

IN RE: PETITION FOR SPECIAL HEARING
W/S York Road, 345' S of the
c/l of Thelma Road
(2036 York Road)
8th Election District
4th Councilmanic District
Penn Advertising of Balto., Inc.
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-222-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve an amendment to the special exception granted in Case No. 86-520-XA, extended in Case No. 89-88-SPH, to allow the relocation of signs along the southern boundary of the property adjacent to an existing building, as more particularly described in Petitioner's Exhibits 1 and 2.

The Petitioners, by Joseph A. DiPaola of J.R. Brothers, Inc., Contract Lessee of the subject property, appeared, testified and was represented by T. Rogers Harrison, Esquire. A, appearing and testifying on behalf of the Petition was Emanuel DiPaola, owner of the Turf Inn restaurant. There were no Protestants.

Testimony indicated that the subject property, known as 2036 York Road, is zoned B.R. and is improved with a restaurant known as the Turf Inn. Said property was the subject of previous Case No. 86-520-XA in which a special exception was granted for the relocation of two existing illuminated outdoor advertising signs and related variances, and Case No. 89-88-SPH in which Petitioners were granted an extension of time to utilize the special exception and variances granted in Case No. 86-520-XA. Testimony and evidence presented in Case No. 89-88-SPH indicated that Petitioners were unable to relocate the existing outdoor advertising signs due to financial hardships and ongoing improvements planned for the Turf Inn.

Petitioners are now ready to proceed with the relocation of the two signs, however, they are desirous of relocating the signs from their originally approved site adjacent to Highway Avenue. Testimony indicated Highway Avenue was a paper street at that time but is now being planned for development in the near future. In the opinion of the Petitioners, the site proposed for the relocation of the signs, as set forth in Petitioner's Exhibit 2, will be more aesthetically pleasing and will ultimately provide additional parking for the Turf Inn.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested in the Petition for Special Hearing should be granted. It is clear that the B.C.Z.R. permits the use proposed in a B.R. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 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 v. Pritts*, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in

roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

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 special hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 14th day of December, 1989, that the Petition for Special Hearing to approve an amendment to the special exception granted in Case No. 86-520-XA, extended in Case No. 89-88-SPH, to allow the relocation of signs along the southern boundary of the property adjacent to the existing Turf Inn restaurant, in accordance with Petitioner's Exhibits 1 and 2, be and is hereby GRANTED, subject, however, to the following restriction:

- 1) The Petitioners may apply for their sign permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their 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 Petitioners would be required to return, and be responsible for returning, said property to its original condition.

J. Robert Haines
ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Town, Maryland 21204
(301) 897-3353
J. Robert Haines
Zoning Commissioner

December 14, 1989

T. Rogers Harrison, Esquire
105 W. Chesapeake Avenue, Suite 300
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
W/S York Road, 345' S of the c/l of Thelma Road
(2036 York Road)
8th Election District - 4th Councilmanic District
Penn Advertising of Baltimore, Inc. - Petitioners
Case No. 90-222-SPH

Dear Mr. Harrison:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

J. Robert Haines
ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: People's Counsel

File

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 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve an amendment to the special exception granted in case 86-520-XA and extended in case 89-88-SPH that would allow the relocation of the signs to a place next to the Turf Inn (along the southern boundary of the property).

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.

Lessee: J.R. Bros., Inc. t/a Turf Inn (Type or Print Name) Signature: <i>Manly DiPaola</i> 2036 York Road Address Towson, Maryland 21093 City and State Attorney for Petitioner: T. Rogers Harrison (Type or Print Name) Signature: <i>T. Rogers Harrison</i> 105 W. Chesapeake Ave., Suite 300 Address Towson, Maryland 21204 City and State Attorney's Telephone No.: (301) 828-1335	Legal Owner(s): Penn. Advertising of Baltimore, Inc. (Type or Print Name) Signature: <i>J. Rogers H</i> 2036 York Road Address Towson, Maryland 21093 City and State Signature: <i>T. Rogers Harrison</i> 2101 Myrtle Street Address Scranton, Pennsylvania 18510 City and State Name, address and phone number of legal owner, contract purchaser or representative to be contacted: T. Rogers Harrison Name Address Phone No.
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ORDERED By The Zoning Commissioner of Baltimore County, this 26 day of Sept. 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 the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 12 day of Dec. 1989, at 9:30 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

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J. Robert Haines
Zoning Commissioner of Baltimore County

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

DATE: 12/14/89 ACCOUNT: 01-615

AMOUNT: \$ 175.00

RECEIVED FROM: M.C. Harrison & Burch
FROM: Special Hearing (Turf Inn #71) 2036 York Road

B 8 C 1 4 ***** 175000 8 1218

VALIDATION OR SIGNATURE OF CARRIER

Tracking System

Baltimore County
Zoning Commissioner
Office of Planning & Zoning

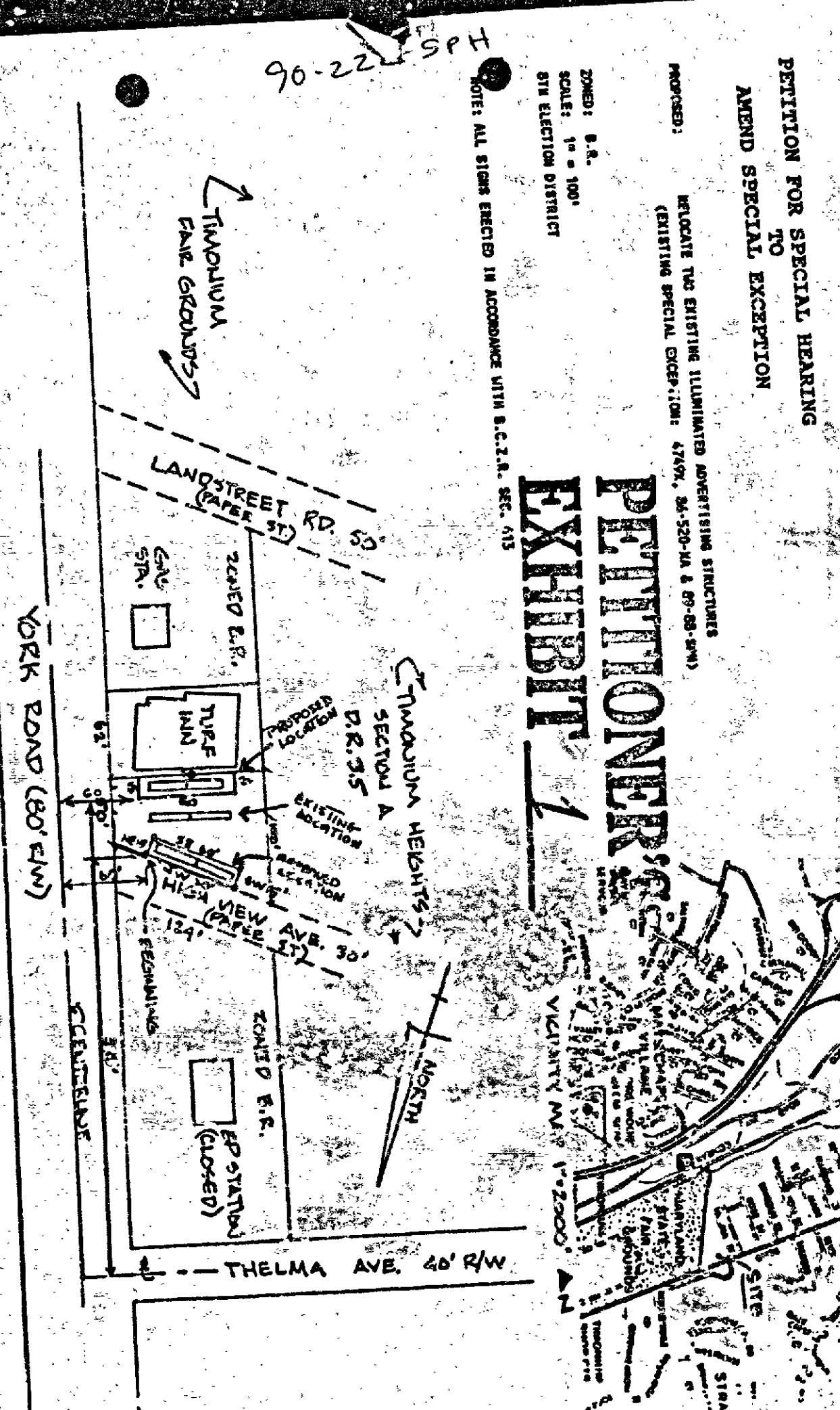
Date: 12/14/89 Receipt FEE: 04 01 - C 1 5 4 08 2/10/93

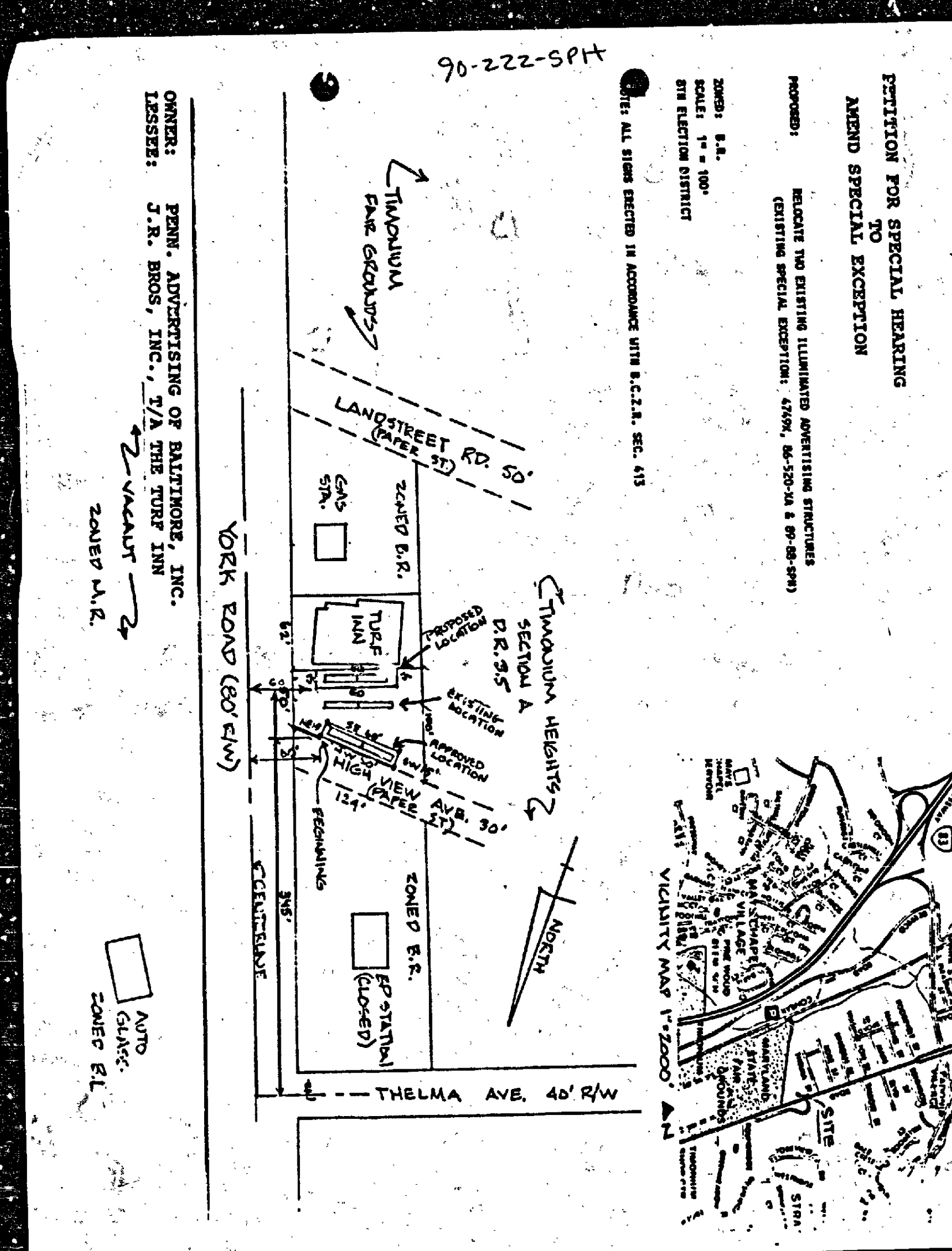
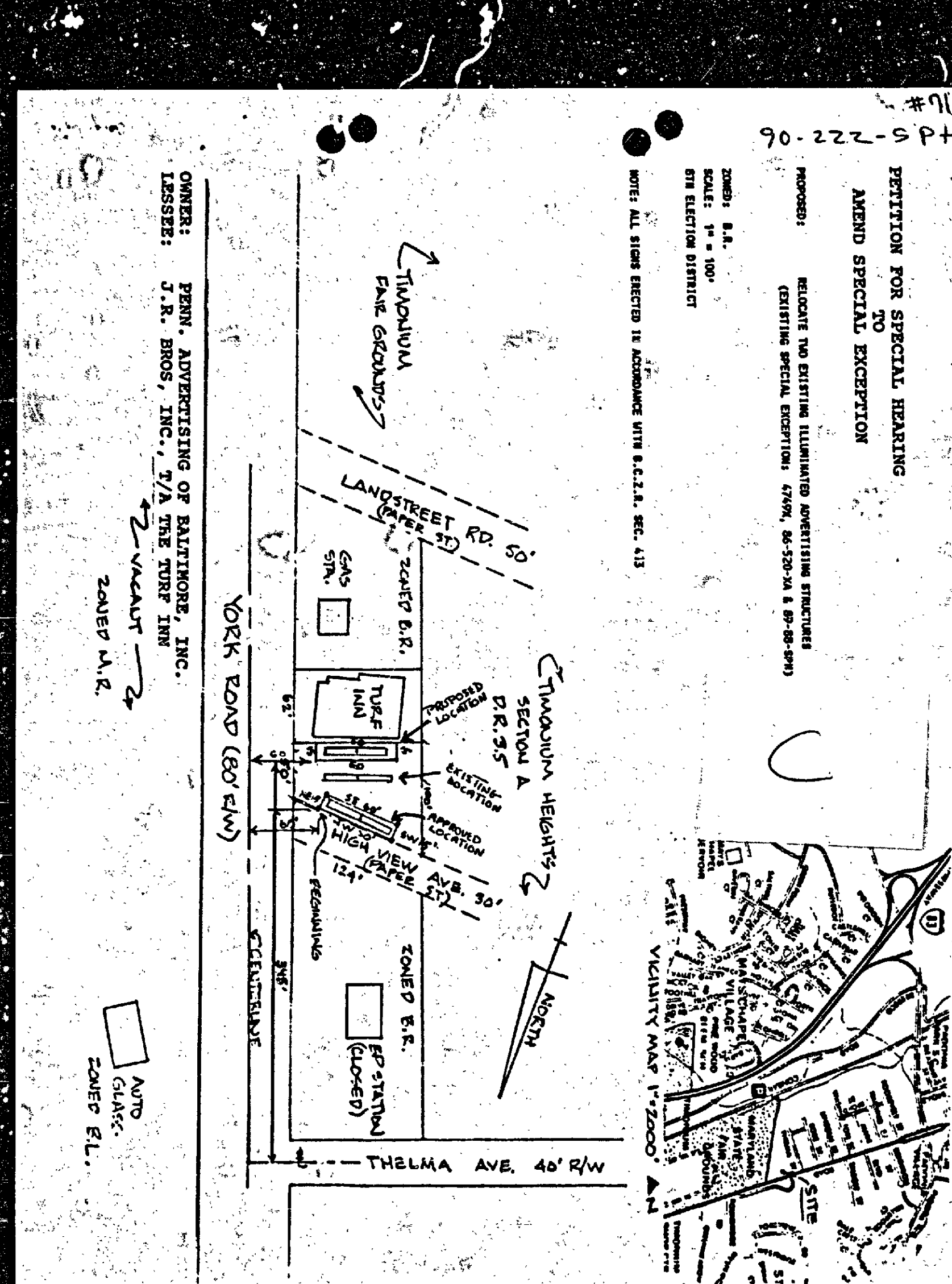
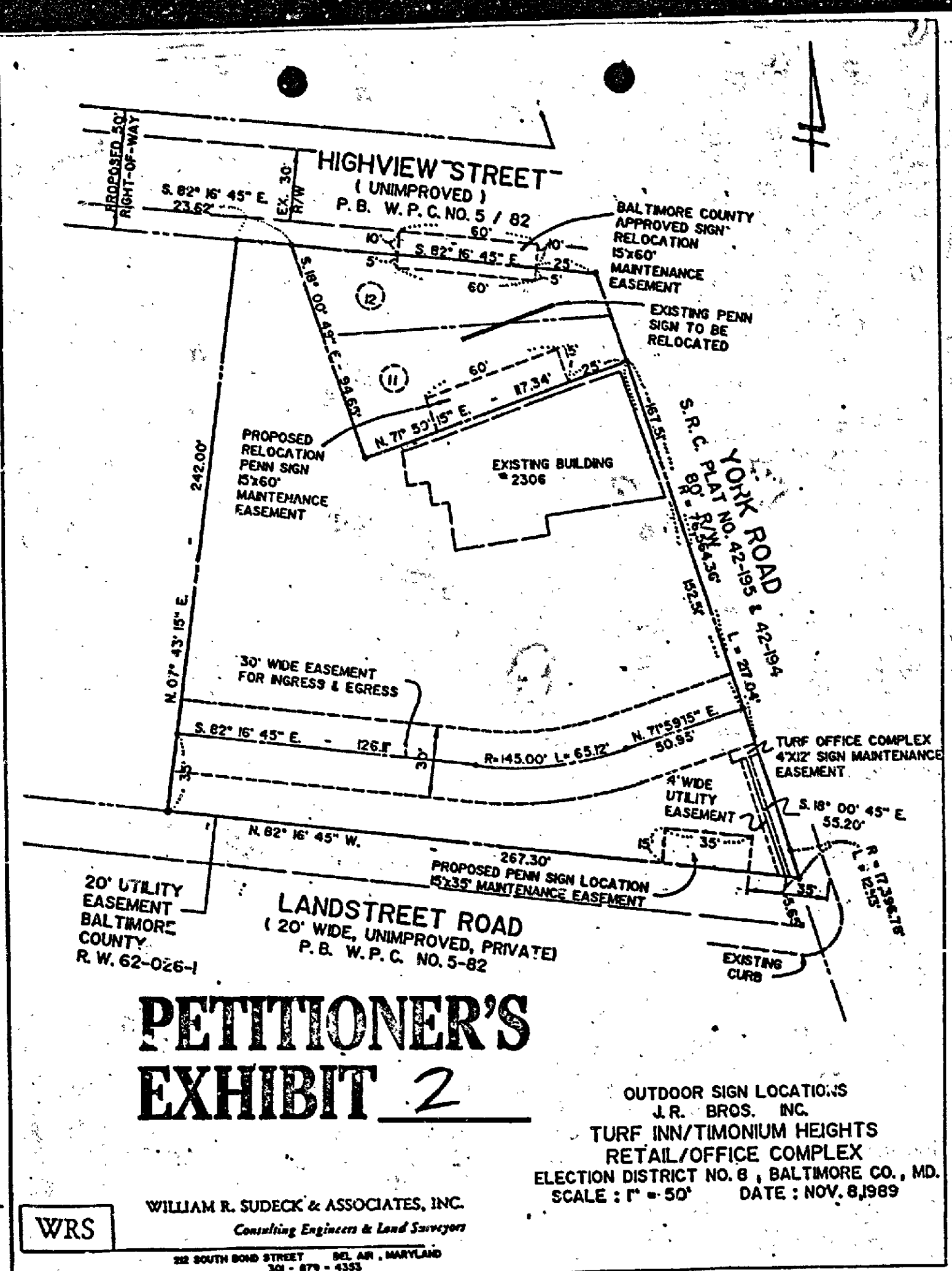
Property Address: 2036 York Road (Number) (Street)

Petitioner: Penn. Advertising of Baltimore, Inc. (Last) (First) (Middle Initial)

PROPERTY DESCRIPTION

Beginning at a point on the west side of York Road (80 feet wide), 345 feet south of the center line of Thelma Avenue (40 feet wide), and 60 feet from the center line of York Road and thence running the following courses and distances: (1) west a distance of 60 feet; thence (2) south and at a right angle a distance of 15 feet to a point; thence (3) east and at a right angle a distance of 60 feet to a point; thence (4) north and at a right angle a distance of 15 feet to the beginning point.





BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

November 27, 1989

T. Rogers Harrison, Esquire
105 W. Chesapeake Avenue, Suite 300
Towson, MD 21204

RE: Item No. 71, Case No. 90-222-SPH
Petitioner: Penn Advertising of Baltimore
Petition for Special Hearing

Dear Mr. Harrison:

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. 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.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINKARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: J.R. Bros., Inc.
Penn Advertising of Baltimore

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

J. Robert Haines
Zoning Commissioner

Dear Mr. Haines:

Your petition has been received and accepted for filing this 26th day of September, 1989.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By: *James E. Dyer*
Chairman
Zoning Plans Advisory Committee

Petitioner: Penn Advertising of Baltimore, Inc.
Petitioner's Attorney: T. Rogers Harrison

BALTIMORE COUNTY
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

AUG 31 1989
ZONING OFFICE

August 25, 1989

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 285, 65, 66, 68, 69, 70, 71, and 72.

Very truly yours,
Michael S. Planigan
Michael S. Planigan
Traffic Engineer Associate II

MSP/lww

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4500

August 24, 1989

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

RE: Property Owner: PENN. ADVERTISING OF BALTIMORE
Location: W/S OF YORK ROAD
Item No.: 71 Zoning Agenda: AUGUST 29, 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.

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

Noted and
Approved

REVIEWER: Planning Group Fire Prevention Bureau
Special Inspection Division

JR/KEX

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: December 4, 1989
Zoning Commissioner

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Penn Advertising of Baltimore, Inc., Item 71
Zoning Petition No. 90-222-SPH

The Petitioner requests a special hearing to amend Case Nos. 86-520XA and 89-88-SPH.

In reference to this request, staff offers no comment.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PR/JL/cmm

In 1988, the Turf Inn, in case 89-88-SFH, filed a petition for special hearing to extend the special exception granted in Case 86-520-XA. The site plan submitted with that petition was not prepared by a registered surveyor or engineer. I have attached a copy of the 1988 site plan (Enclosure B). If you notice, the 1988 site plan is merely the 1986 site plan with minor changes. It is, more or less, an updated plan. The 1988 site plan was accepted by the Zoning Office, and you granted the extension.

AJ:dm
Enclosures

Andrew Janquitto

District 8. dv.
 Posted for: Special Hearing Date of Posting November 21, 1984
 Petitioner: Peru Advertising of Columbia Inc.
 Location of property: 1/2 of York Road, 345 S of S/L of T. Lukens Road
3036 York Road
 Location of Sign: West side of York Road in front of proposed
sign location
 Remarks: _____
 Posted by: S. J. Brata
 Number of Signs: 2 Date of return: November 24, 1984

1578-000

Publisher

THE JEFFERSONIAN

4-228-000

Publitz

JRHigs
cc: Penn Advertising of Baltimore, Inc.
J. R. Bros, Inc., I/A Turf Inn
T. Rogers Harrison, Esq.
File

4. J. R. Bros. shall cooperate with Penn in securing all the necessary governmental permits and approvals for the construction of the outdoor advertising sign on Lot 1. If Penn fails to obtain all the necessary approvals for the construction of the outdoor advertising sign on Lot 1 within the two-hundred and ten (210) days from the prapose to the plat depicting the location of Penn's signs and the easements granted to Penn, then J. R. Bros. instead of granting Penn an easement over Lot 1 shall pay Penn the amount of twenty-five thousand dollars (\$25,000) as additional consideration for Lot 11 and 12, and there shall be no further consideration owed to Penn, its successors and assigns, by J. R. Bros. at any time in the future to remove the signs, be for or as some time in the future to remove the existing signs on Lot 11 and/or 12 or the proposed sign on Lot 1 as a result of governmental action that outlaws or prohibits outdoor advertising signs.



The above being deemed proper for SS 34, the Red
 accompanied the above to the the above
 The above will comply with the above
 Eng. Card 90-222-6534
 3/9/90

In the event that there are any easements or other matters of title which interfere with the placement of Penn's sign at the location shown on Exhibit B, J.R. Bros. will cooperate with Penn in the relocation of such easements and the necessary modification of such other matters of title as may be required, provided that the cost of such relocation or modification shall be borne by Penn. If the cost and expense of such relocation or modification does not have a material and adverse effect on J.R. Bros. Additionally, J.R. Bros. will cooperate with Penn in the relocation of such easements if necessary to permit the location of Penn's sign in accordance with Exhibit B, provided that all costs and expenses associated therewith are paid by Penn and that such relocation does not have a material and adverse effect on J.R. Bros. Partnership. If any easement or other matter of title interferes with Penn's location of its sign as shown on Exhibit B, Penn may elect not to incur the cost of such relocation or modification. For Lots 11 and 12.