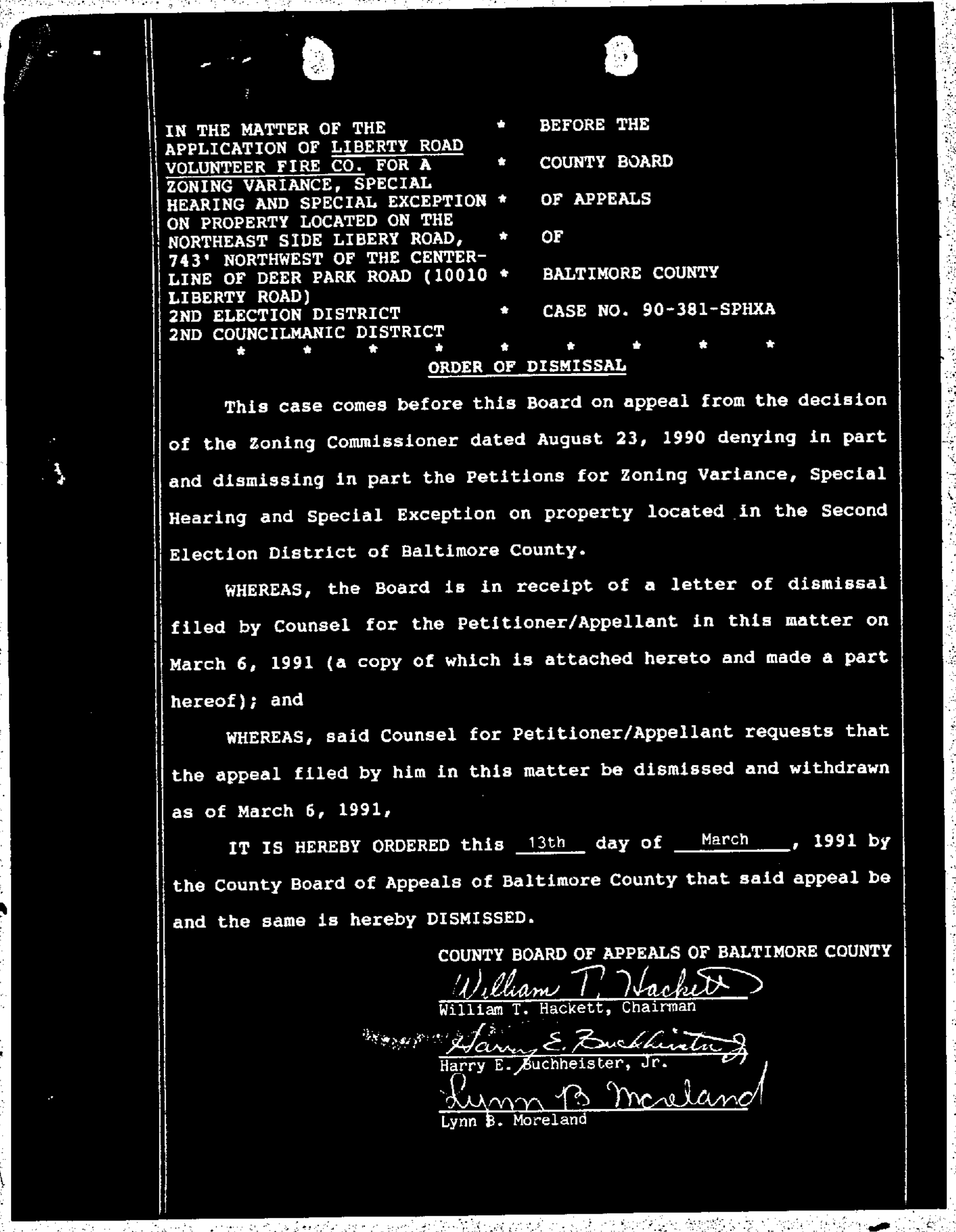

IN THE MATTER OF THE APPLICATION OF LIBERTY ROAD VOLUNTEER FIRE CO. FOR A ZONING VARIANCE, SPECIAL HEARING AND SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE NORTHEAST SIDE LIBERY ROAD, 743' NORTHWEST OF THE CENTER-LINE OF DEER PARK ROAD (10010 LIBERTY ROAD)
2ND ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD
* OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 90-381-SPHXA

* * * * * * * * *

## ORDER OF DISMISSAL

This case comes before this Board on appeal from the decision of the Zoning Commissioner dated August 23, 1990 denying in part and dismissing in part the Petitions for Zoning Variance, Special Hearing and Special Exception on property located in the Second Election District of Baltimore County.

WHEREAS, the Board is in receipt of a letter of dismissal filed by Counsel for the Petitioner/Appellant in this matter on March 6, 1991 (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Counsel for Petitioner/Appellant requests that the appeal filed by him in this matter be dismissed and withdrawn as of March 6, 1991,

IT IS HEREBY ORDERED this 13th day of March, 1991 by the County Board of Appeals of Baltimore County that said appeal be and the same is hereby DISMISSED.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Harry E. Buchheister, Jr.
Harry E. Buchheister, Jr.

Lynn B. Moreland
Lynn B. Moreland

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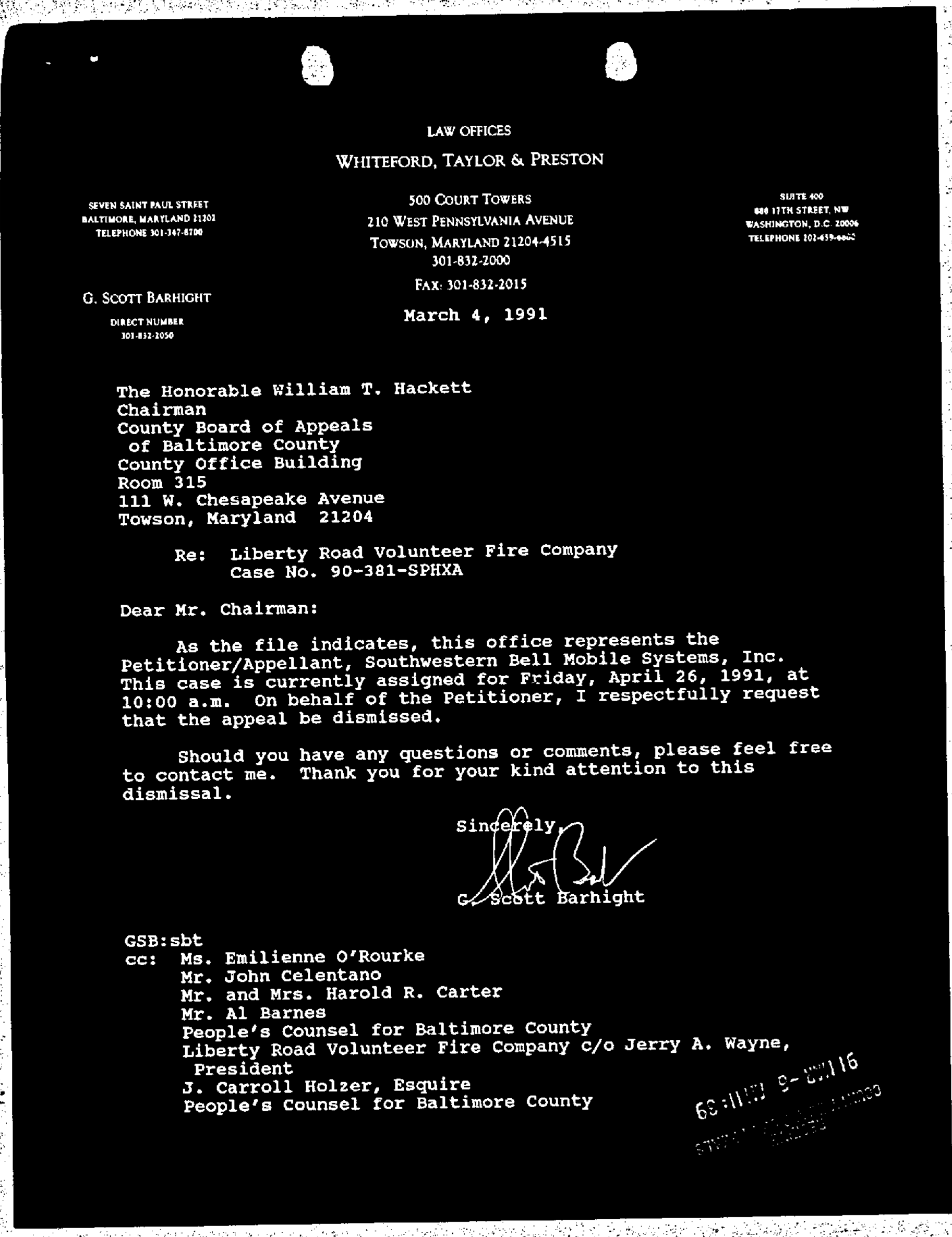

LAW OFFICES
WHITEFORD, TAYLOR & PRESTON

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202
TELEPHONE 301-347-8700

500 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
301-832-2000
FAX: 301-832-2015

SUITE 400
888 17TH STREET, NW
WASHINGTON, D.C. 20006
TELEPHONE 202-659-6800

G. SCOTT BARHIGHT
DIRECT NUMBER
301-832-2050

March 4, 1991

The Honorable William T. Hackett
Chairman
County Board of Appeals
of Baltimore County
County Office Building
Room 315
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Liberty Road Volunteer Fire Company
Case No. 90-381-SPHXA

Dear Mr. Chairman:

As the file indicates, this office represents the Petitioner/Appellant, Southwestern Bell Mobile Systems, Inc. This case is currently assigned for Friday, April 26, 1991, at 10:00 a.m. On behalf of the Petitioner, I respectfully request that the appeal be dismissed.

Should you have any questions or comments, please feel free to contact me. Thank you for your kind attention to this dismissal.

Sincerely,

G. Scott Barhight

GSB:sbt
cc: Ms. Emilienne O'Rourke
Mr. John Celentano
Mr. and Mrs. Harold R. Carter
Mr. Al Barnes
People's Counsel for Baltimore County
Liberty Road Volunteer Fire Company c/o Jerry A. Wayne, President
J. Carroll Holzer, Esquire
People's Counsel for Baltimore County

91 MAR -6 AM 11:39

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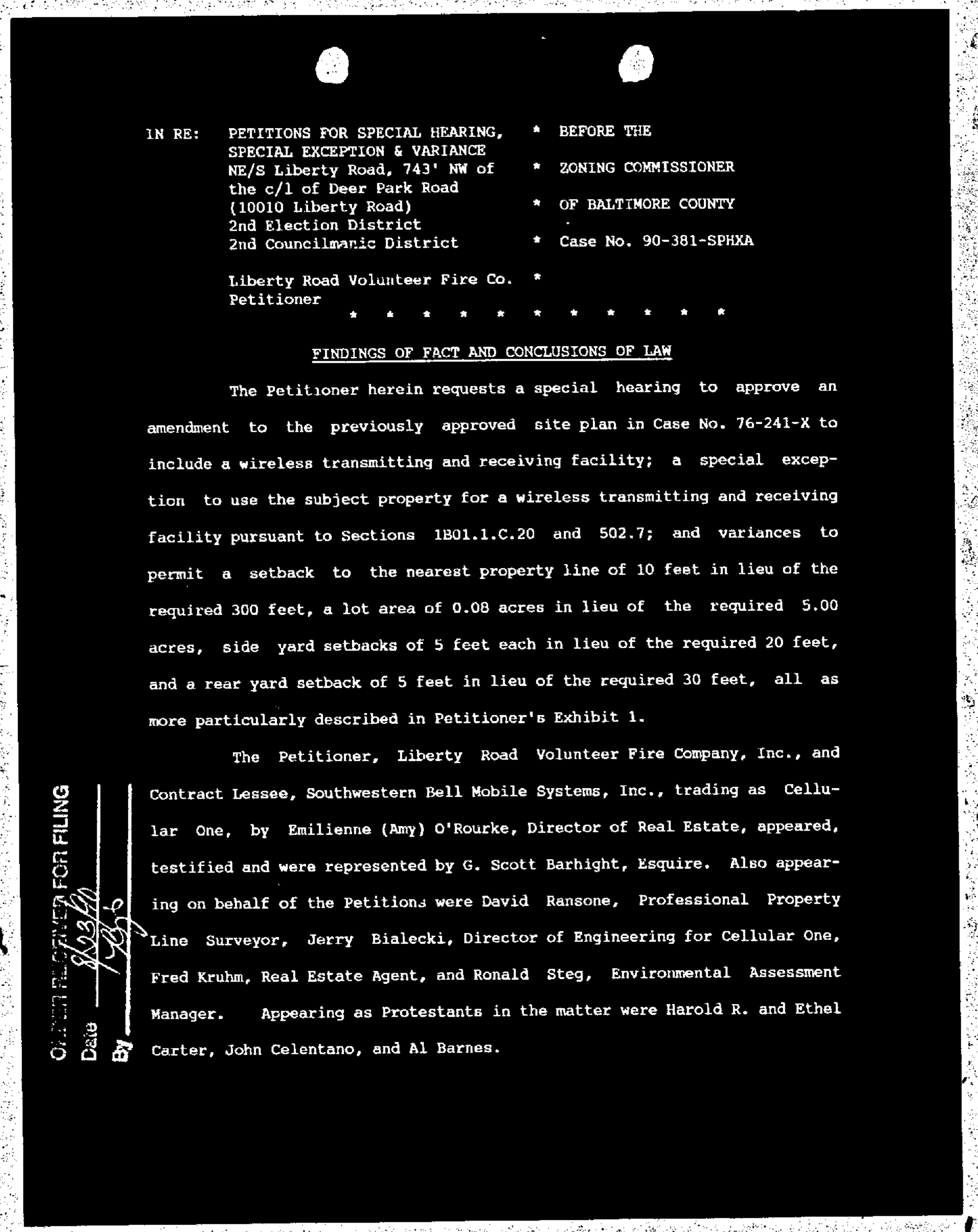

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE
NE/S Liberty Road, 743' NW of the c/l of Deer Park Road
(10010 Liberty Road)
2nd Election District
2nd Councilmanic District

Liberty Road Volunteer Fire Co.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-381-SPHXA

* * * * * * * * * * *

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve an amendment to the previously approved site plan in Case No. 76-241-X to include a wireless transmitting and receiving facility; a special exception to use the subject property for a wireless transmitting and receiving facility pursuant to Sections 1B01.1.C.20 and 502.7; and variances to permit a setback to the nearest property line of 10 feet in lieu of the required 300 feet, a lot area of 0.08 acres in lieu of the required 5.00 acres, side yard setbacks of 5 feet each in lieu of the required 20 feet, and a rear yard setback of 5 feet in lieu of the required 30 feet, all as more particularly described in Petitioner's Exhibit 1.

The Petitioner, Liberty Road Volunteer Fire Company, Inc., and Contract Lessee, Southwestern Bell Mobile Systems, Inc., trading as Cellular One, by Emilienne (Amy) O'Rourke, Director of Real Estate, appeared, testified and were represented by G. Scott Barhight, Esquire. Also appearing on behalf of the Petitions were David Ransone, Professional Property Line Surveyor, Jerry Bialecki, Director of Engineering for Cellular One, Fred Kruhm, Real Estate Agent, and Ronald Steg, Environmental Assessment Manager. Appearing as Protestants in the matter were Harold R. and Ethel Carter, John Celentano, and Al Barnes.

ORDER RECEIVED FOR FILING
Date 8/23/90
By [illegible]

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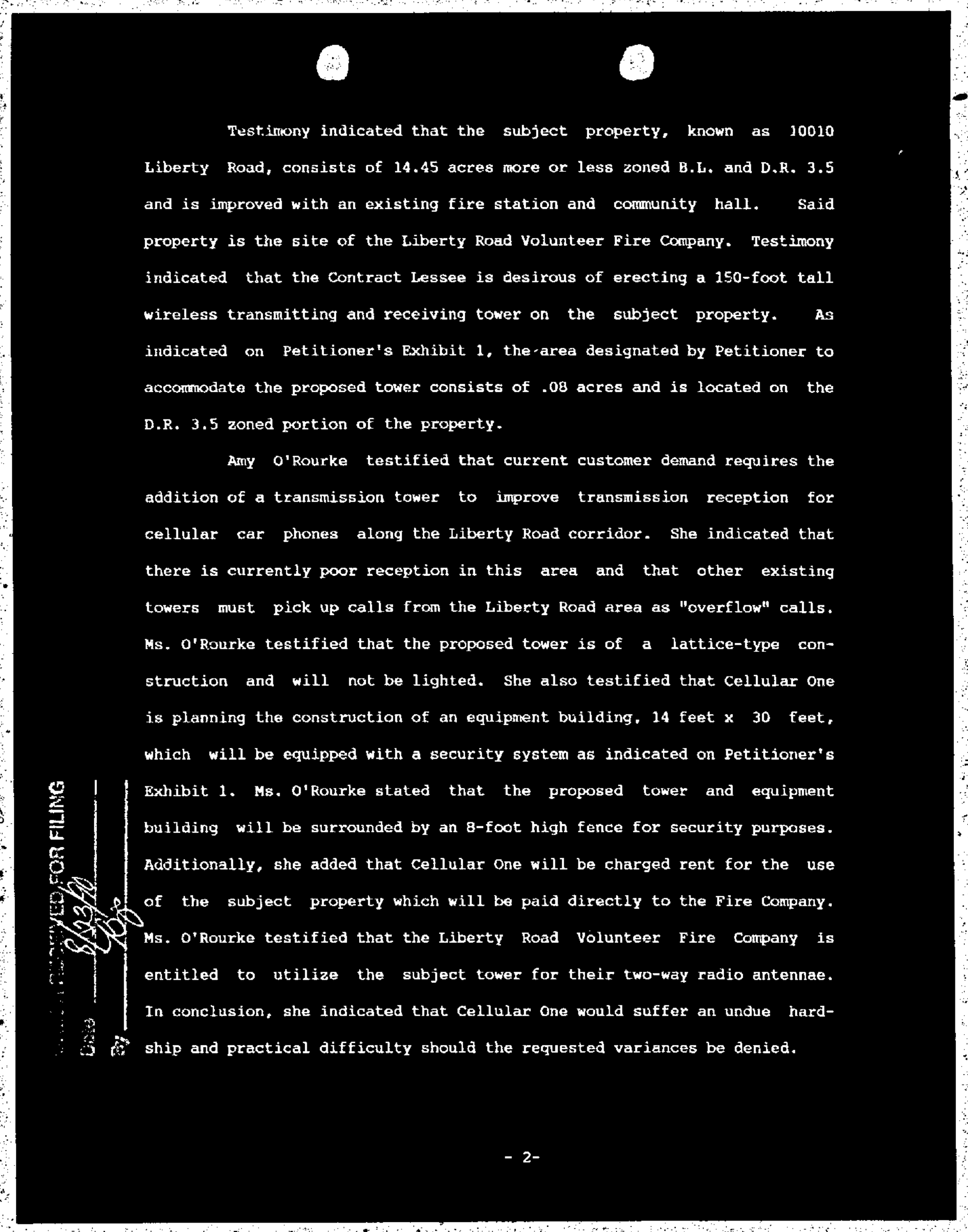

Testimony indicated that the subject property, known as 10010 Liberty Road, consists of 14.45 acres more or less zoned B.L. and D.R. 3.5 and is improved with an existing fire station and community hall. Said property is the site of the Liberty Road Volunteer Fire Company. Testimony indicated that the Contract Lessee is desirous of erecting a 150-foot tall wireless transmitting and receiving tower on the subject property. As indicated on Petitioner's Exhibit 1, the area designated by Petitioner to accommodate the proposed tower consists of .08 acres and is located on the D.R. 3.5 zoned portion of the property.

Amy O'Rourke testified that current customer demand requires the addition of a transmission tower to improve transmission reception for cellular car phones along the Liberty Road corridor. She indicated that there is currently poor reception in this area and that other existing towers must pick up calls from the Liberty Road area as "overflow" calls. Ms. O'Rourke testified that the proposed tower is of a lattice-type construction and will not be lighted. She also testified that Cellular One is planning the construction of an equipment building, 14 feet x 30 feet, which will be equipped with a security system as indicated on Petitioner's Exhibit 1. Ms. O'Rourke stated that the proposed tower and equipment building will be surrounded by an 8-foot high fence for security purposes. Additionally, she added that Cellular One will be charged rent for the use of the subject property which will be paid directly to the Fire Company. Ms. O'Rourke testified that the Liberty Road Volunteer Fire Company is entitled to utilize the subject tower for their two-way radio antennae. In conclusion, she indicated that Cellular One would suffer an undue hardship and practical difficulty should the requested variances be denied.

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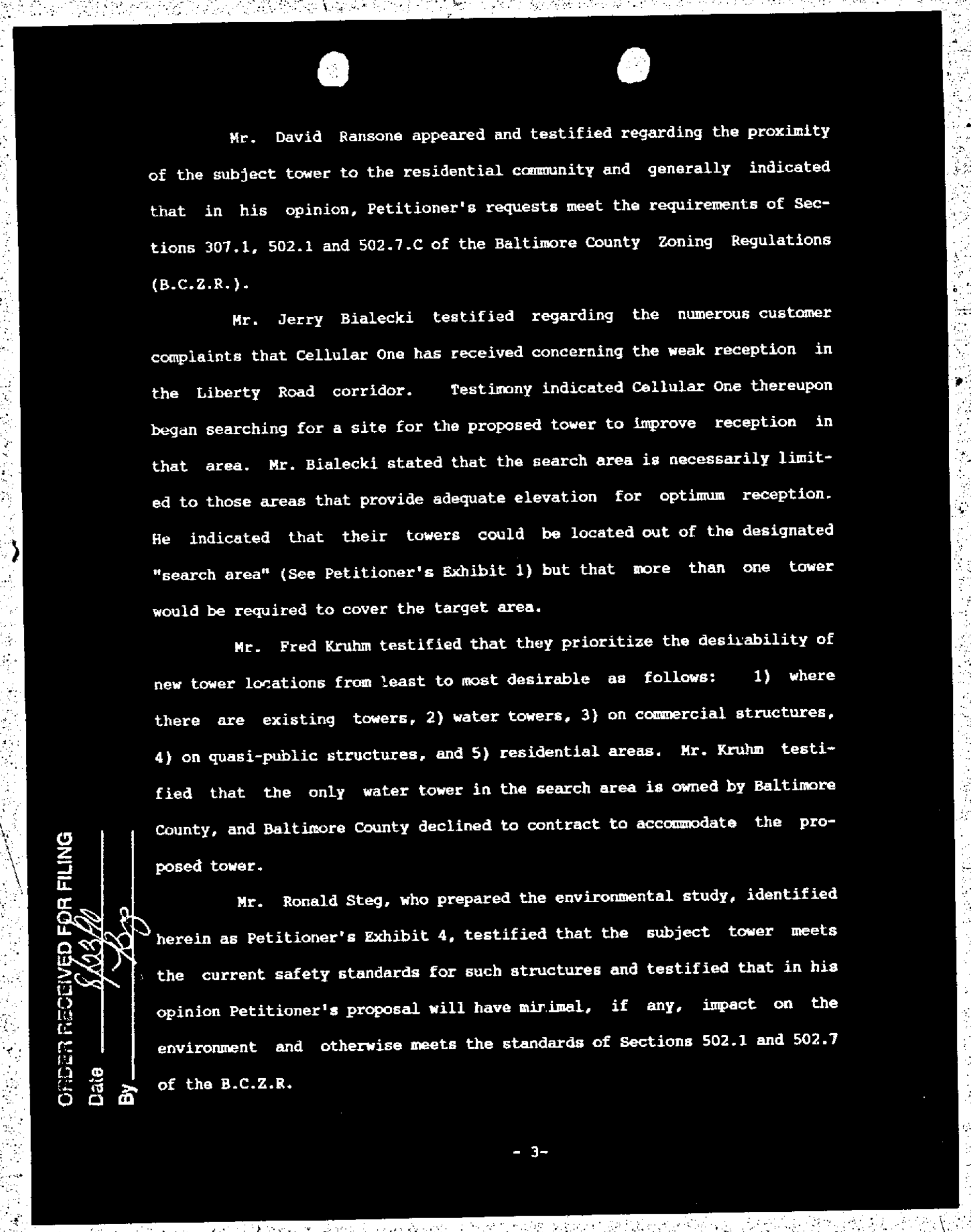

Mr. David Ransone appeared and testified regarding the proximity of the subject tower to the residential community and generally indicated that in his opinion, Petitioner's requests meet the requirements of Sections 307.1, 502.1 and 502.7.C of the Baltimore County Zoning Regulations (B.C.Z.R.).

Mr. Jerry Bialecki testified regarding the numerous customer complaints that Cellular One has received concerning the weak reception in the Liberty Road corridor. Testimony indicated Cellular One thereupon began searching for a site for the proposed tower to improve reception in that area. Mr. Bialecki stated that the search area is necessarily limited to those areas that provide adequate elevation for optimum reception. He indicated that their towers could be located out of the designated "search area" (See Petitioner's Exhibit 1) but that more than one tower would be required to cover the target area.

Mr. Fred Kruhm testified that they prioritize the desirability of new tower locations from least to most desirable as follows: 1) where there are existing towers, 2) water towers, 3) on commercial structures, 4) on quasi-public structures, and 5) residential areas. Mr. Kruhm testified that the only water tower in the search area is owned by Baltimore County, and Baltimore County declined to contract to accommodate the proposed tower.

Mr. Ronald Steg, who prepared the environmental study, identified herein as Petitioner's Exhibit 4, testified that the subject tower meets the current safety standards for such structures and testified that in his opinion Petitioner's proposal will have minimal, if any, impact on the environment and otherwise meets the standards of Sections 502.1 and 502.7 of the B.C.Z.R.

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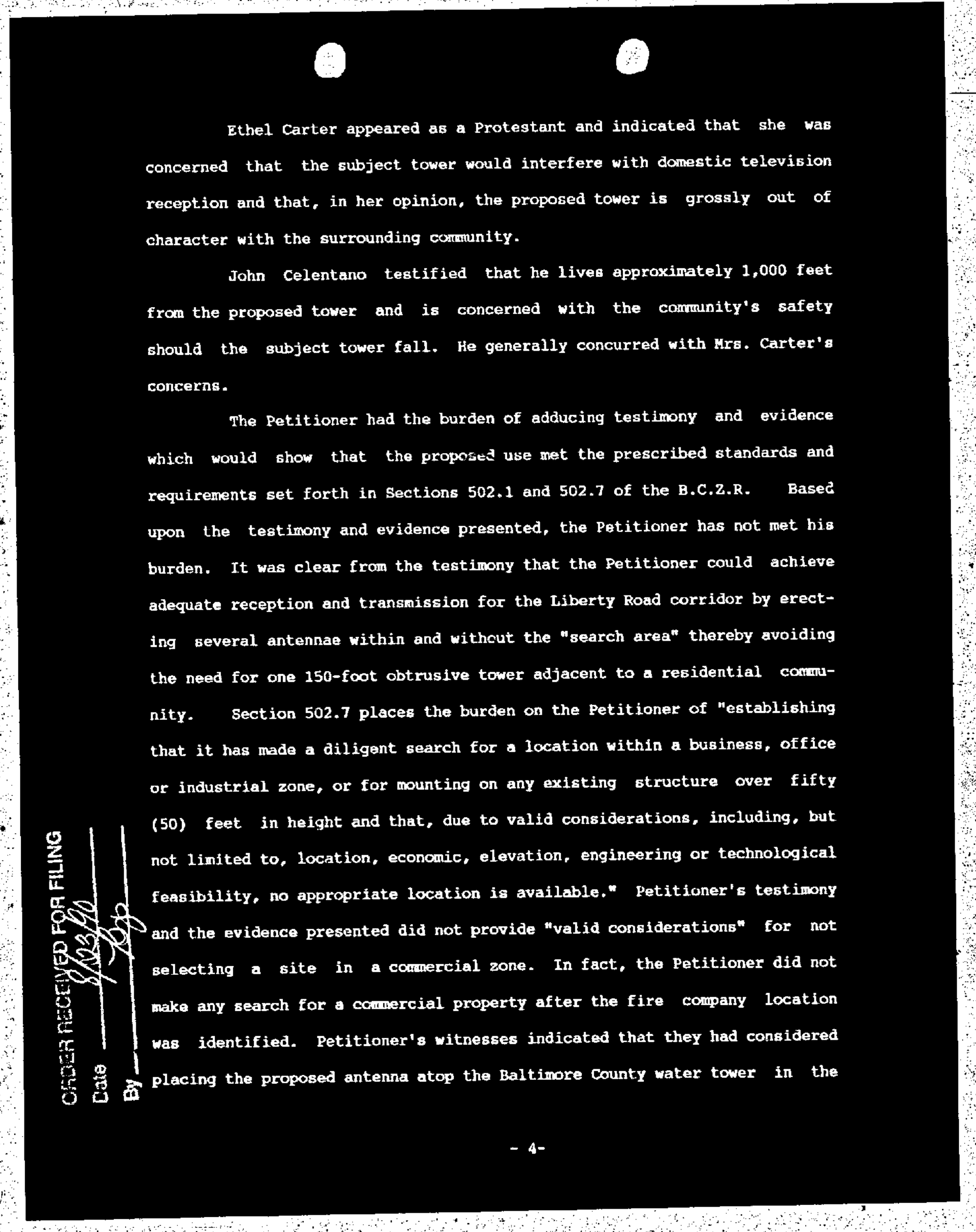

Ethel Carter appeared as a Protestant and indicated that she was concerned that the subject tower would interfere with domestic television reception and that, in her opinion, the proposed tower is grossly out of character with the surrounding community.

John Celentano testified that he lives approximately 1,000 feet from the proposed tower and is concerned with the community's safety should the subject tower fall. He generally concurred with Mrs. Carter's concerns.

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 Sections 502.1 and 502.7 of the B.C.Z.R. Based upon the testimony and evidence presented, the Petitioner has not met his burden. It was clear from the testimony that the Petitioner could achieve adequate reception and transmission for the Liberty Road corridor by erecting several antennae within and without the "search area" thereby avoiding the need for one 150-foot obtrusive tower adjacent to a residential community. Section 502.7 places the burden on the Petitioner of "establishing that it has made a diligent search for a location within a business, office or industrial zone, or for mounting on any existing structure over fifty (50) feet in height and that, due to valid considerations, including, but not limited to, location, economic, elevation, engineering or technological feasibility, no appropriate location is available." Petitioner's testimony and the evidence presented did not provide "valid considerations" for not selecting a site in a commercial zone. In fact, the Petitioner did not make any search for a commercial property after the fire company location was identified. Petitioner's witnesses indicated that they had considered placing the proposed antenna atop the Baltimore County water tower in the

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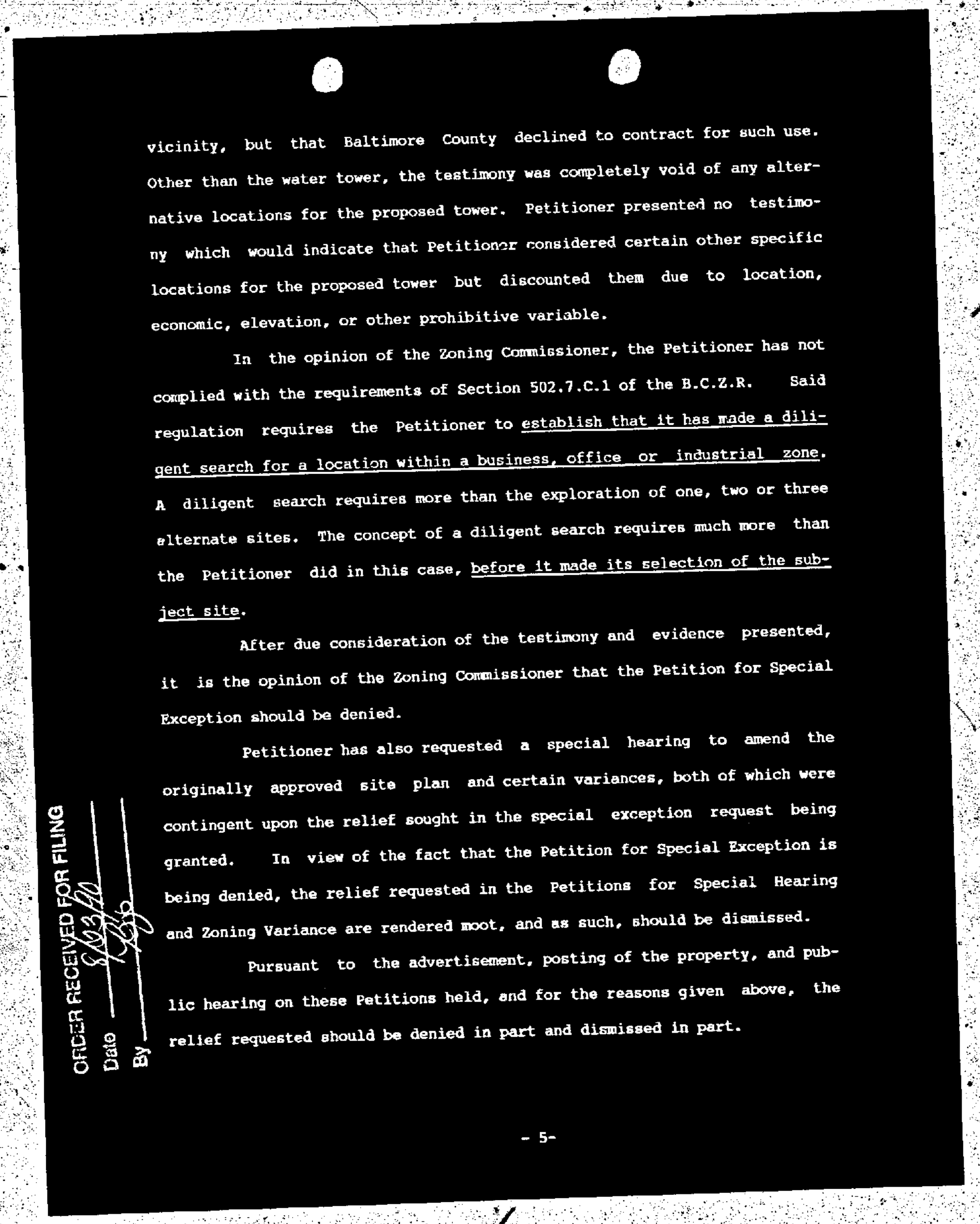

vicinity, but that Baltimore County declined to contract for such use. Other than the water tower, the testimony was completely void of any alternative locations for the proposed tower. Petitioner presented no testimony which would indicate that Petitioner considered certain other specific locations for the proposed tower but discounted them due to location, economic, elevation, or other prohibitive variable.

In the opinion of the Zoning Commissioner, the Petitioner has not complied with the requirements of Section 502.7.C.1 of the B.C.Z.R. Said regulation requires the Petitioner to establish that it has made a diligent search for a location within a business, office or industrial zone. A diligent search requires more than the exploration of one, two or three alternate sites. The concept of a diligent search requires much more than the Petitioner did in this case, before it made its selection of the subject site.

After due consideration of the testimony and evidence presented, it is the opinion of the Zoning Commissioner that the Petition for Special Exception should be denied.

Petitioner has also requested a special hearing to amend the originally approved site plan and certain variances, both of which were contingent upon the relief sought in the special exception request being granted. In view of the fact that the Petition for Special Exception is being denied, the relief requested in the Petitions for Special Hearing and Zoning Variance are rendered moot, and as such, should be dismissed.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be denied in part and dismissed in part.

ORDER RECEIVED FOR FILING
Date 8/23/90
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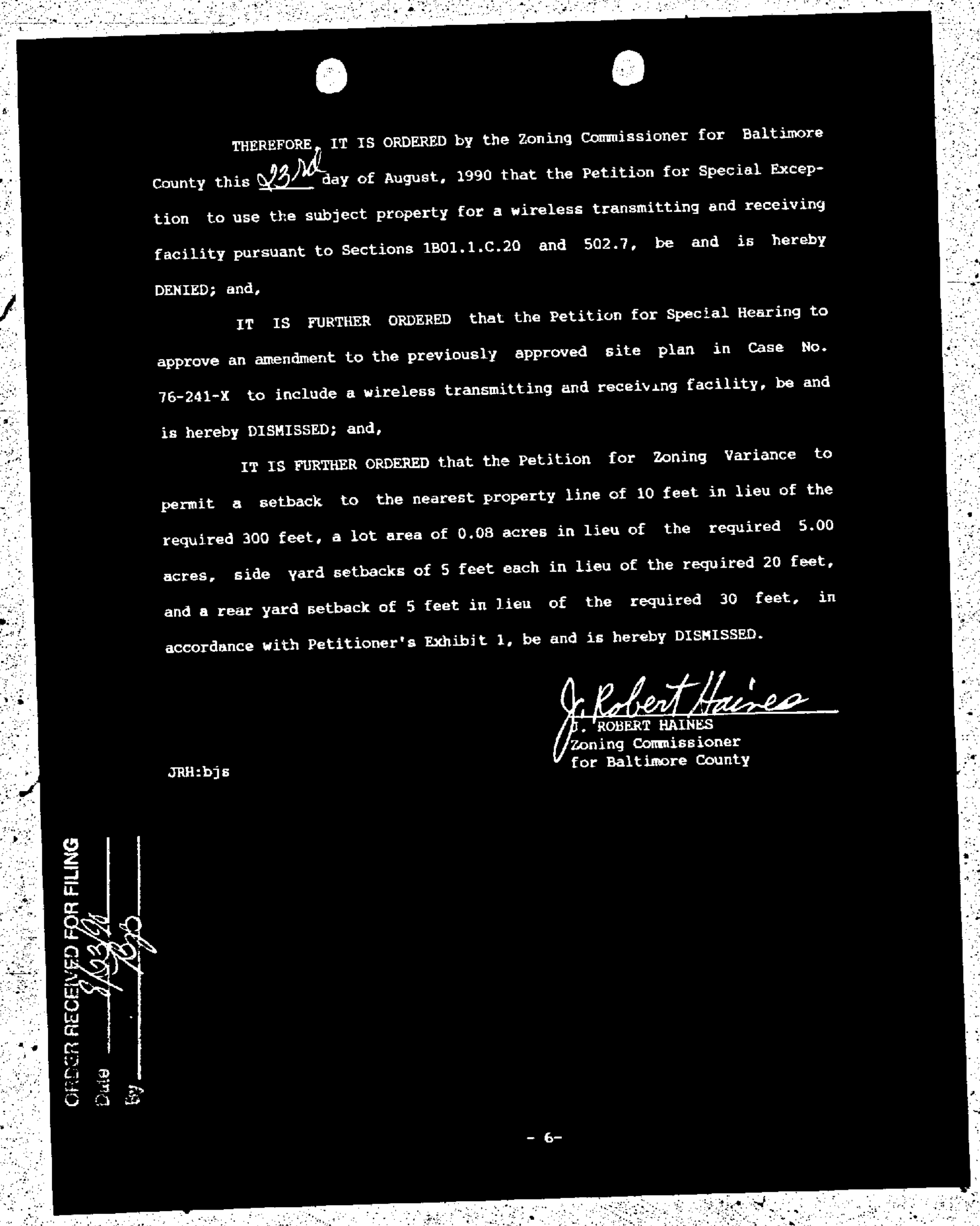

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 23rd day of August, 1990 that the Petition for Special Exception to use the subject property for a wireless transmitting and receiving facility pursuant to Sections 1B01.1.C.20 and 502.7, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing to approve an amendment to the previously approved site plan in Case No. 76-241-X to include a wireless transmitting and receiving facility, be and is hereby DISMISSED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit a setback to the nearest property line of 10 feet in lieu of the required 300 feet, a lot area of 0.08 acres in lieu of the required 5.00 acres, side yard setbacks of 5 feet each in lieu of the required 20 feet, and a rear yard setback of 5 feet in lieu of the required 30 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DISMISSED.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

ORDER RECEIVED FOR FILING
Date 8/23/90
By [illegible]

1-5-93

# CIRCUIT COURT FOR BALTIMORE COUNTY

**CIVIL CATEGORY** APPEAL

CIVIL ASSIGNMENT

IN THE MATTER OF THE
APPLICATION OF
JOSEPH B. MCMASTER, ET UX
FOR A SPECIAL EXCEPTION AND
VARIANCES ON PROPERTY LOCATED
ON THE NORTHEAST CORNER OF
SHERWOOD AND HOLLOW ROADS
(426 SHERWOOD ROAD)
8th ELECTION DISTRICT
3rd COUNCILMAN DISTRICT

CBA NO. 90-382-XA

E

JOSEPH B. McMASTER,
VIVIAN McMASTER and
SOUTHWESTERN BELL MOBILE SYSTEM, INC. t/a
CELLULAR ONE
Appellees'

**ATTORNEYS**

J. Carroll Holzer, Esq
Holzer, Maher, Demilio & Lee
305 W. Chesapeake Ave.
Ste. 105, (04) 825-6960

G. Scott Barhight
Karl J. Nelson
Whiteford, Taylor & Preston 832-2000
500 Ct Tower, 210 W Penna. Ave (4)
APPELLEES'

(1) June 25, 1992 - Appellant's order for appeal from the Decision of the Board of Appeals and Petition for appeal, fd.

(2) July 9, 1992 - Transcript of Record, fd. (G1)

(3) July 9, 1992 - Notice of Filing of Record, fd.

(4) June 30, 1992 certificate of notice, fd.

| | COSTS |
|---|---|
| CV GEN | 92.00 |
| CV CLK | 80.00 |
| B LBRY | 10.00 |
| POST | 2.00 |
| CKCHECK TL | 92.00 |
| #20913 C002 R01 T0 | 06/26/ |

TRANSCRIPT IN BASEMENT
LOCATION: B 34 67

True Copy Test
SUZANNE MENSH, Clerk
Assistant Clerk

(5) July 22, 1992 - App. G. Scott Barnhight. Karl J. Nelson for Appellee Joseph B. McMaster, fd

(6) July 22, 1992 - App of G. Scott Barhight, Karl J. Nelson and Whiteford, Taylor & Preston and Same Day Answer to Petition on Appeal fd.

(7) Sept. 15, 1992 - Appellee Southwestern Bell Mobile Systems, Inc.'s Rule B12 Memorandum, with exhibits, fd (rec'd 9/4/92)

Dec. 2, 1992 Hon. John G. Turnbull, II. Hearing had. Case held sub-curia. Opinion and Order to be filed.

srm (8) Jan. 5, 1993 Opinion and Order of Court that the decision of the Board be, and the same is hereby AFFIRMED., fd. (JGT,II)

Docket 26 Page 147 Case 92 CV- 6036

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#90-382-XA Joseph B. McMaster, et ux
1/4/93 - Circuit Court AFFIRMS C.B. of A. (Judge John G. Turnbull)

1-11-93

**The Circuit Court for Baltimore County**

THIRD JUDICIAL CIRCUIT OF MARYLAND

CHAMBERS OF
JOHN GRASON TURNBULL, II
JUDGE

COUNTY COURTS BUILDING
TOWSON, MARYLAND 21204
(410) 887-2647

| | | |
|---|---|---|
| IN THE MATTER OF | * | IN THE |
| THE APPLICATION OF | * | CIRCUIT COURT |
| JOSEPH B. MCMASTER, et ux | * | FOR |
| | * | BALTIMORE COUNTY |
| | * | CASE NO. 92 CV 6036 |

* * * * * * * * * * * *

## OPINION AND ORDER

Southwestern Bell, trading as Cellular One (Appellee) has filed a Petition for Special Exception and Variance with the Board of Appeals of Baltimore County (Board) to permit the operation of a cellular radio telephone transceiver station on property owned by Joseph B. and Virginia McMaster in Cockeysville, Maryland. Such relief was granted and Sherwood Hill Improvement Association, Inc., Montview Improvement Association, Clay M. Barnes, David Baker, Tom Basham and Steve Rosen (Appellants) have appealed to this Court.

The Variances request relief from the requirements of Section 1A03.4.B.4, Section 502.7.C.2 and Section 502.7.C.3 of the Baltimore County Zoning Regulations.

True Copy Test
Assistant Clerk
FILED JAN - 5 1993

(8) SRM

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Section 1A03.4.B.4 requires that any principal building constructed in an R.C. 4 zone must be at least fifty feet from any lot lines other than a street line. The placement of the proposed site is ideal. However, strict compliance would severely impede Mr. McMaster's ability to farm his land. The site, as proposed, will not impede Mr. McMaster's ability to farm his land. The proposed site is surrounded by a heavily wooded area which will help disguise the transceiver. The proposed site is surrounded by out-buildings which will further mask the site from neighboring properties. There was substantial evidence before the Board to conclude that strict compliance with the fifty foot setback would cause practical difficulty or undue hardship.

Section 502.7.C.2 requires that the proposed monopole be setback at least 200 feet from the nearest property line. The proposed site will be placed in an area on the McMaster farm which is currently unusable for farming purposes. The only areas on the farm large enough to accommodate the 200 foot setback are currently used for farming purposes. Therefore, strict compliance would, in effect, impede Mr. McMaster's ability to farm his property. There was substantial evidence before the Board to conclude that strict compliance with Section 502.7.C.2 would cause practical difficulty or undue hardship.

Section 502.7.C.3 requires that a radio transmitting and receiving facility must be located on a lot of at least five acres. To place the facility on an area of five acres or more would require the use of farmland. Thus, Mr. McMaster would be severely impeded in his ability to farm his land. The Board had substantial evidence before it to conclude that strict compliance with Section 502.7.C.3 would cause practical difficulty or undue hardship.

Moving on to the Special Exception, Section 502.7.C.1 requires that a petitioner seeking to place a wireless transmitting or receiving structure in a R.C., D.R. or R-O zone has the burden of establishing that it has made a diligent search for a location within a business, office or industrial zone.

A representative of Appellee, Ms. O'Rourke, testified before the Board that her search for potential sites began in April of 1989. (T2 13) On September 22, 1989, Appellee entered into a lease with the McMasters for the subject parcel. In the summer of 1990, Mr. Bialecki, another representative of Appellee, prepared another search map to suit Appellee's technical needs. Appellant argues that the new search map was prepared merely to justify the selection of the McMaster property. For the sake of argument, the Court will assume that is true. However, the revised search map was used to search for alternative sites and this search was indeed diligent. Nothing in the record suggests that the search was anything but diligent. Appellant strenuously urges this Court to interpret Section 502.7.C.1 to require a diligent search prior to the selection of a site within a residential district. Section 502.7.C.1 makes no mention of the timing of the search and this Court is reluctant to re-write the zoning regulations by judicial fiat.

This Court is not holding that a search may be made at any time before the Board's hearing. Such a leap is not necessary to this Court's decision. In the end analysis, a search is a search is a search.

Accordingly, it is this 4th day of January, 1993, ORDERED, by the Circuit Court for Baltimore County, that the decision of the Board be, and the same is hereby AFFIRMED.

JOHN GRASON TURNBULL, II
JUDGE

Copies sent to: G. Scott Barhight, Esquire
J. Carroll Holzer, Esquire

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7-21-92

| | | |
|---|---|---|
| SHERWOOD HILL IMPROVEMENT ASSOCIATION, et al. | * | IN THE |
| Appellants | * | CIRCUIT COURT |
| v. | * | FOR BALTIMORE COUNTY |
| JOSEPH B. McMASTER, et ux. | * | Case No. 26/147/92CV6036 |
| Appellees | * | |
| CBA No. 90-382-XA | * | |

* * * * * * *

## ANSWER TO PETITION ON APPEAL

Come now Joseph B. McMaster and Vivian McMaster, and Southwestern Bell Mobile System, Inc., t/a Cellular One by their attorneys, G. Scott Barhight, Karl J. Nelson, and Whiteford, Taylor & Preston and answer Appellants' Petition on Appeal as follows:

1. Appellees deny all of the allegations contained in Paragraphs 1 through 5 of Appellants' Petition on Appeal.

2. The Board of Appeals' decision comported with all applicable Baltimore County Zoning Regulations for both variances and special exceptions.

3. Appellees presented sufficient and compelling evidence of all elements imposed by the Baltimore County Zoning Regulations for the granting of both the special exception and the related variances.

4. In Paragraph 6 of their Petition on Appeal, Appellants claim as a basis for appeal "such other reasons as may be raised upon review of the transcript". Maryland Rule B2(e) requires that Appellants must set forth "the error committed by the agency". Thus, it is not a viable basis for appeal to state that there exists some currently unidentified error which will be delineated and presented to this Court in the future.

G Scott Barhight KJN
G. Scott Barhight

Karl J. Nelson
Whiteford, Taylor & Preston
500 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204
(410) 832-2000

Attorneys for Appellees

## CERTIFICATE OF SERVICE

I Hereby Certify that on this 21 day of July, 1992, a copy of the foregoing Answer to Petition on Appeal was mailed, postage prepaid, to **J. Carroll Holzer, Esquire**, Holzer, Maher, Demilio & Lee, 305 W. Chesapeake Avenue, Suite 105, Towson, MD, 21204; and to **County Board of Appeals**, 400 Washington Avenue, Room 49, Towson, MD, 21204.

Karl J. Nelson

Zoning Regulations, for wireless transmitting and receiving facilities have been met. Only after a determination by the Board that those preconditions set forth in that section of the Regulations have been complied with, should the criteria set forth under Section 502.1 be examined. In accordance with this position, Protestants filed a Motion to Separate these issues which were denied by this Board. It is also submitted by Protestants that the requirement under Section 307.1 of the Baltimore County Zoning Regulations, relating to the granting of a variance only where the strict compliance of the regulations would result in "practical difficulty or unreasonable hardship," and should be examined and rejected under the facts as presented in this case.

It is submitted that the following examination of the facts presented before the Board of Appeals, as they relate to both of these important criteria, will result in the conclusion that Bell has not met its burden of establishing that it conducted a diligent search for an appropriate site under the requirements of Section 502.7, as it relates to the special exception and the hardship as required pursuant to Section 307.1.

It is important to remember that Section 502.7.C.1 requires the following:

> "**Petitioner shall have the burden** of establishing that it has made a **diligent search for a location within a business, office** or **industrial zone, or for mounting on an existing structure over fifty feet in height** and that, due to valid considerations, including but not limited to location, economic, elevation, engineering or technological feasibility, no appropriate location is available."

The key to the issue of whether or not there was a good faith effort to conduct a "diligent search for a location" is twofold: first, whether the search area to be examined is a legitimate one appropriately defined, upon a reasonable basis, or conversely, whether it is arbitrarily defined, without cause, or with an improper motive of procuring a desired result. The second issue is whether there was a good faith effort to conduct a diligent search for a potential site location within that area. Thirdly, Bell seeks to introduce an additional position that this search may be conducted at **any time** before the Board hearing because it is a hearing de novo. That argument should clearly be rejected. Within the context then of Section 502.7.C.i., one should examine the testimony of the various witnesses presented by Bell.

## STATEMENT OF FACTS

### A. Petitioner's Case

Bell called Ms. Amy O'Rourke, the head of Bell's Real Estate Department, to testify as to her efforts on behalf of Bell to explore the Cockeysville area for a location for the proposed tower.

It is clear that Amy O'Rourke did not in any way prepare or define the search area map identified as the "paw" area, and

that it was developed by others at Bell - and in particular, by a Mr. Dennis Francis. It is also clear from Ms. O'Rourke's testimony that she obtained the search area map and provided it to Frederick Kruhm, a consultant occasionally hired by Bell, to conduct a search for an appropriate site within that area.

Mr. Kruhm never testified, either before the Zoning Commissioner or Board of Appeals, nor is there any evidence before the Board as to the nature of his search, if any, beyond the limited search area boundary as prescribed to him by Ms. O'Rourke. Ms. O'Rourke testified that long after Mr. Kruhm submitted his recommendation for the McMasters property, she drove around the rest of the search area and took photos and names and location of property sites for purposes of the search. The purpose of Ms. O'Rourke's "search" was to justify Bell's position that the McMaster property was the only possible location for the tower. There was no testimony that any commercial or industrially zoned property was examined within the search area by anyone **prior to** the signing of a contract with McMasters by Bell on September 22, 1989.

Ms. O'Rourke further testified that Kruhm normally provides alternative sites in the search area; however, in this case she admitted he provided only the McMaster site. Ms. O'Rourke testified that Bell limited its search, **even originally**, to the east side of Interstate 83, based upon a decision of the Zoning

Commissioner in the Chestnut Ridge Fire Company Case, (Petitioner's Exhibit 3) as well as upon a Restrictive Covenant Agreement executed with the Valley's Planning Council.

The Real Property Lease Agreement with McMasters establishes a number of significant points: first, it was executed on September 22, 1989, well before the examination of any alternative site locations either contained within the described search area on the "paw" or "mitten" area, or alternatives even outside of the search area as presented by Bell to bolster this aspect of their case. It is clear that this document establishes that no reasonable or diligent search for a location within a business, office or industrial zone was made by Bell prior to their execution of the lease with McMasters on September 22, 1989.

Secondly, it indicates that an 8.26 acre portion of the McMasters property was the subject of the lease, which would allow the utilization of the entire portion for the purposes of Bell. Paragraph 3 of the lease allows the McMasters to utilize the balance of these premises for "agricultural development, or any other use that is permitted by the County (including residential development)." Obviously, the lease establishes, as does the testimony of Ms. O'Rourke, that McMasters simply wanted the tower to be located on the site at a location where it would be a minimal disadvantage to him personally and where

he could gain economic advantage from developing the remainder of the farm. No thought was given to the setbacks and requirements of
Bill 64-86, providing for the safety of the public.

Protestants submit that these objectives are not sufficient to constitute "practical difficulty or unreasonable hardship" to support a granting of the variance request.

Ms. O'Rourke, on behalf of Bell, simply found the McMasters site to be the highest elevation within this arbitrarily defined search area and that she chose it for the location for the tower. She then conducted a search of other locations within and outside of the search area as an afterthought, primarily to support the Bell position at the hearing for Special Exception. The following statements of O'Rourke support this conclusion:

1. "I am the director of real estate for Southwest Bell, my responsibility is to secure locations within the entire service area"...

2. "I obtained the Chestnut Ridge Volunteer Fire Company site so I am familiar with the county law and I have testified at the hearing for the special exception for the Chestnut Ridge Fire Company Site"...

3. "I limited my search area to east of Interstate 83 due to the restrictive covenant agreement signed with Valley's Planning Counsel"...

4. "(O'Rourke) did not conduct any search in the Cockeysville area to determine whether any county locations were available"...

5. "(O'Rourke) did not conduct any search in the Cockeysville area to determine whether any county locations were available"...

6. "(O'Rourke) acknowledged that Frederick Kruhm in his report to her of June 8, 1989 provided no other site candidates within the search area other then the McMasters property"...

7. "Kruhm mentioned other sites located outside of the search area such as Baltimore Gas & Electric and Southern States and requested whether or not she (O'Rourke) wanted him to pursue those other sites and she indicated him not to proceed that she would handle it"...

8. "(O'Rourke) acknowledged that she followed up on the alternative sites in March, 1990, only after the issue was raised by the Protestants, and well after the September, 1989 lease was signed between Bell and McMasters"...

9. "(O'Rourke) acknowledged that there was "No examination of alternatives sites between the time Kruhm's report was received and the signing of the lease with McMasters in September, 1989"...

10. "(O'Rourke) acknowledged that Kruhm normally would provide more than one (1) site candidate but did not do so in this instance"...

David Ransom - surveyor, was called by Bell. The Petitioners called Ransom to testify with regard to the variances, the nature of the variances and the proposed reasons why they were needed. Ransom testified that the tower and facility could be moved to the West into the flat area, northeast into another suitable area, southeast of the present site and that the primary purpose for its location was to accommodate Mr. McMasters and his desire to continue farming at the present location and to minimize the effect of the tower on his future ability to use his property.

Mr. Jerry Balecki was an engineer for Cellular One who was called by Bell to testify that he prepared the original search area map identified as the "paw" area. He actually testified that there were two search area maps prepared, one in September of 1987 ("mitten") and one in March of 1989 ("paw"). The 1987 search area which was submitted as an exhibit in the instant case, indicates a much broader search area. It is clear from the testimony of Mr. Balecki that the area was intentionally narrowed to the "paw" area based solely upon the fact that the McMasters property with its height and location, suited the economic and profit purposes of Bell. It is equally clear through the testimony of Balecki, that the search area is one

based upon arbitrariness of the Petitioner and in the instant case did not even include any consideration of those living in residential zones or from the zoning standpoint, failing to recognize availability of commercial or industrially zoned property along Interstate 83 north of Seminary Avenue and south of Hereford. Bell established a high ground designation of McMasters farm east of Interstate 83 and drew the search area on a geographical line around that farm in order to satisfy their own purpose.

Upon cross examination of Mr. Balecki, it became interesting to note that the search area was created by Bell, with all its stated criteria to serve only Bell's purpose such as:

a. Bell's goals to serve the area.
b. Terrain and elevation.
c. Tower height.
d. Consider the use and pattern and transmit power.
e. Coverage of critical areas.
f. System integration.

He testified that Bell's criteria never included the Baltimore County Zoning Regulation requirements as set forth in developing the search area. He further acknowledged that the Valley's Planning Council agreement and subsequent Zoning Commissioner's decision virtually eliminated a number of possible locations along the rid sites west of Interstate 83 that could have served the goals for the Southwest Bell System.

Balecki, in the summer of 1990, created a third service area map which was identified as containing the grid area defined by the red or tertiary level grid cell marked as Petitioners Exhibit 8. In addition, the very complex overlay of various strength records or signals for Cellular One were all created by Mr. Balecki after the McMasters contract was signed to justify the location of the highest elevation on the McMasters property as a site selected by Bell and were not utilized in any way in the search prior to the determination to locate on the McMaster property.

Mr. Balecki's analysis with Base Overlay and small charts was also performed and created and conducted after the selection of the McMaster property in September 22, 1989. These were done to establish in hindsight that these sites were not appropriate. This analysis was done after the fact was not in good faith and may not be used as a "boot strap" argument to allow Bell to meet its heavy burden under Section 502.7.C.1.

In another vein, Balecki also acknowledged on cross examination that the Cellular One brochure utilized by Bell and their public relations campaign acknowledges the preference by the company of breaking cell sites to included smaller areas to achieve the same objective. It is clear from the entirety of his testimony, that Bell could readily achieve all of the goals

that it desires simply by establishing a number of smaller cell sites and towers in areas presently zoned commercial, business, office or industrial, rather than by selecting a location in a purely residential area, notwithstanding that the cost might be a factor in such a determination. Again, from the testimony of Balecki, it is clear that no consideration public factors, nor compliance with zoning regulations of Baltimore County played a part in Bell's analysis for the site location.

An additional factor to be considered, is that at the current time, the system is operational and that it is Bell's desire to approve the system which results in the proposal for the location of this tower on the McMaster property. Given this characterization of Bell's desires, it seems even more appropriate that they comply with the Zoning Regulations proposed under Section 502.7.C.1. Francis Balecki further acknowledged that multiple small towers could readily solve the problem for Bell and that the corporate decision was made to go with one tower based upon purely economic considerations by Bell.

Mr. Ronald Lippman is an appraiser called by the Petitioners to establish that there would be no economic impact from the tower upon the neighbor property values. While testifying that there would be no negative economic impact on the surrounding property owners, Mr. Lippman did acknowledge that given a home with a tower in the backyard versus one that

had no tower, the potential purchaser in his opinion would choose the one without the tower. Whether or not ultimately this affects the values of the comparative sites (which Mr. Lippman testified that he did not believe values would be affected); it is clear that at a minimum, it would take longer.

Bell called George Gavrellis - Daft McCune & Walker; Kerry Busch from Versar, Inc. and Dr. John M. Osupchuck. The testimony of Gavrellis in regard to the suitability of this site from a planning standpoint is not relevant to the prerequisite issues which are the paramount concerns in regard to Section 502.7.C.1. and the criteria that the Petitioner must meet and therefore little attention will be given to his testimony as well as that of Dr. Osupchuck who testified basically concerning the health aspects of these towers and microwaves. Burch's testimony regarding the visual impact assessment pre-empts the Board's determination of this as an ultimate issue and is therefore not worthy of consideration.

## B. PROTESTANT'S CASE

In the Protestant's case, Steve Rosen and Thomas Basham testified as individuals, as well as on behalf of the named community associations. They expressed substantially the same opposition to the proposed tower by Bell to include the fact that this facility was located in a residential zone without compliance with the requirements of Section 502.7.C.1. They testified that they believed this location was picked by Bell

for height consideration only; that it is a commercial fixture which should not be located in a residential area; and that Bell failed to develop a suitable search area. In addition, they expressed concern for the property value for the surrounding homes as well as the aesthetics of having a tower of this nature located in their neighborhood.

## LEGAL ARGUMENT

The Petitioner's Petition for Special Exception is filed under the provisions of the Baltimore County Zoning Regulations, Section 502, 502.1 and 502.7. The instant Petition involves not only the typical application of the criteria set forth under Section 501.A through H, but additional ones as established by 502.7. Here, prior to the Board's determination that this proposed facility does or does not impact Section 502.1, the Board must first determine that the procedural requirements as set forth in 502.7C.1 have been complied with by the Petitioner. The **Petitioner has the burden** of proving to the Board that it has so complied. Once the determination has been made that the procedural requirements have been satisfied, one must then turn to the issue of whether or not there is an impact under Section 502.1 and finally, if it is determined that the procedural requirements have been met and the conditions of 502.1A through H have been met, the Board may then impose the conditions of Section 502.7C.2 through 11. It is submitted that the legislative intent and history before

the County Council of Baltimore County in 1986 when they enacted Bill No. 64-86, established that the Council intended that the procedural requirements of the Bill be given as much or more weight and consideration as the existing criteria under Section 502.1. In addition, they then intended to condition or qualify by statute, the operation of such a wireless transmitting and receiving by the remaining conditions imposed by 502.7C.2 through 11.

The legislative intent for Bill No. 64-86 finds its origin in a case before the Baltimore County Zoning Commissioner concerning a special exception for a proposed 200 foot tower in Northern Baltimore County. While the community expressed many concerns regarding the tower, the Deputy Zoning Commissioner finally approved the special exception subject to a number of restrictions. Those restrictions ultimately found their way into the amended legislation, such as the exterior look of the tower, the setbacks, the conditions concerning removal of the tower upon termination of the purpose for which it was erected.

Additionally, it became clear to the Baltimore County Council that these towers presented legitimate concerns for residential areas such as height, appearance, health issues and potential damages to the real estate values for surrounding property owners. See Report of the Office of Planning and Zoning for Legislation Project #85-04; the Planning Board Report; the Office of Law Reported dated August 28, 1985. To

quote from the Office of Law Report of August 28, 1985, it was clear that Countywide, "residents of neighborhoods where towers are proposed argue that towers are unattractive and adversely affect property values." Further, "proposed transmission towers are also viewed as an undesirable use in residential zones because of a fear of potential health hazards posed by long-term exposure to non-ionizing electro-magnetic radiation (NIER) admitted by these facilities." "Although the short and long-term damage to humans resulting from exposure to even low levels of NIER is well documented, potential health hazards associated with NIER exposure is a subject of controversy among health scientists." Therefore, in the new legislation, it was specifically recognized that while it would not be appropriate to completely eliminate the opportunity for such towers in residential areas, **it would be made more difficult to locate a tower in such a residential zone and incentives were provided for prospective towers being located in business, office, or industrial zoned areas**. "The Office of Law Report proposing Amendments to the Baltimore County Zoning Regulations concerning Radio Towers and Television Towers and other Wireless Transmission Receiving Facilities," dated August 28, 1985, should be reviewed to determine the legislative intent concerning the significant procedural requirements which were placed in the new legislation. This Report supports the proposition that the drafters of the legislation attached great

significance to the procedural requirements for exploring commercially zoned areas before approving a tower in a residential zone. It is stated on page 6 of the report: "An amendment to Zoning Regulations to permit towers by right under specified conditions in certain office, business and manufacturing zones, **along with more stringent special exception requirements in residential zones would create a situation where non-residential zones would become attractive locations for towers**." It is clear that the pre-conditions as set forth in the Baltimore County Zoning Regulations Section 502.7.C.1 should be adhered to by the Petitioner.

Therefore, one can conclude from the legislative intent of the County Council, that it was clearly interested in ensuring that the Petitioner, in the case of wireless transmitting and receiving facilities, had the burden of establishing that it made a diligent search for a location within a business, office or industrial zone prior to the selection of a site within a residential district.

In this case, the evidence in the record before the Board is devoid of any testimony, exhibit, or other proof which establishes that a diligent search for such a location within a business, office or industrial zone was made prior to the execution of the Contract with McMasters. As a matter of fact, by the testimony of Amy O'Rourke and Mr. Balecki, it is very clear that no consideration was given by the Petitioner Bell to

developing a suitable search area that would include business, office or industrial zone. Moreover, failure to call Mr. Kruhm by the Petitioner likewise supports the fact and the testimony of O'Rourke upon cross examination, that they selected the McMasters site, signed a lease agreement with McMasters and then looked for an appropriate sites only after the issue was raised by the Protestants in March of 1990, that Section 502.7C.1 was not complied with by Bell.

For the first time before this Board of Appeals, it is anticipated that the Petitioner will make the argument that since the Board of Appeals hearing is de novo, the Board should examine their request in light of any of the three search area descriptions and the efforts made up to the time of the Board hearing. This is a ridiculous situation and denies the intent of the legislation in its application. First, while it is true that the hearing before the Board is recognized as a de novo hearing, that only indicates that additional evidence or testimony different from that presented to the Zoning Commissioner may be allowed and that it is not a hearing on the record. It does not mean that the Petitioner can pick his spot and then utilize additional efforts after the location is selected to justify its selection as a "boot strap" argument. The standard that the Board must apply is the same as applied by the Zoning Commissioner:

> "Section 502.7.C.1 clearly places the burden on the Petitioners to establish that they have made a diligent search" for a location

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## PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-381-SPHXA

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 site plan to the special exception in Case No. 76-241X by including a wireless transmitting and receiving facility.

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:
~~Contract Purchaser~~
Southwestern Bell Mobile Systems, Inc. t/a Cellular One
(Type or Print Name)
Emilienne O'Rourke
By: Signature Emilienne O'Rourke
7855 Walker Drive, Suite 100
Address
Greenbelt, Maryland 20770
City and State

Attorney for Petitioner:
G. Scott Barhight
(Type or Print Name)
Signature
500 Court Towers
210 W. Pennsylvania Avenue
Address
Towson, Maryland 21204
City and State
Attorney's Telephone No.: 832-2050

Legal Owner(s):
Liberty Road Volunteer Fire Company, Inc.
(Type or Print Name)
Jerry A. Wayne
By: Signature
(Type or Print Name)
Signature
10010 Liberty Road
Address Phone No.
Randallstown, Maryland 21133
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
G. Scott Barhight
Name
210 W. Pennsylvania Avenue
Towson, MD 21204 832-2050
Address Phone No.

MAP NW 33-K
E-1
E.D. 2nd
DATE 12/3/91
200
1000
D.T.D.S.
25

ORDERED By The Zoning Commissioner of Baltimore County, this 21 day of Feb, 1990, 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 3 day of April, 1990, at 9:30 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

ORDER RECEIVED FOR FILING
Date 3/23/90
By

Z.C.O.—No. 1

(over)

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## PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-381-SPHXA

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 a wireless transmitting and receiving facility pursuant to Sections 1B01.1.C.20 and 502.7.

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.

LESSEE:
~~Contract Purchaser~~
Southwestern Bell Mobile Systems, Inc. t/a Cellular One
(Type or Print Name)
Emilienne O'Rourke
By: Signature Emilienne O'Rourke
7855 Walker Drive, Suite 100
Address
Greenbelt, Maryland 20770
City and State

Attorney for Petitioner:
G. Scott Barhight
(Type or Print Name)
Signature
500 Court Towers
210 W. Pennsylvania Avenue
Address
Towson, Maryland 21204
City and State
Attorney's Telephone No.: 832-2050

Legal Owner(s):
Liberty Road Volunteer Fire Company, Inc.
(Type or Print Name)
Jerry A. Wayne
By: Signature
(Type or Print Name)
Signature
10010 Liberty Road
Address Phone No.
Randallstown, Maryland 21133
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
G. Scott Barhight
Name
210 W. Pennsylvania Avenue
Towson, MD 21204 832-2050
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 21 day of Feb, 1990, 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 3 day of April, 1990, at 9:30 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
Date 3/23/90
By

Z.C.O.—No. 1

(over)

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241

## PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-381-SPHXA

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 Sections (see attached page) of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Hardship or practical difficulty to be presented at the hearing.

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.

LESSEE:
~~Contract Purchaser~~
Southwestern Bell Mobile Systems, Inc. t/a Cellular One
(Type or Print Name)
Emilienne O'Rourke
By: Signature Emilienne O'Rourke
7855 Walker Drive, Suite 100
Address
Greenbelt, Maryland 20770
City and State

Attorney for Petitioner:
G. Scott Barhight
(Type or Print Name)
Signature
500 Court Towers
210 W. Pennsylvania Avenue
Address
Towson, Maryland 21204
City and State
Attorney's Telephone No.:

Legal Owner(s):
Liberty Road Volunteer Fire Company, Inc.
(Type or Print Name)
Jerry A. Wayne
By Signature
(Type or Print Name)
Signature
10010 Liberty Road
Address Phone No.
Randallstown, Maryland 21133
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
G. Scott Barhight
Name
210 W. Pennsylvania Avenue
Towson, MD 21204 832-2050
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 21 day of Feb, 1990, 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 3 day of April, 1990, at 9:30 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

ORDER RECEIVED FOR FILING
Date 3/23/90
By

(over)

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PETITION FOR ZONING VARIANCE (continued)

Petitioner: Southwestern Bell Mobile Systems, Inc.
t/a Cellular One

The Petitioner hereby petitions for a variance from Sections 502.7.C.2 and 102.2 to permit a setback to the nearest property line of 10 ft. in lieu of the required 300 ft., from Sections 502.7.C.3 and 102.2 to permit a lot area of 0.08 acres in lieu of the required 5 acres, from Sections 1B02.2.B and 102.2 (CMDP, V.B.2) to permit side yard setbacks of 5 ft. each in lieu of the required 20 ft., and to permit a rear yard setback of 5 ft. in lieu of the required 30 ft.

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241

PHILIP K. CROSS
JOHN F. ETZEL
WILLIAM G. ULRICH
GORDON T. LANGDON
DAVID E. RANSONE

GERHOLD, CROSS & ETZEL
*Registered Professional Land Surveyors*
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

EMERITUS
PAUL G. DOLLENBERG
FRED H. DOLLENBERG
CARL L. GERHOLD

90-381-SPHXA

January 10, 1990

0.080 of an Acre Zoning Description
Liberty Road Volunteer Fire Dept.

All that piece or parcel of land situate, lying and being in the Second Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point situate the two following lines from the intersection of the centerline of Liberty Road with the centerline of Deer Park Road viz: Northerly, measured along the center of Deer Park Road 1700 feet, more or less, and South 72 degrees 45 minutes 45 seconds West, measured at a right angle from the center of Deer Park Road, 465 feet, more or less, to the beginning of this description, and running thence North 32 degrees West 70 feet, South 58 degrees West 50 feet, South 32 degrees East 70 feet and North 58 degrees East 50 feet to the place of beginning.

Containing 0.080 of an Acre of Land, more or less.

DAVID EDWARD RANSONE
No 1968

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241

PHILIP K. CROSS
JOHN F. ETZEL
WILLIAM G. ULRICH
GORDON T. LANGDON
DAVID E. RANSONE

GERHOLD, CROSS & ETZEL
*Registered Professional Land Surveyors*
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

EMERITUS
PAUL G. DOLLENBERG
FRED H. DOLLENBERG
CARL L. GERHOLD

90-381-SPHXA

January 6, 1990

14.45 Acre Zoning Description
Liberty Road Volunteer Fire Dept.

All that piece or parcel of land situate, lying and being in the Second Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point on the northeast side of Liberty Road measured 743 feet, more or less, northwesterly from the intersection of said northeast side and the center line of Deer Park Road, thence binding on said northeast side of Liberty Road, North 56 degrees 18 minutes 35 seconds West 425.22 feet, thence leaving said northeast side of Liberty Road and binding on the outline of the property of Liberty Road Volunteer Fire Department the twenty following lines viz: North 33 degrees 41 minutes 25 seconds East 200 feet, North 56 degrees 18 minutes 35 seconds West 75 feet, North 62 degrees 24 minutes 50 seconds West 166.10 feet, North 30 degrees 38 minutes 25 seconds East 781.13 feet, North 59 degrees 21 minutes 35 seconds East 431.49 feet, North 69 degrees 18 minutes 29 seconds East 116.04 feet, South 10 degrees 02 minutes 16 seconds East 125 feet, North 79 degrees 57 minutes 45 seconds East 200 feet to the west side of Deer Park Road thence binding on said side of said Road South 10 degrees 02 minutes 15 seconds East 73.27 feet and South 17 degrees 14 minutes 15 seconds East 26.73 feet, thence leaving said road, South 72 degrees 45 minutes 45 seconds West 200 feet, South 17 degrees 14 minutes 15 seconds East 500 feet, North 72 degrees 45 minutes 45 seconds East 200 feet to the west side of Deer Park Road, thence binding on said road, South 17 degrees 14 minutes 15 seconds East 100 feet thence leaving said road South 72 degrees 45 minutes 45 seconds West 150 feet, South 17 degrees 14 minutes 15 seconds East 100 feet, North 72 degrees 45 minutes 45 seconds East 150 feet to the west side of Deer Park Road, thence binding on said road, South 17 degrees 14 minutes 15 seconds East 239.33 feet and South 25 degrees 03 minutes 00 seconds East 182.53 feet, thence leaving said road South 47 degrees 31 minutes 00 seconds West 304.09 feet to the place of beginning.

Containing 14.45 Acres of Land, more or less.

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

**J. Robert Haines**
*Zoning Commissioner*

*Dennis F. Rasmussen*
*County Executive*

DATE 3/13/90

Southwestern Bell Mobile Systems, Inc., t/a
Cellular One
7855 Walker Drive Suite 100
Greenbelt, Maryland 20770

ATTN: EMILIENNE O'ROURKE

Re: Petitions for Special Hearing, Special Exception, and Zoning Variance
CASE NUMBER: 90-381-SPHA
NE/S Liberty Road, 743' NW of c/l of Deer Park Road
(10010 Liberty Road)
2nd Election District - 2nd Councilmanic
Legal Owner(s): Liberty Road Volunteer Fire Company, Inc.
Leesee/Petitioner: Southwestern Bell Mobile Systems, Inc., t/a Cellular One
HEARING: TUESDAY, APRIL 3, 1990 at 9:30 a.m.

Gentlemen:

Please be advised that $166.78 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 OR 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. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional $50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

JRH:gs

cc: G. Scott Barhight, Esq.

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variance to allow existing 0 ft. setback in lieu of required 30 ft. setback and to allow 3 ft. setback in lieu of required 30 ft. setback; to allow 28.5 setback in lieu of required 30 ft. setback; and to allow existing 29.5 ft. setback in lieu of required 30 ft.

In the event that this Petition 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 in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

LEGAL NOTICE

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Hearing, Special Exception, and Zoning Variance
CASE NUMBER: 90-381-SPHA
NE/S Liberty Road, 743' NW of c/l of Deer Park Road
(10010 Liberty Road)
2nd Election District—2nd Councilmanic
Legal Owner(s): Liberty Road Volunteer Fire Company, Inc.
Lessee/Petitioner: Southwestern Bell Mobile Systems, Inc., t/a Cellular One
HEARING: Tuesday, April 3, 1990 at 9:30 a.m.

Special Hearing to approve an amendment to the site plan to the special exception in Case 76-241-X by including a wireless transmitting and receiving facility. Special Exception for a wireless transmitting and receiving facility. Variance to permit a setback to the nearest line of 10 feet in lieu of the required 300 ft.; to permit a lot area of .08 acres in lieu of the required 5 acres; to permit side yard setbacks of 5 ft. each in lieu of the required 20 ft.; and to permit a rear yard setback of 5 ft. in lieu of the required 30 ft.

In the event that this Petition 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 in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Introducing Chase Lea Apartments in Owings Mills.
- Spacious luxury apartments with exciting features... including cozy fireplaces in most apartments.
- Sunrooms or dramatic vaulted ceilings in some models.
- Terrific recreational facilities, including the Chase Lea health spa.
- Convenient and sought after Owings Mills location.
- Owner managed by Trammell Crow, one of the nation's most respected builders and developers.

Families with income between $17,000-$35,000 given special consideration.
Chase Lea
MODEL OPEN: Mon.-Sat. 10-6. Closed Sun.
DIRECTIONS: From Beltway Exit 20, Reisterstown Rd., 1 mile to left on McDonogh Rd. Right on Pittsfield Rd., left on Hartley Circle to Chase Lea Leasing center.
(301) 363-8050
A Trammell Crow Co. Community

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### CERTIFICATE OF POSTING

90-381-SPHXA

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, ~~Maryland~~

District 2nd
Date of Posting March 15, 1990
Posted for: Special Hearing, Special Exception, and Variance
Petitioner: Southwestern Bell Mobile Systems, Inc. T/A Cellular One
Location of property: NE/S Liberty Road, 743' NW of c/L of Deer Park Road (10010 Liberty Roads)
Location of Signs: NE/S of Liberty Road, approx. 1000' NW of the c/L of Deer Park Road
Remarks:
Posted by S. J. Arata
Signature
Date of return: March 23, 1990
Number of Signs: 3

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### CERTIFICATE OF PUBLICATION

TOWSON, MD., March 8, 1990

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on March 8, 1990

THE JEFFERSONIAN,

Publisher

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NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Special Hearing, Special Exception, and Zoning Variance
Case number: 90-381-SPHA
NE/S Liberty Road, 743' NW of c/l of Deer Park Road
(10010 Liberty Road)
2nd Election District
2nd Councilmanic
Legal Owner(s): Liberty Road Volunteer Fire Company, Inc.
Lessee/Petitioner: Southwestern Bell Mobile Systems, Inc., t/a Cellular One
Hearing Date: Tuesday, April 3, 1990 at 9:30 a.m.

Special Hearing: to approve an amendment to the site plan to the special exception in Case 76-241-X by including a wireless transmitting and receiving facility.

Special Exception: for a wireless transmitting and receiving facility.

Variance: to permit a setback to the nearest property line of 10 feet in lieu of the required 300 ft.; to permit a lot area of .08 acres in lieu of the required 5 acres; to permit side yard setbacks of 5ft. each in lieu of the required 20 ft.; and to permit a rear yard setback of 5ft. in lieu of the required 30 ft.

In the event that this Petition 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 in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

3/123 March 8.

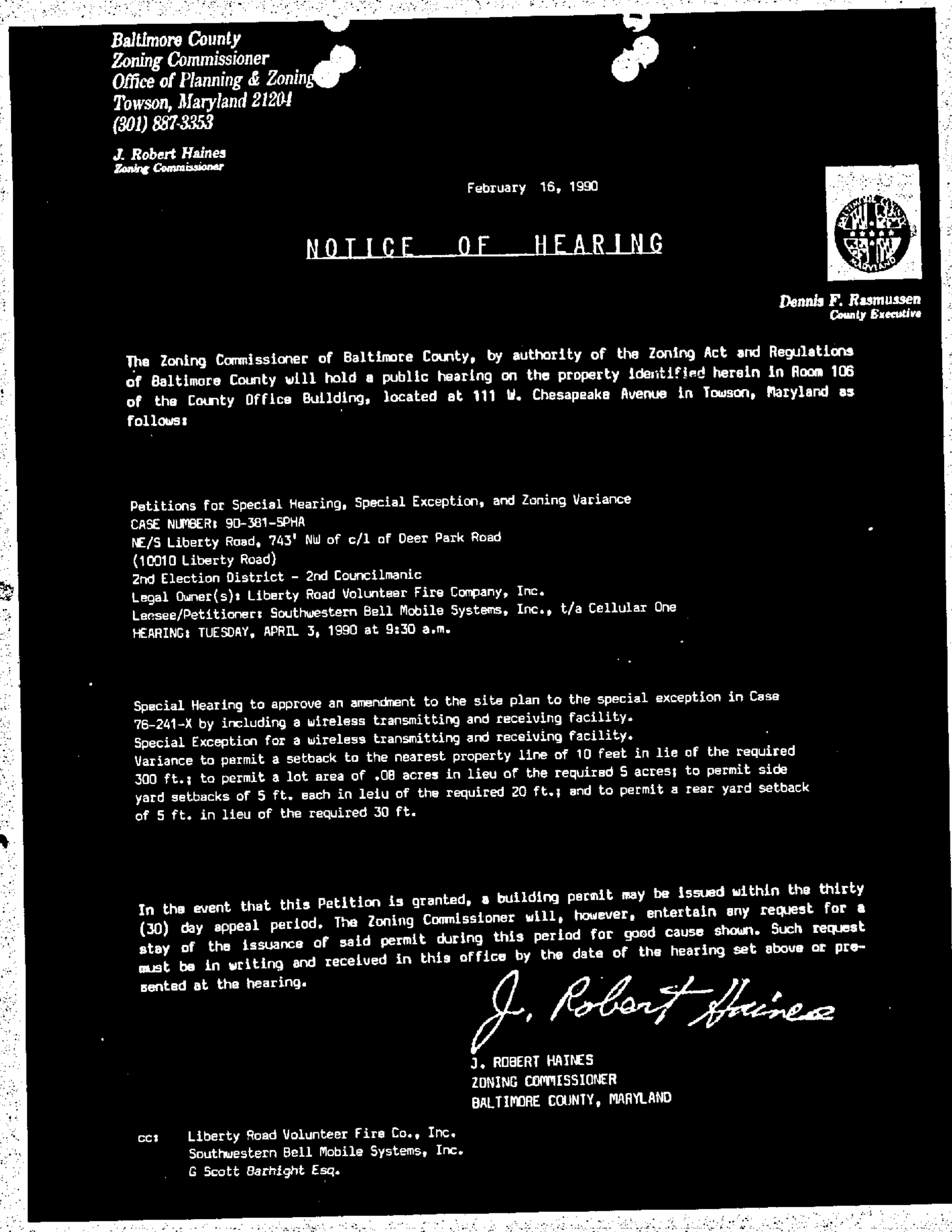
### CERTIFICATE OF PUBLICATION

TOWSON, MD., March 8, 1990

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on March 8, 1990

THE JEFFERSONIAN,

S. Zeke Orlan
Publisher



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

**J. Robert Haines**
*Zoning Commissioner*

February 16, 1990

**Dennis F. Rasmussen**
*County Executive*

## NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Hearing, Special Exception, and Zoning Variance
CASE NUMBER: 90-381-SPHA
NE/S Liberty Road, 743' NW of c/l of Deer Park Road
(10010 Liberty Road)
2nd Election District - 2nd Councilmanic
Legal Owner(s): Liberty Road Volunteer Fire Company, Inc.
Lessee/Petitioner: Southwestern Bell Mobile Systems, Inc., t/a Cellular One
HEARING: TUESDAY, APRIL 3, 1990 at 9:30 a.m.

Special Hearing to approve an amendment to the site plan to the special exception in Case 76-241-X by including a wireless transmitting and receiving facility.
Special Exception for a wireless transmitting and receiving facility.
Variance to permit a setback to the nearest property line of 10 feet in lie of the required 300 ft.; to permit a lot area of .08 acres in lieu of the required 5 acres; to permit side yard setbacks of 5 ft. each in leiu of the required 20 ft.; and to permit a rear yard setback of 5 ft. in lieu of the required 30 ft.

In the event that this Petition 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 in writing and received in this office by the date of the hearing set above or presented at the hearing.

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

cc: Liberty Road Volunteer Fire Co., Inc.
Southwestern Bell Mobile Systems, Inc.
G Scott Barhight Esq.

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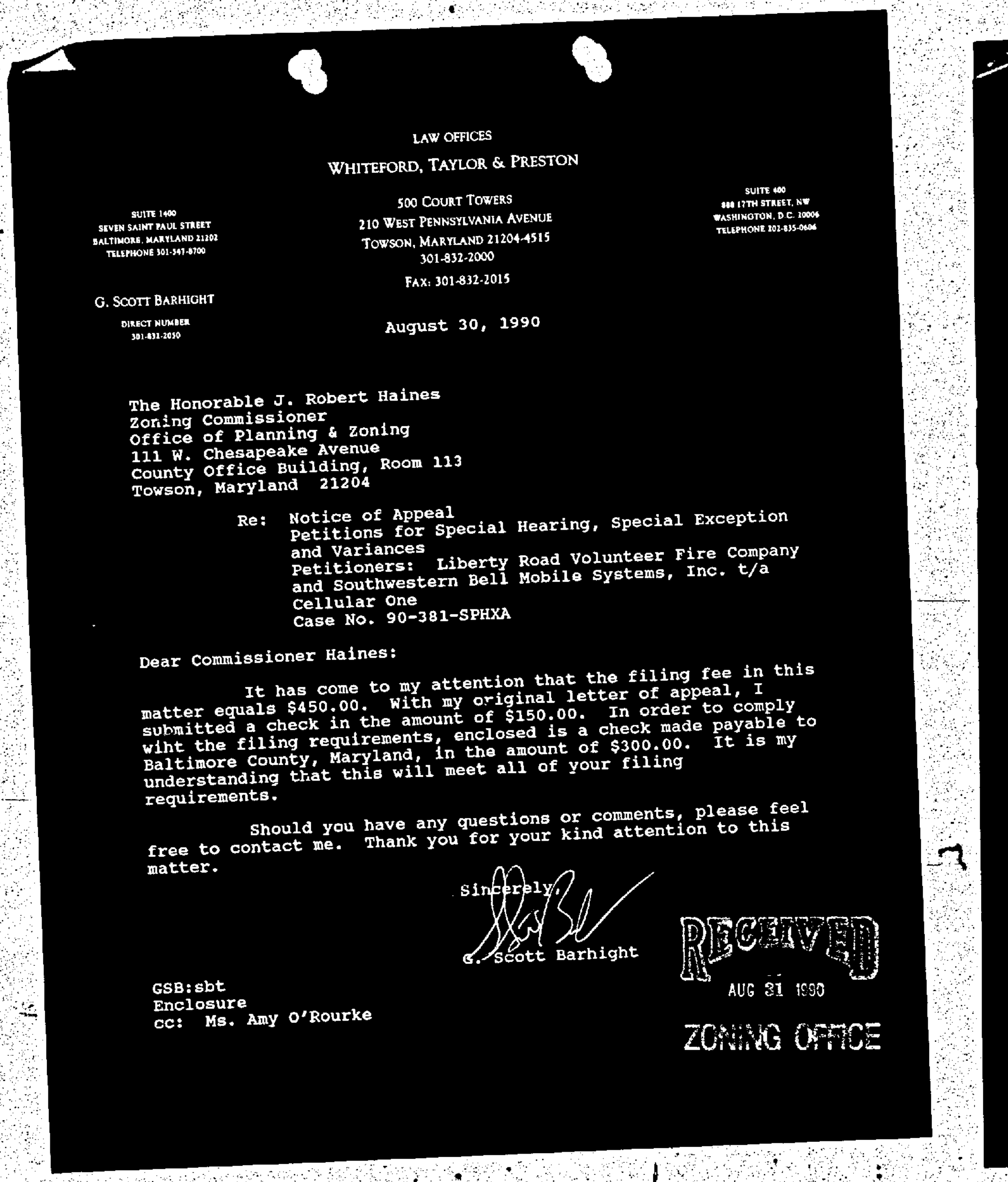

LAW OFFICES
WHITEFORD, TAYLOR & PRESTON
500 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
301-832-2000
FAX: 301-832-2015

SUITE 1400
SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202
TELEPHONE 301-347-8700

SUITE 400
888 17TH STREET, NW
WASHINGTON, D.C. 20006
TELEPHONE 202-835-0606

G. SCOTT BARHIGHT
DIRECT NUMBER
301-832-2050

August 30, 1990

The Honorable J. Robert Haines
Zoning Commissioner
Office of Planning & Zoning
111 W. Chesapeake Avenue
County Office Building, Room 113
Towson, Maryland 21204

Re: Notice of Appeal
Petitions for Special Hearing, Special Exception and Variances
Petitioners: Liberty Road Volunteer Fire Company and Southwestern Bell Mobile Systems, Inc. t/a Cellular One
Case No. 90-381-SPHXA

Dear Commissioner Haines:

It has come to my attention that the filing fee in this matter equals $450.00. With my original letter of appeal, I submitted a check in the amount of $150.00. In order to comply wiht the filing requirements, enclosed is a check made payable to Baltimore County, Maryland, in the amount of $300.00. It is my understanding that this will meet all of your filing requirements.

Should you have any questions or comments, please feel free to contact me. Thank you for your kind attention to this matter.

Sincerely,

G. Scott Barhight

RECEIVED
AUG 31 1990
ZONING OFFICE

GSB:sbt
Enclosure
cc: Ms. Amy O'Rourke

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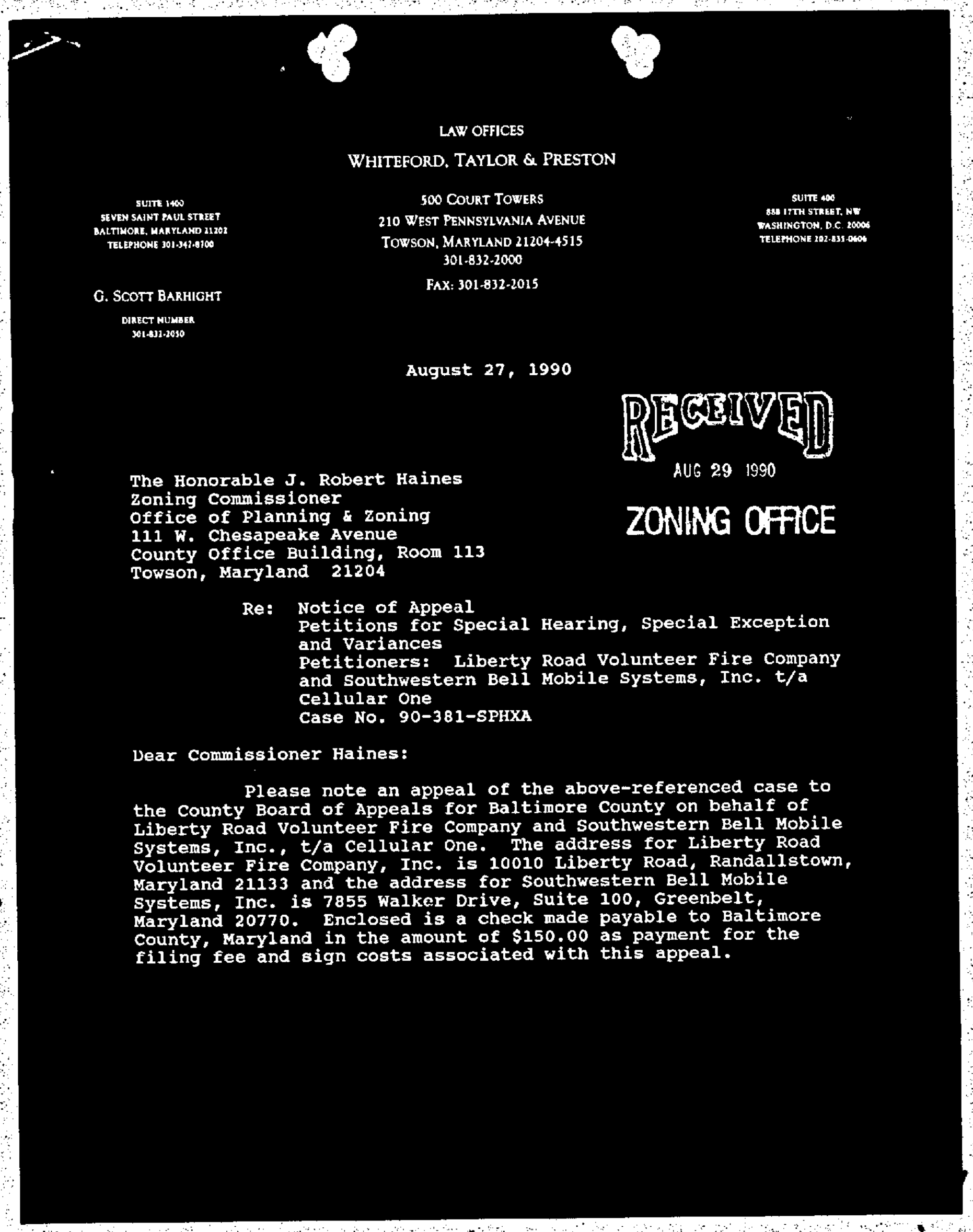

LAW OFFICES
WHITEFORD, TAYLOR & PRESTON
500 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
301-832-2000
FAX: 301-832-2015

SUITE 1400
SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202
TELEPHONE 301-347-8700

SUITE 400
888 17TH STREET, NW
WASHINGTON, D.C. 20006
TELEPHONE 202-835-0606

G. SCOTT BARHIGHT
DIRECT NUMBER
301-832-2050

August 27, 1990

RECEIVED
AUG 29 1990
ZONING OFFICE

The Honorable J. Robert Haines
Zoning Commissioner
Office of Planning & Zoning
111 W. Chesapeake Avenue
County Office Building, Room 113
Towson, Maryland 21204

Re: Notice of Appeal
Petitions for Special Hearing, Special Exception and Variances
Petitioners: Liberty Road Volunteer Fire Company and Southwestern Bell Mobile Systems, Inc. t/a Cellular One
Case No. 90-381-SPHXA

Dear Commissioner Haines:

Please note an appeal of the above-referenced case to the County Board of Appeals for Baltimore County on behalf of Liberty Road Volunteer Fire Company and Southwestern Bell Mobile Systems, Inc., t/a Cellular One. The address for Liberty Road Volunteer Fire Company, Inc. is 10010 Liberty Road, Randallstown, Maryland 21133 and the address for Southwestern Bell Mobile Systems, Inc. is 7855 Walker Drive, Suite 100, Greenbelt, Maryland 20770. Enclosed is a check made payable to Baltimore County, Maryland in the amount of $150.00 as payment for the filing fee and sign costs associated with this appeal.

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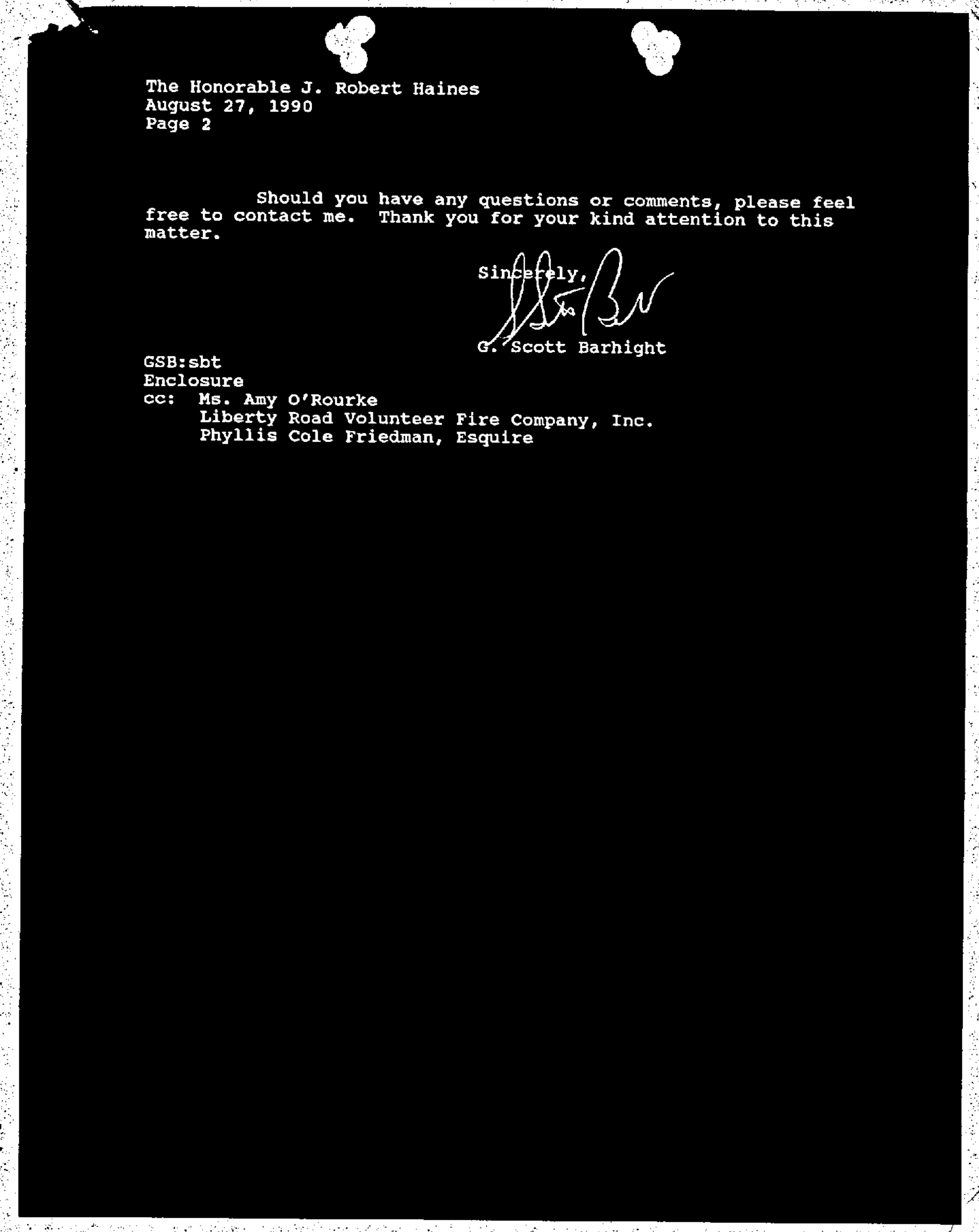

The Honorable J. Robert Haines
August 27, 1990
Page 2

Should you have any questions or comments, please feel free to contact me. Thank you for your kind attention to this matter.

Sincerely,

G. Scott Barhight

GSB:sbt
Enclosure
cc: Ms. Amy O'Rourke
Liberty Road Volunteer Fire Company, Inc.
Phyllis Cole Friedman, Esquire

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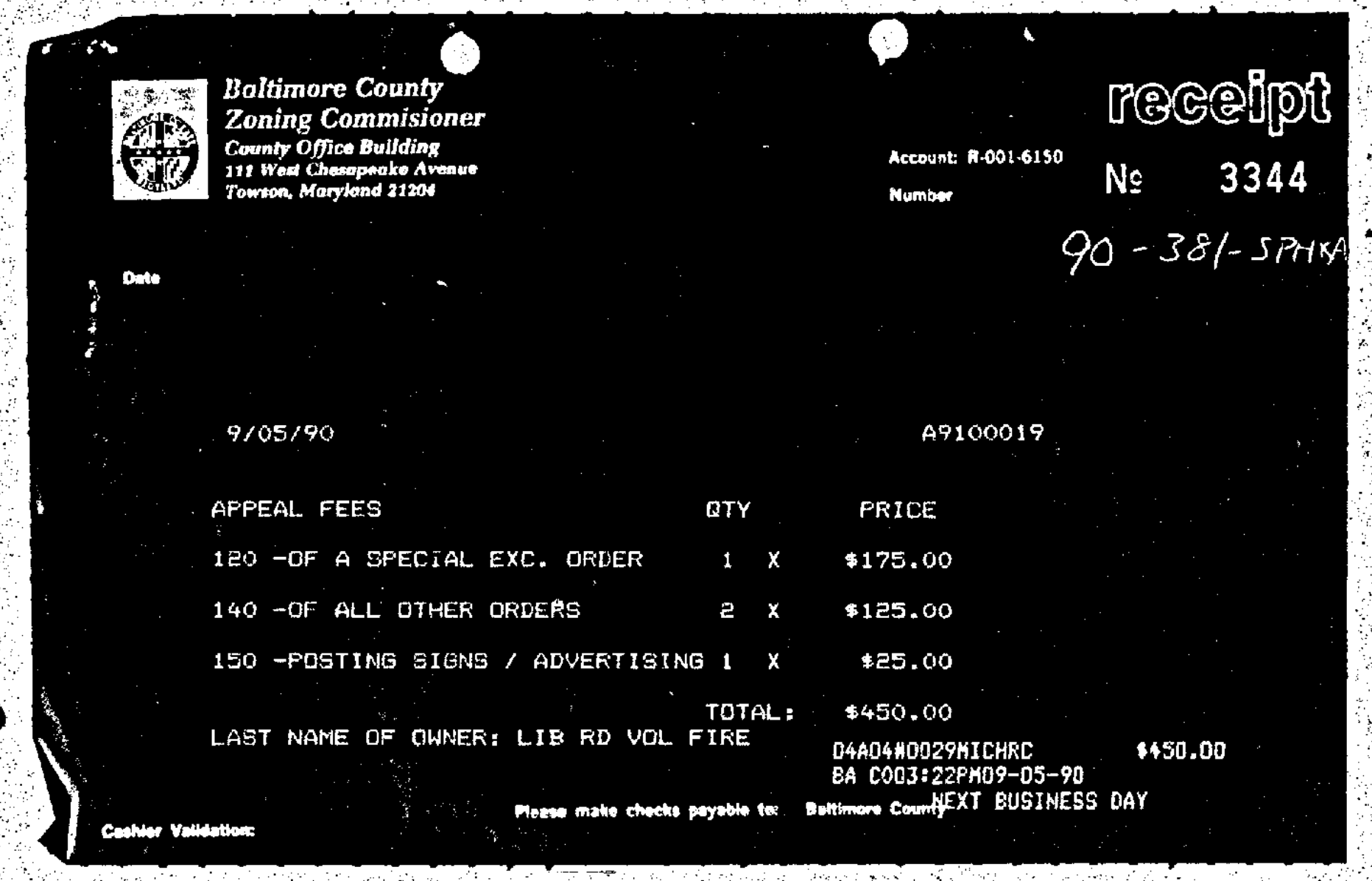

*Baltimore County*
*Zoning Commisioner*
*County Office Building*
*111 West Chesapeake Avenue*
*Towson, Maryland 21204*

**receipt**

Account: R-001-6150
Number
№ 3344
90-381-SPHXA

Date

9/05/90 A9100019

| APPEAL FEES | QTY | | PRICE |
|---|---|---|---|
| 120 -OF A SPECIAL EXC. ORDER | 1 | X | $175.00 |
| 140 -OF ALL OTHER ORDERS | 2 | X | $125.00 |
| 150 -POSTING SIGNS / ADVERTISING | 1 | X | $25.00 |
| | | TOTAL: | $450.00 |

LAST NAME OF OWNER: LIB RD VOL FIRE

04A04#0029MICHRC $450.00
BA C003:22PM09-05-90
NEXT BUSINESS DAY

Please make checks payable to: Baltimore County

Cashier Validation:

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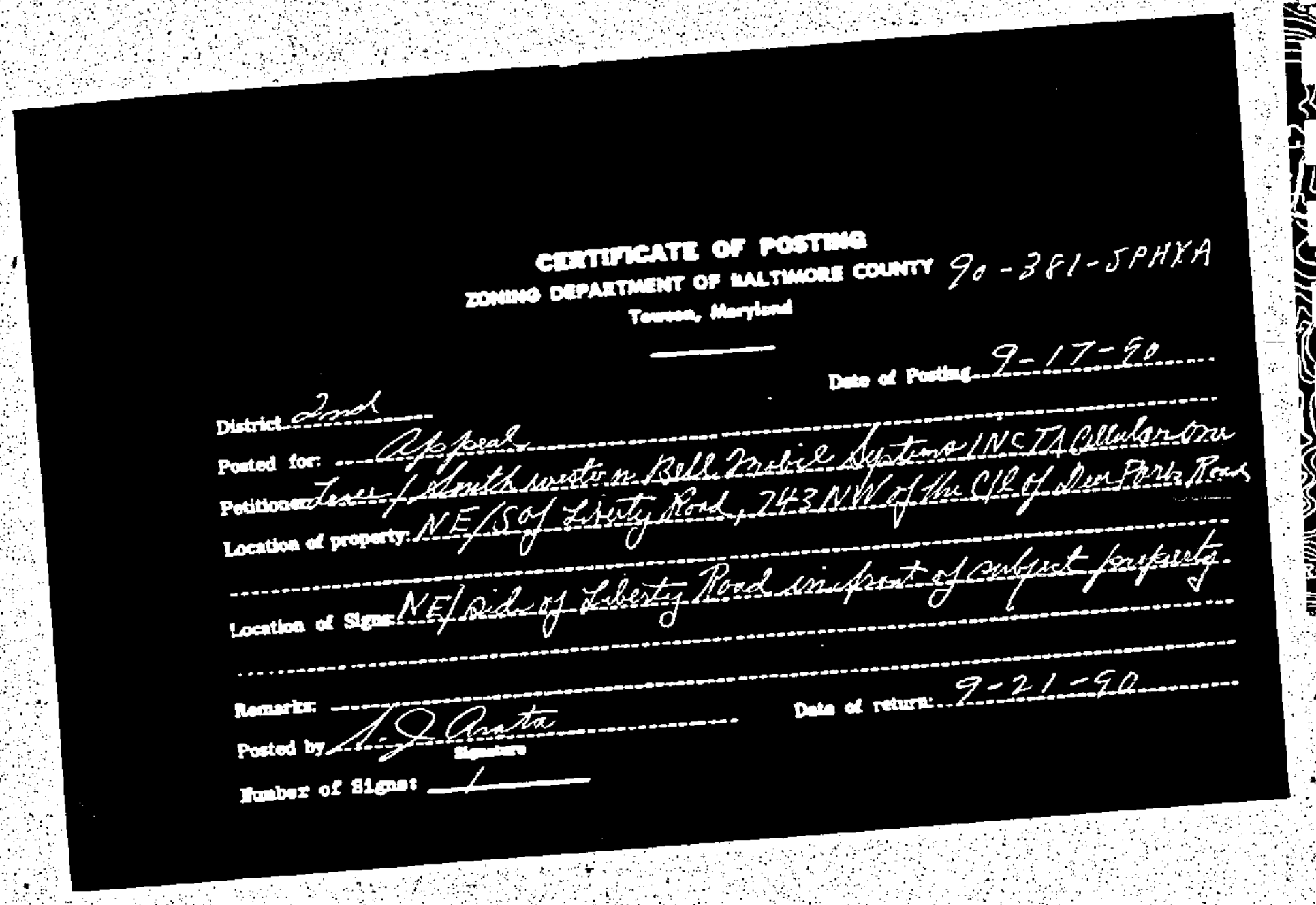

**CERTIFICATE OF POSTING**
**ZONING DEPARTMENT OF BALTIMORE COUNTY** 90-381-SPHXA
**Towson, Maryland**

Date of Posting 9-17-90

District 2nd
Posted for: Appeal
Petitioner: Lessee / Southwestern Bell Mobile Systems INC T/A Cellular One
Location of property: NE/S of Liberty Road, 743 NW of the C/L of Deer Park Road
Location of Signs: NE/side of Liberty Road in front of subject property.
Remarks:
Posted by Arata
Signature
Date of return: 9-21-90
Number of Signs: 1

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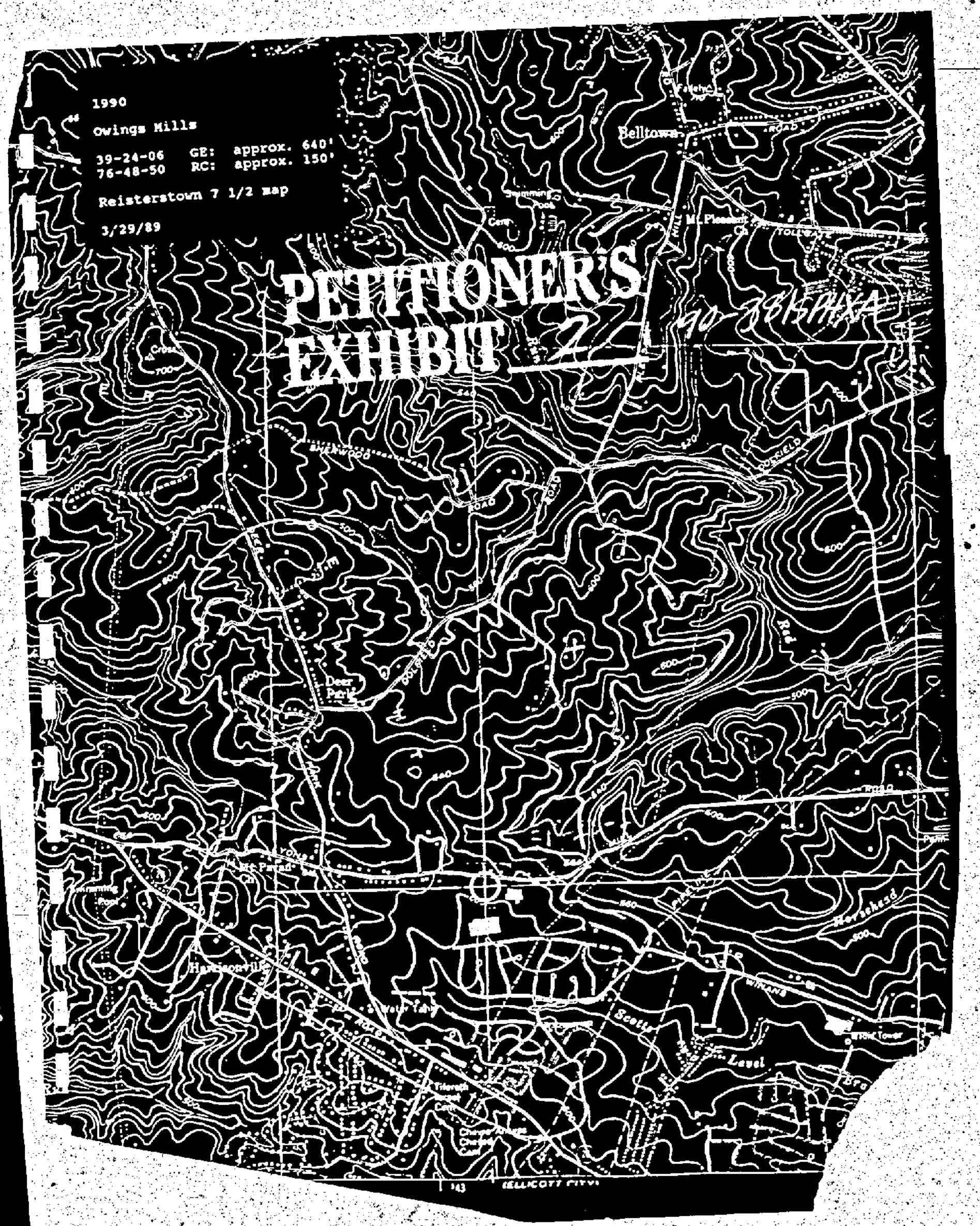

PETITIONER'S EXHIBIT 2 90-381-SPHXA

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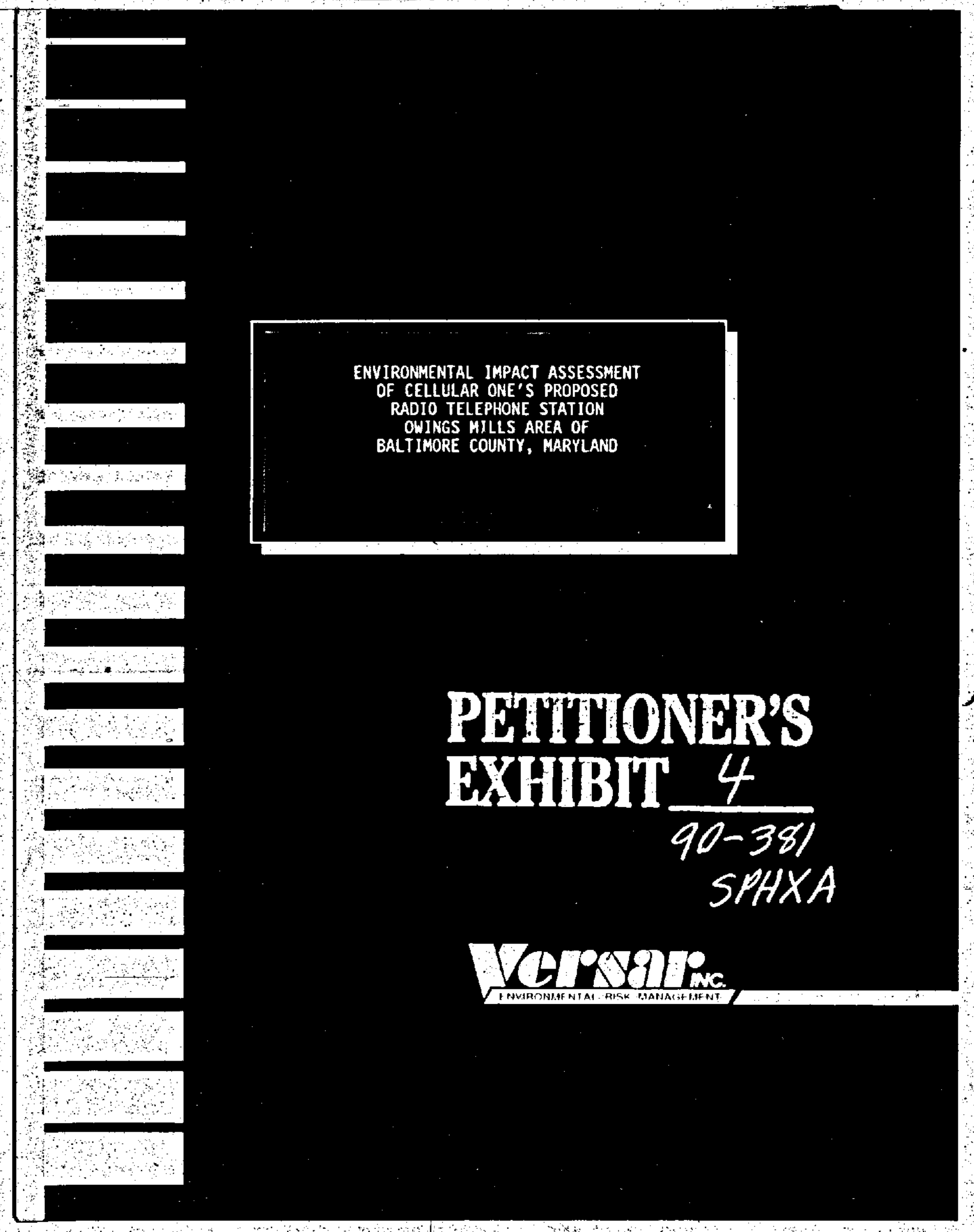

ENVIRONMENTAL IMPACT ASSESSMENT
OF CELLULAR ONE'S PROPOSED
RADIO TELEPHONE STATION
OWINGS MILLS AREA OF
BALTIMORE COUNTY, MARYLAND

PETITIONER'S
EXHIBIT 4
90-381
SPHXA

Versar INC.
ENVIRONMENTAL RISK MANAGEMENT

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

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

September 5, 1990

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

RE: Petition for Special Hearing, Special Exception & Variance
NE/S Liberty Road, 743' NW of the c/1 of Deer Park Road
(10010 Liberty Road)
2nd Election District, 2nd Councilmanic District
LIBERTY ROAD VOLUNTEER FIRE CO. - Petitioner
Case No. 90-381-SPHXA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on August 31, 1990 by G. Scott Barhight, Attorney on behalf of the Petitioner. 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.

RECEIVED
COUNTY BOARD OF APPEALS
90 SEP 11 PM 1:29

Very truly yours,

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Amy O'Rourke
Southwestern Bell Mobile Systems, Inc. t/a Cellular One
7855 Walker Drive, Suite 100, Greenbelt, MD 20770

G. Scott Barhight, Esquire - Whiteford, Taylor & Preston
500 Court Towers, 210 West Pennsylvania Ave., Towson, MD 21204

---

Mr. John Celentano - Hernwood Heights Community Association
10 Sheraton Road, Randallstown, MD 21133

Mr. & Mrs. Harold R. Carter - Kings Park Association
9820 Clanford Road, Randallstown, MD 21133

Mr. Al Barnes - Kings Park Association
9829 Clanford Road, Randallstown, MD 21133

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

File

---

## APPEAL

Petition for Special Hearing, Special Exception and Variance
NE/S Liberty Road, 743' NW of the c/1 of Deer Park Road
(10010 Liberty Road)
2nd Election District - 2nd Councilmanic District
LIBERTY ROAD VOLUNTEER FIRE CO. - Petitioner
Case No. 90-381-SPHXA

Petition for Special Hearing, Special Exception & Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits:
1. Plat to accompany Petition
2. Topographic Map
3. Aerial Photograph
4. Environmental Impact Assessment
5. Four (4) Photographs of proposed towers

Zoning Commissioner's Order dated August 23, 1990 (Denied/Dismissed)

Notice of Appeal received August 29, 1990 from G. Scott Barhight, Attorney on behalf of the Petitioner

cc: Amy O'Rourke
Southwestern Bell Mobile Systems, Inc. t/a Cellular One
7855 Walker Drive, Suite 100, Greenbelt, MD 20770

G. Scott Barhight, Esquire - Whiteford, Taylor & Preston
500 Court Towers, 210 West Pennsylvania Ave., Towson, MD 21204

Mr. John Celentano - Hernwood Heights Community Association
10 Sheraton Road, Randallstown, MD 21133

Mr. & Mrs. Harold R. Carter - Kings Park Association
9820 Clanford Road, Randallstown, MD 21133

Mr. Al Barnes - Kings Park Association
9829 Clanford Road, Randallstown, MD 21133

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification:
P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, County Attorney

---

RE: PETITION FOR SPECIAL EXCEPTION, : BEFORE THE ZONING COMMISSIONER
SPECIAL HEARING AND VARIANCE
NE/S Liberty Rd., 743' NW of : OF BALTIMORE COUNTY
Centerline of Deer Park Rd.
(10010 Liberty Rd.) :
2nd Election District
2nd Councilmanic District :

LIBERTY ROAD VOLUNTEER FIRE : Case No. 90-381-SPHXA
COMPANY, INC., 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 304, County Office Building
Towson, Maryland 21204
887-2188

I HEREBY CERTIFY that on this 23rd day of March, 1990, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, 500 Court Towers, 210 W. Pennsylvania Ave., Towson, MD 21204, Attorney for Petitioner; and Emilienne O'Rourke, Southwestern Bell Mobile Systems, Inc., t/a Cellular One, 7855 Walker Dr., Suite 100, Greenbelt, MD 20770, Lessee.

Peter Max Zimmerman
Peter Max Zimmerman

---

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

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

August 23, 1990

G. Scott Barhight, Esquire
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE
NE/S Liberty Road, 743' NW of the c/1 of Deer Park Road
(10010 Liberty Road)
2nd Election District - 2nd Councilmanic District
Liberty Road Volunteer Fire Company, Inc. - Petitioners
Case No. 90-381-SPHXA

Dear Mr. Barhight:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing, Special Exception and Variance have been denied in part and dismissed in part 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
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: Mr. John Celentano
Hernwood Heights Community Association
10 Sheraton Road, Randallstown, Md. 21133

Mr. & Mrs. Harold R. Carter
Kings Park Association
9820 Clanford Road, Randallstown, Md. 21133

Mr. Al Barnes
Kings Park Association
9829 Clanford Road, Randallstown, Md. 21133

People's Counsel; File

---

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

March 13, 1991

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston
500 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204-4515

Re: Case No. 90-381-SPHXA (Liberty Road Volunteer Fire Co.)

Dear Mr. Barhight:

Enclosed please find a copy of the Order of Dismissal issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

LindaLee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Ms. Emilienne O'Rourke
Mr. John Celentano
Mr. and Mrs. Harold R. Carter
Mr. Al Barnes
J. Carroll Holzer, Esquire
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
[illegible] County Attorney

---

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

Hearing Room -
Room 301, County Office Bldg. December 17, 1990

## 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 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. 90-381-SPHXA
LIBERTY ROAD VOLUNTEER FIRE CO.
NE/s Liberty Rd., 743' NW of c/1
of Deer Park Rd. (10010 Liberty Rd.)
2nd Election District
2nd Councilmanic District

SPH-Amend 76-241-X (wireless transmitting/receiving facility);
SE-Use property for wireless transmitting/receiving facility (Cellular One);
VAR-Setbacks and lot area

8/23/90 - Z.C.'s Order DENYING Petition for Special Exception; DISMISSING Special Hearing and Variance.

ASSIGNED FOR: FRIDAY, APRIL 26, 1991 at 10:00 a.m.

cc: G. Scott Barhight, Esquire Counsel for Petitioner/Appellant
Amy O'Rourke - Southwestern Bell Mobile Systems, Inc.
Mr. John Celentano
Hernwood Heights Comm. Assoc.
Mr. and Mrs. Harold R. Carter
Kings Park Assoc.
Mr. Al Barnes
Kings Park Assoc.
People's Counsel for Baltimore County
P. David Fields
Pat Keller
~~Public Services~~ out per Paula 1/2/91
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

---

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

RECEIVED
DEC 20 1990
BUREAU OF PUBLIC SERVICES

Hearing Room -
Room 301, County Office Bldg. December 17, 1990

## 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 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. 90-381-SPHXA
LIBERTY ROAD VOLUNTEER FIRE CO.
NE/s Liberty Rd., 743' NW of c/1
of Deer Park Rd. (10010 Liberty Rd.)
2nd Election District
2nd Councilmanic District

SPH-Amend 76-241-X (wireless transmitting/receiving facility);
SE-Use property for wireless transmitting/receiving facility (Cellular One);
VAR-Setbacks and lot area

8/23/90 - Z.C.'s Order DENYING Petition for Special Exception; DISMISSING Special Hearing and Variance.

RECEIVED
COUNTY BOARD OF APPEALS
91 JAN -2 AM 8:52

ASSIGNED FOR: FRIDAY, APRIL 26, 1991 at 10:00 a.m.

cc: G. Scott Barhight, Esquire Counsel for Petitioner/Appellant
Amy O'Rourke - Southwestern Bell Mobile Systems, Inc.
Mr. John Celentano
Hernwood Heights Comm. Assoc.
Mr. and Mrs. Harold R. Carter
Kings Park Assoc.
Mr. Al Barnes
Kings Park Assoc.
People's Counsel for Baltimore County
P. David Fields
Pat Keller
✓Public Services
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

No

LindaLee M. Kuszmaul
Legal Secretary

12/17/90 - Following parties notified of hearing set for April 26, 1991 at 10:00 a.m.:

G. Scott Barhight, Esquire
Amy O'Rourke - Southwestern Bell Mobile Systems, Inc.
Mr. John Celentano
  Hernwood Heights Comm. Assoc.
Mr. and Mrs. Harold R. Carter
  Kings Park Assoc.
Mr. Al Barnes
  Kings Park Assoc.
People's Counsel for Baltimore County
P. David Fields
Pat Keller
~~Public Services~~
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

---

90-381-SPHXA

Liberty Road Volunteer Fire Co., Inc.
10010 Liberty Road, Harrisonville
Randallstown, Md. 21133-1402
Emergency 911 Business 922-1223

March 14, 1991

Ms. Emilienne O'Rourke
Real Estate Manager
Cellular One
7855 Walker Avenue
Suite 100
Greenbelt, Maryland 20770

RECEIVED
MAR 18 1991
ZONING OFFICE

Dear Amy,

It was a pleasure talking to you this past Friday. I would like to take this opportunity to explain to you what has transpired in the past several weeks with reference to Baltimore County, the Fire Company property, and the covenant.

We addressed with Mr Haines the reasons that Celluar One had been rejected for the tower. The bottom line is that your legal counsel, Mr. Barhight, did not properly present all the necessary paperwork to Mr. Haines at the hearing last summer. Upon representatives of our fire company addressing the problem with Mr. Haines, he has scheduled an appeal hearing for early April 1991. We believe, as per Mr. Haines, that unless there is strong opposition from nearby residents of our community, that a zoning variance will be issued to construct the tower. The monies that have been spent on this project by Celluar One should not have been in vain. It would be in both our best interests for Celluar One to appear at this hearing in early April to entertain the purpose of Celluar One constructing a tower on our site. If you plan to attend the hearing, and we hope you do, and the permit issued as we feel it should be, we will at no expense to Celluar One give you first right of refusal for one year to construct your tower. We have gone this far together and would hate to see this project abandoned so close to completion.

As far as the rest of our property, we feel very strongly that we should have the covenant removed in the near future. In the beginning we accepted advice that may have improperly answered our questions. The gentlemen that are presently working with us to remove our entire covenant have spent a fair share of time at the Baltimore County Zoning Office and are attempting to help us remove these covenant expeditiously and cost efficiently. We, as a volunteer organization, that serve and protect the community, may request this variance and have Baltimore County act upon it within a short time. Never the less we would still like to joint venture the tower with you and look forward to seeing you at the zoning appeal next month.

MEMBER MARYLAND STATE FIREMEN'S ASS'N | MEMBER BALTO. COUNTY VOL. FIREMEN'S ASS'N | MEMBER MARYLAND STATE AMBULANCE & RESCUE ASS'N

---

Liberty Road Volunteer Fire Co., Inc.
10010 Liberty Road, Harrisonville
Randallstown, Md. 21133-1402
Emergency 911 Business 922-1223

Amy, Please don't hesitate to contact me with any questions concerning this letter and our sincerity in completing this project. I can be reached at one of the following numbers.

HOME: 922-6904
FIRE COMPANY: 887-0651
MOBILE: 971-8112

Respectfully,

Karl Zimmerman

Karl Zimmerman
Board of
Director

cc:Mr. Haines
B.O.D. File
Admin. File

MEMBER MARYLAND STATE FIREMEN'S ASS'N | MEMBER BALTO. COUNTY VOL. FIREMEN'S ASS'N | MEMBER MARYLAND STATE AMBULANCE & RESCUE ASS'N

---

90-381SPHXA

PROTESTANT(S) SIGN-IN SHEET

| NAME | ADDRESS |
|---|---|
| John Celentano | Hernwood Heights Comm Assoc.<br>10 Stevaton Road<br>Randallstown MD 21133 |
| Ethel M. Carter | Kings PK. Asso.<br>9820 Clanford Rd 21133 |
| Harold R. Carter | Kings Park Assoc<br>9829 Clanford Rd 21133 |
| Al Barnes | |

---

90-381SPHXA

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

| NAME | ADDRESS |
|---|---|
| G. Scott Barhight | 210 W. Penn Ave, Towson, MD 21204 |
| Amy O'Rourke | 7855 Walker Dr, Greenbelt MD 20720 |
| Fred N. Kruhm | 15701 Kruhm Rd<br>Burtonsville, MD 20866 |
| Ronald F. Steg | 6850 Versar Center, Springfield VA 22151 |
| Jerry Bialecki | 7855 Walker Dr. Greenbelt Md. 20770 |
| David Ransone | 412 Delaware Ave. Towson, MD. 21204 |

---

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

*J. Robert Haines*
*Zoning Commissioner*

*Dennis F. Rasmussen*
*County Executive*

March 22, 1990

G. Scott Barhight, Esquire
500 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204

RE: Item No. 241, Case No. 90-381-SPHXA
Petitioner: Liberty Road Volunteer Fire Co., Inc.
Petition for Special Hearing, Special Exception
and Zoning Variance

Dear Mr. Barhight:

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 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: Liberty Road Volunteer Fire Company
Southwestern Bell Mobile Systems, Inc.

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

*J. Robert Haines*
*Zoning Commissioner*

*Dennis F. Rasmussen*
*County Executive*

Your petition has been received and accepted for filing this

21st day of February, 1989.

J. Robert Haines

J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer

Chairman,
Zoning Plans Advisory Committee

Petitioner: Liberty Road Volunteer Fire Company, et al

Petitioner's Attorney: G. Scott Barhight

---

SHA
*Maryland Department of Transportation*
*State Highway Administration*

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

February 28, 1990

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Attn: Mr. James Dyer

Re: Baltimore County
Liberty Road Volunteer
Fire Company
Zoning Meeting of 2-20-90
N/S Liberty Road (MD 26)
743' West of Deer
Park Road
(Item #241)

Dear Mr. Haines:

After reviewing the submittal for a special hearing to approve an amendment to the site plan to the special exception in Case No. 76-241-X by including a wireless transmitting and receiving facility, we find the plan acceptable.

If you have any questions, please contact Larry Brocato at 333-1350.

Very truly yours,

Charles Rose

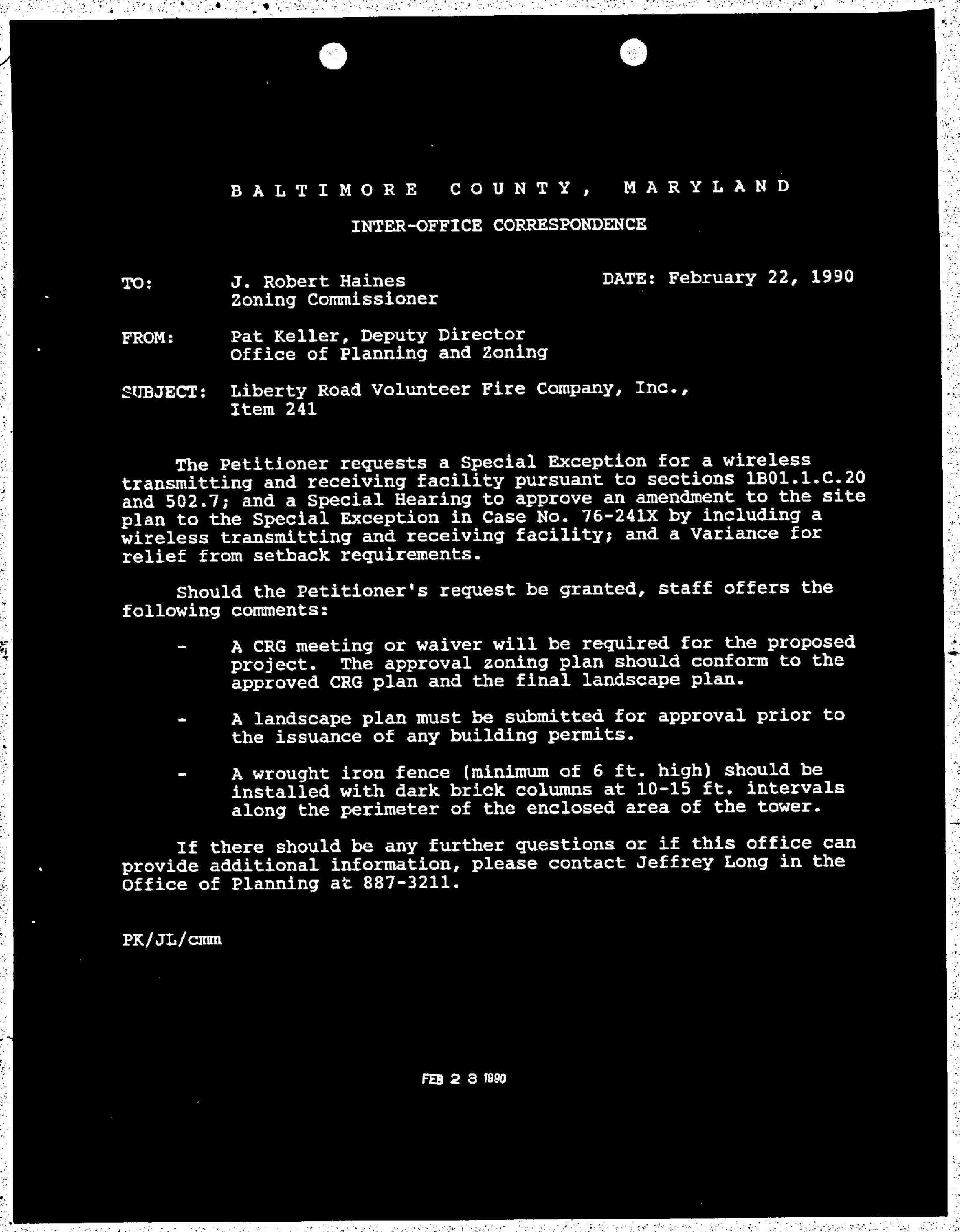
Charles Rose, Acting Chief
Engineering Access Permits
Division

LB:maw

cc: Gerhold, Cross & Etzel
Mr. J. Ogle

RECEIVED
MAR 5 1990
ZONING OFFICE

My telephone number is (301) 333-1350 (Fax #333-1041)



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: February 22, 1990
Zoning Commissioner

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

SUBJECT: Liberty Road Volunteer Fire Company, Inc.,
Item 241

The Petitioner requests a Special Exception for a wireless transmitting and receiving facility pursuant to sections 1B01.1.C.20 and 502.7; and a Special Hearing to approve an amendment to the site plan to the Special Exception in Case No. 76-241X by including a wireless transmitting and receiving facility; and a Variance for relief from setback requirements.

Should the Petitioner's request be granted, staff offers the following comments:

- A CRG meeting or waiver will be required for the proposed project. The approval zoning plan should conform to the approved CRG plan and the final landscape plan.
- A landscape plan must be submitted for approval prior to the issuance of any building permits.
- A wrought iron fence (minimum of 6 ft. high) should be installed with dark brick columns at 10-15 ft. intervals along the perimeter of the enclosed area of the tower.

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.

PK/JL/cmm

FEB 23 1990

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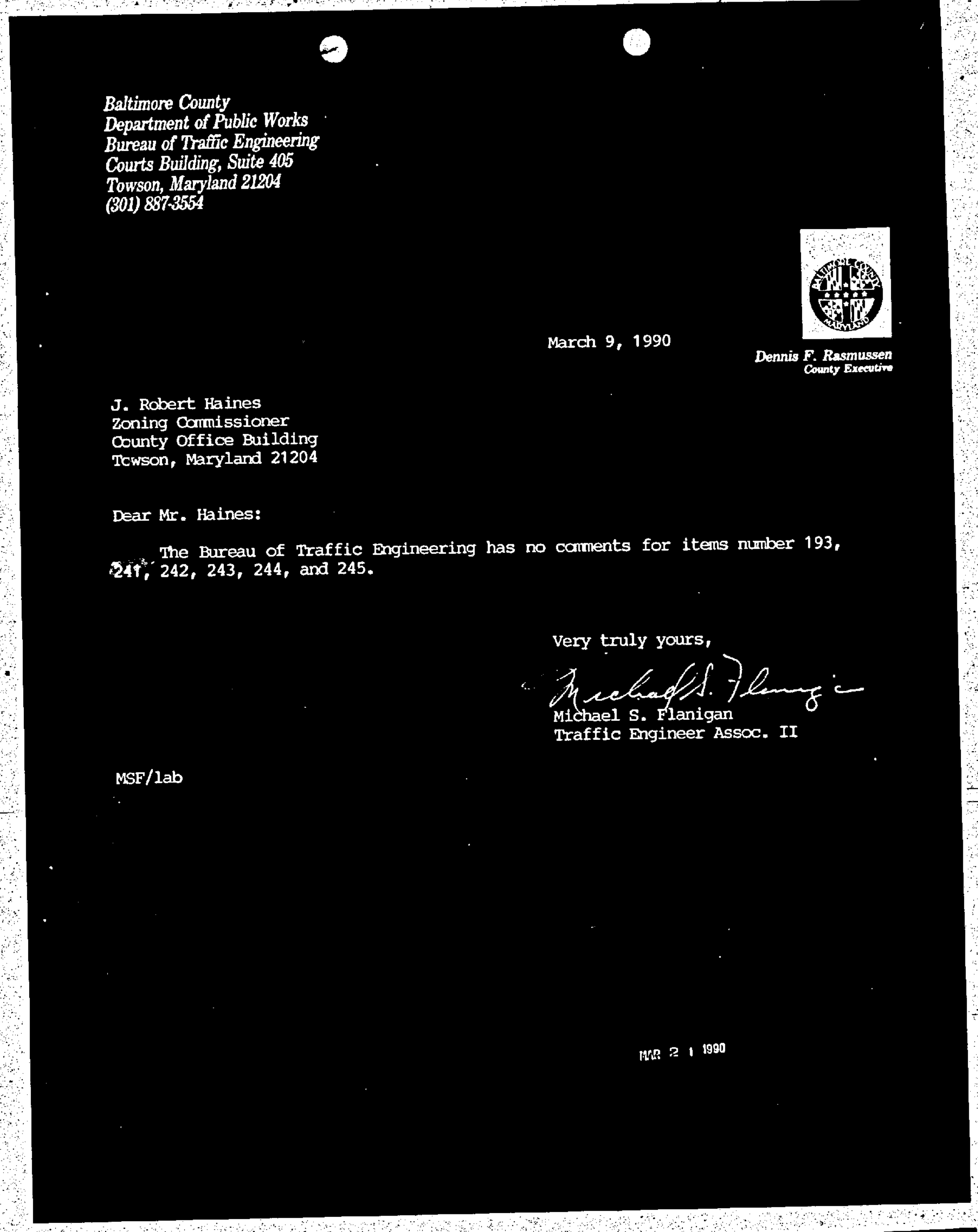

*Baltimore County*
*Department of Public Works*
*Bureau of Traffic Engineering*
*Courts Building, Suite 405*
*Towson, Maryland 21204*
*(301) 887-3554*

*Dennis F. Rasmussen*
*County Executive*

March 9, 1990

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 193, 241, 242, 243, 244, and 245.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Assoc. II

MSF/lab

MAR 21 1990

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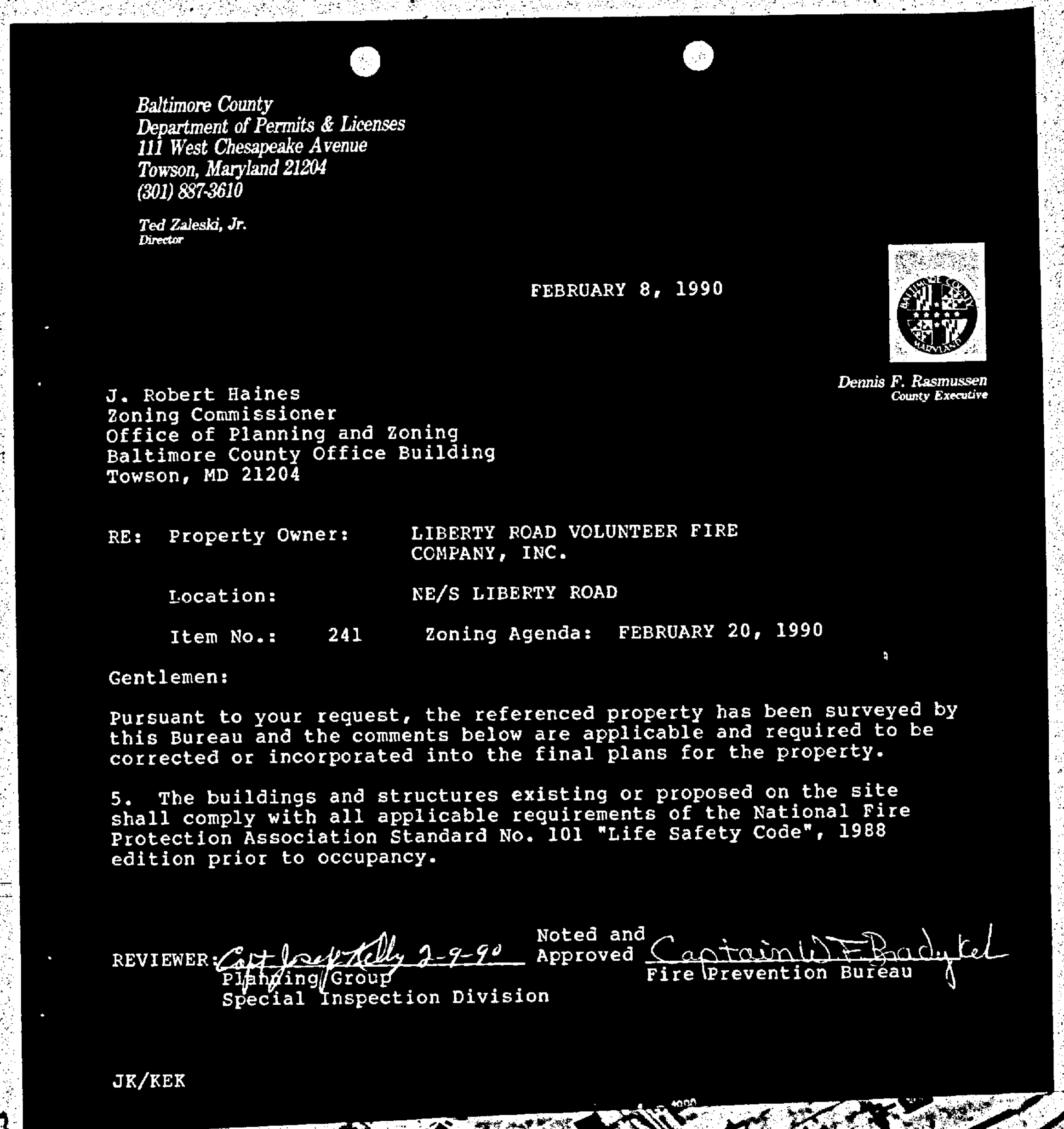

*Baltimore County*
*Department of Permits & Licenses*
*111 West Chesapeake Avenue*
*Towson, Maryland 21204*
*(301) 887-3610*

*Ted Zaleski, Jr.*
*Director*

*Dennis F. Rasmussen*
*County Executive*

FEBRUARY 8, 1990

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

RE: Property Owner: LIBERTY ROAD VOLUNTEER FIRE COMPANY, INC.

Location: NE/S LIBERTY ROAD

Item No.: 241 Zoning Agenda: FEBRUARY 20, 1990

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 Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: Capt Joseph Kelly 2-9-90
Planning Group
Special Inspection Division

Noted and Approved Captain W. F. Bradykel
Fire Prevention Bureau

JK/KEK

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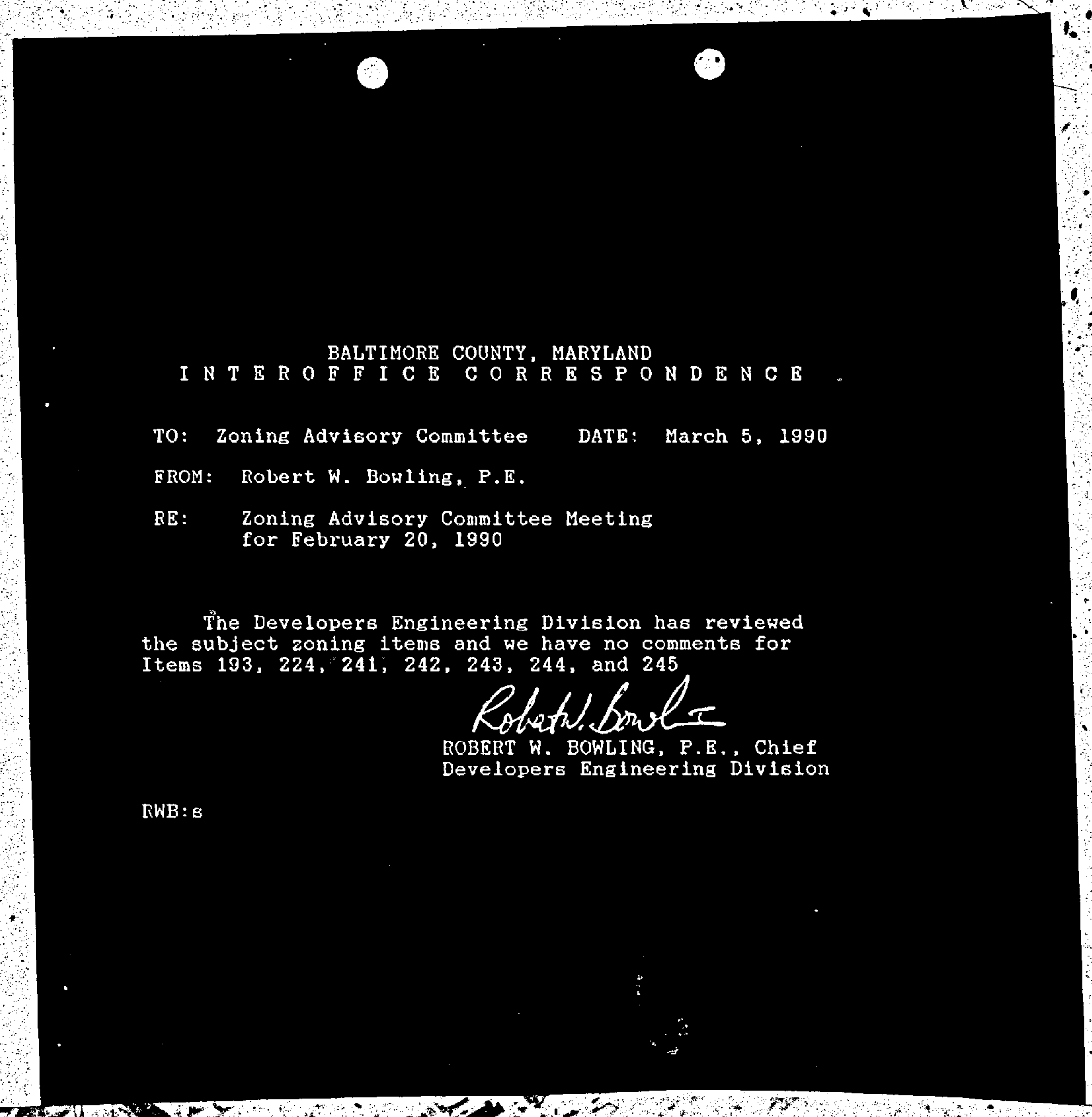

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: March 5, 1990

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for February 20, 1990

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 193, 224, 241, 242, 243, 244, and 245

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

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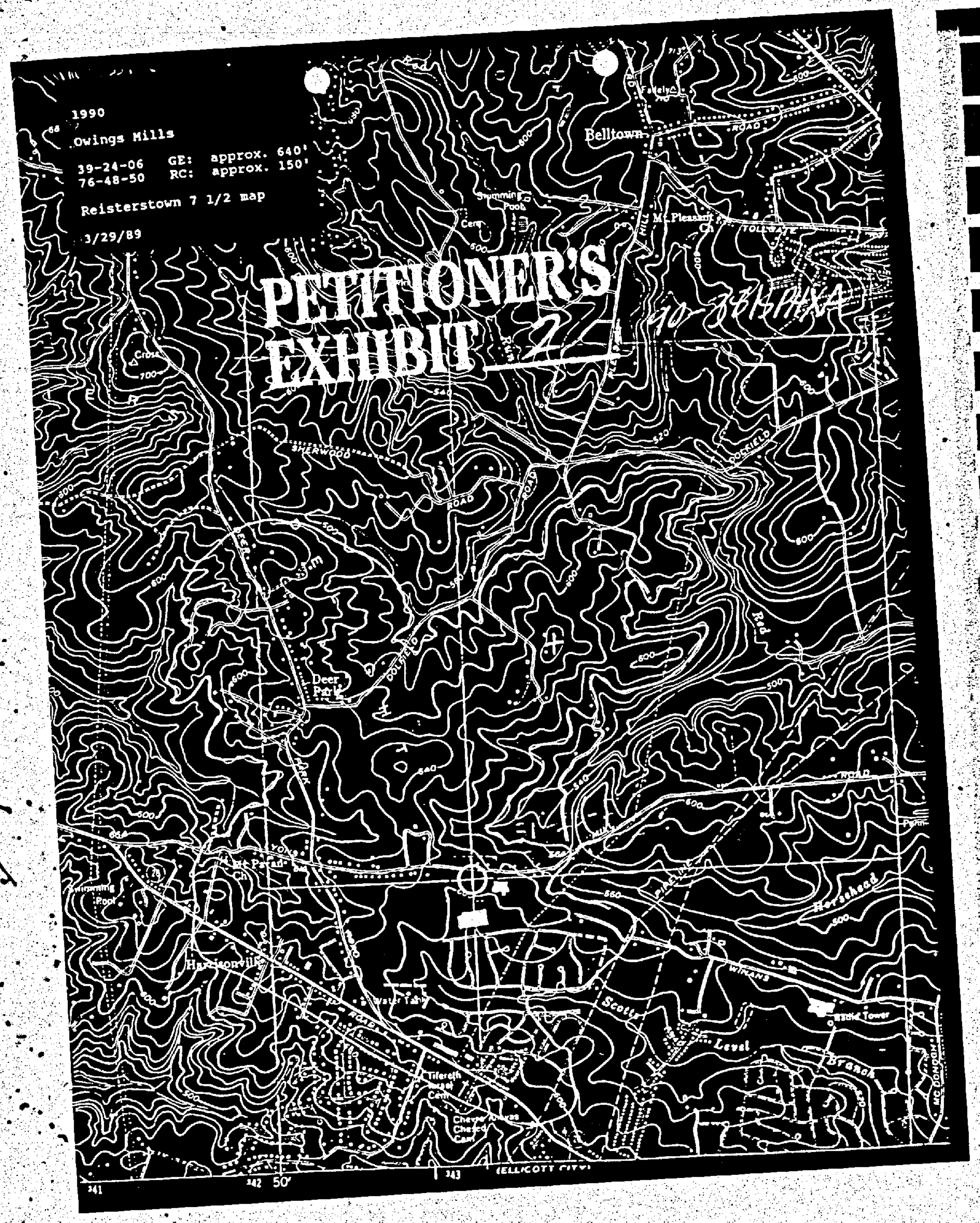

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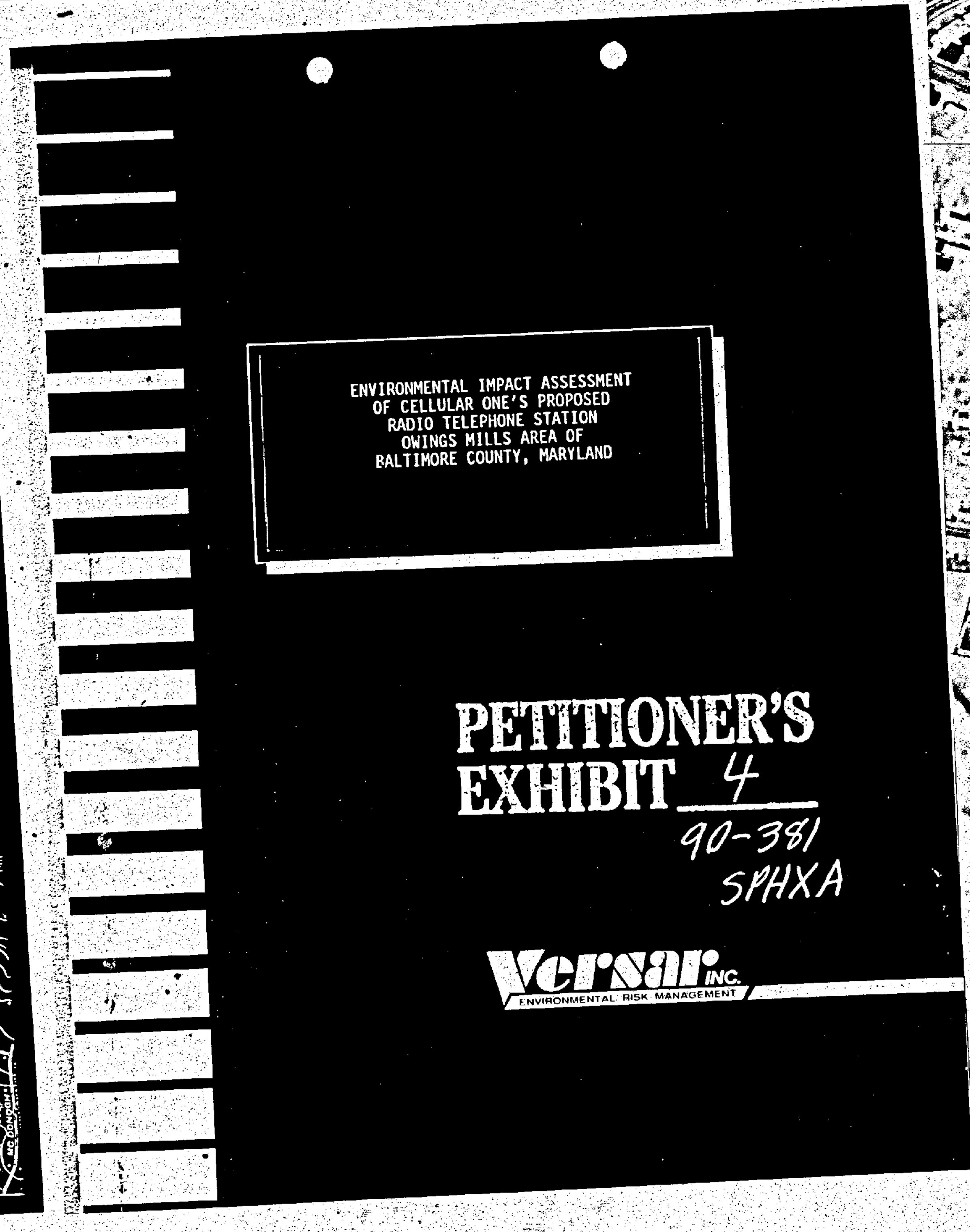


ENVIRONMENTAL IMPACT ASSESSMENT
OF CELLULAR ONE'S PROPOSED
RADIO TELEPHONE STATION
OWINGS MILLS AREA OF
BALTIMORE COUNTY, MARYLAND

PETITIONER'S
EXHIBIT 4
90-381
SPHXA

Versar INC.
ENVIRONMENTAL RISK MANAGEMENT

---

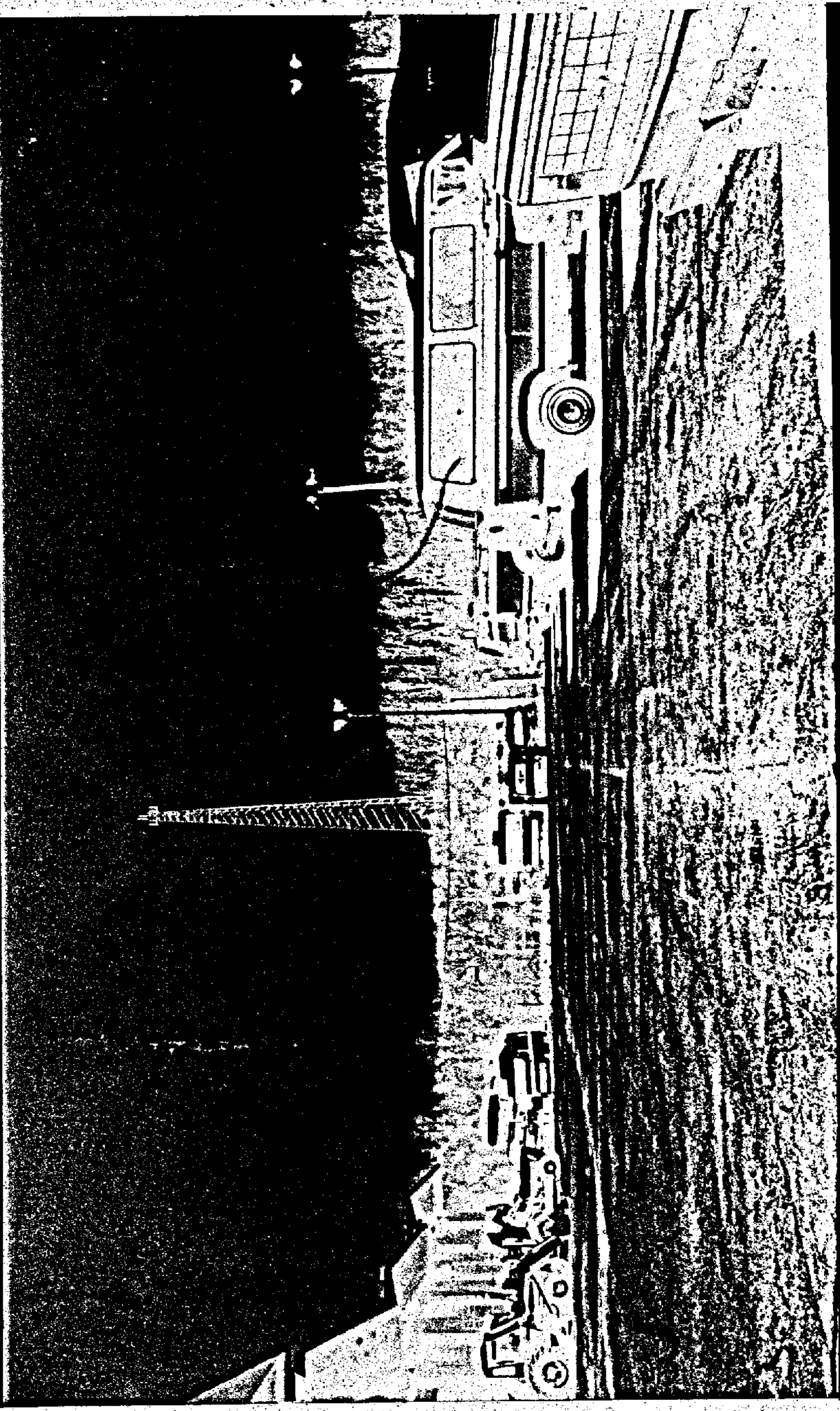
PHOTOGRAPH 1. PROPOSED CELLULAR ONE TOWER AS VIEWED FROM DRIVEWAY OF MT. PARAN CHURCH.

VISIBLE TOWER HEIGHT: 110 FT DISTANCE TO TOWER: 2400 FT

PHOTOGRAPH 2. PROPOSED CELLULAR ONE TOWER AS VIEWED FROM TWELVE TREES DEVELOPMENT.

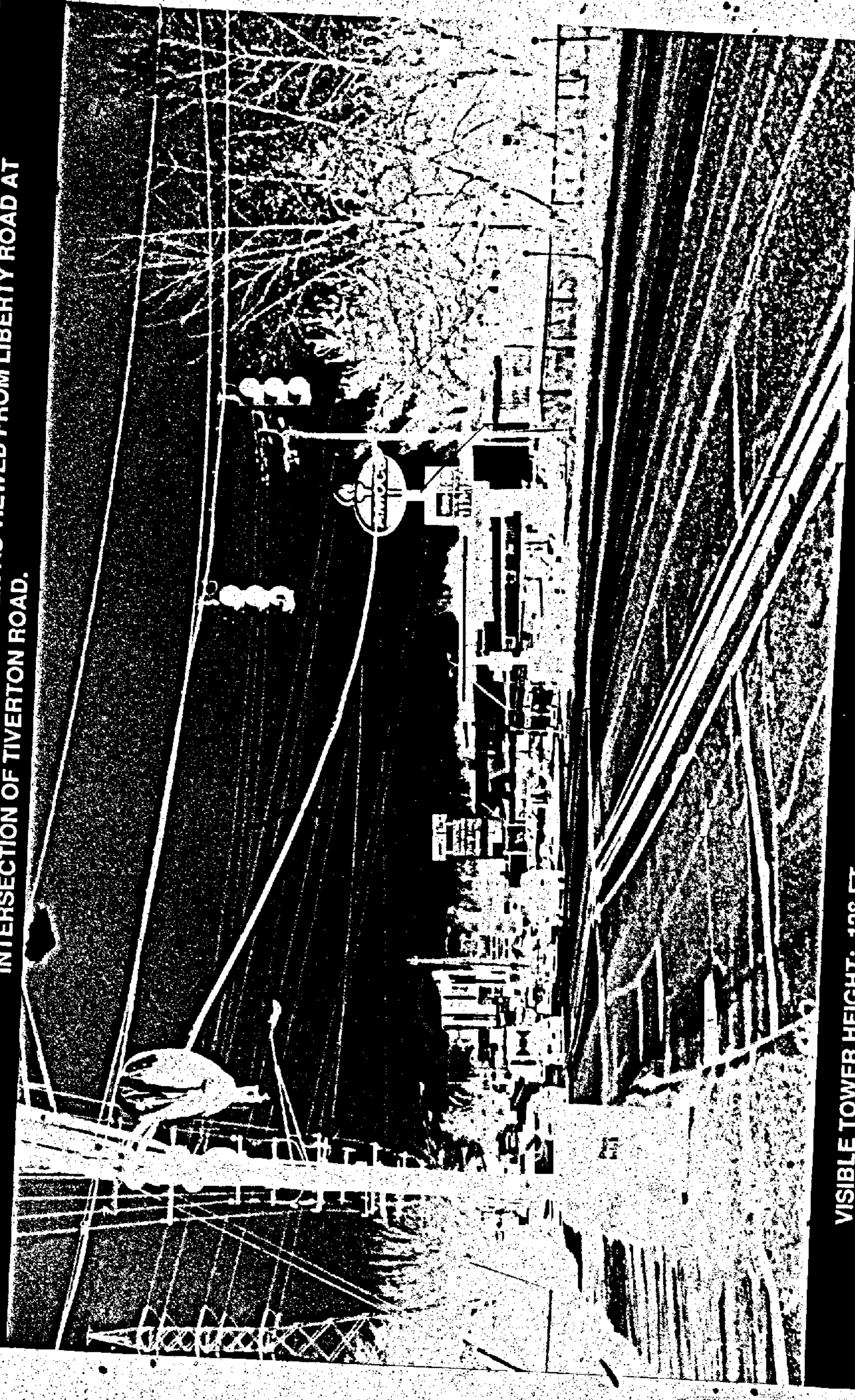
VISIBLE TOWER HEIGHT: 129 FT DISTANCE TO TOWER: 1300 FT

PHOTOGRAPH 4. PROPOSED CELLULAR ONE TOWER AS VIEWED FROM LIBERTY ROAD ADJACENT TO CHARLIE'S RV AND CAMPER SALES.



VISIBLE TOWER HEIGHT: 150 FT DISTANCE TO TOWER: 600 FT

PHOTOGRAPH 3. PROPOSED CELLULAR ONE TOWER AS VIEWED FROM LIBERTY ROAD AT INTERSECTION OF TIVERTON ROAD.



VISIBLE TOWER HEIGHT: 128 FT DISTANCE TO TOWER: 3400 FT

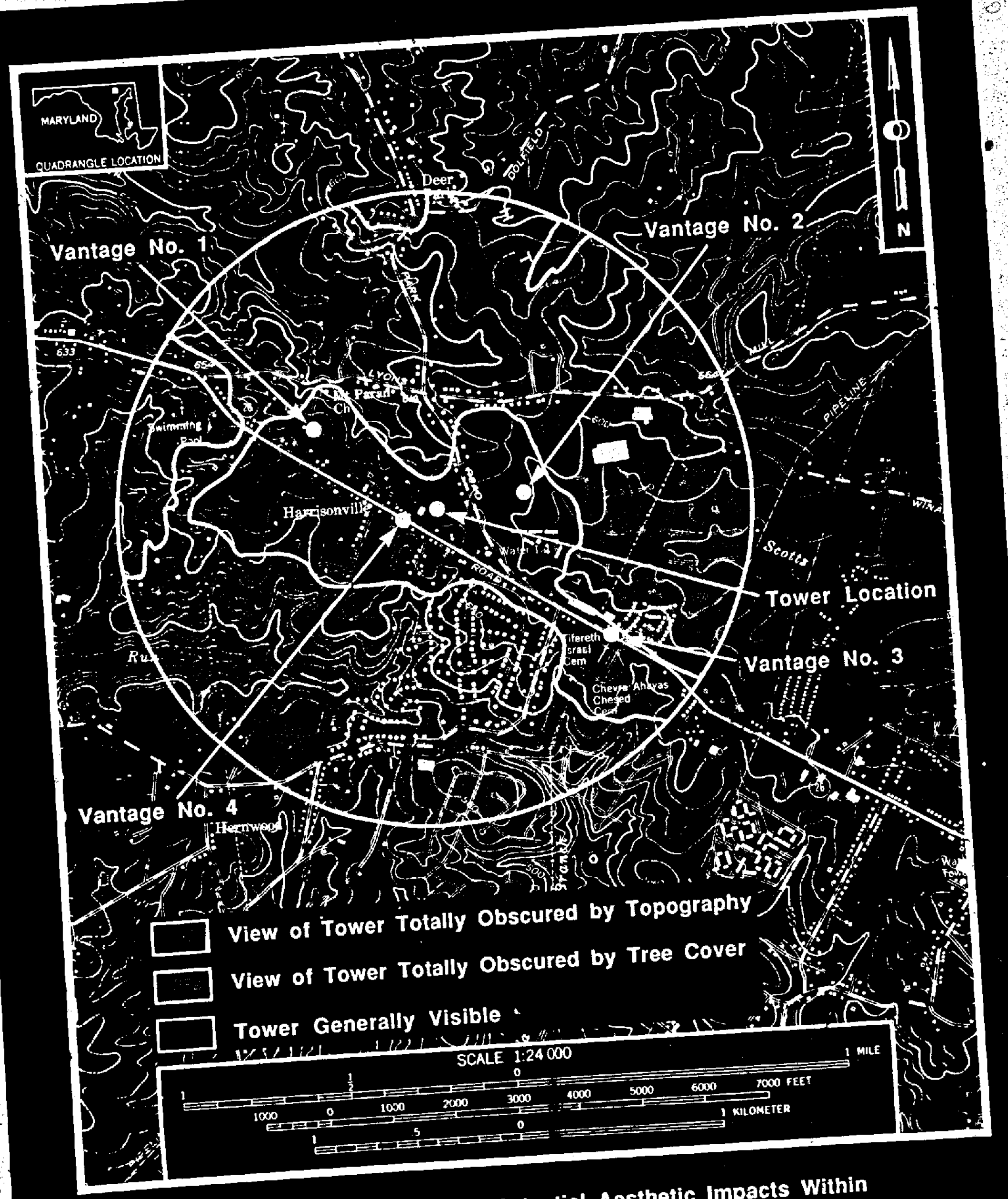

MARYLAND
QUADRANGLE LOCATION
Vantage No. 1
Vantage No. 2
Tower Location
Vantage No. 3
Vantage No. 4
Harrisonville
N
☐ View of Tower Totally Obscured by Topography
☐ View of Tower Totally Obscured by Tree Cover
☐ Tower Generally Visible
SCALE 1:24 000
1 MILE
7000 FEET
1 KILOMETER

Figure 3-1. Locations of Potential Aesthetic Impacts Within One Mile Radius of the Proposed Site.

Source: USGS Topography Map of Reisterstown, Maryland Quadrangle.

PETITIONER(S) EXHIBIT (5)

90-381 SPHXA

Liberty Road Volunteer Fire Co.

R.C. 4
R.C. 4
R.C. 5
R.C. 5
R.C. 5
D.R. 3.5
R.C. 5
D.R. 2
D.R. 2
D.R. 3.5
D.R. 3.5
D.R. 3.5
R.C. 5
BR
BL
BR
HARRISONVILLE
BL
R.C. 5
R.C. 5
R.C. 5
D.R. 3.5
BR
D.R. 3.5
BR
BR
BL
BL
D.R. 3.5
D.R. 3.5
D.R. 5.5
D.R. 5.5
D.R. 16
BL-CCC
D.R. 3.5
D.R. 5.5
D.R. 3.5
D.R. 5.5
D.R. 3.5
BL-CCC
BL-CNS
BM
D.R. 3.5
D.R. 3.5
R.C. 5
R.C. 5
R.C. 5
R.C. 5
D.R. 3.5
D.R. 3.5
D.R. 3.5
R.C. 5
C. 5
5
HERNWOOD HEIGHTS
RUN
LYONS
ATHLETIC FIELD
DEER PARK ELEM. SCHOOL
DEER PARK JR. HIGH
WINANDS RD.
SHOSHONE WAY
BANNOCK CT.
CHINOOK CT.
OJIBWAY RD.
KINGS POINT RD.
AREA UNDER CONSTRUCTION
TUSCARORA
HOPI CT.
CERVIDALE RD.
MD. STATE POLICE BARRACKS
VOL. FIRE DEPT.
Tower Site
LIBERTY ROAD
DEER PARK RD.
WINDY HILL ROAD
WILMAR AVE.
CEDAR HILL RD.
BRAEWOOD RD.
MILLSTONE
OAKGLEN
SHERATON RD.
MARRIOTTSVILLE RD.
CEDAR HILL RD.
SOUTHALL
TOLWORTH
TULSEMERE
CEMETERY
TRANS STA.
Parking Area
MT. PARON PRESBYTERIAN CHURCH
CEMETERY
RUINS
PRIVATE ROAD
KITTRIDGE CT.
HOBART CT.
HERNWOOD ELEMENTARY SCHOOL
MARRIOTTSVILLE ROAD
POWER LINE
GAS
N 34,000
N 33,000
N 32,000
N 31,000
N 30,000
N 29,000
N 28,000
W 61,500
W 60,000
W 58,500
86293-XA
25

241
90-381-SPHXA

OUNTY
AND ZONING
ING MAP

| SCALE | LOCATION | SHEET |
|---|---|---|
| 1" = 200' ± | HARRISONVILLE<br>HERNWOOD | N.W.<br>8-K |
| DATE OF PHOTOGRAPHY JANUARY 1986 | | |

P-SW PP-SE
P-NW PP-NE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88
Dale T. Vol
Chairman, County Council

BALTI
OFFICE OF P
OFFICIA

DEER PARK ROAD
→ 1700'± to ⊄ Liberty Road
DR 3.5
BL-CCC
BL
S 10°-02'-15"E 73.27'
S 17°-14'-15"E 26.73'
S 17°-14'-15"E 100.00'
S 17°-14'-15"E 239.33'
S 25°-03'-00"E 182.53'
Exist. Dwlg.
William L. Burch 5132-102
N 79°-57'-45"E 200.00'
S 10°-02'-16"E 125.00'
N 69°-18'-29"E 116.04'
Exist. Dwlg.
Leonard & Dorothy Reisberg 5759-477
S 72°-45'-45"W 200.00'
Existing Dwelling
William S. Heinkamp 6175-454
Exist. Dwlg.
Audrey Meeks 7444-001
Existing Dwelling
Joseph L. Kusterer
N 72°-45'-45"E 200.00'
S 17°-14'-15"E 500.00'
Existing Dwlg.
Thomas K. Ierman 6829-088
S 72°-45'-45"W 150.00'
N 72°-45'-45"E 150.00'
S 17°-14'-15"E 100.00'
S 47°-31'-00"W 304.09'
Exist. Gar.
Baltimore County Maryland
Existing Fire Station & Community Hall
Layout is as shown on approved site plan
743'± to ⊄ Deer Park Rd
Beginning 14.45 Acre Zoning Description
425.22'
ROAD
LIBERTY
N 56°-18'-35"W
BL
BR
DR 3.5
N 33°-41'-25"E 200.00'
N 56°-18'-35"W 75.00'
N 02°-24'-50"W 166.10'
DR 3.5 BL
Existing Crushed Stone Drive
465'
Beginning 0.080 Acre Zoning Description
N32°W 70'
N58°E 50'
S58°W 50'
S32°E 70'
Gate
15'
10'
16'
Note: ← Designates Front of Building
The setbacks for the building are as follows: 51' Front, 5' West Side, 15' East Side, 5' Rear
Proposed 14' x 30' Building (Max 15' High)
Proposed Tower 150' High
Proposed Security Fence
SPECIAL EXCEPTION & VARIANCE AREA
BL BR
781.13'
N 30°-38'-25" W
431.44'
N 59°-21'-35" E
Section A Twelve Trees 44-60
DR 3.5 / DR 5.5
E.M. Potts 7795-421
B.E. Spielman 6504-297
BR / DR 3.5
Charles L. Widerman Jr. 4844-581 & 5687-023
Existing Building
Existing Building
Vicinity Map & 1000' Scale Zoning Map
Deer Park Elem. & Jr. High Site
D.R. 3.5
RC 5
DR 2
D.R. 5.5
D.R. 16
BL-CCC
BR
BL
BM
DR 3.5

## Notes

(See Sect. 502.7 BCZR)

4. The structure shall be enclosed within a locked, chain-link fence, or comparable wall or structure, at least 8 feet high. [Bill No. 64, 1986.]

5. 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 Office of Planning and Zoning. [Bill No. 64, 1986.]

6. Environmental protection agency standards and guidelines relating to radiation emissions shall be met at all times. [Bill No. 64, 1986.]

7. When the use is terminated, the structure shall be removed. [Bill No. 64, 1986.]

8. Every five years, or sooner in the event of substantial damage, a certification by a professional engineer registered in Maryland a certification by a Maryland registered professional engineer shall be filed with the Department of Permits and Licenses indicating that the aforementioned structure meets 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. [Bill No. 64, 1986.]

9. No white stroboscopic lights are permitted. [Bill No. 64, 1986.]

Note: 502.7A Not Applicable; Tower is less than 350' in height

Note: The 0.080 Acre Parcel shown for Special Exception & Variances does not lie within a Residential Transition Zone (250' from a residential lot of less than 2 Ac and/or 300' from a dwelling)

Zoning History Case #76-241-X
Petition for Special Exception for Vol. Fire Co. and Community Building
5/26/76 Order Granted
5/03/78 Extension Granted

Owner : Liberty Road Vol. Fire Co.
10010 Liberty Road
Randallstown, Md 21133
Petitioner : Southwest Bell Mobile Systems, Inc
T/A Cellular One
7855 Walker Drive
Greenbelt, Md. 20770

Site Area for Special Exception & Variance = 3,500# = 0.080 Ac.±

1 Parking Space Proposed

Plat to Accompany Petitions for Special Exception, Special Hearing and Variances for a Communication Tower

Property of
LIBERTY ROAD VOLUNTEER
FIRE DEPARTMENT
Located in
2nd Election District - Balto. Co., MD.
2nd Councilmanic District
Existing Zoning DR 3.5 & BL

Data for Special Hearing

Existing Zoning: BL & DR 3.5
Deed Area: 14.45 Acres ±
Ref: T.B.S. 1816-306 & Part of the Plat of "Hernwood" 14-20

Height of Tower: 150'

Parking Tabulation
Spaces Required:
Fire House: 3 spaces per bay, 3 bays = 9 spaces
Community Building:
1 space per 50 sq ft, 12,075 ÷ 50 = 242 spaces
Total # Spaces Required = 251 spaces
Total # Spaces Shown (including 7 handicap) = 275 spaces

**PETITIONER'S EXHIBIT** 1

90-381 SPHXA

Building size changed 3-27-90
Additions 1-17-90
Additions 1-10-90
Revised 1-08-90
Revised 1-06-90

Scale: 1"=50'
November 13, 1989

**GERHOLD, CROSS & ETZEL**
REGISTERED PROFESSIONAL LAND SURVEYORS
412 Delaware Avenue
Towson, Maryland 21204
(301) 823-4470

IN THE MATTER OF THE APPLICATION OF LIBERTY ROAD VOLUNTEER FIRE CO. FOR A ZONING VARIANCE, SPECIAL HEARING AND SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE NORTHEAST SIDE LIBERY ROAD, 743' NORTHWEST OF THE CENTER-LINE OF DEER PARK ROAD (10010 LIBERTY ROAD)
2ND ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD
* OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 90-381-SPHXA

* * * * * * * * *

## ORDER OF DISMISSAL

This case comes before this Board on appeal from the decision of the Zoning Commissioner dated August 23, 1990 denying in part and dismissing in part the Petitions for Zoning Variance, Special Hearing and Special Exception on property located in the Second Election District of Baltimore County.

WHEREAS, the Board is in receipt of a letter of dismissal filed by Counsel for the Petitioner/Appellant in this matter on March 6, 1991 (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Counsel for Petitioner/Appellant requests that the appeal filed by him in this matter be dismissed and withdrawn as of March 6, 1991,

IT IS HEREBY ORDERED this 13th day of March, 1991 by the County Board of Appeals of Baltimore County that said appeal be and the same is hereby DISMISSED.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Harry E. Buchheister, Jr.
Harry E. Buchheister, Jr.

Lynn B. Moreland
Lynn B. Moreland

---

LAW OFFICES
WHITEFORD, TAYLOR & PRESTON

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202
TELEPHONE 301-347-8700

500 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
301-832-2000
FAX: 301-832-2015

SUITE 400
888 17TH STREET, NW
WASHINGTON, D.C. 20006
TELEPHONE 202-659-6800

G. SCOTT BARHIGHT
DIRECT NUMBER
301-832-2050

March 4, 1991

The Honorable William T. Hackett
Chairman
County Board of Appeals
 of Baltimore County
County Office Building
Room 315
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Liberty Road Volunteer Fire Company
Case No. 90-381-SPHXA

Dear Mr. Chairman:

As the file indicates, this office represents the Petitioner/Appellant, Southwestern Bell Mobile Systems, Inc. This case is currently assigned for Friday, April 26, 1991, at 10:00 a.m. On behalf of the Petitioner, I respectfully request that the appeal be dismissed.

Should you have any questions or comments, please feel free to contact me. Thank you for your kind attention to this dismissal.

Sincerely,

G. Scott Barhight

GSB:sbt
cc: Ms. Emilienne O'Rourke
Mr. John Celentano
Mr. and Mrs. Harold R. Carter
Mr. Al Barnes
People's Counsel for Baltimore County
Liberty Road Volunteer Fire Company c/o Jerry A. Wayne, President
J. Carroll Holzer, Esquire
People's Counsel for Baltimore County

91 MAR -6 AM 11:59

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IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE
NE/S Liberty Road, 743' NW of the c/l of Deer Park Road
(10010 Liberty Road)
2nd Election District
2nd Councilmanic District

Liberty Road Volunteer Fire Co.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-381-SPHXA

* * * * * * * * * * *

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve an amendment to the previously approved site plan in Case No. 76-241-X to include a wireless transmitting and receiving facility; a special exception to use the subject property for a wireless transmitting and receiving facility pursuant to Sections 1B01.1.C.20 and 502.7; and variances to permit a setback to the nearest property line of 10 feet in lieu of the required 300 feet, a lot area of 0.08 acres in lieu of the required 5.00 acres, side yard setbacks of 5 feet each in lieu of the required 20 feet, and a rear yard setback of 5 feet in lieu of the required 30 feet, all as more particularly described in Petitioner's Exhibit 1.

The Petitioner, Liberty Road Volunteer Fire Company, Inc., and Contract Lessee, Southwestern Bell Mobile Systems, Inc., trading as Cellular One, by Emilienne (Amy) O'Rourke, Director of Real Estate, appeared, testified and were represented by G. Scott Barhight, Esquire. Also appearing on behalf of the Petitions were David Ransone, Professional Property Line Surveyor, Jerry Bialecki, Director of Engineering for Cellular One, Fred Kruhm, Real Estate Agent, and Ronald Steg, Environmental Assessment Manager. Appearing as Protestants in the matter were Harold R. and Ethel Carter, John Celentano, and Al Barnes.

ORDER RECEIVED FOR FILING
Date 8/23/90
By

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Testimony indicated that the subject property, known as 10010 Liberty Road, consists of 14.45 acres more or less zoned B.L. and D.R. 3.5 and is improved with an existing fire station and community hall. Said property is the site of the Liberty Road Volunteer Fire Company. Testimony indicated that the Contract Lessee is desirous of erecting a 150-foot tall wireless transmitting and receiving tower on the subject property. As indicated on Petitioner's Exhibit 1, the area designated by Petitioner to accommodate the proposed tower consists of .08 acres and is located on the D.R. 3.5 zoned portion of the property.

Amy O'Rourke testified that current customer demand requires the addition of a transmission tower to improve transmission reception for cellular car phones along the Liberty Road corridor. She indicated that there is currently poor reception in this area and that other existing towers must pick up calls from the Liberty Road area as "overflow" calls. Ms. O'Rourke testified that the proposed tower is of a lattice-type construction and will not be lighted. She also testified that Cellular One is planning the construction of an equipment building, 14 feet x 30 feet, which will be equipped with a security system as indicated on Petitioner's Exhibit 1. Ms. O'Rourke stated that the proposed tower and equipment building will be surrounded by an 8-foot high fence for security purposes. Additionally, she added that Cellular One will be charged rent for the use of the subject property which will be paid directly to the Fire Company. Ms. O'Rourke testified that the Liberty Road Volunteer Fire Company is entitled to utilize the subject tower for their two-way radio antennae. In conclusion, she indicated that Cellular One would suffer an undue hardship and practical difficulty should the requested variances be denied.

ORDER RECEIVED FOR FILING
Date 8/23/90
By

---

Mr. David Ransone appeared and testified regarding the proximity of the subject tower to the residential community and generally indicated that in his opinion, Petitioner's requests meet the requirements of Sections 307.1, 502.1 and 502.7.C of the Baltimore County Zoning Regulations (B.C.Z.R.).

Mr. Jerry Bialecki testified regarding the numerous customer complaints that Cellular One has received concerning the weak reception in the Liberty Road corridor. Testimony indicated Cellular One thereupon began searching for a site for the proposed tower to improve reception in that area. Mr. Bialecki stated that the search area is necessarily limited to those areas that provide adequate elevation for optimum reception. He indicated that their towers could be located out of the designated "search area" (See Petitioner's Exhibit 1) but that more than one tower would be required to cover the target area.

Mr. Fred Kruhm testified that they prioritize the desirability of new tower locations from least to most desirable as follows: 1) where there are existing towers, 2) water towers, 3) on commercial structures, 4) on quasi-public structures, and 5) residential areas. Mr. Kruhm testified that the only water tower in the search area is owned by Baltimore County, and Baltimore County declined to contract to accommodate the proposed tower.

Mr. Ronald Steg, who prepared the environmental study, identified herein as Petitioner's Exhibit 4, testified that the subject tower meets the current safety standards for such structures and testified that in his opinion Petitioner's proposal will have minimal, if any, impact on the environment and otherwise meets the standards of Sections 502.1 and 502.7 of the B.C.Z.R.

ORDER RECEIVED FOR FILING
Date 8/23/90
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Ethel Carter appeared as a Protestant and indicated that she was concerned that the subject tower would interfere with domestic television reception and that, in her opinion, the proposed tower is grossly out of character with the surrounding community.

John Celentano testified that he lives approximately 1,000 feet from the proposed tower and is concerned with the community's safety should the subject tower fall. He generally concurred with Mrs. Carter's concerns.

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 Sections 502.1 and 502.7 of the B.C.Z.R. Based upon the testimony and evidence presented, the Petitioner has not met his burden. It was clear from the testimony that the Petitioner could achieve adequate reception and transmission for the Liberty Road corridor by erecting several antennae within and without the "search area" thereby avoiding the need for one 150-foot obtrusive tower adjacent to a residential community. Section 502.7 places the burden on the Petitioner of "establishing that it has made a diligent search for a location within a business, office or industrial zone, or for mounting on any existing structure over fifty (50) feet in height and that, due to valid considerations, including, but not limited to, location, economic, elevation, engineering or technological feasibility, no appropriate location is available." Petitioner's testimony and the evidence presented did not provide "valid considerations" for not selecting a site in a commercial zone. In fact, the Petitioner did not make any search for a commercial property after the fire company location was identified. Petitioner's witnesses indicated that they had considered placing the proposed antenna atop the Baltimore County water tower in the

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vicinity, but that Baltimore County declined to contract for such use. Other than the water tower, the testimony was completely void of any alternative locations for the proposed tower. Petitioner presented no testimony which would indicate that Petitioner considered certain other specific locations for the proposed tower but discounted them due to location, economic, elevation, or other prohibitive variable.

In the opinion of the Zoning Commissioner, the Petitioner has not complied with the requirements of Section 502.7.C.1 of the B.C.Z.R. Said regulation requires the Petitioner to establish that it has made a diligent search for a location within a business, office or industrial zone. A diligent search requires more than the exploration of one, two or three alternate sites. The concept of a diligent search requires much more than the Petitioner did in this case, before it made its selection of the subject site.

After due consideration of the testimony and evidence presented, it is the opinion of the Zoning Commissioner that the Petition for Special Exception should be denied.

Petitioner has also requested a special hearing to amend the originally approved site plan and certain variances, both of which were contingent upon the relief sought in the special exception request being granted. In view of the fact that the Petition for Special Exception is being denied, the relief requested in the Petitions for Special Hearing and Zoning Variance are rendered moot, and as such, should be dismissed.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be denied in part and dismissed in part.

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THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 23rd day of August, 1990 that the Petition for Special Exception to use the subject property for a wireless transmitting and receiving facility pursuant to Sections 1B01.1.C.20 and 502.7, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing to approve an amendment to the previously approved site plan in Case No. 76-241-X to include a wireless transmitting and receiving facility, be and is hereby DISMISSED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit a setback to the nearest property line of 10 feet in lieu of the required 300 feet, a lot area of 0.08 acres in lieu of the required 5.00 acres, side yard setbacks of 5 feet each in lieu of the required 20 feet, and a rear yard setback of 5 feet in lieu of the required 30 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DISMISSED.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

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Date 8/23/90
By

1-5-93

# CIRCUIT COURT FOR BALTIMORE COUNTY

**CIVIL CATEGORY** APPEAL

CIVIL ASSIGNMENT

| | ATTORNEYS |
|---|---|
| IN THE MATTER OF THE<br>APPLICATION OF<br>JOSEPH B. MCMASTER, ET UX<br>FOR A SPECIAL EXCEPTION AND<br>VARIANCES ON PROPERTY LOCATED<br>ON THE NORTHEAST CORNER OF<br>SHERWOOD AND HOLLOW ROADS<br>(426 SHERWOOD ROAD)<br>8th ELECTION DISTRICT<br>3rd COUNCILMAN DISTRICT<br>CBA NO. 90-382-XA | J. Carroll Holzer, Esq<br>Holzer, Maher, Demilio & Lee<br>305 W. Chesapeake Ave.<br>Ste. 105, (04) 825-6960 |
| JOSEPH B. McMASTER,<br>VIVIAN McMASTER and<br>SOUTHWESTERN BELL MOBILE SYSTEM, INC. t/a<br>CELLULAR ONE<br>Appellees' | G. Scott Barhight<br>Karl J. Nelson<br>Whiteford, Taylor & Preston 832-2000<br>500 Ct Tower, 210 W Penna. Ave (4)<br>APPELLEES' |

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(1) June 25,1992 - Appellant's order for appeal from the Decision of the Board of Appeals and Petition for appeal, fd.

(2) July 9, 1992 - Transcript of Record, fd. (G1)

(3) July 9, 1992 - Notice of Filing of Record, fd.

(4) June 30, 1992 certificate of notice, fd.

CV GEN COSTS 926036
CV CLK 80.00
B LBRY 10.00
POST 2.00
CKCHECK TL 92.00
#20913 C002 R01 T0
06/26/

TRANSCRIPT IN BASEMENT
LOCATION: B 3Y 67

True Copy Test
SUZANNE MENSH, Clerk
Assistant Clerk

(5) July 22, 1992 - App. G. Scott Barnhight. Karl J. Nelson for Appellee Joseph B. McMaster, fd

(6) July 22, 1992 - App of G. Scott Barhight, Karl J. Nelson and Whiteford, Taylor & Preston and Same Day Answer to Petition on Appeal fd.

(7) Sept. 15, 1992 - Appellee Southwestern Bell Mobile Systems, Inc.'s Rule B12 Memorandum, with exhibits, fd (rec'd 9/4/92)

Dec. 2, 1992 Hon. John G. Turnbull, II. Hearing had. Case held sub-curia. Opinion and Order to be filed.

srm (8) Jan. 5, 1993 Opinion and Order of Court that the decision of the Board be, and the same is hereby AFFIRMED., fd. (JGT,II)

Docket 26 Page 147 Case 92 CV- 6036

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#90-382-XA Joseph B. McMaster et ux
1/4/93 - Circuit Court AFFIRMS C.B. of A. (Judge John G. Turnbull)

1-4-93

**The Circuit Court for Baltimore County**

THIRD JUDICIAL CIRCUIT OF MARYLAND

CHAMBERS OF
JOHN GRASON TURNBULL, II
JUDGE

COUNTY COURTS BUILDING
TOWSON, MARYLAND 21204
(410) 887-2647

IN THE MATTER OF * IN THE
THE APPLICATION OF * CIRCUIT COURT
JOSEPH B. MCMASTER, et ux * FOR
* BALTIMORE COUNTY
* CASE NO. 92 CV 6036

* * * * * * * * * * * *

## OPINION AND ORDER

Southwestern Bell, trading as Cellular One (Appellee) has filed a Petition for Special Exception and Variance with the Board of Appeals of Baltimore County (Board) to permit the operation of a cellular radio telephone transceiver station on property owned by Joseph B. and Virginia McMaster in Cockeysville, Maryland. Such relief was granted and Sherwood Hill Improvement Association, Inc., Montview Improvement Association, Clay M. Barnes, David Baker, Tom Basham and Steve Rosen (Appellants) have appealed to this Court.

The Variances request relief from the requirements of Section 1A03.4.B.4, Section 502.7.C.2 and Section 502.7.C.3 of the Baltimore County Zoning Regulations.

True Copy Test
SUZANNE MENSH, Clerk
Assistant Clerk
FILED JAN - 5 1993

(8) SRM

Section 1A03.4.B.4 requires that any principal building constructed in an R.C. 4 zone must be at least fifty feet from any lot lines other than a street line. The placement of the proposed site is ideal. However, strict compliance would severely impede Mr. McMaster's ability to farm his land. The site, as proposed, will not impede Mr. McMaster's ability to farm his land. The proposed site is surrounded by a heavily wooded area which will help disguise the transceiver. The proposed site is surrounded by out-buildings which will further mask the site from neighboring properties. There was substantial evidence before the Board to conclude that strict compliance with the fifty foot setback would cause practical difficulty or undue hardship.

Section 502.7.C.2 requires that the proposed monopole be setback at least 200 feet from the nearest property line. The proposed site will be placed in an area on the McMaster farm which is currently unusable for farming purposes. The only areas on the farm large enough to accommodate the 200 foot setback are currently used for farming purposes. Therefore, strict compliance would, in effect, impede Mr. McMaster's ability to farm his property. There was substantial evidence before the Board to conclude that strict compliance with Section 502.7.C.2 would cause practical difficulty or undue hardship.

Section 502.7.C.3 requires that a radio transmitting and receiving facility must be located on a lot of at least five acres. To place the facility on an area of five acres or more would require the use of farmland. Thus, Mr. McMaster would be

severely impeded in his ability to farm his land. The Board had substantial evidence before it to conclude that strict compliance with Section 502.7.C.3 would cause practical difficulty or undue hardship.

Moving on to the Special Exception, Section 502.7.C.1 requires that a petitioner seeking to place a wireless transmitting or receiving structure in a R.C., D.R. or R-O zone has the burden of establishing that it has made a diligent search for a location within a business, office or industrial zone.

A representative of Appellee, Ms. O'Rourke, testified before the Board that her search for potential sites began in April of 1989. (T2 13) On September 22, 1989, Appellee entered into a lease with the McMasters for the subject parcel. In the summer of 1990, Mr. Bialecki, another representative of Appellee, prepared another search map to suit Appellee's technical needs. Appellant argues that the new search map was prepared merely to justify the selection of the McMaster property. For the sake of argument, the Court will assume that is true. However, the revised search map was used to search for alternative sites and this search was indeed diligent. Nothing in the record suggests that the search was anything but diligent. Appellant strenuously urges this Court to interpret Section 502.7.C.1 to require a diligent search prior to the selection of a site within a residential district. Section 502.7.C.1 makes no mention of the timing of the search and this

Court is reluctant to re-write the zoning regulations by judicial fiat.

This Court is not holding that a search may be made at any time before the Board's hearing. Such a leap is not necessary to this Court's decision. In the end analysis, a search is a search is a search.

Accordingly, it is this 4th day of January, 1993, ORDERED, by the Circuit Court for Baltimore County, that the decision of the Board be, and the same is hereby AFFIRMED.

JOHN GRASON TURNBULL, II
JUDGE

Copies sent to: G. Scott Barhight, Esquire
J. Carroll Holzer, Esquire

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7-21-92

SHERWOOD HILL IMPROVEMENT ASSOCIATION, et al. * IN THE
Appellants * CIRCUIT COURT
v. * FOR BALTIMORE COUNTY
JOSEPH B. McMASTER, et ux. * Case No. 26/147/92CV6036
Appellees *
CBA No. 90-382-XA *

* * * * * * *

## ANSWER TO PETITION ON APPEAL

Come now Joseph B. McMaster and Vivian McMaster, and Southwestern Bell Mobile System, Inc., t/a Cellular One by their attorneys, G. Scott Barhight, Karl J. Nelson, and Whiteford, Taylor & Preston and answer Appellants' Petition on Appeal as follows:

1. Appellees deny all of the allegations contained in Paragraphs 1 through 5 of Appellants' Petition on Appeal.

2. The Board of Appeals' decision comported with all applicable Baltimore County Zoning Regulations for both variances and special exceptions.

3. Appellees presented sufficient and compelling evidence of all elements imposed by the Baltimore County Zoning Regulations for the granting of both the special exception and the related variances.

4. In Paragraph 6 of their Petition on Appeal, Appellants claim as a basis for appeal "such other reasons as may be raised upon review of the transcript". Maryland Rule B2(e) requires that Appellants must set forth "the error committed by the agency". Thus, it is not a viable basis for appeal to state that there exists some currently unidentified error which will be delineated and presented to this Court in the future.

G. Scott Barhight KJN

G. Scott Barhight

Karl J. Nelson
Whiteford, Taylor & Preston
500 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204
(410) 832-2000

Attorneys for Appellees

## CERTIFICATE OF SERVICE

I Hereby Certify that on this 21 day of July, 1992, a copy of the foregoing Answer to Petition on Appeal was mailed, postage prepaid, to **J. Carroll Holzer, Esquire**, Holzer, Maher, Demilio & Lee, 305 W. Chesapeake Avenue, Suite 105, Towson, MD, 21204; and to **County Board of Appeals**, 400 Washington Avenue, Room 49, Towson, MD, 21204.

Karl J. Nelson

Zoning Regulations, for wireless transmitting and receiving facilities have been met. Only after a determination by the Board that those preconditions set forth in that section of the Regulations have been complied with, should the criteria set forth under Section 502.1 be examined. In accordance with this position, Protestants filed a Motion to Separate these issues which were denied by this Board. It is also submitted by Protestants that the requirement under Section 307.1 of the Baltimore County Zoning Regulations, relating to the granting of a variance only where the strict compliance of the regulations would result in "practical difficulty or unreasonable hardship," and should be examined and rejected under the facts as presented in this case.

It is submitted that the following examination of the facts presented before the Board of Appeals, as they relate to both of these important criteria, will result in the conclusion that Bell has not met its burden of establishing that it conducted a diligent search for an appropriate site under the requirements of Section 502.7, as it relates to the special exception and the hardship as required pursuant to Section 307.1.

It is important to remember that Section 502.7.C.1 requires the following:

> "**Petitioner shall have the burden** of establishing that it has made a **diligent search for a location within a business, office** or **industrial zone, or for mounting

> on an existing structure over fifty feet in height** and that, due to valid considerations, including but not limited to location, economic, elevation, engineering or technological feasibility, no appropriate location is available."

The key to the issue of whether or not there was a good faith effort to conduct a "diligent search for a location" is twofold: first, whether the search area to be examined is a legitimate one appropriately defined, upon a reasonable basis, or conversely, whether it is arbitrarily defined, without cause, or with an improper motive of procuring a desired result. The second issue is whether there was a good faith effort to conduct a diligent search for a potential site location within that area. Thirdly, Bell seeks to introduce an additional position that this search may be conducted at **any time** before the Board hearing because it is a hearing de novo. That argument should clearly be rejected. Within the context then of Section 502.7.C.i., one should examine the testimony of the various witnesses presented by Bell.

## STATEMENT OF FACTS

### A. Petitioner's Case

Bell called Ms. Amy O'Rourke, the head of Bell's Real Estate Department, to testify as to her efforts on behalf of Bell to explore the Cockeysville area for a location for the proposed tower.

It is clear that Amy O'Rourke did not in any way prepare or define the search area map identified as the "paw" area, and

that it was developed by others at Bell - and in particular, by a Mr. Dennis Francis. It is also clear from Ms. O'Rourke's testimony that she obtained the search area map and provided it to Frederick Kruhm, a consultant occasionally hired by Bell, to conduct a search for an appropriate site within that area. Mr. Kruhm never testified, either before the Zoning Commissioner or Board of Appeals, nor is there any evidence before the Board as to the nature of his search, if any, beyond the limited search area boundary as prescribed to him by Ms. O'Rourke. Ms. O'Rourke testified that long after Mr. Kruhm submitted his recommendation for the McMasters property, she drove around the rest of the search area and took photos and names and location of property sites for purposes of the search. The purpose of Ms. O'Rourke's "search" was to justify Bell's position that the McMaster property was the only possible location for the tower. There was no testimony that any commercial or industrially zoned property was examined within the search area by anyone **prior to** the signing of a contract with McMasters by Bell on September 22, 1989. Ms. O'Rourke further testified that Kruhm normally provides alternative sites in the search area; however, in this case she admitted he provided only the McMaster site. Ms. O'Rourke testified that Bell limited its search, **even originally**, to the east side of Interstate 83, based upon a decision of the Zoning

Commissioner in the Chestnut Ridge Fire Company Case, (Petitioner's Exhibit 3) as well as upon a Restrictive Covenant Agreement executed with the Valley's Planning Council.

The Real Property Lease Agreement with McMasters establishes a number of significant points: first, it was executed on September 22, 1989, well before the examination of any alternative site locations either contained within the described search area on the "paw" or "mitten" area, or alternatives even outside of the search area as presented by Bell to bolster this aspect of their case. It is clear that this document establishes that no reasonable or diligent search for a location within a business, office or industrial zone was made by Bell prior to their execution of the lease with McMasters on September 22, 1989.

Secondly, it indicates that an 8.26 acre portion of the McMasters property was the subject of the lease, which would allow the utilization of the entire portion for the purposes of Bell. Paragraph 3 of the lease allows the McMasters to utilize the balance of these premises for "agricultural development, or any other use that is permitted by the County (including residential development)." Obviously, the lease establishes, as does the testimony of Ms. O'Rourke, that McMasters simply wanted the tower to be located on the site at a location where it would be a minimal disadvantage to him personally and where

he could gain economic advantage from developing the remainder of the farm. No thought was given to the setbacks and requirements of
Bill 64-86, providing for the safety of the public.
Protestants submit that these objectives are not sufficient to constitute "practical difficulty or unreasonable hardship" to support a granting of the variance request.

Ms. O'Rourke, on behalf of Bell, simply found the McMasters site to be the highest elevation within this arbitrarily defined search area and that she chose it for the location for the tower. She then conducted a search of other locations within and outside of the search area as an afterthought, primarily to support the Bell position at the hearing for Special Exception. The following statements of O'Rourke support this conclusion:

1. "I am the director of real estate for Southwest Bell, my responsibility is to secure locations within the entire service area"...

2. "I obtained the Chestnut Ridge Volunteer Fire Company site so I am familiar with the county law and I have testified at the hearing for the special exception for the Chestnut Ridge Fire Company Site"...

3. "I limited my search area to east of Interstate 83 due to the restrictive covenant agreement signed with Valley's Planning Counsel"...

4. "(O'Rourke) did not conduct any search in the Cockeysville area to determine whether any county locations were available"...

5. "(O'Rourke) did not conduct any search in the Cockeysville area to determine whether any county locations were available"...

6. "(O'Rourke) acknowledged that Frederick Kruhm in his report to her of June 8, 1989 provided no other site candidates within the search area other then the McMasters property"...

7. "Kruhm mentioned other sites located outside of the search area such as Baltimore Gas & Electric and Southern States and requested whether or not she (O'Rourke) wanted him to pursue those other sites and she indicated him not to proceed that she would handle it"...

8. "(O'Rourke) acknowledged that she followed up on the alternative sites in March, 1990, only after the issue was raised by the Protestants, and well after the September, 1989 lease was signed between Bell and McMasters"...

9. "(O'Rourke) acknowledged that there was "No examination of alternatives sites between the time Kruhm's report was received and the signing of the lease with McMasters in September, 1989"...

10. "(O'Rourke) acknowledged that Kruhm normally would provide more than one (1) site candidate but did not do so in this instance"...

David Ransom - surveyor, was called by Bell. The Petitioners called Ransom to testify with regard to the variances, the nature of the variances and the proposed reasons why they were needed. Ransom testified that the tower and facility could be moved to the West into the flat area, northeast into another suitable area, southeast of the present site and that the primary purpose for its location was to accommodate Mr. McMasters and his desire to continue farming at the present location and to minimize the effect of the tower on his future ability to use his property.

Mr. Jerry Balecki was an engineer for Cellular One who was called by Bell to testify that he prepared the original search area map identified as the "paw" area. He actually testified that there were two search area maps prepared, one in September of 1987 ("mitten") and one in March of 1989 ("paw"). The 1987 search area which was submitted as an exhibit in the instant case, indicates a much broader search area. It is clear from the testimony of Mr. Balecki that the area was intentionally narrowed to the "paw" area based solely upon the fact that the McMasters property with its height and location, suited the economic and profit purposes of Bell. It is equally clear through the testimony of Balecki, that the search area is one

based upon arbitrariness of the Petitioner and in the instant case did not even include any consideration of those living in residential zones or from the zoning standpoint, failing to recognize availability of commercial or industrially zoned property along Interstate 83 north of Seminary Avenue and south of Hereford. Bell established a high ground designation of McMasters farm east of Interstate 83 and drew the search area on a geographical line around that farm in order to satisfy their own purpose.

Upon cross examination of Mr. Balecki, it became interesting to note that the search area was created by Bell, with all its stated criteria to serve only Bell's purpose such as:

a. Bell's goals to serve the area.
b. Terrain and elevation.
c. Tower height.
d. Consider the use and pattern and transmit power.
e. Coverage of critical areas.
f. System integration.

He testified that Bell's criteria never included the Baltimore County Zoning Regulation requirements as set forth in developing the search area. He further acknowledged that the Valley's Planning Council agreement and subsequent Zoning Commissioner's decision virtually eliminated a number of possible locations along the rid sites west of Interstate 83 that could have served the goals for the Southwest Bell System.

Balecki, in the summer of 1990, created a third service area map which was identified as containing the grid area defined by the red or tertiary level grid cell marked as Petitioners Exhibit 8. In addition, the very complex overlay of various strength records or signals for Cellular One were all created by Mr. Balecki after the McMasters contract was signed to justify the location of the highest elevation on the McMasters property as a site selected by Bell and were not utilized in any way in the search prior to the determination to locate on the McMaster property.

Mr. Balecki's analysis with Base Overlay and small charts was also performed and created and conducted after the selection of the McMaster property in September 22, 1989. These were done to establish in hindsight that these sites were not appropriate. This analysis was done after the fact was not in good faith and may not be used as a "boot strap" argument to allow Bell to meet its heavy burden under Section 502.7.C.1.

In another vein, Balecki also acknowledged on cross examination that the Cellular One brochure utilized by Bell and their public relations campaign acknowledges the preference by the company of breaking cell sites to included smaller areas to achieve the same objective. It is clear from the entirety of his testimony, that Bell could readily achieve all of the goals

that it desires simply by establishing a number of smaller cell sites and towers in areas presently zoned commercial, business, office or industrial, rather than by selecting a location in a purely residential area, notwithstanding that the cost might be a factor in such a determination. Again, from the testimony of Balecki, it is clear that no consideration public factors, nor compliance with zoning regulations of Baltimore County played a part in Bell's analysis for the site location.

An additional factor to be considered, is that at the current time, the system is operational and that it is Bell's desire to approve the system which results in the proposal for the location of this tower on the McMaster property. Given this characterization of Bell's desires, it seems even more appropriate that they comply with the Zoning Regulations proposed under Section 502.7.C.1. Francis Balecki further acknowledged that multiple small towers could readily solve the problem for Bell and that the corporate decision was made to go with one tower based upon purely economic considerations by Bell.

Mr. Ronald Lippman is an appraiser called by the Petitioners to establish that there would be no economic impact from the tower upon the neighbor property values. While testifying that there would be no negative economic impact on the surrounding property owners, Mr. Lippman did acknowledge that given a home with a tower in the backyard versus one that

had no tower, the potential purchaser in his opinion would choose the one without the tower. Whether or not ultimately this affects the values of the comparative sites (which Mr. Lippman testified that he did not believe values would be affected); it is clear that at a minimum, it would take longer.

Bell called George Gavrellis - Daft McCune & Walker; Kerry Busch from Versar, Inc. and Dr. John M. Osupchuck. The testimony of Gavrellis in regard to the suitability of this site from a planning standpoint is not relevant to the prerequisite issues which are the paramount concerns in regard to Section 502.7.C.1. and the criteria that the Petitioner must meet and therefore little attention will be given to his testimony as well as that of Dr. Osupchuck who testified basically concerning the health aspects of these towers and microwaves. Burch's testimony regarding the visual impact assessment pre-empts the Board's determination of this as an ultimate issue and is therefore not worthy of consideration.

## B. PROTESTANT'S CASE

In the Protestant's case, Steve Rosen and Thomas Basham testified as individuals, as well as on behalf of the named community associations. They expressed substantially the same opposition to the proposed tower by Bell to include the fact that this facility was located in a residential zone without compliance with the requirements of Section 502.7.C.1. They testified that they believed this location was picked by Bell

for height consideration only; that it is a commercial fixture which should not be located in a residential area; and that Bell failed to develop a suitable search area. In addition, they expressed concern for the property value for the surrounding homes as well as the aesthetics of having a tower of this nature located in their neighborhood.

## LEGAL ARGUMENT

The Petitioner's Petition for Special Exception is filed under the provisions of the Baltimore County Zoning Regulations, Section 502, 502.1 and 502.7. The instant Petition involves not only the typical application of the criteria set forth under Section 501.A through H, but additional ones as established by 502.7. Here, prior to the Board's determination that this proposed facility does or does not impact Section 502.1, the Board must first determine that the procedural requirements as set forth in 502.7C.1 have been complied with by the Petitioner. The **Petitioner has the burden** of proving to the Board that it has so complied. Once the determination has been made that the procedural requirements have been satisfied, one must then turn to the issue of whether or not there is an impact under Section 502.1 and finally, if it is determined that the procedural requirements have been met and the conditions of 502.1A through H have been met, the Board may then impose the conditions of Section 502.7C.2 through 11. It is submitted that the legislative intent and history before

the County Council of Baltimore County in 1986 when they enacted Bill No. 64-86, established that the Council intended that the procedural requirements of the Bill be given as much or more weight and consideration as the existing criteria under Section 502.1. In addition, they then intended to condition or qualify by statute, the operation of such a wireless transmitting and receiving by the remaining conditions imposed by 502.7C.2 through 11.

The legislative intent for Bill No. 64-86 finds its origin in a case before the Baltimore County Zoning Commissioner concerning a special exception for a proposed 200 foot tower in Northern Baltimore County. While the community expressed many concerns regarding the tower, the Deputy Zoning Commissioner finally approved the special exception subject to a number of restrictions. Those restrictions ultimately found their way into the amended legislation, such as the exterior look of the tower, the setbacks, the conditions concerning removal of the tower upon termination of the purpose for which it was erected.

Additionally, it became clear to the Baltimore County Council that these towers presented legitimate concerns for residential areas such as height, appearance, health issues and potential damages to the real estate values for surrounding property owners. See Report of the Office of Planning and Zoning for Legislation Project #85-04; the Planning Board Report; the Office of Law Reported dated August 28, 1985. To

quote from the Office of Law Report of August 28, 1985, it was clear that Countywide, "residents of neighborhoods where towers are proposed argue that towers are unattractive and adversely affect property values." Further, "proposed transmission towers are also viewed as an undesirable use in residential zones because of a fear of potential health hazards posed by long-term exposure to non-ionizing electro-magnetic radiation (NIER) admitted by these facilities." "Although the short and long-term damage to humans resulting from exposure to even low levels of NIER is well documented, potential health hazards associated with NIER exposure is a subject of controversy among health scientists." Therefore, in the new legislation, it was specifically recognized that while it would not be appropriate to completely eliminate the opportunity for such towers in residential areas, **it would be made more difficult to locate a tower in such a residential zone and incentives were provided for prospective towers being located in business, office, or industrial zoned areas**. "The Office of Law Report proposing Amendments to the Baltimore County Zoning Regulations concerning Radio Towers and Television Towers and other Wireless Transmission Receiving Facilities," dated August 28, 1985, should be reviewed to determine the legislative intent concerning the significant procedural requirements which were placed in the new legislation. This Report supports the proposition that the drafters of the legislation attached great

significance to the procedural requirements for exploring commercially zoned areas before approving a tower in a residential zone. It is stated on page 6 of the report: "An amendment to Zoning Regulations to permit towers by right under specified conditions in certain office, business and manufacturing zones, **along with more stringent special exception requirements in residential zones would create a situation where non-residential zones would become attractive locations for towers**." It is clear that the pre-conditions as set forth in the Baltimore County Zoning Regulations Section 502.7.C.1 should be adhered to by the Petitioner.

Therefore, one can conclude from the legislative intent of the County Council, that it was clearly interested in ensuring that the Petitioner, in the case of wireless transmitting and receiving facilities, had the burden of establishing that it made a diligent search for a location within a business, office or industrial zone prior to the selection of a site within a residential district.

In this case, the evidence in the record before the Board is devoid of any testimony, exhibit, or other proof which establishes that a diligent search for such a location within a business, office or industrial zone was made prior to the execution of the Contract with McMasters. As a matter of fact, by the testimony of Amy O'Rourke and Mr. Balecki, it is very clear that no consideration was given by the Petitioner Bell to

developing a suitable search area that would include business, office or industrial zone. Moreover, failure to call Mr. Kruhm by the Petitioner likewise supports the fact and the testimony of O'Rourke upon cross examination, that they selected the McMasters site, signed a lease agreement with McMasters and then looked for an appropriate sites only after the issue was raised by the Protestants in March of 1990, that Section 502.7C.1 was not complied with by Bell.

For the first time before this Board of Appeals, it is anticipated that the Petitioner will make the argument that since the Board of Appeals hearing is de novo, the Board should examine their request in light of any of the three search area descriptions and the efforts made up to the time of the Board hearing. This is a ridiculous situation and denies the intent of the legislation in its application. First, while it is true that the hearing before the Board is recognized as a de novo hearing, that only indicates that additional evidence or testimony different from that presented to the Zoning Commissioner may be allowed and that it is not a hearing on the record. It does not mean that the Petitioner can pick his spot and then utilize additional efforts after the location is selected to justify its selection as a "boot strap" argument. The standard that the Board must apply is the same as applied by the Zoning Commissioner:

> "Section 502.7.C.1 clearly places the burden on the Petitioners to establish that they have made a diligent search" for a location

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# PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-381-SPHXA

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 site plan to the special exception in Case No. 76-241X by including a wireless transmitting and receiving facility.

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:
~~Contract Purchaser~~
Southwestern Bell Mobile Systems, Inc. t/a Cellular One
(Type or Print Name)
Emilienne O'Rourke
By: Signature Emilienne O'Rourke
7855 Walker Drive, Suite 100
Address
Greenbelt, Maryland 20770
City and State

Attorney for Petitioner:
G. Scott Barhight
(Type or Print Name)
Signature
500 Court Towers
210 W. Pennsylvania Avenue
Address
Towson, Maryland 21204
City and State
Attorney's Telephone No.: 832-2050

Legal Owner(s):
Liberty Road Volunteer Fire Company, Inc.
(Type or Print Name)
Jerry A. Wayne
By: Signature
(Type or Print Name)
Signature
10010 Liberty Road
Address Phone No.
Randallstown, Maryland 21133
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
G. Scott Barhight
Name
210 W. Pennsylvania Avenue
Towson, MD 21204 832-2050
Address Phone No.

MAP [illegible]
E-1
E.D. 2nd
DATE 12/3/91
200
1000
D.&Ds.
No. 26

ORDERED By The Zoning Commissioner of Baltimore County, this 21 day of Feb, 1990, 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 3 day of April, 1990, at 9:30 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

ORDER RECEIVED FOR FILING
Date 2/23/90
By

Z.C.O.—No. 1

(over)

---

241

# PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-381-SPHXA

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 a wireless transmitting and receiving facility pursuant to Sections 1B01.1.C.20 and 502.7.

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.

LESSEE:
~~Contract Purchaser~~
Southwestern Bell Mobile Systems, Inc. t/a Cellular One
(Type or Print Name)
Emilienne O'Rourke
By: Signature Emilienne O'Rourke
7855 Walker Drive, Suite 100
Address
Greenbelt, Maryland 20770
City and State

Attorney for Petitioner:
G. Scott Barhight
(Type or Print Name)
Signature
500 Court Towers
210 W. Pennsylvania Avenue
Address
Towson, Maryland 21204
City and State
Attorney's Telephone No.: 832-2050

Legal Owner(s):
Liberty Road Volunteer Fire Company, Inc.
(Type or Print Name)
Jerry A. Wayne
By: Signature
(Type or Print Name)
Signature
10010 Liberty Road
Address Phone No.
Randallstown, Maryland 21133
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
G. Scott Barhight
Name
210 W. Pennsylvania Avenue
Towson, MD 21204 832-2050
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 21 day of Feb, 1990, 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 3 day of April, 1990, at 9:30 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
Date 2/23/90
By

Z.C.O.—No. 1

(over)

---

241

# PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-381-SPHXA

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 Sections (see attached page) of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Hardship or practical difficulty to be presented at the hearing.

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.

LESSEE:
~~Contract Purchaser~~
Southwestern Bell Mobile Systems, Inc. t/a Cellular One
(Type or Print Name)
Emilienne O'Rourke
By: Signature Emilienne O'Rourke
7855 Walker Drive, Suite 100
Address
Greenbelt, Maryland 20770
City and State

Attorney for Petitioner:
G. Scott Barhight
(Type or Print Name)
Signature
500 Court Towers
210 W. Pennsylvania Avenue
Address
Towson, Maryland 21204
City and State
Attorney's Telephone No.:

Legal Owner(s):
Liberty Road Volunteer Fire Company, Inc.
(Type or Print Name)
Jerry G. Wayne
By Signature
(Type or Print Name)
Signature
10010 Liberty Road
Address Phone No.
Randallstown, Maryland 21133
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
G. Scott Barhight
Name
210 W. Pennsylvania Avenue
Towson, MD 21204 832-2050
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 21 day of Feb, 1990, 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 3 day of April, 1990, at 9:30 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

ORDER RECEIVED FOR FILING
Date 2/23/90
By

(over)

---

PETITION FOR ZONING VARIANCE (continued)

Petitioner: Southwestern Bell Mobile Systems, Inc.
t/a Cellular One

The Petitioner hereby petitions for a variance from Sections 502.7.C.2 and 102.2 to permit a setback to the nearest property line of 10 ft. in lieu of the required 300 ft., from Sections 502.7.C.3 and 102.2 to permit a lot area of 0.08 acres in lieu of the required 5 acres, from Sections 1B02.2.B and 102.2 (CMDP, V.B.2) to permit side yard setbacks of 5 ft. each in lieu of the required 20 ft., and to permit a rear yard setback of 5 ft. in lieu of the required 30 ft.

---

241

PHILIP K. CROSS
JOHN F. ETZEL
WILLIAM G. ULRICH
GORDON T. LANGDON
DAVID E. RANSONE

GERHOLD, CROSS & ETZEL
*Registered Professional Land Surveyors*
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

EMERITUS
PAUL G. DOLLENBERG
FRED H. DOLLENBERG
CARL L. GERHOLD

90-381-SPHXA

January 10, 1990

0.080 of an Acre Zoning Description
Liberty Road Volunteer Fire Dept.

All that piece or parcel of land situate, lying and being in the Second Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point situate the two following lines from the intersection of the centerline of Liberty Road with the centerline of Deer Park Road viz: Northerly, measured along the center of Deer Park Road 1700 feet, more or less, and South 72 degrees 45 minutes 45 seconds West, measured at a right angle from the center of Deer Park Road, 465 feet, more or less, to the beginning of this description, and running thence North 32 degrees West 70 feet, South 58 degrees West 50 feet, South 32 degrees East 70 feet and North 58 degrees East 50 feet to the place of beginning.

Containing 0.080 of an Acre of Land, more or less.

DAVID EDWARD RANSONE No 1968

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241

PHILIP K. CROSS
JOHN F. ETZEL
WILLIAM G. ULRICH
GORDON T. LANGDON
DAVID E. RANSONE

GERHOLD, CROSS & ETZEL
*Registered Professional Land Surveyors*
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

EMERITUS
PAUL G. DOLLENBERG
FRED H. DOLLENBERG
CARL L. GERHOLD

90-381-SPHXA

January 6, 1990

14.45 Acre Zoning Description
Liberty Road Volunteer Fire Dept.

All that piece or parcel of land situate, lying and being in the Second Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point on the northeast side of Liberty Road measured 743 feet, more or less, northwesterly from the intersection of said northeast side and the center line of Deer Park Road, thence binding on said northeast side of Liberty Road, North 56 degrees 18 minutes 35 seconds West 425.22 feet, thence leaving said northeast side of Liberty Road and binding on the outline of the property of Liberty Road Volunteer Fire Department the twenty following lines viz: North 33 degrees 41 minutes 25 seconds East 200 feet, North 56 degrees 18 minutes 35 seconds West 75 feet, North 62 degrees 24 minutes 50 seconds West 166.10 feet, North 30 degrees 38 minutes 25 seconds West 781.13 feet, North 59 degrees 21 minutes 35 seconds East 431.49 feet, North 69 degrees 18 minutes 29 seconds East 116.04 feet, South 10 degrees 02 minutes 16 seconds East 125 feet, North 79 degrees 57 minutes 45 seconds East 200 feet to the west side of Deer Park Road thence binding on said side of said Road South 10 degrees 02 minutes 15 seconds East 73.27 feet and South 17 degrees 14 minutes 15 seconds East 26.73 feet, thence leaving said road, South 72 degrees 45 minutes 45 seconds West 200 feet, South 17 degrees 14 minutes 15 seconds East 500 feet, North 72 degrees 45 minutes 45 seconds East 200 feet to the west side of Deer Park Road, thence binding on said road, South 17 degrees 14 minutes 15 seconds East 100 feet thence leaving said road South 72 degrees 45 minutes 45 seconds West 150 feet, South 17 degrees 14 minutes 15 seconds East 100 feet, North 72 degrees 45 minutes 45 seconds East 150 feet to the west side of Deer Park Road, thence binding on said road, South 17 degrees 14 minutes 15 seconds East 239.33 feet and South 25 degrees 03 minutes 00 seconds East 182.53 feet, thence leaving said road South 47 degrees 31 minutes 00 seconds West 304.09 feet to the place of beginning.

Containing 14.45 Acres of Land, more or less.

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

*J. Robert Haines*
*Zoning Commissioner*

*Dennis F. Rasmussen*
*County Executive*

DATE 3/13/90

Southwestern Bell Mobile Systems, Inc., t/a
Cellular One
7855 Walker Drive Suite 100
Greenbelt, Maryland 20770

ATTN: EMILIENNE O'ROURKE

Re: Petitions for Special Hearing, Special Exception, and Zoning Variance
CASE NUMBER: 90-381-SPHA
NE/S Liberty Road, 743' NW of c/l of Deer Park Road
(10010 Liberty Road)
2nd Election District - 2nd Councilmanic
Legal Owner(s): Liberty Road Volunteer Fire Company, Inc.
Leesee/Petitioner: Southwestern Bell Mobile Systems, Inc., t/a Cellular One
HEARING: TUESDAY, APRIL 3, 1990 at 9:30 a.m.

Gentlemen:

Please be advised that $166.78 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 OR 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. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional $50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

JRH:gs

cc: G. Scott Barhight, Esq.

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R, W/W, Reist. Rd., is.
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for
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variance to allow existing 0 ft. setback in lieu of required 30 ft. setback and to allow 3 ft. setback in lieu of required 30 ft. setback; to allow 28.5 setback in lieu of required 30 ft. setback; and to allow existing 29.5 ft. setback in lieu of required 30 ft.

In the event that this Petition 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 in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

## LEGAL NOTICE

### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Hearing, Special Exception, and Zoning Variance
CASE NUMBER: 90-381-SPHA
NE/S Liberty Road, 743' NW of c/l of Deer Park Road
(10010 Liberty Road)
2nd Election District—2nd Councilmanic
Legal Owner(s): Liberty Road Volunteer Fire Company, Inc.
Lessee/Petitioner: Southwestern Bell Mobile Systems, Inc., t/a Cellular One
HEARING: Tuesday, April 3, 1990 at 9:30 a.m.

Special Hearing to approve an amendment to the site plan to the special exception in Case 76-241-X by including a wireless transmitting and receiving facility. Special Exception for a wireless transmitting and receiving facility. Variance to permit a setback to the nearest line of 10 feet in lieu of the required 300 ft.; to permit a lot area of .08 acres in lieu of the required 5 acres; to permit side yard setbacks of 5 ft. each in lieu of the required 20 ft.; and to permit a rear yard setback of 5 ft. in lieu of the required 30 ft.

In the event that this Petition 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 in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Introducing Chase Lea Apartments in Owings Mills.
- Spacious luxury apartments with exciting features... including cozy fireplaces in most apartments.
- Sunrooms or dramatic vaulted ceilings in some models.
- Terrific recreational facilities, including the Chase Lea health spa.
- Convenient and sought after Owings Mills location.
- Owner managed by Trammell Crow, one of the nation's most respected builders and developers.

Families with income between $17,000-$35,000 given special consideration.

Chase Lea

MODEL OPEN: Mon.-Sat. 10-6. Closed Sun.
DIRECTIONS: From Beltway Exit 20, Reisterstown Rd., 1 mile to left on McDonogh Rd. Right on Pittsfield Rd., left on Hartley Circle to Chase Lea Leasing center.
(301) 363-8050
A Trammell Crow Co. Community

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# CERTIFICATE OF POSTING

90-381-SPHXA

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 2nd
Date of Posting March 15, 1990
Posted for: Special Hearing, Special Exception, and Variance
Petitioner: Southwestern Bell Mobile Systems, Inc. T/A Cellular One
Location of property: NE/S Liberty Road, 743' NW of c/L of Deer Park Road (10010 Liberty Road)
Location of Signs: NE/S of Liberty Road, approx. 1000' NW of the c/L of Deer Park Road
Remarks:
Posted by S. J. Arata
Signature
Date of return: March 23, 1990
Number of Signs: 3

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# CERTIFICATE OF PUBLICATION

TOWSON, MD., March 8, 1990

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on March 8, 1990

THE JEFFERSONIAN,

Publisher

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### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Special Hearing, Special Exception, and Zoning Variance
Case number: 90-381-SPHA
NE/S Liberty Road, 743' NW of c/l of Deer Park Road
(10010 Liberty Road)
2nd Election District
2nd Councilmanic
Legal Owner(s):
Liberty Road Volunteer Fire Company, Inc.
Lessee/Petioner:
Southwestern Bell Mobile Systems, Inc., t/a Cellular One
Hearing Date: Tuesday, April 3, 1990 at 9:30 a.m.

Special Hearing: to approve an amendment to the site plan to the special exception in Case 76-241-X by including a wireless transmitting and receiving facility.

Special Exception: for a wireless transmitting and receiving facility.

Variance: to permit a setback to the nearest property line of 10 feet in lieu of the required 300 ft.; to permit a lot area of .08 acres in lieu of the required 5 acres; to permit side yard setbacks of 5ft. each in lieu of the required 20 ft.; and to permit a rear yard setback of 5ft. in lieu of the required 30 ft.

In the event that this Petition 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 in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

3/123 March 8.

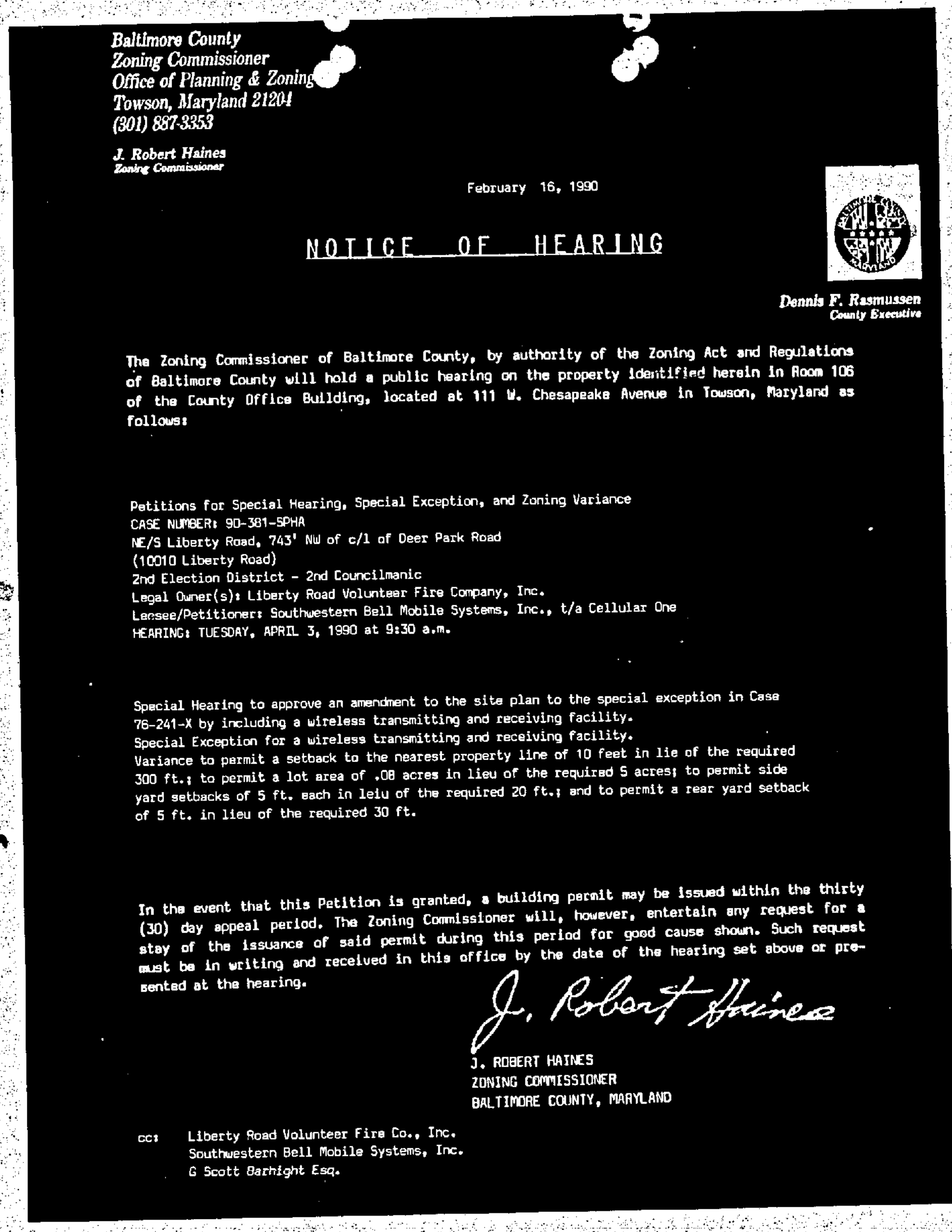
# CERTIFICATE OF PUBLICATION

TOWSON, MD., March 8, 1990

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on March 8, 1990

THE JEFFERSONIAN,

S. Zeke Orlan
Publisher



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

**J. Robert Haines**
*Zoning Commissioner*

**Dennis F. Rasmussen**
*County Executive*

February 16, 1990

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Hearing, Special Exception, and Zoning Variance
CASE NUMBER: 90-381-SPHA
NE/S Liberty Road, 743' NW of c/l of Deer Park Road
(10010 Liberty Road)
2nd Election District - 2nd Councilmanic
Legal Owner(s): Liberty Road Volunteer Fire Company, Inc.
Lessee/Petitioner: Southwestern Bell Mobile Systems, Inc., t/a Cellular One
HEARING: TUESDAY, APRIL 3, 1990 at 9:30 a.m.

Special Hearing to approve an amendment to the site plan to the special exception in Case 76-241-X by including a wireless transmitting and receiving facility.
Special Exception for a wireless transmitting and receiving facility.
Variance to permit a setback to the nearest property line of 10 feet in lie of the required 300 ft.; to permit a lot area of .08 acres in lieu of the required 5 acres; to permit side yard setbacks of 5 ft. each in leiu of the required 20 ft.; and to permit a rear yard setback of 5 ft. in lieu of the required 30 ft.

In the event that this Petition 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 in writing and received in this office by the date of the hearing set above or presented at the hearing.

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

cc: Liberty Road Volunteer Fire Co., Inc.
Southwestern Bell Mobile Systems, Inc.
G Scott Barhight Esq.

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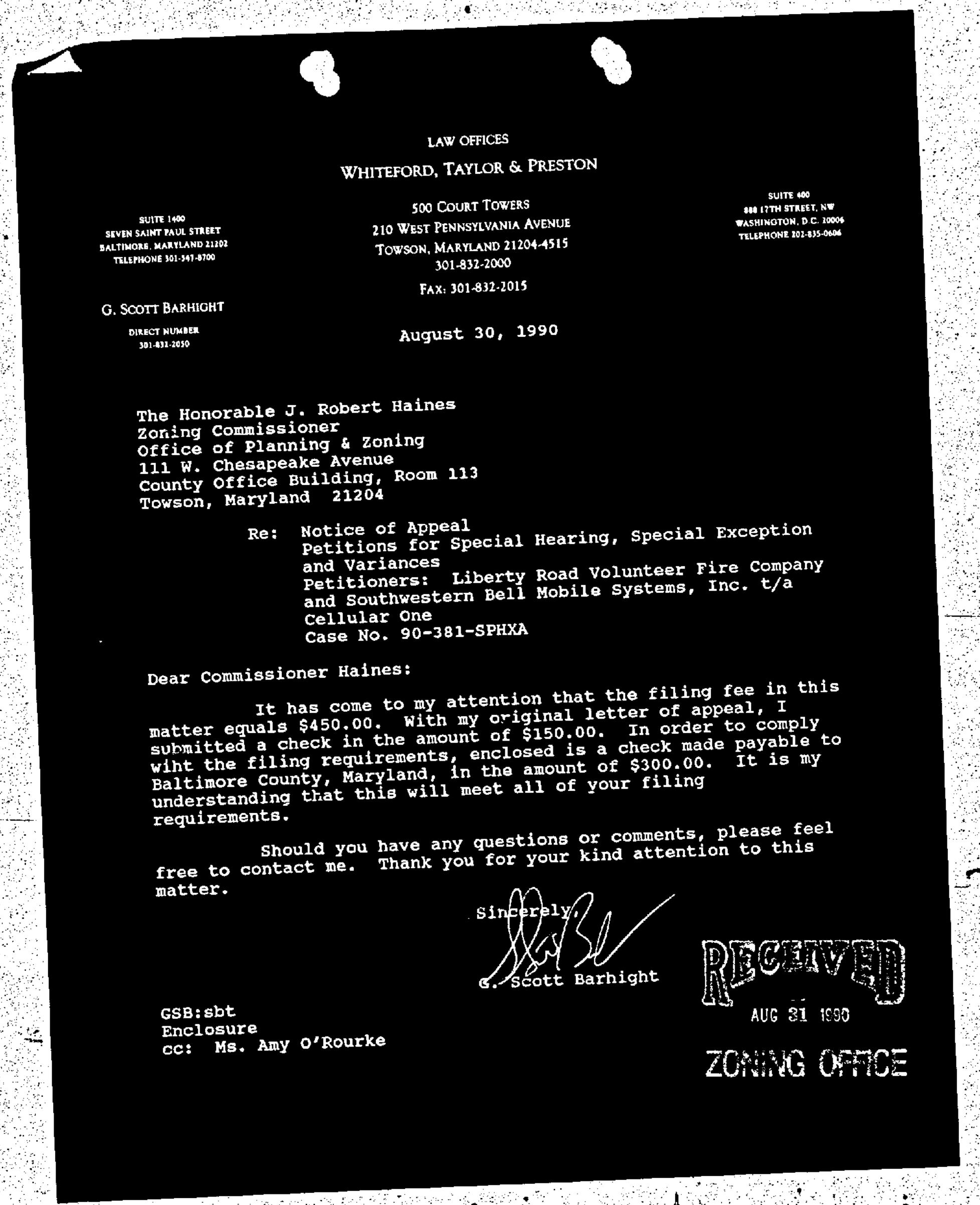

LAW OFFICES
WHITEFORD, TAYLOR & PRESTON
500 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
301-832-2000
FAX: 301-832-2015

SUITE 1400
SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202
TELEPHONE 301-347-8700

SUITE 400
888 17TH STREET, NW
WASHINGTON, D.C. 20006
TELEPHONE 202-835-0606

G. SCOTT BARHIGHT
DIRECT NUMBER
301-832-2050

August 30, 1990

The Honorable J. Robert Haines
Zoning Commissioner
Office of Planning & Zoning
111 W. Chesapeake Avenue
County Office Building, Room 113
Towson, Maryland 21204

Re: Notice of Appeal
Petitions for Special Hearing, Special Exception and Variances
Petitioners: Liberty Road Volunteer Fire Company and Southwestern Bell Mobile Systems, Inc. t/a Cellular One
Case No. 90-381-SPHXA

Dear Commissioner Haines:

It has come to my attention that the filing fee in this matter equals $450.00. With my original letter of appeal, I submitted a check in the amount of $150.00. In order to comply wiht the filing requirements, enclosed is a check made payable to Baltimore County, Maryland, in the amount of $300.00. It is my understanding that this will meet all of your filing requirements.

Should you have any questions or comments, please feel free to contact me. Thank you for your kind attention to this matter.

Sincerely,

G. Scott Barhight

RECEIVED
AUG 31 1990
ZONING OFFICE

GSB:sbt
Enclosure
cc: Ms. Amy O'Rourke

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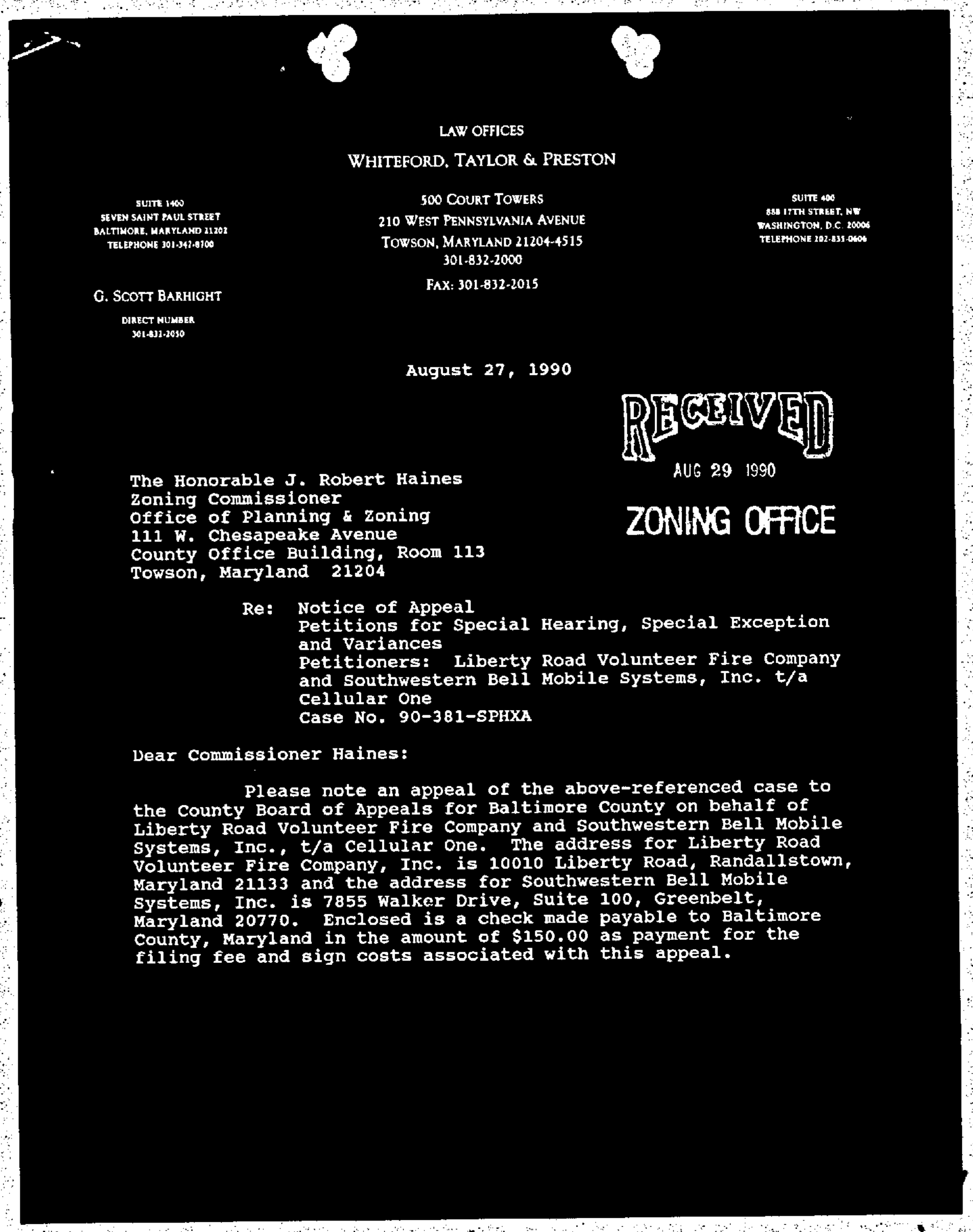

LAW OFFICES
WHITEFORD, TAYLOR & PRESTON
500 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
301-832-2000
FAX: 301-832-2015

SUITE 1400
SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202
TELEPHONE 301-347-8700

SUITE 400
888 17TH STREET, NW
WASHINGTON, D.C. 20006
TELEPHONE 202-835-0606

G. SCOTT BARHIGHT
DIRECT NUMBER
301-832-2050

August 27, 1990

RECEIVED
AUG 29 1990
ZONING OFFICE

The Honorable J. Robert Haines
Zoning Commissioner
Office of Planning & Zoning
111 W. Chesapeake Avenue
County Office Building, Room 113
Towson, Maryland 21204

Re: Notice of Appeal
Petitions for Special Hearing, Special Exception and Variances
Petitioners: Liberty Road Volunteer Fire Company and Southwestern Bell Mobile Systems, Inc. t/a Cellular One
Case No. 90-381-SPHXA

Dear Commissioner Haines:

Please note an appeal of the above-referenced case to the County Board of Appeals for Baltimore County on behalf of Liberty Road Volunteer Fire Company and Southwestern Bell Mobile Systems, Inc., t/a Cellular One. The address for Liberty Road Volunteer Fire Company, Inc. is 10010 Liberty Road, Randallstown, Maryland 21133 and the address for Southwestern Bell Mobile Systems, Inc. is 7855 Walker Drive, Suite 100, Greenbelt, Maryland 20770. Enclosed is a check made payable to Baltimore County, Maryland in the amount of $150.00 as payment for the filing fee and sign costs associated with this appeal.

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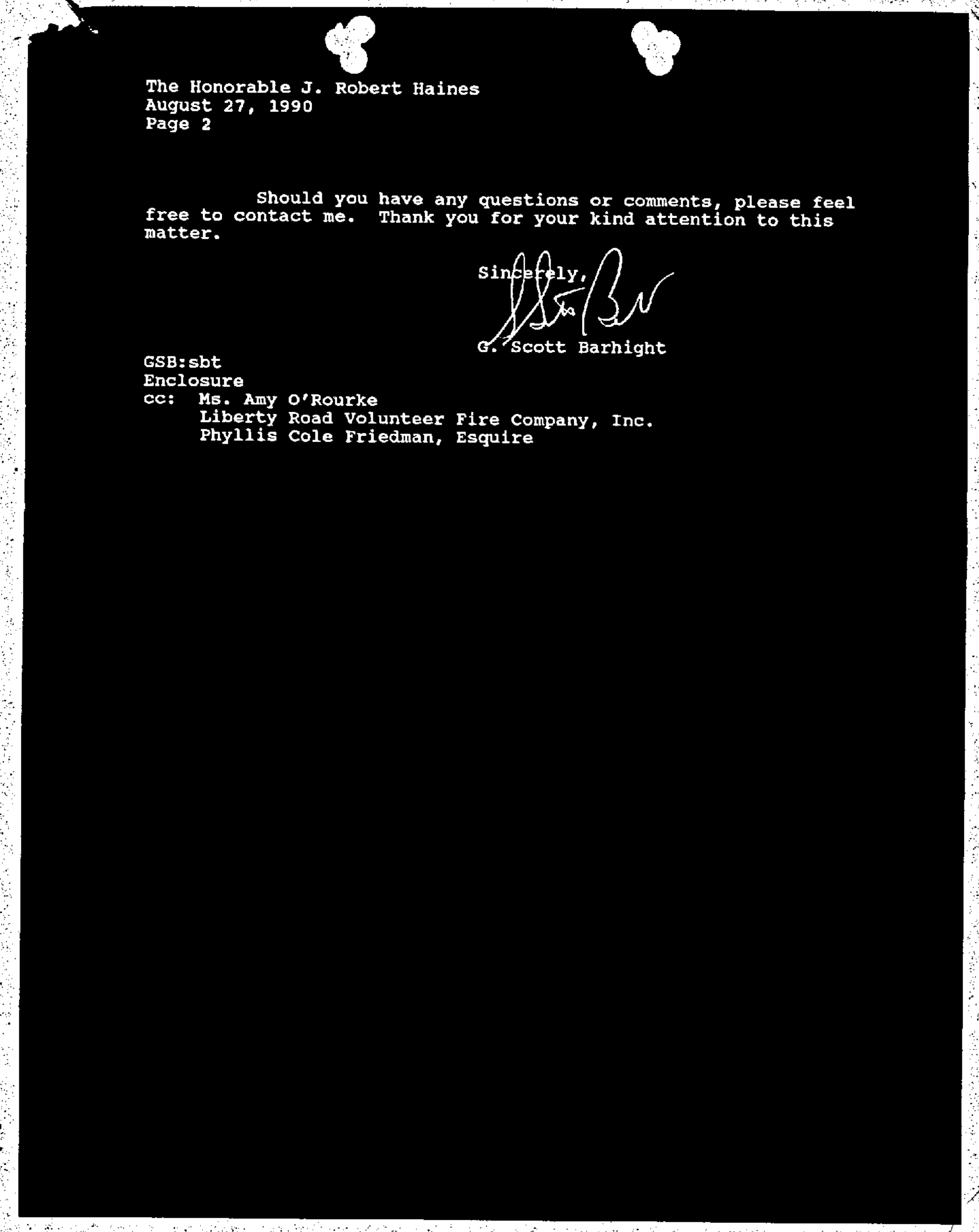

The Honorable J. Robert Haines
August 27, 1990
Page 2

Should you have any questions or comments, please feel free to contact me. Thank you for your kind attention to this matter.

Sincerely,

G. Scott Barhight

GSB:sbt
Enclosure
cc: Ms. Amy O'Rourke
Liberty Road Volunteer Fire Company, Inc.
Phyllis Cole Friedman, Esquire

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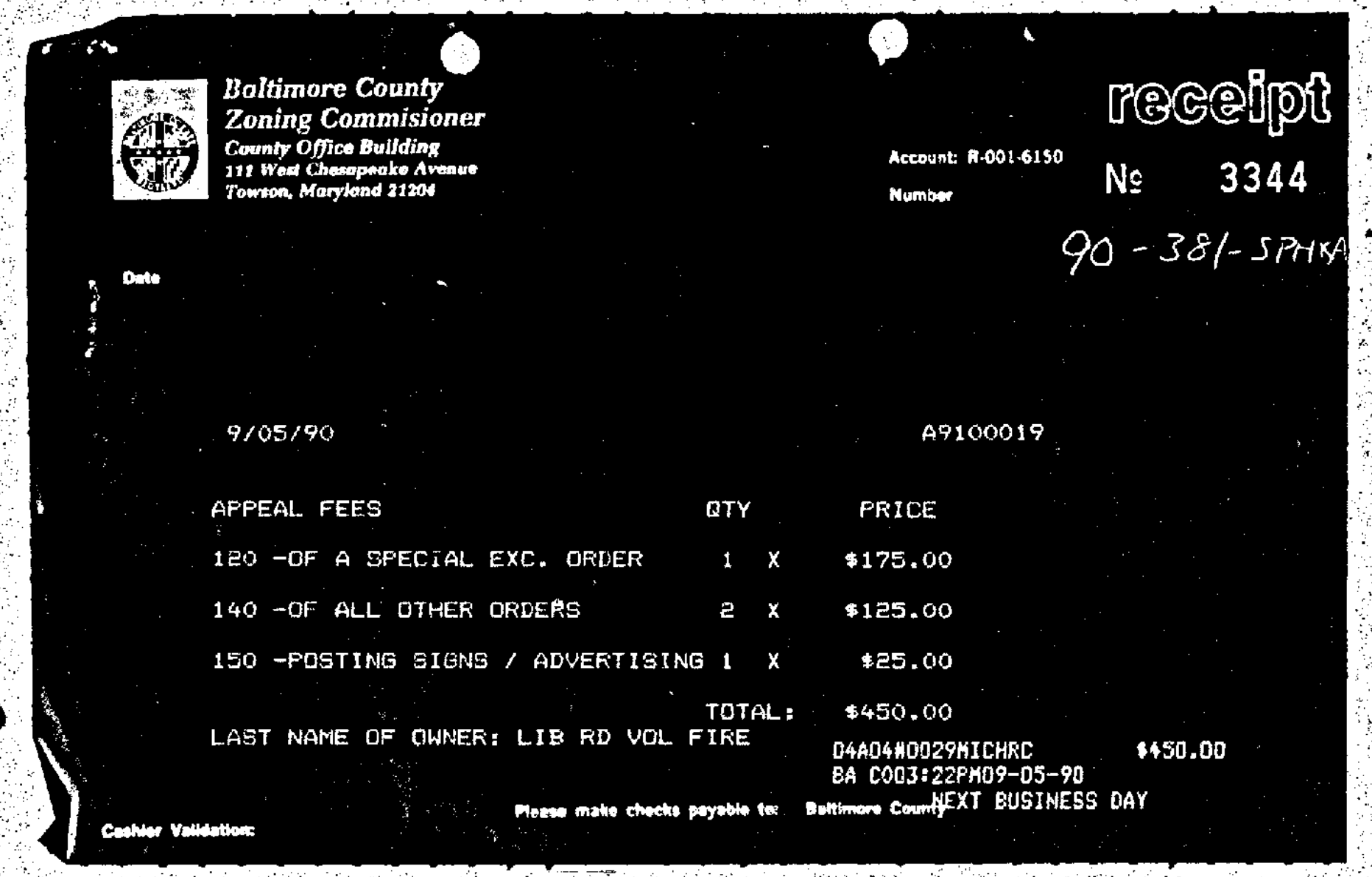

*Baltimore County*
*Zoning Commisioner*
*County Office Building*
*111 West Chesapeake Avenue*
*Towson, Maryland 21204*

receipt

Account: R-001-6150
Number
№ 3344
90-381-SPHXA

Date

9/05/90 A9100019

| APPEAL FEES | QTY | | PRICE |
|---|---|---|---|
| 120 -OF A SPECIAL EXC. ORDER | 1 | X | $175.00 |
| 140 -OF ALL OTHER ORDERS | 2 | X | $125.00 |
| 150 -POSTING SIGNS / ADVERTISING | 1 | X | $25.00 |
| | | TOTAL: | $450.00 |

LAST NAME OF OWNER: LIB RD VOL FIRE

04A04#0029MICHRC $450.00
BA C003:22PM09-05-90
NEXT BUSINESS DAY

Cashier Validation:

Please make checks payable to: Baltimore County

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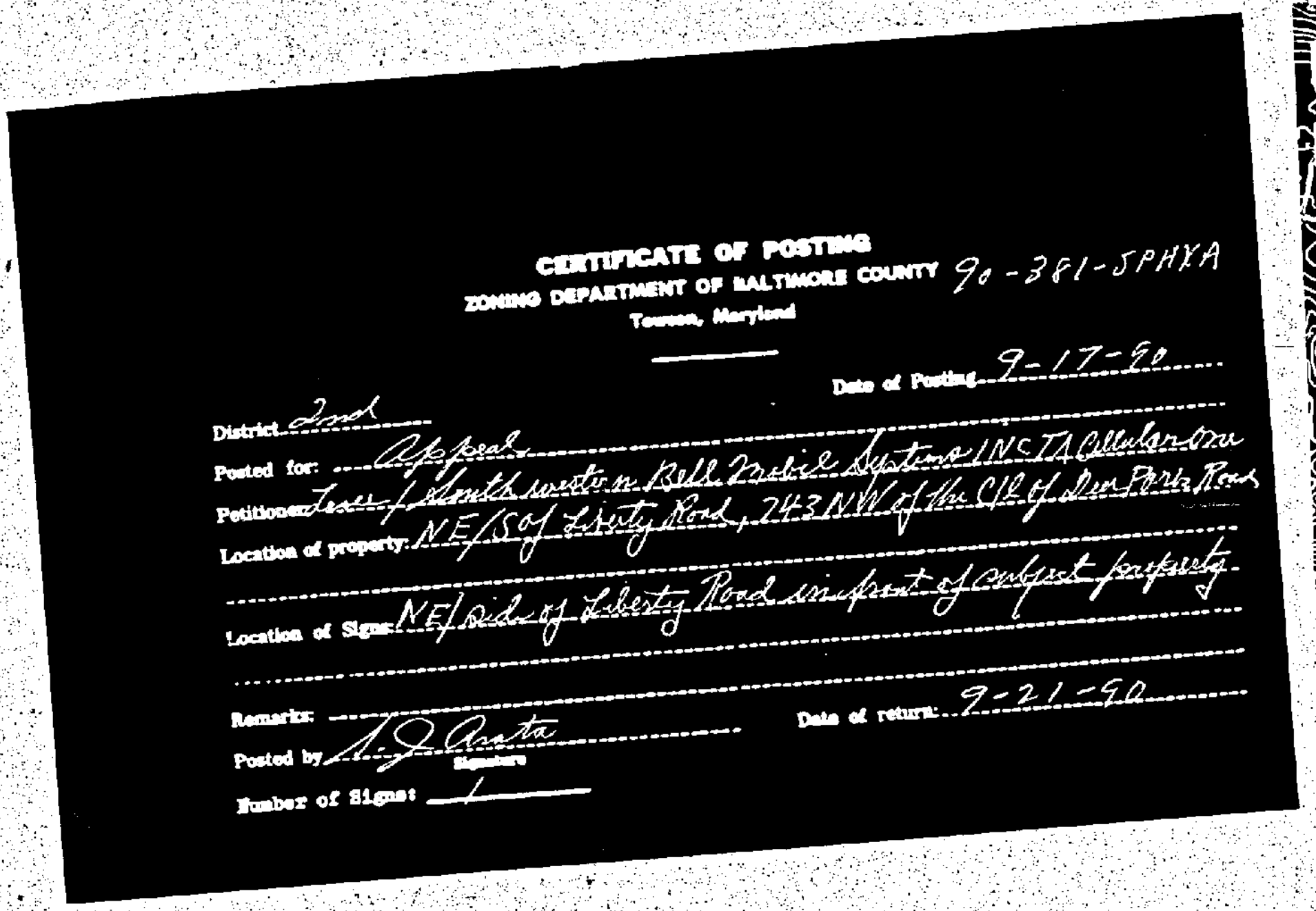

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY 90-381-SPHXA
Towson, Maryland

Date of Posting 9-17-90

District 2nd
Posted for: Appeal
Petitioner: Lessee / Southwestern Bell Mobile Systems INC T/A Cellular One
Location of property: NE/S of Liberty Road, 743 NW of the C/L of Deer Park Road
Location of Signs: NE/side of Liberty Road in front of subject property.
Remarks:
Posted by J. J. Arata (Signature)
Date of return: 9-21-90
Number of Signs: 1

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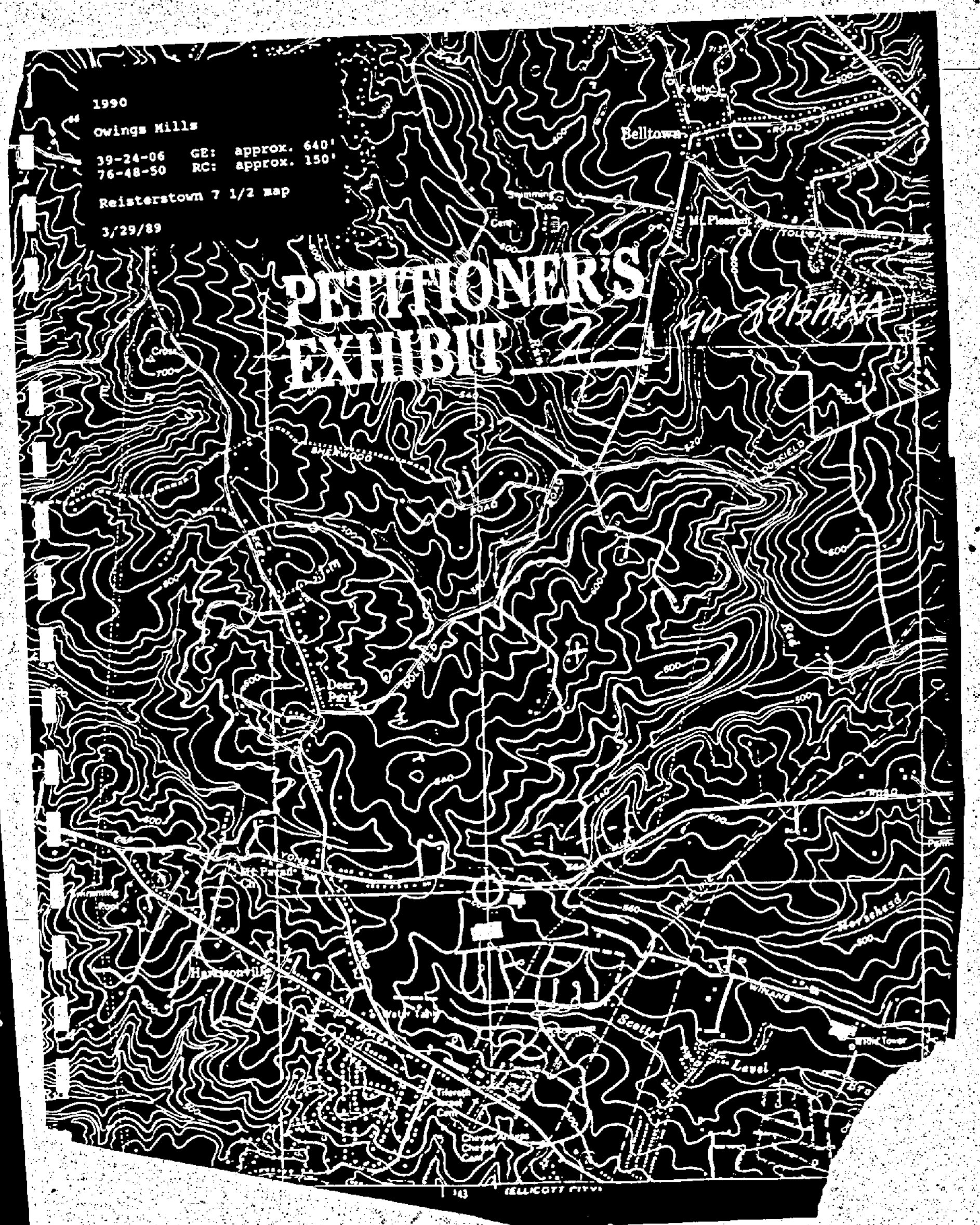

1990
Owings Mills
39-24-06 GE: approx. 640'
76-48-50 RC: approx. 150'
Reisterstown 7 1/2 map
3/29/89

PETITIONER'S EXHIBIT 2 90-381-SPHXA

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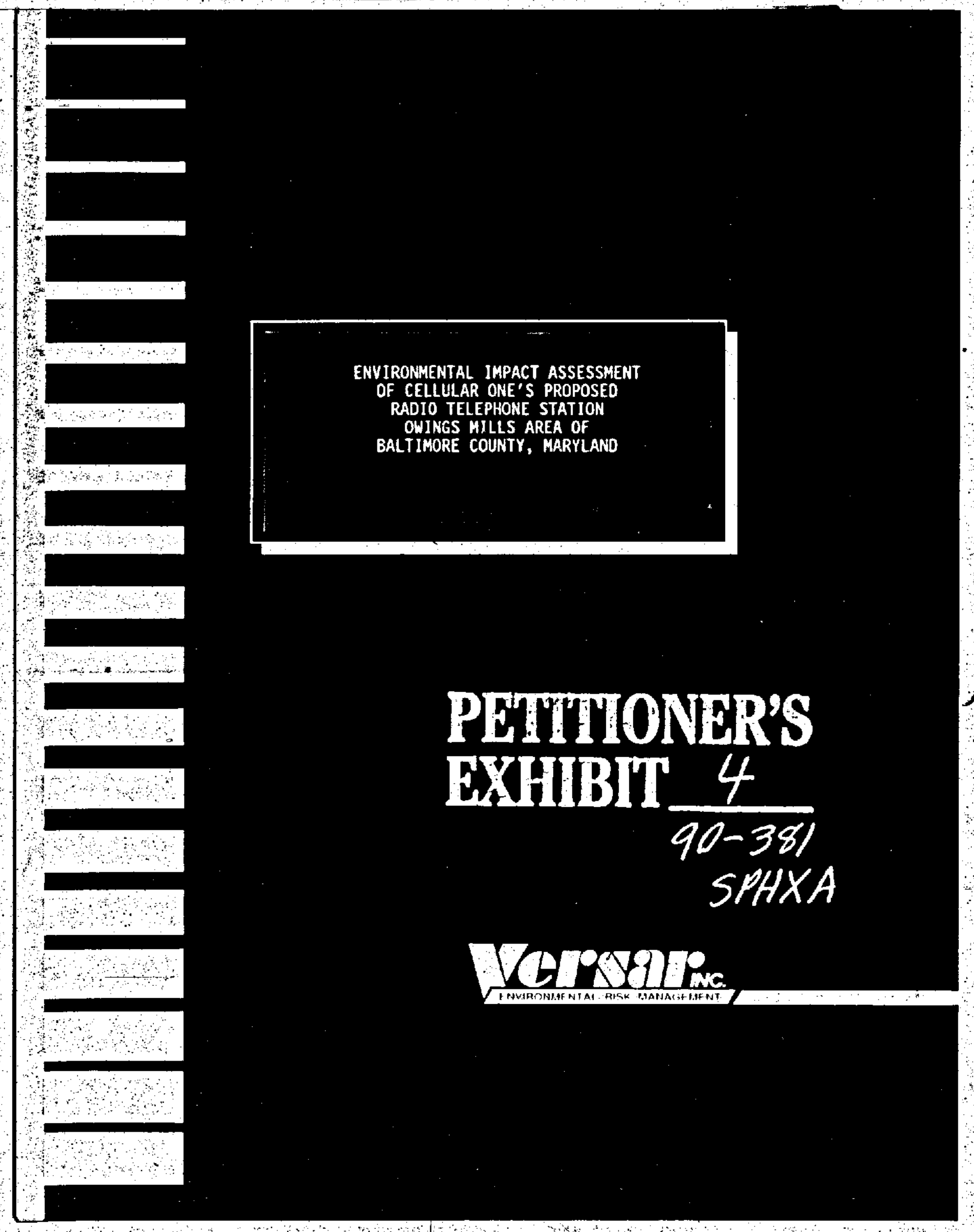


ENVIRONMENTAL IMPACT ASSESSMENT
OF CELLULAR ONE'S PROPOSED
RADIO TELEPHONE STATION
OWINGS MILLS AREA OF
BALTIMORE COUNTY, MARYLAND

PETITIONER'S EXHIBIT 4
90-381
SPHXA

Versar INC.
ENVIRONMENTAL RISK MANAGEMENT

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

*J. Robert Haines*
*Zoning Commissioner*

*Dennis F. Rasmussen*
*County Executive*

September 5, 1990

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

RE: Petition for Special Hearing, Special Exception & Variance
NE/S Liberty Road, 743' NW of the c/1 of Deer Park Road
(10010 Liberty Road)
2nd Election District, 2nd Councilmanic District
LIBERTY ROAD VOLUNTEER FIRE CO. - Petitioner
Case No. 90-381-SPHXA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on August 31, 1990 by G. Scott Barhight, Attorney on behalf of the Petitioner. 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.

RECEIVED
COUNTY BOARD OF APPEALS
90 SEP 11 PM 1:29

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Amy O'Rourke
Southwestern Bell Mobile Systems, Inc. t/a Cellular One
7855 Walker Drive, Suite 100, Greenbelt, MD 20770

G. Scott Barhight, Esquire - Whiteford, Taylor & Preston
500 Court Towers, 210 West Pennsylvania Ave., Towson, MD 21204

---

Appeal Cover Letter - Case No. 90-381-SPHXA
G. Scott Barhight
September 5, 1990
Page 2

Mr. John Celentano - Hernwood Heights Community Association
10 Sheraton Road, Randallstown, MD 21133

Mr. & Mrs. Harold R. Carter - Kings Park Association
9820 Clanford Road, Randallstown, MD 21133

Mr. Al Barnes - Kings Park Association
9829 Clanford Road, Randallstown, MD 21133

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

File

---

## APPEAL

Petition for Special Hearing, Special Exception and Variance
NE/S Liberty Road, 743' NW of the c/1 of Deer Park Road
(10010 Liberty Road)
2nd Election District - 2nd Councilmanic District
LIBERTY ROAD VOLUNTEER FIRE CO. - Petitioner
Case No. 90-381-SPHXA

Petition for Special Hearing, Special Exception & Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits:
1. Plat to accompany Petition
2. Topographic Map
3. Aerial Photograph
4. Environmental Impact Assessment
5. Four (4) Photographs of proposed towers

Zoning Commissioner's Order dated August 23, 1990 (Denied/Dismissed)

Notice of Appeal received August 29, 1990 from G. Scott Barhight, Attorney on behalf of the Petitioner

cc: Amy O'Rourke
Southwestern Bell Mobile Systems, Inc. t/a Cellular One
7855 Walker Drive, Suite 100, Greenbelt, MD 20770

G. Scott Barhight, Esquire - Whiteford, Taylor & Preston
500 Court Towers, 210 West Pennsylvania Ave., Towson, MD 21204

Mr. John Celentano - Hernwood Heights Community Association
10 Sheraton Road, Randallstown, MD 21133

Mr. & Mrs. Harold R. Carter - Kings Park Association
9820 Clanford Road, Randallstown, MD 21133

Mr. Al Barnes - Kings Park Association
9829 Clanford Road, Randallstown, MD 21133

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, County Attorney

---

RE: PETITION FOR SPECIAL EXCEPTION, : BEFORE THE ZONING COMMISSIONER
SPECIAL HEARING AND VARIANCE
NE/S Liberty Rd., 743' NW of : OF BALTIMORE COUNTY
Centerline of Deer Park Rd.
(10010 Liberty Rd.) :
2nd Election District
2nd Councilmanic District :

LIBERTY ROAD VOLUNTEER FIRE : Case No. 90-381-SPHXA
COMPANY, INC., 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 304, County Office Building
Towson, Maryland 21204
887-2188

I HEREBY CERTIFY that on this 23rd day of March, 1990, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, 500 Court Towers, 210 W. Pennsylvania Ave., Towson, MD 21204, Attorney for Petitioner; and Emilienne O'Rourke, Southwestern Bell Mobile Systems, Inc., t/a Cellular One, 7855 Walker Dr., Suite 100, Greenbelt, MD 20770, Lessee.

Peter Max Zimmerman
Peter Max Zimmerman

---

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

*J. Robert Haines*
*Zoning Commissioner*

*Dennis F. Rasmussen*
*County Executive*

August 23, 1990

G. Scott Barhight, Esquire
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE
NE/S Liberty Road, 743' NW of the c/l of Deer Park Road
(10010 Liberty Road)
2nd Election District - 2nd Councilmanic District
Liberty Road Volunteer Fire Company, Inc. - Petitioners
Case No. 90-381-SPHXA

Dear Mr. Barhight:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing, Special Exception and Variance have been denied in part and dismissed in part 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
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: Mr. John Celentano
Hernwood Heights Community Association
10 Sheraton Road, Randallstown, Md. 21133

Mr. & Mrs. Harold R. Carter
Kings Park Association
9820 Clanford Road, Randallstown, Md. 21133

Mr. Al Barnes
Kings Park Association
9829 Clanford Road, Randallstown, Md. 21133

People's Counsel; File

---

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

March 13, 1991

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston
500 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204-4515

Re: Case No. 90-381-SPHXA (Liberty Road Volunteer Fire Co.)

Dear Mr. Barhight:

Enclosed please find a copy of the Order of Dismissal issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

LindaLee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Ms. Emilienne O'Rourke
Mr. John Celentano
Mr. and Mrs. Harold R. Carter
Mr. Al Barnes
J. Carroll Holzer, Esquire
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
[illegible] County Attorney

---

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

Hearing Room -
Room 301, County Office Bldg. December 17, 1990

## 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 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. 90-381-SPHXA
LIBERTY ROAD VOLUNTEER FIRE CO.
NE/s Liberty Rd., 743' NW of c/l
of Deer Park Rd. (10010 Liberty Rd.)
2nd Election District
2nd Councilmanic District

SPH-Amend 76-241-X (wireless transmitting/receiving facility);
SE-Use property for wireless transmitting/receiving facility (Cellular One);
VAR-Setbacks and lot area

8/23/90 - Z.C.'s Order DENYING Petition for Special Exception; DISMISSING Special Hearing and Variance.

ASSIGNED FOR: FRIDAY, APRIL 26, 1991 at 10:00 a.m.

cc: G. Scott Barhight, Esquire Counsel for Petitioner/Appellant
Amy O'Rourke - Southwestern Bell Mobile Systems, Inc.
Mr. John Celentano
Hernwood Heights Comm. Assoc.
Mr. and Mrs. Harold R. Carter
Kings Park Assoc.
Mr. Al Barnes
Kings Park Assoc.
People's Counsel for Baltimore County
P. David Fields
Pat Keller
~~Public Services~~ out per Paula 1/2/91
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

---

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

RECEIVED
DEC 20 1990
BUREAU OF PUBLIC SERVICES

Hearing Room -
Room 301, County Office Bldg. December 17, 1990

## 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 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. 90-381-SPHXA
LIBERTY ROAD VOLUNTEER FIRE CO.
NE/s Liberty Rd., 743' NW of c/l
of Deer Park Rd. (10010 Liberty Rd.)
2nd Election District
2nd Councilmanic District

SPH-Amend 76-241-X (wireless transmitting/receiving facility);
SE-Use property for wireless transmitting/receiving facility (Cellular One);
VAR-Setbacks and lot area

8/23/90 - Z.C.'s Order DENYING Petition for Special Exception; DISMISSING Special Hearing and Variance.

RECEIVED
COUNTY BOARD OF APPEALS
91 JAN -2 AM 8:52

ASSIGNED FOR: FRIDAY, APRIL 26, 1991 at 10:00 a.m.

cc: G. Scott Barhight, Esquire Counsel for Petitioner/Appellant
Amy O'Rourke - Southwestern Bell Mobile Systems, Inc.
Mr. John Celentano
Hernwood Heights Comm. Assoc.
Mr. and Mrs. Harold R. Carter
Kings Park Assoc.
Mr. Al Barnes
Kings Park Assoc.
People's Counsel for Baltimore County
P. David Fields
Pat Keller
✓Public Services
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

No

LindaLee M. Kuszmaul
Legal Secretary

12/17/90 - Following parties notified of hearing set for April 26, 1991 at 10:00 a.m.:

G. Scott Barhight, Esquire
Amy O'Rourke - Southwestern Bell Mobile Systems, Inc.
Mr. John Celentano
  Hernwood Heights Comm. Assoc.
Mr. and Mrs. Harold R. Carter
  Kings Park Assoc.
Mr. Al Barnes
  Kings Park Assoc.
People's Counsel for Baltimore County
P. David Fields
Pat Keller
~~Public Services~~
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

---

90-381-SPHXA

*Liberty Road Volunteer Fire Co., Inc.*
10010 Liberty Road, Harrisonville
Randallstown, Md. 21133-1402
Emergency 911 Business 922-1223

March 14, 1991

Ms. Emilienne O'Rourke
Real Estate Manager
Cellular One
7855 Walker Avenue
Suite 100
Greenbelt, Maryland 20770

RECEIVED
MAR 18 1991
ZONING OFFICE

Dear Amy,

It was a pleasure talking to you this past Friday. I would like to take this opportunity to explain to you what has transpired in the past several weeks with reference to Baltimore County, the Fire Company property, and the covenant.

We addressed with Mr Haines the reasons that Celluar One had been rejected for the tower. The bottom line is that your legal counsel, Mr. Barhight, did not properly present all the necessary paperwork to Mr. Haines at the hearing last summer. Upon representatives of our fire company addressing the problem with Mr. Haines, he has scheduled an appeal hearing for early April 1991. We believe, as per Mr. Haines, that unless there is strong opposition from nearby residents of our community, that a zoning variance will be issued to construct the tower. The monies that have been spent on this project by Celluar One should not have been in vain. It would be in both our best interests for Celluar One to appear at this hearing in early April to entertain the purpose of Celluar One constructing a tower on our site. If you plan to attend the hearing, and we hope you do, and the permit issued as we feel it should be, we will at no expense to Celluar One give you first right of refusal for one year to construct your tower. We have gone this far together and would hate to see this project abandoned so close to completion.

As far as the rest of our property, we feel very strongly that we should have the covenant removed in the near future. In the beginning we accepted advice that may have improperly answered our questions. The gentlemen that are presently working with us to remove our entire covenant have spent a fair share of time at the Baltimore County Zoning Office and are attempting to help us remove these covenant expeditiously and cost efficiently. We, as a volunteer organization, that serve and protect the community, may request this variance and have Baltimore County act upon it within a short time. Never the less we would still like to joint venture the tower with you and look forward to seeing you at the zoning appeal next month.

---

Amy, Please don't hesitate to contact me with any questions concerning this letter and our sincerity in completing this project. I can be reached at one of the following numbers.

HOME: 922-6904
FIRE COMPANY: 887-0651
MOBILE: 971-8112

Respectfully,

Karl Zimmerman

Karl Zimmerman
Board of
Director

cc:Mr. Haines
B.O.D. File
Admin. File

---

90-381SPHXA

PROTESTANT(S) SIGN-IN SHEET

| NAME | ADDRESS |
|---|---|
| John Celentano | Hernwood Heights Comm Assoc.<br>10 Stevaton Road<br>Randallstown MD 21133 |
| Ethel M. CARTER | KINGS PK. ASSO.<br>9820 CLANFORD Rd 21133 |
| HAROLD R. CARTER | Kings Park Assoc<br>9829 Clanford Rd 21133 |
| Al Barnes | |

---

90-381SPHXA

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

| NAME | ADDRESS |
|---|---|
| G. Scott Barhight | 210 W. Penn Ave, Towson, MD 21204 |
| AMY O'ROURKE | 7855 WALKER DR, GREENBELT MD 20770 |
| FRED N. KRUHM | 15701 KRUHM Rd<br>BURTONSVILLE, MD 20866 |
| RONALD F. STEG | 6850 Versar Center, Springfield VA 22151 |
| JERRY BIALECKI | 7855 Walker Dr. Greenbelt Md. 20770 |
| DAVID RANSONE | 412 DELAWARE Ave. Towson, MD. 21204 |

---

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

*J. Robert Haines*
*Zoning Commissioner*

*Dennis F. Rasmussen*
*County Executive*

March 22, 1990

G. Scott Barhight, Esquire
500 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204

RE: Item No. 241, Case No. 90-381-SPHXA
Petitioner: Liberty Road Volunteer Fire Co., Inc.
Petition for Special Hearing, Special Exception
and Zoning Variance

Dear Mr. Barhight:

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 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: Liberty Road Volunteer Fire Company
Southwestern Bell Mobile Systems, Inc.

---

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

*J. Robert Haines*
*Zoning Commissioner*

*Dennis F. Rasmussen*
*County Executive*

Your petition has been received and accepted for filing this

21st day of February, 1989.

J. Robert Haines

J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer

Chairman,
Zoning Plans Advisory Committee

Petitioner: Liberty Road Volunteer Fire Company, et al

Petitioner's Attorney: G. Scott Barhight

---

*Maryland Department of Transportation*
*State Highway Administration*

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

February 28, 1990

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Attn: Mr. James Dyer

Re: Baltimore County
Liberty Road Volunteer
Fire Company
Zoning Meeting of 2-20-90
N/S Liberty Road (MD 26)
743' West of Deer
Park Road
(Item #241)

Dear Mr. Haines:

After reviewing the submittal for a special hearing to approve an amendment to the site plan to the special exception in Case No. 76-241-X by including a wireless transmitting and receiving facility, we find the plan acceptable.

If you have any questions, please contact Larry Brocato at 333-1350.

Very truly yours,

Charles Rose

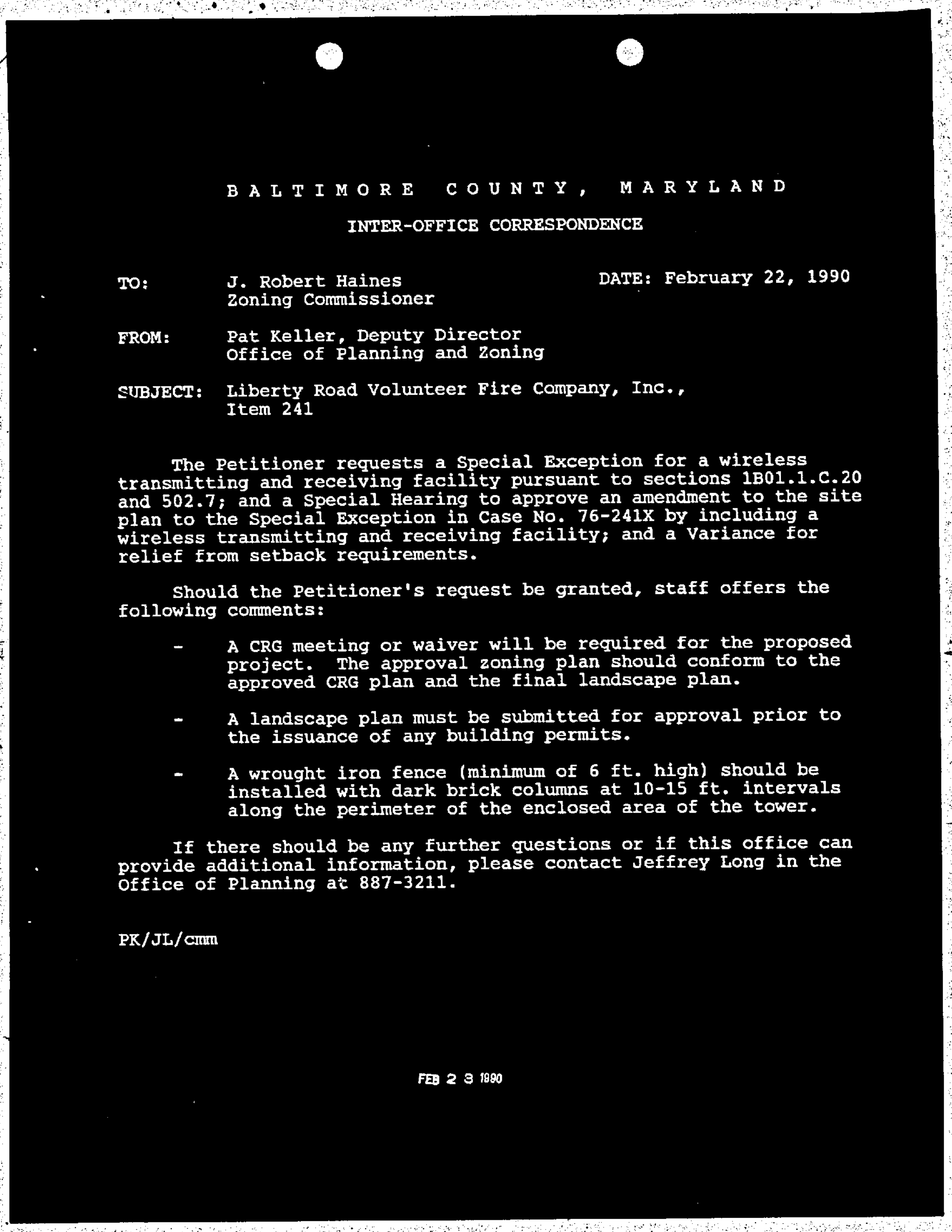
Charles Rose, Acting Chief
Engineering Access Permits
Division

LB:maw

cc: Gerhold, Cross & Etzel
Mr. J. Ogle

RECEIVED
MAR 5 1990
ZONING OFFICE

My telephone number is (301) 333-1350 (Fax #333-1041)



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: February 22, 1990

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

SUBJECT: Liberty Road Volunteer Fire Company, Inc.,
Item 241

The Petitioner requests a Special Exception for a wireless transmitting and receiving facility pursuant to sections 1B01.1.C.20 and 502.7; and a Special Hearing to approve an amendment to the site plan to the Special Exception in Case No. 76-241X by including a wireless transmitting and receiving facility; and a Variance for relief from setback requirements.

Should the Petitioner's request be granted, staff offers the following comments:

- A CRG meeting or waiver will be required for the proposed project. The approval zoning plan should conform to the approved CRG plan and the final landscape plan.
- A landscape plan must be submitted for approval prior to the issuance of any building permits.
- A wrought iron fence (minimum of 6 ft. high) should be installed with dark brick columns at 10-15 ft. intervals along the perimeter of the enclosed area of the tower.

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.

PK/JL/cmm

FEB 2 3 1990

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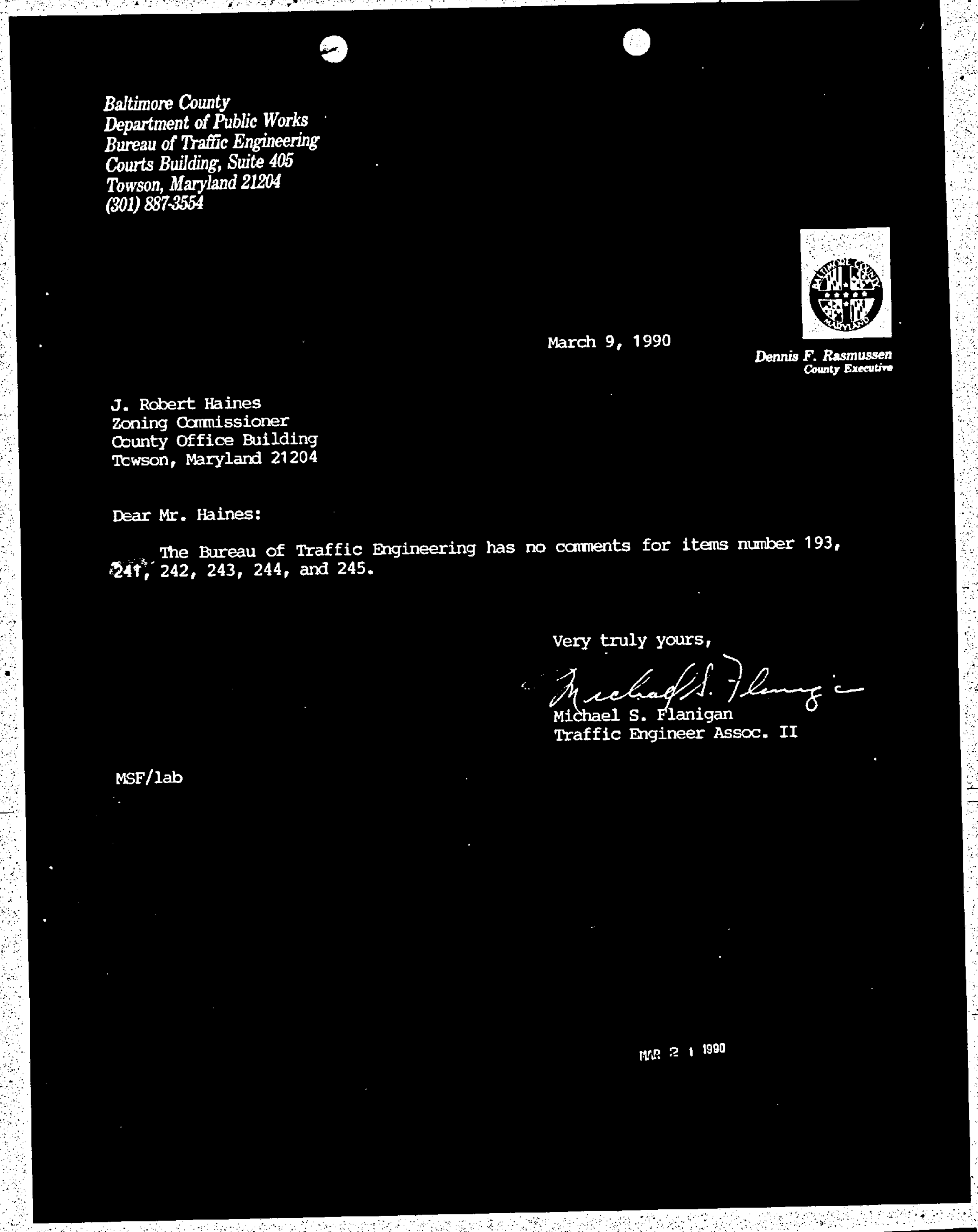

*Baltimore County*
*Department of Public Works*
*Bureau of Traffic Engineering*
*Courts Building, Suite 405*
*Towson, Maryland 21204*
*(301) 887-3554*

*Dennis F. Rasmussen*
*County Executive*

March 9, 1990

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 193, 241, 242, 243, 244, and 245.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Assoc. II

MSF/lab

MAR 2 1 1990

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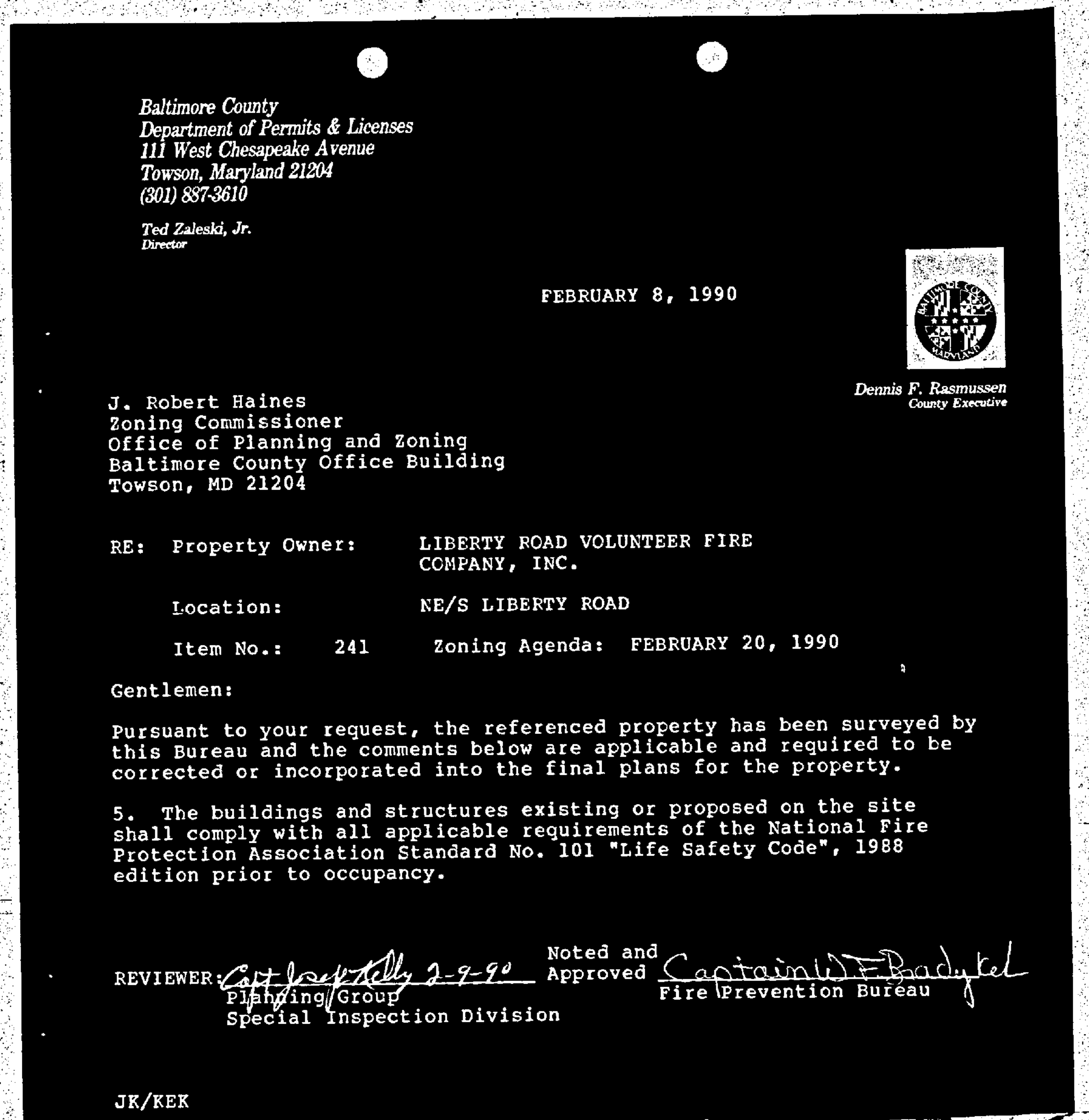

*Baltimore County*
*Department of Permits & Licenses*
*111 West Chesapeake Avenue*
*Towson, Maryland 21204*
*(301) 887-3610*

*Ted Zaleski, Jr.*
*Director*

*Dennis F. Rasmussen*
*County Executive*

FEBRUARY 8, 1990

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

RE: Property Owner: LIBERTY ROAD VOLUNTEER FIRE COMPANY, INC.

Location: NE/S LIBERTY ROAD

Item No.: 241 Zoning Agenda: FEBRUARY 20, 1990

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 Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: Capt Joseph Kelly 2-9-90
Planning Group
Special Inspection Division

Noted and Approved Captain W. F. Badykel
Fire Prevention Bureau

JK/KEK

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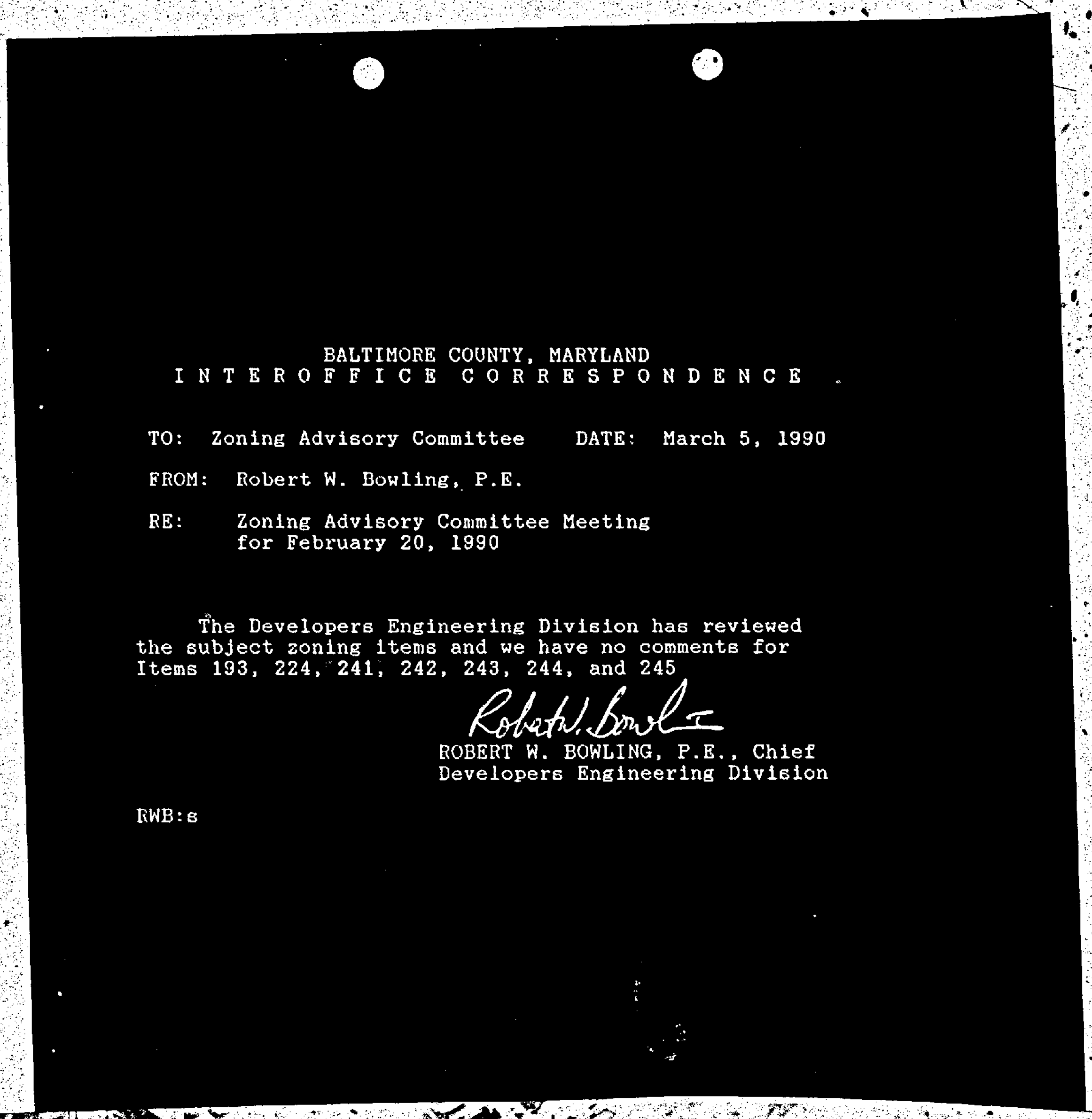

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: March 5, 1990

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for February 20, 1990

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 193, 224, 241, 242, 243, 244, and 245

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

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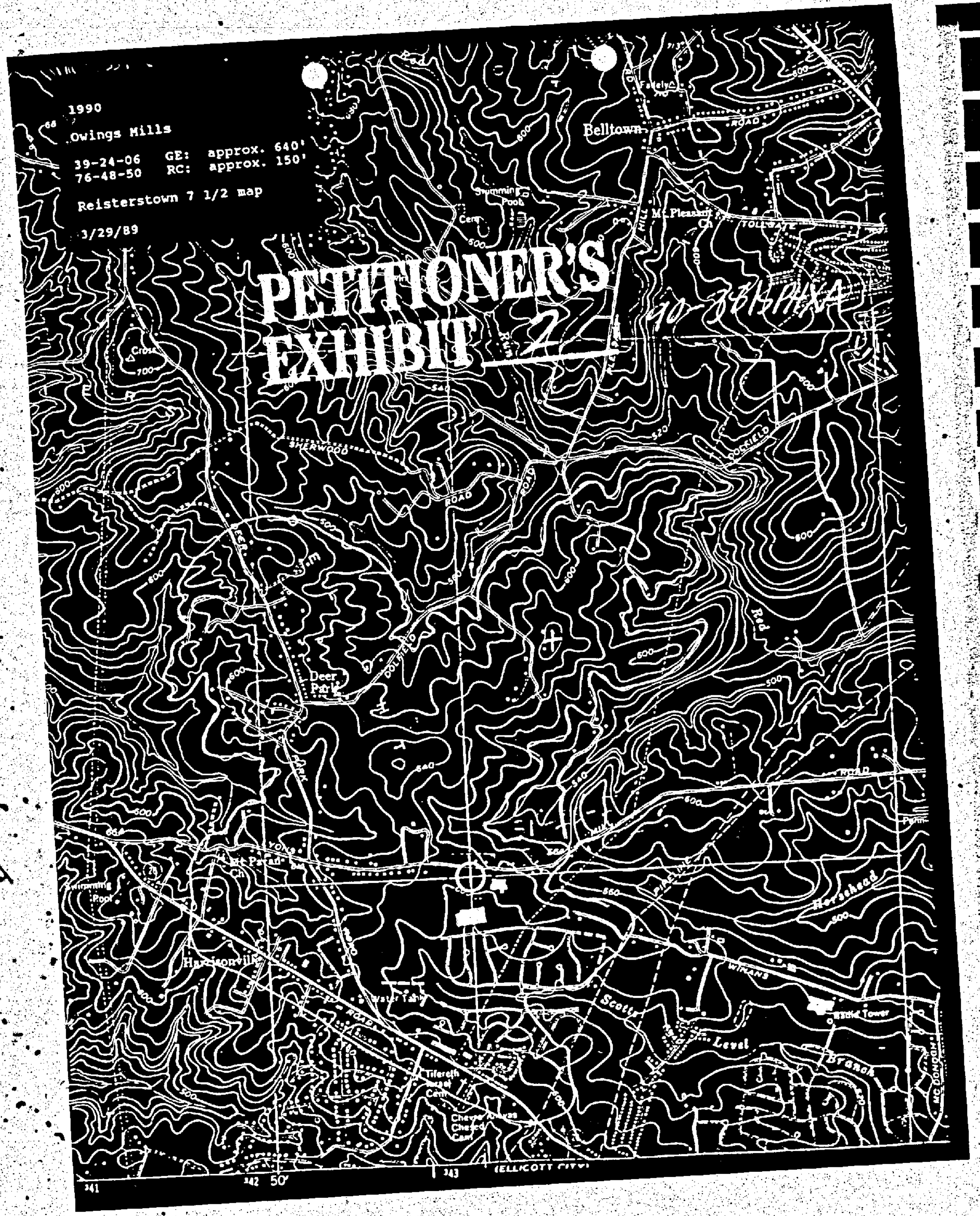

1990
Owings Mills
39-24-06 GE: approx. 640'
76-48-50 RC: approx. 150'
Reisterstown 7 1/2 map
3/29/89

PETITIONER'S EXHIBIT 2
90-381 SPHXA

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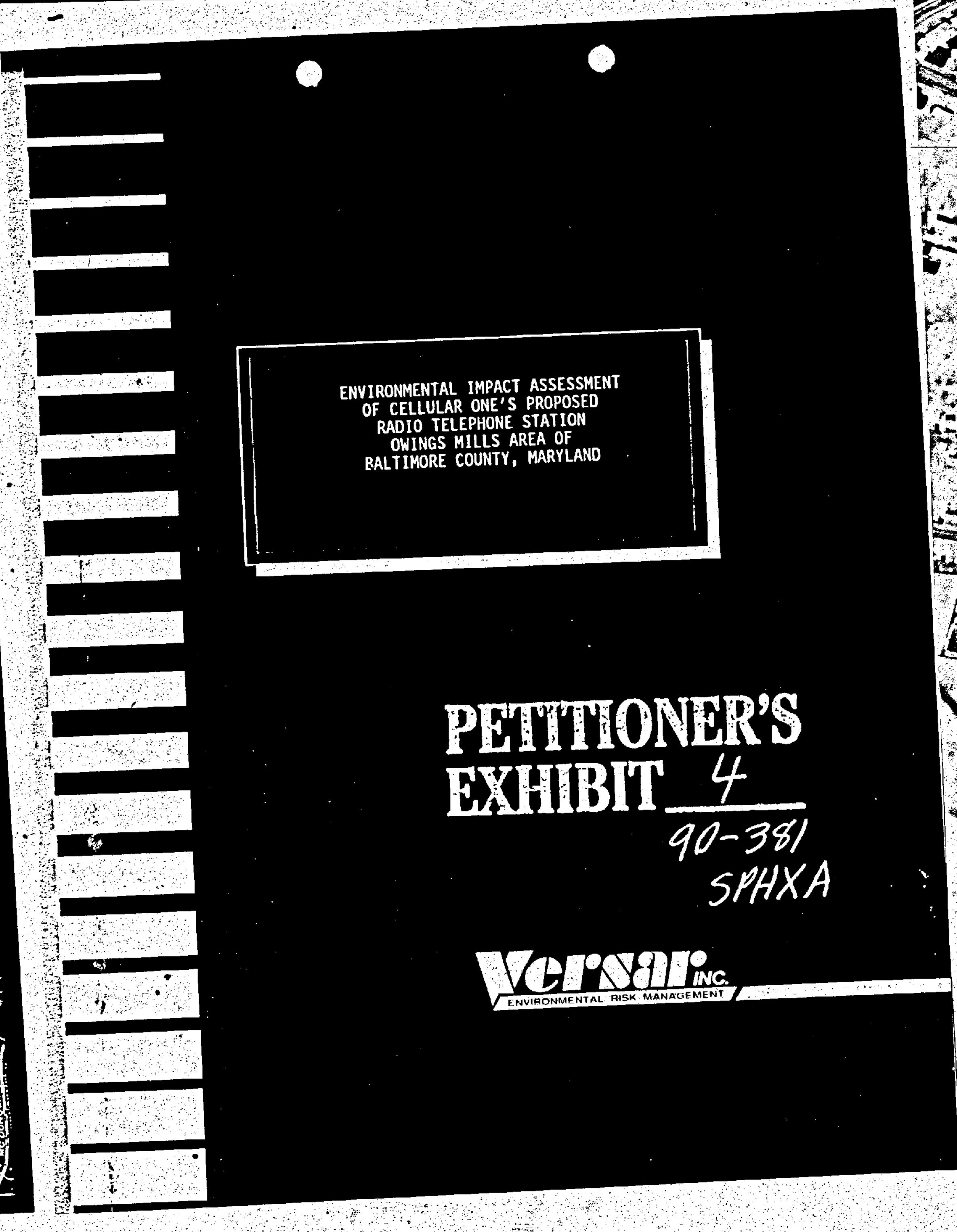

ENVIRONMENTAL IMPACT ASSESSMENT
OF CELLULAR ONE'S PROPOSED
RADIO TELEPHONE STATION
OWINGS MILLS AREA OF
BALTIMORE COUNTY, MARYLAND

PETITIONER'S
EXHIBIT 4
90-381
SPHXA

Versar INC.
ENVIRONMENTAL RISK MANAGEMENT

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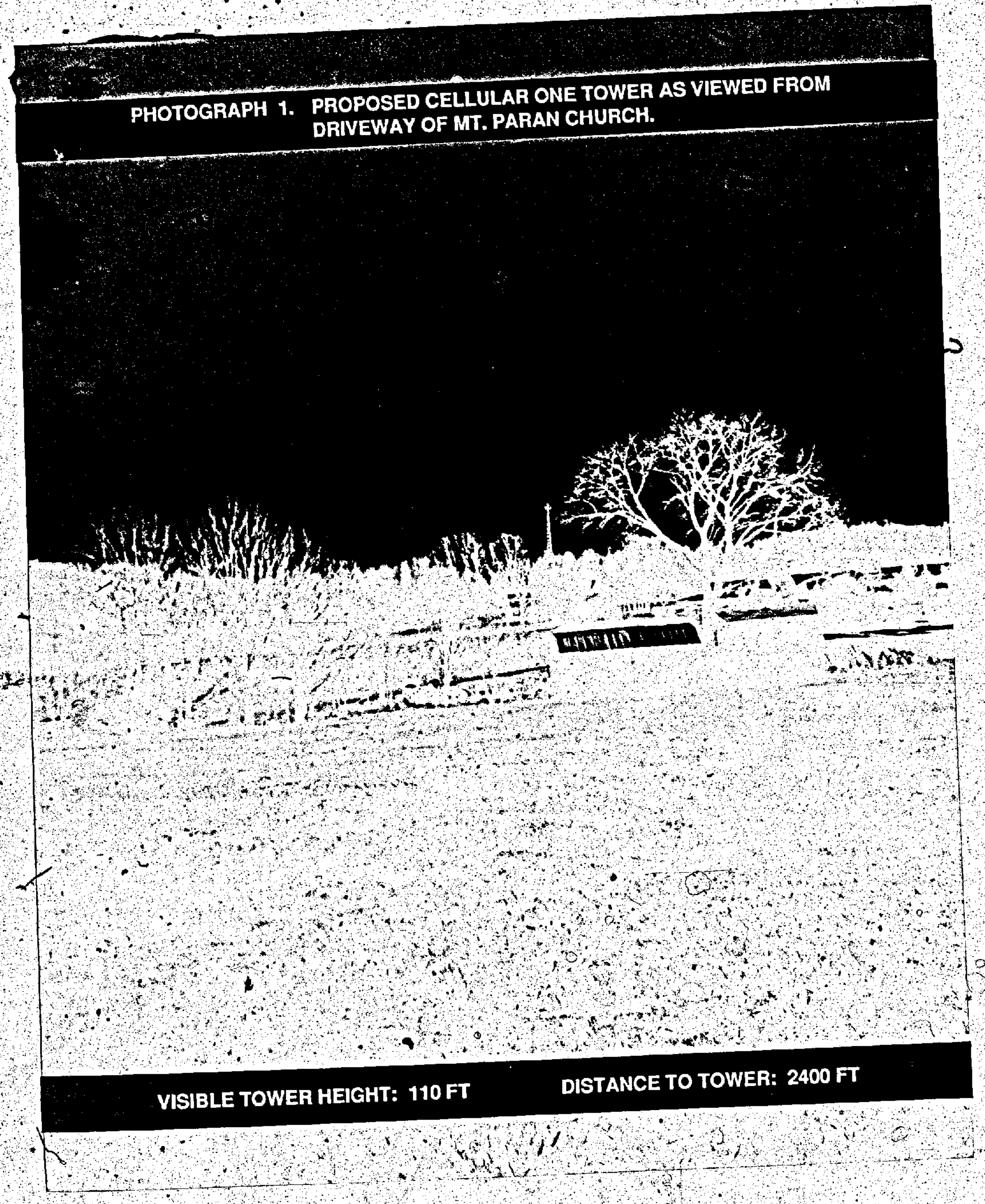
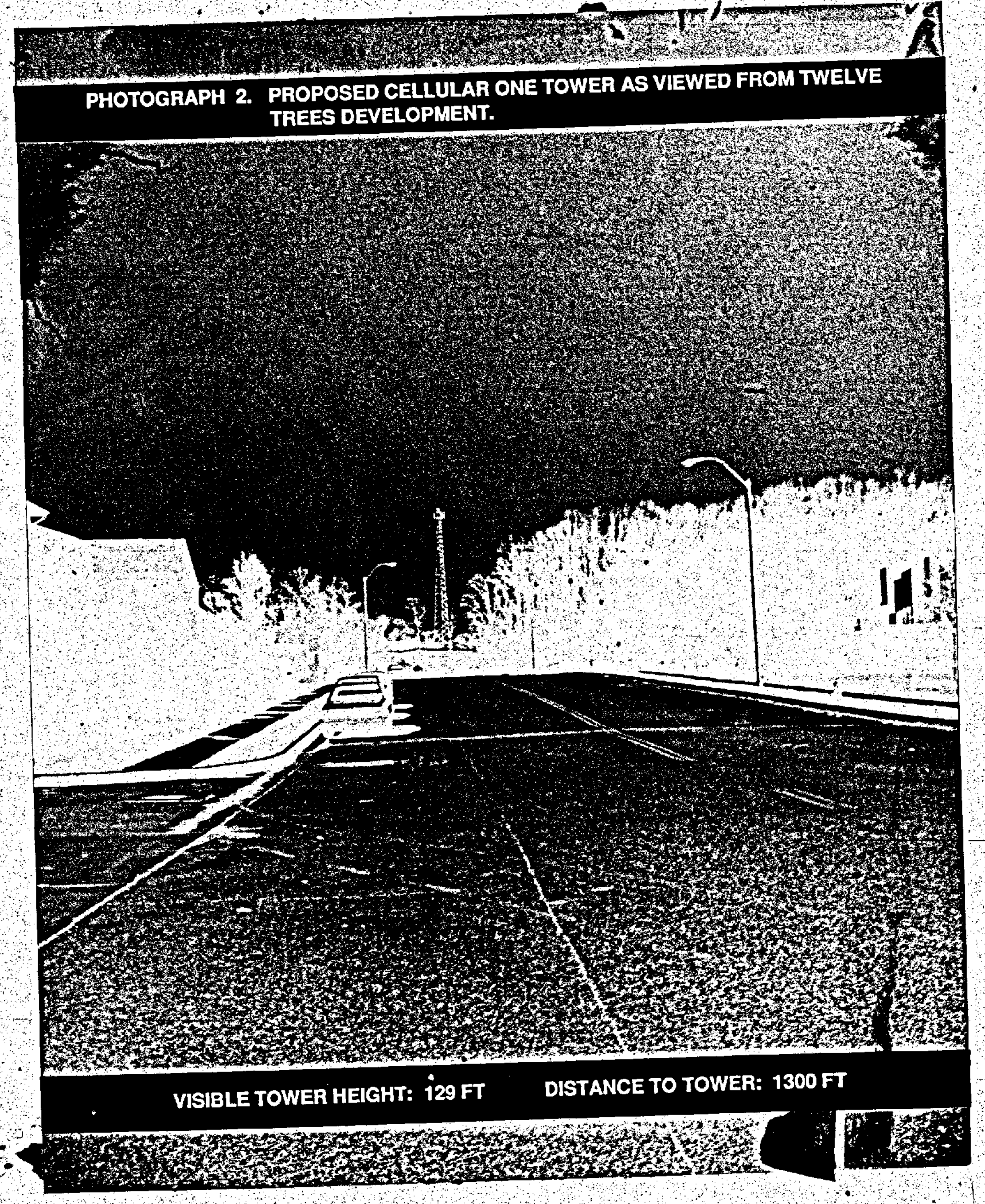


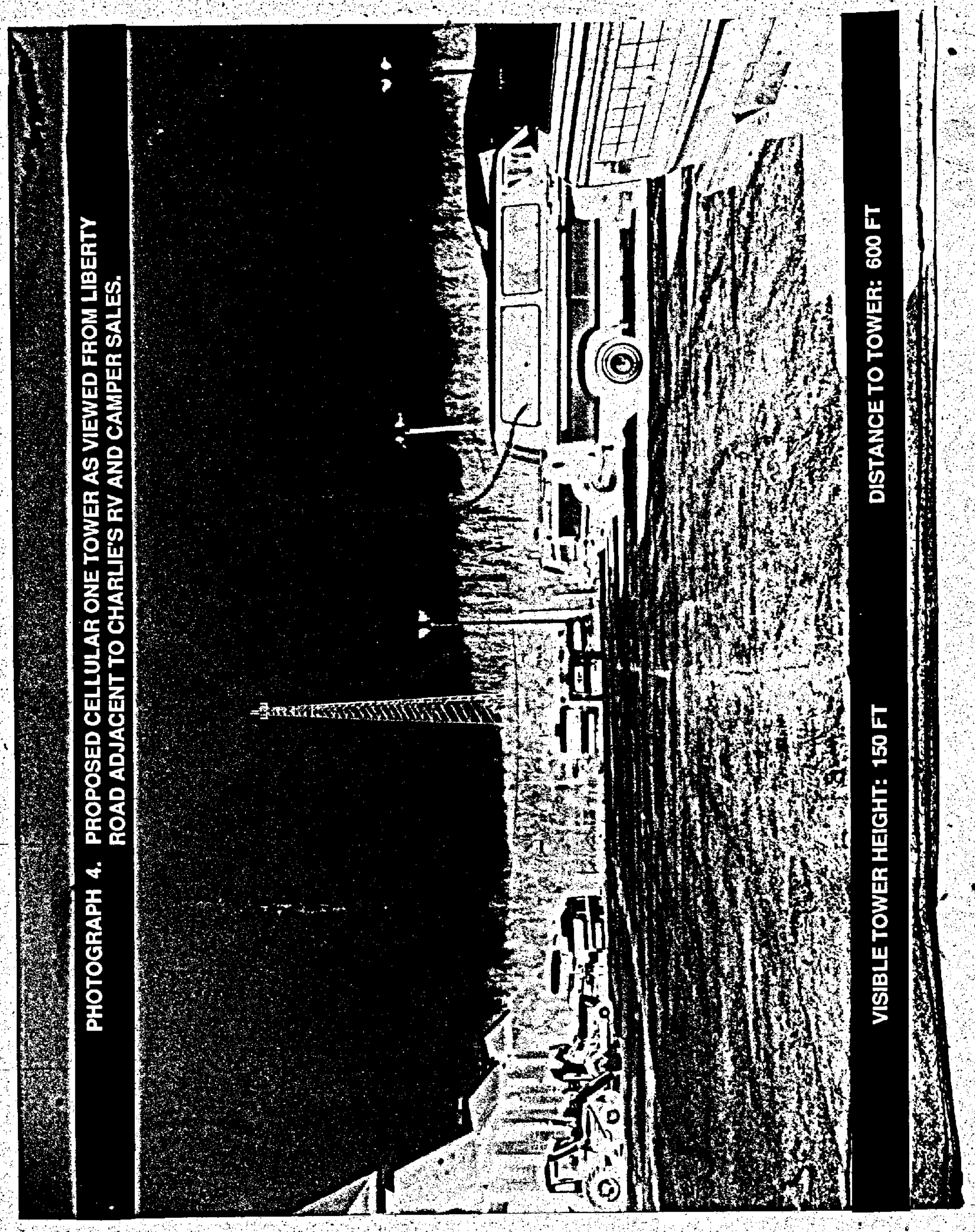
PHOTOGRAPH 1. PROPOSED CELLULAR ONE TOWER AS VIEWED FROM DRIVEWAY OF MT. PARAN CHURCH.

VISIBLE TOWER HEIGHT: 110 FT DISTANCE TO TOWER: 2400 FT



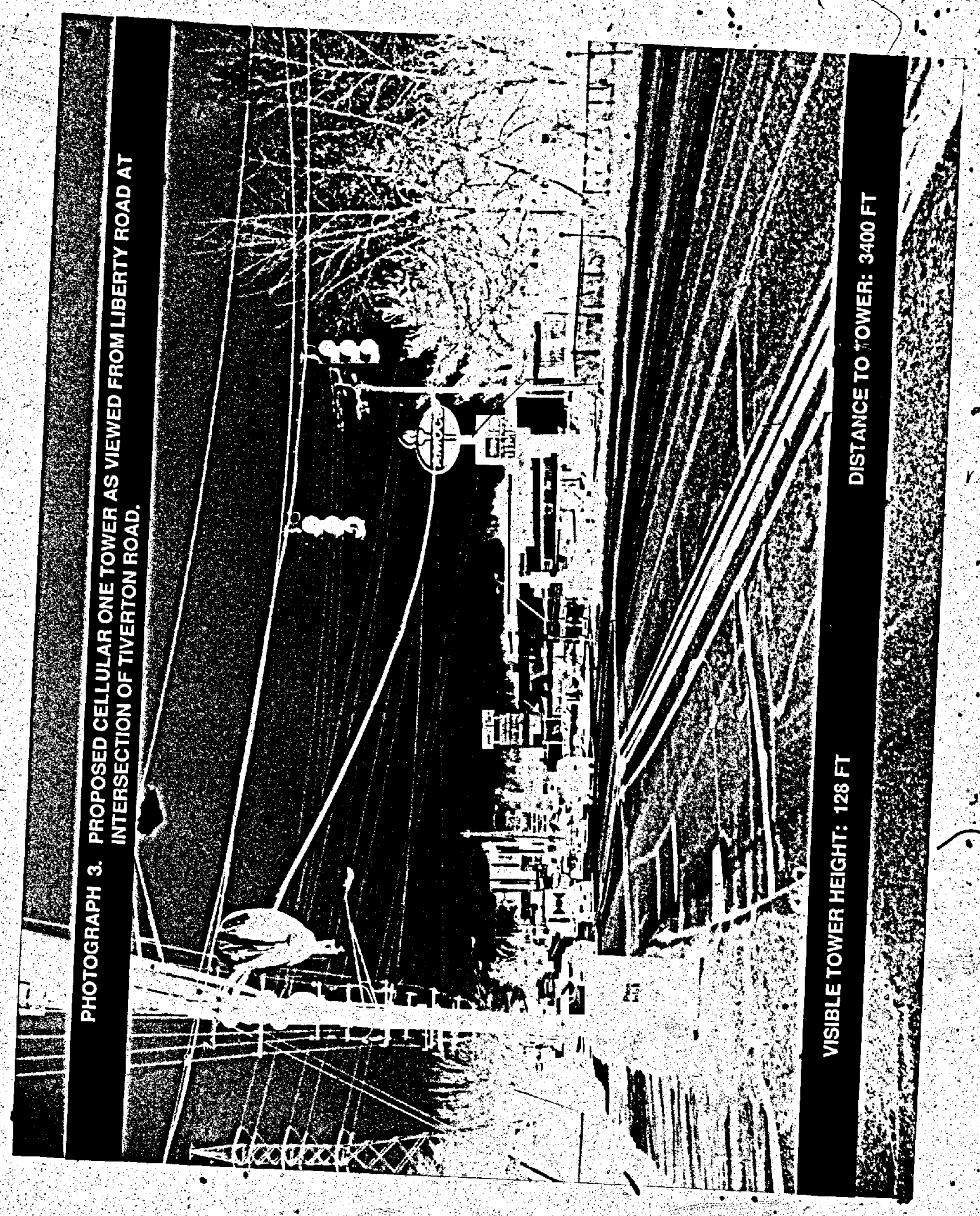
PHOTOGRAPH 2. PROPOSED CELLULAR ONE TOWER AS VIEWED FROM TWELVE TREES DEVELOPMENT.

VISIBLE TOWER HEIGHT: 129 FT DISTANCE TO TOWER: 1300 FT



PHOTOGRAPH 4. PROPOSED CELLULAR ONE TOWER AS VIEWED FROM LIBERTY ROAD ADJACENT TO CHARLIE'S RV AND CAMPER SALES.

VISIBLE TOWER HEIGHT: 150 FT DISTANCE TO TOWER: 600 FT



PHOTOGRAPH 3. PROPOSED CELLULAR ONE TOWER AS VIEWED FROM LIBERTY ROAD AT INTERSECTION OF TIVERTON ROAD.

VISIBLE TOWER HEIGHT: 128 FT DISTANCE TO TOWER: 3400 FT

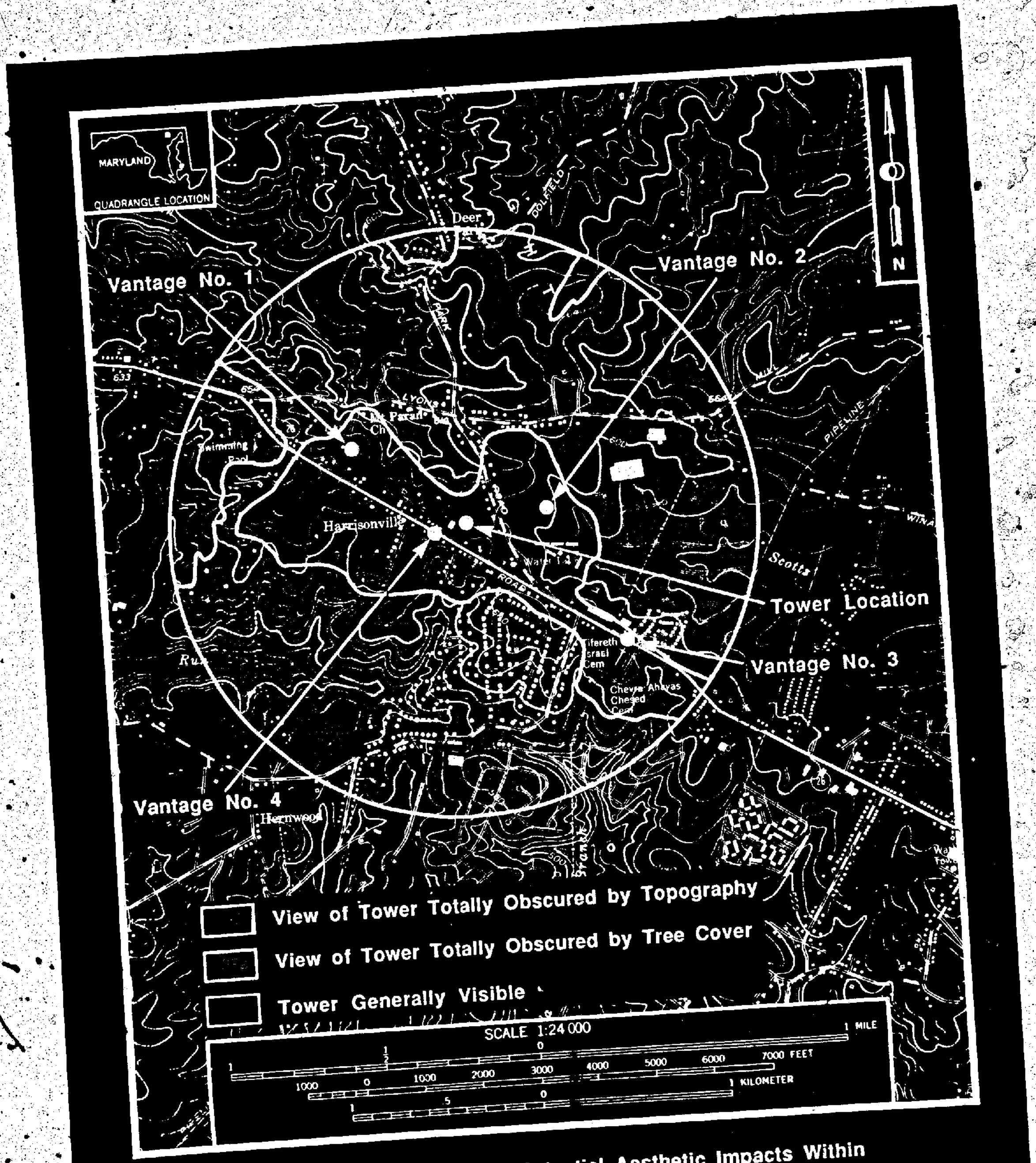

MARYLAND
QUADRANGLE LOCATION
N
Vantage No. 1
Vantage No. 2
Harrisonville
Tower Location
Vantage No. 3
Vantage No. 4
Hernwood
▭ View of Tower Totally Obscured by Topography
▭ View of Tower Totally Obscured by Tree Cover
▭ Tower Generally Visible
SCALE 1:24 000
1 MILE
7000 FEET
1 KILOMETER

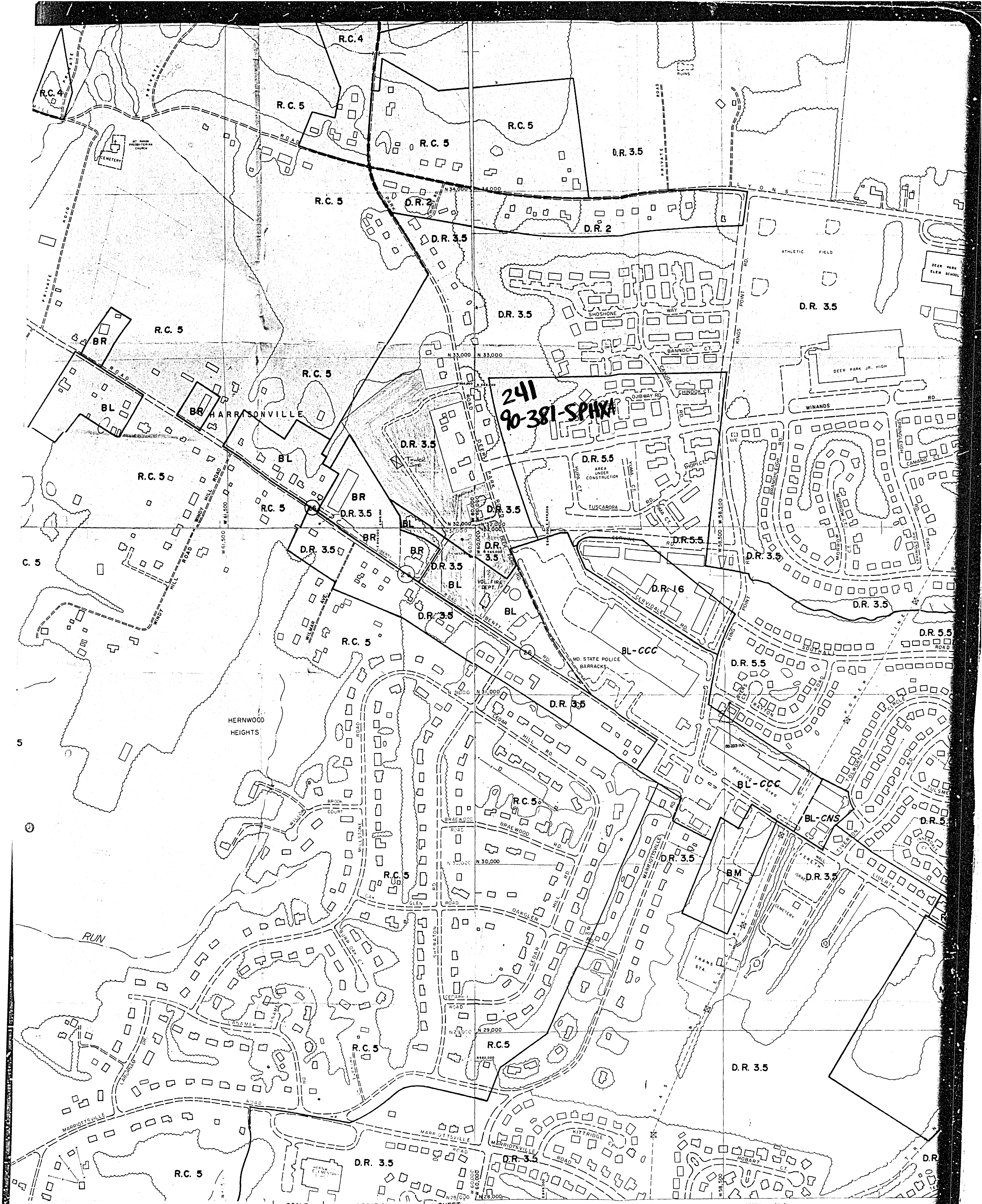
Figure 3-1. Locations of Potential Aesthetic Impacts Within One Mile Radius of the Proposed Site.

Source: USGS Topography Map of Reisterstown, Maryland Quadrangle.

PETITIONER(S) EXHIBIT 5

90-381 SPHXA

Liberty Road Volunteer Fire Co.


R.C. 4
R.C. 5
D.R. 3.5
D.R. 2
D.R. 5.5
D.R. 16
BL
BR
BM
BL-CCC
BL-CNS
HARRISONVILLE
HERNWOOD HEIGHTS
LYONS
LIBERTY RD.
DEER PARK RD.
KINGS POINT RD.
WINANDS RD.
MARRIOTTSVILLE ROAD
WINDY HILL ROAD
CEDAR HILL RD.
BRAEWOOD RD.
OAKGLEN ROAD
MILLSTONE RD.
SHERATON RD.
CERVIDALE RD.
SOUTHALL
TUSCARORA
SHOSHONE WAY
BANNOCK CT.
CHINOOK CT.
OJIBWAY RD.
HOPI CT.
HUPA CT.
YUMA CT.
PIMA CT.
KITTRIDGE CT.
HOBART CT.
DEER PARK ELEM. SCHOOL
DEER PARK JR. HIGH
ATHLETIC FIELD
MD. STATE POLICE BARRACKS
VOL. FIRE DEPT.
Tower Site
AREA UNDER CONSTRUCTION
CEMETERY
MT. PARAN PRESBYTERIAN CHURCH
TRANS STA.
RUINS
RUN
N 34,000
N 33,000
N 32,000
N 31,000
N 30,000
N 29,000
N 28,000
W 61,500
W 60,000
W 58,500
26

241
90-381-SPHXA

OUNTY
AND ZONING
ING MAP

| SCALE | LOCATION | SHEET | |
|---|---|---|---|
| 1" = 200' ± | HARRISONVILLE<br>HERNWOOD | N.W.<br>8-K | P-SW PP-SE<br>P-NW PP-NE |
| DATE OF PHOTOGRAPHY JANUARY 1986 | | | |

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

Chairman, County Council

BALTI
OFFICE OF P
OFFICIA

DEER PARK ROAD
1700'± to ⊄ Liberty Road
DR 3.5
BL-CCC
BL
S 10°-02'-15"E 73.27'
S 17°-14'-15"E 26.73'
S 17°-14'-15"E 100.00'
S 17°-14'-15"E 239.33'
S 25°-03'-00"E 182.53'
S 17°-14'-15"E 100.00'
S 17°-14'-15"E 500.00'
S 10°-02'-16"E 125.00'
N 79°-57'-45"E 200.00'
S 72°-45'-45"W 200.00'
N 72°-45'-45"E 200.00'
S 72°-45'-45"W 150.00'
N 72°-45'-45"E 150.00'
S 47°-31'-00"W 304.09'
N 69°-18'-29"E 116.04'
N 54°-21'-35"E 431.44'
N 30°-38'-25"W 781.13'
N 62°-24'-50"W 166.10'
N 30°-41'-25"E 200.00'
N 56°-18'-35"W 75.00'
N 56°-18'-35"W 425.22'
Exist. Dwlg.
William L. Burch 5132-102
Exist. Dwlg.
Leonard & Dorothy Reisberg 5759-477
Existing Dwelling
William S. Heinkamp 6175-454
Exist. Dwlg.
Audrey Meeks 7444-001
Existing Dwelling
Joseph L. Kusterer
Existing Dwlg.
Thomas K. Ierman 6829-088
Exist. Gar.
Existing Fire Station & Community Hall
Layout is as shown on approved site plan
Baltimore County Maryland
743'± to ⊄ Deer Park Rd
Beginning 14.45 Acre Zoning Description
LIBERTY ROAD
DR 3.5 BL
BL BR
DR 3.5
Existing crushed stone drive
Beginning 0.080 Acre Zoning Description
N32°W 70'
N58°E 50'
S58°W 50'
S32°E 70'
10'
16'
15'
Note: ← Designates front of building. The setbacks for the building are as follows: 51' front, 5' west side, 15' east side, 5' rear
Proposed 14' x 30' Building (Max 15' High)
Proposed Tower 150' High
Proposed Security Fence
SPECIAL EXCEPTION & VARIANCE AREA
165'
Section A Twelve Trees 44-60
DR 3.5 / DR 5.5
E. M. Potts 7795-421
B. E. Spenelman 6504-297
DR 3.5 / BR
Charles L. Widerman Jr. 4844-581 & 5687-023
Existing Building
Existing Building
VICINITY MAP & 1000' SCALE ZONING MAP
Deer Park Elem. & Jr. High Site
RC 5
DR 2
D.R. 3.5
D.R. 5.5
D.R. 16
BL
BR
BL-CCC
BM
DR 3.5

## NOTES

(SEE SECT. 502.7 BCZR)

4. The structure shall be enclosed within a locked, chain-link fence, or comparable wall or structure, at least 8 feet high. [Bill No. 64, 1986.]
5. 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 Office of Planning and Zoning. [Bill No. 64, 1986.]
6. Environmental protection agency standards and guidelines relating to radiation emissions shall be met at all times. [Bill No. 64, 1986.]
7. When the use is terminated, the structure shall be removed. [Bill No. 64, 1986.]
8. Every five years, or sooner in the event of substantial damage, a certification by a professional engineer registered in Maryland a certification by a Maryland registered professional engineer shall be filed with the Department of Permits and Licenses indicating that the aforementioned structure meets 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. [Bill No. 64, 1986.]
9. No white stroboscopic lights are permitted. [Bill No. 64, 1986.]

NOTE: 502.7A NOT APPLICABLE; TOWER IS LESS THAN 350' IN HEIGHT

NOTE: THE 0.080 ACRE PARCEL SHOWN FOR SPECIAL EXCEPTION & VARIANCES DOES NOT LIE WITHIN A RESIDENTIAL TRANSITION ZONE (250' FROM A RESIDENTIAL LOT OF LESS THAN 2 AC AND/OR 300' FROM A DWELLING)

SITE AREA FOR SPECIAL EXCEPTION & VARIANCE = 3,500□' = 0.080 AC.±

1 PARKING SPACE PROPOSED

DATA FOR SPECIAL HEARING

EXISTING ZONING: BL & DR 3.5
DEED AREA: 14.45 ACRES ±
REF: T.B.S. 1816-306 & PART OF THE PLAT OF "HERNWOOD" 14-20
HEIGHT OF TOWER: 150'

PARKING TABULATION

SPACES REQUIRED:
FIRE HOUSE: 3 SPACES PER BAY, 3 BAYS = 9 SPACES
COMMUNITY BUILDING:
1 SPACE PER 50 SQ FT, 12,075 ÷ 50 = 242 SPACES
TOTAL # SPACES REQUIRED = 251 SPACES
TOTAL # SPACES SHOWN (INCLUDING 7 HANDICAP) = 275 SPACES

ZONING HISTORY CASE #76-241-X
PETITION FOR SPECIAL EXCEPTION FOR VOL. FIRE CO. AND COMMUNITY BUILDING
5/26/76 ORDER GRANTED
5/03/78 EXTENSION GRANTED

OWNER : LIBERTY ROAD VOL. FIRE CO.
10010 LIBERTY ROAD
RANDALLSTOWN, MD 21133
PETITIONER : SOUTHWEST BELL MOBILE SYSTEMS, INC.
T/A CELLULAR ONE
7855 WALKER DRIVE
GREENBELT, MD. 20770

PLAT TO ACCOMPANY PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCES FOR A COMMUNICATION TOWER

PROPERTY OF
LIBERTY ROAD VOLUNTEER
FIRE DEPARTMENT
LOCATED IN
2ND ELECTION DISTRICT - BALTO. CO., MD.
2ND COUNCILMANIC DISTRICT
EXISTING ZONING DR 3.5 & BL

**PETITIONER'S EXHIBIT 1**

90-381 SPHXA

SCALE: 1"=50'

BUILDING SIZE CHANGED 3-27-90
ADDITIONS 1-17-90
ADDITIONS 1-10-90
REVISED 1-08-90
REVISED 1-06-90
NOVEMBER 13, 1989

**GERHOLD, CROSS & ETZEL**
REGISTERED PROFESSIONAL LAND SURVEYORS
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
(301) 823-4470