

6 11-97

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
 AND VARIANCE. (8322 Pulaski Hwy) * ZONING COMMISSIONER
 NWS Pulaski Hwy, SE/S Old Phila- * OF BALTIMORE COUNTY
 delphia Rd., 136' SW of Hilledale Rd.
 15th Election District *
 7th Councilmanic District *
 Anthony J. Kelly, et ux * Case No. 97-363-XA
 Petitioners

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Exception and Petition for Variance for the property located at 8322 Pulaski Highway in eastern Baltimore County. The Petitions were filed by Anthony J. Kelly and Joann M. Kelly, owners of the property. Special Exception relief is requested to permit a used vehicle dealership and sales lot (light trucks, one ton or less) on the subject site, zoned B.R.-A.S., pursuant to Section 236.4 of the Baltimore County Zoning Regulations (BCZR). A series of zoning variances are requested from the applicable provisions of the BCZR. They are:

1. Section 238.4 to allow for storage and display of vehicles for sale more than fifteen ft. in front of the required front building line, on both the Old Philadelphia Rd and Pulaski Highway fronts;
2. Section 238.1 to allow for an existing building setback of 21 ft. from the front property line facing Pulaski Highway, as a nonconforming use, rather than the required 50 ft. setback;
3. Section 238.2 to allow for an existing side yard setback from 00 ft. from the east side property line, as a nonconforming use, rather than the required 30 ft. setback;
4. Section 409.8(A.2.) to allow for parking of display vehicles on a gravel surface fronting on Old Philadelphia Road, rather than on a durable dustless surface;

ORDER RECORDED FOR FILING

Date 6/11/97
 By M. Spock

MICROFILMED

5. Section 409.8.A.4 to allow for parking of vehicles for display closer than 10 ft. from the Pulaski Highway street right of way.
6. Section 409.6.A.2 to allow for 8 parking spaces in lieu of the required 21 spaces.
7. Section 409.4.C to allow an aisle width of 20 ft. in lieu of the required 22 ft.

The requested relief and subject property are more particularly shown on Petitioners' Exhibit No. 1, the revised plat to accompany the Petitions for Special Exception and Variance.

Appearing at the public hearing held for this case was Anthony J. Kelly, property owner. Lloyd C. Calvert and J. Finley Ransone, the property line surveyor, who prepared the site plan also appeared. The Petitioner was represented by James V. McFaul, Esquire. Appearing in opposition to the request was Nancy M. Leiter, President of the Rosedale Community Association, and attorney Stephen Verch, representing three nearby property owners, namely, Raymond J. Krul, Henry G. Kahler, and Margaret Pfeifer.

Testimony and evidence presented was that the subject site is .4246 acres in net area, zoned B.R.-A.S. The property has frontage on two public roads, namely, Pulaski Highway to the south and Old Philadelphia Road to the north. The property is improved with an existing one story masonry and frame building which is 6,175 sq. ft. in area. The building and property are known as 8322 Pulaski Highway.

Mr. Kelly testified that he presently owns and operates two used car dealerships both of which are located in Baltimore City. He has acquired the subject property and proposes operating a third dealership from this location. He anticipates selling 10 to 15 cars per month at the site. He indicated that approximately 25 vehicles would be stored on the premises. Although uncertain about the specifics of the operation, he anticipates the

ORDER RECEIVED FOR FILMS

Date

By

business will be open six days each week from approximately 9:00 A.M. to 8:00 P.M., Monday thru Friday, and 1/2 day on Saturday. It is also anticipated that approximately three employees will be on the site at any one time. A portion of the existing building will be used as a sales office and the building is being modified to accommodate two maintenance bays.

Mr. Ransone also testified and described the site in detail. He produced photographs of the property and vicinity. The vicinity features mixed uses. The locale predominantly contains retail/commercial/manufacturing uses, however, the property immediately next door is residential and a residential community is located across Old Philadelphia Road. Mr. Ransone also testified that the proposed operation would not cause any detriment to the health, safety and general welfare of the locale. Thus, he supports a granting of the Petition for Special Exception and Variances.

Mr. Verch, on behalf of his clients, presented argument in opposition to the request, however, his clients did not appear and testify. Testimony was, however, taken from Brent Flickinger, an employee of the Office of Planning. Although Mr. Flickinger acknowledged that the proposed type of use is acceptable on the Pulaski Highway corridor, he opined that this site was not appropriate. In his judgment, the site is simply too small to contain the proposed dealership. Mr. Flickinger expressed fears that the business, if approved, the business could spill over onto neighboring lots and into the residential community which is located on the other side of Old Philadelphia Road.

An early case regarding the law of special exceptions in Maryland was Gowl v. Atlantic Richfield Co., 27 Md. App. 410 (1975). In that case, the Court of Special Appeals held that the standard by which a proposed special exception use should be adjudged was a comparison between the anticipated adverse impacts of the proposed use and those impacts which

ORDER RECEIVED FOR FILING

Date

6/11/97
M. G. G. G.

By

might arise from a use permitted by right. However, this standard was expressly overruled by the Court of Appeals in Schultz v. Pritts, 291 Md. 1 (1981). There, the Court rejected the standard formulated in Gowl, *infra* and held that the standard to be applied is whether the neighborhood would be uniquely impacted by the adverse effects of the proposed use.

This statement of the law is significant here in that the Petitioner and his witnesses offered testimony providing a comparison of the proposed use with other uses which might be established by right on the property. This testimony is simply irrelevant. Instead, what must be considered is whether the proposed use (i.e., a used car dealership and sales lot) is appropriate in this neighborhood and whether same will cause a detrimental impact on the health, safety and general welfare of the locale. Whether the impact of other uses permitted by right would be greater is of no significance.

Based upon the testimony and evidence presented, I find that the Petitioner has failed to meet its burden. I agree with Mr. Flickinger's analysis, that the property is simply too small to support the proposed use. The unique characteristics of the site includes the fact that the building is quite large and occupies a significant portion of the site. This large building reduces the area available for the storage of automobiles. Moreover, the proximity of the residential lot immediately next door and the residential community across Old Philadelphia Road are significant factors. These facts, coupled with the anticipated impact of this business, is persuasive and convincing that the proposed special exception must and should be denied.

In lieu of the denial of the Petition for Special Exception, certain of the variance requests must, likewise, be denied. Specifically, those variances identified as numbers 1, 4, 5, 6 and 7 in the Petition are de-

ORDER RECEIVED FOR FILING

Date

By

6/11/97
E.M. Sparks

nied, in that same all seek relief necessitated by the proposed special exception use. Variances, numbers 2 and 3, relating to the existing building will, on the other hand, be granted. In this regard, relief was requested for an existing building setback of 21 ft. from the front property line facing Pulaski Highway in lieu of the required 50 ft. Also, relief is requested for an existing side yard setback of 0 ft. from the east property line in lieu of the required 30 ft. Both of these variances are warranted in view of the fact that the building is quite old and to deny the relief would cause the Petitioner a significant practical hardship. Specifically, the building need be torn down or significantly altered to bring same into compliance with the zoning regulations. That result is clearly not appropriate, thus, those variances, numbered 2 and 3 shall be approved.

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 granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 11th day of June 1997 that, pursuant to the Petition for Special Exception, approval to permit a used vehicle dealership and sales lot (light trucks, one ton or less) on the subject site, zoned B.R.-A.S., pursuant to Section 236.4 of the Baltimore County Zoning Regulations (BCZR), be and is hereby DENIED; and,

IT IS FURTHER ORDERED that variances from Sections 238.4, 409.8.A.2, 409.8.A.4, 409.6.A.2 and 409.4.C of the BCZR, (numbered 1, 4, 5, 6 and 7 in the Petition), in that same all seek relief necessitated by the proposed special exception use, be and are hereby DENIED; and

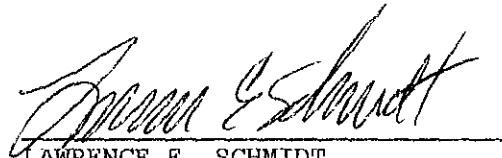
IT IS FURTHER ORDERED that variances from Sections 238.1 and 238.2 of the BCZR (numbered 2 and 3 in the Petition) be and are hereby GRANTED.

ORDER RECEIVED FOR FILING

Date

6/11/97
By M. Jacob

Any appeal from this decision must be taken in accordance with the applicable provisions of law.



LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mn

ORDER RECEIVED FOR FILING

Date

6/11/97

By

M. Goral

RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
 PETITION FOR VARIANCE * ZONING COMMISSIONER
 8322 Pulaski Hwy, NW/S Pulaski Hwy, SE/S *
 Old Phila Rd, 136' SW of c/l Hilldale Rd * OF BALTIMORE COUNTY
 15th Election District, 7th Councilmanic *
 Anthony J. and Joann M. Kelly * CASE NO. 97-363-XA
 Petitioners *
 * * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
 PETER MAX ZIMMERMAN
 People's Counsel for Baltimore County

Carole S. Demilio
 CAROLE S. DEMILIO
 Deputy People's Counsel
 Room 47, Courthouse
 400 Washington Avenue
 Towson, MD 21204
 (410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of May, 1997, a copy of the foregoing Entry of Appearance was mailed to F. Vernon Boozer, Esq., 614 Bosley Avenue, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman
 PETER MAX ZIMMERMAN

ZC HRGS.
 TUES. 5/27

MICROFILMED

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF	*	COUNTY BOARD OF APPEALS
<u>ANTHONY J. KELLY, ET UX</u>	*	
FOR SPECIAL EXCEPTION AND	*	OF
VARIANCE ON PROPERTY LOCATED	*	
ON THE NORTHWEST/SIDE PULASKI	*	BALTIMORE COUNTY
HIGHWAY, SE/S OLD PHILADELPHIA*	*	
ROAD, 136' SW OF HILLDALE ROAD	*	CASE NO. 97-363-XA
(8322 PULASKI HIGHWAY)	*	
15TH ELECTION DISTRICT	*	
7TH COUNCILMANIC DISTRICT	*	

* * * * *

O P I N I O N

This case comes on appeal of the Zoning Commissioner's June 11, 1997, decision denying a special exception and five of seven zoning variance requests for the property located at 8322 Pulaski Highway. Anthony J. Kelly and his wife, by John B. Gontrum, Esquire, took an appeal from the denial of the special exception and variances by letter dated July 10, 1997 and filed with the Department of Permits and Development Management on July 11, 1997. At the time of hearing, an amended site plan was presented on the special exception, and appeals of the variance denials were dropped with the exception of a variance from Section 409.8.A.4 to allow for parking of vehicles for display closer than 10 feet from the Pulaski Highway street right-of-way. The hearing thus consisted of a consideration of the special exception based on the amended site plan and of the lone requested zoning variance. The two zoning variance requests approved by the Zoning Commissioner were not appealed, and were not the subject of the hearing. Carole DeMilio, Esquire, appeared on behalf of People's Counsel for Baltimore County, and Stephen Verch, Esquire, appeared representing Protestants Raymond J. Krul, Henry G. Kahler and Margaret Pfeifer.

At the hearing, testimony was presented by William Monk, who was accepted by the Board without objection as an expert in land planning. Mr. Monk presented copies of the 1996 Comprehensive Zoning Map identifying the property as having the zoning of B.R. - - A.S. Mr. Monk testified that the A.S. district designation was of relatively recent origin and was intended to allow automotive service uses such as car washes and service stations. Mr. Monk also reviewed an aerial photograph of the vicinity of the site indicating the property's relationship with other commercial uses along Pulaski Highway and with the manufacturing uses on the other side of the roadway.

The property contains .42 acre and currently is improved by a building, now empty, which formerly was used as a bar and restaurant. Access to the property is proposed off of Pulaski Highway. A current means of access to the property from Old Philadelphia Road would be closed, and landscaping is proposed along the property line facing Old Philadelphia Road and the residential community on the other side of that roadway. A substantial portion of the existing building would be razed to provide additional parking and access to the site. Mr. Monk indicated that the access provided met all county and state standards. Parking on the site consists of customer and employee parking as well as parking for the display of vehicles. Customer and employee parking would be located in the spaces closest to Pulaski Highway.

Mr. Monk opined that the revised site plan would not cause

undue congestion in the roads; indeed, by locating a travel way directly off of Pulaski Highway, the existing condition would be improved. In addition, he testified that the site is served by adequate public water and sewer, and the proposed plan would not overcrowd the land. The Krul property to the southeast is improved by a commercial building, and the side closest to the subject property consists of an open parking lot. Despite the fact that the existing building abuts the Krul property line, there is no interference with adequate light and air.

Mr. Monk indicated that an agreement had been reached with Mr. Krul to place a wooden fence with a dark brown stain along the Krul property line both in front of the existing building on the Kelly property and to the rear of the building to Old Philadelphia Road. Along Old Philadelphia Road a chain link fence will be constructed to deny pedestrian access through the site. A ten-foot landscaping area will be placed along Old Philadelphia Road replacing existing asphalt.

Mr. Monk also testified with respect to the requested variance, which pertains to the two customer and employee spaces located in closest proximity to the Pulaski Highway right-of-way. The request for variance does not impact on the request for special exception. Mr. Monk testified that the right-of-way construction for Pulaski Highway is unique in appearance and function. As Petitioners' Exhibits 5A and 5B indicate, the property looks like it extends up to the existing curb and gutter, but in reality it does not. For many years, however, cars have parked right up to

the existing curb and gutter, for there is no visible indication of a right-of-way line. Other businesses along Pulaski Highway have done the same. Mr. Monk also testified that one of the reasons for the need for the parking came from the Petitioners' desire to place the landscaping strip along the rear of the property, which moved the parking forward toward Pulaski Highway. The Petitioners have offered to stripe the parking spaces to denote the proper right-of-way line in the event that the variance request is granted. This would have the practical effect of moving the parking further away from Pulaski Highway than where it has been and is currently located.

Neither People's Counsel nor Protestants provided any witnesses, and based on the amended site plan and the arrangement with the fencing, Protestants' counsel offered that they had no objection to the current requests for special exception and variance.

Section 236.4 of the Baltimore County Zoning Regulations permits by special exception a used motor vehicle outdoor sales area, separated from the sales agency building, in a B.R. zone. A special exception may be granted by the Board of Appeals only if it finds that the proposed use meets the criteria of Section 502.1 of the Baltimore County Zoning Regulations. The question is not whether the used car lot would have adverse impacts but whether the adverse impacts associated with a used car lot would be greater at this location than they would generally be elsewhere within areas similarly zoned. Mossburg v. Montgomery County, 107 Md. App. 1,

666 A.2d 1253 (1995).

In this case, the Board finds that the criteria of Section 502.1 have been met and that the testimony and exhibits support the finding that the special exception use at this location would not have an adverse impact on the health, safety or general welfare of the public. In reaching these conclusory findings, the Board gives credence to the testimony of Mr. Monk as well as to the information on the various exhibits of Petitioners. Pulaski Highway is a well-known major artery within the state. Automotive uses exist up and down the highway, and there is nothing observably unique about this site that makes it different from other similarly used sites up and down the highway. In addition, the proposed plan will provide more parking than exists with the current layout and better access from the highway. The entrance meets state and county criteria for safety. By voluntarily blocking the entrance onto Old Philadelphia Road and by providing landscaping, the Petitioner is minimizing any impact of the use on nearby residential properties. Given the location of the proposed use and the lack of adverse comments from Public Works, it is clear that the site will not impair the provisions of public services. The demolition of a substantial portion of the existing building and removal of asphalt to provide landscaping indicate to this Board that there will not be an overcrowding of land nor a fire hazard nor an inconsistency with the impermeable surface requirements of the regulations. There is no showing of any inconsistency with the zoning requirements. Indeed, there was no stated opposition to the proposed site plan

MICROFILMED

nor to the exhibits nor to the testimony and conclusions of Mr. Monk.

A variance is judged by very different criteria than a special exception, and Petitioners' burden is much heavier. The Board, however, in this case, based on the testimony and exhibits and with the restriction described hereafter, is persuaded to grant the variance. In Umerly v. People's Counsel for Baltimore County, 108 Md. App. 497, 672 A. 2d 173 (1996), the Court reiterated the two-step inquiry initially stated in Cromwell v. Ward, 102 Md. App. 691, 651 A.2d 424 (1995) . The Board must first determine whether the subject property is unique and different from the remainder of land in the area to the extent that the uniqueness or peculiarity of the site itself imposes a disproportionate impact on the subject parcel. Only if this determination is made in the affirmative does the inquiry proceed with the second step of whether the strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship. Baltimore County Zoning Regulations, Section 307.1.

In this case, a variance is sought from Section 409.8.A.4 of the Baltimore County Zoning Regulations to allow for parking of vehicles closer than 10 feet from the Pulaski Highway street right-of-way. Petitioners are seeking a variance of 5 feet per the site plan (Petitioners' Exhibit 4) . Uncontested testimony from Mr. Monk described the unique relationship that this site has to Pulaski Highway. This relationship is amply illustrated by Petitioners' Exhibits 5A and 5B. The State has located its curb and gutter and

visible demarcation line at least 5 feet inside its right-of-way line. As a result, parking throughout the years has occurred not only up to the property line of the site but into the state right-of-way. The site is fully paved up to the curb and gutter. Apparently, the State Highway Administration, for purposes known only to itself, chose on Pulaski Highway to establish a unique relationship of the right-of-way line to its improvements. In any event, this situation, if specifically enforced, would deny the Petitioners a use of their site enjoyed seemingly by others which similarly abut the highway. Because the Board finds that there is a unique relationship and characteristic of the land that has a disproportionate impact on the property, the second part of the inquiry can proceed.

The issue of practical difficulty, in a sense, is more difficult than the issue of uniqueness. Obviously, the Petitioners could simply build two less spaces. The test, however, of practical difficulty is really a balancing test of several factors. The first factor is whether strict compliance with the setback would unreasonably prevent use of the property. In a sense this factor is addressed by the determination of the first issue. Historically, this property has been fully utilized with no apparent injury to the health, safety or general welfare. There is nothing apparent on the site that indicates where the right-of-way is located. By strictly enforcing the regulation, the Petitioners would not be able to use property that has been maintained by the property owners for many years for the purpose sought, and

enforcement at this stage would seem to serve no public purpose but would rather seem somewhat arbitrary. Consequently, conformance in the Board's opinion would be unnecessarily burdensome.

The relief sought in this case is based on the width of the parking area. The Board notes that Petitioners are not seeking relief to the property line presumably because the extra five feet are not necessary in order to provide parking. The Board further is cognizant of the fact that Petitioners are seeking relief in part because of their willingness to shift their use of the site toward Pulaski Highway by 10 feet by placing landscaping along the rear of their site voluntarily, where it would have the most impact on the residential communities. Based on these facts, the Board finds that the request is for the appropriate relief and should not be modified to a lesser amount.

Finally, the Board must grant relief only in such fashion that the spirit of the ordinance will be observed and the public safety secured. It is apparent from Exhibits 5A and 5B that the parking now exists pretty much into the state right-of-way. Petitioners are seeking to set back the parking from the existing posts onto their site. This Board, in granting the variance, will require that Petitioners stripe the parking spaces and indicate by diagonal striping that the area between the permitted spaces and the existing curb within the right-of-way is not a parking space and is not to be utilized. In this way, the 10-foot desired setback from the visible right-of-way demarcation can be maintained, and the spirit of the ordinance can be observed.

For the reasons set forth above, this Board will grant the Petition for Special Exception and the requested variance from Section 409.8.A.4. The requested variances numbered 1, 4, 6 and 7 shall be dismissed with prejudice, having been withdrawn by Petitioner.

O R D E R

IT IS, THEREFORE, THIS 4th day of March, 1998, by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Exception, as described on the amended site plan accepted as Petitioners' Exhibit 4, be and the same is hereby GRANTED, subject to the following restrictions:

1. Petitioners shall erect and maintain a six foot (6') high wooden board on board fence stained with a dark brown stain along the common property line with the Krul property from the front of the existing building on Petitioners' property to the state right of way line and from the rear of said building to the right of way line of Old Philadelphia Road;
2. Petitioners shall erect and maintain a continuous fence across their property adjacent to Old Philadelphia Road to tie in to the fence along the Krul property line;
3. Petitioners shall erect if permitted by the State Highway Administration a six foot (6') high chain link fence into the state right of way along the extension of the common property line of the subject site and the Krul property to the existing curb and gutter island maintained by the State Highway Administration on Pulaski Highway; and it is further

ORDERED that Variances numbered 1, 4, 6, and 7 be DISMISSED with prejudice; and it is further


ORDERED that the requested variance from Section 409.8.A.4 of the Baltimore County Zoning Regulations be GRANTED subject to the following restriction:

MICROFILMED

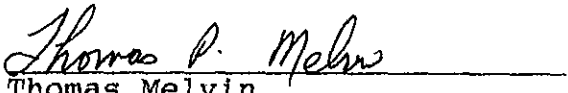
The parking spaces on the property shall be striped per Petitioners' Exhibit 4 and diagonal striping shall be permanently placed between the spaces closest to Pulaski Highway and the curb and gutter within the State Highway Administration right of way to indicate the absence of approved parking.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Kristine K. Howanski, Chairman


Harry E. Buchheister, Jr.


Thomas Melvin



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

March 4, 1998

John B. Gontrum, Esquire
ROMADKA, GONTRUM & McLAUGHLIN
814 Eastern Boulevard
Baltimore, MD 21221

RE: Case No. 97-363-XA
Anthony J. Kelly, et ux -Petitioners

Dear Mr. Gontrum:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco
Kathleen C. Bianco
Administrator

encl.

cc: Mr. and Mrs. Anthony J. Kelly
Stephen Verch, Esquire
Raymond J. Krul
Henry G. Kahler
People's Counsel for Baltimore County
Pat Keller
Arnold Jablon, Director /PDM
Lawrence E. Schmidt, Zoning Commissioner
Virginia W. Barnhart, County Attorney

MICROFILMED

#363



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 8322 PULASKI HIGHWAY (15TH ELECTION DISTRICT)

97-363-XA

which is presently zoned BR-AS

This Petition shall be filed with the Office of Zoning Administration & Development Management.

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 Regulations of Baltimore County, to use the herein described property for

**USED VEHICLE DEALERSHIP AND SALES LOT (LIGHT TRUCKS, ONE TON OR LESS)
PURSUANT TO SECTION 236.4 OF THE BALTIMORE COUNTY ZONING REGULATIONS**

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.

(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/Lessee:

Legal Owner(s):

(Type of Print Name)

ANTHONY J. KELLY

Signature

(Type of Print Name)
Signature *[Handwritten Signature]*

Address

JOANN M. KELLY

City State Zipcode

(Type of Print Name)
Signature *[Handwritten Signature]*

Attorney for Petitioner:

1104 GYPSY LANE WEST 633-7900

F. VERNON BOOZER
(Type of Print Name)

Address Phone No

Signature

TOWSON MARYLAND 21286

614 BOSLEY AVENUE (410)828-9441

City State Zipcode

Address Phone No

TOWSON MARYLAND 21204
City State Zipcode

Name, Address and phone number of representative to be contacted

Name

Address Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

2 hr.

unavailable for Hearing

the following dates

Next Two Months

ALL OTHER

REVIEWED BY: *[Handwritten Signature]*

DATE 2/26/97



MICROFILMED

~~450~~ 450



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 8322 PULASKI HIGHWAY (15TH ELECTION DISTRICT)

97-363-XA

which is presently zoned BR-AS

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

FOR EXTREME PRACTICAL DIFFICULTY IN COMPLYING WITH THE AFOREMENTIONED SECTIONS OF THE ZONING REGULATIONS.

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

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

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

Contract Purchaser/Lessee:

Legal Owner(s):

(Type or Print Name)

ANTHONY J. KELLY

(Type or Print Name)

Signature

Signature

Address

JOANN M. KELLY

(Type or Print Name)

City

State

Zipcode

Signature

Attorney for Petitioner:

F. VERNON BOOZER

(Type or Print Name)

1104 GYPSY LANE WEST

633-7900

Address

Phone No

Signature

TOWSON, MD 21286

City

State

Zipcode

Name, Address and phone number of representative to be contacted

614 BOSLEY AVENUE

(410) 828-9441

Address

Phone No.

TOWSON, MD 21204

City

State

Zipcode

Name

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

2-3 hr

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY: mt

DATE 4/9/97

*schedule w/ SPX filed
schedule w/ #363*



Printed with Soybean Ink on Recycled Paper



MICROFILMED

97-363-XA

ATTACHMENT TO PETITION FOR VARIANCE

Petitioners, ANTHONY J. KELLY and JOANN M. KELLY, hereby petition for a Variance from the following Sections of the Baltimore County Zoning Regulations:

- (1) Section 238.4, to allow for storage and display of vehicles for sale more than fifteen (15) feet in front of the required front building line, on both the Old Philadelphia Road and Pulaski Highway fronts;
- (2) Section 238.1, to allow for an existing building setback of 21 feet from the front property line facing Pulaski Highway, as a non-conforming use, rather than the required 50 foot setback;
- (3) Section 238.2, to allow for an existing side yard setback from 00 feet from the east side property line, as a non-conforming use, rather than the required 30 foot setback;
- (4) Section 409.8(A.2.), to allow for parking of display vehicles on a gravel surface fronting on Old Philadelphia Road, rather than on a durable/dustless surface;
- (5) Section 409.8(A.4.), to allow for parking of vehicles for display closer than 10 feet from the Pulaski Highway street right of way.
- (6) Section 409.6(A.2.), to allow for 8 parking spaces in lieu of the required 21 spaces.
- (7) Section 409.4(C), to allow an aisle width of 20 feet in lieu of the required 22 feet.

J. FINLEY RANSONE & ASSOCIATES

Land Surveying

Engineering

Real Estate Development

Construction Management

January 26, 1997

97-363-XA

Zoning Description

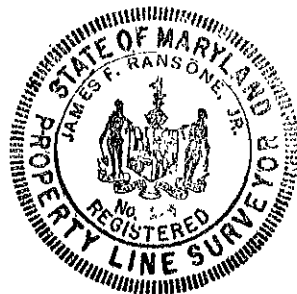
Kelly Property
No. 8322 Pulaski Highway

ALL that piece or parcel of land situate, lying, and being in the Fifteenth Election District, and Seventh Councilmanic District of Baltimore County, State of Maryland, and described as follows:

BEGINNING for the same at a point on the southerly side of Old Philadelphia Road, 50 feet wide, said point being South 56 degrees 46 minutes 50 seconds West 136 feet from the point formed by the intersection of the centerline of Hilldale Road, 50 feet wide, with the southerly side of Old Philadelphia Road; thence leaving said road and binding on the outlines of the property of the petitioners herein:

- 1.) South 31 degrees 37 minutes 54 seconds East 119.22 feet to the northerly side of Pulaski Highway, 150 feet wide, thence binding on the northerly side of said road;
- 2.) by a line curving to the right, having a radius of 25,389.79 feet for an arc distance of 160.14 feet, the chord of said arc bearing South 55 degrees 37 minutes 03 seconds West 160.14 feet, thence leaving said highway;
- 3.) North 24 degrees 38 minutes 54 seconds West 125.96 feet to the southerly side of the aforesaid Old Philadelphia Road, thence binding on said Road;
- 4.) by a line curving to the right, having a radius of 2525.00 feet for an arc distance of 103.64 feet, the chord of said arc bearing North 57 degrees 57 minutes 23 seconds East 103.63 feet, and thence;
- 5.) North 56 degrees 46 minutes 50 seconds East 41.10 feet to the place of beginning.

THE IMPROVEMENTS thereon being known as No. 8322 Pulaski Highway.



363

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

No. 025667

DATE 2/26/97 ACCOUNT 61-615

By: WJK AMOUNT \$ 300.00

RECEIVED FROM: T.K.O. Inc. -- 8322 Pulaski Highway

FOR: 050 - Special Exception -- \$ 300.00

MICROFILMED 017009003201103100 6300.00
BY COU2420AM02 26 97

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

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

No. 025660

DATE 4/9/97 ACCOUNT 61-615

By: WJK
John: WJK 450 AMOUNT \$ 350.00

RECEIVED FROM: T.K.O. Inc -- 8322 Pulaski Highway

020 - Comm. Var. -- 250.00
110 Reversional S.H. Plan -- 100.00

FOR: _____

MICROFILMED 017009003201103100 6300.00
BY COU2420AM02 26 97

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

Ryz

FOR:

~~Appeal - Case # 97-363-XA~~

RECEIVED FROM:

~~Romadka, Gontar & McLaughlin~~

AMOUNT \$ 460.00

460.00

DATE

7/15/97

ACCOUNT

R-001-650

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

040966

PAID RECEIPT
PROCESS ACTUAL TIME

REG 1804 CASHIER LSN LXS DRAWER 14
7/15/1997 7/15/1997 11:37:07
MISCELLANEOUS CASH RECEIPT
Receipt # 012280
CR NO. 040966

460.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

Ryz

FOR:

~~Appeal - Case # 97-363-XA~~

RECEIVED FROM:

~~Romadka, Gontar & McLaughlin~~

AMOUNT \$ 460.00

460.00

DATE

7/15/97

ACCOUNT

R-001-650

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

040966

PAID RECEIPT
PROCESS ACTUAL TIME

REG 1804 CASHIER LSN LXS DRAWER 14
7/15/1997 7/15/1997 11:37:07
MISCELLANEOUS CASH RECEIPT
Receipt # 012280
CR NO. 040966

460.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

MICROFILMED

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 in Towson, Maryland on the property

identified herein as follows:

Case: #97-383-XA.
(Item Numbers 363 and 450)
8322 Pulaski Highway
NW/S Pulaski Highway; SE/S
Old Philadelphia Road, 138'
SW of c/a Hildale Road,
15th Election District
7th Councilmanic

Legal Owner(s):
Anthony J. Kelly and
Joann M. Kelly

Special Exception: for used vehicle dealership and sales lot. **Variance:** to allow storage and display vehicles more than 15 feet in front of the required front building line, to allow a setback of 21 feet from the front property line rather than the required 50 foot setback; to allow an existing side yard setback from zero feet rather than the required 30 foot setback; to allow parking of display vehicles on a gravel surface rather than on a durable/finished surface; to allow parking of vehicles for display closer than 10 feet from street right of way, to allow 8 parking spaces in lieu of the required 21 spaces; and to allow an aisle width of 20 feet in lieu of the required 22 feet.
Hearing: Tuesday, May 27, 1997 at 9:00 a.m., 4th floor hearing room Courts Building, 401 Bosley Avenue.

LAWRENCE F. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3391

5/039 May 1 C139454

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

May 1, 1997

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 *May 1, 1997*.

THE JEFFERSONIAN,

A. Henriksen

LEGAL AD. - TOWSON

MICROFILMED

CERTIFICATE OF POSTING

RE: Case # 97-363-XA

Petitioner/Developer:
(Anthony J. Kelly)
Date of Hearing/Closing:
(May 27, 1997)

**Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204**

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

**This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
were posted conspicuously on the property located at _____**

_____ 8322 Pulaski Highway Baltimore, Maryland 21237 _____

**The sign(s) were posted on _____ May 9, 1997 _____
(Month, Day, Year)**

Sincerely,

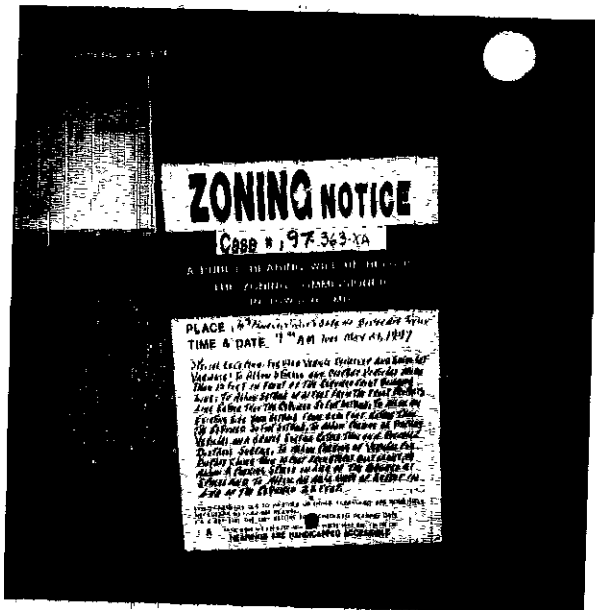
Thomas P. Ogle, Sr.
(Signature of Sign-Poster & Date)

Thomas P. Ogle, Sr.
(Printed Name)

325 Nicholson Road
(Address)

Baltimore, Maryland 21221

(410)-687-8405
(Telephone Number)



97-363-XA

MICROFILMED

CERTIFICATE OF POSTING

RE: Case No.: 97-363-XA

Petitioner/Developer: _____

ANTHONY J. KELLY et al

Date of Hearing/Closing: _____

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
were posted conspicuously on the property located at 8322 PULASKI HWY.

The sign(s) were posted on 8/8/97
(Month, Day, Year)

Sincerely,

Gary Freund 8/8/97
(Signature of Sign Poster and Date)

GARY FREUND
(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

97 AUG 14 AM 10:32
RECEIVED
COUNTY BOARD OF APPEALS



Baltimore County
 Department of Permits and
 Development Management

363

Development Processing
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

 ARNOLD JABLON, DIRECTOR

 For newspaper advertising:

Item No.: 363

Petitioner: Anthony Kelly

Location: 8322 Pulaski Highway

PLEASE FORWARD ADVERTISING BILL TO:

NAME: F. Vernon Booser

ADDRESS: 614 Bosky Avenue

Towson, MD 21204

PHONE NUMBER: (410) 828-9441

AJ:ggs

(Revised 09/24/96)

MICROFILM

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____.

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: _____

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: _____

DATE AND TIME: _____

REQUEST: used vehicle dealership and sales lot
(light trucks - one ton or less)

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

Request for Zoning: Variance, Special Exception, or Special Hearing

450

Date to be Posted: Anytime before but no later than * _____

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: _____

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: *

DATE AND TIME: *

REQUEST: to permit storage + display of vehicles 0' to front line in lieu of 15', to permit a 21' front setback in lieu of 50', to permit a 0' side setback in lieu of 30', to permit a gravel display surface in lieu of durable dustless, to permit a display area of 0' to street-right-of-way in lieu of 10', to permit 2 parking spaces in lieu of 21', to permit an aisle width of 20' in lieu of 22'

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

TO: PUTUMENT PUBLISHING COMPANY
May 1, 1997 Issue - Jeffersonian

Please forward billing to:

F. Vernon Boozer, Esq.
614 Bosley Avenue
Towson, Maryland 21204
410-828-9441

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-363-XA (Item Numbers 363 and 450)
8322 Pulaski Highway
NW/S Pulaski Highway, SE/S Old Philadelphia Road, 136' SW of c/l Hilldale Road
15th Election District - 7th Councilmanic
Legal Owner(s): Anthony J. Kelly and Joann M. Kelly

Special Exception for used vehicle dealership and sales lot.

Variance to allow storage and display vehicles more than 15 feet in front of the required front building line; to allow a setback of 21 feet from the front property line rather than then the required 50 foot setback; to allow an existing side yard setback from zero feet rather than the required 30 foot setback; to allow parking of display vehicles on a gravel surface rather than on a durable/dustless surface; to allow parking of vehicles for display closer than 10 feet from street right of way; to allow 8 parking spaces in lieu of the required 21 spaces in lieu of the required 21 spaces; and to allow an aisle width of 20 feet in lieu of the required 22 feet.

HEARING: TUESDAY, MAY 27, 1997 at 9:00 a.m. 4th floor hearing room Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

MICROFILMED



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

April 24, 1997

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-363-XA (Item Numbers 363 and 450)
8322 Pulaski Highway
NW/S Pulaski Highway, SE/S Old Philadelphia Road, 136' SW of c/l Hilldale Road
15th Election District - 7th Councilmanic
Legal Owner(s): Anthony J. Kelly and Joann M. Kelly

Special Exception for used vehicle dealership and sales lot.

Variance to allow storage and display vehicles more than 15 feet in front of the required front building line; to allow a setback of 21 feet from the front property line rather than the required 50 foot setback; to allow an existing side yard setback from zero feet rather than the required 30 foot setback; to allow parking of display vehicles on a gravel surface rather than on a durable/dustless surface; to allow parking of vehicles for display closer than 10 feet from street right of way; to allow 8 parking spaces in lieu of the required 21 spaces in lieu of the required 21 spaces; and to allow an aisle width of 20 feet in lieu of the required 22 feet.

HEARING: TUESDAY, MAY 27, 1997 at 9:00 a.m. 4th floor hearing room Courts Building, 401 Bosley Avenue.

Arnold Jablon
Director

cc: Anthony and Joann Kelly
F. Vernon Boozer, Esq.

- NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY MAY 12, 1997.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

October 22, 1997

NOTICE OF ASSIGNMENT

CASE #: 97-363-XA

IN THE MATTER OF: ANTHONY J. KELLY, ET UX -
Petitioners 8322 Pulaski Highway
15th Election District; 7th Councilmanic

(Petition for Special Exception DENIED; VAR -DENIED
in part and GRANTED in part /appealed as to denial
of special exception and variances 1, 4, 5, 6 and
7.)

ASSIGNED FOR:

TUESDAY, JANUARY 27, 1998 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the
advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C,
Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient
reasons; said requests must be in writing and in compliance with Rule
2(b) of the Board's Rules. No postponements will be granted within 15
days of scheduled hearing date unless in full compliance with Rule
2(c).

Kathleen C. Bianco
Administrator

- cc: Counsel for Appellants /Petitioners : John B. Gontrum, Esquire
Appellants /Petitioners : Mr. & Mrs. Anthony J. Kelly
J. Finley Ransone & Associates : Lloyd C. Calvert and
J. Finley Ransone
Counsel for Protestants : Stephen Verch, Esquire
representing..... : Raymond J. Krul
Henry G. Kahler and
Margaret Pfeifer
Protestants /Rosedale Community Assn. : Nancy M. Leiter, President
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Donald T. Rascoe, Project Manager /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

requests NAME
be taken off
as protestant
requests her name and
Rosedale Comm Assn
be removed from file

MICROFILMED

Case No. 97-363-XA

Anthony J. Kelly, et ux - Petitioner

NW/s Pulaski Hwy, Se/s Old Philadelphia Rd,
136' SW of Hilldale Road (8322 Pulaski Hwy)

15th District

Appealed: 7/10/97

-attached Pet. Ex. #1

Plat to accompany petition

MICROFILMED



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

May 23, 1997

F. Vernon Boozer, Esquire
614 Bosley Avenue
Towson, MD 21204

RE: Item No.: 363
Case No.: 97-363-XA
Petitioner: Anthony Kelly, et ux

Dear Mr. Boozer:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on February 26, 1997.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (410-887-3391).

Sincerely,

A handwritten signature in cursive script that reads "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

MICROFILMED





**Maryland Department of Transportation
State Highway Administration**

David L. Winstead
Secretary

Parker F. Williams
Administrator

March 13, 1997

Ms Roslyn Eubanks
Baltimore County Office
of Permits and Development
Management
County Office Building
Room 109
Towson MD 21204

RE: Baltimore County
Item 363 (MJK)
2824-2828 Paper Mill Road
US 1
Mile Post 15.71

Dear Ms. Eubanks:

This letter is in response to your request for our review of the referenced item.

Although we have no objection to the special exception, we will require the following condition of the development.

Entrance construction shall be subject to the terms and conditions of an access permit issued by this office.

Please contact Larry Gredlein at 410-545-5606 if you have any questions. Thank you for the opportunity to review this item.

Very truly yours,

Ronald Burns, Chief
Engineering Access Permits
Division

LG/eu

cc: Mr. Dave Malkowski
Mr. Allan Price

My telephone number is 410-545-5600 (Fax# 333-1041)

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

[Handwritten scribble]

TO: Arnold Jablon, Director
Department of Permits and Development Management

DATE: *March 18, 1997*

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

97-363-XA

SUBJECT: 8322 Pulaski Highway

INFORMATION:

Item Number: 363

Petitioner: Kelly Property

Property Size: _____

Zoning: BR-AS

Requested Action: Special Exception

Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

The applicant requests a special exception for a used vehicle dealership and sales lot (light trucks, one ton or less).

An analysis of the plan indicates that the property appears to be too small to accommodate the intended use. Mr. Kellman's memorandum of February 26, 1997 points out that known site deficiencies have not been addressed by the applicant. These technical problems reinforce the position that the property is simply not large enough to accommodate a used vehicle dealership. While the proposed use would not be inappropriate at other BR zoned properties along Pulaski Highway, this site is different than other properties because of its limited size and proximity to an existing dwelling at 8343 Pulaski Highway. Clearly, other similarly zoned properties within the area would not be restricted by the above mentioned limitations.

In addition, the subject property is located within the area of the Neighborhood Design Center's study of Pulaski Highway. This working document designates the applicant's property for neighborhood retail uses. Other portions of the Pulaski Highway corridor are intended for the concentration of auto-related uses.

Based on the analysis conducted and information provided, staff recommends that the applicant's request be denied.

Prepared by: *Jeffrey W. Long*
Division Chief: *Caryl Kerns*

MICROFILMED

BALTIMORE COUNTY, MARYLAND
Inter-Office Memorandum

DATE: February 26, 1997

TO: Hearing Officer

FROM: Mitchell J. Kellman
Planner II
Zoning Review, PDM

SUBJECT: Item #363
8322 Pulaski Highway

I advised the petitioner's attorney of these two items:

1. A large portion of the building is vacant. The proposed use will contain just enough parking. When the vacant portion contains a new use, the parking will then become deficient.
2. Since the site is zoned B.R., it is subject to Section 238.4, BCZR, where display is permitted 15 feet in front of permitted building line. This has not been addressed via a variance. The applicant informed me that he thinks this can be addressed by the special exception.

MJK:scj

3/5/97 WCR called Tony DiPaula re: the above. Told him that it can't be granted this way. Tony will revise plans + the request.

MICROFILMED

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

March 12, 1997

Arnold Jablon, Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW
Location: DISTRIBUTION MEETING March 10, 1997

Item Nos.: 353, 354, 363 Zoning Agenda:

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.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
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", 1991 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

MICROFILMED



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: March 17, 1997

FROM: Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for March 17, 1997
Item No. 363

The Development Plans Review Division has reviewed the subject zoning item. A change of use permit requires conformance with the Baltimore County Landscape Manual. A 10-foot setback landscape is required along the two road frontages. Macadam must be removed from landscape areas.

RWB:HJO:jrb

cc: File

ZONE317.363

MICROFILMED

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE: 3/13/97

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: March 14, 97

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: 353 367
 356
 358
 359
 360
 361
 362
 363
 364
 365

RBS:sp

BRUCE2/DEPRM/TXTSBP

UNRECORDED

#360 --- JCM

PETITION PROBLEMS

1. Need printed name and title of person signing for legal owner.
2. Need signature of attorney.
4. Need additional fee for SPH (fixed on 3/5/97).
3. Sign form is incomplete.

#363 --- MJK

1. Sign form is incomplete.

#364 --- JRF

1. Need authorization for J. Stevenson Peck to sign for legal owner.
2. No attorney listed on the folder.
3. Sign form is incomplete.

#365 --- CAM

1. Petition says zoning is "R.C.-5/R.C.-2", folder says zoning is "R.C.-5", which is correct??
2. Sign form is incomplete.

PETITION PROBLEMS

#440 --- CAM

1. Need title of person signing for legal owner.
2. Folder says area is 54.440 -- 54.440 what???

#443 --- JRF

1. Sign form is incomplete/incorrect.

#448 --- MJK

1. Sign form is incomplete/incorrect.

#450 --- MJK

1. Sign form is incomplete/incorrect.

#452 --- MJK

1. Sign form is incomplete/incorrect.
2. Lessee on petition form does not agree with lessee on plat.
3. No legal owner signature, name, address, or telephone number on petition form.

#453 --- MJK

1. Sign form is incomplete/incorrect.

#455 --- JRA

1. Sign form is incomplete/incorrect.
2. Folder says zoning is BL & ROA; petition says ROA.

#456 --- MJK

1. Sign form is incomplete/incorrect.
2. Parking variance for what??

#457 --- JCM

1. No location description on folder (WCR wrote for agenda).
2. Zoning case number on plat is illegible.

#458 --- JRA

1. Sign form is incomplete/incorrect.
2. No telephone number for legal owner.

MICROFILMED

#461 --- JCM

1. Plat indicates a contract purchaser; petition does not.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

July 17, 1997

F. Vernon Boozer, Esquire
614 Bosley Avenue
Towson, MD 21204

RE: Petitions for Special
Exception and Variance
NWS Pulaski Hwy, SE/S Old
Philadelphia Rd., 136' SW
of Hilldale Rd.
(8322 Pulaski Highway)
15th Election District
7th Councilmanic District
Anthony J. Kelly, et ux -
Petitioners
Case No. 97-363-XA

Dear Mr. Boozer:

Please be advised that an appeal of the above-referenced case was filed in this office on July 10, 1997 by John B. Gontrum, Esquire. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call 410-887-3180.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

ARNOLD JABLON
Director

AJ:rye

c: People's Counsel

MICROFILMED



APPEAL

Petitions for Special Exception and Variance
NWS Pulaski Hwy., SE/S Old Philadelphia Rd., 136' SW of Hilldale Rd.
(8322 Pulaski Highway)
15th Election District - 7th Councilmanic District
Anthony J. Kelly, et ux - Petitioners
Case No. 97-363-KA

Petitions for Special Exception and Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits: 1 - Plan to Accompany Petition for Special
Exception and Variance
2A-H - Eight Photographs

Protestants' Exhibits: 1 - Petition of Opposition

Zoning Commissioner's Order dated June 11, 1997 (Denied in Part,
Granted in Part)

Notice of Appeal received on July 10, 1997 from John B. Gontrum,
Esquire

c: John B. Gontrum, Esquire, Romadka, Gontrum & McLaughlin, P.A., 814
Eastern Boulevard, Baltimore, MD 21221
James V. McFaul, Esquire, Offices of F. Vernon Boozer, Esquire, 614
Bosley Avenue, Towson, MD 21204
Stephen Verch, Esquire, 300 Allegheny Avenue, Towson, MD 21204
Ms. Nancy M. Leiter, President, Rosedale Community Association,
P.O. Box 9680, Baltimore, MD 21237
People's Counsel of Baltimore County, M.S. 2010
Lawrence Schmidt, Zoning Commissioner
Arnold Jablon, Director of PDM

MICROFILMED

Petitions for Special Exception and Variance
 NWS Pulaski Hwy., SE/S Old Philadelphia Rd., 136' SW of Hilldale Rd.
 (8322 Pulaski Highway)
 15th Election District - 7th Councilmanic District
 Anthony J. Kelly, et ux - Petitioners
 Case No. 97-363-XA

- ✓ Petitions for Special Exception and Variance
- ✓ Description of Property
- ✓ Certificate of Posting
- ✓ Certificate of Publication
- ✓ Entry of Appearance of People's Counsel
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits: ✓ 1 - Plan to Accompany Petition for Special
 Exception and Variance
 2A-H - Eight Photographs

Protestants' Exhibits: ✓ 1 - Petition of Opposition

- ✓ Zoning Commissioner's Order dated June 11, 1997 (Denied in Part,
 Granted in Part)
- ✓ Notice of Appeal received on July 10, 1997 from John B. Gontrum,
 Esquire

c: * John B. Gontrum, Esquire, Romadka, Gontrum & McLaughlin, P.A., 814
 Eastern Boulevard, Baltimore, MD 21221
 James V. McFaul, Esquire, Offices of F. Vernon Boozer, Esquire, 614
 Bosley Avenue, Towson, MD 21204
 Stephen Verch, Esquire, 300 Allegheny Avenue, Towson, MD 21204
~~Ms. Nancy M. Leiter, President, Rosedale Community Association,
 P.O. Box 9680, Baltimore, MD 21237~~
 People's Counsel of Baltimore County, M.S. 2010
 Lawrence Schmidt, Zoning Commissioner
 Arnold Jablon, Director of PDM

✓ E

* **Petitioners:**
 Anthony J. and Joann M. Kelly
 1104 Gypsy Lane West
 Towson, MD 21286

Protestants represented by S. Verch:
 Raymond J. Krul, 8330 Pulaski Highway 21237
 Henry G. Kahler, 8340 Old Philadelphia Rd. 21237
~~Margaret Pfeifer, 8346 Old Philadelphia Rd. 21237~~

90:5 WD 81 700 L6
 COUNTY BOARD OF APPEALS

MICROFILMED

34 42?
Case No. 97-363-KA

SE -to permit used vehicle dealership and sales lot (light trucks, one ton or less) on BR-AS parcel; VAR -(1) storage and display of sale vehicles; (2) building setback; (3) existing side yard setback; (4) display vehicles on gravel surface; (5) parking of display vehicles closer than 10' from street right of way; (6) 8 parking spaces ilo 21; and (7) aisle width of 20' ilo 22'.

6/11/97 -Z.C.'s Order in which Petition for Special Exception was DENIED and Variance requests 1, 4, 5, 6 and 7 were DENIED; and Variances 2 and 3 were GRANTED. (Appeal taken by Petitioner from denial of special exception and 5 variance requests.)

10/22/97 - Notice of Assignment for hearing scheduled for Tuesday, January 27, 1998 at 10:00 a.m. sent to following:

John B. Gontrum, Esquire
Mr. & Mrs. Anthony J. Kelly
J. Finley Ransone & Associates
/Lloyd C. Calvert and J. Finley Ransone
Stephen Verch, Esquire
Raymond J. Krul
Henry G. Kahler
Margaret Pfeifer
Rosedale Community Assn. /Nancy M. Leiter, President
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Donald T. Rascoe, Project Manager /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

10/28/97 -T/C from Margaret Pfeifer - in ref. to Notice of Assignment. She said she had no opposition to this use and that she had signed only a petition which related to removing "no parking signs" on her street. (see "Memo to file" of 10/20/97) Charlotte R.

10/30/97 -T/C from Nancy M. Leiter, President of Rosedale Community Assn - requesting that both she and her association be removed from this file; they are not protestants and are not in opposition to this matter. She also asked for the name and number of Mr. Kelly's attorney so that she could inform him as well; was concerned about Notice of Assignment with her name on it. Advised her that I would send a letter to her confirming that her name and that of Rosedale Comm Assn had been removed from the file; copy to be sent to each person who received the Notice of Assignment.
- Letter sent this date to parties as indicated above.

1/27/98 - Hearing concluded before Board; deliberated at conclusion of hearing on merits; Special Exception GRANTED; Variance #5, as requested by Petitioner in this hearing, GRANTED; written Order to be issued by the Board; awaiting submittal. (K.B.M.)

MICROFILMED



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

June 26, 1997

Ms. Nancy M. Leiter, President
Rosedale Community Association
P.O. Box 9680
Baltimore, Maryland 21237

RE: PETITIONS FOR SPECIAL EXCEPTION & VARIANCE
Property: 8322 Pulaski Highway
Anthony J. Kelly, et ux, Petitioners
Case No. 97-363-XA

Dear Ms. Leiter:

This is in response to your recent inquiry regarding the Findings of Fact and Conclusions of Law issued in the above case by me on June 11, 1997.

As you advised, my written decision states that you appeared in opposition to the request by the Petitioner for Special Exception and Variance relief. Apparently, I reached such a conclusion based on the fact that your name and address appeared on the Protestant's sign-in sheet circulated at the hearing. Nonetheless, you have advised that you did not appear in opposition, per se, but as an interested person and representative of the Rosedale Community Association. I have included a copy of this letter in the case file, at your request, reflecting the fact that you appeared at the hearing and took no position either for or against the proposal.

I trust that the inclusion of such a letter satisfies your concern.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt".

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn

- c: Mr. Stephen Verch, Esquire
300 Allegheny Avenue
Towson Maryland 21204
- c: James V. McFaul, Esquire
Offices of F. Vernon Boozer, Esquire
614 Bosley Avenue
Towson, Maryland 21204

MICROFILMED



B A L T I M O R E C O U N T Y , M A R Y L A N D

Inter-Office Correspondence

TO: File

DATE: October 29, 1997

FROM: Charlotte E. Radcliffe
 County Board of Appeals

SUBJECT: Anthony J. Kelly, et ux - Petitioner
 Case No. 97-363-XA

This office received a telephone call on October 28, 1997 from Margaret Pfeifer asking that her name be pulled from the file as a protestant. She stated that "I am not against Mr. Kelly having a used car lot" and "I thought the petition I signed was only to have the 'no parking' signs removed from her street". She also advised that she sent a letter to Mr. Kelly informing him that she was in favor of his request.

/cer

MICROFILMED



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

TO WCF
for file
File

October 30, 1997

Nancy M. Leiter, President
Rosedale Community Association
P.O. Box 9680
Baltimore, MD 21237

RE: Case No. 97-363-XA
Anthony J. Kelly, et ux -Petitioners

Dear Ms. Leiter:

In response to your telephone request, both your name and that of the Rosedale Community Association have been removed from the subject file as protestants in this matter.

A copy of this letter has been sent to Petitioner's counsel, John Gontrum, as well as all other parties listed in this file.

Should you have any further questions, please call me at 410-887-3180.

Very truly yours,

Kathleen C. Bianco
Kathleen C. Bianco
Administrator

- cc: John B. Gontrum, Esquire
- Mr. & Mrs. Anthony J. Kelly
- J. Finley Ransone & Associates
- Lloyd C. Calvert and J. Finley Ransone
- Stephen Verch, Esquire
- Raymond J. Krul
- Henry G. Kahler
- People's Counsel for Baltimore County
- Pat Keller, Director /Planning
- Lawrence E. Schmidt /Z.C.
- Arnold Jablon, Director /PDM
- Virginia W. Barnhart, County Attorney

MICROFILMED

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Anthony J. Kelly, et ux -Petitioners
Case No. 97-363-XA

DATE : January 27, 1998 /at conclusion of hearing

BOARD /PANEL : Kristine K. Howanski, Chairman (KKH)
Harry E. Buchheister, Jr. (HEB)
Thomas P. Melvin (TPM)

SECRETARY : Kathleen C. Bianco
Administrator

PURPOSE: To deliberate Case No. 97-363-XA /Anthony J. Kelly, et ux
-Petitioners; Petition for Special Exception and Petition
for Variance.

IN ATTENDANCE: Carole S. Demilio, Deputy People's Counsel for
Baltimore County; Stephen Verch, Esquire, Counsel
for Protestants; and John B. Gontrum, Esquire,
Counsel for Petitioners.

KKH: We are here to deliberate Case No. 97-363-XA in the matter of
Anthony J. Kelly. As I understand -- what we are deliberating
is whether or not to grant a special exception. This would be
under the auspices of three statutes; 236.4 of the regulations
permits their operation when they qualify under 502.1 Insofar
as Section 270, this identifies them as a use permitted by
special exception only in B.R. zone. Section 502.1 requires
that there be evidence that the use will not be detrimental in
a number of ways in terms of health, safety and general
welfare for the locality; congestion of roads, streets,
alleys; impact greater than at another site; fire ordinance as
to potential hazard; overcrowd land or increase population;
water and sewer - saw no other improvements indicated;
adequate light and air; inconsistent with the zoning; or
otherwise violate the spirit and intent of impervious surface
regulations.

If we find that the special exception is permitted under
502.1, then under 502.2 we can impose conditions and
restrictions.

Lastly, I believe we are considering one variance - variance
#5, under 307.1, which requires a finding of uniqueness of
some sort and finding that strict compliance would result in
practical difficulty or unreasonable hardship, and a finding
that its use will be in strict harmony with the spirit and
intent of the zoning regulations.

Having set forth what I believe is the framework of our
decision, Mr. Buchheister, do you want to go first?

MICROFILMED

Anthony J. Kelly, et ux -Petitioners
Case No. 97-363-XA /Deliberation

HEB: The special exception, I believe, as outlined in the plan meets 502.1. Mr. Verch and protestants are supportive of the amended plan. The site is on a heavily commercialized strip of highway, which is, in itself, unique, as pointed out by Mr. Gontrum. I think it is unlike any other state or federal highway in the State of Maryland with which I am familiar.

As a personal note, the last time I was in the area looking for a commercial location, I experienced a real access problem to the place I was seeking. I recall parking a couple of locations away from where I wanted to go. Being from the Washington area of Catonsville, Pulaski Highway and Philadelphia Road are another world to me. I appreciate some of the things Mr. Gontrum pointed out regarding access road, side road and so forth. One thing is obvious -- that Mr. Monk has crossed every "T" and completed every sentence for his plan here. Everything has been thoroughly considered in creating a site which is an enormous improvement to what is already there.

The thing which seems to be the most acceptable about it is that it lies within this heavily commercialized area, but in itself will be a big improvement, and possibly set the pace for the renovation or rehabilitation of more places along Pulaski Highway.

Under the law as outlined, I find that this special exception should be granted, and that variance #5 should also be granted.

TPM: Harry, I am in complete agreement with you. Mr. Monk's testimony satisfied 502.1 for the special exception. That leads us to the variance request from 307. I believe the property is also unique. And that many businesses in this area do enjoy the parking spaces and paved areas -- in this case it will be setback of 5'. There is practical difficulty if these spaces were denied; the owner is voluntarily shifting the display area away from the road and providing landscaping.

The fencing to keep the property isolated from its neighbors is also on the amended plat, and there is an overall willingness of the Petitioner to improve the site.

I am in agreement that the special exception and variance should be granted.

KKH: I am going to concur. I had no trouble with the special exception portion inasmuch as this is an area where this is the exact kind of business you would expect to have in this

Anthony J. Kelly, et ux -Petitioners
Case No. 97-363-XA /Deliberation

location. Testimony on the part of Mr. Monk supported the underpinnings of 502.1; there is evidence to support the grant of the special exception.

I think this Board is obliged, in light of the wishes of the individuals represented by Mr. Verch, to impose restrictions and conditions as agreed by the parties; those expressed in openings, as well as the hatching of parking area, would be appropriate in this instance, provided I agree with the variance.

I did have some trouble with the variance, but given that it is a commercial site, and already someone has encroached further on it than what is proposed, and given the irony that if we deny the variance, exactly what Mr. Verch's clients want to avoid is likely what would come about.


Lesser parking spaces with lesser visibility, coupled with commercial environment, I think I would accept the argument that Pulaski Highway does present a somewhat unique situation. And I think, to a certain extent, we do want to give to the Developer -- problems were created by landscaping on one side to make the residential neighbors happy - this has created that difficulty. While you may say they created the problem, that finding would be ridiculous in this instance where it's done to make the neighbors happy, and then to say they created the hardship in a case such as this. Also, both Mr. Monk and Mr. Gontrum spoke of the topography.

I would agree with my colleagues to grant the special exception and variance #5, and I would have the order with conditions as set forth by the attorneys in this case.

That concludes this matter.

* * * * *

Respectfully submitted,


Kathleen C. Bianco
Administrator

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: November 2, 1998
Permits & Development Management

FROM: Charlotte E. Radcliffe *CR*
County Board of Appeals

SUBJECT: Closed File: 97-363-XA /Anthony J. Kelly, et ux

As no further appeals have been taken in the above captioned case, we are hereby closing the file and returning same to you herewith.

Attachment (Case File No. 97-363-XA)

MICROFILMED

Margaret I. Pfeifer
8346 Old Phila. Rd.
Baltimore, MD 21237
410/686-0182

January 19, 1998

County Board of Appeals for Baltimore County
401 Bosley Ave.
Towson, MD 21234
Re: Zoning Appeal

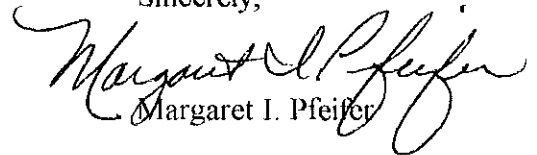
Gentlemen,

I am in receipt of your hearing notification regarding the pending hearing scheduled for Tony Kelly & Family Truck Center in January. Please be advised that when I signed that petition I was under the impression that it was intended to prevent removal of the "No Parking" signs from the 8300 block of Old Philadelphia Road. Subsequently I was informed by the Department of Planning & Zoning that the petition was intended to prevent the operation of a used car lot on Pulaski Highway.

I am not opposed to the Owner operating an orderly used vehicle business, but I am opposed to the removal of parking restrictions on Old Philadelphia Road. In the past this property has been used as a restaurant and bar which operated late into the night. I would anticipate that a used vehicle sales business would be less disruptive to the nearby residents than a bar.

If there are additional issues regarding this matter of which I am unaware please contact me at your convenience.

Sincerely,


Margaret I. Pfeifer

copy: Tony Kelly & Family Used Cars
6501 Eastern Ave.
Balto. MD, 21222

RECEIVED
POST-APPEAL

RECEIVED
COUNTY BOARD OF APPEALS
98 JAN 23 PM 4:14

MICROFILMED

Pat for Spec. Exc. for 1st Term # 363.
8322 Plask: Highway
Tony & Joann Kelly.

Please Read -

Please do not schedule for hearing yet.
- Petition for Variance pending until like
to counsel: date and schedule for same
day.

By: J. M. [Signature]

828-9441

MICROFILMED

ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard
Baltimore, Maryland 21221

(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

JILL D. LOPER

* Also Admitted In the District of Columbia

July 10, 1997

Mr. Lawrence E. Schmidt, Commissioner
Zoning Commissioner's Office
400 Washington Avenue
Towson, Maryland 21204

RE: Petitions for Special Exception and Variance
Case No.: 97-363-XA
Property: 8322 Pulaski Highway
Petitioner: Anthony J. Kelly, et ux, Petitioners
RG&M File Name: Anthony J. Kelly
RG&M File No.: 97.3020


Dear Commissioner Schmidt:

Please enter an appeal in the above referenced case from the Findings of Fact and Conclusions of Law and Order dated June 11, 1997, denying Special Exception and Variances 1, 4, 5, 6, & 7.

It is our intention on appeal to file a revised plan significantly reducing or eliminating the variances described. Also, please find enclosed our escrow check in the amount of \$460.00 for filing and advertising.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,



John B. Gontrum

JBG/jmc
Enclosure (1)

RECEIVED

10 1997

MICROFILMED

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

97-
303-XA

J. FINLEY RANSONIE

1 SUNNYVIEW DR. PHOENIX MD 21151

ANTHONY J. KALLY

1104 GYPSY LANE W TOWSON 21286

LLOYD C. CALVERT

407 FOLCROFT ST BALTO MD 21224

JAMES V. McFARL

614 BOSLEY AVE, TOWSON 21204



Protestants
No 1

To Whom It May Concern,

This is a petition of the undersigned to oppose the variance of property known as Tony Kelly and Family Truck Sales, located at 8322 Pulaski Hwy. Baltimore County, Maryland 21237, 15th district of Baltimore County.

We feel that due to limited parking conditions on this property, this business will be forced to use surrounding public roads as well as parking lots of adjacent businesses to accomodate there customer needs. Therefore we oppose variance of this property in anticipation of neighborhood congestion.

SIGNED:	NAME	ADDRESS	PHONE
	Raymond J. Paul	8330 Pulaski Hwy	410-686-3179
	Henry J. Kahler	8340 Old Phila Road	410-687-9168
	Margaret Pfeifer	8346 Old Phila Road	410-686-0182

MICROFILMED



WILLIAM MONK, INC.
ENGINEERS • PLANNERS

COURTHOUSE COMMONS
222 BOSLEY AVENUE
SUITE C-6
TOWSON, MD 21204-4300
410-494-8931
410-494-9903 FAX

WILLIAM MONK

ae - E+h #1

WILLIAM P. MONK

RESUME

Courthouse Commons
222 Bosley Avenue
Suite C-6
Towson, Maryland 21204
(410) 494-8931
(410) 494-9903 (fax)

PROFESSIONAL EMPLOYMENT:

WILLIAM MONK, INC.
SITE PLANNING/
DESIGN•ZONING•
DEVELOPMENT SERVICES
Maryland, Delaware
Virginia, New Jersey
Pennsylvania and
North Carolina

Consultant to commercial and residential land developers, national and regional companies. Services include: site planning, landscape design, golf course community master planning, golf course routing design, zoning consultation, government and community liaison services, expert witness testimony.
June 1980 - Present

MID ATLANTIC PROPERTIES, INC.
Hunt Valley,
Maryland

Commercial and industrial real estate brokers.
December 1987 - January 1991

OFFICE PARKS DIVISION: NATIONAL HOMES CORPORATION
Lafayette, Indiana

Regional Sales Manager-Mid Atlantic Region (NJ, Eastern PA, DE, MD, DC, VA): provide design/planning, marketing, and project feasibility consulting services to developers involved in suburban office parks.
December 1983 - June 1986

THEODORE EMBER & COMPANY
Baltimore, Maryland

Commercial and industrial real estate brokers, emphasis on commercial pad site development with national corporations.
January 1983 - November 1987

GENERAL AMERICAN REAL ESTATE AND DEVELOPMENT CORPORATION
Ellicott City, Maryland

Commercial and industrial real estate brokers.
April 1982 - December 1982

*Just microfilm
1st page - don't
unriddle*

MICROFILMED

**YORK ROAD PLANNING
AREA COMMITTEE, INC.**
Baltimore, Maryland

Assistant director for private, non-profit
community planning and re-development
corporation, national pilot program for
commercial revitalization.
April 1977 - June 1980

**ANNE ARUNDEL COUNTY
OFFICE OF PLANNING
& ZONING**
Annapolis, Maryland

Site planner for county, reviewed all
subdivision proposals, coordinated county
subdivision review process encompassing
17 agencies.
September 1976 - March 1977

**RTKL ASSOC., INC.
ARCHITECTS/PLANNERS
ENGINEERS**
Baltimore, Maryland

Project planner-projects include:
Federal Government funded pedestrian
systems study, downtown pedestrian mall
research, CBD study for Rochester, NY.
September 1975 - April 1976

ORGANIZATIONS:

Towson Development Corporation - Board of Directors
- 1994 - Present

Homebuilders Association of Maryland

National Golf Foundation

American Planning Association

Mayor's Task Force - Oriole Park at Camden Yard Stadium Committee
- 1987 - 1993

Citizens Planning and Housing Association, Baltimore, Maryland, Board of Governors, Chairman -
Downtown Development Committee.
- 1985 - 1986

Stone Oaks Condominium Association - President
- 1986 - 1987

Chinquapin Hollow Community Association - President
- 1978 - 1980

EDUCATION:

University of Illinois, Urbana-Champaign, Illinois, Masters in Urban
Planning, May 1975, (4.81 G.P.A.)

University of Illinois, Urbana-Champaign, Illinois, Bachelor in Urban
Planning, December 1973

THE FIRM

William Monk, Inc. provides a comprehensive range of civil engineering, land planning, zoning and government liaison services to national and regional companies and private sector developers throughout the mid-Atlantic region. William Monk started the firm in 1980. His primary focus has been to address the highly specialized needs of his commercial and industrial clients. **William Monk, Inc.** has prepared over 2,400 plans and assisted clients in over 80 jurisdictions from New York to North Carolina.

SERVICES

CIVIL ENGINEERING: Services include; site layout, construction drawings and specifications, grading, erosion and sediment control, storm water management, parking lot design, road and utility design, flood studies, removal and installation of fuel systems and piping.

LAND PLANNING: Preparation of preliminary site development plans for a wide range of commercial development projects, including shopping centers, office and industrial parks, pad sites, and golf course communities. The firm has been engaged to prepare plans for projects ranging from over 800 acres to individual sites less than an acre.

ZONING/EXPERT WITNESS TESTIMONY: In addition to preparing plans for submittal for rezoning, special exception/conditional use and variance applications to local jurisdictions, William Monk, Inc. assists their clients in the processing of applications and coordinates the review process through the technical agencies. Mr. Monk is also an approved expert witness in many jurisdictions.

GOVERNMENT LIAISON SERVICES: The firm assists clients through the public review boards, community review and detailed site review processes, as well as expediting approval of building permits.

NATIONAL AND REGIONAL CLIENTS

During the past 17 years, William Monk, Inc. has prepared over 2,400 feasibility studies and preliminary development plans for commercial developers, as well as national and regional companies. This includes: office buildings, shopping centers, free-standing commercial uses, industrial warehouses, office parks, and mixed use developments. A partial list of national and regional companies includes the following:

CONVENIENCE STORES

7-Eleven Food Stores
High's Food Stores
Wawa Food Stores
Paceway Convenience Stores
Dash-In Food Stores
6-12 Convenience Food Marts
X-Tra Mart

AUTOMOTIVE SERVICE

Precision Tune
Mr. Transmission
Pit Stop, Inc.
Windshields of America
Grease Monkey
Econo Lube 'N' Tune
Midas Muffler
3 Rivers Glass
Jiffy Lube
Mr. Tire
Kimmel Tire
Midas Muffler
Grease Monkey
Salvo Auto Parts
National Tire Warehouse
Western Auto
Parts America

AUTOMOTIVE-GASOLINE

Amoco Oil Co.
Arco Petroleum
Gulf Oil Company
Steuart/Agip
Shell Oil Company
Southern Maryland Oil Co.
Sunoco
Texaco/Star Enterprise
Eastern Petroleum
Quarles Petroleum, Inc.
Carroll Independent Fuel
Ewing Oil Company
Ocean Petroleum Co.

RESTAURANTS

Dunkin Donuts
Pizza Hut
Taco Bell
Hot-N-Now
Big Boys
Roy Rogers Restaurants
Checkers
Church's Fried Chicken
Hardee's
Burger King
Golden Corral
Kentucky Fried Chicken
Mr. Donut
Friendly's Restaurants
Chili's Restaurants
Subway Sub Shops
Red Hot n' Blue
McDonald's
All-In-One (TacoBell, Pizza Hut, KFC)
East Side Marios
Chevys Mexican Restaurants
California Pizza Kitchen
Fuddruckers
Sweet Pea Cafe
Old Country Buffet
Cracker Barrel
Rita's Water Ice
Krispy Kreme

MISCELLANEOUS-COMMERCIAL

Rite Aid
K-Mart
Duron Paints
Nichol's Department Store
Safeway Food Stores
Blockbusters Video
Pier One Imports
Price Warehouse
F&M Drug Stores
Roses Department Store
Town & Country Pontiac-Nissan
Klein's Supermarkets
C.J. Bonner Co.
Carteret Savings Bank
Penn Advertising
Universal Advertising
Giant Foods
Enterprise Rent-A-Car
Koons Ford
ATI Communications, Inc.
Wal-Mart
Sam's Club
Hechingers
Bluecrest North Caterers
Musselman Chevrolet
Bell Atlantic
Luby Chevrolet
Sports Authority
Revco Drugs
CVS Drugs
Weis Markets
Lamar Advertising
Hollywood Video
Food Lion

JURISDICTIONS WHERE WORK HAS BEEN PERFORMED

MARYLAND

Aberdeen
Annapolis
Anne Arundel County*
Baltimore*
Baltimore County*
Bel Air
Bowie
Charles County
Calvert County
Cambridge
Caroline County
Carroll County*
Cecil County
Centreville
Chesapeake Beach
College Park
Columbia
Easton
Ellicott City
Frederick
Frederick County*
Gaithersburg
Hagerstown
Hampstead
Harford County*
Havre De Grace
Howard County
Kent County
Laurel
Montgomery County
Ocean City
Perryville
Prince George's County*
Queen Anne's Co.
Rockville
St. Charles Community

(MARYLAND)

St. Marys County
St. Michael's
Salisbury
Talbot County
Taneytown
Washington County
Westminster

DELAWARE

Dover
Kent County
Milford
Newark
Rehoboth Beach
Sussex County

**DISTRICT OF
COLUMBIA**

NEW JERSEY

Cherry Hill
Dover Township
Mountainside
Pequannock Township
Perth Amboy
Piscataway*
Wall Township*
Pompton Plains
Toms River

NORTH CAROLINA

Pinehurst

PENNSYLVANIA

Bucks County
Chester County
Montgomery County
Paoli
Shrewsbury

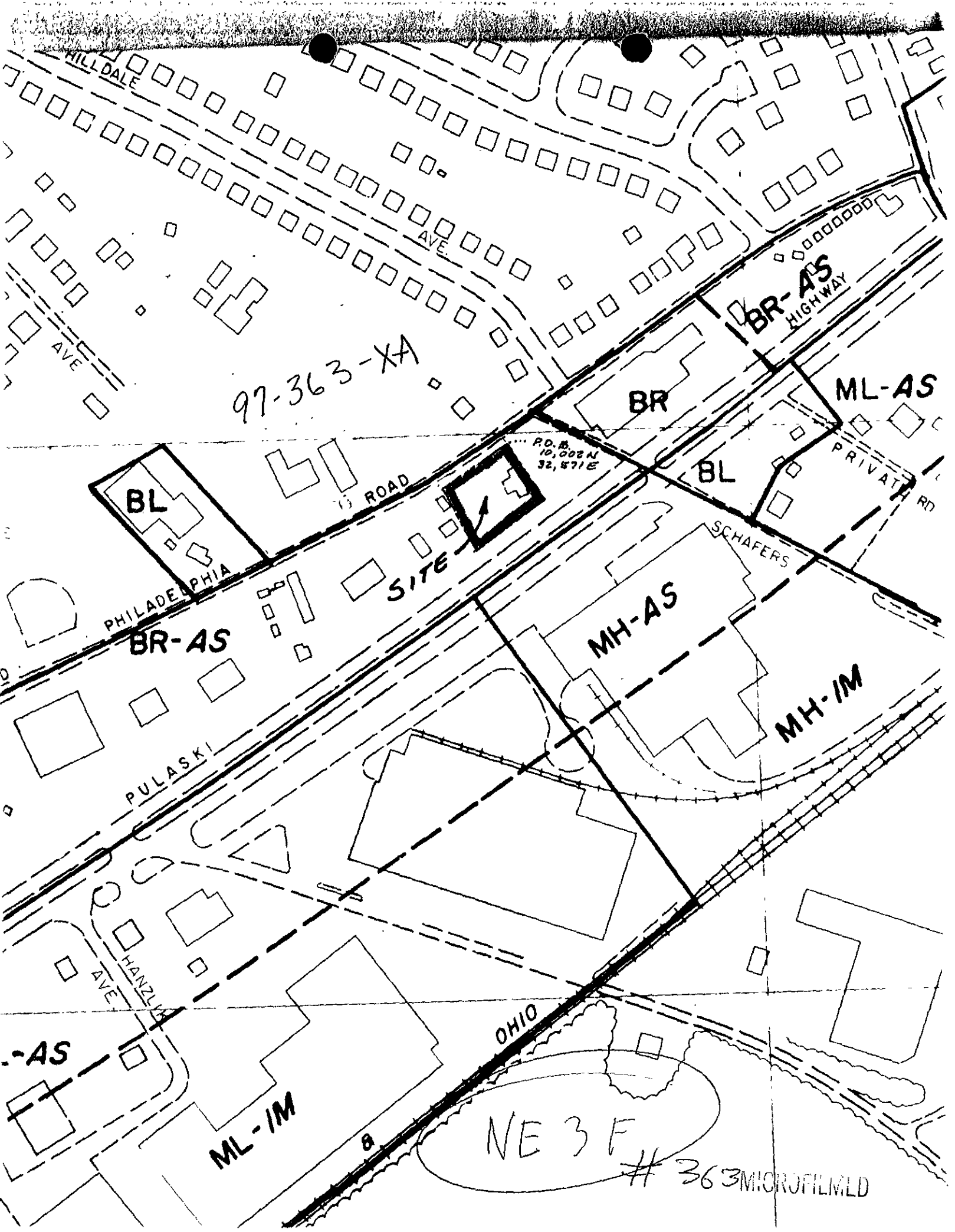
VIRGINIA

Alexandria
Arlington
Arlington County
Chesterfield County
(Richmond area)
Fairfax City
Fairfax County
Falls Church
Fauquier County
Henrico County
(Richmond area)
Herndon
Leesburg
Loudon County
Manassas
Manassas Park
McLean
Prince William County
Quantico
Richmond
Sterling
Vienna

WEST VIRGINIA

Martinsburg

*** EXPERT WITNESS**



HILDALE

AVE

97-363-XA

BR-AS
HIGHWAY

ML-AS

BR

PRIVATE RD

BL

ROAD

RD. B.
10,000 N
32,571 E

BL

PHILADELPHIA

SITE

SCHAFFERS

BR-AS

MH-AS

MH-IM

PULASKI

HANZLER

OHIO

-AS

ML-IM

NE 3 F

363 MICROFILMED

County Board of Appeals of Baltimore County

ROOM 49 OLD COURTHOUSE
TOWSON, MARYLAND 21204

Address Service Requested

Retitron / Appellant

5A & 5B (2 photos)

*(Formerly Retitronis
2E and 2C - 2C file)*

MICROFILMED





Baltimore County
Department of Permits and
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

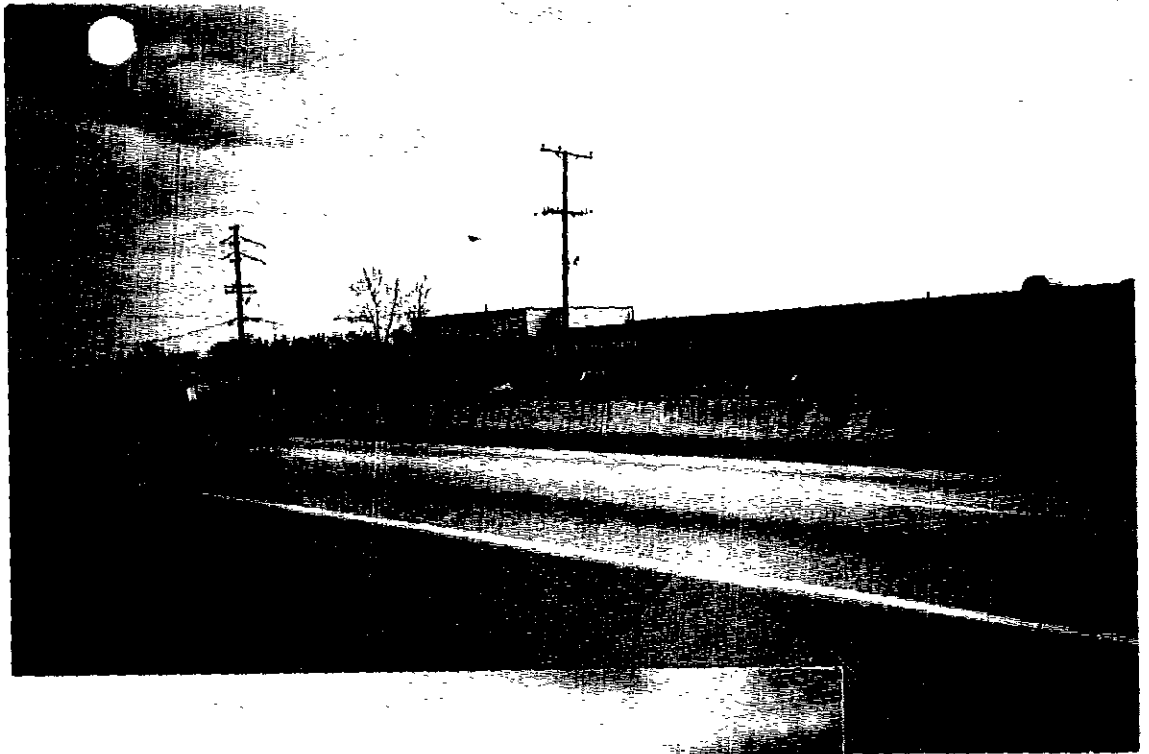
MICROFILMED

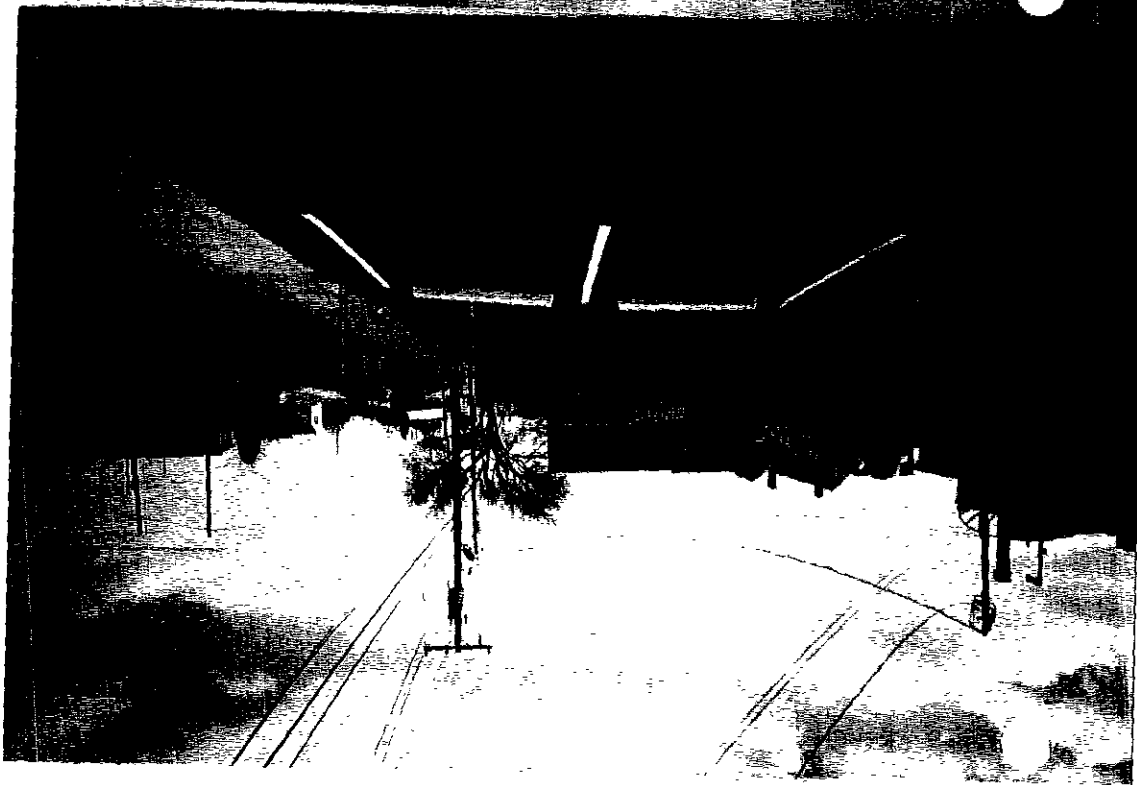
Petitioner's Exp. ZA-H (see note w/ photos)

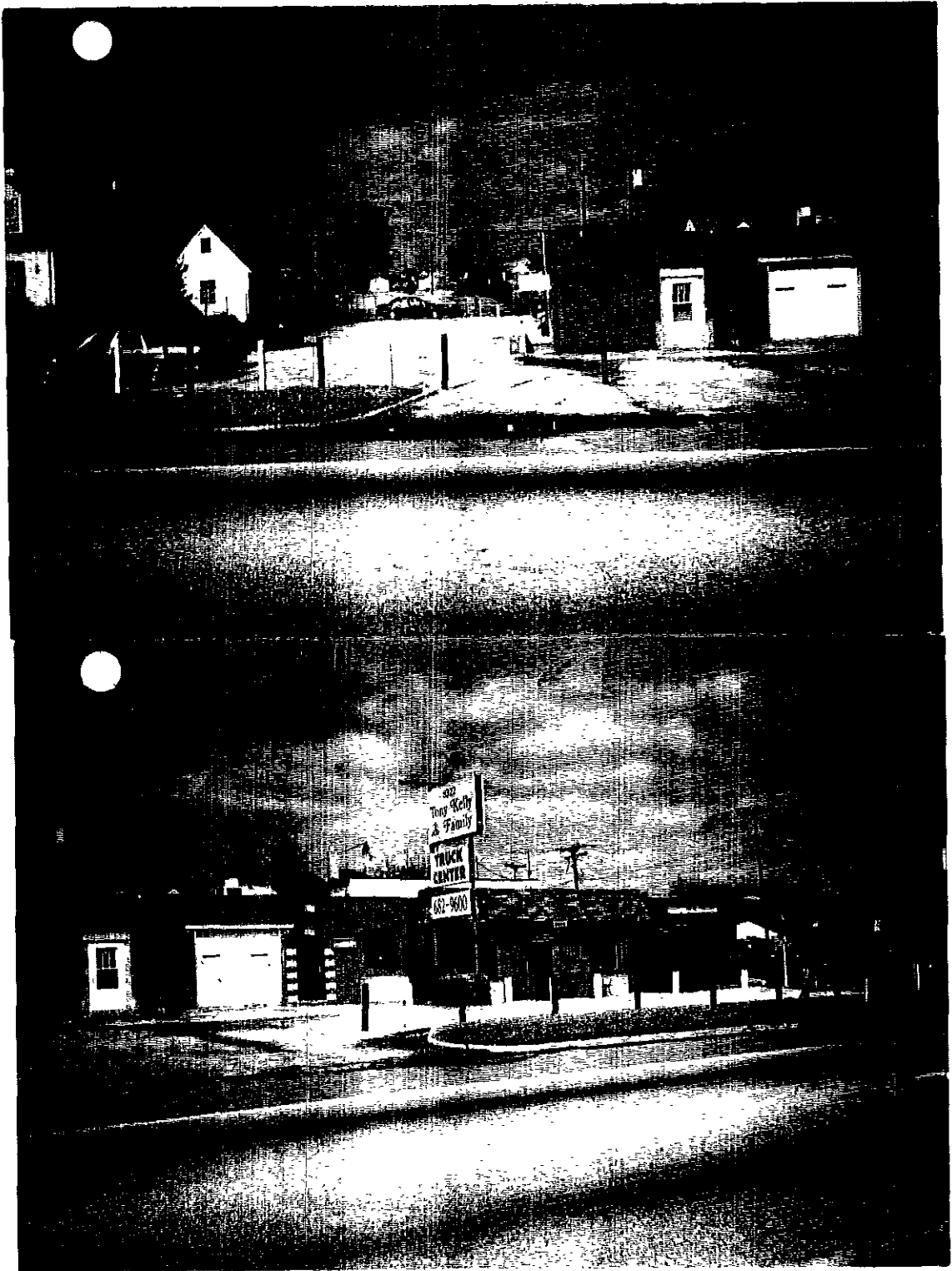
97-363-XA

Note:

2C = 5A } Board of
2E = 5B } Appeals
 } exhibits -
 } hearing 1/22/98







Mr. Lawrence E. Schmidt, Commissioner
July 10, 1997
Page 2

cc: Anthony J. Kelly

Mr. Steve Verch, Esquire
300 Allegheny Avenue
Towson, MD 21204

Baltimore County People's Counsel
400 Washington Avenue
Baltimore, MD 21204

MICROFILMED

DEVELOPERS/CLIENTS

MARYLAND:

Annapolis

Dunn Development Corporation
Osprey Property Group

Baltimore

Arundel Corporation
A & R Development Corp.
Attman & Glazier
Baltimore Instrument Company
Baltimore Overhead Door Co.
Bank Development Corporation
Besche Realty, Inc
Circle Corporation
Continental Realty
The Dechiaro-Rachuba Group
DM Realty Company
D & R
Enterprise Electric Company
F.M. Harvey Construction Co.
Gas Station Development Corp.
Hill Management Co.
Howard L. Chertkof & Co., Inc.
Kayne, Levin, Neilson & Bavar (KLN&B)
Lancelotta-Hunt Partnership
Luskins
Mar-Chek
Miller Real Estate Co.
Northern Chesapeake Builders
Park Heights Development Corp.
Partners Real Estate Company
Pine Construction Company
Pridemark Company
Alan Schecter Realty Ventures
R/C Theatres
Schwaber Trust
Steuart Development
Town & Country Pontiac-Nissan
Twelve Knotts Limited Partnership
VanGuard Equities, Inc.
Ward, James
Whalen Properties, Inc.

(MARYLAND)

Belair

Country Manor Realty
Smith Development Corp.

Bethesda

Booth Organization, Inc.
Ronald Cohen Investments
Continental Investment Corp.
J.S. Poms & Associates
Property Development Assoc., Inc.

MASSACHUSETTS:

MGI Properties, Inc.

MICHIGAN:

F&M Distributors, Inc.

NEW JERSEY:

Vornado Properties, Inc.
Emmes Realty Services

PENNSYLVANIA:

Kranzco Realty Trust

VIRGINIA:

Annandale

Builders & Developers, Inc.

Fairfax

Property Dev. Assoc.

Lake Ridge

Union General Corporation

Tyson's Corner

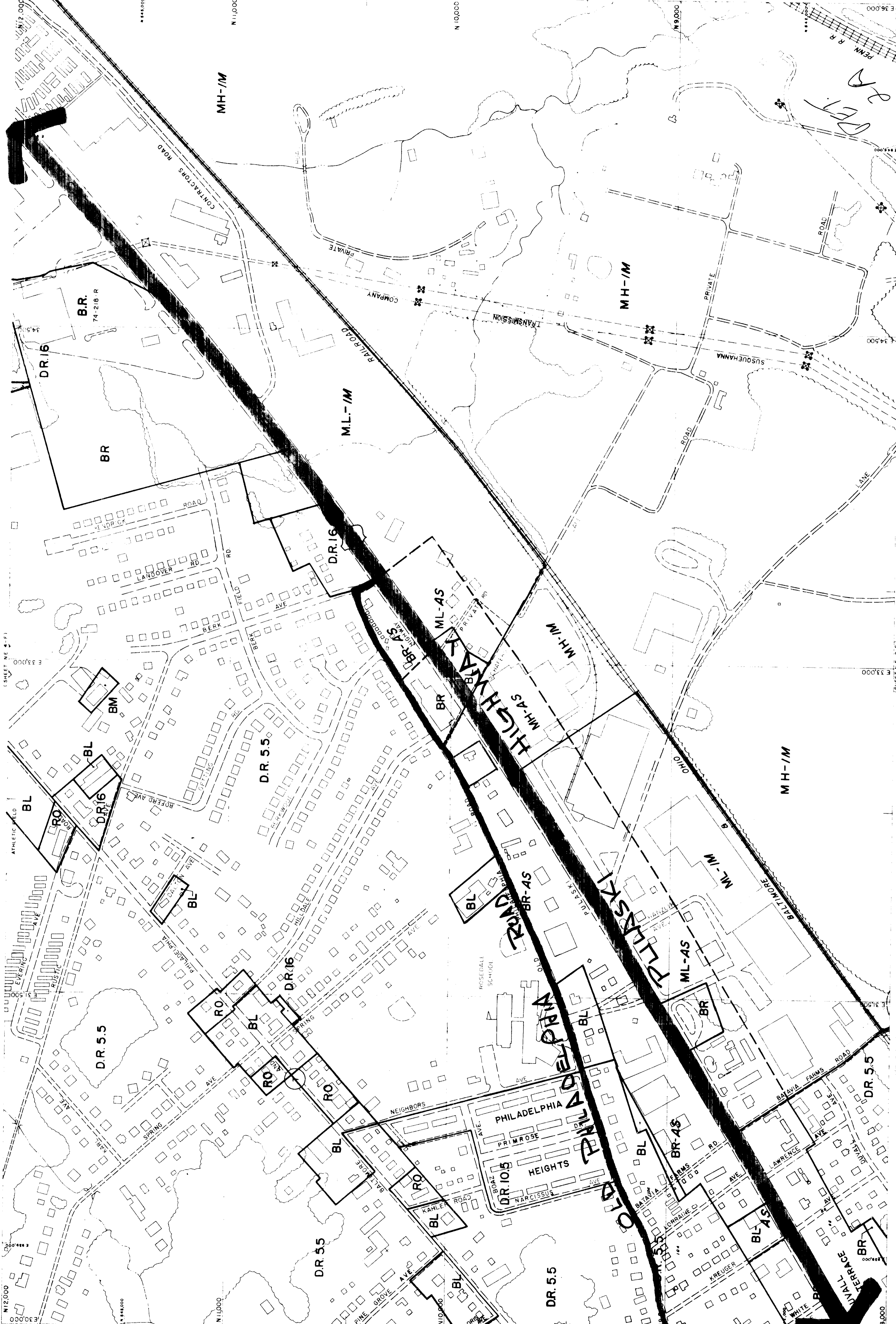
Desanto Naptal

Woodbridge

Land Management Group
Long Enterprises

WASHINGTON:

Terronomic, Inc.
Reiman and Company
M. Leo Storch



LOCATION
ROSEDALE
MICROFILMED

SCALE
1" = 200'

DATE OF PHOTOGRAPHY
JANUARY 1986

N E
3-F

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

J-SE I-SW
J-NE I-NW

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



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

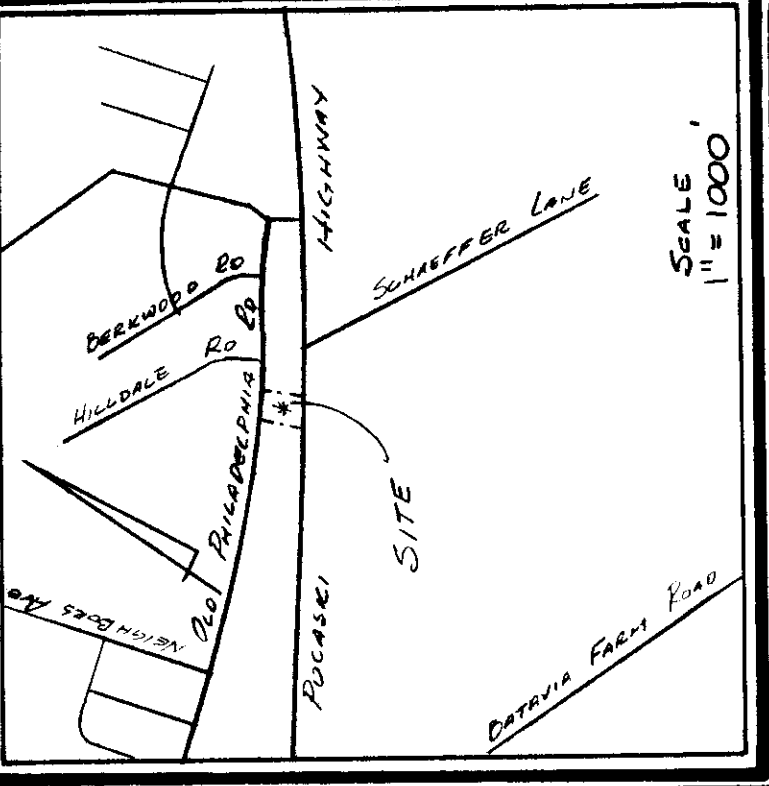
PET
2B

SCALE 1" = 200'
LOCATION ROSEDALE
MICROFILMED SHEET N.E. 3-F

DATE OF PHOTOGRAPHY JANUARY 1986

GENERAL NOTES

- 1.) Owner: Anthony J. & Joann M. Kelly
1104 Gypsy Lane West
Towson, MD 21286
Phone: (410) 633-7800
Deed Ref: Liber 11833 folio 834
Tax Acc. No: 1511001810
- 2.) Site Address: 8322 Pulaski Highway
- 3.) Site Data:
Current Zoning: BR-AS
Zoning Map: NE-3F
Net Site Area: 0.4246 Ac.
Gross Site Area: 0.6171 Ac.
Gross Building Area: 6,175 sq ft
Used Building Area: 1,500 sq ft
Current Use: Vacant
Previous Use: Restaurant
Proposed Use: Used Car Sales
FAR: 0.230
- 4.) Public water and public sewer exist and service the site.
- 5.) Previous commercial building permits are unknown.
- 6.) Parking Calculations:
Required: 3.3 X 6,175 = 20.4 spaces
Total Parking Spaces Required = 21 spaces
Total Parking Spaces Shown = 8 spaces
- 7.) This Property does not lie in a floodplain.



VICINITY MAP

PLAN TO ACCOMPANY A PETITION FOR A SPECIAL EXCEPTION & ZONING VARIANCES FOR THE TONY KELLY & FAMILY TRUCK CENTER LOCATED AT 8322 PULASKI HIGHWAY 15TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT BALTIMORE COUNTY MARYLAND

97-363-XA

300 + other variances
revised plan 4/9/97

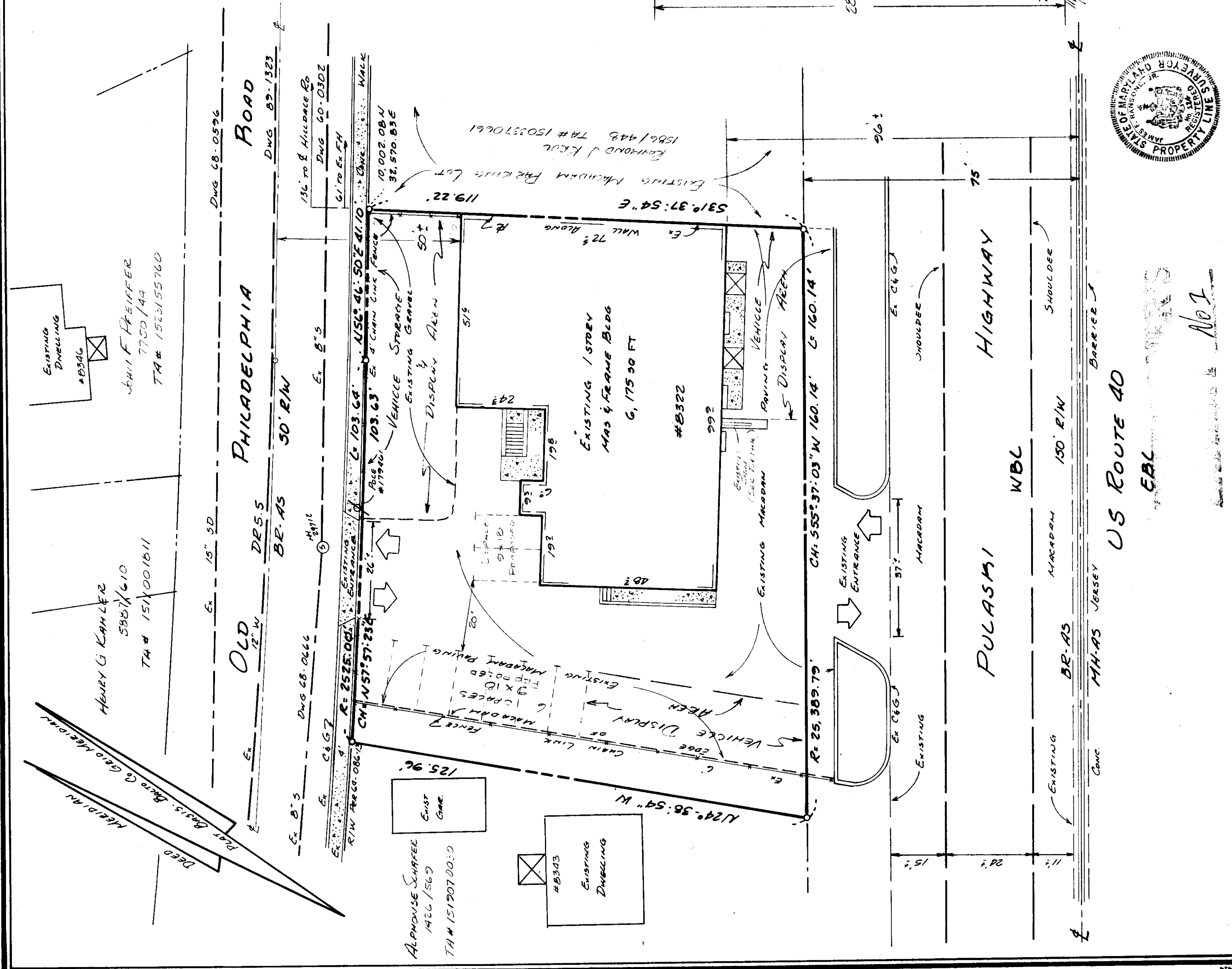
APRIL 3, 1997 - DELETED REASONS ABOVE, COALE VEHICLE STRUCTURE & DISPLAY AREAS
REVISED: MARCH 26, 1997 - REASONS ABOVE, DELETED ABOVE, ADD REASONS, AMEND TITLE.

SCALE: 1" = 20' DATE: JANUARY 4, 1997

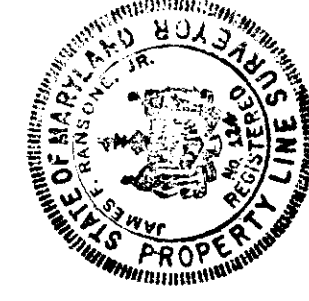
J. FINLEY RANSONE & ASSOCIATES
REGISTERED LAND SURVEYORS
P.O. BOX 10160
TOWSON, MARYLAND 21285-0160
MICROFILMED 21285-0160
666-7448

J# 9701-1065 F# 15B-066

EAS-E

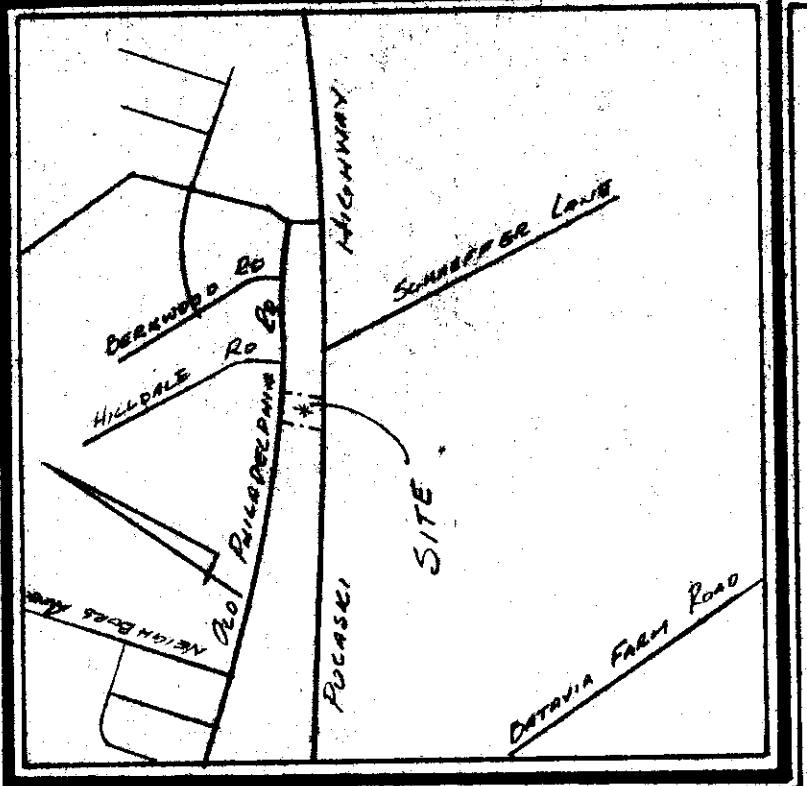


SIGN DETAIL
SCALE: 1" = 5'



US ROUTE 40

EAL
No 1



VICINITY MAP

GENERAL NOTES

- 1.) Owner: Anthony J. & Joann M. Kelly
1184 Cyprip Lane West
Towson, MD 21286
Phone: (410) 683-7900
- 2.) Site Address: 8822 Pulaski Highway
- 3.) Site Data:
 - Current Zoning: BR-AS
 - Zoning Map: NE-3F
 - Net Site Area: 0.4246 Ac 18,496 sq ft
 - Gross Site Area: 0.6171 Ac 26,682 sq ft
 - Gross Building Area: 6,175 sq ft
 - Used Building Area: 1,500 sq ft
 - Current Use: Restaurant
 - Proposed Use: Used Car-Sales
 - FAR: 0.230
- 4.) Public water and public sewer exist and service the site.
- 5.) Previous commercial building permits are unknown.
- 6.) Parking Calculations:
 - Required: 3.3 X 1.5 = 4.95 spaces
 - Employee: 1.0 X 3 = 3 spaces
 - Total required: 8 spaces
 - Total Parking provided: 9 spaces
- 7.) This property does not lie in a floodplain.
- 8.) Reason for request: To allow used motor vehicle outdoor sales area as a Special Exception under Sec 226.4 of the Baltimore County Zoning Regulations.

97-363-XA

PLAN TO ACCOMPANY PETITION FOR A SPECIAL EXCEPTION FOR THE

TONY KELLY & FAMILY TRUCK CENTER

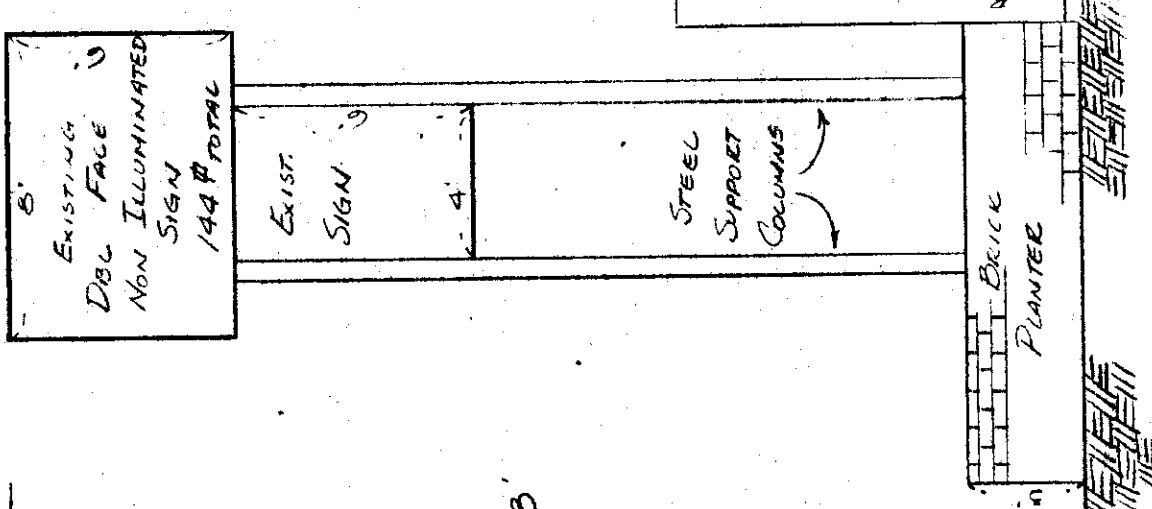
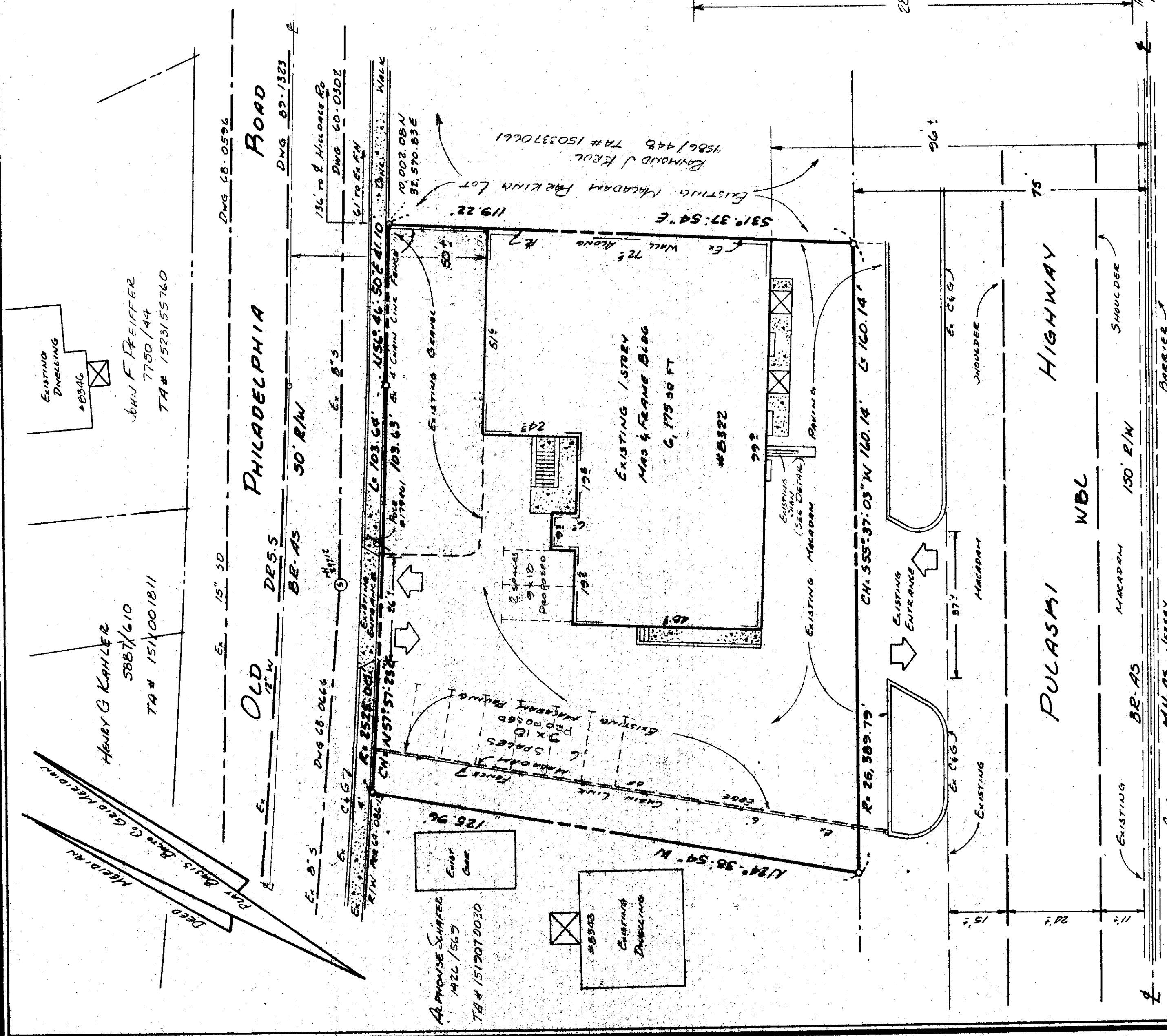
8822 PULASKI HIGHWAY
15TH ELECTION DISTRICT 7TH COUNCILMANS DISTRICT
BALTIMORE COUNTY MARYLAND

SCALE: 1" = 20' DATE: January 9, 1997

J. FINLEY RANSONE & ASSOCIATES
REGISTERED LAND SURVEYORS
P.O. BOX 10160
TOWSON, MARYLAND 21285-0160
MICROFILMED 21285-0160 666-7448

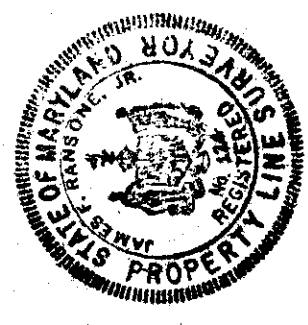
J# 9701-1065 F# 15B-066

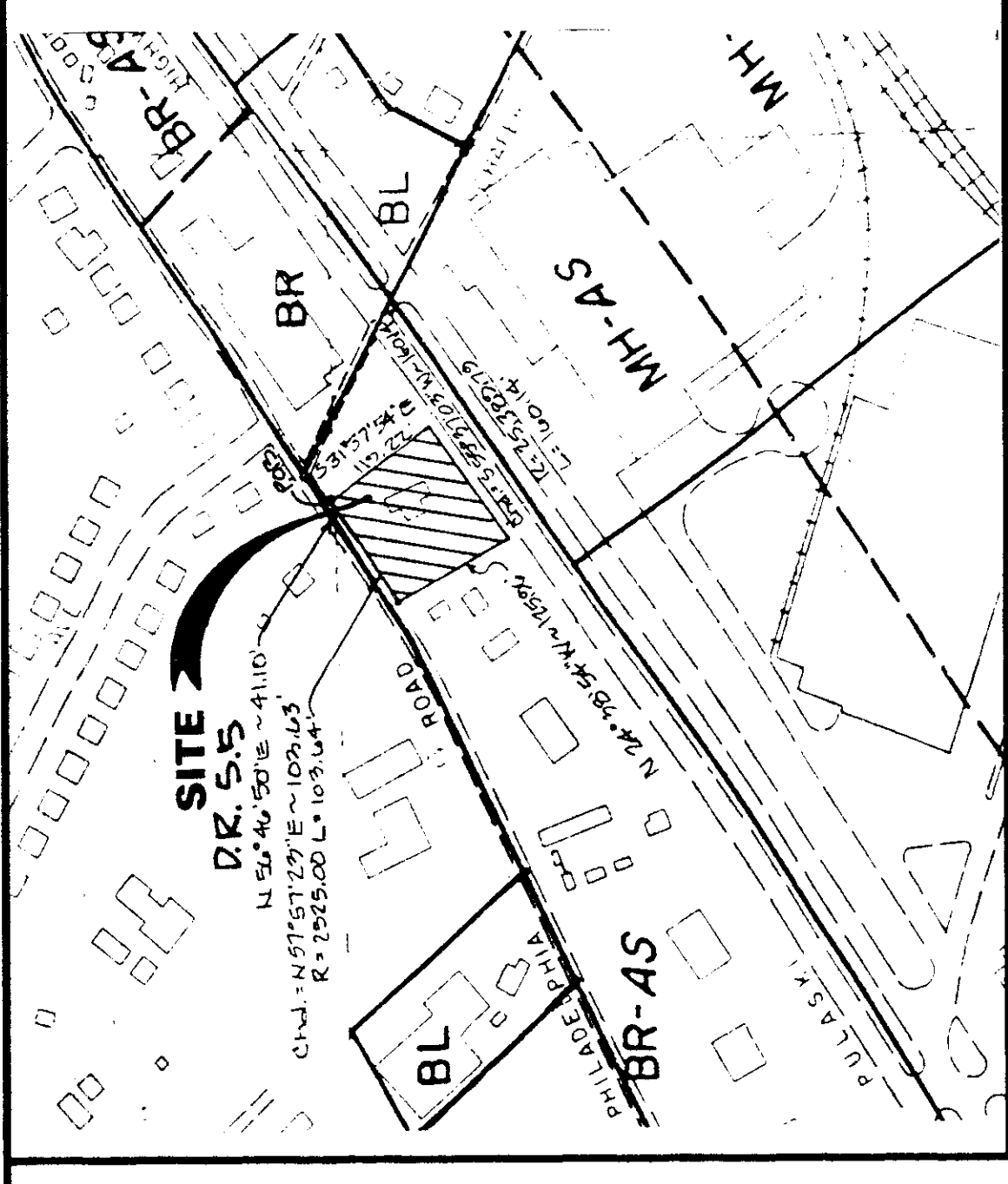
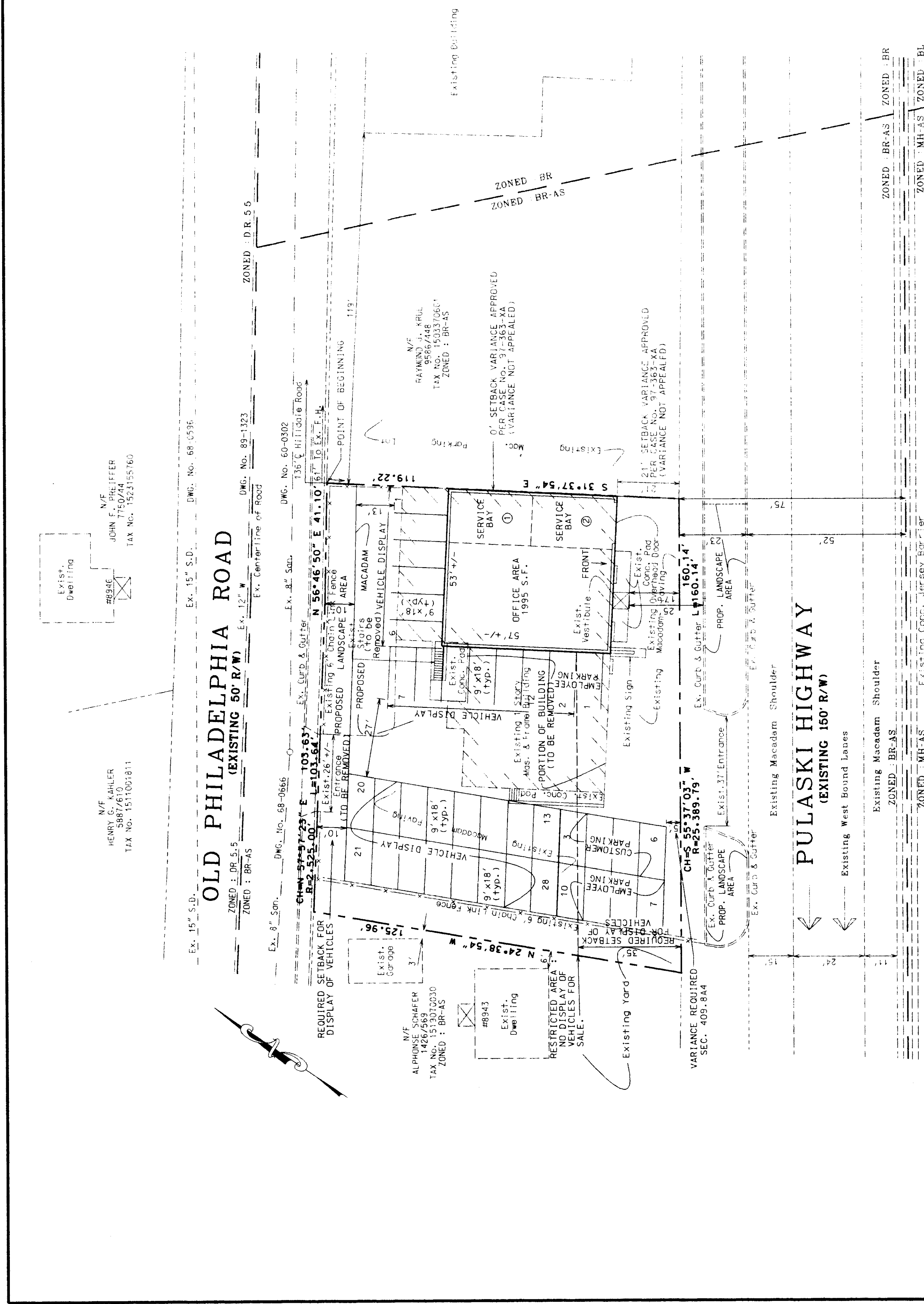
EAS-E



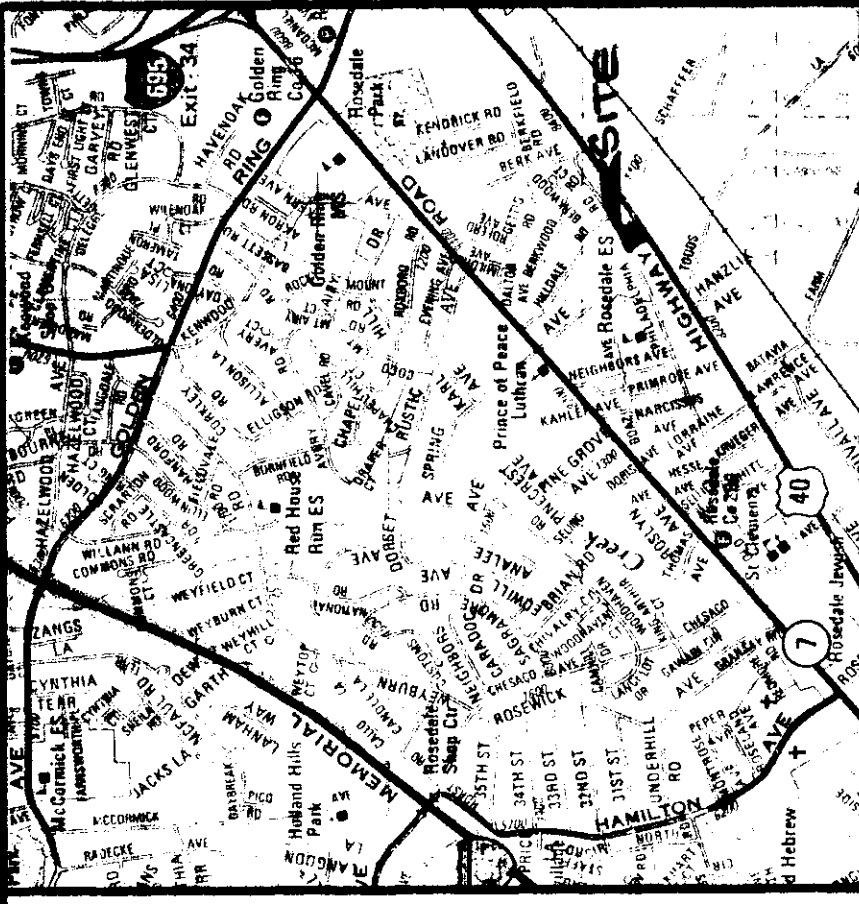
SCALE: 1" = 5'

363





ZONING MAP
SCALE: 1"=200'



VICINITY MAP
SCALE: 1"=2000'

MAP No. NE 3-F

GENERAL NOTES :

- OWNER: ANTHONY J. & JOANN M. KELLY
104 GIPSY LANE WEST
TOWSON, MARYLAND 21286
PHONE: 410-665-7900
- EXISTING ZONING : BR-AS
 - PROPOSED ZONING : NO CHANGE
 - LOT AREA : 18,496 SF OR 0.4246 AC +/-
 - EXISTING USE : VACANT RESTAURANT
 - PROPOSED USE : USED CAR/LIGHT DUTY TRUCKS/
VANS & SPORT UTILITY VEHICLES
SALES & REPAIR
 - BUILDING AREA : OFFICE AREA : 1995 S.F.
SERVICE BAYS : 1026 S.F.
TOTAL : 3,021 S.F.
 - PARKING REQUIRED : 3.3 x 3,021 = 9,96 SPACES
TOTAL : 10 SPACES
 - PARKING PROVIDED : DISPLAY VEHICLE : 28 SPACES
EMPLOYEE & CUSTOMER PARKING : 10 SPACES
TOTAL : 38 SPACES
 - BUILDING SETBACKS : REQUIRED PROVIDED
FRONT : 50' 21'
REAR : 35' 0'
SIDE : 30' 0'
 - VARIANCE APPROVED PER CASE # 97-363-XA (NOT APPEALED)
 - SPECIAL EXCEPTION : TO ALLOW USED MOTOR VEHICLE
OUTDOOR SALES AREA AS A SPECIAL EXCEPTION
IN BR-AS ZONING REGULATIONS
COUNTY ZONING REGULATIONS
 - VARIANCE PER SECTION 409.8A TO PERMIT PARKING
LOCATED 5' FROM THE RIGHT-OF-WAY LINE OF
PUBLIC STREET IN LIEU OF THE REQUIRED 10'.
 - UTILITIES: PUBLIC WATER AND SEWER
 - SIGNS: AS SHOWN, NO CHANGES PROPOSED
 - TAX MAP : 89, BLOCK : 18, PARCEL : 11
 - SITE IS NOT IN THE 100 YEAR FLOOD PLAIN.
 - TAX ACCOUNT NUMBER : 151000810
 - DEED REFERENCE : 11833/634
 - F.A.R. : 0.16
 - BUILDING HEIGHT : 15 FEET +/-
 - PREVIOUS ZONING CASE No. 97-363-XA

William Monk, Inc.
ENGINEERS - PLANNERS

Courthouse Commons
222 North Howard Street, Suite C-6
Towson, Maryland 21286
Phone: 410-494-8831 Fax: 410-494-9603

PLAN TO ACCOMPANY PETITION
FOR
SPECIAL EXCEPTION
FOR

8322 PULASKI HIGHWAY
BALTIMORE COUNTY, MARYLAND

15th ELECTION DISTRICT 7th COUNCILMANIC DISTRICT

REVISIONS	DRAWN BY: JRG	DESIGNED BY: WPM	SCALE: 1"=20'
	DATE: 10/97	JOB NO. 97-125	SHEET NO. 1 OF 1
	MICROFILMED		

NOTE :
PLAN IS BASED ON EXISTING INFORMATION
SUPPLIED BY THE PROPERTY OWNER

