

IN RE: PETITION FOR SPECIAL HEARING
W/S Cherry Hill Lane, 650' SW
of the c/l of Tarragon Road
4th Election District
3rd Councilmanic District
Franklin Blvd. 1st. Part.
Petitioner

• BEFORE THE
• DEPUTY ZONING COMMISSIONER
• OF BALTIMORE COUNTY
• Case No. 91-411-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve a modification of one portion of the relief granted in previous Case Nos. 90-518-XA and 90-519-XA to permit a rear yard setback of 15 feet in lieu of the required 30 feet instead of the front yard setback of 15 feet in lieu of the required 25 feet granted, all as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by Mark L. Levy, Vice President, Continental Realty Investors Corp., a General Partner, appeared, testified and was represented by Robert A. Hoffman, Esquire. Also appearing on behalf of the Petition was David Martin, Registered Landscape Architect. There were no Protestants.

Testimony indicated that the subject property, known as Franklin Business Park, consists of two parcels, identified as Parcels A and B on Petitioner's Exhibit 1, and is presently unimproved. Said property was the subject matter of previous Case Nos. 90-518-XA and 90-519-XA in which Petitioners were granted a special exception and variances for a Class B office building to be constructed on each parcel, subject to restrictions, by Order dated September 7, 1990, amended October 5, 1990. Subsequent to the granting of the relief requested therein, it was determined that the Petitions in both cases requested a front yard variance of 15 feet in lieu

of the required 30 feet, when, in reality, the setbacks were to the rear of the subject properties. Petitioners have filed the instant petition to amend the request for rear yard setbacks of 15 feet in lieu of the required 30 feet for the proposed office buildings. The site plan submitted contained no changes from those presented in the previous matters. The testimony presented indicated that the granting of the sought relief is within the spirit and intent of the BZCZC, and the relief requested in the original petitions, and in, in fact, the correct relief. Further, it is clear the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. Melton v. Solovy, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 27 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the relief requested in the special hearing were not granted. It has been established that the requirements from which the Petitioner seeks

relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 15th day of May, 1991 that the Petition for Special Hearing to approve a modification of the relief granted in previous Case Nos. 90-518-XA and 90-519-XA to permit a rear yard setback of 15 feet in lieu of the required 30 feet instead of the front yard setback of 15 feet in lieu of the required 25 feet granted in each case, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) Prior to the issuance of any permits, Petitioners shall submit a landscape plan for the proposed development on both Parcels A and B which has been approved by the Director and/or Deputy Director of Planning.
- 3) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the front yard setbacks of 15 feet in lieu of the required 25 feet granted in prior Case Nos. 90-518-XA and 90-519-XA be and are hereby rescinded; and,

IT IS FURTHER ORDERED that all other conditions and restrictions contained in the Orders issued in Case Nos. 90-518-XA and 90-519-XA dated September 7, 1990, amended October 5, 1990, shall remain in full force and effect.

ANN:bjs

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 5/15/91
By [Signature]

ORDER RECEIVED FOR FILING
Date 5/15/91
By [Signature]

ORDER RECEIVED FOR FILING
Date 5/15/91
By [Signature]

ORDER RECEIVED FOR FILING
Date 5/15/91
By [Signature]

- 2 -

- 3 -

- 4 -

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a modification of one portion of the relief granted in Case Nos. 90-519-XA and 90-518-XA to permit a rear yard setback of 15 feet in lieu of the required 30 feet instead of the front yard setback of 15 feet in lieu of the required 25 feet granted in those cases would read a rear yard variance of 15 feet in lieu of the required 30 feet.

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

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

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

Contract Purchaser:
Legal Owner(s):
Franklin Boulevard Limited Partnership
(Type or Print Name)
Continental Realty Investors Corp.,
General Partner
By: Mark L. Levy, Vice President
(signature)
Address: 17 West Pennsylvania Ave.
P.O. Box 10147
Baltimore MD 21205
City and State: Baltimore MD 21205
Name, address and phone number of legal owner, contractor purchaser or representative to be contacted:
John B. Howard, Esquire
Name 210 Allegheny Avenue
Towson, Maryland 21204
City and State: Towson, MD 21204
Address: 823-4111
Attorney's Telephone No.: 823-4111

ORDERED By The Zoning Commissioner of Baltimore County, this 6th day of March, 1991, that the subject matter of this petition be advertised, as of March, 1991, 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 30th day of April, 1991, at 2:30 o'clock P.M.

J. Robert Hiney
Zoning Commissioner of Baltimore County

ZCO-No. 1

(over)

2/27/91
4:41 AM
EST time - 1/2 hours

Greenhorne & O'Mara, Inc.
113 WEST ROAD • SUITE 208 • BALTIMORE, MARYLAND 21204 • (301) 286-4100
ENGINEERS ARCHITECTS PLANNERS SCIENTISTS SURVEYORS PHOTOGRAMMETRISTS

DESCRIPTION OF 1.50 AC. +/-

PARCEL A
FRANKLIN BUSINESS PARK
4TH ELECTION DISTRICT BALTIMORE COUNTY, MD.

BEING a part of the secondly described parcel of land contained in a deed dated February 1, 1989 conveyed from Nathan Scherr and Nathan Metz to Franklin Boulevard Limited Partnership recorded among the Land Records of Baltimore County, Maryland in Liber S.M. 8092 Folio 249 and being more particularly described as follows:

BEGINNING for the same at a point in the center of Cherry Hill Lane, said point being the beginning of the third North 64° 43' 29" West 150.43 feet line of the same tract of land described in the aforementioned Liber S.M. 8092 Folio 249, thence departing said centerline and binding on said third line,

1) North 64° 43' 29" West 150.43 feet to intersect the right of way line of Interstate 795 (also known as the Northwest Expressway) as shown on State Highway Administration of Maryland Right of Way Plat Nos. 48143, 48148, 48611, and 48968; thence binding on said right of way line the three following courses and distances, viz:

- 2) North 04° 39' 58" West 112.95 feet, thence
- 3) North 20° 54' 21" East 159.68 feet, thence
- 4) North 39° 32' 06" East 141.24 feet; thence departing said right of way for five lines of division, viz:
- 5) South 50° 27' 54" East 13.00 feet, thence
- 6) South 39° 32' 06" West 72.86 feet, thence
- 7) South 60° 09' 14" East 52.77 feet, thence
- 8) South 29° 50' 46" West 29.00 feet, thence
- 9) South 60° 09' 14" East 80.29 feet to a point on a line drawn twenty five feet north of and parallel to the centerline of Cherry Hill Lane said line being the northern edge of the proposed widening of Cherry Hill Lane; thence along said widening line the two following courses and distances, viz:
- 10) North 18° 21' 44" East 41.86 feet, thence
- 11) North 29° 07' 32" East 350.00 feet; thence crossing said widening at right angles.

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FAIRFAX, VA • FREDERICKSBURG, VA • GREENBELT, MD • LEESBURG, VA • MANASSAS, VA • ORLANDO, FL
RALEIGH, NC • ROCKVILLE, MD • TAMPA, FL • WALDORF, MD • WEST PALM BEACH, FL

#323

GREENHORNE & O'MARA, INC.

- 12) South 60° 52' 28" East 25.00 feet to intersect the centerline of Cherry Hill Lane; thence along said centerline the two following courses and distances, viz:
- 13) South 29° 07' 32" West 347.64 feet, thence
- 14) South 18° 21' 44" West 325.25 feet to the point of beginning.

CONTAINING 65,340 square feet or 1.50 acres of land, more or less.

January 17, 1990
Revised February 27, 1990
Revised April 20, 1990
EVS

FOR ZONING PURPOSES ONLY

Greenhorne & O'Mara, Inc.
113 WEST ROAD • SUITE 208 • BALTIMORE, MARYLAND 21204 • (301) 286-4100
ENGINEERS ARCHITECTS PLANNERS SCIENTISTS SURVEYORS PHOTOGRAMMETRISTS

DESCRIPTION OF 1.28 AC. +/-

PARCEL B
FRANKLIN BUSINESS PARK
4TH ELECTION DISTRICT BALTIMORE COUNTY, MD.

BEING a part of the secondly described parcel of land contained in a deed dated February 1, 1989 conveyed from Nathan Scherr and Nathan Metz to Franklin Boulevard Limited Partnership recorded among the Land Records of Baltimore County, Maryland in Liber S.M. 8092 Folio 249 and being more particularly described as follows:

BEGINNING for the same at a point in the center of Cherry Hill Lane, said point being the beginning of the first or South 29° 07' 32" West 429.75 feet line of the same tract of land described in the aforementioned Liber S.M. 8092 Folio 249, thence binding on and running with the centerline of Cherry Hill Lane,

- 1) South 29° 07' 32" West 82.11 feet, thence at right angles
- 2) North 60° 52' 28" West 25.00 feet to a point in the line drawn twenty five feet north and parallel to the centerline of Cherry Hill Lane said line being the proposed widening line of Cherry Hill Lane; thence along said widening line the two following courses and distances, viz:
- 3) South 29° 07' 32" West 350.00 feet, thence
- 4) South 18° 21' 44" West 41.86 feet; thence departing said widening for five new lines of division through the said secondly described parcel, viz:
- 5) North 60° 09' 14" West 80.29 feet, thence
- 6) North 29° 50' 46" East 29.00 feet, thence at right angles
- 7) North 60° 09' 14" West 52.77 feet, thence
- 8) North 39° 32' 06" East 72.86 feet, thence at right angles
- 9) North 50° 27' 54" West 13.00 feet to intersect the right of way line of Interstate 795 (also known as the Northwest Expressway) as shown on State Highway Administration of Maryland Right of Way Plat Nos. 48143, 48148, 48611, and 48968; thence binding on said right of way line the five following courses and distances, viz:
- 10) North 39° 32' 06" East 45.44 feet, thence
- 11) North 35° 08' 04" East 143.07 feet, thence
- 12) North 06° 27' 33" East 75.00 feet, thence

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#323

13) North 43° 19' 44" East 124.02 feet, thence
14) South 56° 51' 49" East 124.85 feet to the point of beginning.

CONTAINING 55,620 square feet or 1.28 acres of land, more or less.

January 17, 1990
Revised February 27, 1990
Revised April 20, 1990
EWS

FOR ZONING PURPOSES ONLY

ANNAPOLIS, MD • ATLANTA, GA • AURORA, CO • BALTIMORE, MD • CULPEPER, VA • DULUTH, GA • EXPORT, PA
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RALEIGH, NC • ROCKVILLE, MD • TAMPA, FL • WALDORF, MD • WEST PALM BEACH, FL

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 4th Date of Posting: 4-12-91
Posted for: Franklin Blvd. Partnership
Petitioner: Franklin Blvd. Partnership
Location of property: 210 Allegheny Avenue, Baltimore, MD 21204
Location of Sign: 210 Allegheny Avenue, Baltimore, MD 21204
Remarks: See map of property
Posted by: J. Robert Haines Date of return: 4-12-91
Number of Signs: 2

CERTIFICATE OF PUBLICATION

TOWSON, MD. 4-1, 1991
THIS IS TO CERTIFY, that the annexed advertisement was published in OWINGS MILLS TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 3-28, 1991.

OWINGS MILLS TIMES,

S. Zake Olson
Publisher

\$75.18

CERTIFICATE OF PUBLICATION

TOWSON, MD. 4-1, 1991

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 3-28, 1991.

THE JEFFERSONIAN,

S. Zake Olson
Publisher

\$75.18

NOTICE OF HEARING

The Zoning Commission 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:

Case number: 91-341-SPH
W/S Cherry Hill Lane, 650' SW of c/l Tarragon Road
4th Election District
3rd Councilmanic
Petitioner(s):
Franklin Boulevard Limited Partnership/Continental Realty Investors Corporation
General Partner
Hearing Date: Tuesday, April 30, 1991 at 2:30 p.m.

Special Hearing: To approve a modification of one portion of the relief granted in case #90-519-1A and #90-519-1B so that the front yard variance of 15 ft. in lieu of the required 25 ft. granted in those cases would read a rear yard variance of 15 ft. in lieu of the required 30 ft.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County
OMTJEFF/329 Mar. 28

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

Account: R-0016150
Number

receipt

Date

Please Make Checks Payable To: Baltimore County
Cashier Validation

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3553

March 1, 1991

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:

Case Number: 91-341-SPH
W/S Cherry Hill Lane, 650' SW of c/l Tarragon Road
4th Election District - 3rd Councilmanic
Petitioner(s): Franklin Boulevard Limited Partnership/Continental Realty Investors Corporation, General Partner
HEARING: TUESDAY, APRIL 30, 1991 at 2:30 p.m.

Special Hearing: To approve a modification of one portion of the relief granted in case #90-519-1A and #90-519-1B so that the front yard variance of 15 ft. in lieu of the required 25 ft. granted in those cases would read a rear yard variance of 15 ft. in lieu of the required 30 ft.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

cc: Petitioners
John B. Howard, Esq.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3553

April 10, 1991

John B. Howard, Esquire
210 Allegheny Avenue
Baltimore, MD 21204

RE: Item No. 323, Case No. 91-341-SPH
Petitioner: Franklin Blvd Limited
Petition for Special Hearing

Dear Mr. Howard:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. 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 MINARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

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

JED:jw
Enclosures

cc: Mr. Mark L. Levy
Franklin Blvd Limited Ptnshp
17 West Pennsylvania Avenue
Bx 10147, Baltimore, MD 21285

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3553

Your petition has been received and accepted for filing this
6th day of March, 1991.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Franklin Blvd Limited Partnership, et al

Petitioner's Attorney: John B. Howard

**BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE**

TO: J. Robert Haines DATE: March 14, 1991
Zoning Commissioner
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Franklin Boulevard Ltd. Partnership,
Item Nos. 282 and 323

In reference to the petitioner's request regarding the subject cases noted above, staff offers the following comments:

- Prior to a final determination of these cases, the applicant should amend the CRG plan approved on April 12, 1990 to reflect the change in the orientation of the proposed office building.
- A landscape plan should be submitted to the deputy director of the Office of Planning and Zoning prior to the issuance of any permits.
- Staff supports the petitioner's landscape-related variances from Sections 204.4.C.8.c.1, 203.4.C.8.c.2, and 203.4.C.6. provided that an agreement is reached with the State of Maryland to provide landscaping on state owned property to the north of the subject parcel.

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

ITEM282.323/ZAC1

received
3/26/91

received
3/12/91

received
3/21/91

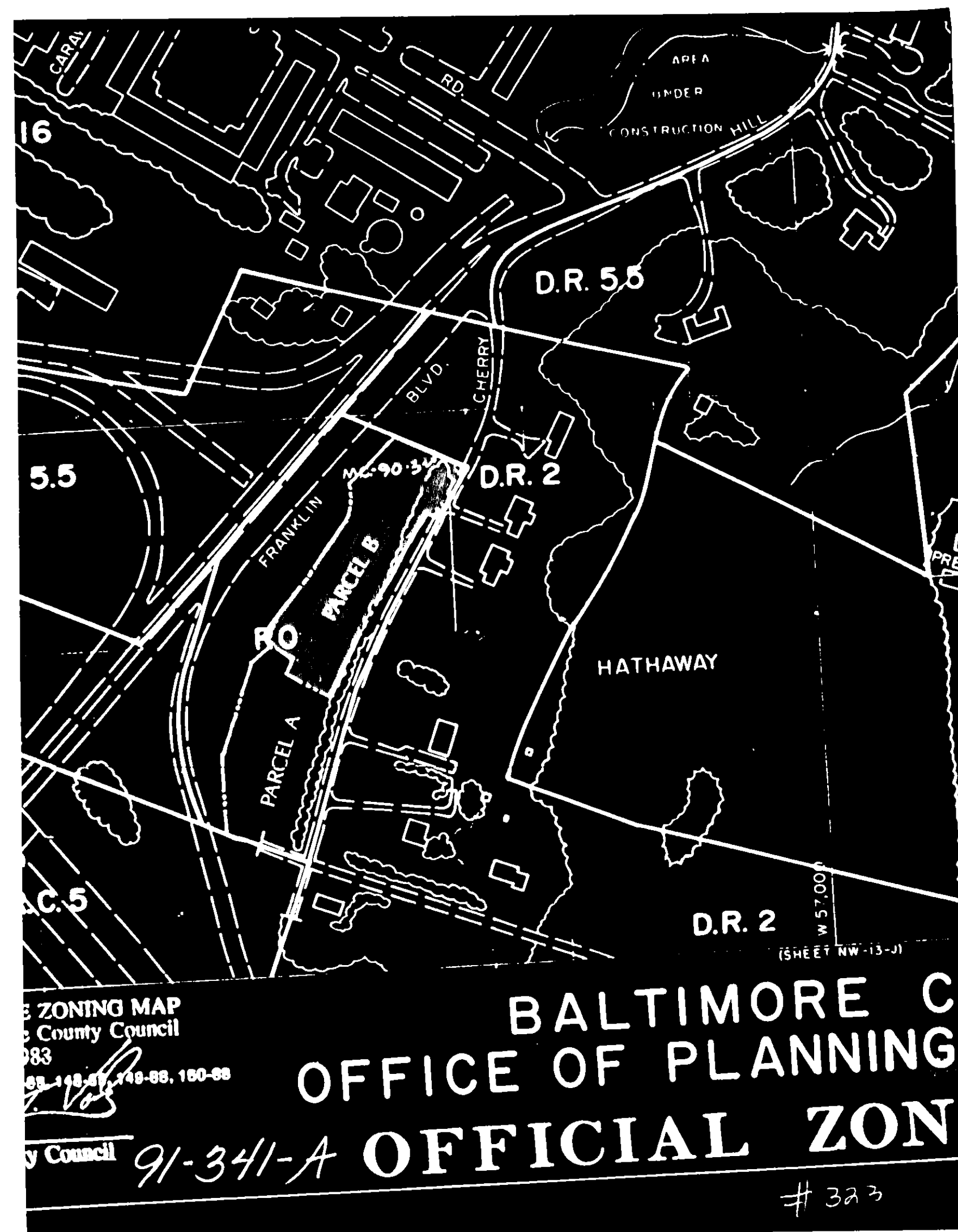
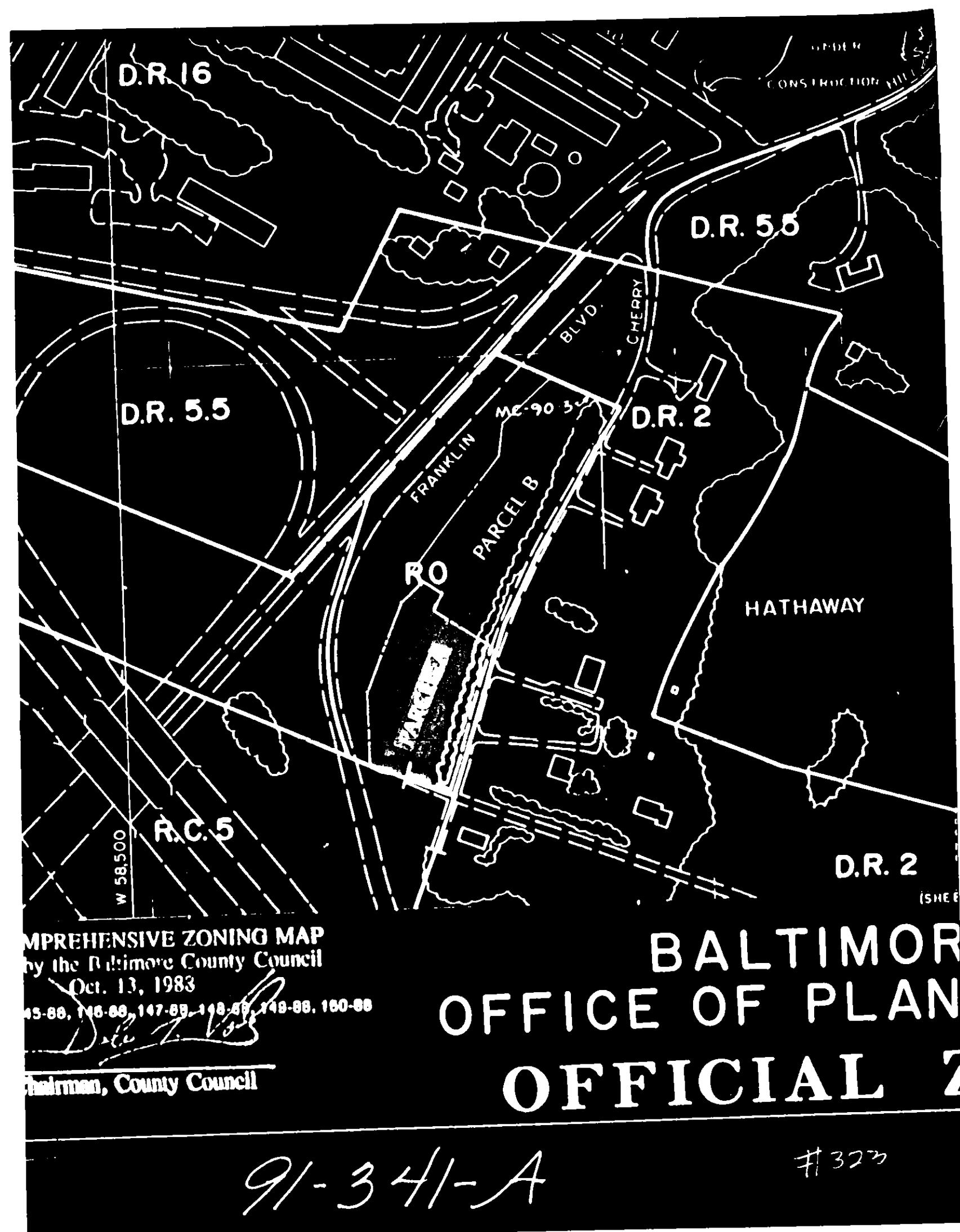
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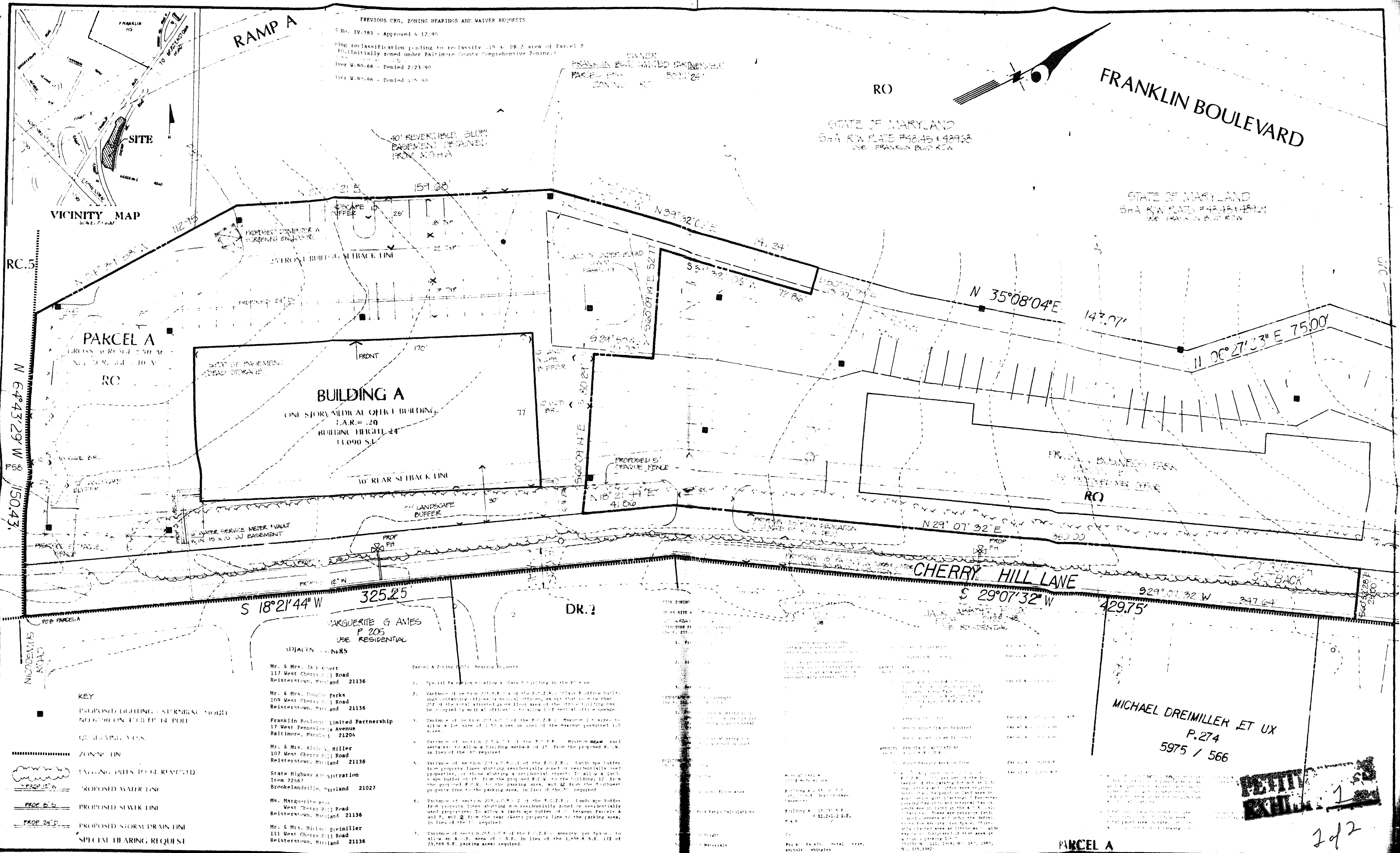
File

received
5/9/91

RAH/cac

17. List 100





OWNER/DEVELOPER
CENTRAL REALTY CORP., INC.
17 WEST PENNSYLVANIA AVENUE
BALTIMORE, MARYLAND 21204
(301) 296-4800

No.	REVISION	DATE	BY



ENGINEERS • ARCHITECTS • PLANNERS • SCIENTISTS • SURVEYORS • PHOTOGRAMMETRISTS
GREENHORNE & O'MARA, INC.
113 WEST ROAD, SUITE 208, BALTIMORE, MARYLAND 21204
(301) 296-4100
ANNAPOLIS • ATLANTA • BALTIMORE • CO • CULPEPER • VA • DULUTH • GA • EXPORT • PA • FAIRFAX • VA • GREENBELT • MD
LEESVILLE • VA • MANASSAS • VA • ORLANDO • FL • RALEIGH • NC • ROCKVILLE • MD • TAMPA • FL • WEST PALM BEACH • FL

PLAN FOR A COMPANY SPECIAL HEARING
FRANKLIN BUSINESS PARK
ONE STORY OFFICE BUILDING
COUNCILMANIC DISTRICT NO. 3
CENSUS TRACT NO. 44
PUBLIC SERVICE CRG. 100003
REGIONAL PLANNING NO. 14
4TH ELECTION DISTRICT
DEED REFERENCE: E.M. 2000-1245
TAX ACCOUNT NO. 2000-0623
BALTIMORE COUNTY, MARYLAND

LEH DESIGN	DATE	1
LEH DRAWN	DATE	1
LEH CHECKED	DATE	1
LEH DATE	4/20/10	1
JOB No.		
FILE No.	B-1102	

