDSCAPE PLANTING OF THE LOWER PORTION OF THE STRUCTURE SHALL BE MINIMIZED TO MINIMIZE THE VISUAL IMPACT OF ACCESSORY BUILDINGS AND TRANSMITTER BUILDING. A CERTIFICATION BY A LANDSCAPE ARCHITECT SHALL BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL. THE COMMISSIONER HAS ORDERED THAT THE SITE PLAN BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL.
4. A LANDSCAPE PLANTING OF THE LOWER PORTION OF THE STRUCTURE SHALL BE MINIMIZED TO MINIMIZE THE VISUAL IMPACT OF ACCESSORY BUILDINGS AND TRANSMITTER BUILDING. A CERTIFICATION BY A LANDSCAPE ARCHITECT SHALL BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL. THE COMMISSIONER HAS ORDERED THAT THE SITE PLAN BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL.
5. A LANDSCAPE PLANTING OF THE LOWER PORTION OF THE STRUCTURE SHALL BE MINIMIZED TO MINIMIZE THE VISUAL IMPACT OF ACCESSORY BUILDINGS AND TRANSMITTER BUILDING. A CERTIFICATION BY A LANDSCAPE ARCHITECT SHALL BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL. THE COMMISSIONER HAS ORDERED THAT THE SITE PLAN BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL.
6. A LANDSCAPE PLANTING OF THE LOWER PORTION OF THE STRUCTURE SHALL BE MINIMIZED TO MINIMIZE THE VISUAL IMPACT OF ACCESSORY BUILDINGS AND TRANSMITTER BUILDING. A CERTIFICATION BY A LANDSCAPE ARCHITECT SHALL BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL. THE COMMISSIONER HAS ORDERED THAT THE SITE PLAN BE SUBMITTED TO THE COMMISSIONER FOR REVIEW AND APPROVAL.



TYPICAL ELEVATION OF TOWER



SITE PLAN FOR TRANSMITTER BUILDING

PLAN TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION & VARIANCES VICINITY GARRISON FOREST ROAD & ROSEWOOD LANE ELECTION DISTRICT 4 BALTIMORE COUNTY, MD SCALE 1" = 200' FEBRUARY 26, 1987

MANAGEMENT 12.2 AC

ENCOURAGE NATURALIZATION

- EXISTING HEDGEROW
- PERIMETER PLANTING
- WOODY SHRUBS (DIRECT SEED) SELECT FOR FOOD VALUE
 - ADD PINE SEEDLINGS
 - ADD DOMINANT TREE SEEDLINGS (MAJOR TREE) PICK A DOMINANT SPECIES OAK FAMILY
 - ADD GRAB APPLES & OTHER MID HEIGHT TREE SPECIES RANDOMLY
 - FLAT AREA

SEED WITH PASTURE MIX. NO MOW STABILIZATION & COVER

MATURE TREES 40-50' HGT

MANAGEMENT HEDGEROW

ENTIRE BOUNDARY ALONG GARRISON FOREST ROAD

- DEVELOP WIDER HEDGEROW PLANT NATURAL WOODY SHRUBS WITH FOOD & NESTING VALUE
- ADD PINE SEEDLINGS
- CONSIDER HEDGEROW FOR ANIMAL MOVEMENT

INCREASE BUFFER WIDTH

MANAGEMENT 10.8 AC

SAME AS 12.2 AC ABOVE

MANAGEMENT GOAL

- ENCOURAGE THE NATURAL VEGETATIVE SUCCESSION
- PROVIDE CONSERVATION-ENHANCEMENT MEASURES TO STRENGTHEN SPECIE DIVERSITY PLANT & ANIMAL.

MANAGEMENT SAME AS OTHER AREAS

3.8 AC ±

MANAGEMENT ALTERNATIVES

- CONSIDER OTHER AGRI. USES
- ORCHARD DEVELOPMENT
- CHRISTMAS TREE FARM
- LIMITED FIELD CROPS (NON GRAIN)

LEGEND

- AGRICULTURAL SOIL CAPABILITY CLASS II.
- AGRICULTURAL SOIL CAPABILITY CLASS III.
- AGRICULTURAL SOIL CAPABILITY CLASS IV.
- AREA SUITABLE FOR AGRICULTURAL USE.
- RUNOFF DIRECTION
- WOODED AREA / HEDGEROW

MANAGEMENT UNDER TOWER

- STABILIZE SURFACE SOIL.
- SEED WITH PASTURE MIX TO PROVIDE SMALL BIRD & ANIMAL COVER
- MOW MINIMAL 2X ANNUALLY

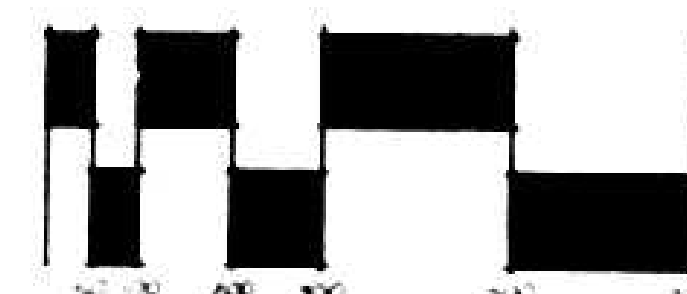
5.2 AC ±

SITE TOTAL ACRES → **103.2**

AGRICULTURAL 32.0 AC
WILDLIFE 33.7 AC
TOWERS 37.5 AC

PROPOSED MANAGEMENT USE

WILDLIFE 65.7 AC REVEGETATED
TOWERS 37.5 AC - SEEDING (RADIAL)
TOWER AREA USE
3 ± AC TOTAL



#32 Caves Farm

WCAO RADIO STATION

LAND MANAGEMENT

MANAGEMENT 12.2 AC

ENCOURAGE NATURALIZATION

MANAGEMENT SAME AS OTHER AREAS

MANAGEMENT ALTERNATIVES

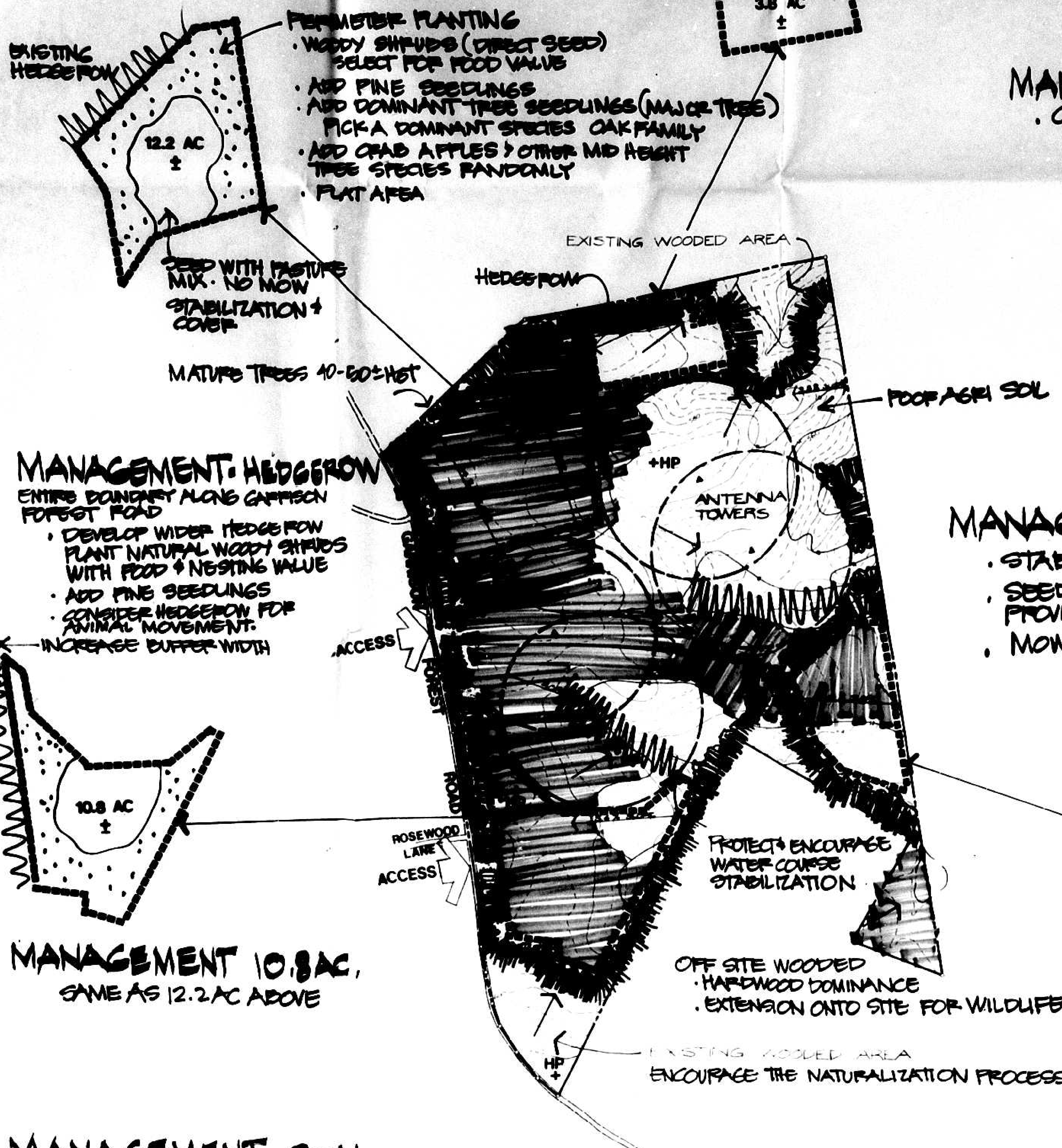
- CONSIDER OTHER AGRI. USES
- ORCHARD DEVELOPMENT
- CHRISTMAS TREE FARM
- LIMITED FIELD CROPS (NON GRAIN)

LEGEND

- AGRICULTURAL SOIL CAPABILITY CLASS II.
- AGRICULTURAL SOIL CAPABILITY CLASS III.
- AGRICULTURAL SOIL CAPABILITY CLASS IV.
- AREA SUITABLE FOR AGRICULTURAL USE.
- RUNOFF DIRECTION
- WOODED AREA / HEDGEROW

MANAGEMENT UNDER TOWER

- STABILIZE SURFACE SOIL
- SEED WITH PASTURE MIX TO PROVIDE SMALL BIRD & ANIMAL COVER
- MOW MINIMAL 2X ANNUALLY



MANAGEMENT HEDGEROW

ENTIRE BOUNDARY ALONG GARRISON FOREST ROAD

- DEVELOP WIDER HEDGEROW
- PLANT NATURAL WOODY SHRUBS WITH FOOD & NESTING VALUE
- ADD PINE SEEDLINGS
- CONSIDER HEDGEROW FOR ANIMAL MOVEMENT.
- INCREASE BUFFER WIDTH

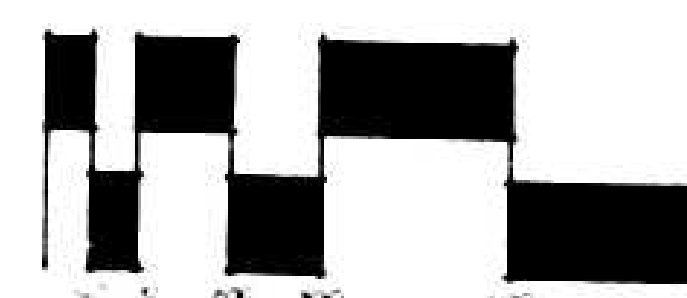
MANAGEMENT 10.8 AC,
SAME AS 12.2 AC ABOVE

MANAGEMENT GOAL

1. ENCOURAGE THE NATURAL VEGETATIVE SUCCESSION
2. PROVIDE CONSERVATION-ENHANCEMENT MEASURES TO STRENGTHEN SPECIE DIVERSITY PLANT & ANIMAL.

SITE TOTAL ACRES 102.3
AGRICULTURAL 32.0 AC
WILDLIFE 33.7 AC
TOWERS 37.5 AC

PROPOSED MANAGEMENT USE
WILDLIFE 65.7 AC REVEGETATED
TOWERS 37.5 AC - SEEDING (RADIUS)
TOWER AREA USE
3± AC TOTAL



WCAO RADIO STATION

LAND MANAGEMENT

BEST AGRICULTURAL SOIL

ISSUES · LAND USE COMPABILITY — PC 2 ZONE

31
Crest Farm

EXISTING CONDITIONS	SITE SPECIFIC				ON SITE - TOP OF SITE				ADVERSE EFFECTS			
SOILS	SLOPES	VEGETATION	SURFACE RUNOFF	SITE ACCESSIBILITY	AGRICULTURE	WATER MANAGEMENT	SITE ENHANCEMENT	WOODLAND RETENTION	SOIL EROSION	NOISE	DUST	INTER-VISIB. SUFF.
TRAFFIC IMPACT	LAND OUTFLOWING	SITE ALTERATION (GARDING)	LAND USE									

1. SELECTED USES · SPEC. EXCPT	NATURAL DETERMINANTS						INTER-COMPATIBILITY				CONSEQUENCES						
LAND USES PERMITTED IN PC 2 ZONE																	
· AIRPORT	○	○	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
· ANIMAL BOARDING	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· COMMUNITY CARE CTR	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· EXCAVATIONS (CONTROLLED)	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· OFFICES · AGRI · DOCTOR'S ATTY'S	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· RESEARCH INSTITUTES	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· RESTAURANTS · TEA ROOMS	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· SANITARY LAND FILLS	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· SCHOOLS · COLLEGES	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· SHOOTING RANGES	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· TRANSMITTING TOWERS	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· AGRI. SUPPORT · FARM MACH. SALES	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· FEED OR GRAIN MILLS	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· FERTILIZER SALES · STORAGE	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· SAWMILLS	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· SLAUGHTER HOUSES	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
2. PRESERVATION · ENVIRON. QUALITY	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
3. AGRICULTURE · LAND USES																	
· CROP FARMING	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· PASTURE	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· ORCHARD	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· EVERGREEN FARM · NURSERY	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· NATURALIZATION	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
· WILDLIFE HABITAT	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○

KEY

□ · COMPATIBLE

■ · NOT COMPATIBLE

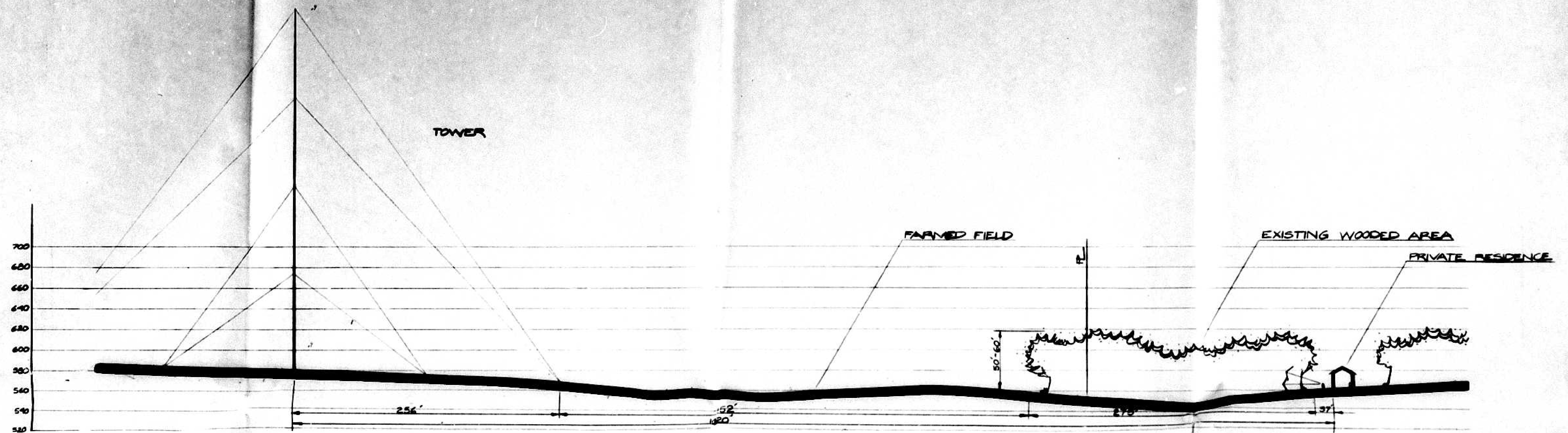
LAND USE

● BAD

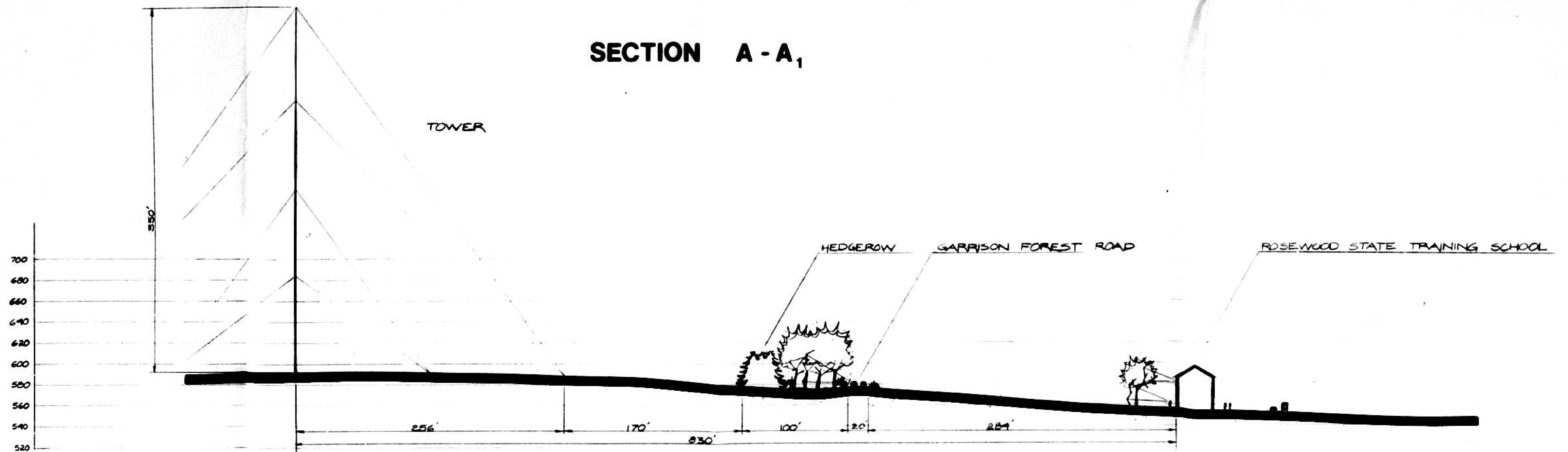
◐ FAIR

○ GOOD

TOWER PROXIMITY



SECTION A - A₁

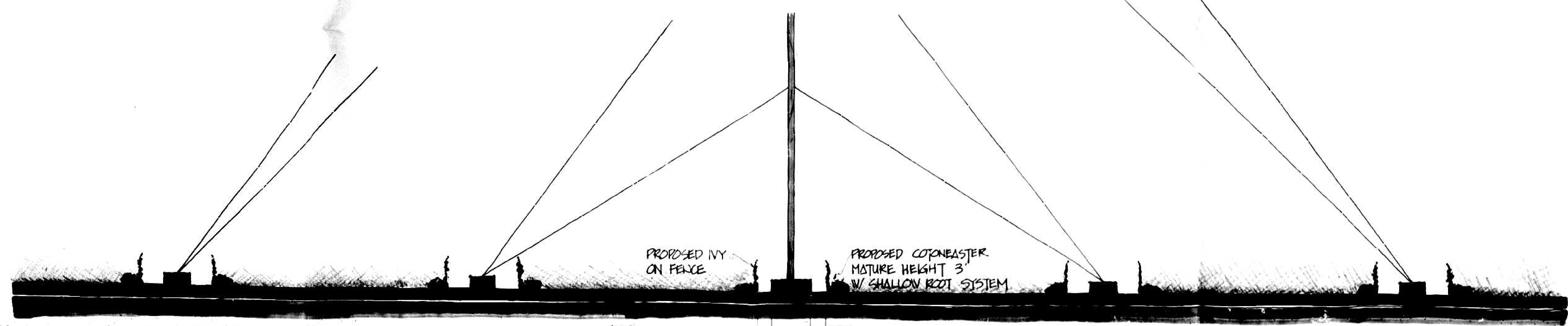


SECTION B - B₁



LANDSCAPING FENCE FENCE TRANSMITTER BLDG. FENCE & LANDSCAPING LANDSCAPING

ELEVATION - TRANSMITTER BUILDING LANDSCAPING
SCALE 1" = 10'-0"



(TYP) 12 H FENCE / 3 STRAND BURIED WIRE COVERED W/ IVY, SCREENED BY
ANTENNA BASE
(TYP) 12 H FENCE / 3 STRAND BURIED WIRE COVERED W/ IVY, SCREENED BY

Edh #18

ELEVATION - ANTENNA BASE SCREENING
SCALE 1" = 20'-0"

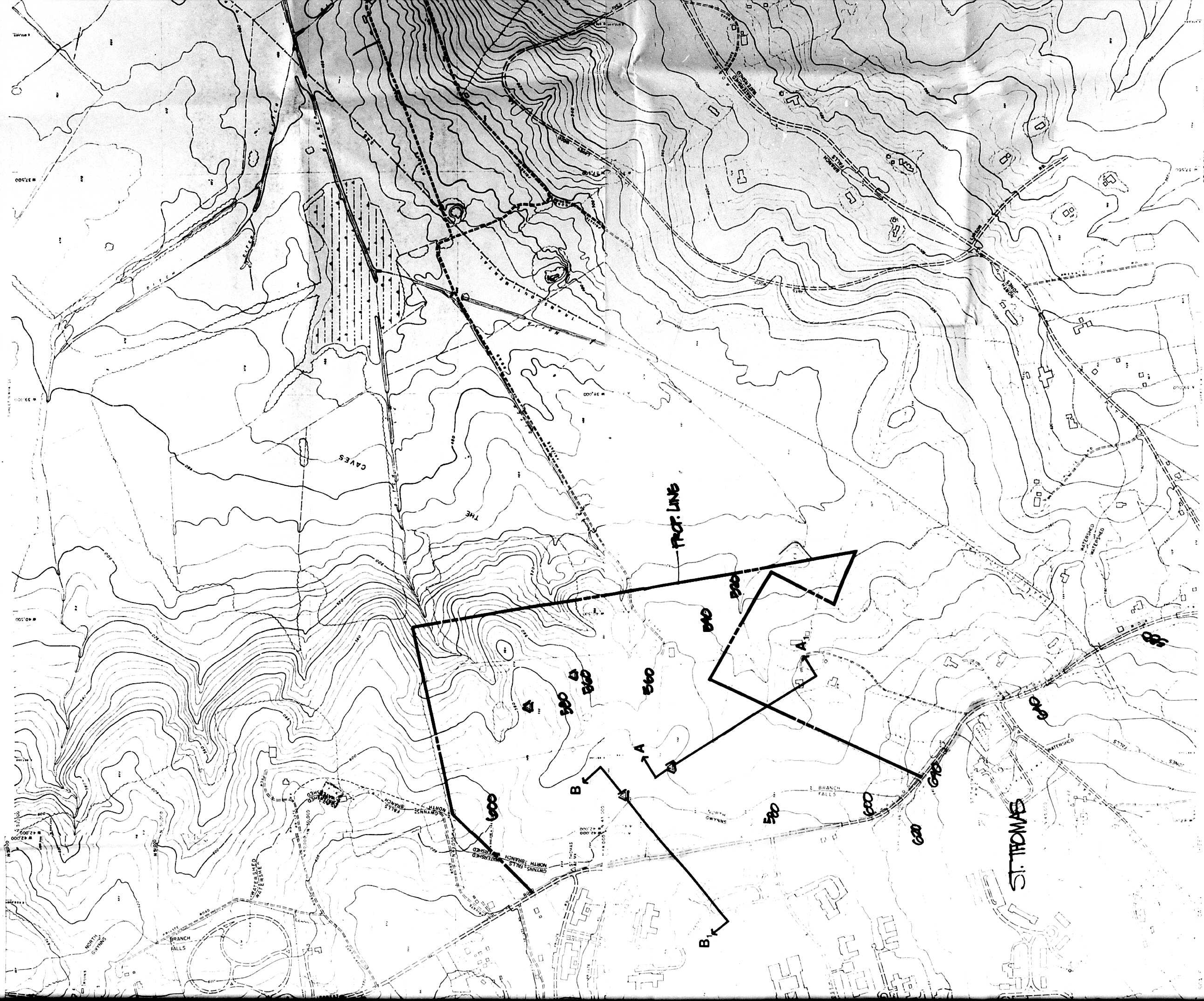
PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS
DATE
SCALE
LOCATION
SHEET
T-5E

ROSEWOOD
SCHOOL VICINITY
12-1

ST. THOMAS





PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

Ext #26 from
Junction

REVISIONS	DATE	BY	SCALE	LOCATION
1	1950		1" = 200'	

DATE OF
PHOTOGRAPHY
1950
Topography Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION-PHILADELPHIA, PA

ROSEWOOD
SCHOOL VICINITY

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

SCALE 1" = 200'
DATE OF PHOTOGRAPHY JANUARY 1986
LOCATION ROSEWOOD
SHEET 2A
SCHOOL VINNITY



MICROFILM



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

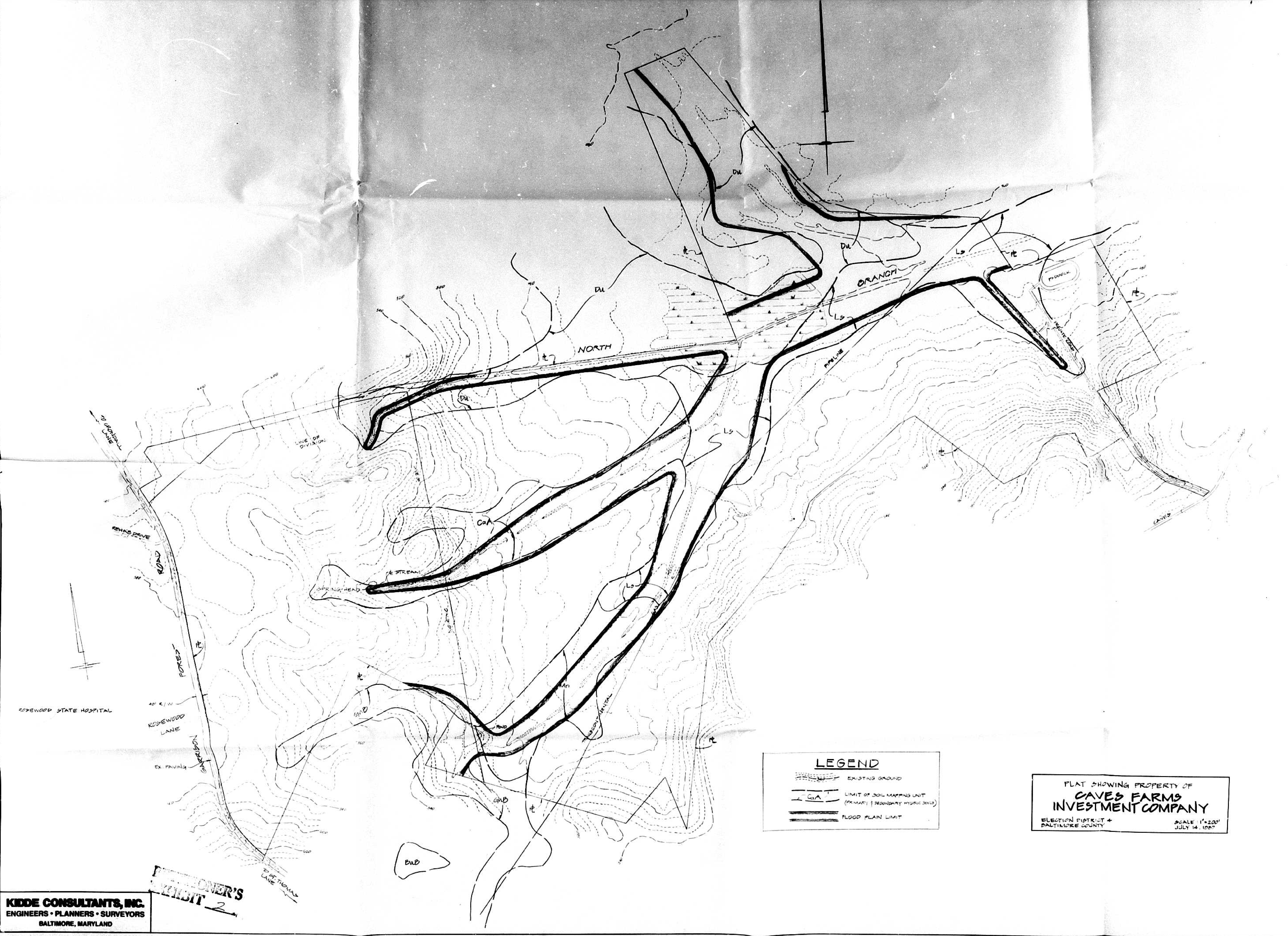
SCALE
1" = 200'

LOCATION
THE CAVES

SHEET
NW
12-G

DATE
OF
PHOTOGRAPHY
JANUARY
1986

EXHIBIT 2
OWNER'S



LEGEND

- EXISTING GROUND
- LIMIT OF SOIL MAPPING UNIT (PRIMARY & SECONDARY HYDRIC SOILS)
- FLOOD PLAIN LIMIT

FLAT SHOWING PROPERTY OF
**CAVES FARMS
INVESTMENT COMPANY**
ELECTION DISTRICT 4
BALTIMORE COUNTY
SCALE 1"=200'
JULY 14, 1987

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

SCALE 1" = 200'
LOCATION ROSEWOOD
DATE 1985
PHOTOGRAPHY JANUARY 1985
SHEET NW 2nd
TOPGRAPHICS, INC.
401





BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP



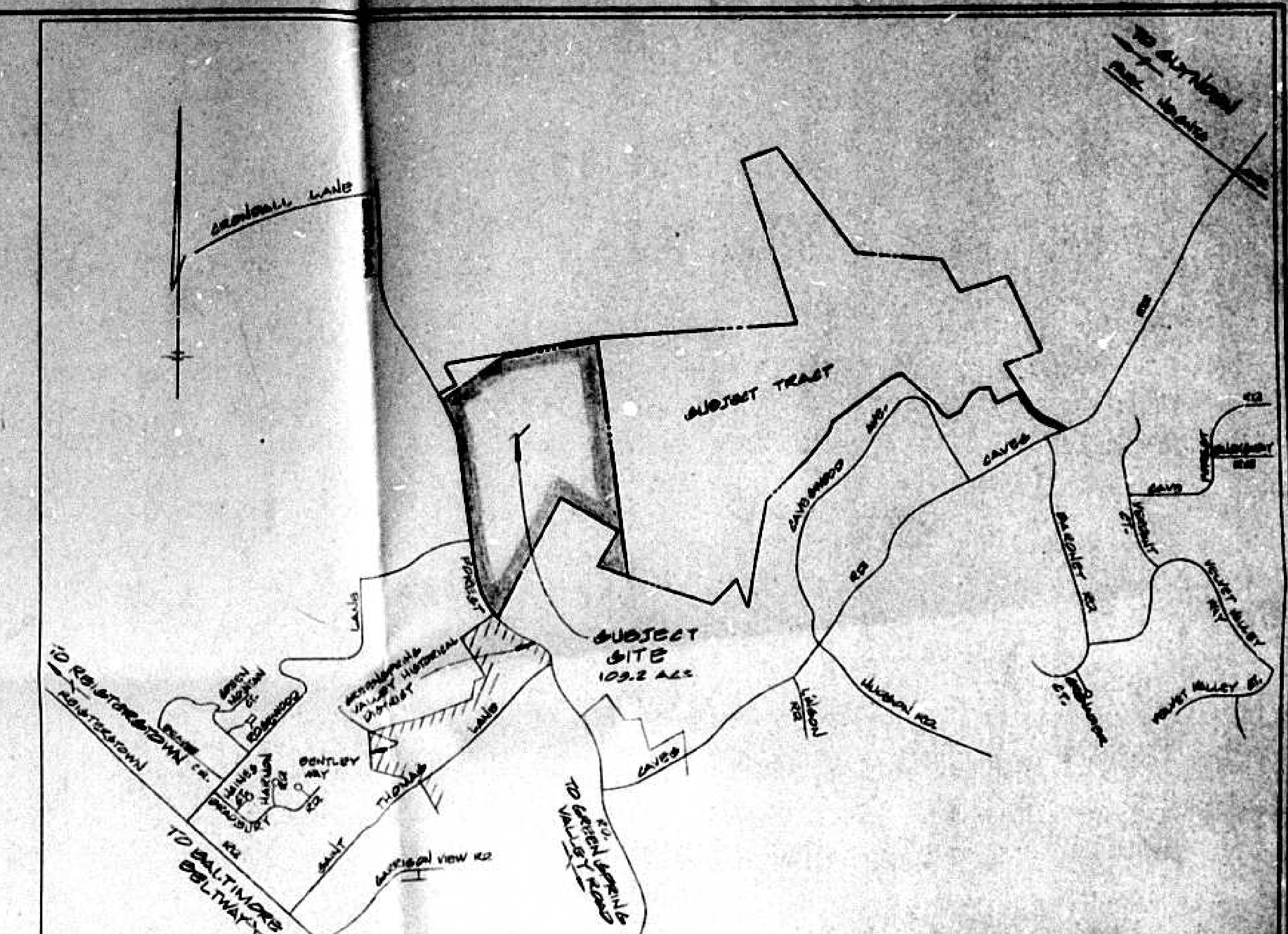
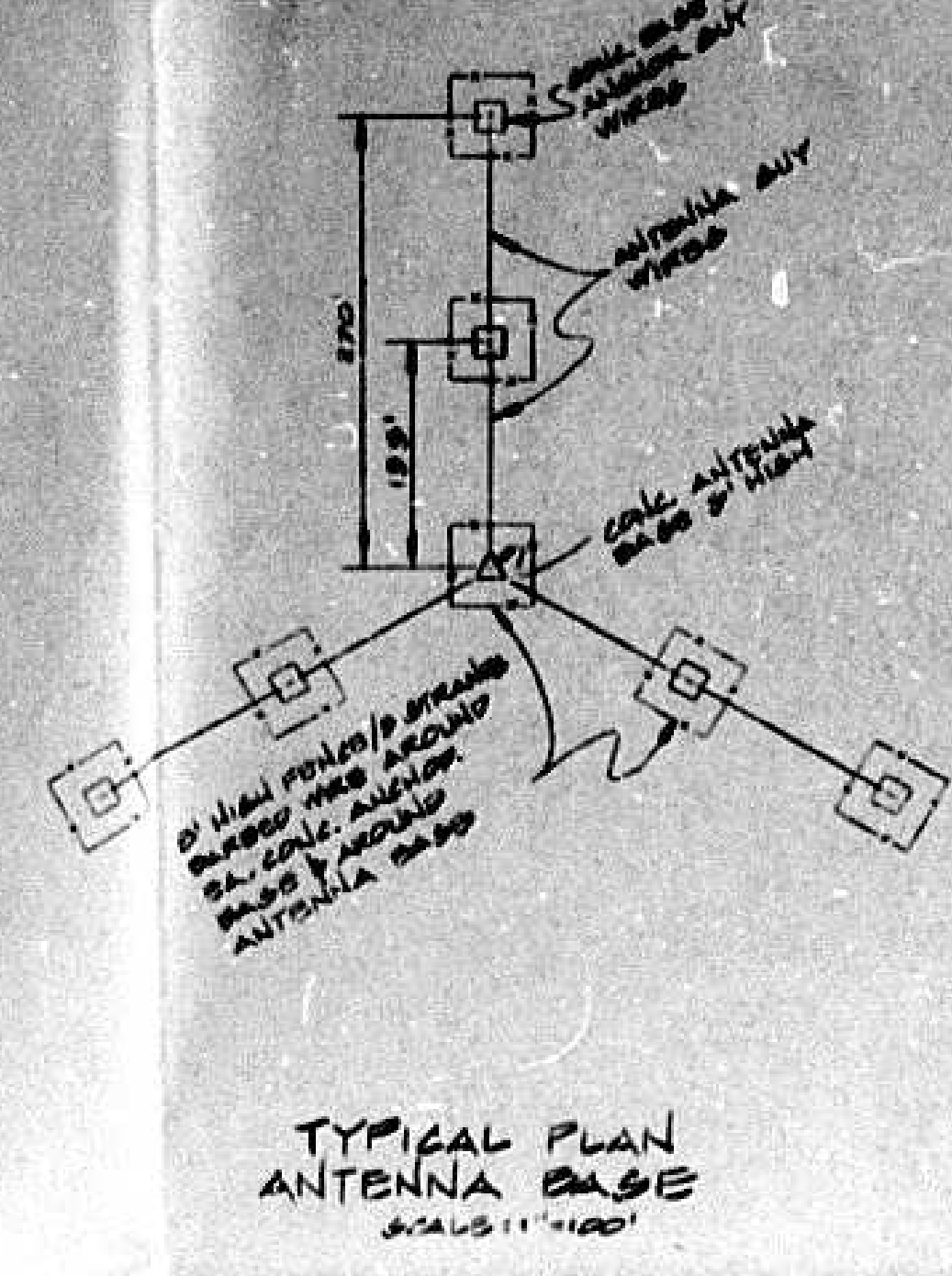
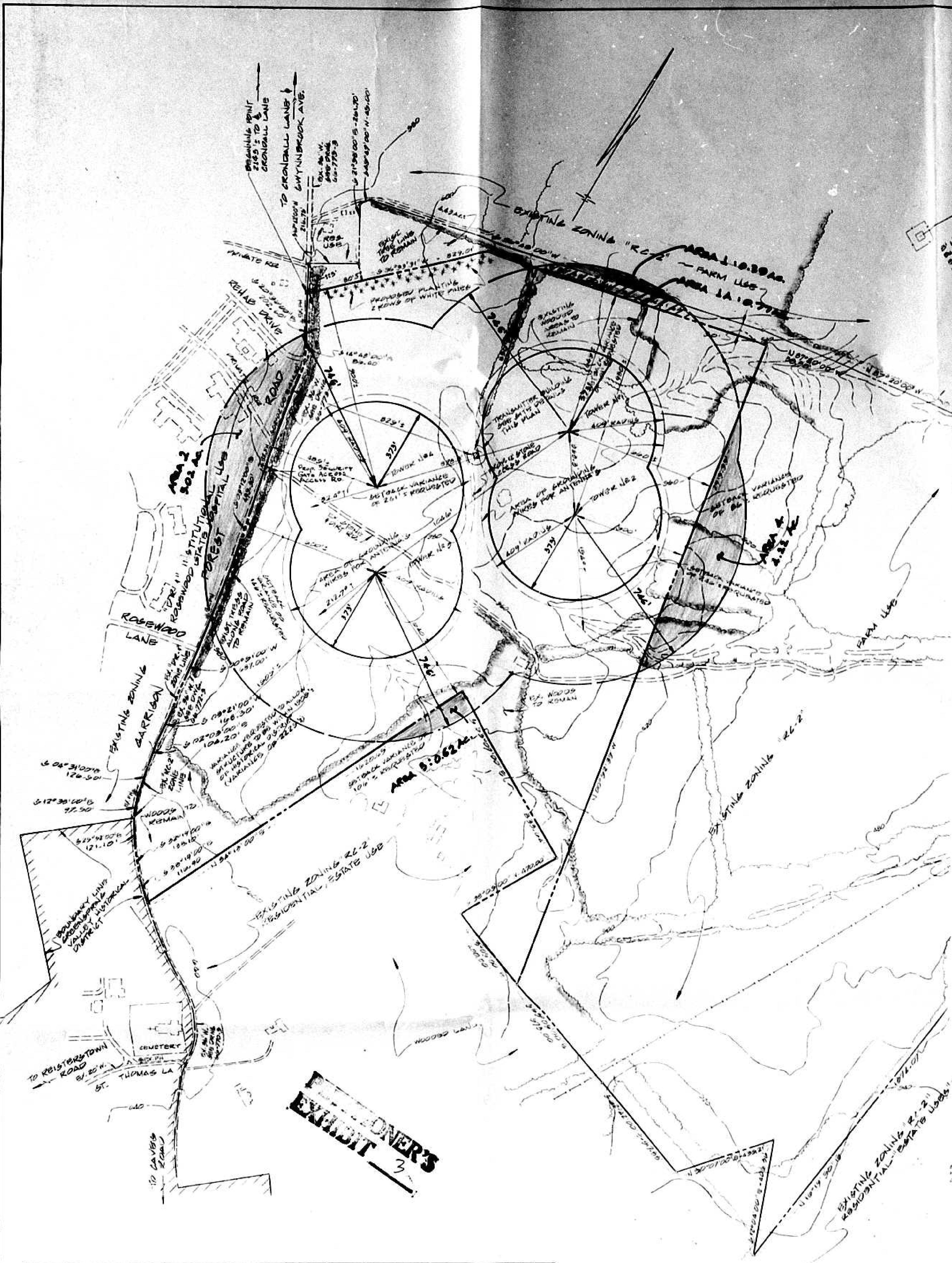
MICROFILMED

SCALE 200'
DATE OF PHOTOGRAPHY JAN 1966
SHEET 10

SCALE 1" = 200'
DATE OF PHOTOGRAPHY JAN 1966

LOCATION THE CAVES

SHEET NW 2-G



LOCATION PLAN
SCALE 1" = 1000'

GENERAL NOTES

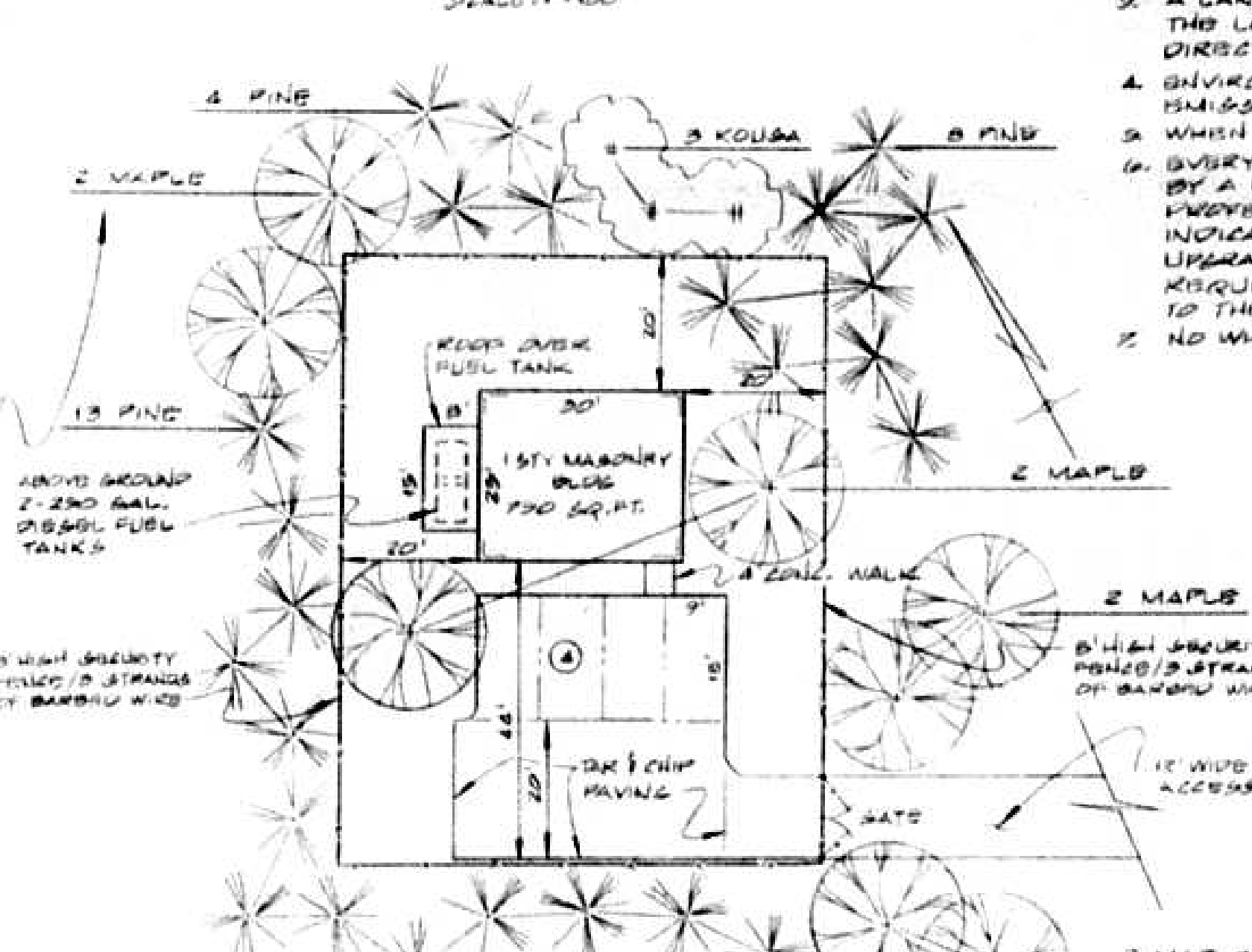
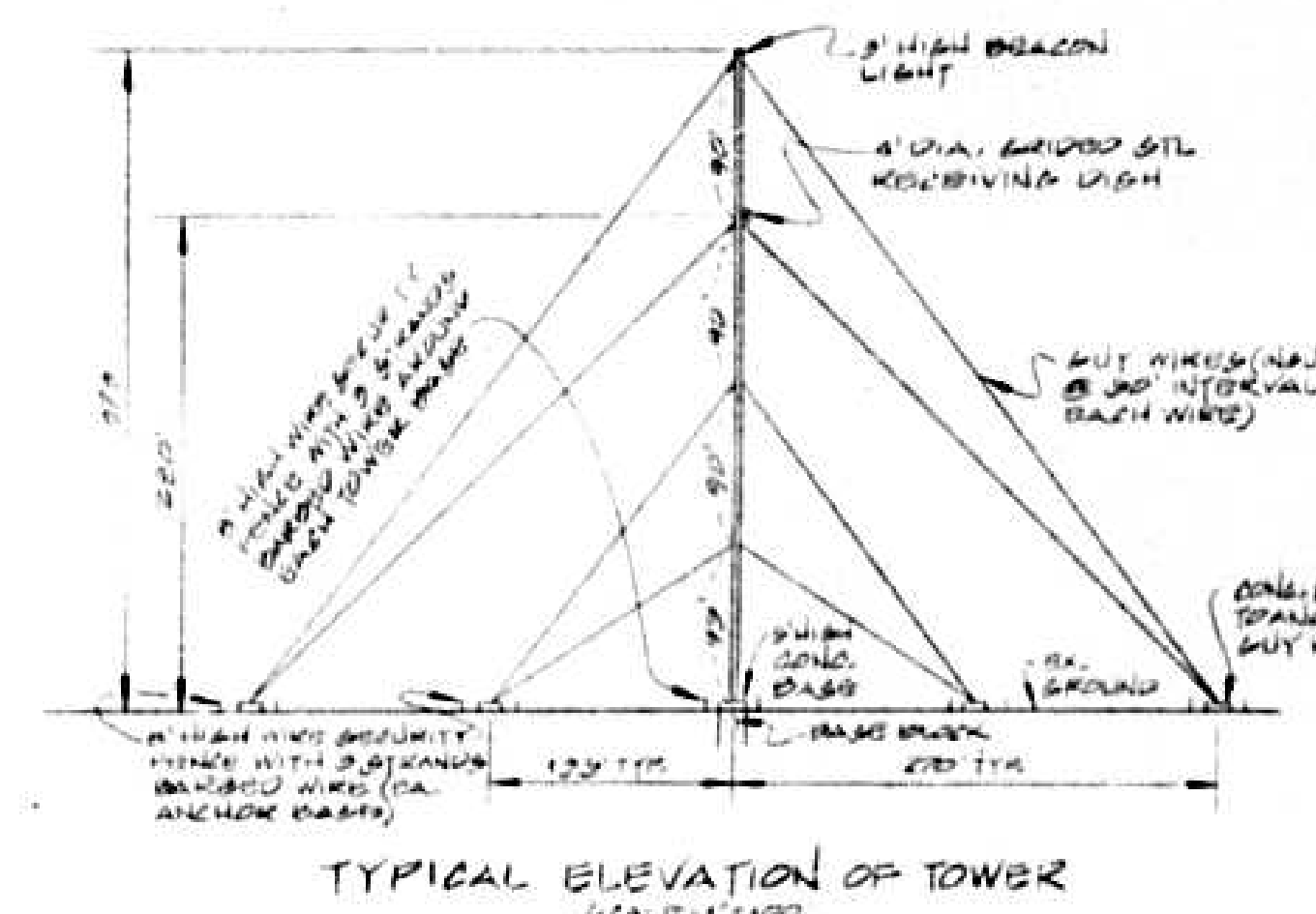
1. TOTAL AREA OF PROPERTY EQUALS 3930 AC.
2. AREA OF PROPERTY REQUESTING SPECIAL EXCEPTION & VARIANCES 109.2 AC.
3. EXISTING ZONING OF PROPERTY "RE-2"
4. EXISTING USE OF PROPERTY "FARM USE"
5. PROPOSED USE OF 109.2 AC. PARCEL "RADIO ANTENNA FOR A.M. BROADCAST STATION"
6. OFF-STREET PARKING DATA
A. PROPOSED BUILDING AREA 750 SQUARE FT. REQUIRING 25 SPACES @ 3000 S.F.
B. PROPOSED PARKING 4 SPACES (9'x15') SEE SITE PLAN.
7. EXISTING TREES & WOODS (SHADED OUTLINE ON PLAN) ARE TO REMAIN UNDISTURBED
8. TRANSMITTER BUILDING WILL HOUSE ELECTRONIC EQUIPMENT (BROADCASTER) FOR EMERGENCY POWER.

VARIANCES REQUESTED

1. VARIANCES REQUESTED (SECTION 202.7(c) OF THE ZONING ORDINANCE) SHALL BE AS FOLLOWS:
A. TOWER HEIGHT - VARIANCE TO 101' INSTEAD OF THE REQUIRED 75' (SETBACK OF 100').
B. TOWER NE - VARIANCE TO EAST PROPERTY LINE OF 101' INSTEAD OF THE REQUIRED 75' (SETBACK OF 100').
C. TOWER NW - VARIANCE TO WEST PROPERTY LINE OF 101' INSTEAD OF THE REQUIRED 75' (SETBACK OF 100').
D. TOWER SE - VARIANCE TO SOUTH PROPERTY LINE OF 101' INSTEAD OF THE REQUIRED 75' (SETBACK OF 100').
E. TOWER SW - VARIANCE TO WEST PROPERTY LINE OF 101' INSTEAD OF THE REQUIRED 75' (SETBACK OF 100').
2. VARIANCES REQUESTED TO SECTION 202.7(c) OF THE ZONING ORDINANCE TO NOT LANDSCAPE THE LOWER PORTION OF THE STRUCTURE AS THE HEIGHT OF THE ANTENNA STRUCTURE.
3. VARIANCE REQUESTED TO SECTION 202.7(c) OF THE ZONING ORDINANCE TO NOT LANDSCAPE THE LOWER PORTION OF THE STRUCTURE AS THE HEIGHT OF THE ANTENNA STRUCTURE.

SECTION 202.7(c) NOTES

1. STRUCTURES (A) ARE LOCATED ON A TOTAL OF 109.2 AC. OF LAND, MORE OR LESS.
2. THE STRUCTURE BASE AND EACH ANTENNA BASE AND THE TRANSMITTER BUILDING WILL BE ENCLOSED WITH AN 8' HIGH WIRE SECURITY FENCE WITH 3 STRANDS OF BARBED WIRE ON TOP OF THE FENCE.
3. A LANDSCAPE PLAN, DESIGNED TO MINIMIZE THE VISUAL IMPACT OF ACCESSORY BUILDINGS AND THE LOWER PORTION OF THE STRUCTURE SHALL BE SUBMITTED TO AND APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF THE OFFICE OF PLANNING & ZONING.
4. ENVIRONMENTAL PROTECTION AGENCY STANDARDS AND GUIDELINES RELATING TO RADIATION EMISSIONS SHALL BE MET AT ALL TIMES.
5. WHEN THE USE OF THE STRUCTURE IS TERMINATED, THE STRUCTURE SHALL BE REMOVED.
6. EVERY RIVER, TOWER, OR EQUIPMENT IN THE EVENT OF SUBSTANTIAL DAMAGE, A CERTIFICATION BY A PROFESSIONAL ENGINEER REGISTERED IN MARYLAND, A CERTIFICATION BY A MARYLAND PROFESSIONAL ENGINEER SHALL BE FILED WITH THE DEPARTMENT OF PERMITS AND LICENSES INDICATING THAT THE APPLICANT HAS COMPLIED WITH ALL SAFETY REQUIREMENTS, ANY UPGRADING OR MAINTENANCE REQUIRED TO COMPLY WITH ANY CHANGES IN THE SAFETY REQUIREMENTS, OR TO MAINTAIN THE SAFETY THEREOF, SHALL BE PERFORMED PRIOR TO THE FILING OF SUCH CERTIFICATION.
7. NO WHITE STROBOSCOPIC LIGHTS ARE PERMITTED.



PLAT TO ACCOMPANY PETITION
FOR
SPECIAL EXCEPTION & VARIANCES
VICINITY
GARRISON FOREST ROAD & ROSEWOOD LANE

ELECTION DISTRICT 4 BALTIMORE COUNTY, MD
SCALE 1" = 200' FEBRUARY 26, 1987

FILE 9

WCAO

WCAO

June 22, 1987

PETITIONER'S
EXHIBIT 15

Steve Nolan
Nolan, Plumbhoff & Williams
204 West Pennsylvania Avenue
Towson, MD 21204

RE: WCAO's Zoning Requests to
locate four (4) AM towers on the
East Side of Garrison Forest Road
opposite Rosewood Center

Dear Steve,

DKM-Baltimore Broadcasting Corporation which owns and operates
WCAO Radio station has filed three (3) petitions with the Zoning
Commission of Baltimore County requesting zoning approvals in
order to relocate its four (4) AM radio towers to a 103 acre site
on the east side of Garrison Forest Road near the intersection
with Rosewood Lane. There will be no studios or mained
facilities at this site.

The purpose of this letter is to notify you, as a nearby property
owner, concerning an informal, informational meeting which WCAO
Radio will hold in the community in order to present information
and respond to questions with regard to these zoning requests.

DATE OF MEETING: Tuesday, July 14, 1987

TIME: 7:00PM

PLACE: Community Room
St. Thomas Church
St. Thomas Lane and Garrison Forest Road

Also for your information, the Zoning Commissioner has scheduled
a public hearing on WCAO Radio's zoning petitions for Monday,
July 20, 1987 at 1:30PM in the County Office Building, 111 West
Chesapeake Avenue in Towson.

DKM BROADCASTING CORPORATION • 8001 PARK HEIGHTS AVENUE • BALTIMORE, MARYLAND 21206 • (301) 653-2200

PETITIONER'S
EXHIBIT 11a

July 20, 1987

Nolan, Plumbhoff & Williams
204 West Pennsylvania Avenue
Towson, Maryland 21204

Attention: Mr. Steve Nolan, Attorney

Subject: Balloon Test for Visual Impacts; Garrison Forest Road Tower Site
Versar Job No. 6116-1.1.

Dear Steve:

The purpose of this letter is to document the results of a balloon test
for potential visual (e.g., aesthetics) impacts from the proposed WCAO
antennas on Garrison Forest Road. This letter is intended to supplement
Versar's environmental assessment report, dated July 10, 1987.

On July 16, 1987, at approximately 11:45 am, a balloon test was conducted
at the site of the proposed WCAO antennas. The purpose of the test was to
provide a visual check of the potential visibility of the proposed antennas;
thereby serving as a model of the potential aesthetic effects on surrounding
areas. Orange balloons, inflated to an approximate diameter of 30 to 36
inches, were floated aloft on a cord from the approximate center of the
antenna array site. Triangulation via a second cord was used to determine the
appropriate height (373 feet) of the balloons. After the balloons were
airborne, visual checks were made from public roads in the area to identify
areas from which the antennas might be visible. These visual checks were
compared to photographs containing scaled drawings of the towers
(prepared as part of Versar's environmental assessment). In all cases, the
photographic documentation provided presents greater visibility of the
antennas than was indicated by the balloon test. These results are due to
several factors:

The scaled drawings of the antennas are "worst case" models:

- Ground elevations are in 20 foot contours, and are rounded up
or down in line of sight calculations to present a worst case.
- The drawings of the antenna appear several times wider than the
actual antennas would be due to the technical difficulty in
drawing a line small enough.

8000 VERSAR CENTER • P.O. BOX 1540 • SPRINGFIELD, VIRGINIA 22151 • TELEPHONE: (703) 750-3000 • TELEX: 501125

CAN THIS BE PORT CARBON?
by R. J. Hapfel

In April 1963 David Ziskin, a student at the Milford Hill High School,
working on a history project located the remains of an old stone building
with an appearance that immediately suggested a fort type structure.
The structure is located in a deserted area known as the "Caves", between
Forest Road and Caves Road in Baltimore County, Maryland. An area
of age and antiquity surrounds the field stone and masonry construction
the three and one half walls still standing. It is roofless and barren
in its loneliness. This structure is located on the crest of a hill
it commands a view of the southwestern portion of Harbington Valley.
The defense type appearance of this building is suggested by rows of
shape, vertical slits, measuring approximately six inches on the outside
and fourteen inches on the inside wall, with a height of thirty inches.
The slits occur on all four walls and at two different levels. Could these
have been designed for rifle embrasures? The location of these slits in
wall at two different levels further suggest that the structure, at one
time may have had two floors or possibly a catwalk platform for the upper
level.

After some preliminary investigation concerning the history of this area,
Mr. Ziskin contacted the author of this report and it was decided to carry
out further research concerning the origin and history of this interesting old
structure. With the assistance of Mr. Jack Bricker, an amateur group of
local archeologists was formed at Milford Hill High School. This group was
Operation Dig Dig.

Search through available historical records revealed that this structure
within the range of possibilities for the site of old Fort Garrison ori-
gally built in 1693. The Garrison Fort formed a part of the defense chain
structure for the protection of the Maryland Colony during its frontier

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
NATIONAL REGISTER OF HISTORIC PLACES
INVENTORY - NOMINATION FORM

FOR NPS USE ONLY
RECEIVED JUL 29 1990
DATE ENTERED

SEE INSTRUCTIONS IN HOW TO COMPLETE NATIONAL REGISTER FORMS
TYPE ALL ENTRIES - COMPLETE APPLICABLE SECTIONS

1. NAME
Green Spring Valley Historic District

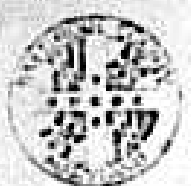
2. LOCATION
East of Reisterstown Road (Maryland Route 140) and west of Falls
Road (Maryland Route 25) encompassing the Green Spring Valley

3. CLASSIFICATION
CATEGORY: DISTRICT
STATUS: OCCUPIED
PRESENT USE: RESIDENCE

4. OWNER OF PROPERTY
NAME: Multiple public and private

5. LOCATION OF LEGAL DESCRIPTION
COURTHOUSE: Baltimore County Courthouse

6. REPRESENTATION IN EXISTING SURVEYS
DATE: 1987



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
202-3550

ARNOLD JASON
ZONING COMMISSIONER

12 December 1986

JEAN M. H. JURY
DEPUTY ZONING COMMISSIONER

Stephen J. Nolan, Esq.
Nolan, Plumbhoff & Williams
204 West Pennsylvania Ave.
Towson, Maryland 21204

Re: Towers

Dear Mr. Nolan,

I have reviewed Bill No. 117-84, and I conclude that a special exception
cannot be granted for any such facility as described if it is within 1 1/2
miles of an historic landmark or district, as specifically delineated, and
if the horizontal distance from the facility to the property line of such
district does not exceed ten times the height of the facility, unless I find
that the facility would not be detrimental to the values of the district.
If the horizontal distance from facility does exceed ten times the height
of the facility, there is a question whether a special exception can be granted.
It would appear that the intent was that if the distance exceeded ten times
the height, then a special exception could be granted, but the wording seems
to confuse this issue. Also, it would appear that subsection C, §502.1, permits
variances only to the requirements specified in that subsection. Whether
a variance could be considered to the horizontal distance requirement would
be determined by special hearing to insure that the request was not for a
"use" variance.

Sincerely,

Arnold Jason
Arnold Jason

WJS

PETITIONER'S
EXHIBIT 13

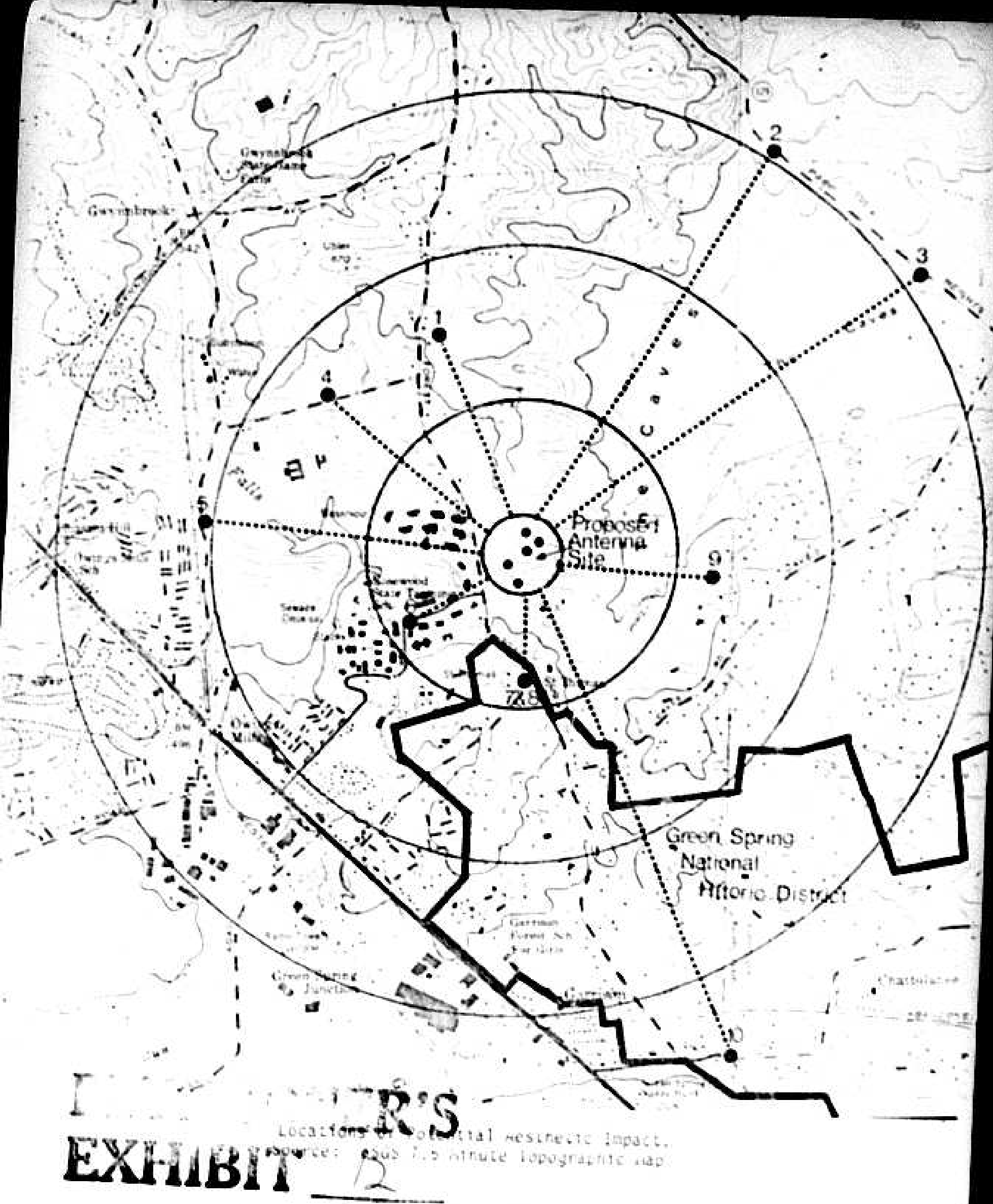
ENVIRONMENTAL IMPACT ASSESSMENT
OF DKM-BALTIMORE BROADCASTING'S PROPOSED
AM RADIO BROADCASTING SYSTEM
GARRISON FOREST ROAD,
BALTIMORE, MARYLAND

PETITIONER'S
EXHIBIT 11

Versar Inc.

Residents of Caves Valley Area
Opposed to the Building of Radio
Towers In Our Neighborhood

- | Name | Address |
|----------------------------|---------------------------------------|
| 1. A. Agite Due | 452 Garrison Forest Rd. |
| 2. W. John Arnold | 39 Chatham Hill RD. 2117 |
| 3. Kathleen Pintore | 2522 Caves Rd OM 2117 |
| 4. Stephen S. Howard | 309 Chatham Hill RD. 2117 |
| 5. Phyllis A. Zientley | 32 Caves road 2117 |
| 6. Nancy Cox | 36 Caveswood Lane |
| 7. Lee & Nelson Hendler | 2759 Caves Rd. 2117 |
| 8. Marjorie Brown | 405 Garrison Forest Rd. |
| 9. Mary U. Cook | 424 Garrison Forest Road |
| 10. Jane Davis | 438 Garrison Forest Rd OM 2117 |
| 11. Susan Sanders | 104 Garrison Forest Rd. 1 Dunwoody Rd |
| 12. Catherine B. Waquer | 311 Chatham Hill OM 2117 |
| 13. Catherine Turner Joffe | 104 Greenspring Valley Rd 2117 |
| Annelle C. Walsh | 230 Hopkins Lane O. Mills 2117 |
| TA EATON | 10202 HUDSON RD OM 2117 |



PETITIONER'S EXHIBIT

