



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

July 30, 2002

Mr. Paul J Gorman AIA
214 Washington Avenue
Towson MD 21204

RE: 6102 Falls Road
3rd Election District

Dear Mr. Gorman:

Your letter to Arnold Jablon, Director of PDM has been referred to me for reply. Your request is for the approval of this office to construct a partial 2nd floor addition to an existing one story commercial building in a Density Residential (DR-2) zone. This site was the subject of prior zoning hearing case # 90-41-SPH at which the zoning commissioner on September 20, 1989 granted (with restrictions) the non-conforming use of the existing building and improvements as shop, office, garage, equipment and material storage.

The area of the proposed 2nd floor addition would be 3992 square feet minus 140 square feet stair opening = 3852 square feet. The purpose is to raise the offices above the 100-year flood plain level. There will be no increase in the size of the building footprint and no increase in the number of employees or parking spaces. This matter has been reviewed by staff and it has been determined that the proposed would be within the spirit and intent of the aforementioned hearing case.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Sincerely,

A handwritten signature in black ink, appearing to read "John J. Sullivan, Jr.", is written over a horizontal line.

John J Sullivan, Jr
Planner II
Zoning Review

JJS: gdz

C: Hearing Case File # 90-41-SPH
Letter File Come visit the County's Website at www.co.ba.md.us



D-816-62

BALTIMORE GAS AND ELECTRIC CO.

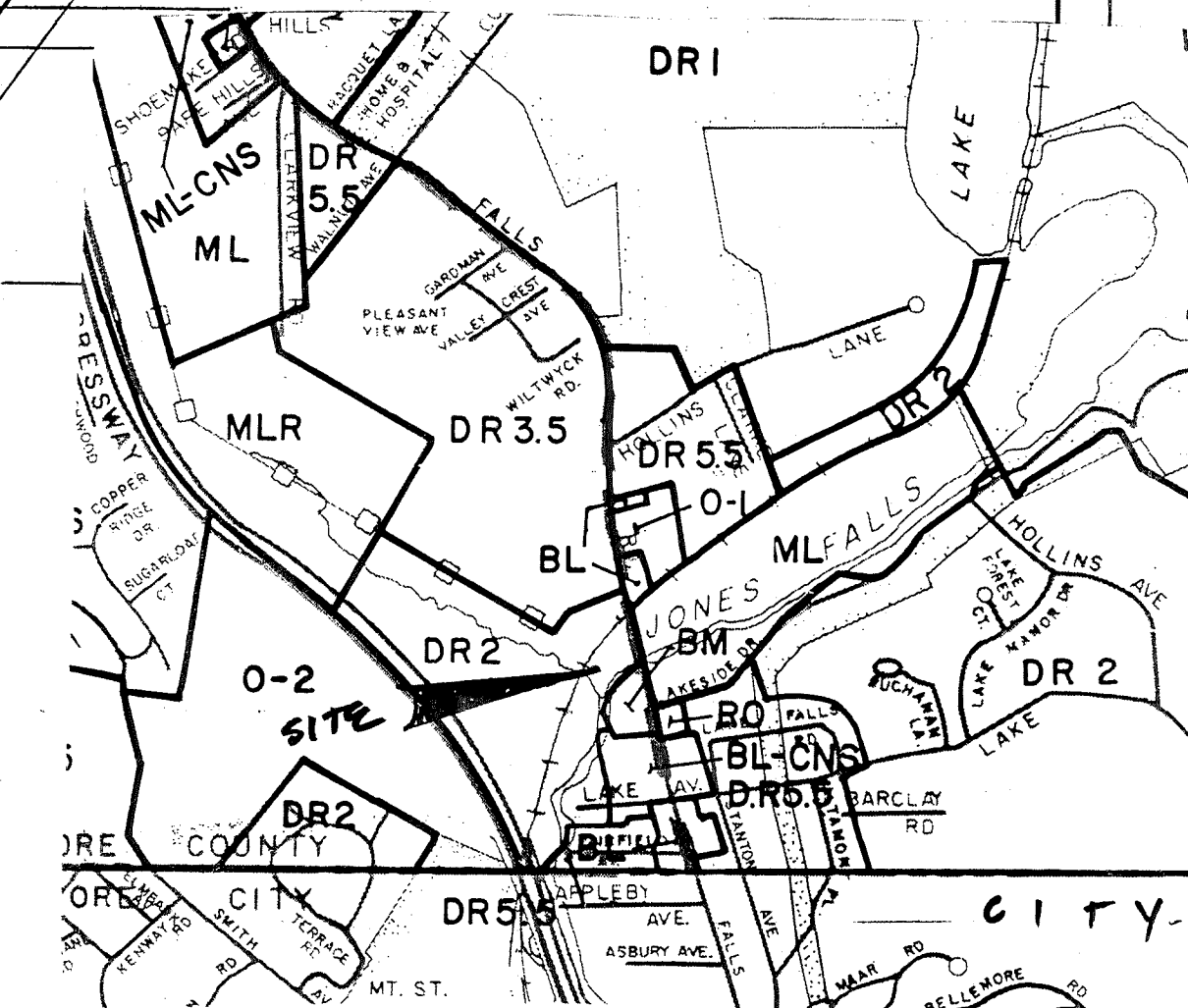
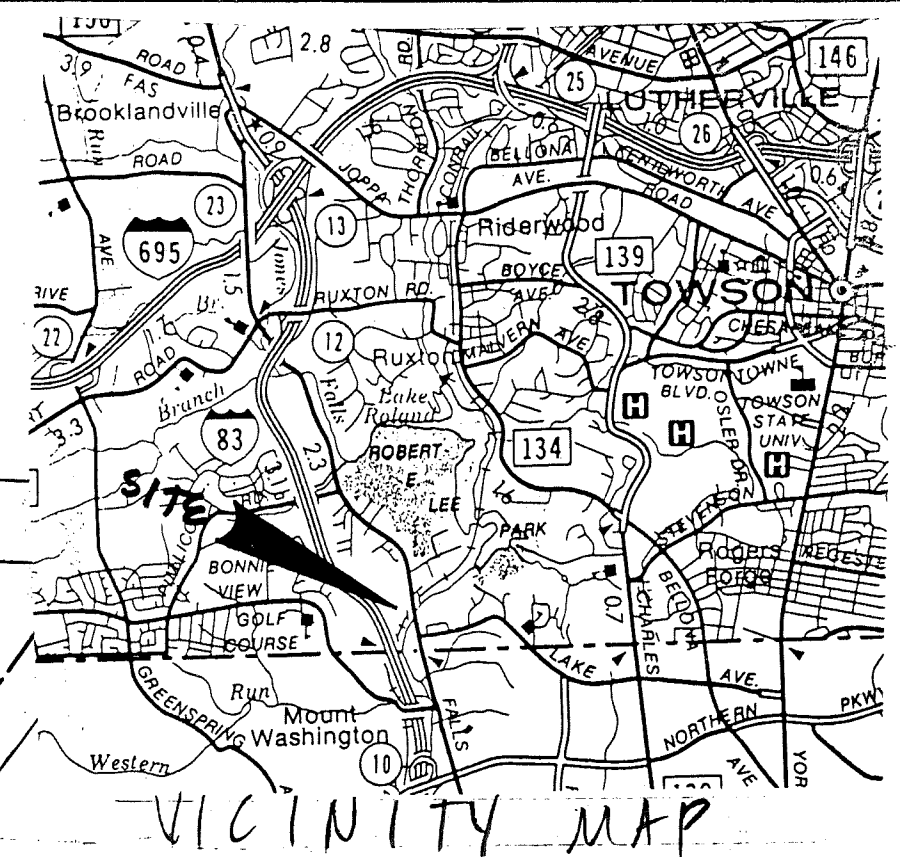
OUTDOOR SUBSTATION

TITLE GUARANTEE & TRUST CO.

TO

BANKERS TRUST CO. & CONSOLIDATED GAS ELECTRIC LIGHT AND POWER CO.

4-15-42 C.H.K.1221-106



PROPERTY OWNERSHIP UNKNOWN
BY
BALTIMORE COUNTY TAX ASSESSMENT DEPT.

PROPERTY ZONING: DR-2
ZONING PERMITS: 90-41-SPH
NOTES:- APPROVED AS NON-CONFORMING USE

- NOTES:-
1. THIS PROPERTY LOCATED IN BALTIMORE COUNTY
 2. AREA OF PROPERTY - 1.42+ ACRES = 61,855 SF
 3. PARKING DATA:-
EMPLOYEE PARKING - 30 CARS FOR 80 EMPLOYEES - SPACE 10'X20'
COMPANY PARKING - 24 CARS & TRUCKS
PARKING SPACES - 10'X20' & 10'X25'
 4. DENOTES - CRUSHED STONE PAVING
DENOTES MACADAM PAVING
 6. LIGHTING STANDARDS INDICATED THUS. MOUNTED 30' ABOVE GRADE
- REFERENCES:-
1. FOR GRADING & FENCE PLAN, SEE DWG. 39-920-D

SITE PLAN

SCALE 1"=20'

PLAN TO ACCOMPANY DRC REQUEST

ELECTION DISTRICT 9, COUNCILMANIC DISTRICT 2

5-12-02

2ND FLOOR

ADDITION & ALTERATIONS TO:

EASTERN SALES & ENGINEERING CO.

6102 FALLS ROAD BALTIMORE, MD 21209

TAX I.D. NO. 03-02-003439

SHEET A-1

5494414

1990-0041

F. CHRISTIAN ANDERSON AND NORA ANDERSON
TO
MORRIS REALTY COMPANY INC.
2-12-65 4155-230

214 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
OFC: 410 832-7666
FAX: 410 832-7668

PAUL J. GORMAN, ARCHITECT
MEMBER OF THE AMERICAN INSTITUTE OF ARCHITECTS

M		K		H		F		D			
L		J		G		E		C			

THE SECURITY TITLE
GUARANTEE CORPORATION OF BALTIMORE

SIX SOUTH CALVERT STREET
BALTIMORE, MARYLAND 21202-1388

SAFETY and SERVICE
WITH SECURITY

January 4, 1991

J. Robert Haines
Zoning Commissioner for
Baltimore County
Office of the Planning & Zoning
Towson, MD 21204

RE: Petition for Special Hearing
W/S of Falls Road, 1,000' N of the c/l of Lake Avenue
3rd Election District-2nd Councilmanic District
Baltimore Gas & Electric Co., Petitioner
Case No. 90-41-SPH

Dear Mr. Haines:

Pursuant to the Order entered in the captioned hearing, I
enclose a copy of the recorded Deed conveying the property from
Baltimore Gas & Electric Co. to David Hessler and Julia Hessler.

I believe this concludes this matter. Please contact me if
further information is needed.

Very truly yours,

W. Charles Rogers, III
Executive Vice President

WCR, III/mme
Enclosure

cc: Joseph I. Huesman, Esq. w/ encl.
Mr. and Mrs. David Hessler

RECEIVED

JAN 9 1991

ZONING OFFICE

M. Kellman
OK to file with 90-41-SPH
RECEIVED JAN 10 1991 per restriction # 7

(301) 727-4456 • TOLL FREE 1-800-669-6063 • FAX (301) 727-3252

36

BOOK 8685 PAGE 542

THE SECURITY TITLE GUARANTEE
CORPORATION OF BALTIMORE
Six South Calvert
Baltimore, Md. 21202-1388
153764 Falls Rd.

THIS DEED AND PARTIAL RELEASE OF MORTGAGE, made this
27th day of ~~December~~ 1990, by and between BALTIMORE GAS AND
ELECTRIC COMPANY, a body corporate of the State of Maryland,
party of the first part, hereinafter sometimes referred to as
"Grantor", BANKERS TRUST COMPANY, Trustee, a body corporate of
the State of New York, party of the second part, hereinafter
sometimes referred to as "Trustee", and DAVID PATTERSON
HESSLER and JULIA HARRELL HESSLER, his wife, parties of the
third part, hereinafter sometimes referred to as "Grantees".

WITNESSETH:

WHEREAS, said Trustee is the holder of a Mortgage
Deed of Trust from the said Grantor dated February 1, 1919,
and recorded among the Land Records of Baltimore County,
Maryland, in Liber W.P.C. No. 555, folio 1, etc., given to
secure its First Refunding Mortgage and Indentures
supplemental thereto, all recorded among the Land Records of
Baltimore County, Maryland; and

WHEREAS, the Grantor has agreed to convey, in fee
simple, a parcel of land situate in the Third Election
District of Baltimore County, State of Maryland, and
hereinafter described, to said Grantees.

NOW, THEREFORE, in consideration of the sum of Two
Hundred Twenty-six Thousand Dollars (\$226,000.00) and other
valuable considerations, the receipt whereof is hereby
acknowledged, the Grantor does hereby grant and convey unto
the Grantees, as tenants by the entireties, their assigns, and
to the survivor of them, and the personal representatives,
heirs and assigns of the survivor, in fee simple, a parcel of
land situate in the Third Election District of Baltimore
County, Maryland, and described as follows:

BEGINNING for the same at a point where the
center line of Falls Road is intersected by the
southernmost side of the Northern Central Railroad
right-of-way, 66 feet wide, said point also being
880.00 feet more or less north of the center line of
Lake Avenue; thence, running with and binding on
said southernmost side of the Northern Central
Railroad right-of-way, 66 feet wide, and on the
State Roads Commission right-of-way line,
southwesterly with a curve to the left, whose radius
is 1718.37 feet, for a distance of 90.00 feet more

03A02M0278TLRTX \$3,616.00
BA C001:09PM01-02-91

BEFORE THE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
CASE NO. 90-41-SPH

ORDER OF DISMISSAL

This is a copy of the decision of the Zoning Commissioner dated September 20, 1989, granting the Petition for Special Hearing with restrictions to the property located on the west side of Falls Road, 1000' north of the center line of Lake Avenue, in the Third Election District of Baltimore County.

WHEREAS the Board of Appeals is in receipt of a Letter of Dismissal dated June 6, 1990 in copy of which is attached hereto and made a part of the record, the Appellant-Protestant in the above-entitled case who has agreed in accordance with an agreement reached with Julia and David Hessler and their company, The Eastern Sales & Engineering Co., as set forth in Mr. Hessler's letter of June 5, 1990 in copy of which is also attached hereto and made a part of the record, and

WHEREAS the said Appellant-Protestant requests that the appeal filed by her be dismissed and withdrawn as of June 6, 1990,

IT IS HEREBY ORDERED by the County Board of Appeals of Baltimore County on this 12th day of June 1990 that said appeal be and the same is hereby DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Arnold M. Foreman, Acting Chairman
Michael B. Sauch
Harry J. Buchheiser, Jr.

5215 Falls Road
Baltimore, MD 21209

June 5, 1990

To: County Board of Appeals of Baltimore County
111 W. Chesapeake Ave.
Towson, MD 21204

RE: Case No. 90-41-SPH BALTIMORE GAS & ELECTRIC COMPANY
W/S of Falls Rd.
3rd Election District
2nd Councilmanic District

Dear Sirs:

In accordance with the agreement, we have reached with Julia and David Hessler and their company, The Eastern Sales & Engineering Co., as set forth in Mr. Hessler's letter of June 5, 1990 attached, we hereby withdraw our appeal in the above referenced case.

We wish, however, to note our protest at this time to any future changes in the zoning of this property.

Very truly yours,

Sarah F. Lord
Sarah F. Lord
Appellant/Protestant
On her own behalf and on behalf of
The Pleasant View Civic Assoc. and
the Lake Roland Protective Assoc.

85-1 WJ 9-NR 06
RECEIVED
COUNTY BOARD OF APPEALS

THE EASTERN SALES & ENGINEERING COMPANY

ELECTRICAL CONTRACTOR

BALTIMORE, MARYLAND 21209

(301) 377-0123

6102 FALLS ROAD

June 5, 1990

To: Pleasant View Civic Association
Lake Roland Protective Association
Mrs. Sarah F. Lord

As we discussed in our meeting of June 4, 1990, it is not the intention of The Eastern Sales & Engineering Co. or Julia and David Hessler to seek or authorize any change in the zoning of W/S of Falls Road, 1000' N of the c/l of Lake Avenue. We agree to conduct our business just as we have since our occupancy of this site began. We also agree that there will be no alteration or expansion of our present use except as permitted by the zoning laws, regulations and the zoning commissioner's order of September 20, 1989.

Therefore, as we agreed at our meeting, as an indication of our intention we will not seek or authorize anyone else to seek a zoning change for this property until at least the expiration of the next two zoning cycles, namely the 1992 and the 1996 cycles.

As we discussed the only exception to this agreement would be if the building was damaged by fire, flood or other casualty to the extent of 75% of its replacement cost, to allow us to rebuild and continue our use of the property.

As a result of this agreement, Sarah F. Lord and The Pleasant View Civic Association and the Lake Roland Protective Association agree to withdraw their appeal request dated 10/20/89 of the zoning commissioner's order granting petition w/s restrictions Case No. 90-41-SPH dated September 20, 1989, and to simply leave on record a written protest concerning any changes in zoning for this property.

Yours truly,

THE EASTERN SALES & ENGINEERING CO.

David P. Hessler
David P. Hessler
President

Accepted and agreed to, this 6th day of June 1990.

Sarah F. Lord
Pleasant View Civic Association
Lake Roland Protective Association

ESTABLISHED 1935

Petition for Special Hearing
W/S of Falls Road, 1,000' N of the c/l of Lake Avenue
3rd Election District - 2nd Councilmanic District
BALTIMORE GAS & ELECTRIC CO. - Petitioner
Case No. 90-41-SPH

Petition for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted).

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1. Copy of Plant- Additions and Retirements

2. Plot Plan - Mt. Wash. Gas & Electric Co.

3. Copy of Granting of New Building Permit

4. Copy of Permit Application

5. Microfilmed copy of map (unclear)

6. & 7. Photographs of site

8. Copy of Flood Plain Map

Protestant's Exhibits: 1. Letter of opposition from Pleasant View Community Association

Zoning Commissioner's Order dated September 20, 1989 (Granted w/ Restrictions)

Notice of Appeal received October 20, 1989 from Sarah F. Lord, Protestant

cc: David Hessler, Eastern Sales & Engineering Company
34 Chesterfield Court, Monkton, Maryland 21111

E. D. Coss - Vice President, B. G. & E.
P.O. Box 1475, Baltimore, MD 21203

Joseph I. Huesman, Esquire, Lerch and Huesman
102 W. Pennsylvania Avenue, Suite 201, Towson, MD 21204

Julia Hessler, C.E., 34 Chesterfield Court, Monkton, MD 21111

Phyllis P. Hessler, 802 E. Seminary Avenue, Baltimore, MD 21204

D. W. Pellicot, 3 Palma Court, Baltimore, MD 21234

Harry J. Zepp, 27 Glyndon Drive, Reisterstown, MD 21136

PETITION FOR SPECIAL HEARING
W/S of Falls Road, 1,000' N
of the c/l of Lake Avenue
3rd Election District
2nd Councilmanic District
BALTIMORE GAS & ELECTRIC CO.
- Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-41-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Zoning Commissioner has received a petition for special hearing to approve the proposed use of the existing building and improvements on the subject property, located on the west side of Falls Road, 1000' north of the center line of Lake Avenue, in the Third Election District of Baltimore County, and to approve a change in the zoning of the property from its present zoning to that of the proposed use, in accordance with Petitioner's request.

The petition was filed by David Hessler, President, Eastern Sales and Engineering Company, Contract Purchaser, appeared, testified and was represented by his wife, Julia Hessler, also appearing on behalf of the Eastern Sales and Engineering Company, and Phyllis P. Hessler, and D. W. Pellicot, all of whom are employees of the Eastern Sales and Engineering Company (EG & E). The following individuals appeared as witnesses: Sarah F. Lord and Louise M. Lord, both of whom are employees of the Eastern Sales and Engineering Company; Robert W. Gibson, Philip W. Chase, Jr., W. A. Lawrence, and Thomas H. Lynch, all employees of the Eastern Sales and Engineering Company (EG & E). The subject property consists of 1.42 acres, more or less, and is improved with an existing block building, which was built in 1926 and is used as an outdoor storage area for the Baltimore Gas and Electric Company's outdoor

Substation." Mr. Hessler is desirous of establishing the subject property as a legal nonconforming use as a business shop, office, maintenance, storage facility, etc. for his electrical company. Mr. Dobson testified that the subject property was originally acquired by the Mt. Washington Power Company sometime in the 1920s and was, to the best of his knowledge, used as a boiler-type electric generator facility. Testimony indicated that EG & E acquired the property in approximately 1928 and has owned and occupied the facility since that time.

Mr. Zepp testified that his employment with EG & E commenced in the 1920s shortly after the construction of the Mt. Washington Substation. He testified that he performed various jobs, either at or dispatched from the subject site. He described the types of crews that were dispatched from the station such as line gangs, who were responsible for stringing telephone lines and consisted of three separate crews, each crew having one truck, loop wagon crews, who were responsible for installing meters, transformers, etc. and consisted of three crews, each crew having one truck, and layout crews who were responsible for staking out jobs. Mr. Zepp testified that he worked on a number of the aforementioned crews, in addition to working as a dispatch trouble shooter. Regarding the storage of equipment and vehicles on the subject property, Mr. Zepp indicated that poles, transformers, cross-arms, rolls of wire, guide wire, trucks and miscellaneous equipment were routinely stored at the subject site. He stated that the site contained a work shop, offices, and indoor and outdoor storage areas. Mr. Zepp testified that the operation as described above continued in this fashion during the approximately 34 years he worked at this location, which was roughly from 1926 through 1960, at

which time he was transferred to the Cockeysville facility. Mr. Zepp testified that sometime between 1960 and 1965, EG & E razed the original building and constructed the block structure which exists on the site today. He stated that the new facility was used to dispatch crews to various construction sites and repair substations.

Mr. Pellicot testified that he began his employment with EG & E in 1952 and worked out of the Madison and Mt. Washington facility as a tree trimmer. He testified that cut brush was dumped and disposed of on what is now known as the Davey Tree site, adjacent to the Mt. Washington site. He stated that after each and every such dumping, he would report to the Mt. Washington office. Mr. Pellicot testified that through at least 1986, the Mt. Washington facility maintained a workshop, dispatched work crews, and maintained office and storage space on the premises. He indicated that the items stored on the property included, but were not limited to, keystone ladder trucks, hydraulic bucket trucks, cable and poles. He testified that during this period, approximately 90 EG & E employees worked out of the facility. Mr. Pellicot stated that between the years of 1966 and 1986, the facility was used to dispatch work crews and store equipment and materials. He testified that sometime in 1986, EG & E decided to consolidate its facilities and thereafter relocated the majority of the Mt. Washington employees to other locations. He indicated that during this period, the facility was still used for the storage of materials and equipment and the existing workshop continued in operation. However, there were no employees permanently assigned to this location. In 1987, new EG & E crews were assigned to the Mt. Washington facility and were responsible for installing dispatch radios in company trucks.

Mr. Gibson testified that he has been a EG & E employee for nearly 34 years working in the landscaping department until approximately 3 years ago. He stated that during this period, he was dispatched from the Mt. Washington facility to perform a variety of landscaping jobs at various substations. Mr. Gibson testified that he worked out of the Mt. Washington facility until 1987. He further testified that the Asplundh Tree Company, who currently performs contractual tree trimming work for EG & E, has in the past, and continues to park various pieces of its equipment at the Mt. Washington site.

Mr. Lynch testified that he has been a EG & E employee for over 20 years and has been working at the Mt. Washington facility since 1987 as Project Coordinator for the installation of dispatch radios in company vehicles. He testified that Asplundh is still storing equipment at the site and that EG & E stores a variety of electrical materials which are used in the construction and maintenance of the various substations.

Mr. Hessler, President of the Eastern Sales and Engineering Company (Eastern), testified that his business was started in 1933 by his grandfather and specializes in the electrical construction and maintenance business. Services provided by Eastern include installing electrical poles, stringing wire, maintenance on electrical systems, and trouble-shooting. He testified that 18 persons are currently employed by Eastern, two of whom are part-time and four of whom will be on the subject site for the entire working day. Mr. Hessler stated that the business currently maintains five ladder trucks, three bucket trucks, two utility trucks, and one tractor. He stated that six of these vehicles will be driven home by employees in the evening. Mr. Hessler testified that he anticipates the outside storage of equipment to consist of an air compressor and materials.

ORDER RECEIVED FOR FILING

Date 9/10/90 By Kate J. Johnson

ORDER RECEIVED FOR FILING

Date 9/10/90 By Kate J. Johnson

ORDER RECEIVED FOR FILING

Date 9/10/89 By J. Robert Haines

trailer, poles, light fixtures, signs, wire, fittings, conduits, aluminum transformers and ballasts. He stated that materials will be stored at the site for use at specific jobs, and will not be stored in bulk for miscellaneous use. Mr. Hessler testified that as much as possible, all materials will be stored inside the existing block building. Additionally, Mr. Hessler stated that Eastern is not in the business of retail or wholesale electrical sales, and that no customers would have occasion to visit the site.

Mr. Lord testified on behalf of the Ruxton-Ridewood Community Association as a Protestant. He generally conveyed the Association's concern regarding the encroachment of industrial development in their community.

Mr. Lord stated that in her opinion, Eastern's proposed use of the subject site constitutes a use different in character, nature, and kind from the original nonconforming use, and therefore, the subject Petition should be denied and the nonconforming use extinguished.

Ms. Bandy, Secretary for the Pleasantview Civic Association, submitted a letter from the Association which indicated the Association's general opposition to the relief requested in the Petition.

Also testifying as a Protestant was Dr. Devens who generally voiced his objections to the Petition and stated that in his opinion the Petitioner's request is not compatible with the community.

Zoning came officially to Baltimore County on January 2, 1945, when, pursuant to previous authorization by the General Assembly, the County Commissioners adopted a comprehensive set of zoning regulations.

The Commissioners were first authorized to adopt comprehensive planning and zoning regulations in 1939 (Laws of Maryland, 1939, ch. 715). At the next biennial session of the General Assembly, this author-

ization was repealed, and a new authorization was enacted (Laws of Md., 1941, ch. 247). Before any such regulations were issued, the Legislature authorized the Commissioners to make special exceptions to the regulations (Laws of Md., 1943, ch. 571). The first regulations were adopted and took effect on January 2, 1945. See *Kahl v. Cons. Gas Elec. Light, and Pwr. Co.*, 191 Md. 249, 254, 60 A.2d 754 (1948); *Callahan v. County Board of Appeals*, 262 Md. 265, 277 A.2d 589 (1971).

Section 11 of those regulations created seven zones, four being residential, one commercial, and two industrial. See *McKemy v. Baltimore County*, Md. App. 257, 385 A.2d 96 (1978).

Those original regulations provided for nonconforming uses. The statute read as follows:

"A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such nonconforming use to a conforming use, or any attempt to change from such nonconforming use to a different nonconforming use or any discontinuance of such nonconforming use for a period of one year, or in the case of a nonconforming structure shall be damaged by fire or otherwise to the extent of seventy-five (75%) percent of its value, the right to continue to resume such nonconforming use shall terminate, provided, however, that any such lawful nonconforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original nonconforming use." Section XI, 1945, B.C.Z.R.

Baltimore County adopted a new set of comprehensive zoning regulations on March 30, 1955. The issue of nonconforming uses are dealt with in Section 104 of those regulations. The Section then read:

"104.1 - A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue, provided that upon any change from such nonconforming use to any other use whatsoever, or any nonconforming use or discontinuance of such nonconforming use for a period of one year or more, or in case any use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure or nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used." (B.C.Z.R., 1955; Bill No. 18, 1976)

ORDER RECEIVED FOR FILING

Date 9/10/89 By J. Robert Haines

extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure or nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used."

Section 104.1 was changed to its current language on March 15, 1976 by Bill No. 18-76. The current effective regulation reads as follows:

"A nonconforming use (as defined in Section 101) may continue, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure or nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used." (B.C.Z.R., 1955; Bill No. 18, 1976)

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See *McKemy v. Baltimore County*, Md., 39 Md. App. 257, 385 A.2d 96 (1978).

When the claimed non-conforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the non-conforming use, the Zoning Commissioner should consider the following factors:

- To what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;
- Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;
- Does the current use have a substantially different effect upon the neighborhood;
- Is the current use a "drastic enlargement or extension" of the original non-conforming use.

Testimony indicated that the public utility use of the subject property pre-dates the 1945 zoning regulations by approximately 15 years. The proposed use of the property reflects in part, the nature and purpose of the original nonconforming use. Further, it is the Zoning Commissioner's opinion that the Petitioner's proposed use of this property is merely a different manner of utilizing the original nonconforming use and will not be a drastic enlargement or extension thereof and will not have a substantially different effect upon the surrounding neighborhood. In consideration of the above, the Zoning Commissioner finds that the nature of Petitioner's proposed use is so similar to the prior use that to deny the Petition for Special Hearing would require an unnecessarily burdensome reading of the *McKemy* test and therefore, the Petition for Special Hearing should be granted.

DESCRIPTION OF PARCEL OF LAND TO BE CONVEYED BY BALTIMORE GAS AND ELECTRIC COMPANY

ALL that parcel of land owned by Baltimore Gas and Electric Company, located in the Third Election District of Baltimore County, State of Maryland, and described as follows:

BEGINNING for the same at a point where the center line of Falls Road is intersected by the southernmost side of the Northern Central Railroad right-of-way, 66 feet wide, said point also being 880.00 feet more or less north of the center line of Lake Avenue; thence running with and binding on said southernmost side of the Northern Central Railroad right-of-way, 66 feet wide, and on the State Roads Commission right-of-way line, southwest-ly with a curve to the left, whose radius is 1718.37 feet, for 90.00 feet more or less to a concrete monument a distance of 90.00 feet in the outline of the Land Records of Baltimore County in Liber 1, M.C.L.M. No. 891 folio 133 was dated October 10, 1931 and recorded in the Land Records of Baltimore County in Liber 1, M.C.L.M. No. 891 folio 133 was conveyed by Consolidated Gas Electric Light and Power Company of Maryland, For The Use of The State of Maryland, to the State of Maryland, thence running with and binding on the following five courses and distances: said outline and distances: South 2 degrees 45 minutes 00 seconds East - 51.25 feet; thence South 2 degrees 41 minutes 00 seconds East - 46.86 feet; thence South 52 degrees 07 minutes 00 seconds East - 62.13 feet; thence South 3 degrees 26 minutes 00 seconds East - 42.00 feet to a point in or near the center of Jones Falls; thence running in or near the center of Jones Falls and running with and binding on the outline of a parcel of land which by a deed dated April 4, 1928 and recorded among the Land Records of Baltimore County in Liber 1, M.C.L.M. No. 652 folio 490 was conveyed by Mount Washington Electric Light and Power Company of Baltimore South 56 degrees 32 minutes 00 seconds West - 56.75 feet; thence South 31 degrees 36 minutes 00 seconds West - 200.50 feet; thence leaving the center of Jones Falls and continuing with the aforementioned outline, North 22 degrees 09 minutes 00 seconds West - 192.40 feet to a concrete monument heretofore set in the southernmost side of the Northern Central Railroad right-of-way, 66 feet wide; thence North 22 degrees 09 minutes 00 seconds West - 39.00 feet more or less to intersect the center line of the Northern Central Railroad right-of-way, 66 feet wide; thence running with and binding on said center line of right-of-way, 66 feet wide, with a curve to the right, whose radius is 1751.37 feet, for a distance of 225.00 feet more or less to intersect the center line of Falls Road; thence running with and binding on the center line of Falls Road southeasterly 41 feet more or less to the place of beginning.

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 800.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve

approval of the existing building and improvements (Northern Electrical Construction Department of Baltimore Gas and Electric Co. used for Shop, Office, Garage, Equipment and Material Storage, etc.) as being a legal non-conforming use that complies with the applicable zoning regulations, and also to approve that the proposed continued use (Gas Shop, Office, Garage, Equipment, and Material Storage, etc.) does not represent a change.

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: (Type or Print Name) <u>Eastern Gas & Engineering Co., Inc.</u> Signature <u>[Signature]</u> Address <u>24 Chesterfield Ct.</u> City and State <u>Monkton, MD 21111</u>	Legal Owner(s): (Type or Print Name) <u>BALTIMORE GAS AND ELECTRIC COMPANY</u> Signature <u>[Signature]</u> Address <u>P.O. Box 1473</u> City and State <u>Baltimore, MD 21203</u> Attn: Mr. Bill Dobson Name, address and phone number of legal owner, contractor, purchaser or representative to be contacted <u>David Hessler</u> Name <u>24 Chesterfield Ct.</u> Address <u>Monkton, MD 21111</u>
Attorney for Petitioner: (Type or Print Name) <u>V. Charles Rogers III</u> Signature <u>[Signature]</u> Address <u>6 S. Calvert St.</u> City and State <u>Baltimore, MD 21202</u> Attorney's Telephone No.: <u>727-4456</u>	Address <u>281-3102</u> Phone No. <u>728-2500</u>

ORDERED By The Zoning Commissioner of Baltimore County, this 31 day of May, 1989, 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 300, County Office Building in Towson, Baltimore County, on the 9 day of May, 1989, at 10:00 o'clock.

J. Robert Haines
Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING

Date 9/10/89 By J. Robert Haines

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of September, 1989 that the Petition for Special Hearing to approve the nonconforming use of the existing building and improvements on the subject property, used as Shop, Office, Garage, Equipment and Material Storage Area by Petitioner, and to approve the continued use of same by the Contract Purchaser does not represent a change, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- The Petitioner and/or Contract Purchaser is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- The Petitioner and/or Contract Purchaser shall not engage in the retail and/or wholesale selling of any materials, equipment, vehicles, merchandise, etc. from the subject property.
- The Petitioner and/or Contract Purchaser shall be limited to ten (10) or less commercial vehicles on the subject property.
- The proposed business operation shall be limited to twenty-five (25) employees, including part-time, on the subject site.
- The outdoor storage of electrical materials shall be limited to poles and wire.
- Prior to the sale or transfer of the subject business or real estate, or prior to the leasing of the subject facility to a third party, Petitioner and/or Contract Purchaser shall be required to file a Petition for Special Hearing for a determination of the status of the nonconforming use and whether or not

ORDER RECEIVED FOR FILING

Date 9/10/89 By J. Robert Haines

the nonconforming use is applicable to the new use or tenant.

7) Pursuant to Section 502.2 of the B.C.Z.R., a new deed incorporating a reference to this case and the restrictions and conditions set forth herein shall be recorded among the Land Records of Baltimore County within sixty (60) days of the date of this order and a copy of the recorded deed shall be forwarded to the Zoning Commissioner for inclusion in the case file.

JRH:bjs

J. Robert Haines
Zoning Commissioner for Baltimore County

CONTAINING 1.42 Acres of land more or less
BEING the same as that parcel of land which by a deed
dated April 18, 1928 and recorded in the Land Records of Baltimore
County in Liber W. M. No. 652 folio 40, was conveyed by Mount
Washington Electric Light and Power Company to Consolidated Gas
Electric Light and Power Company of Baltimore.
SAVING AND EXCEPTING THEREFROM all that parcel of land
which by deed dated October 10, 1931 and recorded among the Land
Records of Baltimore County in Liber L. M. No. 891 folio 133
was conveyed by Consolidated Gas Electric Light and Power Company
of Baltimore to The State of Maryland, For The Use of The State
Roads Commission of Maryland.
THE COURSES and distances in the above described parcel
of land are referred to a survey by E. V. Coonan & Co., dated
July 2, 1911.
THIS DESCRIPTION prepared without benefit of a title
search or updated field survey.



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. C. SPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3353
December 11, 1989
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). NO POSTPONEMENTS
WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING
DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL
BILL NO. 59-79.

CASE NO. 90-41-SPH
BALTIMORE GAS & ELECTRIC COMPANY
W/S of Falls Rd., 1,000' N of c/l of Lake Avenue
3rd Election District
2nd Councilmanic District
SPH - Approve nonconforming use - existing office/
equipment storage/etc.; Approve continued use
by Contract Purchaser
9/20/89 - Z.C.'s Order GRANTING Petition with
restrictions.

ASSIGNED FOR: FRIDAY, JUNE 8, 1990 at 10:00 a.m.

cc: Sarah F. Lord Appellant/Protestant
David Hessler Eastern Sales & Engineering Co.
H.D. Coss, V.P. Baltimore Gas & Electric Co.
Joseph I. Huesman, Esq.
Julia Hessler
Phyllis P. Hessler
D.W. Pellicot
Harry J. Zepp
Robert W. Gibson
Philip W. Chase, Jr.
W.A. Robinson
Irvin O. Bauer
Thomas H. Lynch
Louise M. Schulz
Natalie Bundy
Dr. Edward Davens
Lelia Griswold
Jane S. B. Lawrence
People's Counsel for Baltimore County

P. David Fields
Pat. Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

LindaLee M. Kuszmaul
Legal Secretary

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

November 20, 1989

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing
W/S of Falls Road, 1,000' N of the c/l of Lake Avenue
3rd Election District, 2nd Councilmanic District
BALTIMORE GAS & ELECTRIC CO. - Petitioner
Case No. 90-41-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was
filed in this office on October 20, 1989 by Sarah F. Lord.
All materials relative to the case are being forwarded
herewith.

Please notify all parties to the case of the date and time of the
appeal hearing when it has been scheduled. If you have any questions
concerning this matter, please do not hesitate to contact this office.

Very truly yours,
J. Robert Haines
Zoning Commissioner

JRH:cer
Enclosures

cc: David Hessler, Eastern Sales & Engineering Company
34 Chesterfield Court, Monkton, Maryland 21111
H. D. Coss - Vice President, B. G. & E.
P.O. Box 1475, Baltimore, MD 21203
Joseph I. Huesman, Esquire, Lerch and Huesman
102 W. Pennsylvania Avenue, Suite 201, Towson, MD 21204
Julia Hessler, C.E., 34 Chesterfield Court, Monkton, MD 21111
Phyllis P. Hessler, 802 E. Seminary Avenue, Baltimore, MD 21204

To Robert Haines
Commissioner of Planning & Zoning
Baltimore County
Dear Commissioner Haines:

The Pleasant View Civic Association
and the Lake Road Protective Association,
together with neighboring associations,
are sufficiently worried about the
implications of item #49L, Case # 90-41-SPH
that we respectfully request an appeal
in the matter.

This is the case in which BGE intends
to sell DR zoned property to an electrical
contractor - David Hessler, owner of
Eastern Sales and Engineering. This case is
of overwhelming importance to our neighbors
as we cannot afford to see a cause for
zoning change occur at this location.

Thank you,
Sarah F. Lord
6249 Falls Rd
Baltimore MD 21209
828-4355

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

Date of Posting: July 19, 1989

Posted for: Special Hearing
Petitioner: Eastern Sales & Engineering Co.
Location of property: W/S Falls Road, 1000' N of c/l of Lake Avenue
Location of Sign: West side of Falls Road in front of subject property
Number of Signs: 2
Date of return: July 28, 1989

CERTIFICATE OF PUBLICATION
TOWSON, MD. July 21, 1989

THIS IS TO CERTIFY that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper printed
published in Towson, Baltimore County, Md, appearing on
July 30, 1989

THE JEFFERSONIAN
S. Zeke Orlin
Publisher

P.O. 15733
Box H 31030
CA 94041-541
Price \$49.25

FOR SALE BY OWNER
Rockland Run Condo
Newly renovated, 2 BR, 2 bath
With fireplace, lots of extras
pool and garden. Call
484-7551

LEGAL NOTICE
The Zoning Commission of Baltimore County is hereby giving notice that it has received a petition for a special hearing from the Baltimore Gas & Electric Company, Inc. (BGE) for a variance from the zoning ordinance to allow the construction of a new building on the property located at the intersection of Falls Road and Lake Avenue, 3rd Election District, 2nd Councilmanic District. The proposed building is a 10,000 square foot office building. The petition was filed on October 20, 1989. A public hearing will be held on Friday, June 8, 1990 at 10:00 a.m. at the County Office Building, Room 315, Towson, Maryland. Any person wishing to object to the petition must appear at the hearing and state their objections in writing to the Zoning Commission. The Zoning Commission will consider the petition and make a decision on whether to grant the variance. The decision will be final and not subject to appeal.

FOR SALE
GIRL'S BEDROOM SET - 2 pc.
Hand-decorated, reasonable \$95-105.

Leonard Singleton
Employee of the Month
for July 1989
The Zoning Commission of Baltimore County is proud to announce that Leonard Singleton, a member of the staff of the Zoning Department, has been named Employee of the Month for July 1989. Mr. Singleton has been employed with the Zoning Department for three years. He makes inspections of buildings for compliance with the zoning ordinance. Mr. Singleton is a dedicated and hardworking employee who has consistently demonstrated a high level of professionalism and a commitment to the service of the community. He is a member of the Zoning Department's Environmental Stewards, with the goal of promoting environmental awareness and responsible development. Mr. Singleton is also a member of the Zoning Department's Planning Committee, which is responsible for reviewing and recommending zoning changes. Mr. Singleton's dedication and hard work have been instrumental in the success of the Zoning Department. We are proud to have him as a member of our staff and we look forward to his continued contributions to the community.

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

No. 0071576

10-25-89 ACCOUNT R-01-015-000

AMOUNT \$ 150.00

RECEIVED HENRY SARAH LORD

FOR APPEAL FILING Case # 90-41-SPH

DATE 7-27-89

VALIDATION OF SIGNATURE OF CARRIER

ONING OFFICE

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

Date of Posting: November 26, 1989

Posted for: Appeal
Petitioner: Baltimore Gas and Electric Company
Location of property: W/S Falls Rd, 1000' N of c/l of Lake Avenue
Location of Sign: West side of Falls Road in front of subject property
Number of Signs: 2
Date of return: November 30, 1989

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

DATE: 7-27-89

cc: David Hessler
Eastern Sales & Engineering Company
34 Chesterfield Court
Monkton, Maryland 21111

Re: Petition for Special Hearing
CASE NUMBER: 90-41-SPH
W/S Falls Road, 1000' N of c/l of Lake Avenue
3rd Election District, 2nd Councilmanic
Legal Owner(s): Baltimore Gas & Electric Company
Contract Purchaser(s): Eastern Sales & Engineering Co.
HEARING SCHEDULED: WEDNESDAY, AUGUST 9, 1989 at 11:00 a.m.

Dear Mr. Hessler:

Please be advised that \$ 99.45 is due for advertising and posting of
the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S)
RETURNED ON THE DAY OF THE HEARING OF THE ORDER SHALL NOT ISSUE.
DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY
UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the
check and the sign & post set(s) to the Zoning Office, County Office Building,
111 W. C. Speake Avenue, Room 113, Towson, Maryland 21204. (15)
minutes before your hearing.

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

No. 074635

DATE 7/27/89 ACCOUNT R-01-015-000

AMOUNT \$ 99.45

RECEIVED HENRY SARAH LORD

FOR APPEAL FILING Case # 90-41-SPH

DATE 7-27-89

VALIDATION OF SIGNATURE OF CARRIER

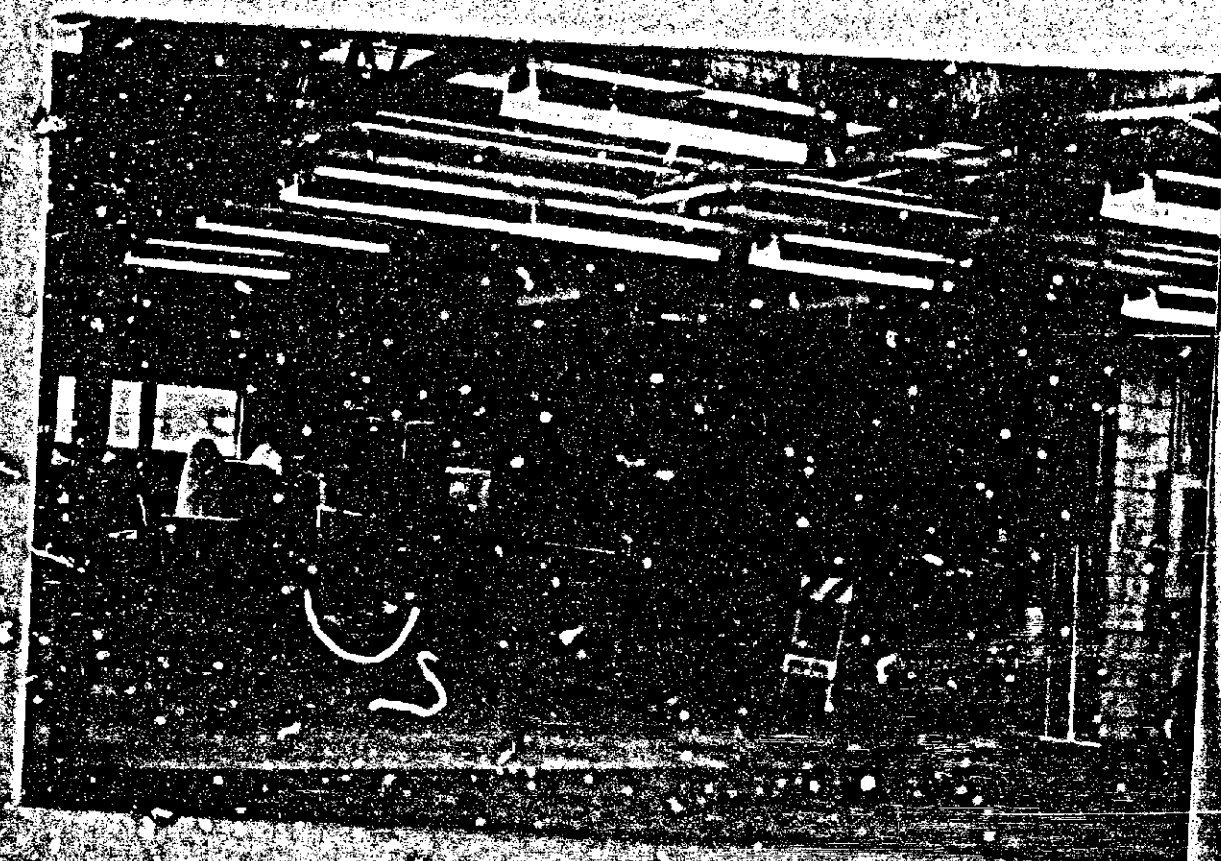
NOTICE OF HEARING

Petition for Special Hearing
CASE NUMBER: 90-41-SPH
1474 Falls Road, 1000' N of c/l of Lake Avenue
3rd Election District - 2nd Councilmanic
Legal Owner(s): Baltimore Gas & Electric Company
Contract Purchaser(s): Eastern Sales & Engineering Co.
HEARING SCHEDULED: WEDNESDAY, AUGUST 9, 1989 at 11:00 a.m.

Special Hearings: Approve the existing building and improvements (Northern Electrical Construction Department of Baltimore Gas and Electric Co. used for Shop, Office, Garage, Equipment and Material Storage, etc.) as being a legal nonconforming use that predates the applicable zoning regulations, and also to approve that the proposed continued use (as Shop, Office, Garage, Equipment, and Material Storage, etc.) does not represent a change.

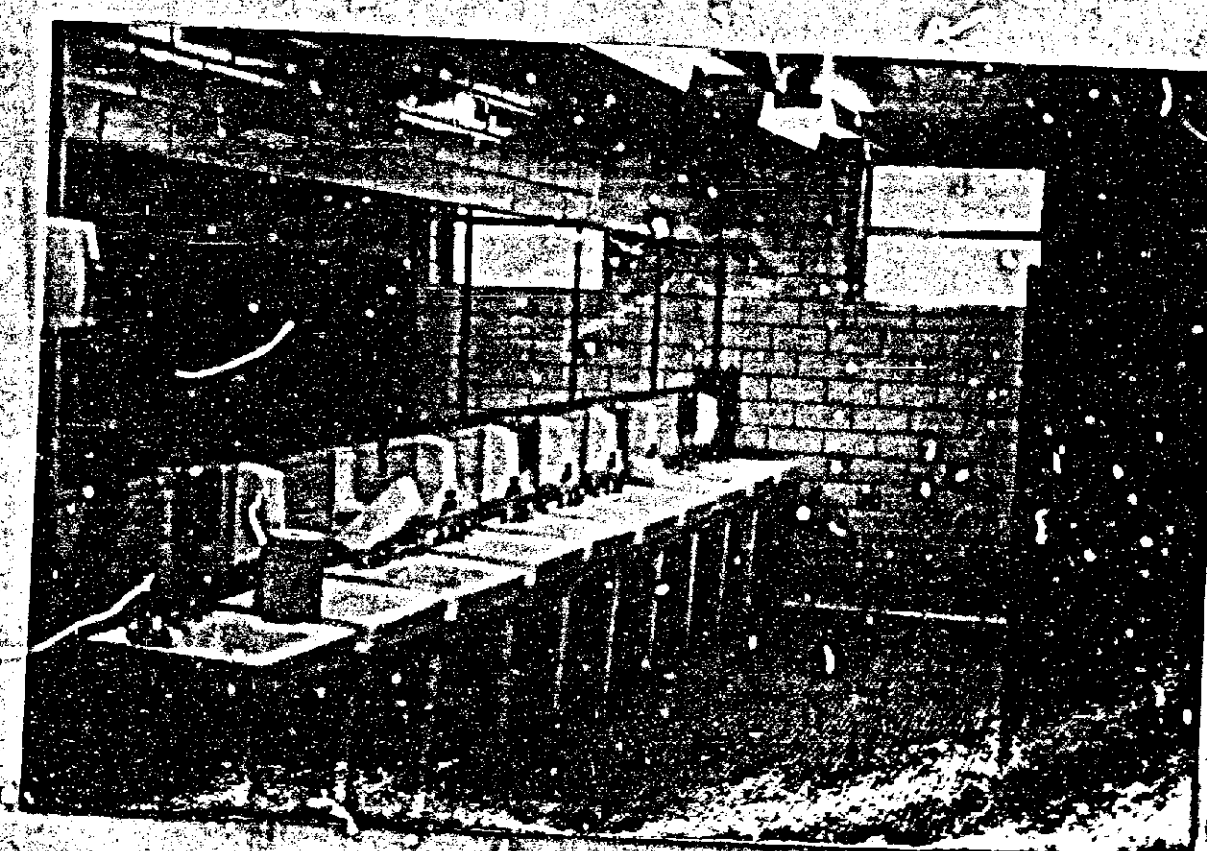
J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

JRH:gs
cc: David Hessler
Baltimore Gas & Electric/W.D. Cross
W. Charles Rogers, III
File



**PROTESTANT'S
EXHIBIT 1**

PETITIONER(S) EXHIBIT (7)



PETITIONER(S) EXHIBIT (7)



PETITIONER(S) EXHIBIT (7)



95-41-874
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Your petition has been received and accepted for filing this
date of June 6, 1989
J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
Petitioner: Baltimore Gas & Elec. received by: James E. Dyer
Chairman, Zoning Plans
Attorney: W. Charles Rogers, III Advisory Committee

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554
June 6, 1989
Dennis F. Rasmussen
County Executive
Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204
Dear Mr. Haines:
The Bureau of Traffic Engineering has no comments for items
number 487, 488, 489, 492, 494, 495, 497, 498, and 499.
Very truly yours,
Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Assoc. II

NSP/LWW
PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET
NAME ADDRESS
W.A. Dabson 1415 AUTO 21203
D.W. PELLICOT 3 PALMA CT BALTO. 21234
Denny J. Zipp 27 Glyndon Dr A1 21136
Robert W. Blason 5465 CENADA AVE. BALTO. MD. 21206
IRVING BAUER JR 1415 AUTO 21203
THOMAS H. LUGA BGSE P.O. BOX 1475, 21203
Denny W. Blason 728 MILL DAM RD BAYT. 21204
C.C. Haskins 8121 Seminary Ave Balt 21204
Phyllis P. Hassler 803 E. Seminary Ave. 21204
Julia H. Hassler 34 Christ Church CE Monkton 21111

90-41SPH
PLEASE PRINT CLEARLY PROTESTANT(S) SIGN-IN SHEET
NAME ADDRESS
JAMES E. LOED 6219 FAUS RD 21209
Louise H. Schute 822 Dickey Ave 21204
Dr. Edwards Dargens 6141 Barroll Road 21209
Natalie H. Dargens 6200 Pleasant View 21209
John Davis 1102 Hollins Sq. Balt. MD 21209
Marc S.B. Lawrence 6137 Barroll Rd. 21209

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE
July 31, 1989
COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204
W. Charles Rogers, III, Esquire
6 S. Calvert Street
Baltimore, MD 21202
RE: Item No. 491, Case No. 90-41-SPH
Petitioner: Baltimore Gas & Electric
Petition for Special Hearing
Dear Mr. Rogers:
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. 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. "However, 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.
IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN
COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE
ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.
Very truly yours,
James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee
JED:jw
Enclosures
cc: Mr. & Mrs. David Hessler
H. D. Coss, BGGE

BALTIMORE COUNTY, MARYLAND
Inter-Office Correspondence
TO: Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management
FROM: J. Robert Haines
Zoning Commissioner
SUBJECT: Petition for Special Hearing
W/S Falls Road, 1000' N of the c/l of Lake Avenue
3rd Election District - 2nd Councilmanic District
B G & E Company - Petitioners
Case No. 90-41-SPH
DATE: November 16, 1989
In response to your inter-office correspondence concerning the
above-captioned matter dated November 2, 1989, the following comments are
offered.
Please be advised that a public hearing was held on August 9,
1989 and based upon the testimony and evidence presented at the hearing,
an Order was issued on September 20, 1989 which precludes consideration of
your comments at this time. However, your letter will be incorporated
into the case file for future reference.
Attached for your information is a copy of the decision rendered
on September 29, 1989. Should you have any further questions on the sub-
ject, please feel free to call me.
JRH:bjs
cc: Case File

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: J. Robert Haines
Zoning Commissioner
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Eastern Sales & Engineering, Item 491
Zoning Petition No. 90-41-SPH
DATE: August 8, 1989
A non-conforming use determination is one which must be
reviewed under the most narrow of interpretation. Particularly in
the instant case because (1) we are dealing with a property which is
adjacent to the Jones Falls and is in the flood plain (albeit
modified with a retaining wall and rip rap) and (2) BG & E in reality
functions under very special circumstances as a quasi public
corporation. The use as we understand it is a service facility for
its customers.
While the proposed use would be for a general contractor who in
fact will be purchasing a distinct liability which could prove to be
both a financial burden and a poor land use application.
The theory behind nonconforming uses is that they are a square
peg in a round hold and should eventually be removed.
PK/sf
RECEIVED
AUG 8 1989
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: Mr. Robert Haines
Zoning Commissioner
FROM: Robert W. Sheesley
SUBJECT: Mount Washington
B.G. & E. Company 90-41-SPH
DATE: November 2, 1989
As part of a review of the above referenced zoning item an
investigation was conducted by the Environmental Impact Review Section
staff. This investigation revealed that an office and parking lot, a
concrete retaining wall, and rip-rap shoreline were constructed in the
floodplain of the Jones Falls, for use as a public utility.
It is our understanding that if the zoning request is granted, the
existing building and improvements will be considered a legal
non-conforming use that predates the applicable zoning regulations and
the continued use would not represent a change. This Department could
support that approach. However, if the use changes (i.e., a private
company takes over this operation for use other than a public utility),
other issues must be addressed.
This impervious surface in the floodplain has decreased associated
wetlands which would have provided flood storage and water quality
benefits. The retaining walls have altered flows, increasing water
velocity and depths downstream, which promote property damage and
streambank erosion. The Jones Falls Watershed experiences extreme
flooding problems and the loss of wetlands and floodplain exacerbate
this problem.
For this reason, we recommend that a floodplain restoration project
be incorporated into the zoning approval for this site that would become
effective if the use of this property does change. This floodplain
restoration would entail the removal of the retaining wall, a reduction
of impervious area and stabilization of the stream buffer with trees,
shrubs and groundcover.
If you have any questions or comments, please contact Ms. Joan
Morrissey Ward at 887-3980.
Robert W. Sheesley
Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management
RWS:JMW:sp
cc: Barbara Bachur, Councilwoman
Mrs. Janice Oates
Mr. Rocky Powell

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2536
(301) 887-4500
Paul H. Rotunda
Chief
June 1, 1989
J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204
RE: Property Owner: Legal Owner: Baltimore Gas and Electric
Company
Location: W/S of Falls Road, N of the centerline of
Lake Avenue
Item No.: 491 Zoning Agenda: May 30, 1989
Gentlemen:
Pursuant to your request, the referenced property has been surveyed by
this Bureau and the comments below are applicable and required to be
corrected or incorporated into the final plans for the property.
5. The buildings and structures existing or proposed on the site shall
comply with all applicable requirements of the National Fire Pro-
tection Association Standard No. 101 "Life Safety Code", 1988
edition prior to occupancy.
REVIEWER: *Carl H. Bueh* Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division
JK/ker

LAW OFFICES
LERCH AND HUESMAN
ALEX BROWN BUILDING
SUITE 201
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
TELEPHONE
(301) 248-1084
FAX
(301) 563-6528
October 6, 1989
HAND DELIVERED
Mr. J. Robert Haines
Zoning Commissioner
for Baltimore County
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204
Re: Petition for Special Hearing
W/S Falls Road, 1,000' N of the c/l of Lake
Avenue 3rd Election District - 2nd Councilmanic
District
Baltimore Gas & Electric Company - Petitioner
Case No. 90-41-SPH
Dear Mr. Haines:
Baltimore Gas & Electric Company has called to my
attention that the last few lines on page 1 of the Findings
of Fact and Conclusions of Law in this case designate the
subject property as "... currently used as the 'Baltimore
Gas and Electric Company Outdoor Substation'".
The subject property is not, of course, G & E's
substation which lies further to the west across the
railroad tracks. The subject property is and was G & E's
service facility.
We believe that this mistake of identity results
from the fact that Petitioner's plot plan, Exhibit No. 2 in
this record, has at its very top, in the middle of the plan,
in rather bold print the words "Baltimore Gas and Electric
Company Outdoor Substation."
At first glance such language would appear to be
the heading and name of the plot plan itself, but a closer
inspection shows that the language designates the actual
location of the presently functioning substation, west of
the subject property, across the railroad tracks.
In my opinion, the record in this case, testimony,
exhibits, along with the Findings of Fact, the
Conclusions of Law, and the Commissioner's Order, makes it
abundantly clear exactly what specific property is the
subject of this proceeding.

Mr. J. Robert Haines 4-2- October 6, 1989

We do request, however, that the Commissioner make this letter a part of the record, as clarification for any third party examining the file, or take whatever other steps, if any, the Commissioner feels necessary.

Thanking you for your consideration I remain,

Sincerely yours,

Joseph I. Huesman
Joseph I. Huesman
Attorney for Petitioner

cc: Mr. William Dobson
Baltimore Gas & Electric Company
Real Estate Division
Windsor Office Building
7152 Windsor Boulevard
Baltimore, Maryland 21207

Mr. David Hessler
Eastern Sales & Eng. Co.
2650 Bruce Street
Baltimore, Maryland 21217

LAW OFFICES
LERCH AND HUESMAN

JOSEPH I. HUESMAN
RICHARD W. LERCH
R. DOUGLAS JONES
GERARD F. HILES

ALEX BROWN BUILDING
SUITE 201
100 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

August 9, 1989

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Re: Property Owner: Legal Owner: Baltimore Gas and Electric Company
Location: W/S of Falls Road, N of the Centerline of Lake Avenue
Item No.: 491
Case No.: 90-41-SPH

Dear Mr. Haines:

Please note my appearance as attorney for the Petitioners in the above captioned matter in the place and stead of W. Charles Rogers, III, Esq.

Sincerely yours,

Joseph I. Huesman
Joseph I. Huesman

JIH/ds

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

March 28, 1989

Mr. David P. Hessler
The Eastern Sales & Engineering Co.
2650 Bruce Street
Baltimore, Maryland 21217

RE: Baltimore Gas & Electric Co.
Northern Maintenance Facility
W/S Falls Road & Jones, North
of Jones Fall River
3rd Election District

Dear Mr. Hessler:

Reference is made to your letter requesting that this office consider the nonconforming use transfer of the above referenced property from ownership by the Baltimore Gas & Electric Company to your company which consists of electrical contractors for lighting and service maintenance.

Please be advised that from a zoning use standpoint, once a nonconforming use has been officially determined to be legal, there are no restrictions as to ownership. The only restriction being that the use continue and not change in any way whatsoever. Based upon the information that accompanied your letter, i.e. the zoning map, pictures of exterior and interior of the building in question, there is little doubt that the Northern Maintenance Facility of the Baltimore Gas & Electric Company exists at this location. However, as you may or may not be aware, in order to obtain a legal status as a nonconforming use, the building and or use must predate the zoning regulations that make them nonconforming.

In as much as the buildings and other improvements presently exist and will continue to be utilized in the same manner that they are presently being utilized, this office will acknowledge a conditional nonconforming use. This office will permit your firm to utilize the premises pending the filing of a Special Hearing petition to determine when the premises were built and whether or not said construction complied with any zoning regulations that may have existed at that time.

Mr. David P. Hessler
Re: B.G. & E's Northern Maintenance Facility
March 28, 1989
Page 2

If you have any questions or if I can be of further assistance, please feel free to contact me at 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Zoning Supervisor

JED:cer

NON-CONFORMING USE

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of his natural life" represents the will of the people of Maryland that its female citizen be protected in their persons from violation. Recognizing that mere words, printed in a Code of Criminal Laws, will not, in and of themselves, move a committee of men any more than the Ten Commandments have halted sin, the General Assembly has determined that those who so violate the victim, also violate § 462. While "prostitution is no longer the dominant objective of the criminal law," *Williams v. New York*, 337 U.S. 341, 346, 69 S.Ct. 1079, 1284, 93 L.Ed. 1287, 1288 (1949), it is not then "a forbidden objective nor one inconsistent with our respect for the dignity of man." *Gregg v. Georgia*, 428 U.S. at 189, 94 S.Ct. at 200, 40 L.Ed.2d at 880.

Paraphrasing Mr. Justice Stewart in *Gregg*, the General Assembly articulated the will of the people of Maryland that life imprisonment is the appropriate price for a "dure" for the grievous affront to its female population.

We hold that the imposition of a life sentence for a violation of Md.Cr. Code art. 27, § 462, rape in the first degree, is constitutionally permissible.

JUDGMENT AFFIRMED.

COSTS TO BE PAID BY APPELLANT.

Affirmed in part, reversed in part, and remanded.

1. Zoning - 323

Evidence supported conclusion that valid nonconforming use did not exist with respect to three lots in residential district and that parking or storing of trucks or other motor vehicles on those lots was not permitted, and that, with respect to certain other lots, whatever nonconforming use existed did not include the dismantling of motor vehicles, the storage of disabled vehicles, junk or debris, or any operations accessory to a garage.

2. Zoning - 325

Where, prior to enactment of zoning ordinance in 1945, lots which were then

used residential had 14

of vehicles in connection

and lot across the street

each lot were used for

the with rooming house

could properly have in

use did not constitute

prior nonconforming use

evidence in 1945 to

what extent use for

other vehicles in con-

business was any of

which preceded it, b-

there was no existing

ing regulations was a

2. Zoning - 323

Where the basis

in residential district

appeals in 1949 was

and vehicles generally,

there would have been

restricting nonconfor-

ing of fuel trucks,

substantially recog-

years later to super-

through the guise of

prevented the exist-

ed was clearly erro-

4. Zoning - 326

For zoning pur-

lots are the same as

forming parking lot

beget or permit use

to zoning certain lot

parking as accessory

on another lot, b-

they may continue to

na accessory to the

that other lot as

of other parcel has

went of zoning.

5. Zoning - 323

Where noncon-

1949 in residential

of trucks and other

with fuel oil busin-

excluded in 1978

the use of the lots

trucks, not only in

all business but

as a -

