IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*

PETITION OF:
COLONIAL STOLER PARTNERSHIP *
11275 REISTERSTOWN ROAD
OWINGS MILLS, MARYLAND 21117 *

FOR JUDICIAL REVIEW OF THE DECISION OF * CIVIL
THE COUNTY BOARD OF APPEALS ACTION
OF BALTIMORE COUNTY * No. 3-C-98-08852
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204 *

IN THE CASE OF: IN THE MATTER *
COLONIAL STOLER PARTNERSHIP
FOR A SPECIAL HEARING AND VARIANCE *
ON PROPERTY LOCATED ON THE NW/S OF
KINGSLEY ROAD, 650' NE OF C/L *
REISTERSTOWN ROAD (22 KINGSLEY ROAD)
4TH ELECTION DISTRICT *
3RD COUNCILMANIC DISTRICT
*

CASE NO. 97-513-SPHA
* * * * * * * * * * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Charles L. Marks, Harry E. Buchheister, Jr., and Donna M. Felling, constituting the County Board of Appeals of Baltimore County, and in answer to the Petition for Judicial Review directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Department of Permits and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY

No. 97-513-SPHA

May 10, 1997 RECEIVED AND FILED 98 OCT 30 PM 1:57	Petitions for Special Hearing and Variance filed by Marvin I. Singer, Esquire, on behalf of Leonard Stoler, Partner of Colonial Stoler Partnership; SPH /seeking approval of a use permit for business parking in a residential zone; and VAR /relief of the RTA requirements to permit setbacks of 12', 5', 9', 15' and 20' ilo required 50'.
May 29	Publication in newspaper.

June 10, 1997	Certificate of Posting.
June 26	ZAC Comments.
June 27	Entry of Appearance filed by People's Counsel for Baltimore County.
June 27	Hearing held on Petition by the Zoning Commissioner.
July 14	Memorandum on Behalf of Petitioner filed by Marvin I. Singer, Esquire.
August 15	Order of the Zoning Commissioner in which Petition for Variance was DENIED.
August 27	Notice of Appeal filed by Marvin I. Singer, Esquire, on behalf of Colonial Stoler Partnership.
April 24, 1998	Hearing before the Board of Appeals (Day #1).
May 8	Hearing before the Board of Appeals (Day #2 - concluded).
May 29	Memorandum on Behalf of Petitioner filed by Marvin I. Singer, Esquire
	Memorandum filed by J. Carroll Holzer, Esquire, on behalf of the Protestants.
June 24	Deliberation conducted by the Board.
August 4	Opinion and Order issued by the Board; Petition for Special Hearing is DENIED; Petition for Variance is DENIED.
August 31	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Marvin I. Singer, Esquire, on behalf of Colonial Stoler Partnership.
September 3	Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
September 3	Certificate of Notice sent to interested parties.

Petitioner's Exhibit Nos.	1-Record in file
	2-Plat of site by Mr.
(Large -in CBA office)	3-Illustration of Buffer Plantings
(Large -in CBA office)	4-View of Tree Plantings and Bd on BC fence in 1st yr. & 3 yrs later
(Large -in CBA office)	5-Photos of trees (4)
	6-Pamphlet of Floodlight

(Pet.'s Exhibits continued) 7A-Photo of E/s of Kingsley opp.site
B-Corner of sub prop.
C-Kingsley on East at 2nd dogleg
D-Kingsley on East at 2nd dogleg
E-Kingsley across from site on East
F-Bldg. & Kingsley.
G-22 Kingsley (site)
H-22 Kingsley yellow building
I-22 Kingsley towards west
J-22 Kingsley towards west
K-Kingsley, shrubs & garage
8A-Fence & parking lot
B-Autos on w/s of Reisters. Rd.
C-Kingsley at 1st dogleg and 22 Kingsley
D-Kingsley before 1st dogleg and 22 Kingsley
9A-8' fence
B-8' fence - different view
C-1st residence on Kingsley
D-N.W view from subj. prop. to Stoler
10-Brochure on stacking vehicles
11-Photos of stacking (7 photos)
12A-Photo of Stoler Ford (1980's)
B-Photo of Stoler Ford
C-Heritage Chev.
D-Stoler on left
E-Kingsley Rd just before Stoler
F-Stoler Auto Facility
G-Stoler Auto Facility
13A-Fence along site & Body Shop
B-Fence along site & Body Shop
C-Clifton Prop. to left
14-Stoler Fiscal Report 1997
15-Norman Gerber Vitae

Protestant's Exhibit No. 1-Photo of bend (dogleg) in Kingsley Rd
2A-1982 Aerial Photo
2B-1986 Aerial Photo
2C-1996 Aerial Photo
3-Recommendations of Off. of Planning
4-Video by Mr. Paris
5-List of Residents in opposition
6-Plat in color code prepared by J. Clifton
7-Notice of Assessment for Cliftons
8-Map by Goldberg as key to photos
9-Photos by Goldberg (18 shots)
(Large - in CBA office) 10-Display Board -Photos of properties for sale
11-Assessment for Orr property
ID-Letter from Mr. Sellers of R.O.M. Assoc.
ID-Letters from various protestants
ID-List of Protestants

October 30, 1998 Transcript of testimony filed.

October 30, 1998 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Respectfully submitted,

Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals of Baltimore County, Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: Marvin I. Singer, Esquire
Colonial Stoler Partnership
J. Carroll Holzer, Esquire
People's Counsel for Baltimore County
Virginia W. Barnhart, County Attorney

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: February 14, 2002

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton
Board of Appeals

SUBJECT: **Colonial Stoler Partnership**
Case No.: 97-513-SPHA
Circuit Court Case No.: 03-C-98-008852

Judge Cahill of the Circuit Court issued a Memorandum Opinion and Order on December 4, 2001 AFFIRMING the Board of Appeals. No further appeals have been taken in this matter. The Board of Appeals is closing and returning the file that is attached herewith.

Missing Circuit Court Order

Attachment: SUBJECT FILE ATTACHED

Circuit Court of Maryland

Go Back

Case Information

Court System: **Circuit Court for Baltimore County - Civil System**
Case Number: **03C98008852**
Title: **In The Matter of: Colonial Stoler Partnership**
Case Type: **Admin. Agency Appeal Ex Parte** Filing Date: **09/01/1998**
Case Status: **Closed/Active**
Case Disposition: **Decree or Order** Disposition Date: **12/10/2001**

Plaintiff/Petitioner Information

(Each Plaintiff/Petitioner is displayed below)
Party Type: **Petitioner** Party No.: **1**
Business or Organization Name: **Colonial Stoler Partnership**
Address: **11275 Reisterstown Road**
City: **Owings Mills** State: **MD** Zip Code: **21117**

Attorney(s) for the Plaintiff/Petitioner
Name: **Singer, Esq, Marvin I**
Practice Name.
Address: **10 East Baltimore Street**
Suite 901
City: **Baltimore** State: **MD** Zip Code: **21202**

Court Scheduling Information

Event Type: **Civil Non-Jury Trial** Notice Date:
Event Date: **03/01/1999** Event Time: **09:30 AM**
Result: **Postponed** Result Date: **02/24/1999**

Event Type: **Civil Non-Jury Trial** Notice Date:
Event Date: **04/05/1999** Event Time: **09:30 AM**
Result: **Cancelled/Vacated** Result Date: **12/10/2001**

Event Type: **Civil Non-Jury Trial** Notice Date:
Event Date: **04/15/1999** Event Time: **09:30 AM**
Result. **Held/Concluded** Result Date: **04/15/1999**

Related Persons Information

(Each Related person is displayed below)
Party Type: **Interested Party** Party No.: **1**
Business or Organization Name: **County Board Of Appeals Of Baltimore County**
Address: **Old Courthouse Room 49**
City: **Towson** State: **MD** Zip Code: **21204**

Attorney(s) for the Related Persons
Name: **Demilio, Esq, Carole S**
Practice Name:
Address: **301 W Pennsylvania Ave**
City: **Towson** State. **MD** Zip Code: **21204**
Name: **Zimmerman, Esq, Peter M**

Practice Name: **People's Cou For Baltimore County**
Address: **105 West Chesapeake Ave.**
Room 204
City: **Towson** State: **MD** Zip Code: **21204**
Name: **Demilio, Esq, Carole S**
Practice Name: **Deputy Peoples Counsel**
Address: **105 West Chesapeake Ave.**
Room 204
City: **Towson** State: **MD** Zip Code: **21204**

Document Tracking

(Each Document listed. Documents are listed in Document No./Sequence No. order)

Doc No /Seq No.: **1/0**
File Date: **08/31/1998** Close Date: **12/10/2001** Decision:
Party Type: **Petitioner** Party No.: **1**
Document Name: **Petition for Judicial Review**

Doc No./Seq No.: **1/1**
File Date: **09/11/1998** Close Date: **12/10/2001** Decision:
Party Type: **Interested Party** Party No.: **1**
Document Name: **Answer**

Doc No./Seq No.: **2/0**
File Date: **09/03/1998** Close Date: **12/10/2001** Decision:
Party Type: **Interested Party** Party No.: **1**
Document Name: **Certificate of Notice**

Doc No./Seq No.: **3/0**
File Date: **09/11/1998** Close Date: **12/10/2001** Decision:
Party Type: **Interested Party** Party No.: **1**
Document Name: **Intention to Participate**

Doc No./Seq No.: **4/0**
File Date: **10/20/1998** Close Date: **12/10/2001** Decision:
Document Name: **Transcript of Record from Adm Agency**
**

Doc No./Seq No.: **5/0**
File Date: **11/12/1998** Close Date: **11/12/1998** Decision:
Party Type: **Interested Party** Party No.: **1**
Document Name: **Notice of Transcript of Record Sent**

Doc No./Seq No.: **6/0**
File Date: **11/12/1998** Close Date: **11/12/1998** Decision:
Party Type: **Petitioner** Party No.: **1**
Document Name: **Notice of Transcript of Record Sent**

Doc No./Seq No.: **7/0**
File Date: **11/23/1998** Close Date: **11/23/1998** Decision:
Document Name: **Scheduling Order**

Doc No./Seq No.: **8/0**
File Date: **12/08/1998** Close Date: **12/08/1998** Decision:
Document Name: **Stipulation extending time**

Doc No./Seq No.: **9/0**
File Date: **12/22/1998** Close Date: **12/23/1998** Decision:
Party Type: **Petitioner** Party No.: **1**
Document Name: **Memorandum**

Doc No./Seq No.: **10/0**
File Date: **02/02/1999** Close Date: **02/03/1999** Decision:
Party Type: **Interested Party** Party No.: **1**
Document Name: **Memorandum**

Doc No./Seq No.: **11/0**
File Date: **04/15/1999** Close Date: **12/10/2001** Decision:
Document Name: **Open Court Proceeding**
April 15, l999 Hon. Robert E. Cahill Sr. Hearing had. Ruling sub-curia. Opinion to be signed.

Doc No./Seq No.: **12/0**
File Date: **05/30/2001** Close Date: **12/10/2001** Decision: **Denied**
Party Type: **Petitioner** Party No.: **1**
Document Name: **** Motion to Remand Case**
(No DCM).

Doc No./Seq No.: **12/1**
File Date: **06/08/2001** Close Date: **12/10/2001** Decision:
Party Type: **Interested Party** Party No.: **1**
Document Name: ***Answer to Motion to Remand**

Doc No./Seq No.: **13/0**
File Date: **06/12/2001** Close Date: **06/12/2001** Decision:
Party Type: **Interested Party** Party No.: **1**
Document Name: **Attorney Appearance Removed**
Carole S Demilio

Doc No./Seq No.: **14/0**
File Date: **12/10/2001** Close Date: **12/10/2001** Decision **Affirmed**
Document Name: **Memorandum and Order affirming the decision of the Board**

Doc No./Seq No.: **15/0**
File Date: **12/14/2001** Close Date: Decision
Document Name: ***Invoice 11389 to marvin singer***

Doc No./Seq No.: **16/0**
File Date: **12/18/2001** Close Date: Decision:
Document Name: **Docket entries sent to Board of Appeals**

The complete case file can be obtained from the Circuit Courthouse.

IN THE MATTER OF THE THE APPLICATION OF COLONIAL STOLER PARTNERSHIP - PETITIONER FOR SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE NW/S KINGSLEY ROAD, 650' NE OF C/L REISTERSTOWN ROAD (22 KINGSLEY ROAD) 4TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 97-513-SPHA

* * * * * * * * *

O P I N I O N

This case comes to the Board of Appeals for Baltimore County based on a decision of the Zoning Commissioner in which a Petition for Special Hearing was denied; and a Petition for Variance was also denied. Public hearings were conducted by the Board on April 24, 1998 and May 8, 1998. At the conclusion of the second day of public hearings, the Board requested that both counsel submit written Briefs simultaneously to the Board which were due on May 29, 1998. A public deliberation was held on June 24, 1998 beginning at 9:30 a.m. Marvin I. Singer, Esquire, represented the Petitioner /Appellant. J. Carroll Holzer, Esquire, represented the Protestants.

The Appellant /Petitioner had several witnesses testifying on his behalf. Mr. Edwin S. Howe III, a consultant with the firm of K.C.W., Inc., a civil engineering firm, stated his qualifications as a professional engineer, having graduated from the Georgia Institute of Technology in 1988. He was certified as a registered Civil Engineer by the State of Maryland in 1993, with his experience in land development being stated and also his familiarity with the zoning regulations of Baltimore County. He also had received a Master's Degree from Johns Hopkins University. He was accepted by counsel as an expert in the field of civil

engineering. He opined that a part of the subject property was zoned D.R. 3.5 and a portion B.R. The property was contiguous to the present Stoler property, and there was no access by way of Kingsley Road. All traffic to get into the lot in question would be through the existing Stoler property. The requested use permit for business parking in a residential zone would be for 49 spaces (9 ft. x 8 ft.) and would be assigned by the Petitioner for employee parking only.

Mr. Howe stated that there would be no loading or unloading on the site nor any storage permitted on the lot. All lighting required would be in compliance with the Baltimore County Zoning Regulations (BCZR) and located in the outer perimeter approximately 8 feet in height. All lighting would also be directed toward the parking area. A fence would be erected with border /border slat-type screening. Mr. Howe described the general area of the Stoler dealership, with Kingsley Road running perpendicular to Reisterstown Road, and the entrance to Kingsley Road at Reisterstown Road. A Pontiac dealer was also located at Kingsley Road, and to the east of Kingsley Road was a single-family residential community.

Mr. Howe stated the requirements for special exception and variance regulations and also the need for variance relief from Section 1B01.1B.1.e(5) of the Residential Transition Area (RTA) to allow reduced setbacks and reduce the landscaping buffers for 22 Kingsley Road (the subject site). Mr. Howe stated that the zoning manual required a 75-foot setback from the property line and a 50-foot buffer. These requirements, unless they were reduced by the requested relief, would almost consume the present area of the

subject site. Mr. Howe described the subject site in depth to the Board. Mr. Singer then walked Mr. Howe through the requirements of Baltimore County Zoning Regulations Section 502.1, as they apply to the granting of a special exception, and essentially he found no areas of conflict, as each item was specified by Mr. Singer. It was his opinion that if the requested relief were granted the impact, if any, would be very minimal to the community. He stated that if the relief were granted the existing individual home would be razed after securing a County permit, and a 6-foot fence would be erected around the vacant lot which would comply with County regulations.

On cross-examination, a number of discrepancies were noted on the Documented Site Plan, and these were corrected on the plan by Mr. Howe (Petitioner's Exhibit No. 2). He stated he did not live in the general area of the site, and his statements as to Section 502.1 were his personal opinion and were based on visual observations only. He opined that the use for exclusive employee parking should have been designated on the plan, and that the present area would be paved over to accommodate the parking, and that no inlet was shown in connection with the stormwater management plan. He stated his belief that the limitations of the Residential Transition Area, in his opinion, were to create a buffer from different uses. He stated that the Stoler organization was aware of the setback requirements when the property was purchased, but that buffers can be achieved in many different and varied ways. Some of the proposed landscaping would be placed in the Baltimore County right-of-way. He also testified that the zoning manual did permit commercial parking in residential zones

under certain conditions.

Continuing with the cross-examination by Mr. Holzer, Mr. Howe acknowledged that no specific studies had been conducted as to the impact on schools, fire, and panic; and while no traffic survey had been conducted, none was required in this case. He acknowledged that the subject site was trapezoid in shape, flat, no grade, no slopes, no streams or wetlands, with no significant imports. The property presently consisted of a two-story residential dwelling, large grassy area, and an old shed, with Reisterstown Road about 800 ft. (M/L) from the site. He described the various other properties in the area, all of which were essentially residential, single-family dwellings, and again stated that the proposed fence to secure the subject property would be about 6 feet in height with lighting on 8-foot poles, to accommodate 49 parking spaces for exclusive employee parking. He did acknowledge the fact that the exclusivity for the employee parking was not noted on the site plan.

Mr. Vincent Piccinini, along with Mr. Denver Huffman, Director of Operations for the Petitioner, also testified in support of Petitioner's request. Mr. Piccinini stated that he was involved in the sale, design and the installation of landscaping projects for Design Landscape Co., with many years of actual experience overseeing landscaping operations and supervising crews along with making topographical plats. He stated that landscaping architects are registered by the State, and he did not have that certification. He opined that he was quite knowledgeable concerning the nature and quality of shrubs, bushes, choices of vegetation, and landscaping operations. He opined that another

person who was certified had actually designed the project, and that he had worked with that individual in the preparation of the proposed landscaping scheme for the subject property. The Board accepted his testimony not as an expert but for the weight of same that each Board member would assess in their individual review of the evidence and testimony.

Mr. Singer reviewed Petitioner's Exhibit No. 3 and the type of vegetation suggested that would provide the buffer and protect the community. These are all defined in the Petitioner's Exhibits (#3, 4 and 5) and reflected as of the time of the planting. All plantings would be outside of the fenced area with none inside. Petitioner's Exhibit No. 5 reflected examples of the vegetative "rapid growth" subject to the planting. Mr. Piccinini stated that in his opinion the corner tree would not obscure visibility and that the entire sight line would be acceptable and comply with the County regulations. He also described the present conditions existing on the lot with a small hedge about 24 inches high surrounding it, with large trees and some small shrubs scattered about. Mr. Piccinini stated that he had been on the subject site on three separate occasions and as recently as one month before the first hearing in April 1998. He testified as to Petitioner's Exhibit No. 3, noting that there needed to be some readjustment since this was a situation that was forced upon him by the engineer who designed the parking spaces. Also, the exhibit reflected a fence 8 feet high when it would actually be 6 feet in height. He again stated that in his opinion there was no sight distance problem for an individual driving a car.

On re-direct, Mr. Piccinini acknowledged that all plantings

would be readjusted to meet county regulations. He also stated that if a readjustment were required the line of vegetation could be singular in effect and not staggered.

Mr. Howe was briefly recalled and stated that the 8-foot fence shown on the plat came from the County, but they could be wrong; and it was a legal issue which would be corrected as necessary.

Mr. Denver Huffman, a professional manager with the Stoler organization for 8 years, testified. He stated that he was in temporary residence at the subject site at 22 Kingsley Road. He indicated he had been there since August 1997, while his new home was under construction, and would be moving in about 3 or 4 weeks. He stated that the property was a two-story, single-family dwelling about 100+ years old, with an unfinished basement and needed repairs; that he had placed in use eight smoke detectors and that in his opinion the home needed updated electrical wiring. He opined that, based on his observations, traffic was fairly busy on the street, although he admitted he was not home from 8:00 a.m. to 8:00 p.m., and that there were varying noise levels. He stated that insulation on the property was poor and that the Pontiac dealership lighting was minimal from the property, although visible. He stated that his understanding of employee parking would be from 7:00 a.m. through 9:00 p.m., Monday through Saturday, and stated that he had been familiar with the use of the property as a day-care center for 8-year-olds by the previous owner, Mrs. Archibald, until she left around August of 1997. He described the residences around Kingsley Road as single-family dwellings of various types and described a series of photographs taken by himself (Petitioner's Exhibit No. 7) which were also reviewed by

the Board at the time of the hearing. He described the nearby Clifton property. He stated the need by the Stoler organization for more employee parking, that many employees parked on the street, that the company had explored a "stacking" type of parking as an alternative to their parking problem. The stacking process was described to the Board as stacking three vehicles per row and that one was located on Reisterstown Road at a nearby Honda dealer, and that could accommodate roughly about 90 cars. In that process, he explained that the platform is lifted and there is a certain level of noise because of the steel construction.

Petitioner's Exhibit No. 11 reflects the stacking process which the witness described as not particularly attractive, but if employed on the subject site, could alleviate much of the employees' parking problems. On cross-examination by Mr. Holzer, Mr. Huffman described his job as being that of a manager of the fixed operations for Stoler, that is director of parts and service. The present home on Kingsley Road was admitted to be "livable." It was stated that Mr. Stoler had acquired the property in September 1996, and Mr. Huffman opined that Stoler had expended funds to make it more habitable for him. He again stated that Kingsley Road was a busy street, but acknowledged that it was a dead-end road. He stated that lights could be seen from the Pontiac dealership and to a certain extent from the Stoler property. While employees to be allocated the designated parking have not yet been selected, they would probably come from the repair shop which was open from 7:00 a.m. to 6:00 p.m. The sales force also was stated to arrive at the facility around 9:00 a.m. At the present time all parking is currently done on a first come, first served basis. If the request

by Stoler were granted, it would free up more space for parking for other purposes. Some parking was currently being used on the nearby Goodwill lot and the recent purchase of a Roy Rogers franchise lot by Stoler was also being used, but that property was zoned commercial and much too valuable for employee parking usage. He was not aware of any other property in the area for sale. He stated that present conditions relative to parking were causing the Stoler management and their employees considerable hardship.

Mr. Len Stoler also testified in support of the Petitioner's request. He stated that he was the principal of the auto dealership and also the subject site. He opined that he had purchased the property in September 1996, and the owner continued to use the property as a day care center for a short while. He acquired the Ford dealership in June 1968 which originally consisted of 4 acres and 7,500 square feet. He stated that the previous building existing on the site was "prehistoric"; had only 5 stalls and subsequently he had put up another building as a body shop. He acquired additional property in the early 1971 or 1972 and had added on by purchasing other nearby properties. The current property was rezoned to commercial and was replaced in 1979 at a cost of approximately $1,600,000.00. Petitioner's Exhibits 12A through 12E were admitted. In early 1970, the body shop was relocated behind the present Clifton property, also behind Kingsley. Petitioner's Exhibit No. 13 reflected the shed on the Clifton property. Mr. Stoler indicated that the body shop has 17 to 20 employees. He also related his knowledge of the old Colonial Inn, which was a bar /liquor establishment built in the early 1900's. He explained his arrangement with the Goodwill Industries

leasing 15 spaces and the need to relocate those spaces as Goodwill Industries had indicated that they needed the space. When he first started in business, he had but 14 employees and now has approximately 259 employees. Most of the employees live in a 7 to 10 mile area from his facility. He indicated he had attempted to work with the Kingsley Road residents by requesting his employees not to park on that street, even though there are no restrictions concerning parking. He opined that most of his employees park in back of the Lexus facility, and that his current plans call for body and service personnel to park on the proposed lot. He stated that he did not want to construct stack parking as he considered it both ugly and noisy, and believed that 8-foot lighting would be installed, the same height as the fence. Mr. Stoler stated that if the request were granted by the Board certainly more spaces that were presently used by employees would be freed up for his customers. He indicated there would be no sound system speakers allowed, and the parking lot would not be used as any kind of sales location again stating it would only be for employees of the Stoler organization. He opined that he would do what would be necessary to produce whatever landscaping was required even if it meant giving up additional parking spaces on the subject site, and that, as to the Roy Rogers site, which he had acquired about one year ago in September of 1997, that area was presently a used car storage site and also for employee parking. Because of its commercial value, it was not economically feasible to maintain it for employee parking, since it was a very expensive property and its highest and best use was that of a commercial nature.

On cross-examination by Mr. Holzer, Mr. Stoler related that,

if the Roy Rogers building were to be demolished, roughly 49 spaces could be utilized on that site, but its commercial zoning rendered it far too valuable for that usage. He acknowledged his business operation had grown from 7,500 sq. ft. and 2 acres in 1968 to 10.5 acres and approximately 172,000 sq. ft. at the present time. He acknowledged that in the expansion process he had secured variances and setbacks for the other properties. He explained the function of his body shop and painting facility. He stated that he was cognizant of the community opposition, and that he had met with opposition from them before. He also stated his familiarity with the Baltimore County Zoning Regulations and comprehensive zoning in general. He opined that a stacking arrangement could be considered on commercial property but that arrangement was more practical for automobiles not requiring extensive mobility. He was not in favor of that type of arrangement because he considered certain safety factors by reason of car movement, expensive lighting required, and overall noise problems in general being generated toward neighbors, although that could be a viable option. He stated that his firm would comply with Baltimore County regulations; whether an 8-foot fence with 8-foot lights or 6-foot fence with 6-foot lights was required; and that anything was better than having complete darkness at night for security purposes.

On redirect by Mr. Singer, Mr. Stoler acknowledged that the prior variances had related to signage and property lines only, and that if the residence currently occupying the site was torn down a vacant lot obviously would remain which he would probably fence in.

Mr. Norman Gerber also testified on behalf of the Petitioner. He was accepted as an expert in land planning and land use in

Baltimore County. He stated that he had reviewed the site plan, was familiar with the zoning regulations and the Master Plan, and had reviewed the Petitioner's exhibits. He related his knowledge of Section 502.1, and that a conditional use was permitted to support a commercial use under certain conditions. He described his familiarity with the Baltimore County Master Plan and the Owings Mills Growth Area. The Master Plan was adopted in February of 1990 and runs from 1989 to the year 2000. He opined that the County infrastructure supported growth in the area, that is, sewerage, water, highways, etc.; and that the County had invested large monetary funds to accommodate that growth. He was familiar with the Reisterstown Road Corridor and also the Owings Mills Town Center area. He cited approximately 40,207 people residing in that general area in 1990, and that by 1997 that figure had grown to 48,805 individuals. While the entire County had grown only by 4 percent, this region had a growth factor of 22 percent. Both the Owings Mills area and the White Marsh area had been designated as growth areas by the County planners.

Mr. Gerber stated that the Master Plan had a number of goals, among which was the channeling of both residential development and permitting existing companies to expand to accommodate that growth factor, while preserving the quality of life. He acknowledged the presence of the Stoler organization as being in its present location for a reasonably long period of time compared to the County's growth and that the residences on Kingsley Road had also existed for many, many years. He stated that this was a hard area to delineate, but in his opinion, the suggested Stoler plan being considered by the Board was a good compromise to allow both

expansion of the Stoler organization while continuing to preserve the integrity of the neighborhood. It was, in his opinion, a good plan to meet the goals of the Master Plan with the proposed parking being utilized exclusively for employees, along with the ingress /egress, fencing and screening. He estimated approximately 10 to 15 trips per house per day along Kingsley Road, and that the suggested lot would only have a minimal effect on the neighbors. He stated that some parking areas have 6-foot lighting, and, again, having travelled the area, he saw no significant impact if the proposed lighting and landscaping development were permitted to go ahead, along with no significant traffic problems.

Mr. Singer reviewed the requirements of Section 502.1 with Mr. Gerber, who saw no particular problems as to each section of that portion of the Code, if the proposed development as suggested went forward. He stated that special exceptions have been permitted in certain zones since the zoning regulations were adopted, with some modification. He stated that the ingress and egress on the proposed site limited the amount of traffic and again stated no negative impact concerning traffic because of that factor, and the limited traffic on Kingsley Road itself. As to the variance issue, Mr. Gerber saw unusual characteristics in the immediate area of the subject site. To the south on Richmond Road, he cited a development of apartments with Reisterstown Road being commercial, and only a few properties being similar in nature which could meet the requirements. He stated that only three properties in the area share the uniqueness of the Kingsley Road properties in that if you adhered strictly to the regulations, nothing would be left for parking on the subject site. He opined that the R.T.A. regulations

were designed by the County to provide a buffer as to housing types, and were modified in the 1980s to allow for smaller areas that would require screening from neighboring properties. The spirit and intent of the regulations would be achieved, in his opinion, provided that the fencing and screening were in place. He stated that a final landscaping design is normally accepted after the development is finished, with the County always having the final decision as to the actual design.

Mr. Gerber stated that he had been retained by Mr. Stoler after the Zoning Commissioner's hearing and acknowledged that the Master Plan was advisory in nature only. He also acknowledged that the same Master Plan requires the presence of the qualify of life in an expanding neighborhood. Mr. Gerber stated that the I-795 was constructed by the County to relieve traffic on Reisterstown Road and also provide a road pathway to the Owings Mills Town Center. He stated that the Kingsley Road community could be considered as an older neighborhood, but that its proximity to Reisterstown Road and the commercial corridor made it a less desirable older neighborhood. The configuration of the road also made it difficult to assess since there were a number of homes up to the commercial line. He acknowledged that there were some negatives that impacted the nearby Clifton property, such as lighting, but that taking all factors into consideration, such as the already existing commercial intrusion into the residential area, three sides already zoned D.R., etc., he believed the requirements of Section 502.1 would be satisfied. He acknowledged that the property was essentially flat, like others in the area; there were no streams, slopes or other unusual topographical features; and no environmental factors

present.

Mr. Gerber's testimony concluded the Petitioner's case-in-chief.

Opposing the request were a substantial number of residents living along Kingsley Road and Mr. William Hughey. Mr. Hughey is with the Baltimore County Office of Planning, and is the Third District community planner. He is responsible for review of special exception and variance requests for the district.

Mr. Hughey presented Protestants' Exhibits 2A through 2C reflecting various stages of the steady Stoler progression in the area, and of the reasons why the Planning Office was recommending the denial of the request, citing what was considered to be an intrusion of a commercial activity into a residential area and the buffer requirements for a residential transition area. He believed the intrusion to have a detrimental effect on the Kingsley Road community, contrary to the efforts on the part of Baltimore County to conserve such areas and the negative effect it would have on attracting new residents to the area. Mr. Hughey did not agree with Mr. Gerber's remarks concerning the Owings Mills Growth Area and cited that the uniqueness of this community as it related to only two others in the immediate area, Tollgate and Pleasant Hills, and believed based on his experience as the area planner that the granting of the special exception and variances would have a detrimental effect on the community, greater here than anywhere else in the zone.

He stated that he had made two site visits to the area, and had met with representatives of the local community association. He recited the reasons the Planning Office had opposed the

Petitioner's requests with particular emphasis on the fact that the proposed parking would disturb the community, and act as a deterrent to future purchases of the homes presently existing along Kingsley Road. The proposed concept planned for the subject site would, based on his observations, severely sever the existing community. He indicated that the RTA requirements were imposed to assist and stabilize the older communities, such as the Kingsley Road community, and cited two other communities unique as they are in proximity (Pleasant Hills and Tollgate). He stated examples of the County's efforts relative to community conservation efforts, and based on his 12 years of experience, felt this was a classic and perfect example for denial of the requests. Mr. Hughey opined that, based on his observations, there was nothing particularly unusual, unique or different about the site that would qualify it for consideration of the variances being requested.

On cross-examination by Mr. Singer, Mr. Hughey acknowledged that commercial uses already existed in the rear of the existing Stoler property and that the subject site had been used as a residence and day care center previously. He acknowledged that the current plan had all the traffic coming onto the lot through the already existing Stoler property and that no additional traffic would be increased on Kingsley Road. Mr. Hughey acknowledged that with a special exception use there was also somewhat of an adverse effect, but the real question was the impact of such adverse uses. While fumes, noise and current lighting were already in existence, the present conditions, in his opinion, would be exacerbated. As did Mr. Gerber, Mr. Hughey related his knowledge of the Master Plan, and in particular pages 48 and 49 which reference 12 years of

planning by his office in certain areas of Reisterstown Road, noting changes.

Petitioner's Exhibit No. 4 relative to the fencing and planting were discussed and if the trees and shrubs were planted as proposed, that one would not be able to see directly into the property; that the property was in the Owings Mills growth area and that while he had met with the community representatives before the Zoning Commissioner's hearing in order to obtain information, and he gave advice to the community associations, he stated that he had never met with anyone from the Stoler organization. He acknowledged the need for more employee parking by Stoler and that if this proposal failed, Mr. Stoler could indeed raze the property and put up a fence within current regulations.

Mr. Thomas Paris also testified, stating that he resided across the street from the subject site; had been a resident of the community for 17 years. Protestants' Exhibit No. 4, a video taken by Mr. Paris approximately 2-1/2 weeks before the first Board hearing, was admitted into evidence. The video was produced as Mr. Paris rode his bicycle with no sound. Mr. Paris described the visual projection of the Kingsley Road community from the entrance from Reisterstown Road to the dead-end portion, reflecting the subject site, single-family dwellings currently existing, the "dog-leg" and the return visit to where he had started. Both day and night versions were examined by the Board. At the conclusion of the tape, Mr. Paris related his concerns and objections to the proposal, citing what he considered to be a decrease in property values, increase in noise levels, increases in traffic, and removal of the currently-existing grass area by macadam, a problem with the

sight-line and driving, and increased visibility of the paint shop which was currently obscured.

Mrs. Tanya Clifton, 16 Kingsley Road, also testified. She has been a resident of Kingsley Road for 22 years. Protestants' Exhibit No. 5 was submitted for identification purposes only, listing a substantial number of residents opposed to the proposal. She related objections similar in nature to those already stated: an increase in paint fumes, substantial lighting problems, employee problems related to loud radio playing, excessive noise caused by car jockeying, and that the current conditions would only be exacerbated if the variance and special hearing were granted. She indicated that if approval were given this would be a serious intrusion into what was essentially a residential neighborhood and would substantially change the character of the community, also citing additional heat from black-topping the proposed parking area.

On cross-examination by Mr. Singer, she indicated she was not employed and was at home most of the day.

Mrs. Arlene Clifton, also residing at 16 Kingsley Road since 1976, also stated her concerns relative to the noise levels, additional pavement heat, lighting causing problems coming into their home, body shop litter along with fumes, and the noise simply caused by cars coming and going on the present property, which again would be more excessive in nature if the proposed parking lot were approved.

Mr. Dennis Orr, 28 Kingsley Road, a resident for 12 years, also testified. He indicated he had lived next to Mrs. Fadeley, was familiar with the plans and also was concerned about the

proposed lot. He stated that the area had already lost eight homes to commercial development and that there was no doubt in his mind but that the proposal, if granted, would de-stabilize the neighborhood and fragment the community, with a domino effect, because if it affected one home, it affected all the properties. He indicated that he could see the site from his second floor which presently consisted of the existing property and that if the proposal was approved, the flowers and grass would be gone, the body shop would be lit all night, there would be additional noise and fumes, and that his complaints to Mr. Stoler had gone unattended. The approval of the lot would aggravate what was already a bad situation, and he recited the heat radiation from the paved parking lot and reflection on his property.

During the course of cross-examination, Mr. Orr indicated that he had opposed the Pontiac dealership and had essentially opposed all of the other requests made by the Stoler organization, but that he did not oppose the previously existing day care center, and that he did not particularly like Mr. Stoler as an individual.

Mr. Larry Denmark of 40 Kingsley Road, the manager of Pikesville Hotel, also testified. He indicated he had been a resident for 6+ years and he was closest to the east near the dead-end of the street. He stated that he had previously lived in Baltimore City near Union Square and that he had moved from the City because he found this particular community to be a "unique oasis" with very friendly neighbors, a sense of community pride, and that the house he had purchased was over 110 years old which he had extensively renovated, situated on a 3-acre lot. He expressed his concerns as had the other residents in a similar vein, and he

stated that while he was the farthest away he was cognizant of the litter, the paint fumes, the noise and it was his concern that the present quality of life which existed in the neighborhood would evaporate, and it would be a deterrent to finding new residents.

On cross-examination, Mr. Denmark admitted that the dealership was there when he bought his property.

Mr. Michael K. Orr, 27 Kingsley Road, testified relative to his concerns indicating he could see the body shop, and that the present house shaded his, and that if it were removed it would exacerbate the already-existing noise and fume problems which Stoler had attempted to correct but which kept reoccurring. He stated that the 49 parking spaces would simply add to the noise, the chatting and talking on the part of the employees and in his opinion also contribute to additional crime problems.

Mr. Randall E. Goldberg, 5 Montgomery Road, also testified concerning his observations and expressing his similar concerns as were previously expressed by the other protestants. He had admitted into evidence a substantial number of photographs which were taken (18 in all, Protestants' Exhibit 9) which the Board examined.

Mr. Keith Schaler, 6 Mountain Road, a resident for 8 years, also testified concerning what he considered to be issues of safety and that he had built his home during the period from 1989 to 1990, and it was his observation that the approval of the lot would seriously affect the value of his home.

Valerie Robinson, 30 Kingsley Road, a resident for 12 years, expressed her concerns and also admitted into evidence photographs which she had taken three weeks previously reflecting commercial

properties within a 1/2-mile area from the site that she felt were available for possible parking sites, and well as did Mrs. Carolyn Orr, the wife of Dennis Orr, 28 Kingsley Road, who also recited diminution of property values, a problem of resale, decline in assessments, and essentially the same problems with the lot as were expressed by the other Protestants. Mrs. Orr stated that her property assessment had gone down in value due to what she considered the steady Stoler intrusion into the area (Protestants' Exhibit No. 11).

Mrs. Margaret Fadeley, 26 Kingsley Road, also testified. She has lived on her property at this address for 70 years. During recent years, she indicated that she had seen the neighborhood change because of the Petitioner's operation and steady intrusion into the community. She related continuous problems relative to the noise and fumes emanating from the existing body shop, constant banging noises, and frequent loudspeaker announcements. She expressed concern over increasing problems if the Petitioner's requests were granted.

The Board has carefully considered the testimony produced during the two hearing days as well as complete individual reviews of the evidence admitted and items marked for identification and weight assessment purposes only. It is the position of the Petitioner that the granting of the special hearing at the subject site will continue to support a business that was established over 30 years ago, and fulfills the requirements of the Baltimore County Zoning Regulations, Section 502 (special exception) and the variance requirements of the regulations (Section 307.1), in addition to meeting the spirit and intent of the law and the Master

Plan. There is no doubt but that the Stoler organization is a valuable commercial asset within Baltimore County limits. The success of that organization is attested to by the growth of the facility from 2 acres to their present occupancy of 10.5 acres; and from 7,500 sq. ft. to 172,000 sq. ft.; and an employee base that started out with 14 employees and presently provides an employment constituency of about 259 employees. In addition to the positive tax benefits derived by the County, there is obviously a need to assist the Stoler employees with some form of parking. Protestants are equally vocal and are in opposition because of what they view as a genuine concern by reason of the intrusion of another commercial use into their neighborhood accompanied by other concerns, which they felt would be excessive if the present dwelling is razed, the area paved over, fence erected, and even with the proposed landscape buffering would not allay their concerns.

The Petitioner is entitled to the use permit for parking under BCZR Section 409.8B, provided that the Board is satisfied that the requirements of Section 502 (special exception) have been satisfied in that the proposed use would have no greater detrimental effect at the proposed location than it would have anywhere else in the zone, and the request complies with the spirit and intent of the zoning regulations.

Kingsley Road is essentially a narrow and unpaved country lane that one enters from Reisterstown Road and proceeds in an easterly direction into the immediacy of the Kingsley Road neighborhood. The community consists of about 24 single-family dwellings, somewhat large wooded lots, in what might be described as an

unusual community in the midst of a commercial area. The area is fairly isolated, and the essential traffic flow comes from the local residents, who are required to use the road as their only means for going to and coming from Reisterstown Road.

Testimony received at the hearing concluded that this was but one of three such local communities that existed in the immediate area, and the Board was able to conclude that the neighborhood fell well within the context of one that was specifically targeted for conservation and preservation in the Baltimore County plans for the Reisterstown /Owings Mills area. Some of the homes on this street are over 100 years in age. Much of the testimony and evidence produced at the hearing from the local residents and Protestants was the unusual nature of isolation and quality of life that was present in the area, coupled with the age of the many of the homes, updated and restored by many of the local residents.

As to Reisterstown Road, it was acknowledged that this arterial road is essentially commercial in nature, with a number of apartment uses also present in the area on Reisterstown Road to the west. Opposite Kingsley Road is the Heritage Group, a series of multiple auto dealerships, and in proximity to the south a large Target department store and a large apartment complex at the southeast of Kingsley Road and Reisterstown Road. Additionally, a new Pontiac dealership is situate on Reisterstown Road which extends to the east along Kingsley Road. It is located about 50 feet from the Clifton property at 16 Kingsley Road.

The main location of Petitioner's dealership is located at the northeast corner of Kingsley Road and Reisterstown Road. The Petitioner's plat (Petitioner's Exhibit No. 2) reflects B.R. zoning

up to the Clifton property at 16 Kingsley Road, which changes to D.R. 3.5 zoning. The rear of the Clifton property is also zoned D.R. 3.5, with the rear portion bordering the existing Stoler auto body shop zoned B.R. Kingsley Road is zoned B.R. on one side of the road up to the Clifton property, where it changes to D.R. 3.5, and is zoned B.M. on the opposite side of the street, up to 13 Kingsley Road, the Burkindine property, where it changes to D.R. 3.5. Those properties that would immediately be affected by approval of the use permit would be the Cliftons, whose property would be engulfed on three sides by the Stoler activities (12 Kingsley Road, owned by Leonard Stoler; the rear occupied by the body shop; and the proposed parking lot where Kingsley Road "dog-legs" around the corner). Also affected would be 15 Kingsley Road, owned by Peang Jim Su and also the property of Samuel Raffe and Frances Lucille Harris located at 21 Kingsley Road, Samuel and Deborah Paris (Plat 648), 21 Kingsley Road, the Hengst property at 25 Kingsley Road; and Margaret Fadeley at 26 Kingsley Road. Some of those residents testified at length at the public hearings as did other residents whose properties are along Kingsley Road travelling further away from the subject site.

The Protestants' principal objections which were voiced related to additional lighting that would cause glaring conditions, sounds that would normally originate from the parking of vehicles, greater exposure to the body shop odors, demolition of presently existing residence to be replaced with a paved over parking area, in addition to traffic concerns and the effect of a parking lot in reducing property values in the community.

Another major thrust of the Protestants' objections was that

the additional intrusion into what was essentially deemed to be a residential area would change dramatically the nature and character of the community, making it less desirable to residential living, and that both the special hearing request and variance request were not within the spirit and intent of the zoning regulations.

The Board in reaching its conclusion is required to examine the requirements of the special hearing request and variance request as dictated by applicable statutes and the case laws interpreted by the Maryland courts. A special exception is in the nature of a conditional use. In Rockville Fuel & Coal Company v. Board of Appeals, 257 Md. 183 (1970), Chief Judge Paul Hammond said "that the conditional or use or special exception as it is generally known, is part of the comprehensive plan, and shares the presumption that such a plan is in the interest of the general welfare, and therefore valid." Later, in 1981, Judge Rita Davidson stated in Schultz v. Pritts, 291 Md. 1, 20-22 that:

> "...Generally, where a use district is established, the zoning regulations prescribe that certain uses are permitted as of right, that is a permitted use, while others are permitted only when certain conditions have been satisfied...In determining which uses should be designated as permitted or conditional in a given use district, the legislative body considers the variety of possible uses available, examines the impact upon the purposes of the zoning ordinance, and determines which uses are compatible with each other and can share reciprocal benefits and decides which uses will provide for coordinated and harmonious development of that district. When the legislative body determines that the other uses are compatible with permitted uses in a use district, but that beneficial purposes such other uses serve do not outweigh the other possible adverse effects, such uses are designated as conditional or special exception uses. Such uses cannot be developed at the particular

> location proposed if they have an adverse effect above and beyond that ordinarily associated with such uses."

The duty and responsibility which is assigned to this Board is to judge whether the neighboring properties in the immediate area would be adversely affected by the granting of the use permit for employee parking on the proposed site and whether or not the use requested is in harmony with the general purpose and intent of the plan. If the Petitioner, through the testimony offered and the evidence produced, demonstrates to the satisfaction of the Board that the proposed use would be conducted without real detriment to the community, greater than that if the use were located anywhere else in the zone, then the Petitioner has met his /her burden. The Board heard from two experts in their relative fields of expertise. Mr. Edwin S. Howe III, a civil engineer, was qualified as an expert in civil engineering and land planning. He prepared the plat accompanying the special hearing and variance request. If the special exception and variance were granted, the present residential home on the property would be razed after a permit had been secured, the area would be paved to accommodate 29 employee parking spaces, 9 feet by 18 feet. No loading or unloading would be permitted, lighting would be in conformity with County requirements, directed downward toward the parking area. He stated that fencing would be erected around the site with appropriate screening in accordance with the landscaping plan (Petitioner's Exhibit No. 3). He explained how the severity of the R.T.A. regulations limited the use of the subject property, and if the requested setbacks were not granted, then effectively the site could not be utilized for the requested employee parking. This

fact is dramatically illustrated by Petitioner's Exhibit No. 2. Mr. Howe acknowledged that the property is trapezoid in shape and fairly typical of residences along Kingsley Road. There did not appear to be any evidence or testimony submitted that there was anything unique, unusual or different that set the subject property apart from other nearby residences. Mr. Howe acknowledged his familiarity with the requirements for the granting of a special exception, and his familiarity with the underlying philosophy of the R.T.A. requirements. While stating that he saw no detrimental effect in reviewing the statutory requirements as posed by Counsel for the Petitioner, he acknowledged that no specific studies had been performed to establish those conclusions.

Mr. Norman Gerber, acknowledged as an expert in land planning, also testified concerning this site, and more specifically to the objectives of the Master Plan, the Owings Mills Growth Plan, and his observations based on review of the site plan, travelling the area, and his knowledge of the zoning regulations as they relate to the granting of special exceptions and variances. He felt that there would be no negative neighborhood impact and that the site was conducive to limited employee parking, with only negligible side effects on the Kingsley Road. In fact, he felt that with all ingress /egress to the site coming through the Stoler facility, the traffic effect on Kingsley Road would be minimal.

While both hold the opinion that the granting of the use permit would have minimal effects on the Kingsley Road community, neither had conducted a formal written study on which to base their conclusions. The plat needed to be corrected at the time of the hearing relative to the variances being requested, and indicates

passenger car usage on the proposed lot and not exclusive employee parking. Mr. Howe acknowledged familiarity with the BCZR as to R.T.A. setbacks and indicated the severity of the departure from the mandated 75-foot requirement as to any structure, and 50-foot landscape buffer. Without the granting of the variances, the proposed lot is not feasible. Much of his testimony was based on site visits.

This Board, based on the testimony and evidence produced at the hearing, has reached the conclusion that the destruction of the property current existing, which appears to be well-kept, attractive, and in harmony with the existing homes along Kingsley Road, and the replacement with a paved-over employee parking lot would neither enhance the site nor assist the County in its efforts to stabilize the area.

While the Petitioner may raze the structure and erect a fence on a then-vacant lot, the Board concludes that to grant the request for employee parking would be totally out of character for this older residential community, and would only exacerbate a problem that the County is attempting to solve; that is, the flight of its residents to other surrounding counties.

While the Petitioner has indicated limited use of the subject site for employee parking, the opposition voiced by a substantial number of nearby residents cannot be overlooked as it relates to additional noise, lighting and disturbances with possible devaluation of existing properties in proximity to the subject site. A parking lot, no matter how well-buffered and landscaped, is a negative factor in an established community, and in particular one as unique and unusual as Kingsley Road. To approve the

Petitioner's request would fly in direct opposition to the requirements of the spirit and intent of the RTA restrictions, and in this particular case, cause adverse impacts above or beyond those which would ordinarily be associated with the proposed use. Clearly, the property is residential in zoning, character, and actual use.

The Board concludes that the lights, noise and visibility in connection with the site will cause a detrimental impact to the surrounding locale, and present a public hazard impacting the use of Kingsley Road. Therefore, the request for special hearing must be denied.

As to the variance issue, the granting of variances is governed by Section 307.1 of the BCZR which provides, in relevant part, that variances may be granted..."only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance would result in practical difficulty or unreasonable hardship." The Court of Special Appeals in Cromwell v. Ward, 102 Md.App. 691 (1995) has construed these regulations to mean that obtaining a variance is essentially a two-step process. The first step requires a finding that the subject property is unique and different in a manner that is different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. The second step requires a finding that denial of the requested variance would result in practical difficulty or unreasonable hardship. The question, therefore, to be addressed by the Board in responding to the

relevant testimony and evidence presented at the hearing is (1) is the subject property unique, unusual or different from surrounding properties, (2) will strict compliance with the regulations result in practical difficulty or unreasonable hardship, and (3) if the variance were granted, would it be detrimental to the surrounding area. The Board's ultimate conclusion with regard to each of these issues must be supported by detailed factual findings. The party seeking the variance bears the burden of showing that each requirement is satisfied. The variance issue is a much easier one for the Board to determine. There was insufficient evidence presented, nor did the testimony which was produced at the hearing substantiate any factor that would render the subject to be unique, unusual or different from any other residences along Kingsley Road. It is not the residence or the lot itself that is unique or unusual but the entire neighborhood which is of a unique nature, and it was, as Mr. Hughey indicated in his testimony, the clear intent of the County Council in passing the R.T.A. requirements that areas such as Kingsley Road should be both protected and conserved against excessive commercial intrusion.

No witness for the Petitioner provided any significant testimony that would satisfy the Cromwell requirement as to the site being unique and different, and Mr. Gerber even acknowledged that the uniqueness, if any, existed as to three such communities in the area. In his view, this makes it unique in establishing the criteria for the granting of the R.T.A. variance. The Board takes a different view. The variances requested are so severe that they fly directly in contradiction with the spirit and the intent of the Residential Transition Area requirements.

O R D E R

IT IS THEREFORE this 4th day of August, 1998 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing seeking approval of a use permit for business parking in a residential zone be and the same is hereby **DENIED**; and it is further

ORDERED that the Petition for Variance for relief from the Residential Transition Area (RTA) requirements to permit reduced setbacks and reduced landscape buffer for the property known as 22 Kingsley Road be and the same is hereby **DENIED.**

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 of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Charles L. Marks, Panel Chairman

Harry E. Buchheister, Jr.

Donna M. Felling

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
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TOWSON, MARYLAND 21204
410-887-3180

August 4, 1998

Marvin I. Singer, Esquire
10 E. Baltimore Street
Suite 1601
Baltimore, MD 21202

RE: Case No. 97-513-SPHA
Colonial Stoler Partnership -Petitioner

Dear Mr. Singer:

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, **with a photocopy provided to this office concurrent with filing in Circuit Court.** 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,

Charlotte E. Radcliffe-for

Kathleen C. Bianco
Administrator

encl.

cc:
Leonard Stoler /Colonial Stoler Partnership
J. Carroll Holzer, Esquire
The Clifton Family
Mark Shepardson
Mike Quinn
Dennis R. Orr
Mickey Goldberg
Valerie Robinson
Amanda Ranasinghe
Robert Sellers, Esquire /Representative of Reisterstown-Owings Mills-Glyndon Comm Council
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Smith, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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IN THE MATTER OF COLONIAL STOLER PARTNERSHIP 22 KINGSLEY ROAD	*	IN THE COUNTY BOARD
	*	OF APPEALS
4th Election District 3rd Councilmanic District	*	Case No. 97-513-SPHA

* * * * * * * * * *

COUNTY BOARD OF APPEALS
98 MAY 28 PM 3:01

MEMORANDUM

Protestants, Margaret Fadely, Thomas Paris, Tonya and Arlene Clifton, Dennis and Carolyn Orr, Larry Denmark, Randy and Nicky Goldberg, Keith Schloer, Valerie Robinson, by their attorney, J. Carroll Holzer, Holzer and Lee, submit this Memorandum in lieu of final argument as requested by the County Board of Appeals (hereinafter "CBA").

FACTS

This matter comes before the CBA for consideration of Petitions for Special Hearing and Variance filed by Colonial Stoler Partnership. The Petitioner seeks approval of a use permit for business parking in a residential zone, pursuant to Section 409.8.B. of BCZR, as well as a Petition for Variance for Relief from Section 1B.1.E(5) of the Residential Transition Area ("RTA") requirements to permit reduced setbacks, and reduced landscape buffer for the property known as 22 Kingsley Road.

The Protestants are adjacent property owners to the Colonial Stoler Partnership property, mainly residing on Kingsley Road, which intersects with Reisterstown Road, south of the Stoler Property and proceeds in an easterly direction into the heart of the neighborhood. The

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Protestants do not intend to set forth all of the testimony of the various witnesses recognizing comprehensive notes taken by the CBA.

The controversy in regard to the Special Hearing is whether the facts support the proposition that this request for parking will be in violation of the BCZR Section 502.1 criteria, in that the impact of the Stoler request is substantially greater as it relates to Kingsley Road versus other areas in a similar zone. Protestants submit that it is.

Secondly, the issue presented in regard to the variances from the RTA buffer, setbacks, and landscape requirements is whether or not the subject property is unique and additionally, whether or not there is practical difficulty or hardship. Protestants submit that the Petitioner has not established either that the site is unique or there is practical difficulty. Explanation for both of these arguments will follow.

A summary of the testimony and evidence generally, can be found in the Zoning Commissioner's Decision which contains basically the same testimony as presented to the CBA.

Summarized Testimony

The Developer's testimony consisted of the following:

1. Ned Howe - Registered Engineer, presented by Stoler, acknowledged a number of errors in the Petitioner's plat to accompany the Special Exception marked as Petitioner's Exhibit #1. Confusion centered on zoning lines, the distance requested for variances on the setbacks, and the height of the planned fence. In describing the subject site, Howe acknowledged that the site was not unique for purposes of the variance in that it was a flat, generally rectangular property including no steep slopes, no environmental sensitive area, no streams, no wetlands, and currently

which it would not have had if located in the woods or behind a hill where it would not have been readily visible.

A similar case in Baltimore County before this Board can be found at *People's Counsel of Baltimore County vs. Mangione*, 85 Md. App. 738 (1991). There, the Court of Special Appeals reaffirmed the necessary finding of adverse impact required to warrant a denial, where a 240-bed nursing home in a residential area would sit on a dominant terrain, blocking light and air, would generate odors from the central kitchen and dumpster, and would exacerbate storm-water run-off problems, and traffic circulation on surrounding narrow, winding residential streets made the Board's decision fairly debatable.

In the instant case below, the Zoning Commissioner found that he could deny the Petition for Special Hearing. The same evidence and facts exists for this Board to likewise deny the Special Hearing. Below, the Zoning Commissioner found " the uniqueness here is the location of the property itself"; that the proposal presents the "deepest intrusion" into the residential communities which exist in the interior of Reisterstown Road. The Zoning Commissioner further analyzed the case that this was not a situation where a property adjoining Reisterstown Road, carrying with it business zoning, is sought to be developed. Instead, the subject property is residential in zoning character and actual use. Moreover, the Zoning Commissioner found that except for its rear property line, all of the other sides of the property abut residentially zoned and used properties. The Zoning Commissioner further found that the proposed parking arrangement would cause adverse impacts above and beyond what would normally be expected due to the unusual curvature of the road immediately adjacent to the subject site as well as the existing uses of properties which abut this parcel. The noise, visibility and lights associated with the traffic on

is being used and is suitable for a residence. Rendering his opinion in regard to the 502.1 criteria, it was clear that Howe had performed no studies from which he could testify as to the required criteria.

2. Denver Hoffman testified as the Fixed Operation Manager for Len Stoler. Testimony of significance by Hoffman related to the fact that Len Stoler has currently been resolving the employee parking to the variance and special exception request by two methods. First, space has been provided in Westminster (or off-site) which created additional parking on the Stoler site. Secondly, stacking which is employed at other dealerships could provide an alternative to the variance and special hearing request. Hoffman acknowledged that stacking could be done and that it would relieve the employee parking problem which was driving the request for special hearing.

3. Len Stoler - Of all of the witnesses, Stoler's testimony goes to the very heart of the case. Stoler testified that in 1996 he acquired the subject site to obtain additional parking, that he knew of the of the site constraints and was familiar with the zoning problems, in that he had requested various relief through the zoning process on prior occasions. Stoler acknowledged acquiring the Roy Rogers property on Reisterstown Road less than a year ago, in September of 1997. He further acknowledged that employee parking is currently being done on the former Roy Rogers property, and if he were to remove the building, that he would have adequate space for forty-nine parking spaces on that property. When asked by Counsel why that did not resolve the problem, Stoler very candidly acknowledged that the Roy Rogers' property was zoned commercial and that is was too expensive to park employees' cars on commercially zoned property. Stoler acknowledged that he must find a commercial use for the commercially zoned

property which did not include employees' cars because of the high value of the land. This acknowledgment goes to the very heart of the requirements for variance, which will be discussed later.

4. Norman Gerber - Mr. Gerber's testimony, other than talking in general terms in regard to the growth area of Owings Mills, failed to take into account that balancing which must be required for the community conservation aspect of the master plan. Gerber's sole criteria for finding that this subject site was unique to comply with the variance requirements was that it had access from the Stoler property. That in and of itself failed to establish uniqueness. The legal requirement for uniqueness is the site itself must contain criteria which make it or define its existence in a unique or unusual fashion. Gerber further acknowledged that the property did not physically differ from the neighbors, because it, too, was flat, with no streams, no slopes, and no environmental impacts.

Protestants also point out that through all of the testimony of the Petitioner's case, there was no testimony or evidence in regard to Baltimore County Zoning Regulations, Section 307.1, as it applied to practical difficulty, or unreasonable hardship standards.

At the conclusion of the Petitioner's case, Protestants submit that a Motion to Dismiss would be appropriate; the Protestants were not required to present evidence in regard to the variance, because the burden falls on the Petitioner to affirmatively establish all elements necessary to satisfy section 307.1 of the BCZR, and that was not done.

Protestants' Case -

1. The Protestants presented the poignant testimony of Margaret Fadely as to the impact of the proposed parking lot opposite her property when she expressed the desire to "live the rest of my life in peace, without looking at another Stoler parking lot".

2. Bill Hughey, area planner from the Baltimore County Planning Office, expressed the strong position of the Baltimore County Planning Office recommending denial of this request. First, in regard to the Special Hearing and the Special Exception criteria, Hughey called this the "Classic case" of where a Special Exception should be denied under 501.2 criteria. He defined how the Stoler request severed the community and impacted it in a way that was more severe than similar requests in the same zone would be. In regard to the variance, he expressed the opinion that there was nothing unique about this property that would warrant such a relaxation of the very rules of the RTA requirements that were designed to protect a neighborhood such as this by the zoning regulations. He defined the Stoler request as "a *significant commercial intrusion into the* small but stable Kingsley Road community." He also rebutted Gerber's testimony in regard to the growth area and the master plan, calling for the need to preserve older and existing communities.

The testimony of the Cliftons, who would be surrounded on three sides by the Stoler commercial venture, as well as the video presented by Thomas Paris reflect the same significant intrusion into the Kingsley Road residential community as found by the Zoning Commissioner on his site visit to the property. The testimony of Carolyn Orr and Arlene Clifton as to the reduction of their property values reflected by the State Department of Assessment and Taxation clearly establish the already existing impact of Colonial Stoler on the adjacent community. Valerie Robinson's presentation of Petitioners' Exhibit #10 establishes other available commercial

property in addition to the Roy Rogers (already purchased by Stoler) which would be suitable for use by the Stoler dealership.

LEGAL ARGUMENT

A. Use Permit - Special Exception Criteria 502.1

As has been previously stated, the Petition for Special Hearing is governed by Section 409.8.B.1 of the B.C.Z.R. which section specifically adopts the Special Exception standards contained within 502.1. The section specifically requires that the Zoning Commissioner, or this Board, determine the character of the surrounding community and the anticipated impact of the proposed use on that community. This Board is very familiar with the standard required in this case. See *Schultz vs. Pritts* 291 Md. 1 (1981). The test to be employed is to determine whether the effect of the proposed use will have an impact above and beyond that normally associated with such impact at the particular location proposed.

The case of *Board of County Commissioners of Cecil County vs. Holbrook*, 314 Md. 210 (1988) is a case which would support the CBA's decision in this case to deny the Special Hearing. There, the Special Exception to permanently locate a mobile home in a rural agricultural area was denied on the basis that it substantially diminished adjacent property values, and created significantly greater adverse impact in this location, than were it located in other areas similarly zoned. In *Holbrook*, the denial was supported by a finding that the presence of a mobile home on a small lot in close proximity to more expensive adjacent homes would adversely impact adjacent property values. The subject mobile home in full view of the neighboring residents located close to the property line, was ruled to have a debilitating effect on the neighbor's property value,

the site would cause detrimental impact to the surrounding properties. In evidence presented to the Board in this case, it was clear that Bill Hughey from the Planning Office believed that the situation in regard to the subject site presented a far more serious and classic example of detriment to the community than would be the case in a similarly zoned property in another area. The testimony of the adjacent residents as to the already existing difficulties with the Stoler dealerships further establish that the impact already is significant. The Cliftons, who would be surrounded on three sides by the dealership, certainly present an unusual and extraordinary situation for them as property owners. The Department of Assessments and Taxation as already assessed the detrimental affects resulting from the commercial intrusion into the community.

The Petitioner, Stoler, argues that since there is already commercial intrusion into the neighborhood and that the Pontiac dealership in conjunction with the Stoler dealership has caused significant light pollution, noise pollution, air pollution, and intrusion into the residences, should be a basis for supporting this additional intrusion into the neighborhood. The Court of Special Appeals in *North vs. St. Mary's County,* 99 Md. App. 502 (1994) rejected that type of argument in denying a variance. There, the Court stated that just because others have received variances for their properties, it is no basis for the particular applicant to be granted a variance. That is analogous to the situation here. Just because the car dealerships on Reisterstown Road are already intruding into the community, there is no basis for granting the Stoler Petition in this case, which would further aggravate and deteriorate the neighborhood. See also *Mayor and City Council vs. Polakoff,* 233 Md. 1 (1963).

Wherefore, the Protestants respectfully request that the Petition for Special Hearing for a Use Permit for parking on the residential property be denied.

B. Variances

Protestants submit that the variances requested in this case to permit a reduction in the RTA setback from seventy-five feet (75') and also the reduction of the landscape buffer from fifty feet (50') should be denied for a number of reasons based upon the Petitioner's own evidence and testimony presented. First, the RTA was established to protect the Kingsley Road community from just such a commercial intrusion as Stoler presents. Clearly, had the County Council not thought this buffering was necessary, they could have reduced the footage required and spatial requirements of the RTA and provided simply for fencing. The effect of reducing some of the setback to as little as five feet (5'), with the proposed solution being merely fencing and a row of pine trees, does not equate to the spirit and intent and initial legislation.

Secondly, as per the requirements of *Cromwell vs. Ward,* 102 Md. App. 691 (1995), and *North vs. St. Mary's County,* supra. It is clear that this Board recognizes that some inherent uniqueness of the particular site itself is required. That inherent uniqueness does not exist based on the testimony of the Petitioners' engineer and planner, Norman Gerber. There is nothing inherently unique about the site at all.

C. Practical difficulty or hardship

The additional requirement of Section 307.1 of the B.C.Z.R. requires the proof of practical difficulty or hardship. In this case, neither Gerber, Howe, Stoler, nor any other Petitioner's witness testified as to the practical difficulty or hardship. They testified that they desired to have additional parking, but they clearly acknowledged they had other alternatives - the Westminster site or stacking. Likewise, Miss Robinson presented other commercially zoned property available to Stoler. As previously stated however, the most candid testimony came

from Len Stoler himself when he acknowledged that he had acquired the Roy Rogers site on Reisterstown Road, zoned commercial, that would accommodate forty-nine (49) parking places if he were to tear down the existing restaurant. Stoler candidly admitted that the cost of commercial property was too high for him to use the Roy Rogers site for him to park his employees' vehicles, and that the Roy Rogers site would have to be used for a more profitable commercial venture. This testimony goes to the very heart of what is involved in this case. It was economically more viable for the Stoler dealership to acquire the residential property and convert it to parking than it would be to use the readily accessible but more expensive commercially zoned property. That is an economic reason for the request of a variance which has been determined in many Maryland cases to be an impermissible basis to establish practical difficulty or hardship. *See Easter vs. Mayor and City Council of Baltimore*, 195 Md. 395 (1950); *Burns vs. Mayor and City Council*, 251 Md. 554 (1968); *Salisbury Board of Zoning Appeals vs. Bounds*, 241 Md. 547 (1965).

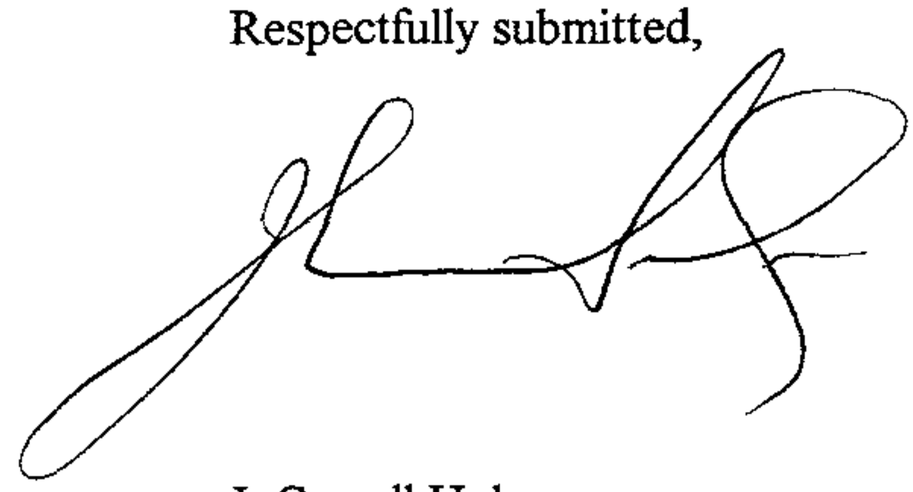
This Board has been well aware of the need to deny variances when uniqueness has not been established by the Petitioner or the hardship was either economical or self-inflicted. (See attached Board decisions - In the Matter of Witmeyer; In the Matter of Application of 303 North Rolling Road; In the Matter of Kendrick; In the Matter of Falahi; In the Matter of Harrison)

Wherefore, Protestants respectfully request the variance requested by the Petitioner be denied.

Conclusion

This case presents the classic case for denial of a Special Exception as well as three bases for denying the variance. It is respectfully requested that this Honorable Board deny both Petitions.

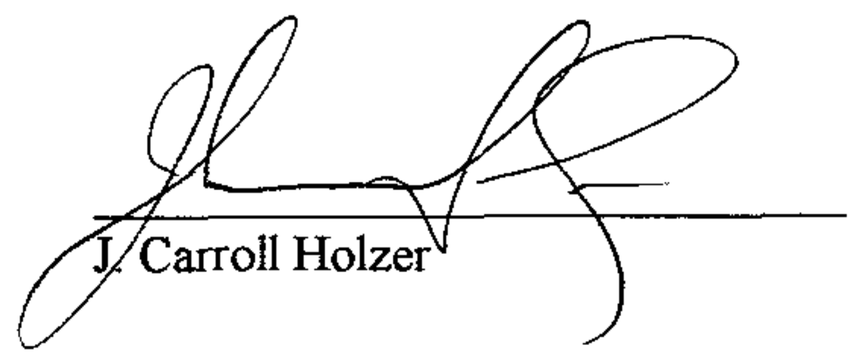
Respectfully submitted,



J. Carroll Holzer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of May a copy of the foregoing Memorandum was mailed first-class, postage pre-paid to Marvin I. Singer, Esquire, 343 N. Charles Street, Baltimore, Maryland 21201-4326.



J. Carroll Holzer

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RE: Petition for Special Hearing
Petition for Variance
22 Kingsley Road
NW/S Kingsley Road
650' +/- NE Corner of
Reisterstown Road
4th Election District
3rd Councilmanic District

Colonial Stoler Partnership

Petitioner

BEFORE THE

COUNTY BOARD OF

APPEALS OF

BALTIMORE COUNTY

CASE NO. 97-513-SPHA

RECEIVED
COUNTY BOARD OF APPEALS
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MEMORANDUM ON BEHALF OF PETITIONER

The testimony by the Protestants in this case consisted, in large measure, of complaints about the present operation of the Ford dealership, and in no way related to the proposed use of the subject site. Objections were raised as to the alleged glare from tall light standards, odors from the body shop and noise from loudspeakers and trash removal activity. Assuming, for the sake of argument, that those conditions exist at this time, nothing will change with respect to them as a result of this Board's ruling on the petition before you. In fact, the proposed screening will more effectively shield sights and sounds then the present condition of the property.

The evidence revealed that Kingsley Road runs generally in an easterly direction from Reisterstown Road, in an area where that main artery is devoted to intensive commercial uses, with a strong element of apartment uses also existing. On the west side of Reisterstown Road, opposite Kingsley Road, are the multiple automotive dealerships of the Heritage Group. Just south of these is the relatively recent addition of a large Target store. Opposite that, on the east side of Reisterstown Road and south of the area in which the subject property is located, there exists a large apartment complex. Northerly, on the southeast corner of the intersection of Kingsley Road and Reisterstown Road, a newly constructed Pontiac dealership is located, extending easterly along

Kingsley Road for some distance. Its easternmost boundary is estimated to be fifty feet from the Clifton property at 16 Kingsley Road. That dealership is not affiliated with Petitioner.

On the northeast corner of the intersection of Kingsley Road and Reisterstown Road is the longstanding Ford dealership operated by Petitioner. Parking of vehicles in that portion of the commercial zone extends well along Kingsley Road to border on the west the Clifton property, with the automobile body shop located to the north. The dealership property extends further east, bordering the subject property to the north and adjoins the Fadeli property at 26 Kingsley Road, located on the north side of Kingsley, east of both the site in question as well as the "dog-leg" made by Kingsley Road. The complaint by Protestants that the requested use will be an intrusion is at odds with the fact that the commercial zoning for the Ford dealership, established by the County Council, extends easterly to the "dog-leg" of Kingsley Road, across the full width of the rear of the subject property.

Notably, Petitioner has had long-standing ownership of a strip of land extending northward from Kingsley Road to the dealership property, wide enough to provide vehicle access; however, it has never been paved nor used for ingress or egress. Similarly, the subject site will not have access to or from Kingsley Road, but as shown on the plat, vehicles will move only from the dealership property. Since the subject property will not generate any traffic from or to the public street, the safety fears appear to stem from the proposed screening at the corner of the property, where Kingsley Road curves around the site. Testimony received was that the trees to be planted there would have foliage starting at a point six feet from the ground, thereby causing no impediment to lines of sight. Also, across Kingsley Road where it first curves to the left, the photos reveal the presence of several large bushes which partially obscure sight lines for motorists at the present time.

Because of the existing configuration of Kingsley Road, and its narrowness, it is obvious that motorists must exercise caution when moving through the "S" curve. Important also is recognition that any approval of these requests may be conditioned upon the installation of appropriate screening, and may be subject to further constraints by the Planning Department. At least one of the Protestants, Michael Quinn, testified that locating the fence back to a point from the corner of the property, where the corner of the existing house is located, would satisfy his concerns relating to the line of sight.

The site plan calls for erection of a fence behind the vegetative screening, which would effectively eliminate any spillage of light from the site. Testimony also revealed that the overall height of the proposed lighting poles would be the same as the fence, with the lighting directed downward, thereby enforcing the lack of any glare emanating from the property. Mr. Piccinini, a landscape designer, testified as to the appearance and nature of the proposed screening, and indicated the height and time frames within which the growth of the plantings would occur. His exhibits provided a clear picture of the type and beauty of the trees to be installed, and demonstrated that the final result will be a site vastly more colorful and attractive then presently exists.

Moreover, the existing lights along Reisterstown Road from the Ford dealership, the recently opened Pontiac dealership as well as the Heritage group, do generate glare onto the properties along Kingsley Road, extending eastward. As is evident from the plat introduced into evidence, the Pontiac site is located next to the Burkindine property at 13 Kingsley Road, and approximately fifty feet from the Clifton property at 16 Kingsley Road. The latter property is bordered by the Ford dealership on the west and on the north. As part of that development the auto body shop is located just behind, or to the north of the Clifton property for its entire width and also for a portion of the

width of the subject site. The remaining portion would provide the interior access from the dealership to the property in question.

The depth of the commercial zoning behind the Clifton and Archibald lots (the latter being the subject site), extending eastward from Reisterstown Road, has been of long-standing duration. And approximately ten years ago, by means of comprehensive rezoning, the four lots on the north side of Kingsley Road, from Reisterstown Road to the Clifton property boundary, as well as the Pontiac site on the south side of Kingsley Road, were placed in the BR and BM zoning categories, respectively. The inescapable conclusion to be drawn from those legislative actions is that commercial uses were intended on both sides of Kingsley Road, and were permitted eastward to the road's "dog-leg". The road itself provides a very appropriate line of demarcation between the residential properties to the east and the more intensive uses located to the west.

Furthermore, the proposed plantings and fence on the subject site would constitute a more effective and attractive buffer between the differing uses than now exists, or which would be available by means of any transition zone.

An important consideration underlying this request is the manner in which the goals of the Master Plan are furthered by permitting parking on the site in question. The Master Plan for Baltimore County[1] (hereinafter referred to as the Master Plan) sets forth principles which have a direct bearing on the present application. At page 48, the intent was stated as follows:

> "As vacant land prices increase, redevelopment of older underutilized parcels in areas already served by public facilities becomes an attractive alternative. . . ."

And with specific reference to the North-Central Reisterstown Road area, where this property is

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[1] Adopted February 5, 1990.

located, the planning goal was framed in the following manner, at page 97:

"COMMERCIAL CORRIDOR IMPROVEMENTS

"In addition to the segments covered by the Pikesville and Liberty Road Revitalization Districts, the Western Sector could benefit from concerted actions to improve several other commercially developed arterial highway sections."

* * *

"ISSUE: North-Central Reisterstown Road

"Although this portion of the corridor has experienced the most activity in terms of commercial and industrial development, it projects an image that needs to be corrected."

". . .While some minor neighborhood commercial services may be required, it was the object of the Plan to encourage the new residents of Owings Mills to patronize the established businesses along the two corridors.

"Baltimore County has essentially kept its promise not to expand business zoning outside the commercial core of the Owings Mills Growth Area. Despite the tremendous business possibilities this has opened for owners of properties along Reisterstown Road, little has been done to date to improve the quality of existing premises. This stretch of the corridor has not put itself in a position to take full advantage of the Growth Area's proximity.

"ACTIONS:

1. A corridor plan should be prepared with the active participation of local businesses to identify methods of improving site and building quality, signage, landscaping and accessibility. . . .
2. Uses with similar problems and goals should be concentrated to provide identity and character. Coordinated efforts of promotion and marketing would facilitate revitalization. A combination of these and other similar actions may be required to improve the profitability of corridor businesses, and enable property owners to provide the quality of commercial services necessary to support expected growth in Owings Mills. The alternative may be a decision to provide the necessary services at key locations inside the growth area itself."

The development of the auto dealerships along Reisterstown Road by Len Stoler has been a textbook example of implementation of that policy. Beginning three decades ago he has taken aged, outmoded and dilapidated buildings, and under-utilized lots, and transformed them into vibrant businesses, housed in modern and attractive buildings. That transformation has not only required the investment of substantial capital, but has resulted in the creation of a considerable number of new jobs and generation of sizeable tax payments to all levels of government. (See Petitioner's Exhibit No. 14). These economic benefits bring with them concomitant requirements, to enable the business entity to deliver goods and services at a level of quality high enough to satisfy customer needs, customers who reside largely in the northwestern portion of the County. One such requirement is to provide adequate and accessible parking for customers, employees, exhibition and storage.

The need for additional parking space at the Ford dealership was uncontradicted. If the present request is granted, to use the site for employee parking, congestion on other nearby streets could be eliminated and overcrowding on the adjacent commercial property could be alleviated. The testimony suggesting that other sites along Reisterstown Road be acquired instead by Petitioner, to be used for parking, is both simplistic and economically unrealistic. Such commercially zoned and high priced land is simply too expensive, and the carrying costs too high, for the proposed use in question. Moreover, large areas of the existing dealerships are now committed to parking and storage use; there exists a rigid need for adequate space to accommodate the income producing functions of selling, exhibiting and servicing automobiles.

Not to be forgotten is the commitment by Baltimore County to underwrite the goals of the Master Plan. Owings Mills, the area in which the subject property is located, has seen the benefit of hundreds of millions of dollars in public funds expended in order to establish it as a growth area

and to create and expand opportunities to live, work, shop and do business there. One of the issues identified in the Master Plan was framed in these words:

> "There is also a widespread feeling that there should be legislation to ensure that development is in conformity with the intent of the Master Plan, even in areas where current zoning would permit some other use or intensity, without the County necessarily having to purchase the property in question."

Master Plan, at p. 6. The present request is made to assist and support a business long-established in Owings Mills, which has fulfilled the spirt and intent of the Master Plan.

Many of the Protestants complained about the existing commercial nature of Kingsley Road, at its intersection with Reisterstown Road, where auto dealerships exist on both sides of the road. Those uses extend eastward and impinge on the Clifton property. As previously noted, they were established by legislative action. Whatever may be the impact of those commercial uses, Norman Gerber pointed out that it has already occurred, and would not be altered by this request. Traffic on Kingsley Road would be lessened, especially by the elimination of the child day care activities previously carried on from the property in question. Given the nature of the commercial activity to the west of the Clifton property (vehicle parking), to the north (automobile body shop) and diagonally across Kingsley Road, approximately fifty feet away (Pontiac dealership), the proposal for the site in question, with its landscaping and screening, will have much less effect than other instances where parking is established on a residential lot next to a commercial use.

Petitioner explained its investigation into other types of relief for the acute parking problem, which has necessitated the ferrying of vehicles to a site in Westminster. Testimony was presented regarding a three-tier mechanical parking system, such as now exists at a Honda dealership further south on Reisterstown Road. The unattractive appearance of the structure, its imposing height when

compared to other buildings and residences in the area, as well as the noise created by the mechanical raising and lowering of autos to and from the various levels, all combined to lead Petitioner to reject such an alternative. It would appear self-evident that the present request for approval of parking is a far superior solution than the mechanical storage described above.

The purchase of the Archibald property by Petitioner was essentially a reasonable business decision, one with little impact on the nearby properties. It was not made with the desire or intent to create a rental situation, and the present occupant, Denver Huffman, described the house as requiring substantial renovations. He is an employee of Stoler Ford, and is merely living there on a temporary basis until his new home is completed. In the event parking on the site is not permitted, the house would be razed rather than permit it to deteriorate further and become a safety hazard. Petitioner would be permitted to erect a fence, with or without landscaping, and the lot would then remain empty. From an economic viewpoint, the property would be underutilized, and be of no benefit to Petitioner or the neighboring owners.

Analysis of the testimony of the county planner, William Hughey, reveals that it contains several conclusions, but fails to provide a reasoned basis for them. At the outset, he pointed to the "incremental expansion" of the auto dealerships along Reisterstown Road, but failed to recognize their construction and development were in accord with principles of the Master Plan. Moreover, the sites of such expansion were all utilized in accordance with zoning created by the County Council. Mr. Hughey's attempt to create a distinction between the function of the property, as it exists and as proposed with screening and landscaping, to act as a buffer between uses of a different nature, cuts against the grain of common sense. He expressed opinions that granting the request for parking would have a detrimental effect, would "destabilize" the neighborhood and "possibly" affect

property values. However, he failed to provide reasons for his statements that could be considered and weighed by the Board. He was unable to point to any studies which had addressed the effects upon residential lots when conditional approvals for parking had been granted, to be used in connection with adjoining commercial properties. No statistical evidence of any type was advanced to demonstrate the likelihood, or even the possibility, of a decline in property values, or in support of his other notions. No planning principles were set forth to indicate support for his statements. In considering the weight to be accorded to his conclusions, the well-established Maryland standard comes into play: "The expert's opinion is of no greater value than the soundness of the reasons given for it will warrant." Franch v. Ankney, 341 Md. 350 at 364 (1996), citing to MARYLAND EVIDENCE § 705.1, at 256-257. "No matter how highly qualified the expert may be in his field, his opinion has no probative force unless a sufficient basis to support a rational conclusion is shown." Franch, supra, at p. 364.

Mr. Hughey conceded that he had met with the Protestants on two occasions and had also spoken with them to assist in advancing their cause. A more balanced approach, at a minimum, would have been to discuss the matter with a representative of Petitioner in order to listen to both sides, rather than adopting such a dogmatic approach.

Through this witness was introduced the recommendation of the Planning Department dated June 10, 1997. In it was expressed the thought that variance relief was not warranted, if the property was used for its "originally intended use". Needless to say, such a concept is at odds with the Zoning Regulations, as well as long-established case law, for it is only when property is sought to be utilized in some manner other than its "originally intended use" that the criteria for a conditional use/special exception or variance come into play. Equally suspect is the recommendation that the instant request

be made through the Comprehensive Zoning Map Process, in order to "allow the basic land-use issues to be evaluated" by the Planning Staff, Planning Board and the County Council. The Staff has already reviewed this issue, so that any future recommendation is a foregone conclusion. The County Council has legislated on these type matters, and permits parking on a residential lot adjacent to commercial property, once certain conditions have been satisfied. And variances are allowed upon a showing of practical difficulty.

Thus, the recommendation to seek rezoning of the site unnecessarily broadens the scope of the request and of the types of uses then at issue. The Planning Staff's position is ill-considered and fails to address the request in a substantive and meaningful fashion.

The dual issues in this case include requests for a use permit for business parking in a residential zone and a variance from setback and buffer requirements. Since each rests upon a different legal basis, they will be addressed separately.

PARKING REQUEST

As was recognized at the time of the hearing, the use permit for business parking is in the nature of a special exception, as it functions in essentially the same manner and encompasses the same fundamental characteristics. Indeed, § 409.8B1.(3) of the Baltimore County Zoning Regulations incorporates by reference the requirements of § 502.1 (Special Exceptions). The use permit for which permission is sought is a conditional use, as that term has been construed by the courts. The Court of Appeals, with § 502 specifically in mind, stated in Creswell v. Baltimore Aviation, 257 Md. 712, 714 (1970):

> "There cannot be a scintilla of doubt that in Baltimore County, as generally, there cannot be a grant of a special exception unless the zoning statutes provide that the conditional use sought is permissible

in the zone in which the land involved is situate. . . ."

That the term "special exception" is considered interchangeable with "conditional use" was again expressed by the Court in Schultz v. Pritts, 291 Md. 1, 19 (1981), wherein it engaged in "[a]n analysis of the rationale underlying the statutory scheme by which certain uses are delineated as either a permitted use or a conditional or special exception use." Further support for that view is found in Schultz at p. 21, n.6, wherein the Court referred to the relevant statutory provision:

"Art. 66B, § 1.00 provides in pertinent part:

> '"Special exception" [conditional use] means a grant of a specific use that would not be appropriate generally or without restriction and shall be based upon a finding that certain conditions governing special exceptions as detailed in the zoning ordinance exist, that the use conforms to the plan and is compatible with the existing neighborhood.'"

An earlier decision highlighted the compatibility of a special exception use, as predetermined by the legislative body, subject to the imposition of such conditions as may reasonably be necessary.

> "A special exception is a use which has been legislatively predetermined to be conditionally compatible with the uses permitted as of right in a particular zone, the condition being that a zoning body must, in each case, decide under specified statutory standards whether the presumptive compatibility in fact exists. In *Rockville Fuel and Feed Company, Inc. v. Board of Appeals of the City of Gaithersburg*, 257 Md. 183, 188, 262 A.2d 499, 502, we said:
>
> 'In *Montgomery County v. Merlands Club, Inc.*, 202 Md. 279, 287, we went to some pains to stress that the special exception is a valid zoning mechanism that delegates to an administrative board a limited authority to permit enumerated uses which the legislative body has determined can, *prima facie*, properly be allowed in a specified use district, absent any fact or circumstance in a particular case which would change this presumptive finding.'"

Creswell, supra, at 712.

In the instant case the site in question adjoins the business involved, will be used only for the parking of employee passenger vehicles and complies with the remaining conditions of § 409.8 B.2.

No loading or unloading will be undertaken, and the arrival and departure of autos will only occur at the beginning and ending of the work day. As previously mentioned, the only movement of vehicles will be on the interior between the Ford property and the site, and the lighting will be controlled downward and be timed to go off after employees leave. While the height of the lighting standards will not extend above the height of the fence, they will be below the level of the more numerous spruce and pine as those trees begin to mature.

The applicable provisions of the Zoning Regulations, including those of § 502 (Special Exceptions), make clear the objectives and conditions to be satisfied. Those considerations must be viewed in light of all existing uses in the area. Norman Gerber opined that the request satisfied all the criteria of the Zoning Regulations, pointing to the controlled environment to be created. The screening and lighting, combined with a reduction in street traffic and the absence of any demands upon public facilities, join in forming a low level of use, compatible with the surrounding area.

Mr. Gerber testified that the proposal would be consistent with the intent of the Master Plan, specifically to expand and modernize existing businesses. He stated that any possible effect on the Clifton property had been taken into consideration, and that the commercial activity on Reisterstown Road had already impacted the properties around the subject site. More than one witness described the glare now emanating from the Reisterstown Road properties; by contrast, the proposed screening for 22 Kingsley Road would effectively shield the parking use, especially with its low level, focused lighting.

The well-recognized case of Schultz v. Pritts, 291 Md. 1 (1981) laid down the controlling principle applicable to the present request. The Court of Appeals concluded, at pages 22-23:

> ". . .We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. " (Citations omitted.)

The major portion of the testimony presented by Protestants concerned either complaints about existing conditions, or fears generated by the proximity of the proposed parking, the lighting, the screening, noise of autos and a decrease in property values because of the presence of automobile parking. As pointed out earlier, conditions as they presently exist, including the effects from the commercial uses along Reisterstown Road, are wholly irrelevant in considering this petition, under applicable law. So too, the concerns expressed would exist elsewhere where residentially zoned property, adjacent to commercially zoned property, is converted to a use for parking in conjunction with the operation of a business. Those factors affecting nearby properties on Kingsley Road would not be different in kind nor effect than any adverse effects "inherently associated with such a special exception use irrespective of its location within the zone."

The nature of a special exception and its relationship to the comprehensive zoning plan was explained with great clarity by Judge Davidson in Schultz.

> "This Court has frequently expressed the applicable standards for judicial review of the grant or denial of a special exception use. The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has

> determined to be permissible *absent any fact or circumstance negating the presumption.* The duties given the Board are to judge whether the *neighboring properties in the general neighborhood would be adversely affected* and whether the use in the particular case is in harmony with the general purpose and intent of the plan.
>
> "Whereas, the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal. These standards dictate that if a requested special exception use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied." (Emphasis in original; citations omitted.)

291 Md. at 11. The opinion then went on to analyze the earlier case of Deen v. Baltimore Gas & Electric Co., 240 Md. 317, 330-31 (1965), where a utility had requested a special exception use for construction of high tension transmission lines above ground. The Board of Appeals granted the special exception use for a portion of the proposed transmission line, and such action was affirmed on appeal. The Baltimore County Zoning Regulations then in effect stated that a special exception use could not be granted if the requested use would "be detrimental to the health, safety, or general welfare of the locality invoked." The Protestants there asserted that the Board failed to consider the future effects which the high tension wires would have on the health, safety and general welfare of

the locality which could be reasonably anticipated in the normal course of its development. The Court found that factor was without relevance, because there was no evidence produced which would show that the effect of high tension wires in that area would be in any respect different than its effect on any other rural area. "Section 502.1 implies that the effect on health, safety or general welfare must be in some sense unique or else a special exception could never be granted in such an area. . . ". 291 Md. at 12.

The decision in Schultz also reviewed a similar analysis undertaken in Anderson v. Sawyer, 23 Md. App. 612, at 617-18 (1974), cert. denied 274 Md. 725, where a request was made for a special exception use that would permit construction of a funeral home in a residential zone. Protestants had presented evidence to show that the requested special exception use would tend to create congestion and unsafe conditions on neighboring roads and streets and would have a depressing psychological effect that would interfere with the enjoyment of the adjoining properties, make them less saleable, and prevent them from appreciating in value as much as other homes in the area. The Board found that the grant of the requested special exception use would create traffic problems and would, in fact, be detrimental otherwise to the general welfare of the locality involved. It denied the requested special exception use. The Circuit Court for Baltimore County reversed, and the Court of Special Appeals affirmed, agreeing there was no probative evidence to show any adverse effect. Addressing specifically the allegations of depreciation of value and enjoyment of neighboring properties, claims very similar to the ones made in the present case before this Board, the holding there was expressed in the following words:

> "There can be no doubt that an undertaking business has an inherent depressing and disturbing psychological effect which may adversely affect persons residing in the immediate neighborhood in the

> enjoyment of their homes and which may lessen the values thereof. Indeed, it is precisely because of such inherent deleterious effects that the action of a local legislature in prohibiting such uses in a given zone or zones will be regarded as promoting the general welfare and as constitutionally sound. But in the instant case the legislature of Baltimore County has determined that as part of its comprehensive plan funeral homes are to be allowed in residential zones notwithstanding their inherent deleterious effects. By defining a funeral home as an appropriate use by way of special exception, the legislature of Baltimore County has, in essence, declared that such uses, if they satisfy the other specific requirements of the ordinance, do promote the health, safety and general welfare of the community. As part of the comprehensive zoning plan this legislative declaration shares in a presumption of validity and correctness which the courts will honor.
>
> "*The presumption that the general welfare is promoted by allowing funeral homes in a residential use district, notwithstanding their inherent depressing effects, cannot be overcome unless there are strong and substantial existing facts or circumstances showing that the particularized proposed use has detrimental effects above and beyond the inherent ones ordinarily associated with such uses.* Consequently, the bald allegation that a funeral home use is inherently psychologically depressing and adversely influences adjoining property values, as well as other evidence which confirms that generally accepted conclusion, is insufficient to overcome the presumption that such a use promotes the general welfare of a local community. *Because there were neither facts nor valid reasons to support the conclusion that the grant of the requested special exception would adversely affect adjoining and surrounding properties in any way other than would result from the location of any funeral home in any residential zone, the evidence presented by the Protestants was, in effect, no evidence at all.*" Schultz, 291 Md. at 14, quoting Anderson, 23 Md. App. At 624-25 (emphasis added by Court of Appeals).

That holding is as pertinent to the proposed use for parking now before this Board as it was to the factual situation there under consideration.

Norman Gerber expressed the belief that the operative conditions arising from the proposed use of the subject site would be no different than found elsewhere, where use permits for parking

have been or may be granted. As one example he cited locations near Belair Road, where there are instances of commercial uses on three sides. Taking into consideration the depth of commercial zoning along the back of both the subject property, as well as the Clifton property, he saw no different effect here than if located somewhere else, and that the Schultz test was satisfied.

The Protestants have attempted to create a draw-back in the form of a traffic problem, but the proof failed to measure up to the claim. The road is narrow, and it was conceded by the residents that caution in the operation of motor vehicles is now required. The absence of autos pulling into or backing out of the driveway at 22 Kingsley road, under the proposed use, will actually improve the situation. Gone too will be the vehicular activity of the parents of the children formerly attending the day care center operated there. The foliage of the landscaping, as proposed, would extend no lower than six feet from the ground in order to maintain clear sight lines. Any additional conditions, such as moving the vegetation, the fence or the location of the parked cars further back from the property line, may be imposed by the Board in its discretion, if such action is felt to be desirable.

Significant also is the eyewitness testimony of Denver Huffman who, as indicated, has been living on the site for several months. He described an automobile towing business being operated from one of the homes to the east on Kingsley Road, involving the movement of towed vehicles in and out along Kingsley Road. That testimony was undisputed. Such a commercial use is at odds with the description of the neighborhood as presented by the Protestants. And with respect to the movement of such vehicles, a safety issue exists where none would be created from the proposed parking on the subject property, despite the unsubstantiated fears of the neighbors. Yet, not one of the Protestants had complained nor requested a halt to such activity.

If, in fact, the complaints voiced at the hearing regarding the safe movement of vehicles along

Kingsley Road were a reality, and not contrived for the purposes of this case, one would reasonably expect the Protestants to have insisted upon the installation of signs warning motorists of the presence of children in the area, on bikes or on foot. Other precautionary measures which could have been requested were the erection of "stop" signs or signs warning of the double curve. Again, no such precautionary steps were taken.

So too, the contention with respect to the effect upon the Clifton property lacks substance. The proximity of the proposed parking site to the Clifton lot carries with it no greater impact or detriment than any other two lots with like uses. There is no per se disqualification merely because parking would be adjacent to a residential use; otherwise, the provision of the Zoning Regulations specifically permitting a conditional use for parking would become meaningless. The denseness of the proposed landscaping, combined with the flowering trees, produce an attractive and effective buffer between the two properties. That observation holds true also for the other sides of the site. Furthermore, the Clifton property now adjoins BR zoning on two sides, and is within easy view of the Pontiac dealership from its front. Given that the law anticipates some inherent adverse impact between the two uses, the standard to be applied is whether this particular proposed use would have any "adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." The generalizations and vague apprehension aside, the proof required to satisfy that criterion has not been forthcoming. A brief survey of applicable case law underscores the correctness of that view.

The off-cited decision in People's Counsel v. Mangione, 85 Md. App. 738 (1991) involved requests for a special exception for a nursing home and additional variances to permit a parking lot setback and a larger sign. The Court's summary of the law relating to special exceptions is

instructive.

> "The term 'special exception' refers to a 'grant by a zoning administrative body pursuant to existing provisions of zoning law and subject to certain guides and standards of special use permitted under provisions of existing zoning law.' *Cadem v. Nanna*, 243 Md. 536, 543, 221 A.2d 703 (1966). It is a part of a comprehensive zoning plan, sharing the presumption that it is in the interest of the general welfare and is, therefore valid. *Rockville Fuel and Feed Co. v. Board of Appeals of the City of Gaithersburg*, 257 Md. 183, 262 A.2d 499 (1970). It is a use which has been legislatively predetermined to be conditionally compatible with the uses permitted as of right in a particular zone, the condition being that a zoning body must, in each case, decide under specified statutory standards whether presumptive compatibility exists. *Creswell v. Baltimore Aviation Service, Inc.*, 257 Md. 712, 264 A.2d 838 (1970). In sum, special exception is a 'valid zoning mechanism that delegates to an administrative board a limited authority to permit enumerated uses which the legislative body has determined can, *prima facie*, properly be allowed in a specified use district, absent any fact or circumstance in a particular case which would change this presumptive finding.' *Rockville Fuel*, 257 Md. at 188, 262 A.2d 499. (Citing *Montgomery County v. Merlands Club, Inc.*, 202 Md. 279, 287, 96 A.2d 261 (1953))." (footnote omitted.)

85 Md. App. at 747-48. The opinion also cited the decision in Board of County Comm'rs v. Holbrook, 314 Md. 210 (1988), which, in turn quoted from Schultz v. Pritts, supra, holding that "if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious and illegal." Mangione, supra, 85 Md. App. at 749.

Any "disharmony" to the comprehensive plan, as that decision requires, is completely lacking in this case. To the contrary, the goals and purposes of the Master Plan would be furthered by the approval of this petition, as the parking would assist in and improve the operation of a business of

a type which the Plan seeks to encourage and support in this area. This request seeks to secure automobile parking in precisely the manner provided by the comprehensive plan established through legislation, and not as suggested by the Planning Staff. The record in this case amply supports a finding that the conditional use and location proposed would *not* cause an adverse effect upon adjoining and surrounding properties unique and different, in kind or degree, than that inherently associated with such a use regardless of its location within the zone. Magione, 85 Md. App. at 750.

The discussion in Mossburg v. Montgomery County, 107 Md. App. 1 (1995) is also highly apropos to the issues before this Board. Initially, the Court recognized that a special exception is expressly permissible and 'a conditional use' is a desirable use which is attended with detrimental effects which require that certain conditions be met." Id., at page 7. The opinion also recognized that it is "the generally accepted proposition that, if the express conditions . . . are met, it is a permitted use because the legislative body has made that policy decision." Id., at page 7. Thus, the focus is upon satisfaction of the conditions contained in the Zoning Regulations, and not upon dissatisfaction with the present operation of the dealership as repeatedly expressed by the Protestants. Those conditions were specifically addressed by Ned Howe and Norman Gerber, and were found to have been satisfied.

The decision in Mossburg reached the conclusion "that a special exception/conditional use in a zoning ordinance recognizes that the legislative body of a representative government has made a policy decision for all of the inhabitants of the particular governmental jurisdiction, and that the exception or use is desirable and necessary in its zoning planning provided certain standards are met." 107 Md. App. 7-8. The Court then focused on the core issue to be decided, a view that is obviously at odds with that of the Protestants in this case.

> "Thus, it is not whether a special exception/conditional use is compatible with permitted uses that is relevant in the administrative proceedings. The legislative body, by designating the special exception, has deemed it to be generally compatible with the other uses. In special exception cases, therefore, generally compatibility is not normally a proper issue for the agency to consider. That issue has already been addressed and legislatively resolved. Moreover, it is not whether a use permitted by way of a special exception will have adverse effects (adverse effects are implied in the first instance by making such uses conditional uses or special exceptions rather than permitted uses), it is whether the adverse effects in a particular location would be greater than the adverse effects ordinarily associated with a particular use that is to be considered by the agency. . . .Once an applicant presents sufficient evidence establishing that his proposed use meets the requirements of the statute, even including that is has attached to it some inherent adverse impact, an otherwise silent record does not establish that that impact, however severe at a given location, is greater at that location than elsewhere."

107 Md. App. at 8-9. Stripping the volume of testimony down to its essentials, and upon analysis of the substance of proof presented by Protestants, it is apparent there is an absence of meaningful and probative evidence presented by them.

The review of the Board's decision in Mossburg addressed the underpinnings for the denial of the special exception there, particularly the issues of the environment and traffic safety. Although the uses under consideration there involved special exceptions in an industrial zone, the reasoning, expressed at 107 Md. App. 29, would apply with equal vigor to the circumstances existing and the concerns expressed in the instant case.

> "The protestants appear to protest the increasing development of this area of I-2 Industrial Zoning. The purpose of creating such zones is to restrict and concentrate heavy industrial activity to certain designated portions of the County. The concepts embodied in such zoning contemplate that these particular areas will become more industrialized in order that other zones will not be subject to those types of uses--uses the legislative body has determined are necessary. As long as the County experiences population growth, there must be

> a development of wholesale and retail businesses to serve the up-front needs of the growing population. . . ."

Another recent case, Prince George's County v. Brandywine, 109 Md. App. 599 (1996), cert. granted 343 Md. 566, stated that in view of the presumption in favor of special exceptions, a denial of a special exception application must be supported by factual findings and legal conclusions. Id., at pages 615-616. The Court of Special Appeals there noted "the legislative policy in favor of approving special exceptions", id., at 614, and further held: "Special exceptions are uses of land that the Legislature has determined are beneficial for a specific region, provided certain conditions are satisfied." Id., at 614. That principle has particular applicability to the present case, in that, as previously noted, the site is situated within the designated Owings Mills growth area. The County's stated policy of encouraging and enhancing the viability of existing businesses, in order to better serve the public and to better utilize commercial properties, carries with it the need to provide adequate facilities. This request is one facet of the nature of such guiding principles. The County has clearly made the policy decision to promote economic growth in this "specific region", which, inevitably, will generate requests such as the pending petition, or others of a similar nature which do not seek rezoning. Although each instance must be decided within its own factual framework, the overarching economic and land planning instituted by the County supports approval of the instant request. That concept was expressed in Brandywine, supra, where the Court of Special Appeals stated that in determining the existence of the presumption in favor of approval of a special exception, consideration is to be given not only to the effect of the proposed land use, but also to "its consistency with the policies expressed in the Master Plan governing that region." 109 Md. App. at 615.

VARIANCE REQUESTS

Authority to grant variances of the nature sought in this case is found in Sec. 307.1 of the Baltimore County Zoning Regulations. That section is designed for the purpose of providing flexibility and relief "where special circumstances or conditions exist that are peculiar to the land or structure," and "where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship."

The procedure to be followed in considering a request for a variance was outlined in Cromwell v. Ward, 102 Md. App. 691, 694-695 (1995).

> "[T]he variance process . . . is at least a two-step process. The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is--in and of itself--unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, *i.e.*, a determination of whether practical difficulty and/or unreasonable hardship, resulting from the disproportionate impact of the ordinance *caused by* the property's uniqueness, exists. Further consideration must then be given to the general purposes of the zoning ordinance." (footnote omitted.)

And with respect to the same statute that applies to this case, Cromwell cited Red Roof Inns, Inc. v. People's Counsel, 96 Md. App. 219 (1993) for the proposition that with regard to area variances (which is the type here involved) the concern is only that the conditions peculiar to the land present practical difficulties. 102 Md. App. at 710.

The Cromwell court went on to define, in a legal sense, the characteristics of property which

have relevance to requests for a variance.

> ". . .'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, *i.e.*, its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions)or other similar restrictions. . . ."

Id., at 710. The decision further amplified those features which are to be considered by citing, with approval, the characteristics listed in St. Clair v. Skagit County, 43 Wash. App. 122 (1986); *i.e.*, "because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings." Id., at 713.

The Court summarized applicable law in the following words:

> "We conclude that the law in Maryland and in Baltimore County under its charter and ordinance remains as it has always been--a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists. . . ."

Cromwell, supra, 102 Md. App. at 721.

There exist certain profound aspects of the property in question which satisfy the tests set forth, thereby qualifying it for variance approval. Firstly, it is located in the Owings Mills growth area, and such, is to be utilized in furtherance of the goals and in accordance with the principles of the Master Plan.

Secondly, it is one of the few lots in the neighborhood that is immediately adjacent to a commercially zoned property, which may, legally and practically, be used for parking in support of the commercial activity. The Clifton property next door is disqualified because of the location of

the automobile body shop extending completely across the rear of the lot, thereby precluding access between it and the Ford dealership. That is not true of the subject site, as the development plat indicates, there is ample room for a driveway, without the need to drive onto Kingsley Road.

The Burkindine lot at 13 Kingsley Road adjoins the Pontiac dealership, but as the testimony indicated, there is a sharp difference in grade between the two properties, thereby precluding it from being used for parking in the manner requested with respect to the subject site.

The Faidli property is afflicted with infirmities also. The front portion of that lot does not abut the commercial zone. Most important, however, there now exist a 10' utility easement and an 8" sanitary line along the common boundary between the Ford dealership and the remaining portion of the Faidli property, as depicted on the site plan admitted into evidence. As opposed to the subject site, the access to the Ford dealership from the Faidli property would, of necessity, require paving over the utility easement and the sanitary line. However, the County or utility, in whose favor the rights of way exist, retain the legal ability to maintain, repair or replace their installations. Long-established principles of law recognize such rights. Maddran v. Mullendore, 206 Md. 291 (1955) stated, at page 297:

> ". . .It is axiomatic that the owner of a servient tenement [Petitioner herein] cannot close or obstruct the easement against those who are entitled to its use in such manner as to prevent or interfere with their reasonable enjoyment. . . ."

And the person whose rights are interfered with may remove the obstruction, in this case paving, in a reasonable manner. Id., at 299-300. Of course, the cost of providing such access would fall upon the property owner, rather than the County or the utility, and the need for repairs, maintenance or replacement could conceivably occur on multiple occasions. At such times, the parking area could

not be used for parking. Thus, the only site in this neighborhood zoned residential, but adjacent to a commercial parcel and eligible for parking is Petitioner's property, and therefore satisfies the requirement for its being different, unusual or unique.

A few examples of the types of features deemed "unique, unusual or different", which served as a basis for the granting of variances, were listed in Cromwell. A New Hampshire case was cited, where the location and characteristics of the property involved created greater security requirements than other property in the area because the parcel was less central, less populated and less serviced by law enforcement patrols. 102 Md. App. at 719. And an Oregon decision was recognized where a variance was granted and affirmed on appeal in part because the site was a steep and rocky slope, the former site of a landfill. Id., at 719.

And with particular relevance to the present case, practical restrictions imposed by abutting properties have been deemed to include obstructions thereon, so as to render the property under consideration "unique" for zoning purposes. *Umberley v. People's Counsel*, 108 Md. App. 497 at 506 (1996), cert. denied 342 Md. 584, quoting *North v. St. Mary's County*, 99 Md. App. 502 (1994), cert. denied *sub nom Enoch v. North*, 336 Md. 224. The presence of the long-standing automobile body shop to the rear of the Clifton property, shutting off interior access to the Ford dealership property, would certainly qualify for such an obstruction.

It is, then, appropriate to consider the next step in the process, a determination of whether practical difficulty results from the disproportionate impact of the development requirements caused by the property's uniqueness. The requested variances are needed due to the size and irregular shape of the lot in question, the effect of which is to otherwise render the site useless for the purpose of business parking. As demonstrated by the testimony of Ned Howe, the setback requirements totally

consume the area needed for parking, so that even if the conditional use were permitted, without approval of the variances it would not be possible to park vehicles on the site. In the present case, the exhibits and testimony readily reveal that the property qualifies for the beneficial effects of the variance provision, without any injury to the public health, safety or general welfare. The heat and volume of the protests do not qualify as adequate substitution for proof of detrimental effects likely to result from a granting of the variances. To the contrary, approval of the variances will relieve overcrowding on the adjacent dealership, which has necessitated employee parking on neighboring streets elsewhere in the area. The pending requests are, in part, a response to complaints concerning such parking.

The oft-cited decision by the Court of Appeals in McLean v. Soley, 270 Md. 208 (1973) considered the criteria for determining whether "practical difficulty" has been established. Quoting 2 Rathkopf, *The Law of Zoning and Planning*, (3d ed. 1972) 45-28, 29, it was there held that one of the benchmarks was whether compliance with the strict letter of the restrictions governing such conditions as area and setbacks "would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome." McLean, supra, at page 214 of 270 Md. The opinion also rejected the contention that the owner was precluded from asserting "practical difficulty" because he was charged with knowledge of the zoning requirements when the property was purchased. Id., at 215.

The earlier case of Loyola Federal Savings and Loan Assn. v. Buschman, 227 Md. 243 (1961) affirmed the granting of a variance by the County Board of Appeals as to the height of an office building, after the Circuit Court had reversed. The opinion placed the issue in proper context, by recognizing that if the requested variance were in strict accord with the terms of the Zoning

Regulations, there would be no need for a variance. The question was more accurately stated to be whether the requested variance was in strict accord with the spirit and intent of the Zoning Regulations. The testimony of Mr. Gerber and Mr. Howe more than adequately supported the position that the requirements of the Zoning Regulations had been satisfied, while the evidence of the Protestants failed to do so. In summary, the resulting practical difficulty, in utilizing the site for parking, was overwhelmingly established by the evidence in this case.

The cumulative testimony offered by the Protestants makes pertinent the admonition repeated by the Court of Special Appeals in Entzian v. Prince George's County, 32 Md. App. 256, 262 (1976) where, in holding that the decisions of a zoning authority must be supported by substantial evidence on the record, it was stated:

> " 'Zoning is not a plebiscite' and therefore testimony in opposition restricted solely to lay witnesses, petitions of objection to the proposal by residents, and testimony amounting to unsupported dislike and fear of (a) project, '. . .amounted to no evidence at all.'..."

The individual testimony of the residents falls squarely within that rule, bearing in mind that much of their testimony related to conditions not relevant to the requests before the Board. Moreover, the opinions expressed by William Hughey lacked supporting objective data, and were inconsistent with the intent of the Zoning Regulations and the goals of the Master Plan. Accordingly, his testimony failed to present a sufficient basis to support a rational conclusion, and is not entitled to be given any probative value.

CONCLUSION

Petitioner has presented evidence which demonstrates the request for the use permit for parking satisfies the applicable criteria, and that the proposed use is a part of the comprehensive

zoning plan, sharing the presumption of validity. Furthermore, the record reveals that the effect of such proposed use at this particular location, at a minimum, would not have any adverse effects "above and beyond" those inherently associated with similarly zoned property located elsewhere. Also the aspects of the site are such as to satisfy the requirement that it is unique, unusual or different for the purpose of considering a request for variances. The impact of the setback and buffer requirements would have a devastating effect upon the ability to use the property for parking (if permitted), and establishes the existence of practical difficulty.

Based upon the record before the Board, and upon the authorities cited herein, it is respectfully urged that the requested use permit for parking and related variances be granted.

Respectfully submitted,

MARVIN I. SINGER
10 East Baltimore Street
Suite 1601
Baltimore, Maryland 21202
(410) 685-1111

Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Memorandum on Behalf of Petitioner were mailed this 29th day of May, 1998, by first-class mail, postage prepaid, to J. Carroll Holzer, Esq., Suite 502, 305 Washington Avenue, Towson, Maryland 21204, Attorney for Protestants; Peter Max Zimmerman, Esq., Room 47, Courthouse, 400 Washington Avenue, Towson, Maryland 21204, People's Counsel; and Robert Sellers, Esq., Suite 303, 401 Washington Avenue, Towson, Maryland 21204, attorney for Reisterstown-Owings Mills - Glyndon Community Council.

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May 29, 1998

County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Petitions for Special Hearing
and Variances
Colonial Stoler Partnership,
Petitioner
Case No. 97-513-SPHA

Dear Board Members:

Enclosed for filing in the above-mentioned case are an original and three (3) copies of the Memorandum on Behalf of Petitioner.

Respectfully,

Marvin I. Singer

RECEIVED
BOARD OF APPEALS
98 MAY 29 PM 2:25
COUNTY

cc: J. Carroll Holzer, Esq. (w/encl.)
Peter Max Zimmerman, Esq. (w/encl.)
Robert Sellers, Esq. (w/encl.)

MIS/m
Encl.

VIA MESSENGER

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE - NW/S Kingsley Road, 650' NE of c/1 Reisterstown Road (22 Kingsley Road) 4th Election District 3rd Councilmanic District	*	BEFORE THE
	*	ZONING COMMISSIONER
	*	OF BALTIMORE
	*	Case No. 97-513-SPHA
Colonial Stoler Partnership Petitioner	*	

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

NOTICE OF APPEAL

Please enter my appearance in the above-entitled case on behalf of Colonial Stoler Partnership, Petitioner/Appellant herein, whose address is 11275 Reisterstown Road, Owings Mills, Maryland 21117, telephone (410) 356-7000. On behalf of Colonial Stoler Partnership, enter an appeal to the County Board of Appeals from the Orders by the Zoning Commissioner entered in this case on August 15, 1997.

MARVIN I. SINGER
10 East Baltimore Street
Suite 1601
Baltimore, Maryland 21202
(410) 685-1111
Attorney for Colonial Stoler Partnership

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of August, 1997, a copy of the foregoing NOTICE OF APPEAL, was sent by first class mail, postage prepaid to J. Carroll Holzer, Esq., 305 Washington Avenue, Suite 502, Towson, Maryland 21204, and Robert Sellers, Esq., 4125 Worthington Avenue, Reisterstown, Maryland 21136.

MARVIN I. SINGER

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE - NW/S Kingsley Road, 650' NE of c/l Reisterstown Road (22 Kingsley Road) 4th Election District 3rd Councilmanic District

Colonial Stoler Partnership
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 97-513-SPHA
*

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by Colonial Stoler Partnership, owner of the subject property, by Leonard Stoler, Partner, through his attorney, Marvin I. Singer, Esquire. The Petitioner seeks approval of a use permit for business parking in a residential zone, pursuant to Section 409.8.B of the Baltimore County Zoning Regulations (B.C.Z.R.) and/or Subsection 409.6 thereof. In addition, the Petitioner seeks variance relief from Section 1B01.1.B.1.e(5) of the Residential Transition Area (RTA) requirements to permit setbacks of 12 feet, 5 feet, 9 feet, 15 feet, and 20 feet, in lieu of the required 75 feet, and landscape buffer setbacks of 12 feet, 15 feet, and 20 feet, in lieu of the required 50 feet, for the property known as 22 Kingsley Road. The subject property is located in the vicinity of Reisterstown Road in Owings Mills, and is more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were Leonard Stoler and Vince Piccinini, representatives of the Colonial Stoler Partnership, Denver Huffman, an employee of the Len Stoler automobile dealership in this locale, Edwin S. Howe, III, Professional Engineer who prepared the site plan for this property, and Marvin I. Singer, Esquire. Appearing as

ORDER RECEIVED FOR FILING
Date 8/15/97
By

Protestants in the matter were numerous residents from the surrounding community, including the adjoining property owners, all of whom signed the Protestants Sign In Sheet. Some of the Protestants were represented by J. Carroll Holzer, Esquire. Robert Sellers, Esquire, an attorney and representative of the Reisterstown-Owings Mills-Glyndon Community Council also appeared at the hearing.

A significant volume of testimony and a number of exhibits were offered at the hearing. The exhibits offered include a site plan and photographs of the property and surrounding area. Additionally, with the consent of the parties, I visited the site and walked the subject property and immediate neighborhood. Also, Counsel were given an opportunity to submit written memoranda in lieu of closing argument. A memorandum was submitted by Counsel for the Petitioners, Marvin I. Singer, Esquire, on July 14, 1997.

A review of the testimony and evidence offered discloses that the subject property consists of approximately .65 acres in area, zoned D.R. 3.5, and is improved with a single family dwelling. The property fronts on Kingsley Road, a small residential street which intersects with Reisterstown Road. In this vicinity, Reisterstown Road is a highly developed, commercial/retail corridor. The Petitioner operates the Len Stoler automobile dealership on a large parcel of property immediately adjacent to Reisterstown Road and its intersection with Kingsley Road. Additionally, the Heritage Automobile dealership is located immediately across Reisterstown Road, and a large Target retail store is located nearby. The zoning of the properties that abut Reisterstown Road, which are primarily B.R., B.M., and B.L. (business classifications), reflect the highly intensive commercial nature of Reisterstown Road in this vicinity. However, as is

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typical with most of the side streets in the area, Kingsley Road quickly becomes residential in character, as one drives down that street from Reisterstown Road. The depth of the commercial properties and commercial uses from Reisterstown Road is not entirely uniform; however, all of these side streets off of Reisterstown Road ultimately lead into residential neighborhoods. As shown on the site plan, the subject property is located approximately 800 feet from the intersection of Reisterstown Road. Additionally, the subject property is not the first residential property which one comes to when proceeding down Kingsley Road. In fact, there are residentially developed lots on both sides of the road before one reaches the subject property. Moreover, the road curves sharply at this property, as it leads further into the interior of the residential community. This characteristic was noted by the Protestants, who fear an interference with sight distance if the property is developed as proposed.

As noted above, Mr. Stoler's dealership occupies a large property which fronts Reisterstown Road. Over the years, the dealership has expanded and moved further back on its property and adjacent to the residential lots which abut Kingsley Road. From my site inspection, it appears that the Stoler dealership has the most significant depth into the residential community from any of the other businesses which front Reisterstown Road. During my site inspection, I drove to the back of the Stoler dealership lot, which contains the auto body shop. In fact, this portion of the business operation is located immediately to the rear of their property, and abuts the subject site.

In a desire to further expand its dealership, the Petitioner has acquired the subject property which it proposes to convert for use as a parking lot. As shown on the site plan, the existing dwelling will be

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razed and a parking lot created containing 49 parking spaces, each space approximately 9' x 18' in dimension. It is anticipated that the lot will primarily be used for employee parking. Interestingly, vehicular access to the site will be via the rear of the property so as to connect same with the Stoler property that fronts on Reisterstown Road. That is, there will be no access to the parking lot from Kingsley Road. The property will also be landscaped and buffered in an effort to screen same from adjacent residential properties. Mr. Vince Piccinini, a landscape designer, testified as to the trees and plant material which would be used to buffer the site.

The Protestants who testified all oppose the Petitioner's plan. They believe that the proposed use will be disruptive to the residential character of the houses on Kingsley Road. The primary objection was the fear of the commercial impact caused by the use of this property. Concerns were also expressed over the sounds and impact of traffic on the parking lot, and the potential disruption of the sight distance for traffic using Kingsley Road. All of the testimony, both in support of and in opposition to the Petitioner's request is fully contained in the record of the case.

As to the Petition for Special Hearing, same is governed by Section 409.8.B.1 of the B.C.Z.R. That Section specifically adopts the special exception standards contained within Section 502.1 of the B.C.Z.R. as the criteria for evaluating the special hearing request. Moreover, the Section requires that the Zoning Commissioner adjudge the character of the surrounding community and the anticipated impact of the proposed use on that community.

The appellate courts of this State have frequently evaluated the standards to be considered for a proposed special exception case. The seminal case is the Schultz v. Pritts, 291 Md. 1 (1981). Most recently,

the Court of Special Appeals in Mossburg v. Montgomery County, Md., 107 Md. App. 1 (1995) comprehensively discussed those standards. Both Schultz and Mossburg noted that special exception uses are considered presumptively permissible as a valid part of the comprehensive zoning scheme. Moreover, the Courts noted that the test to be employed is to determine whether the impact of the proposed use will have an effect above and beyond that normally associated with such impact at the particular location proposed.

In applying this criteria to the facts presented, as well as the standards set forth in Section 409.8.B(e)2, I am persuaded to deny the Petition for Special Hearing. In this case, the proposed use will, in my judgment, cause adverse impact above and beyond those impacts which would ordinarily be associated with the use proposed. The uniqueness here is the location of the property itself. The proposal presents the deepest intrusion into the residential communities which exist in the interior of Reisterstown Road. This is not a case where a property adjoining Reisterstown Road, carrying with it business zoning, is sought to be developed. Instead, the subject property is residential in zoning, character and actual use. Moreover, except for its rear property line, all of the other sides of the property abut residentially zoned and used properties. The requested use of the subject property for business parking is obviously incompatible with these surrounding uses. Moreover, the proposed parking arrangement will cause adverse impacts above and beyond what would normally be expected. This is due to the unusual curvature of the road immediately adjacent to the subject site, as well as the existing uses of properties which abut this parcel. The noise, visibility, and lights associated with traffic on this site will cause detrimental impact to the surrounding

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By

locale and might present a public hazard in impacting the traffic and use of Kingsley Road. Thus, for all of these reasons, the Petition for Special Hearing must be denied.

As to the Petition for Variance, same will also be denied. In considering this request, the criteria set forth in Cromwell v. Ward, 102 Md. App. 691 (1985) must be considered. That case requires a finding of uniqueness of the subject property in order for variance relief to be granted. This property is not unique; only, in my judgment, inappropriate for the proposed use. Thus, the Petition for Variance must also be denied.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and for the reasons set forth above, the relief requested must be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 15th day of August, 1997 that the Petition for Special Hearing seeking approval of a use permit for business parking in a residential zone, pursuant to Section 409.8.B of the Baltimore County Zoning Regulations (B.C.Z.R.) and/or Subsection 409.6 thereof, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 1B01.1.B.1.e(5) of the Residential Transition Area (RTA) requirements to permit setbacks of 12 feet, 5 feet, 9 feet, 15 feet, and 20 feet, in lieu of the required 75 feet, and landscape buffer setbacks of 12 feet, 15 feet, and 20 feet, in lieu of the required 50 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

August 15, 1997

Marvin I. Singer, Esquire
10 East Baltimore Street, Suite 1601
Baltimore, Maryland 21202

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
NW/S Kingsley Road, 650' NE of c/l Reisterstown Road
(22 Kingsley Road)
4th Election District - 3rd Councilmanic District
Colonial Stoler Partnership - Petitioner
Case No. 97-513-SPHA

Dear Mr. Singer:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have been denied, in accordance with the attached Order.

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

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Leonard Stoler, Colonial Stoler Partnership
11275 Reisterstown Road, Owings Mills, Md. 21117

The Clifton Family, 16 Kingsley Road, Owings Mills, Md. 21117
Mr. Mark Shepardson, 29 Kingsley Road, Owings Mills, Md. 21117
Mr. Mike Quinn, 27 Kingsley Road, Owings Mills, Md. 21117
Mr. Dennis R. Orr, 28 Kingsley Road, Owings Mills, Md. 21117
Mr. Mickey Goldberg, 5 Montgomery Road, Owings Mills, Md. 21117
Ms. Valerie Robinson, 30 Kingsley Road, Owings Mills, Md. 21117
Ms. Amanda Ranasinghe, 31 Kingsley Road, Owings Mills, Md. 21117
Robert Sellers, Esq., 4125 Worthington Ave., Reisterstown, Md. 21136

People's Counsel; Case File
Carroll Holzer, Esq.

Printed with Soybean Ink on Recycled Paper

7/10/97

RE: PETITION FOR SPECIAL HEARING PETITION FOR VARIANCE	*	BEFORE THE
22 Kingsley Road, NW/S Kingsley Rd, 650' +/- NE from c/1 Reisterstown Road	*	ZONING COMMISSIONER
4th Election District, 3rd Councilmanic	*	OF BALTIMORE COUNTY
Colonial Stoler Partnership Petitioner	*	CASE NO. 97-513-SPHA

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

MEMORANDUM ON BEHALF OF PETITIONER

The dual issues in this case include requests for a use permit for business parking in a residential zone and a variance from setback and buffer requirements. Since each rests upon a different legal basis, they will be addressed separately.

PARKING REQUEST

As was recognized at the time of the hearing, the use permit for business parking is in the nature of a special exception, as it functions in essentially the same manner and encompasses the same fundamental characteristics. Indeed, § 409.8B1.(3) of the Baltimore County Zoning Regulations incorporates by reference the requirements of § 502.1 (Special Exceptions). The use permit for which permission is sought is a conditional use, as that term has been construed by the courts. The Court of Appeals, with § 502 specifically in mind, stated in Creswell v. Baltimore Aviation, 257 Md. 712, 714 (1970):

> "There cannot be a scintilla of doubt that in Baltimore County, as generally, there cannot be a grant of a special exception unless the zoning statutes provide that the conditional use sought is permissible in the zone in which the land involved is situate... ."

That the term "special exception" is considered interchangeable with "conditional use" was again expressed by the Court in Schultz v. Pritts, 291 Md. 1, 19 (1981), wherein it engaged in "[a]n analysis of the rationale underlying the statutory scheme by which certain uses are delineated as either a permitted use or a conditional or special exception use." Further support for that view is found in Schultz at p. 21, n.6, wherein the Court referred to the relevant statutory provision:

> "Art. 66B, § 1.00 provides in pertinent part:
>
> > ' "Special exception" [conditional use] means a grant of a specific use that would not be appropriate generally or without restriction and shall be based upon a finding that certain conditions governing special exceptions as detailed in the zoning ordinance exist, that the use conforms to the plan and is compatible with the existing neighborhood.' "

An earlier decision highlighted the compatibility of a special exception use, as predetermined by the legislative body, subject to the imposition of such conditions as may reasonably be necessary.

> "A special exception is a use which has been legislatively predetermined to be conditionally compatible with the uses permitted as of right in a particular zone, the condition being that a zoning body must, in each case, decide under specified statutory standards whether the presumptive compatibility in fact exists. In *Rockville Fuel and Feed Company, Inc. v. Board of Appeals of the City of Gaithersburg*, 257 Md. 183, 188, 262 A. 2d 499, 502, we said:
>
> > 'In *Montgomery County v. Merlands Club, Inc.,* 202 Md. 279, 287, we went to some pains to stress that the special exception is a valid zoning mechanism that delegates to an administrative board a limited authority to permit enumerated uses which the legislative body has determined can, *prima*

> *facie,* properly be allowed in a specified use district, absent any fact or circumstance in a particular case which would change this presumptive finding.' "

Creswell, supra, at 712.

In the instant case the site in question adjoins the business involved, will be used only for the parking of passenger vehicles and complies with the remaining conditions of § 409.8 B.2. The applicable provisions of the Zoning Regulations, including those of § 502 (Special Exceptions), make clear the objectives and conditions to be satisfied. Those considerations must be viewed in light of all existing uses in the area.

The evidence revealed that Kingsley Road runs generally in an easterly direction from Reisterstown Road, in an area where that main artery is devoted to intensive commercial uses, with a strong element of apartment uses also existing. On the west side of Reisterstown Road, opposite Kingsley Road, are the multiple automotive dealerships of the Heritage Group. Just south of these is the relatively recent addition of a large Target store. Opposite that, on the east side of Reisterstown Road and south of the area in which the subject property is located, there exists a large apartment complex. Northerly, on the southeast corner of the intersection of Kingsley Road and Reisterstown Road, construction of a new Pontiac dealership is presently underway, extending easterly along Kingsley Road for some distance. Its easternmost boundary was estimated to be fifty feet from the Clifton property at 16 Kingsley Road. That dealership is not affiliated with Petitioner.

On the northeast corner of the intersection of Kingsley Road and Reisterstown Road is the longstanding Ford dealership operated by Petitioner. Parking of vehicles in that portion of the commercial zone extends well along Kingsley Road to border on the west the Clifton property, with the automobile body shop located to the north. The dealership property extends further east, bordering the subject property to the north and faces the Fadely property at 26 Kingsley Road, located on the north side of Kingsley, east of both the site in question as well as the "dog-leg" made by Kingsley Road. North of the Kingsley Road intersection, both sides of Reisterstown Road are solidly commercial to High Falcon Road and beyond.

Notably, Petitioner has had long-standing ownership of a strip of land extending northward from Kingsley Road to the dealership property, wide enough to provide vehicle access; however, it has never been paved nor used for ingress or egress. Similarly, the subject site will not have access to or from Kingsley Road, but as shown on the plat, vehicles will move only from the dealership property.

The Protestants voiced only generalized objections, without any factual basis and lacking any expert testimony. For example, fears as to safety regarding vehicular traffic on Kingsley Road and light spill-over from the site were expressed. Since the subject property will not generate any traffic from or to the public street, the safety fears appear to stem from the proposed screening at the corner of the property, where Kingsley Road curves around the site. Testimony received was that the trees to be planted there would have foliage starting at a point six feet from the ground, thereby causing no impediment to lines of sight. More important, any approval of the requests

may be conditioned upon the installation of appropriate screening, and may be subject to further constraints by the Planning Department.

The site plan calls for erection of a fence eight feet in height, behind the screening, which would effectively eliminate any spillage of light from the site. Testimony also revealed that the overall height of the proposed lighting poles would be eight feet, with the lighting directed downward, thereby enforcing the lack of any glare emanating from the property. Mr. Piccinini, a landscape designer, indicated the height and time frames within which the growth of the plantings would occur; and his exhibits provided a clear picture of the type and beauty of the trees to be installed. The final result will be a site more colorful and attractive then presently exists.

The cumulative testimony offered by the protestants makes pertinent the admonition repeated by the Court of Special Appeals in Entzian v. Prince George's County, 32 Md. App. 256, 262 (1976) where, in holding that the decisions of a zoning authority must be supported by substantial evidence on the record, it was stated:

> " 'Zoning is not a plebiscite' and therefore testimony in opposition restricted solely to lay witnesses, petitions of objection to the proposal by residents, and testimony amounting to unsupported dislike and fear of (a) project, '...amounted to no evidence at all.'..."

In the present case the Planning Staff's recommendation consists of conclusions only and lacks any factual basis. Therefore, it does not deserve to be accorded any weight.

VARIANCES

The requested variances are needed due to the size and irregular shape of the lot in question, the effect of which is to render the site useless for the purpose of business parking. The 75' setback requirements on the east and west borders would totally consume the width of the lot of its northern end where it is only 97.75' wide, and for much of its length as well. Even at its widest dimension on the southern end, where it is 177.30' wide, the impact of 75' setback requirements would leave only a small sliver of land incapable of supporting any parking use.

It is in situations such as this that the variance provisions of § 307.1 are designed for the purpose of providing flexibility and relief where "strict compliance" with the zoning regulations "would result in practical difficulty or unreasonable hardship". The size and shape of the lot are such as to qualify as "special circumstances" which are "peculiar to the land". Id.

Special conditions which are unique to a particular parcel of land, such as narrowness or shape, have been generally recognized as creating practical difficulty in the use of land sufficient to permit the granting of variances. In the present case, the exhibits and testimony readily reveal that the property qualifies for the beneficial effects of the variance provision, without any proven injury to the public health, safety or general welfare. The heat and volume of the protests do not qualify as adequate substitution for proof of detrimental effects likely to result from a granting of the variances. To the contrary, approval of the variances will relieve overcrowding on the

adjacent dealership, which has necessitated employee parking on neighboring streets elsewhere in the area. The pending requests are, in part, a response to complaints concerning such parking.

Further, the quality and extent of the proposed landscaping will not only improve the appearance of the site, but will also be markedly superior to the Pontiac facility under construction at the corner of Reisterstown and Kingsley Roads, which extends for a substantial distance easterly along Kingsley Road toward the subject property. By its prior zoning decisions, the County Council has deemed it appropriate to permit extension of commercial activity along Kingsley Road, the most recent examples being not only the Pontiac facility but the rezoning of the four lots along Kingsley Road which are presently a part of the Ford dealership. Notable also is the permitted depth of the commercial zoning eastward from Reisterstown Road where, as previously mentioned, the Ford dealership property extends behind the subject property for its full width.

The oft-cited decision by the Court of Appeals in McLean v. Soley, 270 Md. 208 (1973) considered the criteria for determining whether "practical difficulty" has been established. Quoting 2 Rathkopf, *The Law of Zoning and Planning*, (3d ed. 1972) 45-28, 29, it was there held that one of the benchmarks was whether compliance with the strict letter of the restrictions governing such conditions as area and setbacks "would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome." McLean, supra, at page 214 of 270 Md. The opinion also rejected the contention that the

owner was precluded from asserting "practical difficulty" because he was charged with knowledge of the zoning requirements when the property was purchased. Id. at 215.

CONCLUSION

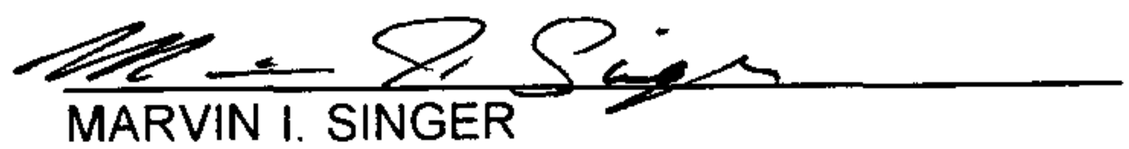
Based upon the testimony and evidence presented at the hearing on behalf of Petitioner, and in the absence of any factual, legally sufficient evidence to the contrary, it is respectfully urged that the requested permit for parking and related variances be granted, in accordance with the authorities cited herein.

Respectfully submitted,

MARVIN I. SINGER
10 East Baltimore Street
Suite 1601
Baltimore, Maryland 21202
(410) 685-1111
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Memorandum on Behalf of Petitioner were mailed this 15th day of July, 1997, by first-class mail, postage prepaid, to J. Carroll Holzer, Esq., Suite 502, 305 Washington Avenue, Towson, Maryland 21204, Attorney for Protestants, and Peter Max Zimmerman, Esq., Room 47, Courthouse, 400 Washington Avenue, Towson, Maryland 21204, People's Counsel.



MARVIN I. SINGER

LAW OFFICES
MARVIN I. SINGER
SUITE 1601
W. R. GRACE BUILDING
10 EAST BALTIMORE STREET
BALTIMORE, MARYLAND 21202

(410) 685-1111

Facsimile
(410) 625-4709

July 14, 1997

Lawrence E. Schmidt, Esq.
Zoning Commissioner, Baltimore County
Room 405
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
Petition for Variance
22 Kingsley Road
Petitioner: Colonial Stoler Partnership
Case No: 97-513-SPHA

Dear Mr. Schmidt:

Enclosed for consideration is a copy of the Memorandum on Behalf of Petitioner in the above-entitled case.

Respectfully,

Marvin I. Singer

MIS:pt
Enc.
cc: J. Carroll Holzer, Esq. (w/enclosure)
Peter Max Zimmerman, Esq. (w/enclosure)

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 22 KINGSLEY ROAD

97-513-SPHA

which is presently zoned D.R.3.5

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) 1 B01.1.B.1e.(5)(to permit 12', 5', 9' 15' and 20' setback in lieu of required 75' setback and 12', 15' and 20' landscape buffer in lieu of 50' buffer),

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) Practical difficulty and unreasonable hardship in utilization of the site, due to its characteristics, size, configuration, location and topography.

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

Legal Owner(s)

COLONIAL STOLER PARTNERSHIP
(Type or Print Name)

By: Leonard Stoler LEONARD STOLER, Partner
Signature

(Type or Print Name)

Signature

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner

MARVIN I. SINGER
(Type or Print Name)

Signature

Suite 1601
10 East Baltimore St. 685-1111
Address Phone No

Baltimore MD 21202
City State Zipcode

11275 Reisterstown Road 356-7000
Address Phone No

Owings Mills, MD. 21117
City State Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted

ATTORNEY
Name

~~356-7000~~
Address Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: JCM DATE 5-10-97

513

ORDER RECEIVED FOR FILING
Date 8/15/97
By

Zoning Administration & Development Management

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 22 Kingsley Road

97-513-SPHA

which is presently zoned D.R.3.5

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 Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

A use permit under Section 409.8B of the Baltimore County Zoning Regulations, for the use of land in a residential zone for business parking and/or to meet the requirements of Subsection 409.6.

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

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

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Legal Owner(s):

Colonial Stoler Partnership
(Type or Print Name)

By: Leonard Stoler LEONARD STOLER
Signature Partner

(Type or Print Name)

Signature

11275 Reisterstown Road 356-7000
Address Phone No.

Owings Mills Md. 21117
City State Zipcode

Attorney for Petitioner:

Marvin I. Singer
(Type or Print Name)

Signature

Suite 1601
10 East Baltimore St. 685-1111
Address Phone No.

Baltimore Md. 21202
City State Zipcode

Name, Address and phone number of representative to be contacted.

ATTORNEY
Name

Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: JCM DATE 5-10-97

Zoning Administration & Development Management

513

VEHICLE STORAGE LOT FOR "LEN STOLER @ KINGSLEY ROAD"

97-513-SPHA

DESCRIPTION OF PROPERTY

OWNER / APPLICANT : ~~COLONIAL STOLER PARTNERSHIP~~
11275 REISTERSTOWN ROAD
OWINGS MILLS, MARYLAND 21117
TELEPHONE: (410) 356-7000

PROPERTY LOCATION: 22 KINGSLEY ROAD,
OWINGS MILLS, Maryland 21117

ELECTION DISTRICT: 4

Beginning for the same on the northwesternmost edge of a fire hydrant which is at a distance of 801' ± Northeasterly of center of Reisterstown Road which is a 66' right - of - way, thence on the east side of Kingsley Road at the end of the S 60° 21' E 574.5' line described in a Deed from Lena Neimeyer or Niemeyer, also known as Caroline K. Neimeyer or Niemeyer, widow, to James M. Christy and wife, dated July 16,1941, recorded among the Land Records of Baltimore County in Liber CHK No. 1174, Folio 487, etc., running thence binding on said Deed reversely as now surveyed and running partly in Kingsley Road:

1.	N 57° 38'07" W	226.55'
2.	S 53° 07'53" W	97.75'
3.	S 37° 00'45" E	205.28'
4.	N 55° 17'23" E	177.30'

To the place of beginning, containing six hundred fifty-six one thousandths of an acre (0.656) of land more or less, as recorded in Deed Liber 11786, Page 611.

513

PROFESSIONAL ENGINEER
EDWIN STANISLAUS HOWE III
No. 20229
STATE OF MARYLAND

CERTIFICATE OF POSTING

RE: Case No: 97-513-SPHA

Petitioner/Developer STOLER, ETAL
C/O MARVIN SINGER, ESQ

Date of Hearing/Closing 6/27/97
@ 11:00AM

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 22 KINGSLEY RD.

The sign(s) were posted on 6/10/97
(Month, Day, Year)

FIX

Sincerely,

Patrick M O'Keefe 6/13/97
(Signature of Sign Poster and Date)

Patrick M. O'Keefe
(Printed Name)

523 Penny Lane
(Address)

Hunt Valley, MD 21030
(City, State, Zip Code)

(410) 666-5366 Pager (410) ~~646-8354~~ 905-8571
(Telephone Number)

97-513SPHA
cert doc

ZONING NOTICE

Case # : 97-513-SPHA

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

PLACE : ROOM 106 COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE

TIME & DATE FRIDAY, JUNE 27, 1997 AT 11:00 A.M.

SPECIAL HEARING TO APPROVE A USE PERMIT FOR THE USE OF LAND IN A RESIDENTIAL ZONE FOR BUSINESS PARKING AND/OR TO MEET THE REQUIREMENTS OF SECTION 409.6.

VARIANCE TO PERMIT 12 FEET, 5 FEET, 9 FEET, 15 FEET AND 20 FEET SETBACK IN LIEU OF THE REQUIRED 75 FEET SETBACK AND 12 FEET, 15 FEET, AND 20 FEET LANDSCAPE BUFFER IN LIEU OF 50 FOOT BUFFER.

422 KINGSLEY RD. N.E.
REISTERSTOWN RD. (21136)

(6-8-9)

97-513SPHA

6/10/97

CERTIFICATE OF POSTING

RE: Case No.: 97-513 SPHA

Petitioner/Developer: _____

COLONIAL STOLER PARTNERSHIP

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 22 KINGSLEY RD.

The sign(s) were posted on 10/9/97
(Month, Day, Year)

Sincerely,

Gary Freund 10/9 ✓
(Signature of Sign Poster and Date)

GARY FREUND
(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

9/96
cert.doc

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 042642

DATE 8/29/97 ACCOUNT R-001-6150

AMOUNT $ 385.00

RECEIVED FROM: Marvin I. Singer, Esq.

FOR: Appeal # 97-513-SPHA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

RYE

PAID RECEIPT
PROCESS ACTUAL TIME
8/29/1997 8/29/1997 09:24:15
REG WS04 CASHIER LSMI LXS DRAWER
5 MISCELLANEOUS CASH RECEIPT
Receipt # 019342 OFLR
CR NO. 042642
385.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND 513
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 035858

DATE 5-10-97 ACCOUNT R001-6150

AMOUNT $ 500.00

RECEIVED FROM: L STOLER — 22 Kingsley Rd.

FOR: VOH (040)
VAC (020)

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

JCM

PAID RECEIPT
05/13/97 05 9 BMT R 7669
Dept 5 513 ZONING VERIFICATION
CR NO. 035858
$500.00 CK P-A-I-D
Baltimore County Maryland
Office Of Budget & Finance

CASHIER'S VALIDATION

CERTIFICATE OF PUBLICATION

TOWSON, MD., 5/29, 19 97

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 5/29, 19 97.

THE JEFFERSONIAN,

A. Henrikson

LEGAL AD. - TOWSON

[redacted]

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:

[redacted]

Legal Owner(s):

Special Hearing: to approve a use permit for the use of land in a residential zone for business parking and/or to meet the requirements of Subsection 409.6. **Variance:** to permit 12 feet, 5 feet, 9 feet, 15 feet, and 20 feet setback in lieu of the required 75 ft. setback and 12 feet, 15 feet, and 20 feet landscape buffer in lieu of 50 foot buffer.

Hearing: Friday, June 27, 1997 at 11:00 a.m., Room 106, County Office Building, 111 W. Chesapeake Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call (410) 887-3353.

(2) For information concerning the File and/or Hearing, Please Call (410) 887-3391.

5/483 May 29 C147047

Exhibit B

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.: 97-513 SPHV

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

PLACE: _____

DATE AND TIME: _____

REQUEST: A SPECIAL HEARING AND VARIANCE IS REQUESTED TO PERMIT COMMERCIAL PARKING IN A RESIDENTIAL ZONE AND TO PERMIT RESIDENTIAL TRANSITION AREA BUFFERS ~~LESS THAN~~ (LANDSCAPING) LESS THAN REQUIRED BY THE BALTIMORE COUNTY ZONING REGULATIONS.

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

9/96
post.4.doc

Baltimore County
Department of Permits and
Development Management

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/neighboring 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.: 513

Petitioner: COLONIAL STOLER PARTNERSHIP

Location: 22 KINGSLEY ROAD

PLEASE FORWARD ADVERTISING BILL TO:

NAME: MARVIN I. SINGER

ADDRESS: 10 EAST BALTIMORE ST. -SUITE 1601
BALTO. MD. 21202

PHONE NUMBER: (410) 685-1111

AJ:ggs

(Revised 09/24/96)

Printed with Soybean Ink

Baltimore County
Department of Permits and
Development Management

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

May 23, 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: 97-513-SPHA
22 Kingsley Road
NW/S Kingsley Road, 650'+/- NE from c/l Reisterstown Road
4th Election District - 3rd Councilmanic
Legal Owner(s): Colonial Stoler Partnership

Special Hearing to approve a use permit for the use of land in a residential zone for business parking and/or to meet the requirements of Subsection 409.6.
Variance to permit 12 feet, 5 feet, 9 feet, 15 feet, and 20 feet setback in lieu of the required 75 ft. setback and 12 feet, 15 feet, and 20 feet landscape buffer in lieu of 50 foot buffer.

HEARING: FRIDAY, JUNE 27, 1997 at 11:00 a.m., Room 106 County Office Building, 111 W. Cheasapeake Avenue.

Arnold Jablon
Director

cc: Colonial Stoler Partnership
Marvin I. Singer, Esq.

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

Printed with Soybean Ink
on Recycled Paper

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

November 21, 1997

NOTICE OF ASSIGNMENT

CASE #: 97-513-SPHA

IN THE MATTER OF: COLONIAL STOLER PARTNERSHIP - Petitioner 22 Kingsley Road 4th E; 3rd C

Petition for Special Hearing DENIED; Petition for Variance DENIED /Z.C.

ASSIGNED FOR: TUESDAY, MARCH 31, 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 Petitioner /Appellant : Marvin I. Singer, Esquire
Petitioner /Appellant : Leonard Stoler /Colonial Stoler Partnership

Counsel for Protestants : J. Carroll Holzer, Esquire
The Clifton Family
Mike Quinn
Mickey Goldberg
Amanda Ranasinghe
Mark Shepardson
Dennis R. Orr
Valerie Robinson
Robert Sellers, Esquire

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Smith, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

PP'd to 4/24/98 at 10:00 a.m. agmt of Counsel

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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

March 27, 1998

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 97-513-SPHA

IN THE MATTER OF: COLONIAL STOLER PARTNERSHIP - Petitioner 22 Kingsley Road 4th E; 3rd C

Petition for Special Hearing DENIED; Petition for Variance DENIED /Z.C.

which was scheduled to be heard by the Board on March 31, 1998 has been **POSTPONED** at the request of Counsel for Petitioner, and with agreement of Counsel for Protestants; and has been specially reset to the following agreed-upon date; and has been

REASSIGNED FOR: **FRIDAY, APRIL 24, 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 Petitioner /Appellant : Marvin I. Singer, Esquire
Petitioner /Appellant : Leonard Stoler /Colonial Stoler Partnership

Counsel for Protestants : J. Carroll Holzer, Esquire

The Clifton Family
Mike Quinn
Mickey Goldberg
Amanda Ranasinghe
Mark Shepardson
Dennis R. Orr
Valerie Robinson

Robert Sellers, Esquire /Representative of Reisterstown-Owings Mills-Glyndon Comm Council

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Smith, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Printed with Soybean Ink on Recycled Paper

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

April 27, 1998

NOTICE OF ASSIGNMENT /Day #2

CASE #: 97-513-SPHA

IN THE MATTER OF: COLONIAL STOLER PARTNERSHIP - Petitioner 22 Kingsley Road 4th E; 3rd C

Petition for Special Hearing DENIED; Petition for Variance DENIED /Z.C.

Continued from Day #1 /4/24/98

ASSIGNED FOR: FRIDAY, MAY 8, 1998 at 10:00 a.m. /Day #2

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 Petitioner /Appellant : Marvin I. Singer, Esquire
Petitioner /Appellant : Leonard Stoler /Colonial Stoler Partnership

Counsel for Protestants : J. Carroll Holzer, Esquire

The Clifton Family
Mike Quinn
Mickey Goldberg
Amanda Ranasinghe
Mark Shepardson
Dennis R. Orr
Valerie Robinson

Robert Sellers, Esquire /Representative of Reisterstown-Owings Mills-Glyndon Comm Council

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Smith, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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County Board of Appeals of Baltimore County

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

May 8, 1998

NOTICE OF DELIBERATION

Having concluded two days of hearing in this matter (April 24, 1998 and May 8, 1998), public deliberation has been scheduled as follows in the matter of:

COLONIAL STOLER PARTNERSHIP -Petitioner
Case No. 97-513-SPHA

DATE AND TIME : WEDNESDAY, JUNE 24, 1998 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

NOTE TO COUNSEL: Closing Briefs are due (Original and three (3) copies) on Friday, May 29, 1998, as requested by the Board.

Kathleen C. Bianco
Administrator

---

cc: Counsel for Petitioner /Appellant : Marvin I. Singer, Esquire
Petitioner /Appellant : Leonard Stoler /Colonial Stoler Partnership

Counsel for Protestants : J. Carroll Holzer, Esquire

The Clifton Family
Mike Quinn
Mickey Goldberg
Amanda Ranasinghe
Mark Shepardson
Dennis R. Orr
Valerie Robinson

Robert Sellers, Esquire /Representative of Reisterstown-Owings Mills-Glyndon Comm Council

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Copied: C.F.B.

Printed with Soybean Ink
on Recycled Paper

Baltimore County
Department of Permits and
Development Management

Development Proce.
County Office Buildi.
111 West Chesapeake
Towson, Maryland 2120-

June 26, 1997

Marvin I. Singer, Esquire
10 East Baltimore Street
Suite 1601
Baltimore, MD 21202

RE: Item No.: 513
Case No.: 97-513-SPHA
Petitioner: Colonial Stoler Part.

Dear Mr. Singer:

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 May 10, 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,

W. Carl Richards, Jr.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

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on Recycled Paper

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

INTEROFFICE CORRESPONDENCE

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

Date: June 6, 1997

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

SIGNED: ROBERT W. BOWLING

SUBJECT: Zoning Advisory Committee Meeting
for June 2, 1997
Item No. 513

The Development Plans Review Division has reviewed the subject zoning item. A Schematic Landscape Plan must be submitted for review and tentative approval before the hearing.

RWB:HJO:jrb

cc: File

ZONE602.513

Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Parker F. Williams
Administrator

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

RE: Baltimore County 5·23·97
Item No. 513 JCM

Dear Ms. Eubanks:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

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,

for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

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

Baltimore County Government
Fire Department

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

(410) 887-4500

RECEIVED
2 1997
PDM

May 27, 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 OF ~~June 2,~~ May 27, 1997

Item No.: SEE BELOW 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.

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

513, 514, 515, 517, and 519

REVIEWER: LT. ROBERT P. SAUERWALD

Printed on Recycled Paper

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: PDM DATE: 5/28/97

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: May 27, 97

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

Item #'s: 97-375A
513
514
516
517
518
519

RBS:sp

BRUCE2/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 10, 1997

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

SUBJECT: 22 Kingsley Road

INFORMATION

Item Number: 513

Petitioner: Colonial Stoler Partnership

Zoning: DR 3.5

Requested Action: Variance

Summary of Recommendations:

The Planning Office recommends the request to permit commercial parking in a residential zone and the accompanying variance to RTA requirements be denied. This office firmly believes the parking request is a significant commercial intrusion into the small but stable Kingsley Road Community.

The petitioner's request to variance RTA requirement has become necessary because of the size and originally intended use of the subject property as a residential lot. The attached tax map clearly shows how proximate and how integrated the subject property is with the nearby residential neighborhood. There is nothing irregular or unique about the lot, if used for its originally intended use, that warrants variance relief.

The Planning Office believes that to permit commercial activity at this location in a residential zone would be a significant determent to the Kingsley Road Community. The proposed piecemeal expansion of the Stoler Car Dealership, without the proper business zoning, is not an appropriate means to facilitate Mr. Stoler's expansion plans. This office believes the proper approach would be more appropriately addressed through a Comprehensive Zoning Map Process This process would allow the basic land-use issues to be evaluated by Planning Staff, Planning Board and the County Council.

Prepared by: Jeffrey W. Long

Division Chief: Carl L. Neros

AFK/JL:lsn
Attachments

KINGSLEY.JL

RE: PETITION FOR SPECIAL HEARING PETITION FOR VARIANCE	*	BEFORE THE
22 Kingsley Road, NW/S Kingsley Rd, 650' +/- NE from c/l Reisterstown Road	*	ZONING COMMISSIONER
4th Election District, 3rd Councilmanic	*	OF BALTIMORE COUNTY
Colonial Stoler Partnership Petitioner	*	CASE NO. 97-513-SPHA

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

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 30th day of June, 1997, a copy of the foregoing Entry of Appearance was mailed to Marvin I. Singer, Esq., 10 E. Baltimore Street, Suite 1601, Baltimore, MD 21202, attorney for Petitioner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

Baltimore County
Department of Permits and
Development Management

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

RECEIVED
COUNTY BOARD OF APPEALS
97 SEP -3 AM 10: 04

August 29, 1997

Mr. Mark Shepardson
29 Kingsley Road
Owings Mills, MD 21117

RE: Petitions for Special
Hearing and Variance
NW/S Kingsley Road, 650'
NE of c/l Reisterstown Road
(22 Kingsley Road)
4th Election District
3rd Councilmanic District
Colonial Stoler
Partnership - Petitioner
Case No. 97-513-SHPA

Dear Mr. Shepardson:

Please be advised that an appeal of the above-referenced case was filed in this office on August 27, 1997 by Marvin I. Singer, Esquire on behalf of Colonial Stoler Partnership . 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,

ARNOLD JABLON
Director

AJ:rye

c: The Clifton Family
Mr. Mike Quinn
Mr Dennis R. Orr
Mr. Mickey Goldberg
Ms. Valerie Robinson
Ms. Amanda Ranasinghe
Robert Sellers, Esquire
People's Counsel

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on Recycled Paper

APPEAL

Petitions for Special Hearing and Variance
NW/S Kingsley Road, 650' NE of c/l Reisterstown Road
(22 Kingsley Road)
4th Election District - 3rd Councilmanic District
Colonial Stoler Partnership - Petitioner
Case No. 97-513-SPHA

RECEIVED
COUNTY BOARD OF APPEALS
97 SEP -3 AM 10:03

Petitions for Special Hearing 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 - Brief resume of Key Persons, Specialist, and Individual Consultants Anticipated for this Project
2 - Zoning Map and Plat to Accompany Special Hearing and Variance
3 - Plat to Accompany Special Hearing for Business Parking in Residential Zone
4 - Landscape Plan
5 - Four Photographs of Trees on Display Board (LARGE - IN CLOSET)
6 - Two Drawings of Plant Material on Display Board (LARGE - IN CLOSET)
7 - Landscape Plan on Display Board (LARGE - IN CLOSET)
8 - Eighteen Photographs
9A-G - Seven Photographs

Protestants' Exhibits:
1A-J - Ten Photographs
2 - No Exhibit Found
3A - No Exhibit Found
3B - Signed Petition in Opposition to Alternate Use of Residence at 22 Kingsley Road
4 - PLANNING COMMENTS (PART OF ZAC COMMENTS)

Memorandum on Behalf of Petitioner, from Marvin I. Singer, Esquire to the Zoning Commissioner, dated July 14, 1997

Thirteen Letters of Opposition

Zoning Commissioner's Order dated August 15, 1997 (Denied)

Notice of Appeal received on August 27, 1997 from Marvin I. Singer, Esquire on behalf of Colonial Stoler Partnership

c: Marvin I. Singer, Esquire, 10 East Baltimore Street, Suite 1601, Baltimore, MD 21202
Mr. Leonard Stoler, Colonial Stoler Partnership, ~~11275 Reisterstown Road,~~ P.O. Box 569 Owings Mills, MD 21117-0569
The Clifton Family, 16 Kingsley Road, Owings Mills, MD 21117
Mr. Mark Shepardson, 29 Kingsley Road, Owings Mills, MD 21117
Mr. Mike Quinn, 27 Kingsley, Owings Mills, MD 21117
Mr. Dennis R. Orr, 28 Kingsley Road, Owings Mills, MD 21117
Mr. Mickey Goldberg, 5 Montgomery Road, Owings Mills, MD 21117
Ms. Valerie Robinson, 30 Kingsley Road, Owings Mills, MD 21117
Ms. Amanda Ranasinghe, 31 Kingsley Road, Owings Mills, MD 21117
Robert Sellers, Esq., 4125 Worthington Ave., Reisterstown, MD 21136
~~People's Counsel of Baltimore County, M.S. 2010~~ - NOT PARTICIPATING PER LETTER 5/26/98
Lawrence Schmidt, Zoning Commissioner
Arnold Jablon, Director of PDM

✓E

Case No. 97-513-SPHA

SPH -Approval of use permit for business parking in residential zone; VAR -RTA requirements to permit setbacks of 12', 5', 9', 15' and 20' ilo required 75', and landscape buffer setbacks of 12', 15', and 20' ilo required 50'.

8/15/97 -Z.C.'s Order in which Petition for Special Hearing and Petition for Variance are DENIED.

11/21/97 - Notice of Assignment for hearing scheduled for Tuesday, March 31, 1998 at 10:00 a.m. sent to following:

Marvin I. Singer, Esquire
Leonard Stoler /Colonial
Stoler Partnership
The Clifton Family
Mike Quinn
Mickey Goldberg
Amanda Ranasinghe
Mark Shepardson
Dennis R. Orr
Valerie Robinson
Robert Sellers, Esquire
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Smith, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

3/25/98 -T/C with both Counsel for Protestants and Counsel for Petitioner; Board to adjourn at 2:00 p.m. on Tuesday, March 31, 1998.

3/26/98 -T/C from M. Singer, Counsel for Petitioner, on behalf of Petitioner, requesting postponement from 3/31/98, inasmuch as case would be concluded that day; and if PP request is granted, that matter be rescheduled as early as possible on the Board's docket.
- T/C w/C. Holzer and S. Leese -- No objection by C. Holzer to this request to postpone.
Confirmed availability of all parties, as well as ability to schedule a board for Friday, 4/24/98. All parties agreed and available, including three panel members for the Board. Notice of PP and Reassignment to be sent, postponing this case from 3/31/98 to 4/24/98.

3/26/98 -Letter from People's Counsel; while interested in case, does not anticipate appearing at trial in this matter. (PC notified of change in date; will receive usual Notice of PP and Reassignment when mailed.

3/27/98 -Notice of PP and Reassignment sent to parties (to both counsel by FAX); 3/31/98 hearing POSTPONED; specially reassigned to a Friday docket; reset to Friday, April 24, 1998 at 10:00 a.m. FYI copy to CFB.

4/24/98 -Hearing Day #1 concluded; scheduled for Day #2 - Friday, May 8, 1998 at 10:00 a.m. Notice of Assignment /Day #2 to be sent. (C.F.B.)

4/27/98 -Notice of Assignment sent to parties; assigned to Friday, May 8, 1998 at 10:00 a.m. for day #2 (confirmed availability, date and time with counsel at hearing of 4/24).

Rec'd Holzer ✓ Singer ✓

5/08/98 -Concluded testimony and evidence; memos due 5/29/98; deliberation on Wednesday, June 24, 1998 at 9:30 a.m. Notice of Deliberation sent to parties; copy to C.F.B.

6/24/98 -Deliberation concluded; requested relief is denied; written opinion and order to be issued by Board (C.F.B.); appellate period to run from date of written Order.

Colonial Stoler Partnership 97-513-SPHA

Civil Action No. 3-C-98-08852

May 10, 1997	Petitions for Special Hearing and Variance filed by Marvin I. Singer, Esquire, on behalf of Leonard Stoler, Partner of Colonial Stoler Partnership; SPH /seeking approval of a use permit for business parking in a residential zone; and VAR /relief of the RTA requirements to permit setbacks of 12', 5', 9', 15' and 20' ilo required 50'.
June 27	Entry of Appearance filed by People's Counsel for Baltimore County.
June 27	Hearing held on Petition by the Zoning Commissioner.
July 14	Memorandum on Behalf of Petitioner filed by Marvin I. Singer, Esquire.
August 15	Order of the Zoning Commissioner in which Petition for Variance was DENIED.
August 27	Notice of Appeal filed by Marvin I. Singer, Esquire, on behalf of Colonial Stoler Partnership.
April 24, 1998	Hearing before the Board of Appeals (Day #1).
May 8	Hearing before the Board of Appeals (Day #2 - concluded).
May 29	Memorandum on Behalf of Petitioner filed by Marvin I. Singer, Esquire
	Memorandum filed by J. Carroll Holzer, Esquire, on behalf of the Protestants.
June 24	Deliberation conducted by the Board.
August 4	Opinion and Order issued by the Board; Petition for Special Hearing is DENIED; Petition for Variance is DENIED.
August 31	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Marvin I. Singer, Esquire, on behalf of Colonial Stoler Partnership.
September 3	Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
September 3	Certificate of Notice sent to interested parties.
October 30, 1998	Transcript of testimony and Record of Proceedings filed in the Circuit Court for Baltimore County.

Return 1/10/02

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

12/26/01

Case Number: 03-C-98-008852 AE
Date Filed: 09/01/1998
Status: Closed/Active
Judge Assigned: To Be Assigned,

In The Matter of: Colonial Stoler Partnership

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	97-513 SPHA
Case Folder ID	C98008852V01

INVOLVED PARTIES

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
PET	001	Colonial Stoler Partnership	Party ID: 0244714	CT DO 12/10/01	09/01/98
		Mail. 11275 Reisterstown Road Owings Mills, MD 21117	09/01/98		
		Attorney: 0014781 Singer, Marvin I Suite 901, W.R.Grace Bldg 10 East Baltimore Street Baltimore, MD 21202 (410)685-1111		09/01/98	
ITP	001	County Board Of Appeals Of Baltimore Cou	Party ID 0244715	CT DO 12/10/01	09/01/98
		Mail· Old Courthouse Room 49 400 Washington Avenue Towson, MD 21204	09/01/98		

Attorney 0005744 Demilio, Carole S Removed: 06/12/01 09/14/98

0029075 Zimmerman, Peter M 06/12/01
People's Counsel For Baltimore County
Room 47 Courthouse
400 Washington Ave
Towson, MD 21204
(410)887-2188

0804268 Demilio, Carole S 06/12/01
Deputy Peoples Counsel
Old Courthouse Room 47
400 Washington Ave
Towson, MD 21204
(410)887-2188

CALENDAR EVENTS

Date	Time	Dur	Cer	Evnt	Lvl	Atty	Jdg	Day	Of	Rslt	By	ResultDt	Jdg	T	Notice	Rec	User ID
03/01/99	09 30A	02Q	yes	CIVI	D		TBA	01	/01	POS	C	02/24/99	JGT	P			JD TF
04/05/99	09 30A	02H	yes	CIVI	D		REC	01	/01	VAC	C	12/10/01		P			LLH MR
04/15/99	09:30A	02H	yes	CIVI	D		REC	01	/01	CON	C	04/15/99	REC	P		Y	FG DJ

Stenographer(s). Edward Mintzer

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned,	J	09/01/98	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0001000	Petition for Judicial Review	08/31/98	09/01/98	PET001	TBA		12/10/01	KH MR
0001001	Answer	09/11/98	09/14/98	ITP001	TBA		12/10/01	RHP MR
0002000	Certificate of Notice	09/03/98	09/08/98	ITP001	TBA		12/10/01	DR MR
0003000	Intention to Participate	09/11/98	09/14/98	ITP001	TBA		12/10/01	RHP MR
0004000	Transcript of Record from Adm Agency	10/20/98	11/02/98	000	TBA		12/10/01	JBJ MR

**

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0005000	Notice of Transcript of Record Sent	11/12/98	11/12/98	ITP001	TBA	11/12/98	KH KH
0006000	Notice of Transcript of Record Sent	11/12/98	11/12/98	PET001	TBA	11/12/98	KH KH
0007000	Scheduling Order	11/23/98	11/23/98	000	TBA	11/23/98	JD JD
0008000	Stipulation extending time	12/08/98	12/08/98	000	TBA	12/08/98	DR DR
0009000	Memorandum	12/22/98	12/23/98	PET001	TBA	12/23/98	DFF DFF
0010000	Memorandum	02/02/99	02/03/99	ITP001	TBA	02/03/99	PH PH
0011000	Open Court Proceeding April 15, 1999 Hon Robert E. Cahill Sr. Hearing had. Ruling sub-curia Opinion to be signed	04/15/99	04/15/99	000	TBA	12/10/01	DJ MR
0012000	* Motion to Remand Case (No DCM).	05/30/01	05/31/01	PET001	REC Denied	12/10/01	DFF MR
0012001	*Answer to Motion to Remand	06/08/01	06/12/01	ITP001	TBA	12/10/01	AR MR
0013000	Attorney Appearance Removed Carole S Demilio	06/12/01	06/12/01	ITP001	TBA	06/12/01	AR AR
0014000	Memorandum and Order affirming the decision of the Board	12/10/01	12/10/01	000	REC Affirmed	12/10/01	MR MR
0015000	Invoice 11389 to marvin singer	12/14/01	12/14/01	000	TBA		LG LG
0016000	Docket entries sent to Board of Appeals	12/18/01	12/18/01	000	TBA		CVM CVM

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS	1st Answer Tickle	CLOSED	09/11/98	0	no	no	DANS	D	001	001
1YRT	One Year Tickle (Jud	CLOSED	08/31/99	365	no	no	DAAA	D	000	000
EXPU	Exhibit Pickup Notic	CLOSED	02/08/02	30	no	no			000	000
SLMR	Set List For Motions	CANCEL	06/21/01	22	no	no	DANS	D	012	000
SLTR	Set List For Trial	DONE	09/11/98	0	yes	yes	1ANS	T	001	001
SLTR	Set List For Trial	CANCEL	02/24/99	0	yes	no	CIVI	S	000	000

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By
Offered By		ITP	001 County Board Of Appeals Of Ba					
000		I	BOX 105/CBA TRANSC		B			

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track R1 Description. EXPEDITED APPEAL TRACK Custom Yes
Assign Date 11/23/98 Order Date : 11/23/98
Start Date 11/23/98 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(		12/08/98	12/10/01	CLOSED
All Motions (excluding Motions in Limine		02/24/99	12/10/01	CLOSED
TRIAL DATE is	04/05/99	02/21/99	12/10/01	CLOSED

PUBLIC NOTE TITLES

1) 4/8/99 HEARING APPEAL SET BY HON. R.E.C.SR.

County Board of Appeals of Baltimore County

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

September 3, 1998

Marvin I. Singer, Esquire
10 East Baltimore Street, Suite 901
Baltimore, MD 21202

RE: Civil Action No. 3-C-98-08852
Colonial Stoler Partnership

Dear Mr. Singer:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: Leonard Stoler /Colonial Stoler Partnership

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

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

September 3, 1998

J. Carroll Holzer, P.A.
508 Fairmount Avenue
Towson, MD 21286

RE: Civil Action No. 3-C-98-08852
Colonial Stoler Partnership

Dear Mr. Holzer:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on August 31, 1998, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-98-08852.

Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: The Clifton Family
Mike Quinn
Mickey Goldberg
Amanda Ranasinghe
Robert Sellers, Esq. /Rep of Reisterstown-Owings Mills-Glyndon Comm. Council
People's Counsel for Baltimore County
Lawrence E. Schmidt /ZC
Pat Keller /Planning
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co. Atty
Mark Shepardson
Dennis R. Orr
Valerie Robinson

Printed with Soybean Ink
on Recycled Paper

IN THE MATTER OF	*	BEFORE THE
Colonial Stoler Partnership	*	COUNTY BOARD OF APPEALS
22 Kingsley Rd.	*	BALTIMORE COUNTY
3Rd Councilmanic Dist.	*	CASE NO. 97-513-SPHA

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

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Tuesday March 31, 1998 at 10:00 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Avery Hardin
Address: County Office Bldg.
Towson, MD 21204

Name: J. Carroll Holzer
Firm: Holzer & Lee
Address: 305 Washington Ave. #502
Towson, MD 21204
410-825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

Charlotte E. Radcliffe
County Board of Appeals of
Baltimore County

RECEIVED
COUNTY BOARD OF APPEALS
98 MAR 24 PM 2:15

Cost: $_____

Summoned: _____, 19____

Not served: _____, 19____

Sheriff of Baltimore County

IN THE MATTER OF	*	BEFORE THE
Colonial Stoler Partnership	*	COUNTY BOARD OF APPEALS
22 Kingsley Rd.	*	BALTIMORE COUNTY
3Rd Councilmanic Dist.	*	CASE NO. 97-513-SPHA

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

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Tuesday March 31, 1998 at 10:00 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Bill Hughey
Address: Planning, County Courts Bldg.
Towson, MD 21204

Name: J. Carroll Holzer
Firm: Holzer & Lee
Address: 305 Washington Ave. #502
Towson, MD 21204
410-825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

Charlotte E. Radcliffe
County Board of Appeals of
Baltimore County

Cost: $_____

Summoned: _____, 19____

Not served: _____, 19____

Sheriff of Baltimore County

RECEIVED
COUNTY BOARD OF APPEALS
98 MAR 24 PM 2:17

IN THE MATTER OF	*	BEFORE THE
COLONIAL STOLER PARTNERSHIP	*	COUNTY BOARD OF APPEALS
Petitioner 22 Kingsley Road	*	BALTIMORE COUNTY
4th E; 3rd C	*	CASE NO. 97-513-SPHA

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

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Friday April 24, 1998 at 10:00 a.m. at Room 48, located at Old Courthouse, 400 Washington Avenue, Towson, MD and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Avery Hardin
Address: County Office Building
Towson, Maryland 21204

Name: J. Carroll Holzer, P.A.
Firm: 305 Washington Ave.
Address: Suite 502
Towson, MD 21204

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

Kathleen C. Bianco
County Board of Appeals of
Baltimore County

Cost: $_____

Summoned: _____, 19____

Not served: _____, 19____

Sheriff of Baltimore County

98 APR 17 AM 10:44
RECEIVED
COUNTY BOARD OF APPEALS

IN THE MATTER OF	*	BEFORE THE
COLONIAL STOLER PARTNERSHIP	*	COUNTY BOARD OF APPEALS
Petitioner 22 Kingsley Road	*	BALTIMORE COUNTY
4th E; 3rd C	*	CASE NO. 97-513-SPHA

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

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Friday April 24, 1998 at 10:00 a.m. at Room 48, located at Old Courthouse, 400 Washington Avenue, Towson, MD and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Bill Hughey
Address: Planning, County Courts Bldg.
Towson, Maryland 21204

Name: J. Carroll Holzer, P.A.
Firm: 305 Washington Ave.
Address: Suite 502
Towson, MD 21204

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

Kathleen C. Bianco
County Board of Appeals of
Baltimore County

Cost: $_____

Summoned: _____, 19____

Not served: _____, 19____

Sheriff of Baltimore County

98 APR 17 AM 10:44
RECEIVED
COUNTY BOARD OF APPEALS

IN THE MATTER OF Colonial Stoler Partnership	*	BEFORE THE ZONING
	*	COMMISSIONER OF
22 Kingsley Road	*	BALTIMORE COUNTY
	*	Case No. 97-513 SPH

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

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: Bill Hughey and/or Jeff Long
Baltimore County Planning

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only; (X) Personally appear and produce documents or objects;

at Rm. 106 County Office Bldg, 111 W. Chesapeake Ave. Towson
(Place where attendance is required)

on Friday the 27th day of June, 19 97 at 11:00 a.m. /~~p.m.~~ for such witness' testimony and continuing thereafter as determined by the Zoning Commissioner.

YOU ARE COMMANDED TO produce the following documents or objects: Any and all files, notes, comments, plans, etc. related to Petitioner's request for variance.

J. Carroll Holzer, 305 Washington Avenue, Suite 502, Towson, Maryland 21204, 410-825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 6/25/97

Timothy Kotroco
Zoning Commissioner

SHERIFF'S RETURN

( )- Served and copy delivered on date indicated below.
( )- Unserved, by reason of _____

Date: _____

Fee: $_____

_____
SHERIFF

FORMS\A:\SUBPOENA.DRF

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Colonial Stoler Partnership -Petitioner
Case No. 97-513-SPHA

DATE : June 24, 1998 at 9:30 a.m.

BOARD /PANEL : Charles L. Marks (CLM)
Donna M. Felling (DMF)
Harry E. Buchheister, Jr. (HEB)

SECRETARY : Kathleen C. Bianco
Administrator

PURPOSE: To deliberate Case No. 97-513-SPHA /Petition for Special Hearing to permit parking in a residential zone pursuant to Section 409.8 of the BCZR; and Petition for Variance of the Residential Transition Area (RTA) requirements to permit reduced setbacks and reduced RTA buffer /Colonial Stoler Partnership -Petitioner. Heard before the Board on April 24, 1998 and concluded on May 8, 1998, closing briefs having been filed as requested by the Board.

Upon public deliberation by the Board on the above-referenced date and time, following is the decision reached on this matter:

CLM: Petition for Special Hearing DENIED; Petitioner did not meet burden. Petition for Variance DENIED; Petitioner did not meet burden.

DMF: Petition for Special Hearing DENIED; Petitioner did not meet burden. Petition for Variance DENIED; Petitioner did not meet burden.

HEB: Petition for Special Hearing DENIED; Petitioner did not meet burden. Petition for Variance DENIED; Petitioner did not meet burden.

The Board's unanimous decision based on testimony and evidence produced at hearing and after public deliberation is that the Petition for Special Hearing filed by Colonial Stoler Partnership be and is hereby DENIED: and Petitioner's request for variance relief be and the same is hereby DENIED.

Written Opinion and Order to be issued by the Board as required by statute. Appellate period to run from date of written Order; anyone feeling aggrieved by the Board's decision may appeal to Circuit Court.

These minutes indicate public deliberation in Case No. 97-513-SPHA was held this date and a final decision reached by the Board in which the Petitions were denied.

~~~~~~~~~~~~~~~~~~~~~~~~

Respectfully submitted,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator
~~~~~~~~~~~~~~~~~~~~~~~~

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 26, 1998

Kristine K. Howanski, Esq., Chairman
County Board of Appeals
of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
98 MAR 26 PM 4:54

Hand-delivered

Re: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE
22 Kingsley Road, NW/S Kingsley Rd, 650' +/- NE from c/l Reisterstown Rd., 4th Election District, 3rd Councilmanic
COLONIAL STOLER PARTNERSHIP, Petitioner
Case No. 97-513-SPHA
CBA Hearing Date: March 31, 1998

Dear Chairman Howanski:

This upcoming case involves both a Special Hearing to approve a use permit for business parking in a residential zone, and several Variances from Residential Transition Area (RTA) required setbacks of 75 feet (12 feet, 5 feet, 9 feet, 15 feet, and 20 feet setbacks requested), as well as three (3) additional Variances from the required 50-foot landscape buffer setbacks (12 feet, 15 feet and 20 feet requested).

Such Special Hearings are subject to Special Exception standards under BCZR Section 409.8.

Upon review of the record, this case appears to fall within the path of cases such as Umerley v. People's Counsel, 108 Md.App. 497 (1996), cert. denied 342 Md. 584 (1996). The proposal is for a conditional use which fails to satisfy an important statutory condition. In addition, we do not observe any basis for a legal finding of uniqueness or practical difficulty in reference to the variances.

Both the Petitioner and Protestants are represented by counsel. The factual presentation should be sufficient on both sides, without the necessity of our office's participation in examination of witnesses.

Accordingly, while we are interested in this case, we do not anticipate appearing at trial.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

PMZ/caf

cc: Marvin I. Singer, Esq.
Attorney for Petitioner

J. Carroll Holzer, Esq.
Attorney for Protestants

Robert Sellers, Esq.
Attorney for Protestants
Reisterstown-Owings Mills-Glyndon
Community Council

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: C. Marks
D. Felling
H. Buchheister

DATE: May 29, 1998

FROM: Charlotte

SUBJECT: Colonial Stoler Partnership

Attached for your review, please find the memorandum submitted this date by counsel:

-Memorandum filed by J. Carroll Holzer, Esquire, on behalf of Protestants.
-Memorandum on Behalf of Petitioner filed by Marvin I. Singer, Esquire.

Note: Public Deliberation is scheduled for June 24, 1998.

Attachments

ORIGINALS ATTACHED
- to be kept in File

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: February 14, 2002

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton
Board of Appeals

SUBJECT: **Colonial Stoler Partnership**
Case No.: 97-513-SPHA
Circuit Court Case No.: 03-C-98-008852

Judge Cahill of the Circuit Court issued a Memorandum Opinion and Order on December 4, 2001 AFFIRMING the Board of Appeals. No further appeals have been taken in this matter. The Board of Appeals is closing and returning the file that is attached herewith.

Attachment: SUBJECT FILE ATTACHED

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@MAIL.BCPL.LIB.MD.US

March 26, 1998
 # 6908

VIA FAX
County Board of Appeals for
Baltimore County
Old Courthouse, Room 49
400 Washington Ave.
Towson, Maryland 21204

Re: Case No. 97-513-SPHA, Colonial Stoler Partnership

Dear Kathy:

This letter confirms that at the request of the Appellant, the hearing in the above matter has been postponed from Tuesday, March 31, 1998, until Friday, April 24, 1998 at 10:00 a.m. Appellees do not object to the herein request for postponement.

Very truly yours,

J. Carroll Holzer

JCH:clg
cc: Marvin Singer, Esq.
Kingsley Rd. Assn.

97-4550

LAW OFFICES
MARVIN I. SINGER
SUITE 1601
W. R. GRACE BUILDING
10 EAST BALTIMORE STREET
BALTIMORE, MARYLAND 21202

(410) 685-1111

Facsimile
410) 625-4709

August 27, 1997

Zoning Administration and
Development Management Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
NW/S Kingsley Road, 650' NE of c/1 Reisterstown Road
(22 Kingsley Road)
4th Election District - 3rd Councilmanic District
Colonial Stoler Partnership - Petitioner
Case No. 97-513-SPHA

Gentlemen:

Enclosed is my check in the amount of $175.00 in payment of the additional filing cost, regarding the appeal in the above-entitled case which was filed today.

Very truly yours,

Marvin I. Singer

MIS:pt
Encl.

LAW OFFICES
MARVIN I. SINGER
SUITE 1601
W. R. GRACE BUILDING
10 EAST BALTIMORE STREET
BALTIMORE, MARYLAND 21202

(410) 685-1111

Facsimile
410) 625-4709

August 27, 1997

Lawrence E. Schmidt
Zoning Commission for Baltimore County
c/o Zoning Administration and Development
Management Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
NW/S Kingsley Road, 650' NE of c/1 Reisterstown Road
(22 Kingsley Road)
4th Election District - 3rd Councilmanic District
Colonial Stoler Partnership - Petitioner
Case No. 97-513-SPHA

Dear Sir:

Enclosed for filing in the above-entitled case is Petitioner's Notice of Appeal. Also enclosed is my check in the amount of $210.00, made payable to Baltimore County, Maryland, in payment of the filing and posting costs. If there is anything further which may be required, please advise me promptly.

Very truly yours,

Marvin I. Singer

MIS:pt
Encl.
cc: Mr. Leonard Stoler (w/encl.)
J. Carroll Holzer, Esq. (w/encl.)
Robert Sellers, Esq. (w/encl.)
Peter Zimmerman, Esq. (w/encl.)
Lawrence E. Schmidt, Esq. (w/encl.)

RECEIVED
2 1997

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

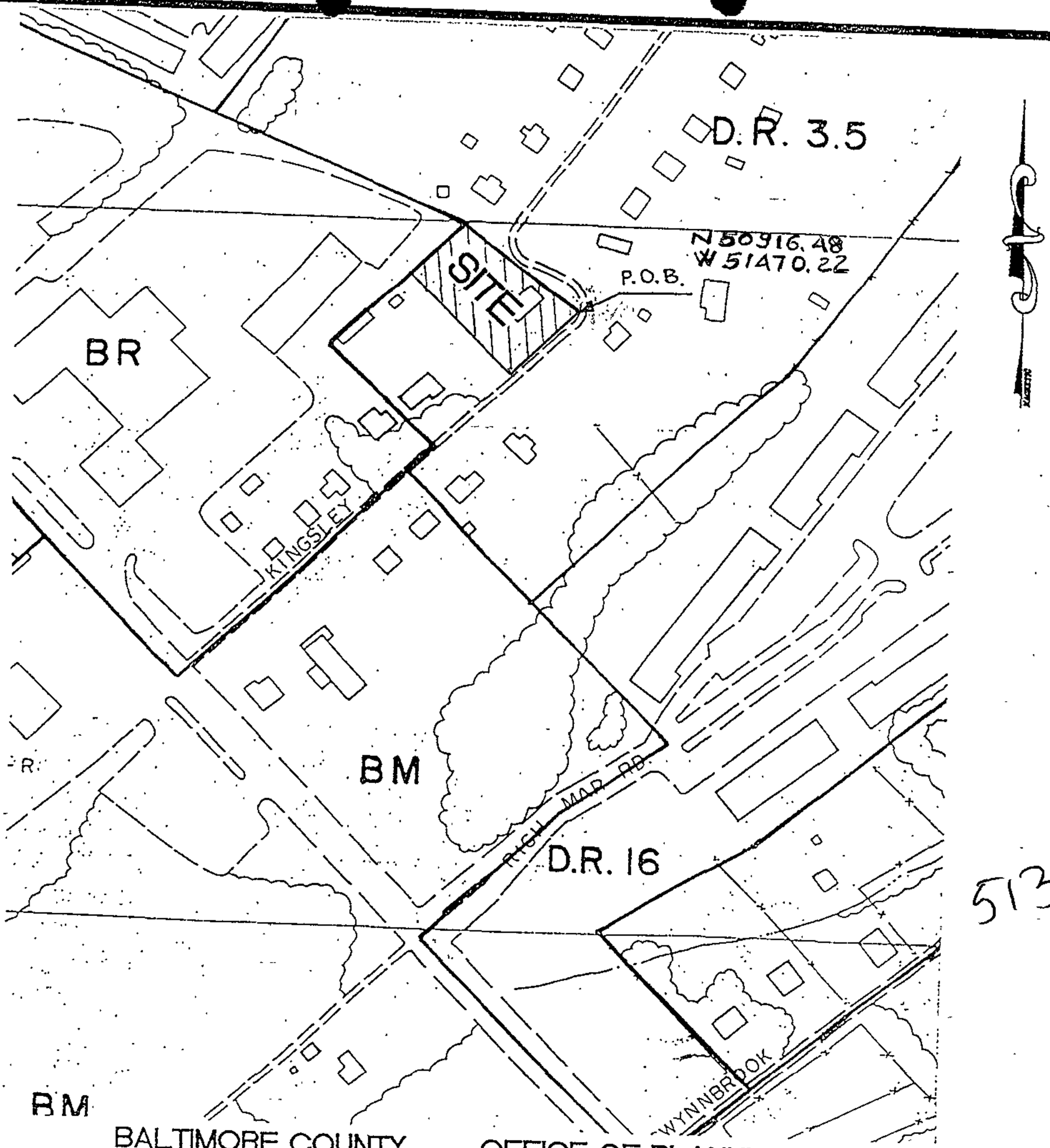
NAME	ADDRESS
EDWIN S. HOWIE III P.E.	3109 TIMANIUS LANE SUITE 101 BALT. MD 21244 (ECKI CONSULTANTS INC.)
MARVIN I. SINGER	10 East Baltimore St. Balto Md. 21202
LEONARD STOLER	11275 REISTERSTOWN RD. OWINGS MILLS
DENVER HUFFMAN	11275 REISTERSTOWN RD OWINGS MILLS

Printed with Soybean Ink
on Recycled Paper

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
✓ MARK SHEPARDSON	29 KINGSLEY RD, OM 21117
✓ Mike Quinn	27 Kingsley Rd, OM 21117
JEBSTER E SHIPLEY	37 KINGSLEY RD OM 21117
Ann L. Seal	35 Kingsley Rd. O.M. 21117
Marie G. Shipley	37 Kingsley Rd. O.M 21117
Margaret L Fadily	26 Kingsley Rd OM 21117
Lan Denmark	40 Kingsley Rd OM 21117
Bekkah Bond Baumgan	33 Kingsley Rd OM 21117
Tara CLIFTON	16 Kingsley Rd OM 21117
✓ ARLENE CLIFTON	16. Kingsley Rd OM 21117
John Michaelides	23 Kingsley Rd OM 21117
Barbara Michaelides	23 Kingsley Rd. OM. 21117
✓ Tanya Clifton	16 Kingsley Rd. O.M., MD 21117
Sharon Rusby	29 KINGSLEY RD. OM MD 21117
Please send Decision ✓ ANANDA RANASINGHE	31 KINGSLEY RD OM MD 21117
✓ DENNIS ROBERT ORR	28 KINGLEY RD 21117
KEITH B. SCHLOER	6 Montgomery Rd OM 21117
RANDY GOLDBERG	5 MONTGOMERY RD OM. 21117
✓ Mickey Goldberg	5 Montgomery Rd OM 21117-1846
Ben Denmark	40 Kingsley Rd
Lindsay Denmark	40 Kingsley Rd
[illegible] BROOKE ROBINSON	30 KINGSLEY RD
✓ BOB SELLERS - ROG	4125 Worthington Ave Reisterstown 21136
✓ Stephanie Kalinich Owings Mills Times (retired)	409 Washington Ave Towson 21204
✓ Valerie Robinson	30 Kingsley Rd. O.M. 21117
~~Brooke Rob~~	
Linda Gronberg-Quinn	27 Kingsley Rd Owings Mills 21117



BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP N.W. 13-1 (COPY)

513

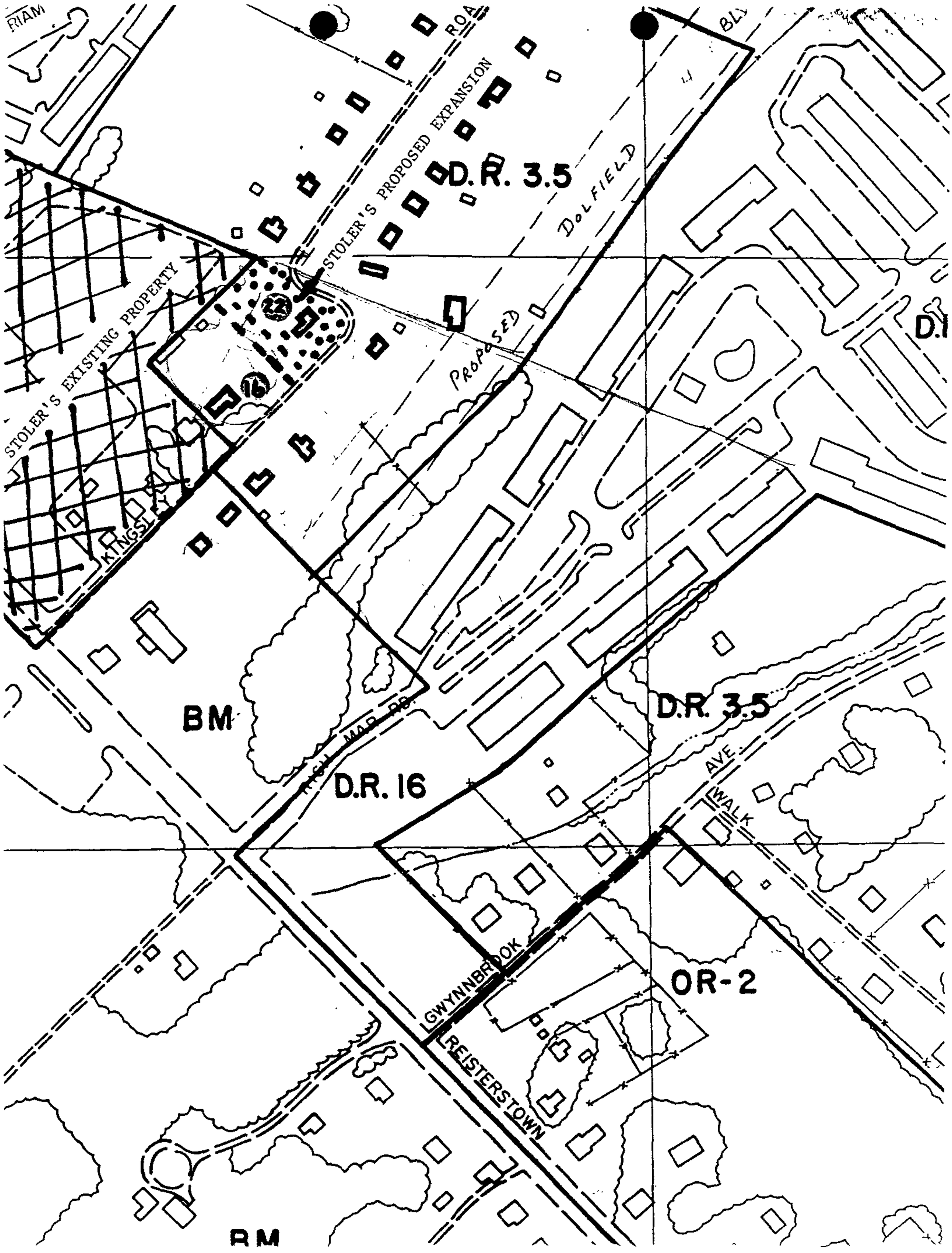
KCW Consultants, Inc.
CIVIL ENGINEERS AND LAND SURVEYORS
3104 TIMANUS LANE, SUITE 101
BALTIMORE, MARYLAND 21244
TELE:(410) 281-0033
FAX:(410) 289-0604

PLAT TO ACCOMPANY SPECIAL HEARING
FOR BISINESS PARKING IN RESIDENTIAL ZONE
LEN STOLLER • KINGSLEY ROAD
22 KINGSLEY ROAD

BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 30'
ELECTION DISTRICT – 4
COUNCILMATIC DISTRICT C3

DATE: MARCH 20, 1997

97-513-SPHA


STOLER'S PROPOSED EXPANSION
D.R. 3.5
DOLFIELD
STOLER'S EXISTING PROPERTY
PROPOSED
KINGSLEY
BM
D.R. 16
D.R. 3.5
AVE.
WALK
GWYNNBROOK
REISTERSTOWN
OR-2
BM

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

Address Service Requested

PROT. EX. 1A-J
97-513-SPHA

Printed with Soybean Ink

USED
CARS

#1

Prof 17 13 → 13A

Stoler's existing lot
from Kingsley Rd.

6/18/97

#2 Stoler's existing car lot from Kingsley Rd.

Prot 13 14 → 14A

6/18/97

#3 Prof 1c 15 → 15A

View of Stoler's existing lot fencing ? #16 (Clifton property)

6/18/97

CHEVROLET

#4

Prob 1D

9 → 9A

View of Stoler's current prop. from Kingsley Rd

6/18/97

*5 View of street
from Reist. Rd.
(Subject prop. on left)

Prob 1E 16 → 16A

#5

6/18/97

※ View of Stoler's Prot 1F 10 → 10A

existing comm. prop.

from #16 (Clifton)

6/18/97

#7

Parcel 1G 17 → 17A 18 → 18A

Subject Property

4/15/97

Prob 1H

19 → 19A

#8 View from #26 (Fadely)

6/18/97

#9 View from #25 (Hengst) int. I

2 → 2A

4/18/97

Pub 15

5 → 5A

#10 View from #16 (Clifton)

4/8/97

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

97-513-SPHA
STOLER

Protestants #1 (1 photo)
and
Protestants #9 (photos)

9A Photos by Goldberg (12) (18 shots)

(1) Leaning Goldberg home (2) looking to Stolen

(3) Disappearance (4) Coming Z to view behind home.

(5) Visibility at Dogleg to Perkins (6) Site of Grassy Flat

(7) Pt to Perkins (8) Fence (9) Fence (10) Fairy home behind

(11) + (12) - Stolen Tupee fence (13+14) Fence blockage

P.K. Yale

Randy, Mickey and Alice
Goldberg
5 Montgomery Road
Owings Mills, MD 21117

Randy, Mickey and Alice
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5 Montgomery Road
Owings Mills, MD 21117

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5 Montgomery Road
Owings Mills, MD 21117

A CASE STUDY IN

Randy, Mickey and Alice
Goldberg
5 Montgomery Road
Owings Mills, MD 21117

PROPOSED
FENCING

Randy, Mickey and Alice
Goldberg
5 Montgomery Road
Owings Mills, MD 21117

Randy, Mickey and Alice
Goldberg
5 Montgomery Road
Owings Mills, MD 21117

Randy, Mickey and Alice
Goldberg
5 Montgomery Road
Owings Mills, MD 21117

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

97-513-SPHA
STOLER

Petitioner's # 7A-7K (11 photos)
8A-8D (4 photos)
9A-9D (4 photos)

ROG

Reisterstown~Owings Mills~ Glyndon
Coordinating Council

July 11, 1997

RECEIVED
JUL 14 1997
ZONING COMMISSIONER

The Honorable Lawrence Schmidt
Zoning Commissioner
Zoning Commissioner's Office
New Courts Building
400 Bosley Avenue
Towson, Maryland 21204

Dear Commissioner Schmidt:

I am writing on behalf of the Reisterstown-Owings Mills-Glyndon Coordinating Council, and the residents of Kingsley Road, to request a denial of the petition of Len Stoler Ford that was heard on June 27, 1997 for the purpose of obtaining a zoning exception for 22 Kingsley Road. The property in question is currently zoned for residential use, and is at a critical location in the community that serves as a buffer against the commercial activities of Len Stoler Ford. The use proposed by Len Stoler Ford, that of a parking lot, is not authorized under existing zoning, nor in keeping with adjacent and nearby residents. The existing lawn and trees on the lot serve as an essential buffer against the noise, lights, fumes, and elevated air temperatures associated with the commercial operations.

The proposed use as a parking lot, along with the structural fencing that is proposed, would not serve to mitigate the intrusive nature of the commercial operations on the existing neighborhood. The encroachment would also likely reduce the residential property values of adjacent and nearby residences, since resales would be adversely affected by the negative aspects of the commercial operations cited above.

The Stoler operations have many reasonable alternatives to the lateral expansion of their existing operations into residentially zoned areas. If additional space for parking is cited as an essential requirement for remaining economically viable, the Stoler operations should consider vertical options such as vehicle stacking, or multi-story parking garages, or offsite storage on other business or commercial property in the area that could be acquired.

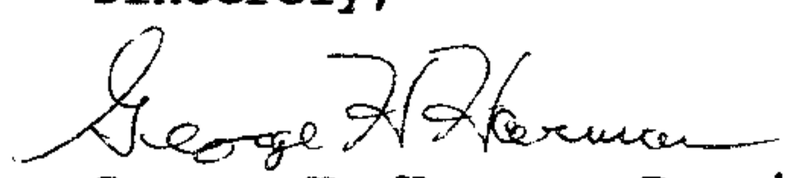
Since you are not allowed under law to consider the personal, aesthetic, and environmental drawbacks to the requested variance, I would ask that you consider the insufficiency of the proposed buffer to mitigate the problems

P.O. Box 117 Reisterstown, Maryland 21136

cited above. At a minimum, the buffers required by the zoning code must be maintained to afford the neighboring residents some measure of protection against the intrusive commercial use that is being proposed.

I would appreciate the opportunity to present my comments in person at any future hearings or appeals, and would like to have notice of any such opportunities for public comment be provided to me. I would prefer, however, to simply have the zoning request resolved in favor of the residents of Kingsley Road that are in opposition to the requested exemption being requested by Len Stoler Ford.

Sincerely,



George H. Harman, President
Reisterstown-Owings Mills-Glyndon
Coordinating Council

cc: The Honorable T. Bryan McIntire
Mr. & Mrs. Dennis Orr
Mr. & Mrs. Randall Goldberg

REISTERSTOWN - OWINGS MILLS - GLYNDON COORDINATING COUNCIL, INC.

The undersigned hereby acknowledge and attest that on March 2, 1998 the members of Reisterstown - Owings Mills - Glyndon Coordinating Council, Inc., a Maryland corporation ("ROG") in accordance with Section 2-408 of the Maryland Corporations and Associations Code and its Charter and By-Laws, approved the Resolution set forth herein:

RESOLVED: That ROG supports the residents of Kingsley Road and other neighbors of Len Stoler, in their opposition to the requested relief in zoning case #

AND FURTHER RESOLVED: That the Board empowers and instructs Robert D. Sellers, as the chair of its Zoning Review Committee, to represent ROG at a hearing before the Board of Appeals of Baltimore County in that case and delegates Mr. Sellers to appear at that hearing for ROG and make known to the Board the position of ROG in this matter, to wit, that:

ROG opposes the use of the property in question for parking purposes and opposes the request to vary setbacks or any other County standard or regulation requested by the Petitioner, Len Stoler. Furthermore, Robert D. Sellers, is authorized to explain or amplify as he see fit, this stated position.

AS WITNESS OUR HANDS THIS 2nd day of March, 1998.

ATTEST:

Sue Kessler, Secretary

The Reisterstown- Owing Mills- Glyndon Coordinating Council, Inc.

BY: George Harman
George Harman, President

c:\wp51\rog\agreemt

REISTERSTOWN - OWINGS MILLS - GLYNDON COORDINATING COUNCIL, INC.

RESOLVED, that at this first meeting of ROG of 1998, that the responsibility for review and recommended action on all zoning and development matters is hereby placed on the duly appointed zoning committee, chaired by Robert D. Sellers.

WITNESS OUR HANDS AND SEALS THIS 5th day of January, 1998.

ATTEST:

Reisterstown - Owings Mills - Glyndon Coordinating Council, Inc.

Susan E Kessler
Sue Kessler, Secretary

George Harman
George Harman, President

c:\wp51\rog\first.mtg

June 19, 1997

Mr. Bob Barrett
Special Assistant to County Executive
400 Washington Ave.
Towson, MD 21204

Dear Mr. Barrett;

I live in a small neighborhood in Owings Mills which has been around for generations. The youngest houses on our street are about 50 years old. Our neighborhood is comprised of a mixture of young families and senior citizens. We all know each other and help each other. The seniors who live here can tell you the names of all the majestic trees which adorn the properties and they relate a rich history of the area. The children play in each other's yards or on the one-lane road without the fears which plague many of our neighborhoods today.

This neighborhood is being threatened by Len Stoler, a rich car salesman who has purchased one of the older houses which occupies a CENTRAL location on our street. He wants to raze the house, cut down the trees and make a parking lot. Can you believe that ?! He already owns several blocks of Reisterstown Road, and he has more commercial land available to him, but he bought cheap residential land instead and now he wants the county to let him ruin our neighborhood. I think it should be suggested to him that he park his cars in his own neighborhood. His backhanded methods to get around the system are shameful. It would be an even greater shame if the county were to allow him to succeed.

Sincerely,

MARK SHEPARDSON

cc: Dan Rodericks, The Baltimore Sun
T. Bryan McIntyre, Councilman
Dennis Orr, Kingsley Road Community Association
James Botelle, Community Times
Jennifer Brennan, Owings Mills Times
Timothy Kotroco, Zoning Office
Lawrence Schmidt, Zoning Office

RECEIVED
JUN 23 1997
ZONING COMMISSIONER

Catherine & Cody Burkindine
13 Kingsley Road
Owings Mills, MD 21117

We are located 2 houses away from #22 Kingsley Road and have lived in this neighborhood since November 1976, first as renters in a house that no longer stands, and then as homeowners. We first moved to this neighborhood because it was nice, quiet and secluded, yet close to any convenience you would ever need. We strongly object to any commercial usage of #22 Kingsley Road, this would cause us to be cut off from the rest of our community. Also the noises and lighting coming from the dealership would increase with the removal of the existing vegetation. The amount of light we receive at night from the dealership currently is unacceptable. We are also opposed to any changes in the current setbacks directly across from our home, we need a buffer from the commercial usage. The promised landscaping for the original buffer was never installed and the fence is in disrepair. We chose to live here because it is a residential community, not one disjointed and fragmented by commercial pursuits.

Thank you for your consideration in this matter.

Sincerely,

Catherine Burkindine

Cody Burkindine

June 17,1997

Mr. Timothy Kotroco and Mr. Lawrence Schmidt
Baltimore County Zoning Office
400 Washington Ave.
Towson, MD 21204

RECEIVED
JUN 23 '97
ZONING COMMISSIONER

Dear Mr. Kotroco and Mr. Schmidt;

Next week your office will rule on case # 97-513-SPHA, Len Stoler's request to use residential property for a commercial purpose. He is also requesting variances which would allow him to operate as close as five feet from our one lane road.

There are numerous reasons why this wealthy and influential car salesman should not be allowed to intrude further into our neighborhood. Many of these reasons you could come up with yourselves simply by imagining the same situation occurring in the locations where you reside. The lights, noise and paint fumes are issues with which our residents deal on a daily basis. Now, if Stoler is allowed to occupy the central property he has purchased (right in the heart of our neighborhood) it will be a dangerous situation for our children. Of course, our property values will go down and our peaceful dead end road will become exposed to crime.

There are pieces of land which are already properly zoned and more suitable to his purposes, but this would cost him more. Buying residential property from an old lady (whose daycare business his paint fumes destroyed) and then requesting a "special exception" to turn it into expensive commercial land is underhanded and should be insulting to those who work to uphold the zoning rules and regulations. I certainly can't imagine that you would be an accessory to Mr. Stoler's destruction of a 100 year old house in an equally old neighborhood. Indeed, I will be shocked if he succeeds in achieving his goals by circumventing the system in the manner he has.

Sincerely,

S Rusby

cc: Dan Rodericks, The Baltimore Sun
Jennifer Brennan, The Owings Mills Times
James Botelle, The Community Times
Bob Barrett, Special Assistant to County Executive
T. Bryan McIntyre, Councilman
Dennis Orr, Kingsley Road Community Association

25 Kingsley Road
Owings Mills, Md. 21117
June 17, 1997

RECEIVED
JUN 19 1997
ZONING COMMISSIONER

Mr. Timothy Kotroco
Zoning Commissioner
400 Washington Avenue
Towson, Maryland 21204

Dear Mr. Kotroco:

We have lived at the above address for 22 years. We have seen many changes in the Owings Mills area, many of them to our benefit. However, over the past several years we seem to have had more than our share of commercial growth that has affected our small community.

Most recently the addition of a large Target store almost across the street from us and the construction of a new automobile dealership at the end of our street have been virtually unstoppable. We once again find ourselves the pawn in the game of big business.

The most recent move in this game has been made by Len Stoler, an opponent we have found to be untrustworthy and untruthful in the past. Mr. Stoler has purchased the residential property directly across the street from our home. He purchased this piece of RESIDENTIAL property in the hopes of having it rezoned and adding to his already 3-block long establishment. He claims to need this area in order to park MORE cars. This property is the only buffer we have to Len Stoler's already expansive property. We already deal with paint fumes, noise, profanity, loud speakers, and bright lights not to mentioned Mr. Stoler's "I don't care what you do, you can't beat me" attitude. Not only has Mr. Stoler ignored covenances made with the community when he first expanded into the neighborhood, but he has done little to care for the property that we see everyday. Only after learning of the community's resistence to rezoning did Mr. Stoler repair fences, cut lawns and clear brush. To an unknowing passer-by, one might think him a responsible neighbor. We know better.

We are also greatly concerned for our neighbor, Mrs. Ray Clifton and her family. If Mr. Stoler succeeds in his proposition, Mrs. Clifton, a recent widow, will be wedged in between his parking lots.

We have conceded many times to county proposals. We may still be affected by the extension of Dolfield Blvd. Will we continue to have to give in until there is nothing left of this community? We have elderly folks here who are living in the childhood homes their parents built. We have families who are part of the area's history and tell us stories of the area before it was commercialized.

We have to trust that Baltimore County will protect this little piece of history called Kingsley Road. We respectfully look to you and your office to help us in this endeavor.

Sincerely,

Judith A. Hengst

Claude H. Hengst, Jr.

Mr. and Mrs. Claude Hengst, Jr.

cc: Bob Barrett, Special Asst. to County Exec.

6/17/97.

To Whom It May Concern

It is our understanding that Sen Stan Ford has plans to make way for a expension of their car lot. To us this sounds like a ludicrous idea.

Our neighborhood though small has been here since Owing Mills was country. The 7 houses on 2nd half of Kingsley Road on Right coming in were built on farm land. From Mrs. Mally. 1947

I built my house my self raised the kids. We had wonderful neighbors as they moved in. Look to our retirement on a beautiful road, that we worked on to keep it that way.

Our we to understand that

RECEIVED
JUN 23 1997
ZONING COMMISSIONER

all we have worked for is for nothing, that we have no say in the future of our country.

It's becoming more common these days to hear big corporations don't care who they step on.

This promising trend has prompted us to write this letter

Why don't you go buy Roy Rogers property next door.

Marion S Bond

Mildred A Bond

Beulah Bowman

bcc: Timothy Kotroco + Lawrence Schmidt - Zoning Office

June 15, 1997

RECEIVED
JUN 23 1997
ZONING COMMISSIONER

TO William Hughey, Community Planner:

My name is Ann Seal. I reside at 35 Kingsley Road in Owings Mills, Maryland. I have lived at this address for over five decades. I have watched the systematic destruction of my neighborhood and community over the years. Single family homes at the edge of my neighborhood along Reisterstown Raod have been plowed under and replaced with parking lots used by Len Stoler. Although promises were made to create a buffer between these lots and the surrounding community, nothing was ever done. The addition of these lots have allowed fumes from Len Stoler's car dealerships to reach my home. At times these fumes can be overwhelming, threatening my health and preventing me from enjoying my home in what used to be a quiet residential community.

Young couples have moved back into this neighborhood recently, breathing new life into this quiet community. Now Len Stoler is attemptng to suck the remaining life out of this community by placing yet another parking lot in the middle of Kingsley Road. Enough is enough. It is time to put a stop to the senseless destruction of a once vital community in the heart of Owings Mills. I respectfully request, therefore, that the Baltimore County government deny anthorization for the construction of a parking lot on Kingsley Road and restore some "breathing room" between the residents of Kinsgley Raod and Len Stoler's car dealerships.

Respectfully submitted,

Ann Seal
35 Kingsley Road
Owings Mills, MD 21117
410 356-7311

cc: Dutch Ruppersberger, Baltimore Conuty Executive
bcc: L. Schmidt, Zoning Office

June 16, 1997

RECEIVED
JUN 19 1997
ZONING COMMISSIONER

Mr. Lawrence Schmidt
Ass't Zoning Comm.
400 Washington Ave.
Towson, Md., 21204

Dear Sir:

I am writing to you to voice my concern regarding case #97-513-SPHA - Len Stoler's variance request on 22 Kingsley Rd.

We have lived on this street since 1951- raised two children and found it to be a safe and pleasant place. Along with the rest of our neighbors we are very disturbed over Len Stoler's doings since this is strictly a residential street.

Hoping you can agree with us on the June 27th rezoning hearing.

Sincerely,

Webster E. Shipley - Marie G. Shipley

Mr. & Mrs. Webster E. Shipley
37 Kingsley Rd.
Owings Mills, Md., 21117

cc: Timothy Kotroco
Bob Barrett
William Hughey

June 15, 1997

Mr. Timothy Kotroco
Zoning Commissioner
400 Washington Ave.
Towson, MD 21204

RECEIVED
JUN 23 1997
ZONING COMMISSIONER

Dear Sir:

I'm writing to you to voice my concern regarding case # 97-513-SPHA, Len Stoler's variance request on Kingsley Road. His further intrusion into my neighborhood would be detrimental to the safety , health and general welfare of our small established community. Among the numerous reasons why his proposal would adversely affect the neighborhood are the following:

*The property he is proposing to use is in the very center of our neighborhood and if he succeeds, he would be surrounding one of our neighbors on three sides with blacktop, fencing and cars.

*If you look at the attached map, you will notice that the proposed property sits right on the S curve of our one-lane street. Granting his request for landscape and setback variances (tall fences as close as 5 feet) would create a dangerous situation for traffic and children playing.

Mr. Stoler has had other properties available to him which were already properly zoned. Granted, these would have been more expensive purchases. This backhanded method of adding to his commercial property at the expense of a community should not be encouraged by the county. There is NO reason why Mr. Stoler needs to develop this particular property. It does not provide him anything that he could not obtain elsewhere. Moreover, he chose to purchase a residential property assuming that your office would once again grant his requests. Any hardship for Mr. Stoler is purely self-imposed.

Mr. Stoler's numerous requests have been granted by your office in the past. Unfortunately, he has never lived up to his prior commitments to the community. His lighting and loudspeaker continue to be disruptive. Even worse, the fumes from his body shop (a few yards from our residential property) have ruined one resident's daycare business and are a constant irritant and health concern Many complaints have been filed with the Department of the Environment, but to date no action has been taken.

While we object to Mr. Stoler's methods and lack of basic decency, we recognize that his moves are those of a shrewd businessman. We look to you and your office to uphold the safeguards which are in place to protect a community like ours.

Sincerely,

Mr. & Mrs. William C. Barnhart Jr.

cc: Dan Rodericks, The Baltimore Sun
James Botelle, Community Times
T. Bryan McIntyre, Councilman
Jennifer Brennan, Owings Mills Times
Dennis Orr, KRCA
Bob Barrett, Special Asst to Cnty Exec

4/23/98

To whom it may concern;

Unable to attend the hearing, I am writing this short note to state my opinion on Len Stoler attempting to ruin our community more and more.

Enough is enough, the world is a big place and Mr. Stoler does not care that the private residents on this dead end road don't want to be pushed out, it is our little world.

He doesn't care about us, only his big world & big bucks!

Enough is enough!

Sincerely,

John & Barbara Michaelidis
23 Kingsley Rd.
21117
residents for 27 yrs.

George and Dorothy Isaac
34 Kingsley Road
Owings Mills, MD 21117
(410) 356-7728

May 7, 1998

Court of Appeals
Baltimore County

Re: Case 97-513 SPHA

Your Honors,

My husband, a now totally disabled W.W.II veteran and ex-POW, and I have lived in our home nearly 39 years. It is only 5 houses away from the house that Len Stoler wants to demolish in order to extend his ability to park "passenger vehicles."

Though we are unable to attend the hearing, we want to go on record as firmly opposing any further intrusion of Stoler's operation into our neighborhood.

His plan will drive a wedge into the center of the surrounding single family homes. It will directly expose all of the houses on Kingsley Road, ours included, to additional light, noise and the pollution generated by the 47-plus cars he proposes to park. This will mean at least 94 trips a day to and from that 1/2 acre lot throughout any given day. The fact that this traffic will not be coming via Kingsley Road is no solace.

His development plans would also make an already somewhat treacherous "dog-leg" turn even more dangerous by further obstructing vision around, across and through the property @ 22 Kingsley Road.

The single-family residential lot and house Mr. Stoler purchased, in spite his neighbor's known and stated objections, is the RTC buffer this neighborhood needs to survive and is entitled to under the law.

We ask that all of Mr. Stoler's requests regarding the commercial use of this property be denied.

Thank you,

George and Dorothy Isaac

George & Dorothy Isaac, Sr.

Catherine & Cody Burkindine
13 Kingsley Road
Owings Mills, MD 21117

We are located 2 houses away from #22 Kingsley Road and have lived in this neighborhood since November 1976, first as renters in a house that no longer stands, and then as homeowners. We first moved to this neighborhood because it was nice, quiet and secluded, yet close to any convenience you would ever need. We strongly object to any commercial usage of #22 Kingsley Road, this would cause us to be cut off from the rest of our community. Also the noises and lighting coming from the dealership would increase with the removal of the existing vegetation. The amount of light we receive at night from the dealership currently is unacceptable. We are also opposed to any changes in the current setbacks directly across from our home, we need a buffer from the commercial usage. The promised landscaping for the original buffer was never installed and the fence is in disrepair. We chose to live here because it is a residential community, not one disjointed and fragmented by commercial pursuits.

Thank you for your consideration in this matter.

Sincerely,

Catherine Burkindine

Cody Burkindine

DEAR, MR. KOTROCO

MY NAME IS WILLIAM BARDOFF JR
MY WIFE AND I HAD JUST PURCHASED
A HOME & 1/2 ACRE OF PROPERTY.
AS SOON AS THE REALTOR MET US AT
THIS ADDRESS WE FELL IN LOVE. WE
WENT THROUGH QUITE A TIME AS FAR
AS WORKING TWO JOB'S AND CLEANING
UP OUR CREDIT. AFTER CLOSING WE
WERE PLEASED WITH OUR NEW HOME.
IT'S NEW TO US. THIS IS OUR FIRST HOME
AND FROM OUR FRONT YARD YOU CAN SEE
THE WONDERFUL HOMES & FOLIAGE.
IT'S A DIFFERENT WORLD HERE FROM
THE ROAD. AS YOU CAN SEE FROM THE
ROAD ALL OF THE CITY LIKE CONCRETE,
JAM PACKED WITH NEW AND USED CARS.
AS YOU TURN ON RINGSLEY RD
YOU CAN SEE A FENCE THEN A HOME
ON BOTH SIDES OF THE STREET. AFTER
THAT POINT IT TURNS INTO WONDERLAND.
A WORLD AWAY FROM THE WORLD, WHAT
WE ALL WORK HARD TO COME HOME TO.
AS WE WAKE EVERY MORNING WE
CAN LOOK OUT OUR BACK YARD AND

SEE ALL THE DIFFERENT TYPES
OF ANIMALS RUNNING & PLAYING
& EATING & GATHERING. IT A JOYOUS
SIGHT. OUR NEIGHBORS ARE ALL OUR
FREINDS NOW. WE HAVE PEOPLE ON
KINGSLEY RD THAT GREW-UP EVER
SINCE THE NEIGHBORHOOD HAS BEEN
HERE. THEN JUST RECENTLY WE FOUND
THE LEONARD STOLER WANTS TO
TAKE OUR WORLD AWAY BY BUYING
22 KINGLEY RD. IF YOU SIT ON MY
FRONT PORCH YOU CAN SEE #22 KINGSLEY
RD. THEN I LEARN HE WANTS TO
PUT A PARKING LOT THERE. THAT WOULD
MAKE A WONDERFUL WORLD INTO AN
UGLY JUNK YARD. YOU SEE I HAVE HAD
DEALINGS WITH HIS COMPANY ON A BUSSINESS
LEVEL ON A DAILY BASIS. I AM AN AUTO
TECHNICIAN. I USED TO BUY PARTS FROM
HIS PARTS COUNTERS. I HAVE PASSED THE
WORD TO STOP ALL PURCHASES. THERE'S
ANOTHER DEALERSHIP DOWN THE ROAD
WE CAN GET GOOD QUALITY PARTS. WELL
THROUGH THE GRAPE VINE IS HE PLANS
TO EXPAND HIS BODY SHOP. THAT MEANS

DAMAGED & WRECKED CARS. WILDLIFE DYING OFF, NO PLACE WE CAN CALL OUR NEIGHBORHOOD. THIS IS NOT HIS PLACE HE LAYS HIS HEAD EVERY NIGHT. MOST OF US CAN'T AFFORD TO BUY OUR OWN NEIGHBORHOOD. WE CAN ONLY BUY OUR LITTLE CHUNK OF IT. ALL WE ASK IS TO SAVE OUR NEIGHBORHOOD. GIVE US A PLACE FOR OUR CHILDREN TO GROW AND WITHOUT PAINT FUMES AND CRIME. IF YOU PUT CARS ON AN EMPTY LOT. LIKE NEW, USED, WRECKED CARS YOU WILL BE INVITING CAR THEIVES, VANDOLISM TO OUR HAPPY HOMES. WE SHOULD NOT HAVE TO HAVE COMMERCIAL TRAFFIC ON A STREET THAT THE RESIDENTS OWN 90% OF. AS FOR MYSELF OWN (my wife & I) 1/2 OF THE ROAD KNOWN AS KINGSLEY RD FROM PROPERTY LINE TO PROPERTY LINE AND THE SAME AS THE AJOINING RD KNOWN AS MONTGOMERY RD. SIR, I AND MY WIFE ARE SADDENED THAT OUR HOME IS going TO LOOSE ITS VALUE. IF THERE IS ANYTHING YOU CAN DO OR LET US KNOW WHAT WE CAN DO TO STOP MR. STOLER IN ANYWAY PLEASE LET US KNOW.

THANK you
for your TIME

36 KINGSLEY RD.

MR & MRS William Bardoff

fis' case

Mickey A. Goldberg
5 Montgomery Road
Owings Mills, MD 21117-1826

June 11, 1997

Timothy Kotroco
Zoning Commissioner
400 Washington Avenue
Towson, MD 21204

Dear Mr. Kotroco:

I was appalled to see that Len Stoler Inc. had requested variance changes on the entrance to Kingsley Road, and commercial rezoning for 22 Kingsley Road. Let me spell out my concerns.

Anyone who approaches Kingsley Road from the north can report the hazardous conditions faced by turning off the "40" mph Reisterstown "Highway." Only a modest sign (No Thru Street) alerts non-residents that there is indeed a road present. Other drivers assume one is pulling off onto the Stoler lot; an extremely short (perhaps 12-foot) center access lane from Reisterstown Road barely allows for adequate braking. New construction south of Kingsley compounds the problem; who would suspect a neighborhood lies here?

Therefore, please void Stoler's variance request that would eliminate trees and make Kingsley Road virtually invisible to the general motorist. Further, please ban rezoning that would blight our tiny rural neighborhood by turning #22 into an ugly business parking lot.

Today I was entering the community by car, and an approaching vehicle met me at the critical turn that would become a dangerous blind curve with the advent of variances requested by Stoler. Children on bicycles are not famous for their reaction time; please don't put our kids at risk.

I look forward to attending the special hearing on June 27, and presenting further arguements against this bizarre, profit-driven, self-seeking set of requests.

Sincerely,

Mickey A. Goldberg

Mickey A. Goldberg

For case file

Randall E. Goldberg
5 Montgomery Road
Owings Mills, MD 21117-1826
Phone/FAX (410) 356-0412

June 11, 1997

RE: Variance/Zoning Case #97-513-SPHA

Timothy Kotroco
Deputy Zoning Commissioner
400 Washington Avenue
Towson, MD 21204

Dear Timothy Kotroco :

As a homeowner in the tiny rural community directly affected by the above noted rezoning request, I take great acception to any further egregious incursion of a business into our residential area.

On behalf of myself, my family, and all my neighbors, I would appreciate your wielding whatever influence you may have to see that these proposals are denied by the Zoning Commission. Both variance changes along Kingsley Road, and the rezoning and variance alterations at #22 Kingsley would damage the safety, health and general welfare of our community.

I have enclosed a courtesy copy of my letter to Len Stoler, detailing my situation and objections to his outrageous plans.

A special hearing has been granted for June 27 at 11 am. On the face of his request a denial should be a foregone conclusion, but I and my neighbors will be present to demonstrate the serious repercussions of Stoler's speculative property machinations.

Sincerely,

Randall E. Goldberg, BBA, RN, CSPI
Enclosure

Randall E. Goldberg
5 Montgomery Road
Owings Mills, MD 21117

June 8, 1997

Leonard Stoler
1425 Greenspring Valley Road
Stevenson, MD 21153

Dear "Len,"

This letter is to express directly to you my personal dismay and fervent opposition to your proposed commercial expansion into my residential subdivision down Kingsley Road.

I purchased my home in this enclave just a year ago and a new Taurus Wagon from you in April.

The addition of the Heritage auto dealership to the south of your Ford dealership took out two old homes and some acres of woodland adjacent to Kingsley Road. I understand that this property was zoned for commercial use. Given its frontage on Reistertown Road, commercial development made some sense. Personally, I'd have preferred it remain in residential use.

I was pleased to witness the efforts to clean up your property on the north side of Kingsley Road. The ragged, tattered fencing and unkempt stretch was an eyesore I passed daily. However, it was a small stretch that quickly passed as I entered my residential area. The view was consistent with the one I saw when I first found my home a year ago, and a small negative compared with the beauty of the community just beyond.

In the year I've lived here, I've learned about and lived with the impact of your car dealerships on my home and family. I'm far enough back from your current development that the effects are not terribly negative... yet. However, we do already live with the noise of your loudspeaker paging system, bright lights that fill the night sky and the occasional offensive odor of paint from your body shop. I have heard from neighbors that these conditions, including the visual impact as you enter my subdivision, were addressed in certain covenants and restrictions placed on your original development in 1988 that have effectively been ignored by you to date.

Imagine my shock and upset when I saw the signs indicating that you are attempting to expand further your operations down Kingsley Road and into my neighborhood! How would you react if someone purchased an Agricultural/Rural lot in a key spot approaching/near your own home and attempted to develop, say, a self-storage lot?

The residential lot that you purchased isn't zoned properly for your purposes and isn't large enough to accommodate your needs. Rather than buy or lease the available commercial (and no doubt more expensive) property already adjacent to or near your existing facilities, with frontage on Reisterstown Road, you've chosen to try and move down Kingsley Road.

Furthermore, you've applied for variances to overuse the residential lot you've purchased. You have repeatedly solicited the owners of the residential property most directly and negatively affected by your actions thus far, and asked them to "name their price." I can only believe that should you get your hands on this property, you would attempt to obtain the same variances for overuse.

Although these properties border your commercial operations, they both have decent, well-kept homes on them. They are also blessed with many GRAND old trees that are visually beautiful AND also provide an important buffer that helps absorb your already intrusive light, noise and fumes. The loss of these residences and trees would be tragic for my neighborhood. It would substantially extend your operations down Kingsley Road and would subject MANY additional homes to far more direct exposure to your already intrusive business operation.

I hereby demand that you cease your avaricious efforts to expand your operations in this direction. It is simply the wrong thing to do.

If you choose to pursue your current path and are successful, you will have expanded your dealership "on the cheap." However, the effect on my small, well-established, residential community will be devastating.

Furthermore, I believe the loss of good will generated by your actions will cost you more in the long run than buying, up front, the appropriately-zoned commercial property available and adjacent or very close to your existing operations along Reisterstown Road.

Sincerely,

Randall E. Goldberg, BRA, RN, CSPI

cc: Barry Stoler
Dan Rodricks, The Baltimore Sun
Jennifer Brennan, Owings Mills Times
James Botelle, Community Times
Dennis Orr, KRCA
County Planner William Hughey
Bryan McIntyre, Councilman
County Executive Ruppersberger
Timothy Kotroco, Zoning Commissioner
L. Schmidt, Ass't. Zoning Commissioner

June 17, 1997

Mr Timothy Kotroco
Zoning Commissioner
400 Washington Ave
Towson Md 21204

RECEIVED
JUN 19 1997
ZONING COMMISSIONER

Dear Mr Kotroco,

I am writing concerning the property at 22 Kingsley Rd. Owings Mills I understand that Len Stoler wants to park cars there. I live at 26 Kingsley Rd. adjacent to this property and wish to express my strongest objections to this. I have lived here for 76 of my 80 years and do not want to spend my remaining years looking out at a parking lot. Besides being very unsightly it will destroy property values.

This has always been a quiet neighborhood with lovely neighbors. I am concerned about children riding bikes who would not be able to see traffic around the corner if there is a parking lot and fence there.

over

Please consider the safety of our children plus our property values and give the residents of Kingsley Rd a favorable ruling in this case.

Sincerely,

(Mrs) Margaret Fadely
26 Kingsley Rd
Owings Mills Md
21117

Tel (410) 356-7316

June 18, 1997

T. S. Lawrence Schmidt
Asst Zoning Commissioner
400 Washington Ave
Towson Md 21204

RECEIVED
JUN 19 1997
ZONING COMMISSIONER

Dear Mr Schmidt.

I am writing concerning the property at 22 Kingsley Rd. Owings Mills. I understand that Leo Stolir wants to raze the house and park cars there. I live at 26 Kingsley Rd. adjacent to this property and wish to express my strongest objections to this. I have lived here for 70 of my 81 years and do not want to spend my remaining years looking out at a parking lot. Besides being very unsightly it will destroy property values.

This has always been a quiet neighborhood with lovely neighbors

over

I am concerned about children walking to bus who would not be able to see traffic around the corner if there is a parking lot and fence there

Please consider the safety of the children plus our property values and give the residents of Ringgold Rd a favorable ruling in this case

Sincerely,

(Mrs) Margaret Fadely
26 Ringgold Rd
Owings Mills MD
21117

Tel (410) 356-7316

June 16, 1997

RECEIVED
JUN 19 1997
ZONING COMMISSIONER

Mr. Timothy Kotroco
Zoning Commissioner
400 Washington Avenue
Towson, Md. 21204

Dear Sir:

I am writing to you to voice my concern regarding case #97-513-SPHA - Len Stoler's variance request on 22 Kingsley Rd.

We have lived on this street since 1951 - raised two children and found it to be a safe and pleasant place. Along with the rest of our neighbors we are very disturbed over Len Stoler's doings since this strictly a residential street.

Hoping you can agree with us on the June27th rezoning hearing.

Sincerely,

Webster E. Shipley Jr - Marie G. Shipley

Mr. & Mrs. Webster E. Shipley
37 Kingsley Rd.
Owings Mills, Md.,21117

CC: Bob Barrett
Lawrence Schmidt
William Hughey

June 15, 1997

TO William Hughey, Community Planner:

RECEIVED
JUN 23 1997
ZONING COMMISSIONER

My name is Ann Seal. I reside at 35 Kingsley Road in Owings Mills, Maryland. I have lived at this address for over five decades. I have watched the systematic destruction of my neighborhood and community over the years. Single family homes at the edge of my neighborhood along Reisterstown Raod have been plowed under and replaced with parking lots used by Len Stoler. Although promises were made to create a buffer between these lots and the surrounding community, nothing was ever done. The addition of these lots have allowed fumes from Len Stoler's car dealerships to reach my home. At times these fumes can be overwhelming, threatening my health and preventing me from enjoying my home in what used to be a quiet residential community.

Young couples have moved back into this neighborhood recently, breathing new life into this quiet community. Now Len Stoler is attemptng to suck the remaining life out of this community by placing yet another parking lot in the middle of Kingsley Road. Enough is enough. It is time to put a stop to the senseless destruction of a once vital community in the heart of Owings Mills. I respectfully request, therefore, that the Baltimore County government deny anthorization for the construction of a parking lot on Kingsley Road and restore some "breathing room" between the residents of Kinsgley Raod and Len Stoler's car dealerships.

Respectfully submitted,

Ann Seal
35 Kingsley Road
Owings Mills, MD 21117
410 356-7311

cc: Dutch Ruppersberger, Baltimore Conuty Executive

bcc: Timothy Kotroco, Zoning Office

June 15, 1997

Mr. Timothy Kotroco
Zoning Commissioner
400 Washington Ave.
Towson, MD 21204

RECEIVED
JUN 19 1997

Dear Sir:

I'm writing to you to voice my concern regarding case # 97-513-SPHA, Len Stoler's variance request on Kingsley Road. His further intrusion into my neighborhood would be detrimental to the safety , health and general welfare of our small established community. Among the numerous reasons why his proposal would adversely affect the neighborhood are the following:

*The property he is proposing to use is in the very center of our neighborhood and if he succeeds, he would be surrounding one of our neighbors on three sides with blacktop, fencing and cars.

*If you look at the attached map, you will notice that the proposed property sits right on the S curve of our one-lane street. Granting his request for landscape and setback variances (tall fences as close as 5 feet) would create a dangerous situation for traffic and children playing.

Mr. Stoler has had other properties available to him which were already properly zoned. Granted, these would have been more expensive purchases. This backhanded method of adding to his commercial property at the expense of a community should not be encouraged by the county. There is NO reason why Mr. Stoler needs to develop this particular property. It does not provide him anything that he could not obtain elsewhere. Moreover, he chose to purchase a residential property assuming that your office would once again grant his requests. Any hardship for Mr. Stoler is purely self-imposed.

Mr. Stoler's numerous requests have been granted by your office in the past. Unfortunately, he has never lived up to his prior commitments to the community. His lighting and loudspeaker continue to be disruptive. Even worse, the fumes from his body shop (a few yards from our residential property) have ruined one resident's daycare business and are a constant irritant and health concern. Many complaints have been filed with the Department of the Environment, but to date no action has been taken.

While we object to Mr. Stoler's methods and lack of basic decency, we recognize that his moves are those of a shrewd businessman. We look to you and your office to uphold the safeguards which are in place to protect a community like ours.

Sincerely,

(Mrs) Margaret Fadely
26 Kingsley Rd
Owings Mills Md

cc: Dan Rodericks, The Baltimore Sun
James Botelle, Community Times
T. Bryan McIntyre, Councilman
Jennifer Brennan, Owings Mills Times
Dennis Orr, KRCA
Bob Barrett, Special Asst to Cnty Exec

June 15, 1997

Mr. Timothy Kotroco
Zoning Commissioner
400 Washington Ave.
Towson, MD 21204

RECEIVED
JUN 23 1997

Dear Sir:

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While we object to Mr. Stoler's methods and lack of basic decency, we recognize that his moves are those of a shrewd businessman. We look to you and your office to uphold the safeguards which are in place to protect a community like ours.

Sincerely,

Brooke Robinson

cc: Dan Rodericks, The Baltimore Sun
James Botelle, Community Times
Bob Barrett, Special Asst to Cnty Exec
Jennifer Brennan, Owings Mills Times
T. Bryan McIntyre, Councilman

TO: Zoning Commissioner

FROM: Samuel T. and Deborah A. Paris
21 Kingsley Road
Owings Mills, MD 21117
410-356-6019

RE: Zoning Request Case # 97-513-SPHA

DATE: June 20, 1997

We have asked that this statement be read in our absence, we are currently out of state for the next several weeks. We have lived at 21 Kingsley Road for 15 years. We are directly adjacent from the property in question - our property line extends onto the above property.

We have several concerns and reasons for opposing the requested zoning change/special permit and requested variance.

1. Our property value will plummet due to this change. We will be subjected to increased noise, paint fumes, lighting, increase in temperature, as well as property that is esthetically unappealing.

2. We are also concerned about the safety of the many children on our street as well as the increased hazard of accidents. A fence built on the property line without the standard 75 foot setback will obscure oncoming traffic and children. We have two small children.

3. We also have concerns about the manner in which Mr. Stoler maintains his present fencing. (see photo) He has not honored any prior covenant agreements and he has not kept his agreements regarding landscaping.

4. Without the large trees on our street, I feel it will create environmental concerns and hazards.

5. When Mr. Stoler approached us about the property that he previously developed he stated that he would not ask to come deeper into our neighborhood.

We live on a very small, private street with many children and elderly residents. To allow further development of commercial property into our residential neighborhood is absolutely unacceptable. Please look at the attached photos of our community, listen to our representatives, and rule against the proposed changes

I also verify that I photographed the attached photographs of our neighborhood on Wednesday, June 18.

Samuel Thomas Paris

Deborah A. Paris

William K. Woods, L.S.

Douglas L. Kennedy, P.E.

KCW Consultants, Inc.

Civil Engineers and Land Surveyors
3104 Timanus Lane, Suite 101 Baltimore, Maryland 21244

(410) 281-0030, 281-0033 Fax (410) 298-0604

Ref. No. 1

EDWIN S. HOWE III, P.E
Associate / Project Manager

Professional Engineer, Maryland Registration No. 20229

B.S. Civil Engineering (1988)
Georgia Institute of Technology

Master of Environmental Engineering
Johns Hopkins University (1996)

Member American Society of Civil Engineers

1986-1987 Frank Lynch & Associates
Surveying and Land Planning Berlin, Maryland

Designer/Draftsman/Instrumentman
Stormwater management, road and utility design for land development projects.
Field surveying for stake-out and boundary and topographic data collection.

1987-1988 Plen-Aire Construction
Atlanta, Georgia

Construction Assistant
Assist general contractor.

1989-1997 KCW Consultants, Inc.
Civil Engineers and Land Surveyors
Baltimore, Maryland

Project Manager
Design and coordination for residential, commercial, industrial, municipal and institutional land development, encompassing utility design, site planning / layout, stormwater management, sediment control and flood studies applying a working knowledge of microcomputer software. Performance of environmental studies and design to meet regulatory requirements concerning wetlands, forests, steep slopes and other environmental constraints. Communications and correspondence with clients and all regulatory agencies including project presentations and expert testimony at legal proceedings and hearings. Permit and variance acquisition for all development, zoning and environmental impacts and violations.

7. Brief resume of key persons, specialists, and individual consultants anticipated for this project

a. Name & Title:

EDWIN S. HOWE, III, P.E.

b. Project Assignment:

PROJECT CIVIL ENGINEER

c. Name of Firm with which associated:

KCW CONSULTANTS, INC.
Civil Engineers and Land Surveyors
3104 Timanus Lane, Suite 101
Baltimore, Maryland 21244
(410) 281-0030 Fax. (410) 298-0604

d. Years experience: With This Firm **8** With Other Firms **2**

e. Education: Degree(s)/Year/Specialization

B.S. Civil Engineering, 1988, Georgia Institute of Technology
M.S. Environmental Engineering, 1996, Johns Hopkins University

f. Active Registration: Year First Registered/Discipline/Registration No./State

1993, Professional Engineer, Maryland #20229

g. Other Experience and Qualifications relevant to the proposed project:

o Experienced in site planning and civil engineering for municipal residential, commercial, institutional and industrial development projects to include site geometry; grading; design of sanitary sewer, water mains, storm drains and roadways; sediment control; stormwater management; floodplain analysis; environmental permitting; construction stake-out; construction inspection; as-built certification.

o Experienced in coordinating with engineering and architectural design team members to include mechanical, electrical, structural and geotechnical engineers, architects and landscape architects for design of residential, commercial, institutional and industrial development projects.

o Experienced in inter-action with Federal, State and local regulatory agencies for environmental permitting, construction contracting and policy structuring.

o Experienced in grading, erosion and sediment control, and soil stabilization.

o Experienced in construction inspection of utilities to include storm drains, sanitary sewer, water mains and stormwater management facilities.

Continuing Education:
1990 SCS TR-20 Hydrology Computer Course-Engineering Society of Balt
1991 Dam Safety Seminar - Engineering Society of Baltimore
1994 Wetland Delineation Training - Wetland Training Institute
1995 Environmental Site Assessment Training - ASTM
1995 Forest Conservation Training - Md. Dept. of Natural Resources
1996 HEC- RAS Training - American Society of Civil Engineers

Member: American Society of Civil Engineers

1986-1987 Frank Lynch & Associates
Surveying and Land Planning
Berlin, Maryland

Designer/Draftsman/Instrumentman for land development projects encompassing stormwater management, road and utility design.

1989-1993 KCW Consultants, Inc.
Civil Engineers and Land Surveyors
Baltimore, Maryland

Design Engineer - Responsible for engineering design, coordination and planning for utility, land development and municipal projects. Responsible for Environmental Engineering to include site evaluation and analysis of floodplains, wetlands and critical areas. Routinely uses computer technology for hydrologic design and analysis to include TR-20 hydrology, HEC-2 hydraulics, hydraulic gradient and flow tabulation computer software. Duties also include stormwater management and utility inspection for remediation and "as-built" certification.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 10, 1997

RECEIVED
JUN 16 1997
ZONING COMMISSIONER

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

SUBJECT: 22 Kingsley Road

INFORMATION

Item Number: 513

Petitioner: Colonial Stoler Partnership

Zoning: DR 3.5

Requested Action: Variance

Summary of Recommendations:

The Planning Office recommends the request to permit commercial parking in a residential zone and the accompanying variance to RTA requirements be denied. This office firmly believes the parking request is a significant commercial intrusion into the small but stable Kingsley Road Community.

The petitioner's request to variance RTA requirement has become necessary because of the size and originally intended use of the subject property as a residential lot. The attached tax map clearly shows how proximate and how integrated the subject property is with the nearby residential neighborhood. There is nothing irregular or unique about the lot, if used for its originally intended use, that warrants variance relief.

The Planning Office believes that to permit commercial activity at this location in a residential zone would be a significant determent to the Kingsley Road Community. The proposed piecemeal expansion of the Stoler Car Dealership, without the proper business zoning, is not an appropriate means to facilitate Mr. Stoler's expansion plans. This office believes the proper approach would be more appropriately addressed through a Comprehensive Zoning Map Process. This process would allow the basic land-use issues to be evaluated by Planning Staff, Planning Board and the County Council.

Prepared by: Jeffrey W. Long

Division Chief: Carl L. Kess

Prot No 4

AFK/JL:lsn
Attachments

KINGSLEY.JL

·Spotlight

RUUD LIGHTING

Volume 10, No. 2
April 1996

Ruud 2-Level Lighting Used in California Church

Most everyone is familiar with the versatility and energy savings that the Ruud 2-Level Lighting System can bring to industrial or commercial installations. Even *we* didn't think of how practical it might be if used in a church!

Tom Wise of **TLW Electric** in Novato, CA did.

Working with **Pastor Steve Henderson** of the **Lucas Valley Community Church** in San Rafael, CA, Tom was trying to find a way to properly light a church that is also frequently used as a multipurpose room.

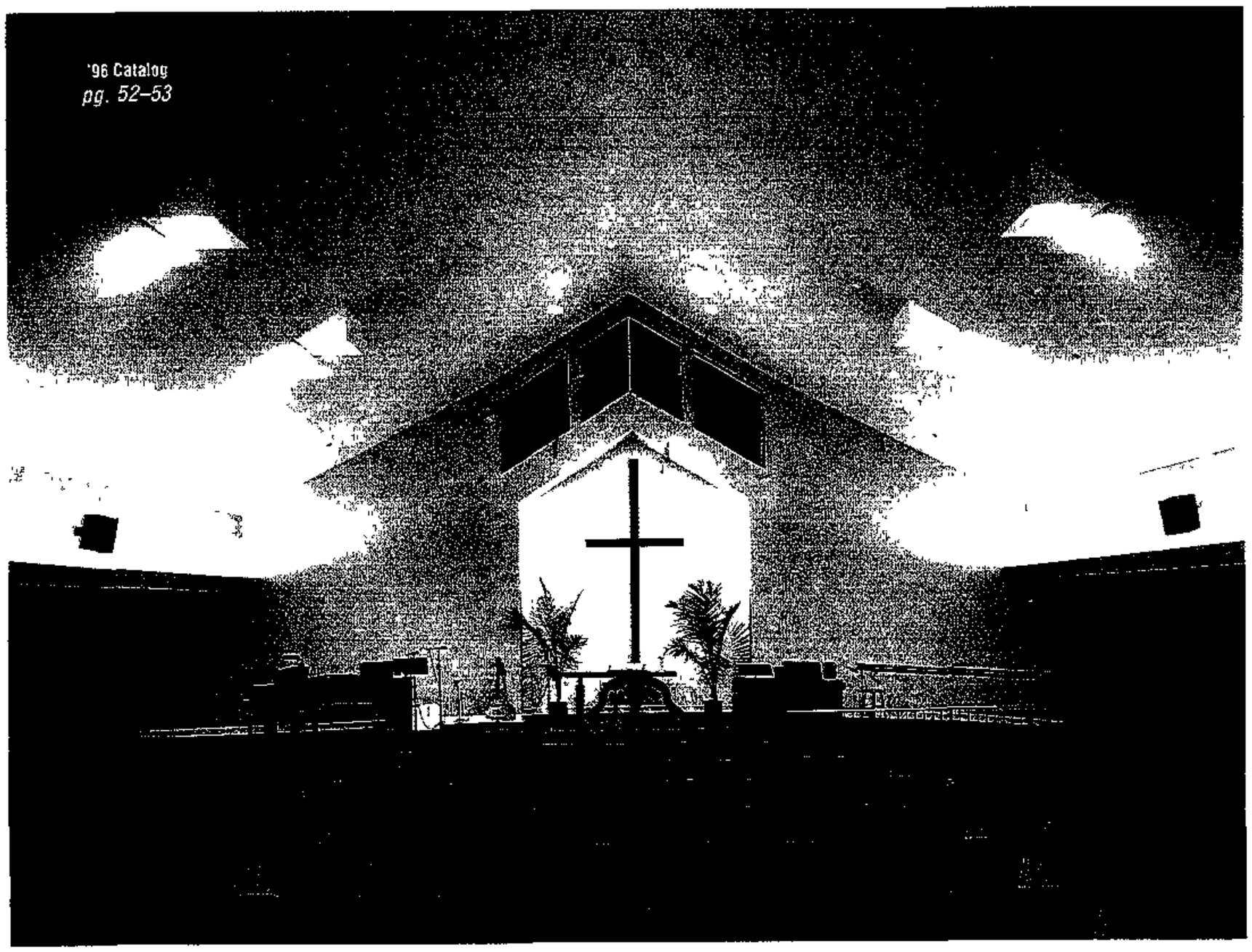
Tom turned to the Ruud Lighting *AA Series* 16" Recessed Downlight with the 2-Level option.

Eight fixtures were used with 250 watt metal halide lamps, providing uniform illumination of the 60' x 60' area. The 2-Level option allows the fixtures to be manually controlled. Full power illumination is used for meetings or other community activities and half brightness is selected for use during church services. Tom wired the installation so church personnel can mix and match light levels—operating half of the fixtures at full or reduced power while the other half are kept off.

The versatility of the *AA Series* allowed Tom to design a "chimney box" receptacle to hold the reflector of the fixture with the remote ballast housing installed in the church rafters. This allowed the fixtures to be mounted at a uniform height of 18 feet off the floor, even though the highest peak of the ceiling reaches 27 feet.

Our 2-Level Lighting system brings energy savings and functionality to your commercial or industrial applications. In addition to the manual switching used at the church, the 2-Level system is available with motion sensor control and can be easily linked to existing energy management programming. A wide variety of fixture types and wattages are available with the 2-Level option.

The next time you're faced with the challenge of providing uniform lighting, versatile control and efficient energy use, consider Ruud 2-Level Lighting. Think of it as another tool to creatively meet your customers' needs. ®



Beautiful uniform illumination with the flexibility of 2-Level control is achieved with AA Series ***Recessed Downlights with 250 watt metal halide lamps.***

PHONE (800)236-7000 FAX (800)236-7500

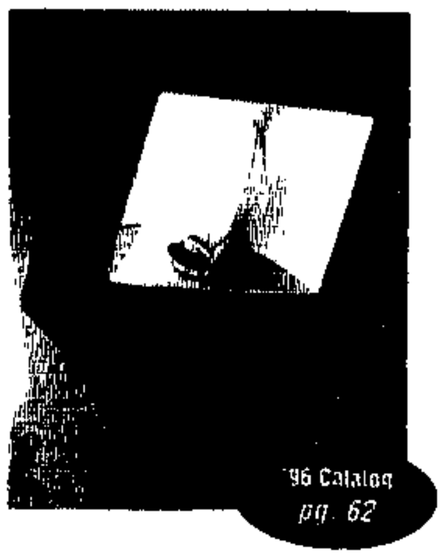
°8' HEIGHT

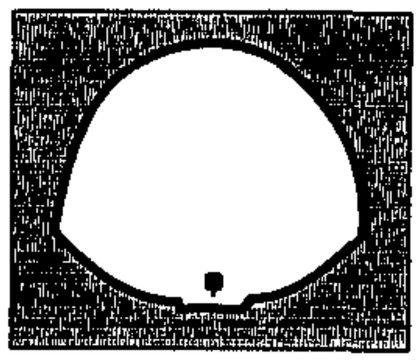
Featured Product—Floodlight Review

Selecting the correct fixture to fit the application and its proper aiming are the key ingredients to any project that involves floodlighting. Since the Ruud Lighting Floodlight line has such a wide selection to choose from, we thought a product review might be helpful. More detailed information and photometrics are available in our catalog or spec sheet binder.

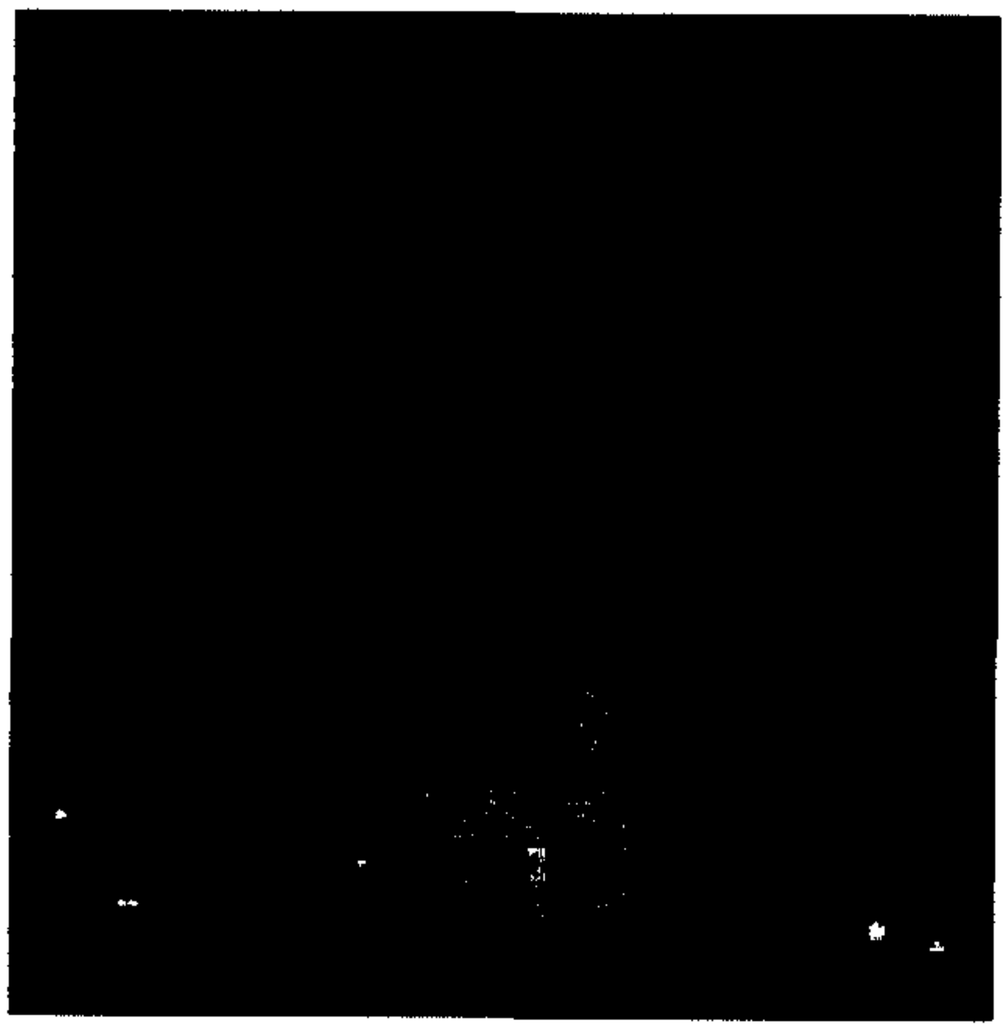
Standard Floodlight (FS Series)

This general purpose floodlight is available in 12", 16" and 22" housing sizes. It's NEMA Type 6x7 wide beam distribution is suitable for general floodlighting, large parking lot lighting, landscape lighting or building floodlighting. (Generally, *CF, PR, AC, QV & QH Series* fixtures provide better glare control for parking areas.) Lamps are offered in 50–1500 watt metal halide and 35–1000 watt high pressure sodium. A 26 watt fluorescent lamp is also available. Mounting angles are typically kept at 45° to 60° tilt above the surface to be illuminated.





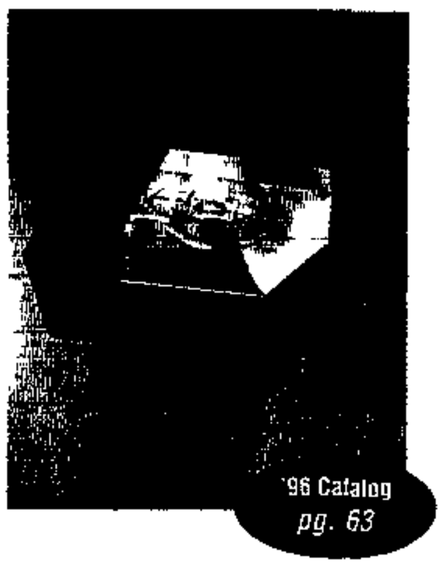
FS Series, ***60° tilt above horizontal. Typical isofootcandle distribution at grade.***

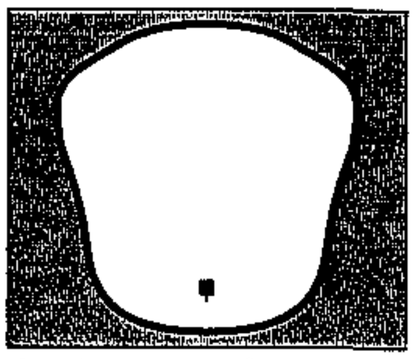


This example of overall building illumination is a perfect application for the FS Series ***Standard Floodlight. The church is lit with 1000 watt metal halide fixtures, providing uniform coverage without an annoying hot spot.***

Cutoff Floodlight (CF Series)

This floodlight is designed for maximum main beam projection with minimum fixture tilt and minimal spill light. It is available in 12", 16" and 22" housing sizes and is appropriate for parking area lighting, security lighting, automobile sales areas and tennis courts. Metal halide lamps are available from 50–1000 watt and high pressure sodium lamps from 35–1000 watt. Because the Cutoff Floodlight has a main beam that is 45° forward of perpendicular, the fixture is normally tilted from 15° to 25° above horizontal to achieve a 60° to 70° beam angle.





CF Series, ***20° tilt above horizontal. Typical isofootcandle distribution at grade.***

Excellent main beam projection with minimum spill light onto neighboring properties is the advantage of the CF Series ***Cutoff Floodlight. This auto dealership is using both 1000 watt and 400 watt metal halide fixtures at full and mid-pole heights respectively.***

Prop Sub #7

APPEAL COPY

State of Maryland
Department of Assessments and Taxation

Final Notice of Assessment
(This is Not A Tax Bill)

BALTIMORE COUNTY
JEFFERSON BLDG
105 W CHESAPEAKE AVE STE 200
TOWSON MD 21204-4737

410-321-2380

RETURN SERVICE REQUESTED

NUMBER	NOTICE DATE	TAX YEAR BEGINNING
428799	03 30 1998	07 01 1998

DIST	MAP	PARCEL	SEC	BLOCK	LOT	USE	SUBD
04	58	327				R	

PROPERTY LOCATION — PRINCIPAL RESIDENCE: YES

16 KINGSLEY RD
.698 AC NWS KINGSLEY

The value for the property described above was **originally** reported as:

Appealed Value

1. Land	2. Buildings, Other	3. TOTAL
$ 41,940	$ 53,090	$ 95,030

This is to notify you that this value has been reviewed as a result of an appeal. Based on the information obtained, the market value was DECREASED
Therefore, your Final Market Value is:

Final Market Value

4. Land	5. Buildings, Other	6. TOTAL
$ 41,940	$ 49,970	$ 91,910

To lessen the impact of increases in value, State law provides that any increase in value be phased in over the next 3 years in equal amounts. Your phased-in final market value for the next three taxable years is:

Phased-In Final Market Value

7. 1998	8. 1999	9. 2000
$ 91,910	$ 91,910	$ 91,910

An assessment is that portion of the market value that is used to calculate property taxes. Your old assessment was 10. $ 36,420. Your new assessment is 40% of the phased-in final market value (50% if valued as agricultural use):

Phased-In Final Assessment

11. 1998	12. 1999	13. 2000
$ 36,760	$ 36,760	$ 36,760

Assessment Caps

If this property is your primary residence, you may have the assessment increase limited by the assessment cap (Homestead Tax Credit). Taxable assessment increases are capped at 10% annually for the state property tax. Counties and municipalities must set an assessment cap of 10% or less each year. Based on current information, if you qualify, we estimate that you will be taxed on the following assessments next year:

14. State	15. County/Baltimore City	16. Municipal
$ 36,760	$ 36,760	$ NOT APPLICABLE

Your Appeal Rights

If you still feel that the market value is incorrect, you have the right to appeal to the local Property Tax Assessment Appeal Board. Instructions on how to file your appeal are found on the back of the appeal copy of this notice. An appeal must be made within 30 days from the date of this notice.

The LAST DAY to file an appeal is: 04/29/1998

AC 304 04 0403023379 / 5354
58 428799 R
CLIFTON RAYMOND J
CLIFTON ARLENE
16 KINGSLEY RD
OWINGS MILLS MD 21117

If the address at left is incorrect, please print the correct address below and return to the assessment office.

AT2-53

(This is Not A Tax Bill)

State of Maryland
Department of Assessments and Taxation

BALTIMORE COUNTY
JEFFERSON BLDG
105 W CHESAPEAKE AVE STE 200
TOWSON MD 21204-4737

410-321-2380

NUMBER	NOTICE DATE	TAX YEAR BEGINNING
428799	12 29 1997	07 01 1998

DIST	MAP	PARCEL	SEC	BLOCK	LOT	USE	SUBD
04	58	357				R	

PROPERTY LOCATION — PRINCIPAL RESIDENCE: YES

16 KINGSLEY RD
.698 AC NWS KINGSLEY

State law requires that all real property be revalued at least every three years. The property described above has been reviewed to determine the new market value effective 01/01/98. The new market value is based upon market data available prior to this date. The old total market value of your property was [1] $ 96,070
The new market value of your property is:

New Market Value

[2] $ 41,940 Land	[3] $ 53,090 Buildings, Other	[4] $ 95,030 TOTAL

To lessen the impact of increases in value, State law provides that any increase in the new market value over the old market value be phased in over the next 3 years in equal amounts. Your phased-in new market value for the next three taxable years is:

Phased-In Market Value

[5] $ 95,030 1998	[6] $ 95,030 1999	[7] $ 95,030 2000

An assessment is that portion of the market value that is used to calculate property taxes. Your old assessment was [8] $ 38,420. Your new assessment is 40% of the phased-in new market value (50% if valued as agricultural use):

Phased-In Assessment

[9] $ 38,010 1998	[10] $ 38,010 1999	[11] $ 38,010 2000

If this property is your primary residence, you may have the assessment increase limited by the assessment cap (Homestead Tax Credit). Taxable assessment increases are capped at 10% annually for the state property tax. Counties and municipalities must set an assessment cap of 10% or less each year. Based on current information, if you qualify, we estimate that you will be taxed on the following assessments next year:

Assessment Caps

[12] $ 38,010 State	[13] $ 38,010 County/Baltimore City	[14] $ NOT APPLICABLE Municipal

Your Appeal Rights

If you feel that the **Total New Market Value (Box 4)** is incorrect, you may file an appeal. Included in this packet is an explanation of the appeal process and instructions on how to file your appeal. An appeal must be filed or postmarked within 45 days from the date of this notice.

The LAST DAY to file an appeal is: 02/12/98

ATTENTION

AC#04 04 0403023379 / 5554
58 428799 R
CLIFTON RAYMOND J
CLIFTON ARLENE
16 KINGSLEY RD
OWINGS MILLS MD 21117-1823

If the address at right is incorrect, please print the correct address below and return to the Assessment Office.

_____

_____

Look at the information in the box at the top of this page. You should verify whether or not this property is designated as your principal residence. THIS INFORMATION AFFECTS ELIGIBILITY FOR THE HOMESTEAD TAX CREDIT. If it is wrong, please complete the information to the right and return to the Assessment Office.

Address of where your principal residence is located:

_____

_____

Number of months you have resided or expect to reside at this address each year: _____

Signature (Required) Date

State of Maryland
Department of Assessments and Taxation

APPEAL COPY

Final Notice of Assessment
(This is Not A Tax Bill)

BALTIMORE COUNTY
JEFFERSON BLDG - SUITE 200
105 W CHESAPEAKE AVE
TOWSON MD 21204

410-321-2380

NUMBER	NOTICE DATE	TAX YEAR BEGINNING
150564	05 22 95	07 01 95

DIST	MAP	PARCEL	SEC	BLOCK	LOT	USE	SUBD
04	58	357				R	

PROPERTY LOCATION — PRINCIPAL RESIDENCE: YES

16 KINGSLEY RD
.698 AC NWS KINGSLEY

The New Market Value for the property described above was **originally** reported as:

New Market Value

1. Land	2. Buildings, Other	3. TOTAL
$ 41,940	$ 57,320	$ 99,260

This is to notify you that this value has been reviewed as a result of an appeal. Based on the information obtained, the market value was: _____ Not Changed ___X___ Decreased. Therefore, your Final Market Value is:

Final Market Value

4. Land	5. Buildings, Other	6. TOTAL
$ 41,940	$ 54,130	$ 96,070

To lessen the impact of increases in value, State law provides that any increase in value be phased in over the next 3 years in equal amounts. Your phased-in final market value for the next three taxable years is:

Phased-In Final Market Value

7. 1995	8. 1996	9. 1997
$ 96,070	$ 96,070	$ 96,070

An assessment is that portion of the market value that is used to calculate property taxes. Your old assessment was 10. $ 39,300. Your new assessment is 40% of the phased-in final market value (50% if valued as agricultural use):

Phased-In Final Assessment

11. 1995	12. 1996	13. 1997
$ 38,420	$ 38,420	$ 38,420

If this property is your primary residence, you may have the assessment increase limited by the assessment cap (Homestead Tax Credit). Taxable assessment increases are capped at 10% annually for the state property tax. Counties and municipalities must set an assessment cap of 10% or less each year. Based on current information, if you qualify, we estimate that you will be taxed on the following assessments next year:

Assessment Caps

14. State	15. County/Baltimore City	16. Municipal
$ 38,420	$ 38,420	$ NOT APPLICABLE

Your Appeal Rights

If you still feel that the market value is incorrect, you have the right to appeal to the local Property Tax Assessment Appeal Board. Instructions on how to file your appeal are found on the back of the appeal copy of this notice. An appeal must be made within 30 days from the date of this notice.

The LAST DAY to file an appeal is: 06/21/95

AC#04 04 0403023379 / 5554

150564 R

CLIFTON RAYMOND J
CLIFTON ARLENE
16 KINGSLEY RD
OWINGS MILLS MD 21117

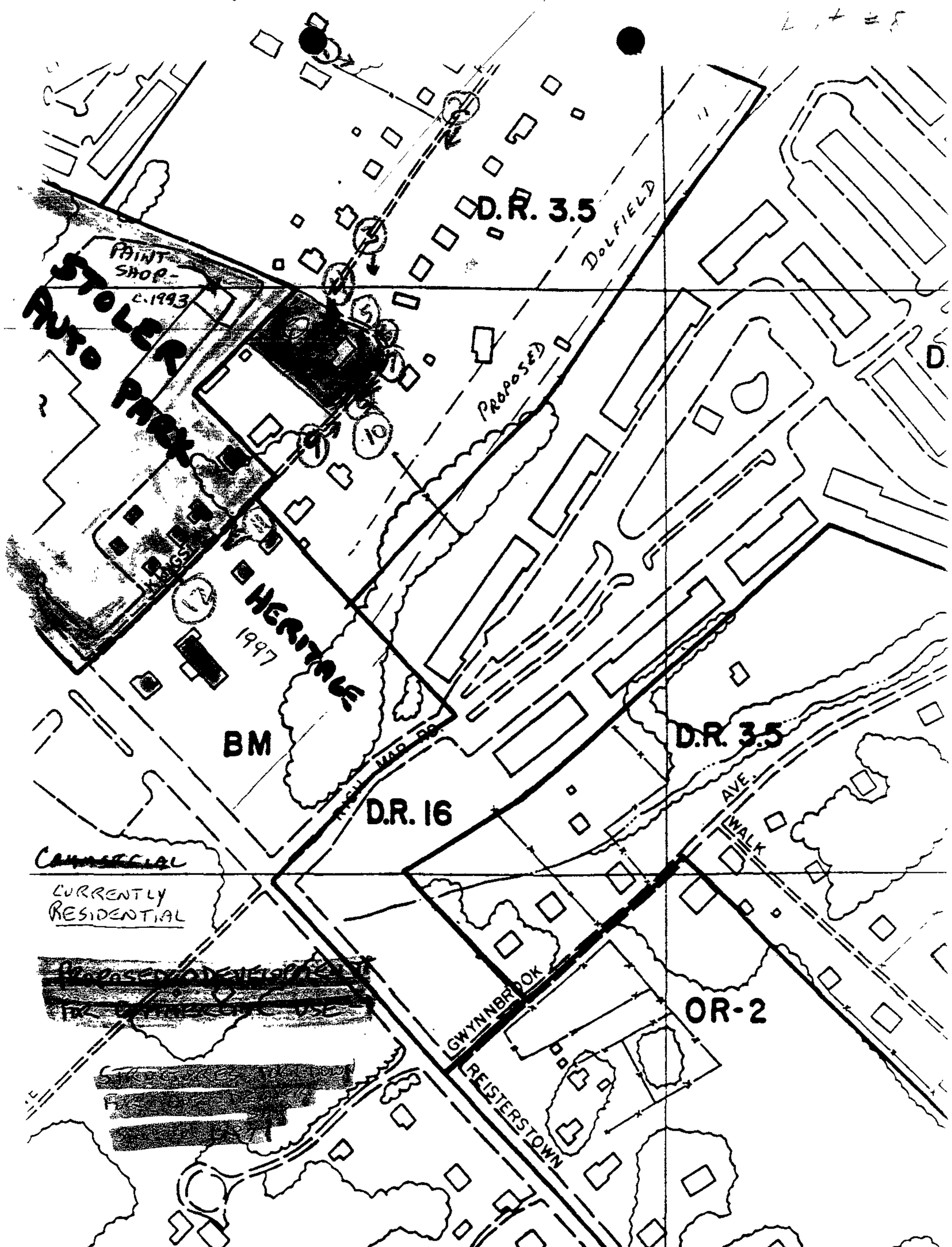
If the address at left is incorrect, please print the correct address below and return to the assessment office.

_____

_____

_____

AT2-53


D.R. 3.5
DOLFIELD
PAINT SHOP - c.1993
STOLER AUTO PROPS
PROPOSED
HERITAGE 1997
BM
D.R. 16
D.R. 3.5
AVE.
WALK
COMMERCIAL
CURRENTLY RESIDENTIAL
GWYNNBROOK
REISTERSTOWN
OR-2

Pet Exh #

Assessment Notice

(This is Not A Tax Bill)

State of Maryland
Department of Assessments and Taxation

BALTIMORE COUNTY
JEFFERSON BLDG
105 W CHESAPEAKE AVE STE 200
TOWSON MD 21204-4737

410-321-2380

NUMBER	NOTICE DATE	TAX YEAR BEGINNING
428628	12 29 1997	07 01 1998

DIST	MAP	PARCEL	SEC	BLOCK	LOT	USE	SUBD
04	58	652				R	

PROPERTY LOCATION
28 KINGSLEY RD
1 AC NS KINGSLEY RD

PRINCIPAL RESIDENCE
YES

State law requires that all real property be revalued at least every three years. The property described above has been reviewed to determine the new market value effective 01/01/98 The new market value is based upon market data available prior to this date. The old total market value of your property was [1] $ 87,010
The new market value of your property is:

New Market Value

[2] $ 50,000	[3] $ 36,680	[4] $ [illegible]
Land	Buildings Other	TOTAL

Phased-In Market Value

To lessen the impact of increases in value. State law provides that any increase in the new market value over the old market value be phased in over the next 3 years in equal amounts. Your phased-in new market value for the next three taxable years is.

[5] $ 86,680	[6] $ 86,680	[7] $ 86,680
1998	1999	2000

Phased-In Assessment

An assessment is that portion of the market value that is used to calculate property taxes.
Your old assessment was [8] $ 34,800 . Your new assessment is 40% of the phased-in new market value (50% if valued as agricultural use):

[9] $ 34,670	[10] $ 34,670	[11] $ 34,670
1998	1999	2000

Assessment Caps

If this property is your primary residence, you may have the assessment increase limited by the assessment cap (Homestead Tax Credit). Taxable assessment increases are capped at 10% annually for the state property tax. Counties and municipalities must set an assessment cap of 10% or less each year. Based on current information, if you qualify, we estimate that you will be taxed on the following assessments next year:

[12] $ 34,670	[13] $ 34,670	[14] $ NOT APPLICABLE
State	County/Baltimore City	Municipal

Your Appeal Rights

If you feel that the **Total New Market Value (Box 4)** is incorrect, you may file an appeal. Included in this packet is an explanation of the appeal process and instructions on how to file your appeal. An appeal must be filed or postmarked within 45 days from the date of this notice.

The LAST DAY to file an appeal is: [illegible]

ATTENTION

AC#04 04 0402085300 / 5557
58 428628 R
ORR DENNIS R
ORR CAROLYN L
28 KINGSLEY RD
OWINGS MILLS MD 21117-1823

If the address at right is incorrect please print the correct address below and return to the Assessment Office.

_____

_____

Look at the information in the box at the top of this page You should verify whether or not this property is designated as your principal residence. THIS INFORMATION AFFECTS ELIGIBILITY FOR THE HOMESTEAD TAX CREDIT If it is wrong please complete the information to the right and return to the Assessment Office

Address of where your principal residence is located:

_____

_____

Number of months you have resided or expect to reside at this address each year _____

_____
Signature (Required) Date

RYLAND PROPERTY VALUATION RECORD
RESIDENTIAL WORKSHEET

1. PROPERTY ADMINISTRATIVE DATA

Account No.	04040402085300	Date Printed	04/22/98
District	4	Zoning	
Card Seq	055570000000	Year Built	1916
Owner's Name	ORR DENNIS R	Grade	3
Address	28 KINGSLEY RD	Condition	Average
CamaSet	4.01 CamaSubset 1	DwellingType	StdUnit
Microsol No	48117	Foundation Area	596
MVI/Model No	10	Enclosed Area	1192
Occupancy	H	Sec. 1 Perimeter	104
Curtilage	0	Total Perimeter	104

2. DWELLING COST CALCULATION

SEC.	STORY	TYPE	SQUARE FEET	RATE	COST
1	2Sw/Bsm	WoodShg	596	101.00	60,197

3. SUBTOTAL: DWELLING SQUARE FOOT COST 60,190 * *

4. OTHER CHARGES

ITEM	TYPE	SIZE/UNITS	RATE	COST
Roof	CompShg			
Heat	HotAir			
A/C	ComSyst	1,192	1.35	1,609
Porch#1	Por1SOp	315	21.80	6,867
BsmtAdj		-180	7.80	-1,404

5. SUBTOTAL: OTHER CHARGES 7,070 * *

6. TOTAL DWELLING BASE COST 67,260 * * *

Cost Index		X	1.09
Replacement Cost New (RCN)			73,313
Less Depreciation	45%		-32,991
Less Functional Obsolescence	5%		-2,016
Less Economic Obsolescence	5%		-1,915
Subtotal: RCN Less Depreciation			36,390 * *
Market Value Index		X	0.95

7. DWELLING VALUE 34,570 * * *

8. ACCESSORY STRUCTURES

TYPE	GRADE	SIZE/UNITS	RATE	DEPR	COST
1 FrGar		324	26.16	0.75	2,119

9. *TOTAL ACCESSORY STRUCTURES VALUE* 2,110 * * *

10. TOTAL IMPROVEMENT VALUE 36,680 * * * *

11. LAND VALUATION

Land Type: Land1

	SIZE Acre	RATE	ADJUSTMENT	COST
Primary	1	50,000.00		50,000
Total Land Size	1			

12. TOTAL LAND VALUE 50,000 * * * *

13. TOTAL PROPERTY VALUE 86,680 * * * *

14. REMARKS

B220191 ADDN 98-99 RA

5% F.O WET BSMT,FOUNDATION. 5% ODOR AND NOISE BODY SHOP

TO: Zoning Commissioner

FROM: Deborah A. Paris
21 Kingsley Road
Owings Mills, MD 21117
410-356-6019

RE: Zoning Request Case # 97-513SPHA

DATE: April 25, 1998

I have asked that this statement be read in my absence, I am currently out of state for a conference. My husband is here at the meeting to represent us. I have lived at 21 Kingsley Road for 16 years. I live directly adjacent from the property in question - our property line extends onto the above property.

I have several concerns and reasons for opposing the requested zoning change/special permit and requested variance.

1. Our property value will plummet due to this change. We will be subjected to increased noise, paint fumes, lighting, increase in temperature, as well as a property that is esthetically unappealing. We will look out our windows at a parking lot.

2. We have two children, aged eleven and seven. We are concerned about the safety of the many children on our street as well as the increased hazard of accidents. A fence built on the property line without the standard 75 foot setback will obscure oncoming traffic and children, who are riding their bicycles, and walking to and from the bus stop.

3. The manner in which Mr. Stoler maintains his present fencing is also a concern. He has not honored any prior covenant agreements and he has not kept his agreements regarding landscaping.

4. The large trees on our street provide environmental safeguards. Without the large trees on our street, I feel it will compromise the environment and cause concerns and hazards.

5. Mr. Stoler previously assured us that he would not attempt to develop additional properties deeper in our community.

We live on a very small, private street with many children and elderly residents. To allow further development of commercial property into our residential neighborhood is absolutely unacceptable. Please look at the videos and photos of our community, listen to our representatives, and rule against the proposed changes.

Thank you for your assistance in this matter. When making your decison, I trust that you will utilize wisdom and be aware of the impact this development will have on our community.

Sincerely,

Deborah A. Paris

Deborah A. Paris

ROBERT D. SELLERS
ATTORNEY AT LAW
SUITE 303
401 WASHINGTON AVENUE
TOWSON, MD 21204

ROBERT D. SELLERS
LAURIE ANNE FILIPPI *
*ALSO ADMITTED IN PA

(410) 583-1712
(800) 543-6309
FAX (410) 583-2378

May 1, 1998

Charles Marks, Chairman
County Board of Appeals
For Baltimore County
400 Washington Avenue, Room 49
Towson, Maryland 21204

RE: Case No. 97-513-SPHA
Colonial Stoler Partnership, Petitioner
22 Kingsley Road

Dear Chairman Marks:

The enclosed materials which comply with Board of Appeals Rule 8 will indicate that I am the authorized representative for the Reisterstown - Owings Mills - Glyndon Coordinating Council, Inc. (ROG), and in that capacity have been authorized to appear before the Board at the hearing of the above-mentioned matter for the purpose of stating ROG's position in this matter. I was present at the first day of the hearing on April 24, 1998, but did not have the opportunity to address the Board at that time. Unfortunately, previous commitments will prevent me from appearing on the next scheduled day of the hearing, May 8, 1998.

In order that ROG be given the opportunity to be heard on this matter, I have authorized Mr. Holzer to offer into evidence both the attached Rule 8 materials and this letter which amplifies and explains the position taken by ROG.

As stated in the attached resolution, ROG opposes Petitioner's proposed use of the property for parking in a residential area and also opposes the requested variances from both the residential transition area requirements and the landscape buffers. ROG opposes the use permit because we believe that it will cause adverse impacts to the community such as those outlined in Section 502.1 of the Baltimore County Zoning Regulations. In particular, it is obviously inconsistent with the purposes of the property's current zoning and will be detrimental to the health, safety, or general welfare of the locality involved. In this case, it is the leap-frogging over an existing residential property which causes us the most concern. The request, if granted, would result in an unnecessary and undesirable intrusion into a very quiet residential area.

Variances from the RTA and Landscape Buffer requirements would only compound the problem. There is absolutely no justification for varying any of those standards. They are designed to protect residential communities, such as that of Kingsley Road, from incompatible intrusions. The extreme nature of the set back variances requested would leave the community with very little of the protection which is the stated purpose of the RTA and Landscape Buffer requirements.

Thank you for the opportunity to present ROG's position on this matter.

Yours,

Robert D. Sellers

RDS/as
Enclosure

docs\rog\board.app

Petit 3B (p91)

Kingsley/Montgomery Road Resident's Opposition to Alternate Use of Residence at #22 Kingsley Road.

We, the residents and owners of homes on Kingsley/Montgomery Roads, do hereby notify Len Stoler that we firmly oppose the use of #22 Kingsley Road in any manner inconsistent with the residential zoning the property now holds.

It is totally unacceptable to our community that variances or zoning changes be granted that would allow the parking of commercial vehicles or any other commercial use of this long-established residentially zoned property.

Further intrusion by Len Stoler's operation into our well established residential neighborhood will have a highly negative effect on the health, safety and general welfare of our entire community.

We hereby request that Len Stoler withdraw his zoning use change and variance request and seek appropriate commercial property upon which he may expand his operations.

Printed Name Judith A. Hengst
Signature Judith A. Hengst
Address 25 Kingsley Rd.

Printed Name Deborah A. Paris
Signature Deborah A. Paris
Address 21 Kingsley Rd.

Printed Name Catherine Burkindine
Signature Catherine Burkindine
Address 13 Kingsley Road

Printed Name Arlene Patterson
Signature Arlene Patterson
Address 7 Montgomery Rd Owings Mills Md

Printed Name Robert A Patterson
Signature Robert Patterson
Address 7 Montgomery Rd Owings Mills Md 21117

Kingsley/Montgomery Road Resident's Opposition to Alternate Use of Residence at #22 Kingsley Road.

We, the residents and owners of homes on Kingsley/Montgomery Roads, do hereby notify Len Stoler that we firmly oppose the use of #22 Kingsley Road in any manner inconsistent with the residential zoning the property now holds.

It is totally unacceptable to our community that variances or zoning changes be granted that would allow the parking of commercial vehicles or any other commercial use of this long-established residentially zoned property.

Further intrusion by Len Stoler's operation into our well established residential neighborhood will have a highly negative effect on the health, safety and general welfare of our entire community.

We hereby request that Len Stoler withdraw his zoning use change and variance request and seek appropriate commercial property upon which he may expand his operations.

Printed Name ARLENE CLIFTON
Signature Arlene Clifton
Address 16 KINGSLEY Rd.

Printed Name KEITH B. SCHLOER
Signature Keith B. Schloer
Address 6 Montgomery Rd

Printed Name Carol Schloer
Signature Carol Schloer
Address 6 Montgomery Rd.

Printed Name Wilson Fadely
Signature Wilson Fadely
Address 10534 Martellini Dr. LAUREL, MD

Printed Name CLAUDE HENGST JR.
Signature Claude H Hengst Jr.
Address 25 KINGSLEY RD. OWINGS MILLS MD.

Prot 3B (pg2)

Kingsley/Montgomery Road Resident's Opposition to Alternate Use of Residence at #22 Kingsley Road.

We, the residents and owners of homes on Kingsley/Montgomery Roads, do hereby notify Len Stoler that we firmly oppose the use of #22 Kingsley Road in any manner inconsistent with the residential zoning the property now holds.

It is totally unacceptable to our community that variances or zoning changes be granted that would allow the parking of commercial vehicles or any other commercial use of this long-established residentially zoned property.

Further intrusion by Len Stoler's operation into our well established residential neighborhood will have a highly negative effect on the health, safety and general welfare of our entire community.

We hereby request that Len Stoler withdraw his zoning use change and variance request and seek appropriate commercial property upon which he may expand his operations.

Printed Name BROOKE ROBINSON
Signature
Address 30 KINGSLEY RD. OWINGS MILLS MD 21117

Printed Name DENNIS ROBERT ORR
Signature
Address 28 KINGSLEY RD. OWINGS MILLS, MD 21117

Printed Name Carolyn L. ORR
Signature Carolyn L. Orr
Address 28 Kingsley Rd, O.M. 21117

Printed Name David Orozco
Signature David Orozco
Address 28 Kingsley Rd. 21117

Printed Name MARGARET FADELY
Signature Margaret L. Fadely
Address 26 Kingsley Rd O.M. 21117

Kingsley/Montgomery Road Residents Opposition to Alternate Use of Residence at 22 Kingsley Road.

We, the residents and owners of homes on Kingsley/Montgomery Roads, do hereby notify Len Stoler that we firmly oppose the use of #22 Kingsley Road in any manner inconsistent with the residential zoning the property now holds.

It is totally unacceptable to our community that variances or zoning changes be granted that would allow the parking of commercial vehicles or any other commercial use of this residential property.

Further intrusion by Len Stoler's operation into our well established residential neighborhood will have a highly negative effect on the health, safety and general welfare of our entire community.

We hereby request that Len Stoler withdraw his zoning use change and variance request and seek appropriate commercial property upon which he may expand his operations.

Printed Name Mickey A. Goldberg
Signature Mickey A. Goldberg June 8, 1997
Address 5 Montgomery Road, Owings Mills MD 21117

Printed Name ALICE GOLDBERG
Signature ALICE GOLDBERG June 8, 1997
Address 5 Montgomery Road, Owings Mills, MD 21117

Printed Name DOROTHY V. ISAAC
Signature Dorothy V. Isaac
Address 34 Kingsley Rd.

Printed Name GEORGE W. ISAAC, SR
Signature George W. Isaac Sr (D.V.I) WIFE
Address 34 Kingsley Rd.

Printed Name Valerie L. Robinson
Signature Valerie L. Robinson
Address 30 Kingsley Rd.

(193) Prot 3B

Kingsley/Montgomery Road Resident's Opposition to Alternate Use of Residence at #22 Kingsley Road.

We, the residents and owners of homes on Kingsley/Montgomery Roads, do hereby notify Len Stoler that we firmly oppose the use of #22 Kingsley Road in any manner inconsistent with the residential zoning the property now holds.

It is totally unacceptable to our community that variances or zoning changes be granted that would allow the parking of commercial vehicles or any other commercial use of this long-established residentially zoned property.

Further intrusion by Len Stoler's operation into our well established residential neighborhood will have a highly negative effect on the health, safety and general welfare of our entire community.

We hereby request that Len Stoler withdraw his zoning use change and variance request and seek appropriate commercial property upon which he may expand his operations.

Printed Name: RANDY GOLDBERG
Signature: R. Goldberg
Address: 5 MONTGOMERY ROAD

Printed Name: LORRAINE ZIARA-DENMARK
Signature: Lorraine Ziara-Denmark
Address: 40 KINGSLEY ROAD

Printed Name: WEBSTER E SHIPLEY JR
Signature: Webster E Shipley Jr
Address: 37 KINGSLEY RD OWINGS MILLS MD 21117

Printed Name: MARIE G SHIPLEY
Signature: Marie G Shipley
Address: 37 KINGSLEY RD OWINGS MILLS MD 21117

Printed Name: ANN C. SEAL
Signature: Ann C. Seal
Address: 35 Kingsley Rd

Kingsley/Montgomery Road Resident's Opposition to Alternate Use of Residence at #22 Kingsley Road.

We, the residents and owners of homes on Kingsley/Montgomery Roads, do hereby notify Len Stoler that we firmly oppose the use of #22 Kingsley Road in any manner inconsistent with the residential zoning the property now holds.

It is totally unacceptable to our community that variances or zoning changes be granted that would allow the parking of commercial vehicles or any other commercial use of this long-established residentially zoned property.

Further intrusion by Len Stoler's operation into our well established residential neighborhood will have a highly negative effect on the health, safety and general welfare of our entire community.

We hereby request that Len Stoler withdraw his zoning use change and variance request and seek appropriate commercial property upon which he may expand his operations.

Printed Name: MARION S BOND
Signature: Marion S Bond
Address: 33 Kingsley Rd Owings Mills MD 21117

Printed Name: Mildred A Bond
Signature: Mildred A Bond
Address: 33 Kingsley Rd Owings Mills 21117

Printed Name: Beulah B Bowman
Signature: Beulah B Bowman
Address: 33 Kingsley Rd Owings Mills Md 21117

Printed Name: Ananda Ranasinghe
Signature:
Address: 31 KINGSLEY RD, OWINGS MILLS, MD 21117

Printed Name: MARK SHEPARDSON
Signature:
Address: 29 Kingsley Rd Owings Mills, MD 21117

Pet Exh #14

LEN STOLER, INC.

(ALL DEALERSHIPS)

1997

TITLING & SALES TAXES	Approx. $4,800,000
REAL ESTATE & PERSONAL PROPERTY TAXES	Approx. $ 135,000
PAYROLL INFORMATION	
Total Payroll	Approx. $8,900,000
State Unemployment Taxes	Approx. $ 38,000
State Withholding Taxes	Approx. $ 636,000
Number of Full Time Employees	259
Increase in Number of Full Time Employees Since 1989	140

Cit Exh #15

CURRICULUM VITAE

NORMAN E. GERBER, AICP

35 Pickburn Court Cockeysville, MD 21030

Business
(410)667-4543

Facsimilie
(410)683-4079

PROFESSIONAL EXPERIENCE

Preparation of Master Plans and Land Use Regulations

Prepared comprehensive, policy, small-area, facility and revitalization plans, capital programs and capital budgets.

Prepared zoning and development ordinances, agricultural land preservation and historic district regulations and growth management programs.

Conducted demographic, transportation, economic and market studies.

Implementation of Plans and Programs

Reviewed and approved new development.

Enforced zoning, agricultural and historic preservation regulations.

Negotiated plan and facilities projects with community groups, local and state legislative bodies and private sector business.

Other

Testified before local, state and national boards, commissions and legislatures on the behalf of plans and programs.

Testified before boards of appeals. circuit courts and the U. S. Tax Court of Appeals on land use issues.

Prepared RFP's, grant applications, selected consultants and administered contracts.

WORK EXPERIENCE

2/88 to present — NORMAN E. GERBER, AICP, Cockeysville, MD
Principal
Private practice as planning consultant specializing in land planning, preparation of land use regulations, property evaluation for potential use and expert testimony in zoning and development issues

2/89 to 10/90 — The City of Laurel, Laurel, MD
The Office of Planning and Zoning
Director
Administered the planning program and enforced the zoning code.

9/80 to 1/88 — Baltimore County, Baltimore County Maryland
The Office of Planning and Zoning
Director
Administered the planning program, and the budgets of the Office of Zoning and the Peoples Council. Baltimore County Baltimore County Maryland The Office of Planning and Zoning

1977 to 1980	The Office of Planning and Zoning **Deputy Director** Designed and supervised the planning program.
1956 to 1977	The Office of Planning and Zoning **Various titles** Performed a variety of planning studies and services.

EDUCATION

Morgan State University, Baltimore, MD
Urban & Regional Planning Masters 1975

The Johns Hopkins University, Baltimore, Md
Bachelor of Science in Engineering, 1963
Minor: Civil Engineering

PROFESSIONAL SOCIETIES

1/69 to Present	American Planning Association Past member of the Board of Directors and treasurer of the Maryland Chapter.
1/69 to Present	American Institute of Certified Planners
1975 to 1988	The Maryland Association of County Planning Officials Past President and member of the Board of Directors
2/89 to 10/90	Technical Advisory Committee, the Patuxent River Commission
6/89 to 10/90	The Patuxent River Commission Alternate Member (for the Mayor)

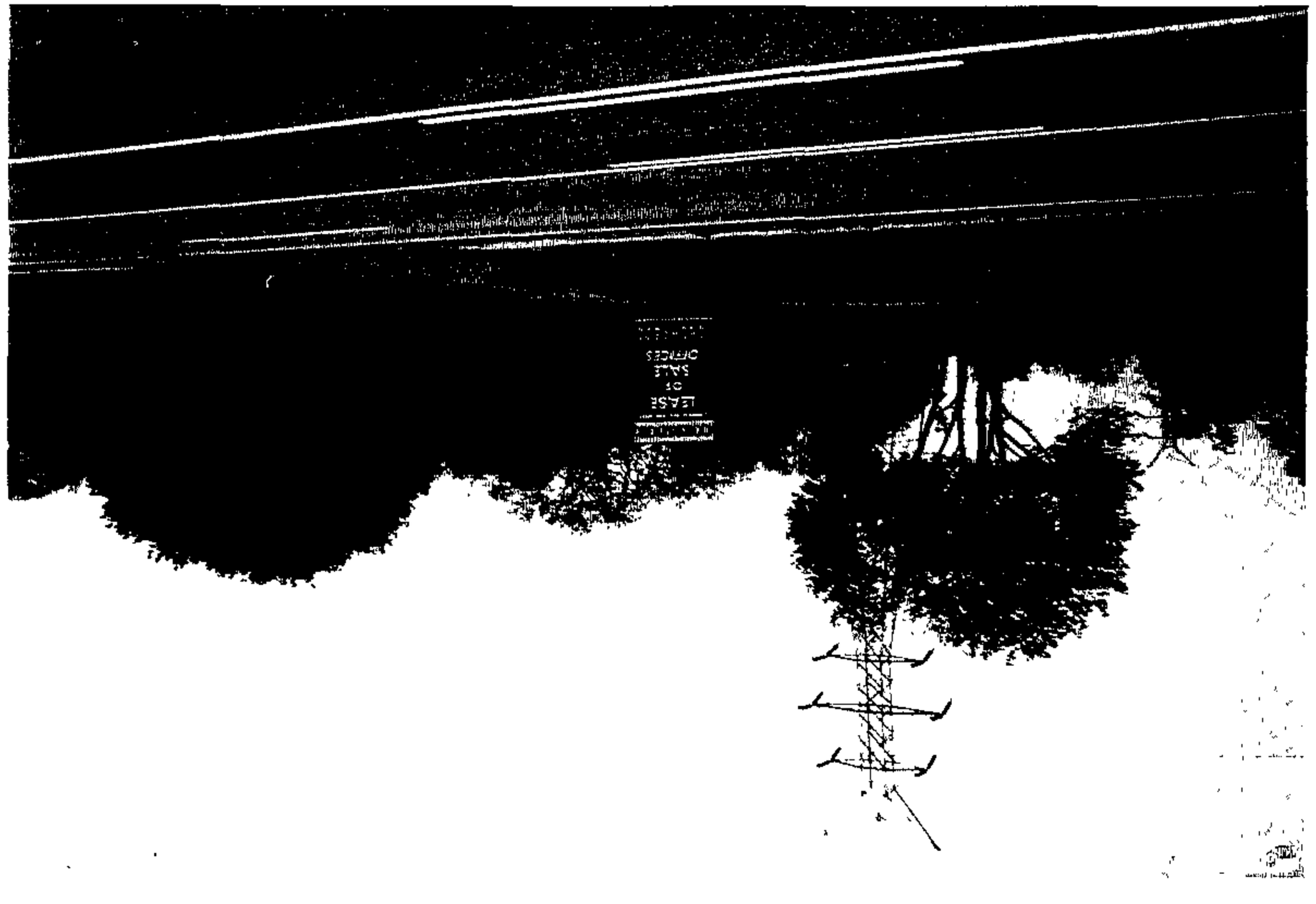
PERSONAL

1985 to 1988	The University of MD at Baltimore Advise on planning program
1992 to Present	The Baltimore County Commission for the Disabled, Vice Chairman of the Transportation Committee Coordinates activities of providers of services.

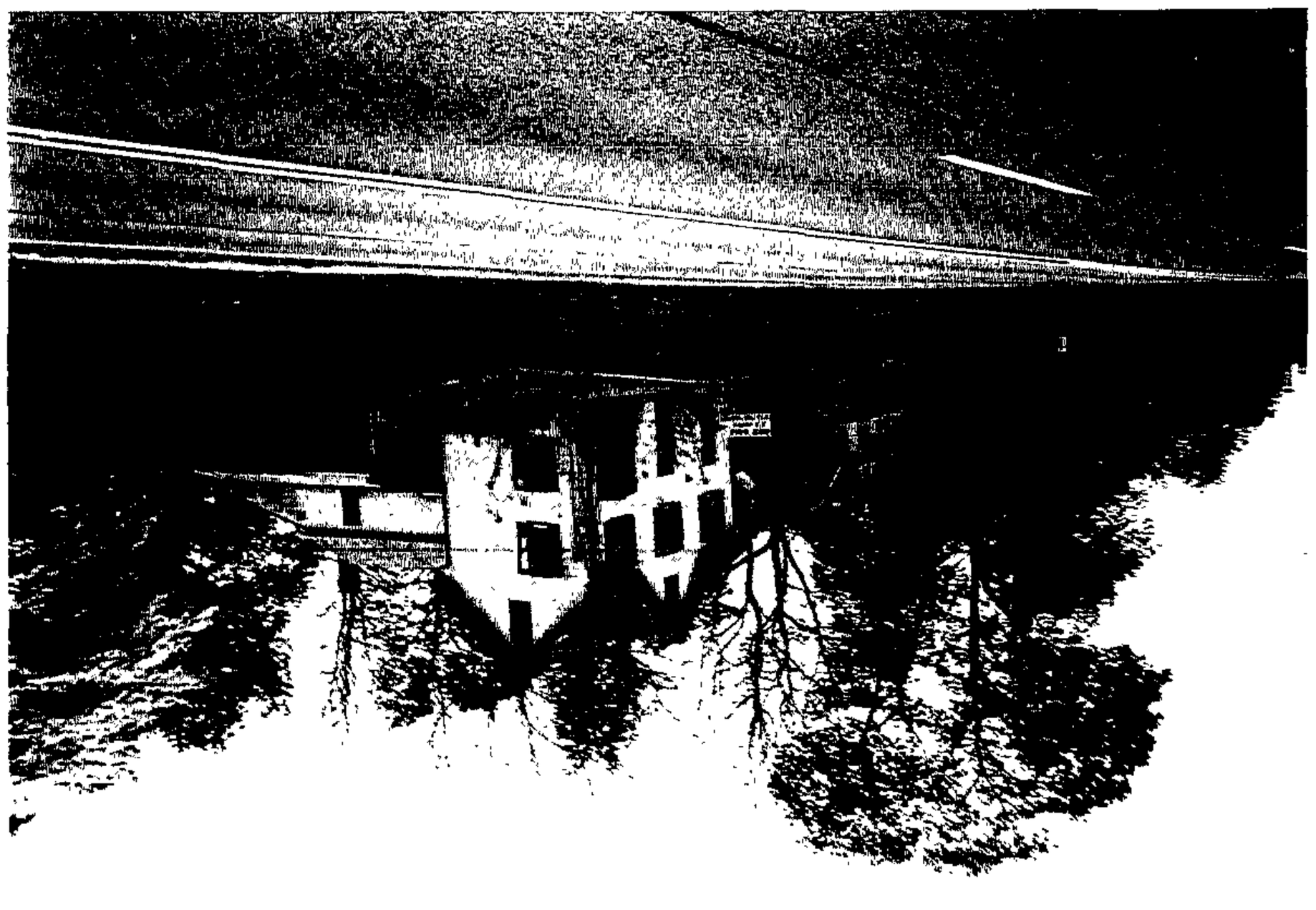
REFERENCES Furnished on request.

5/20/94

Prot Exh #10

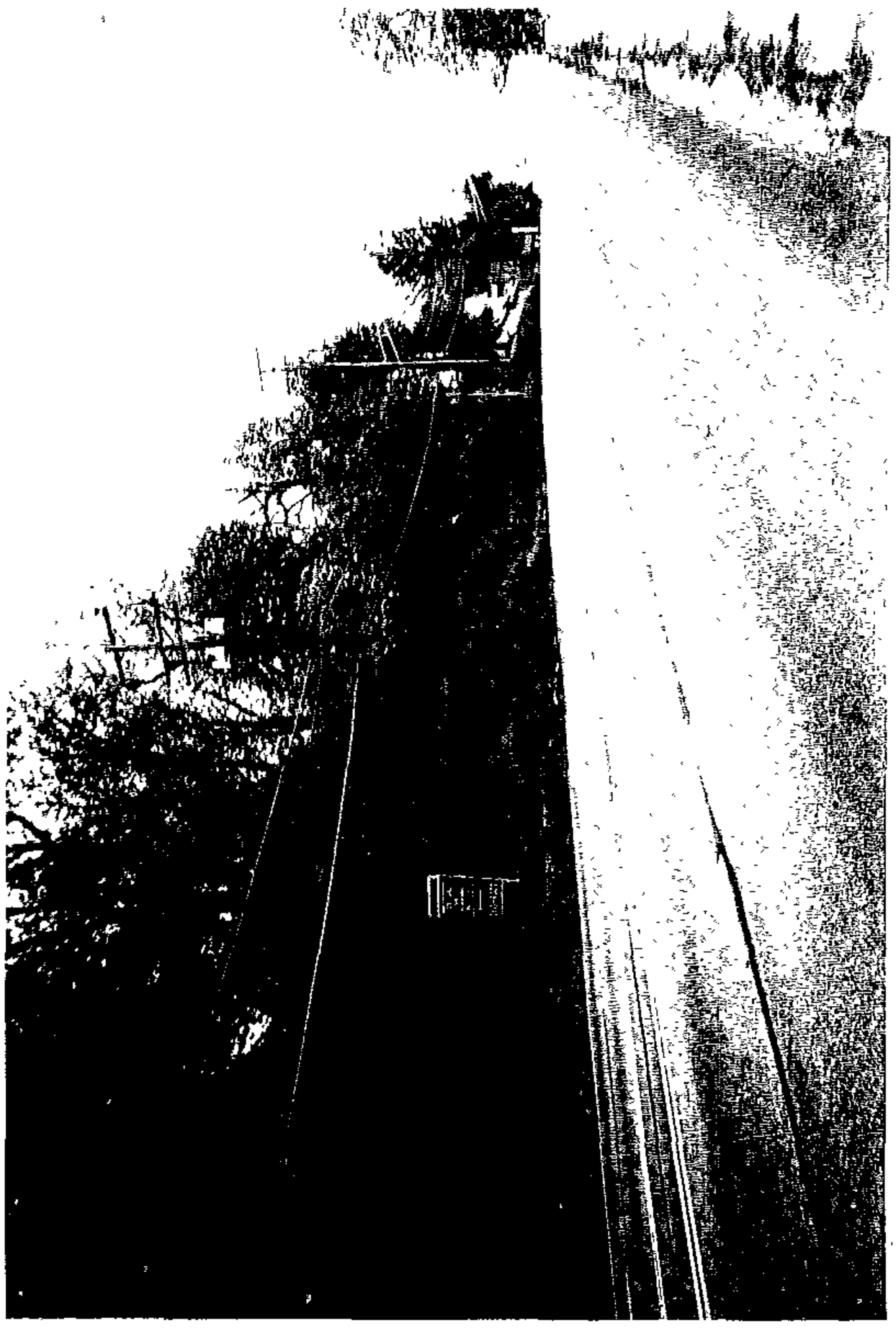


#97-513-SPHA



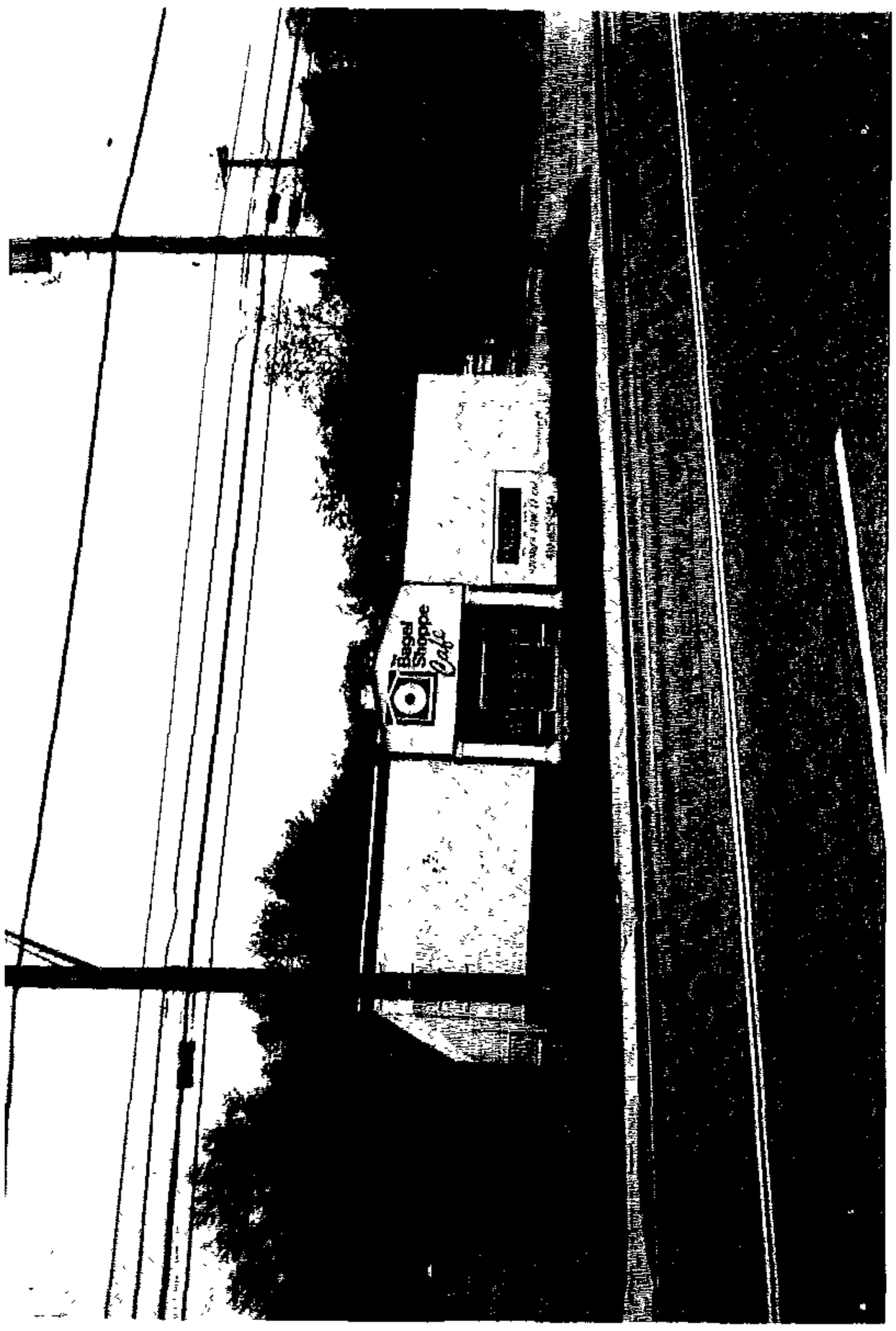
Prot Ex #10

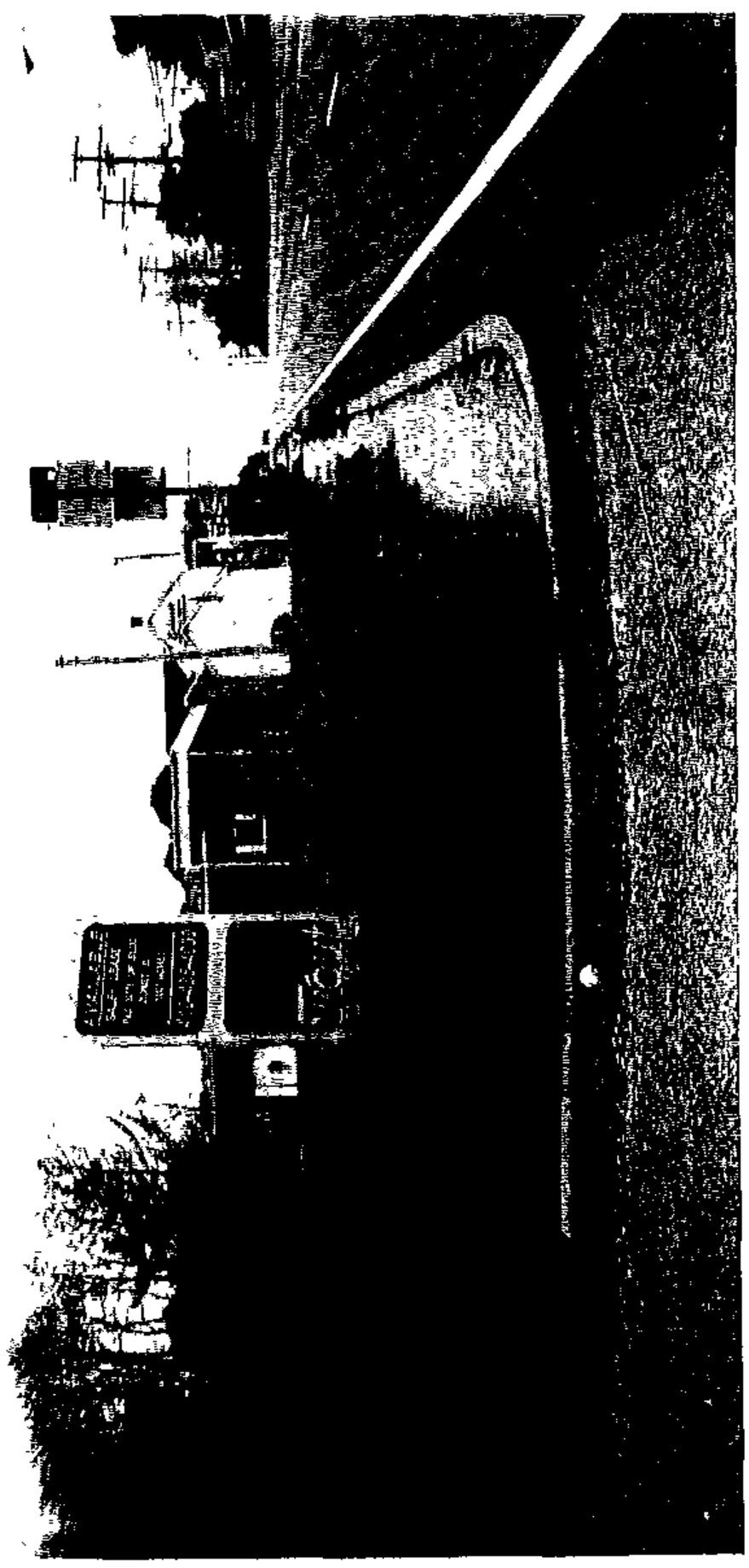
#97-513-SPHA

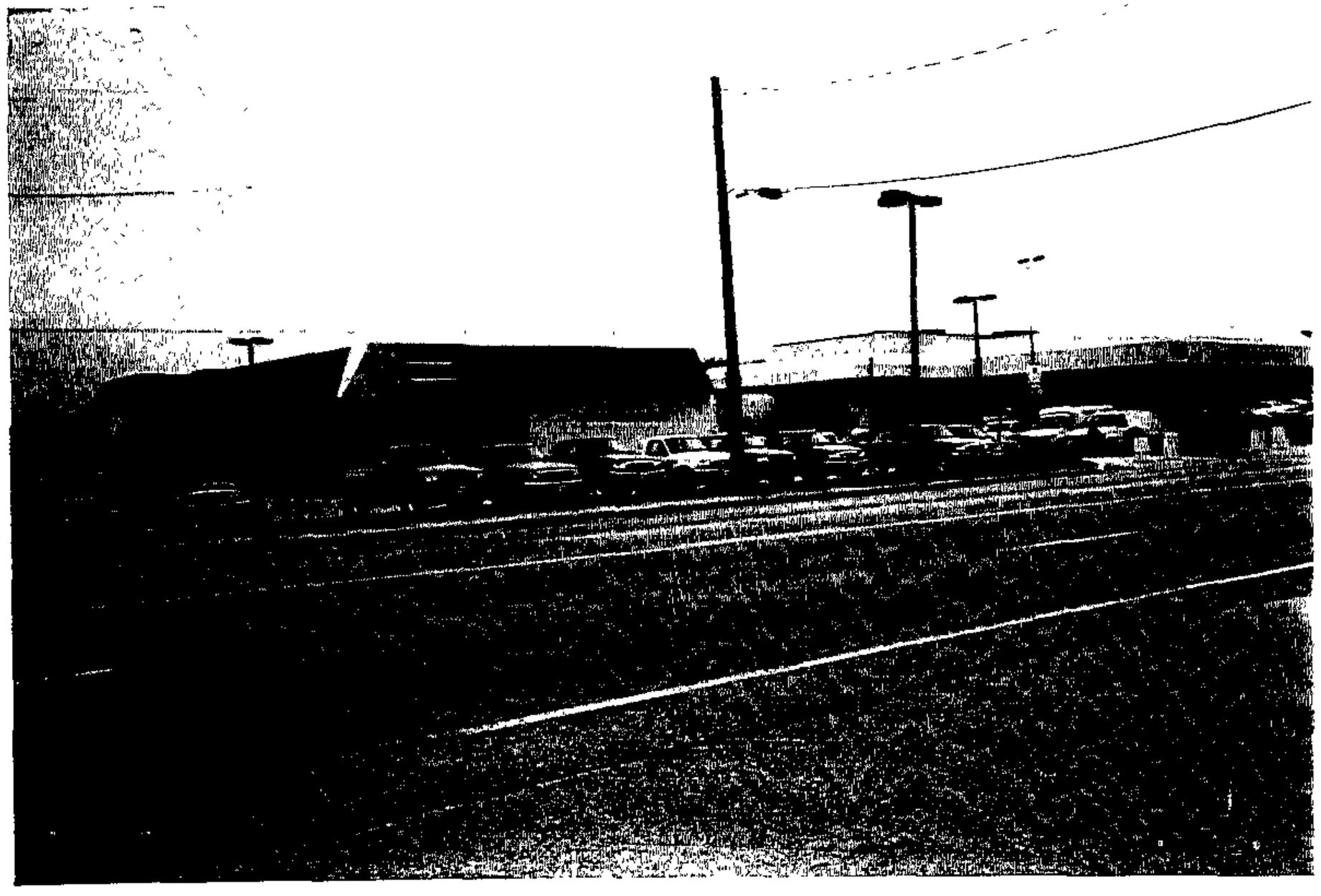


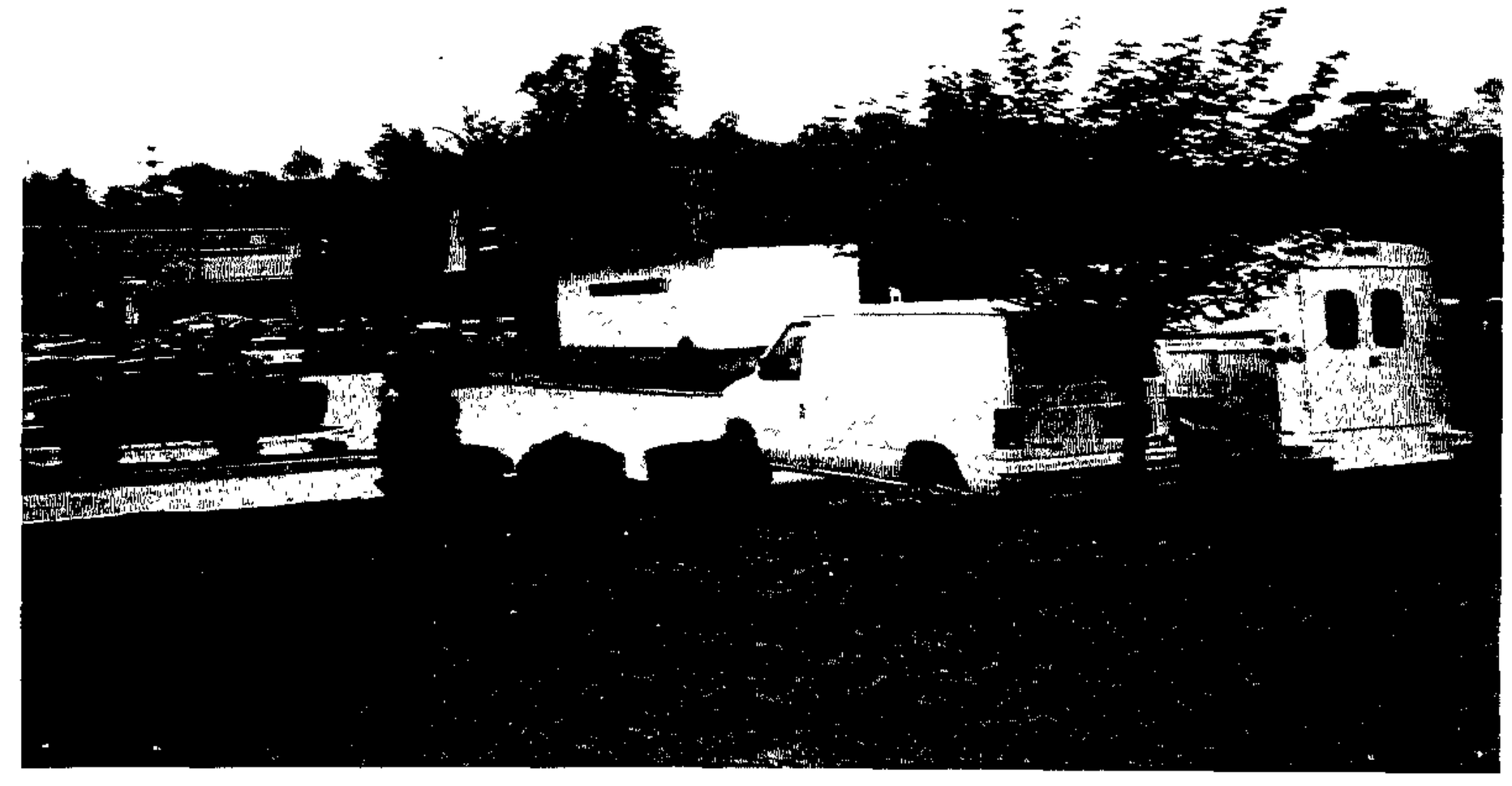
Prot Ex #10

#97-513-SPHA









Pet Ex #10

#97-513-SPHA

USED
CARS
A1
CHRYSLER PLYMOUTH
FORD

Ret N09A

BJA Ret #12A

PORSCHE
AUDI
LEN STOLER
FORD

9B

Set 12B

3A

HERITAGE
USED CARS
HERITAGE
CHEVROLET
HERITAGE
GM
TRUCKS

9C

BOA Pet. 12C

USED
CARS
A1
FRIENDS & FAMILY
OF DAN MORHAIM
SWAT TEAM

LA-Z-BOY
LA-Z-BOY

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **2** Exposure: **2** View: **N/NW**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **1** Exposure: **1** View: **N/NW**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

18 A

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **6** Exposure: **10** View **W**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

38

Pat. Sp. #10

SpaceMaker

PARK PLUS®
CORPORATION

B E N E F I T S

● **Double or Triple Your Parking Space...** SpaceMaker hydraulically lifts a vehicle into the air and locks it firmly and safely in place, doubling or tripling your parking capacity. ● **Airspace Becomes Parking Space...** For use almost anywhere, SpaceMaker is easing the parking crunch worldwide. ● **Typical Installations Include...** Commercial outdoor parking lots and indoor garages, automobile dealers and repair shops, hospitals, restaurants, universities, employee parking, railroads, airports, apartment buildings, private homes or wherever space is a problem. ● **No costly site preparation...** SpaceMaker can be installed on any level surface, indoors or outdoors, with little or no site preparation. ● **Extremely Stable...** SpaceMaker conforms to the rigid U.S. and California earthquake construction codes. ● **Safe, Rugged, Dependable...** SpaceMaker may be installed indoors or outdoors regardless of temperature or climatic conditions. ● **U.S. Designed and Patented...** Manufactured since 1969, thousands of SpaceMakers are in daily operation throughout the world. ● **Parking professionals...** ParkPlus, manufacturer of the SpaceMaker, has been solving its clients' problems with innovative and state of the art mechanical parking systems. ● **Engineering Services** are available as well as ● **Financial Services** including purchase, lease to purchase and rental programs.

SpaceMaker "The Parking Solution"

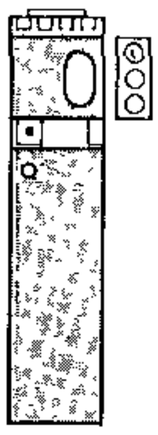
S P E C I F I C A T I O N S

	CODE	DP001/002		DP004/005		TP006		C2000	
	Drawing Code Letter	UNITS OF MEASURE		UNITS OF MEASURE		UNITS OF MEASURE		UNITS OF MEASURE	
PHYSICAL DIMENSIONS		(Ft, In)	(mm)	(Ft, In)	(mm)	(Ft In)	(mm)	(Ft, In)	(mm)
Overall Machine Height	A	7'9" - 9'3"	2400 - 2835	8'1"	2,470	18'5"	5650	10'0"	2,830
Platform Height in Upper Position	B	6'8" max	2070max	6'1" max	1860max	6'10"	2100	5'11" max	1820max
	B	5'8" min	1770min	4'7" min	1430min	13'8"	4200	5'11" min	1820min
		Adjustable						Fixed	
WEIGHT	C	2200lbs	1000kg	2200lbs	1000kg	5510lbs	2500kg	2400lbs	1088kg
WIDTH - Center to Center	D	8'0" - 9'0"	2440 - 2740	7'11"-8'3"	2410-2530	8'5"-9'1"	2580-2780	8'3"	2530
WIDTH - Overall Machine	E	8'6" 9'6"	2620 - 2930	8'4"-8'8"	2560-2680	9'10"	3010	8'8"	2680
LENGTH - Overall Machine	F	10'10"	3300	14'10"	4540	18"	5500	16'0"	4880
LENGTH - Platform	G	12'10"	3930	13'0"-14'10"	4000-4500	13'1"-14'9"	4000-4500	15'6"	4750
WIDTH - PLATFORM	H	7'0"	2150	6'6"-6'10"	1950-2100	6'2"-7'6"	1900-2300	6'10"	2130
						6'10"-8'2"	2100-2500		
Minimum Ceiling Height Required		Measure the height of both vehicles and add 9" or 127mm				Measure the height of three vehicles and add 10"		Measure the height of both vehicles and add 5"	
CERTIFIED LIFTING CAPACITY PER PLATFORM		7000lbs	3175kg	7000lbs	3175kg	10000lbs	4500kg	7000lbs	3175kg
ANTI-SKID PLATFORM		Diamond Plated All Weather Anti-Skid							
TYPE		Four Posts, Cable Operated		Two Posts, Dual Action, Hydraulic Lifting				Four Posts, Dual Action	
Number of Cylinders per Machine		(1) One		(2) Two		(2) Two		(2) Two	
Lifting Device/Platform Suspension		Hydraulic/Cable		Hydraulic/Mechanical					
Platform Locking Mechanism		Safety Cable Locks		Positive Mechanical Lock					
Safety Devices		(2) Two		(3) Three		(6) Six		(4) Four	
Foundation		Mounting Grid		Not Required					
Controls		Manual or Automatic		Manual or Automatic				Automatic	
CERTIFICATIONS: All certified weights have a double safety factor				Tested to 14,000lbs per Platform, Compliance with California Earthquake Code, Compliance with AUBC No 1982 Sec 2311, Wind Load BS-CP3 (Hurricane)					
PATENTS		None		US Patents 4,209,276, 4,772,172, 5,145,304 International European, Japanese, Canadian Worldwide patent pending					

Note: Custom size machines and paint color available by special order One year warranty on parts and labor. ParkPlus reserves the right to change specifications.

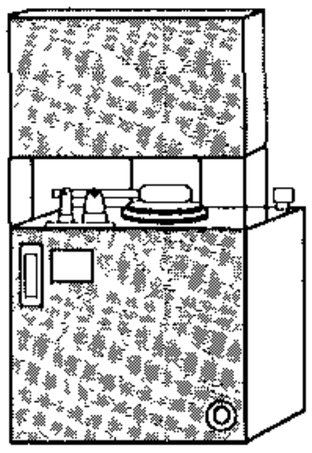
POWER SUPPLY HPS-3

For use with residential models
DP002 and DP005
Operates up to 2 units
Platform Speed 50 Seconds



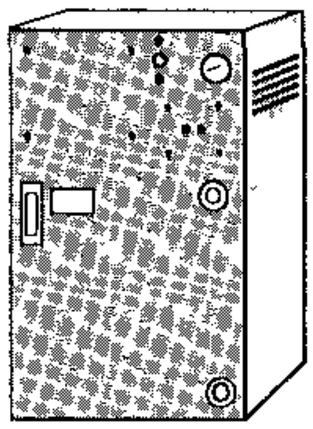
POWER SUPPLY HPS-20

For use with commercial models
DP001 and DP004
Operates up to 15 units
Platform Speed 50 Seconds



POWER SUPPLY HPS-30

For use with commercial models
DP001, DP004 and TP006
Operates up to 30 units
Platform Speed 25 Seconds



E L E C T R I C M O T O R A P P R O V E D F O R O U T D O O R U S E

Horsepower	2 0	Horsepower	2 0-3 0	Horsepower	7 5
Kilowatt	1 5	Kilowatt	1.5-2 2	Kilowatt	5 5
Phase	Single	Phase	Single	Phase	3
Voltage	220/110	Voltage	220/110	Voltage	208/230/380/440
Cycles - Herz	50/60	Cycles - Herz	50/60	Cycles - Herz	50/60
Current - Amperage	11/22	Current - Amperage	11/22	Current - Amperage	11/22
Revolutions per Minute (RPM)	2890/3450	Revolutions per Minute (RPM)	2890/3450	Revolutions per Minute (RPM)	1480/1725

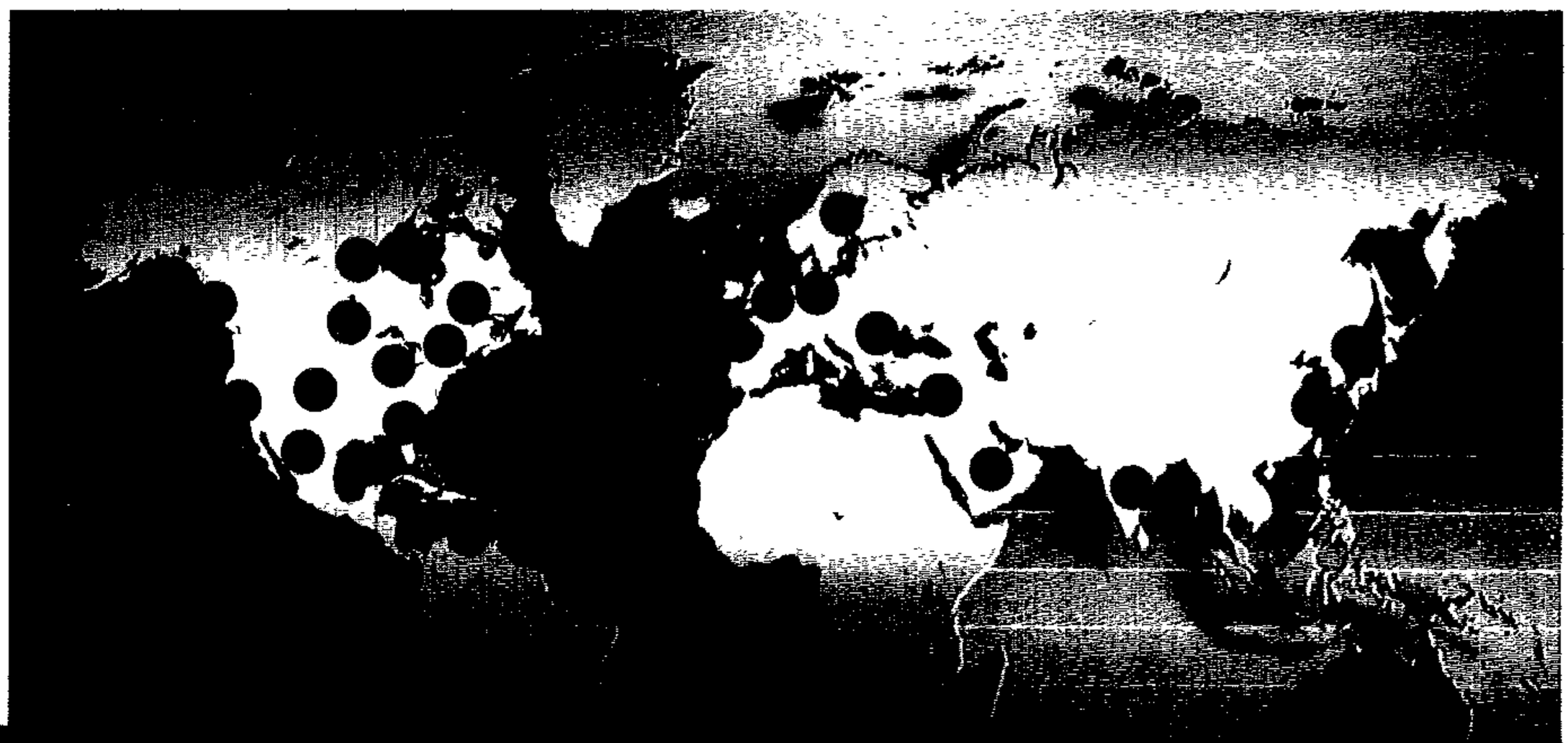
C O M P A N Y P R O F I L E

Since their introduction in 1969, thousands of SpaceMaker parking systems have been installed worldwide. Recognized as a world leader in its field, ParkPlus, manufacturer of the SpaceMaker, has developed into a multinational company, maintaining offices and manufacturing facilities in the United States, Europe and the Far East.

Currently, SpaceMaker design and engineering teams are developing the next generation of parking systems for light aircraft and boats, as well as automobiles and trucks.

The success of our company is based on a single time-tested philosophy: Build a superior product, make it affordable, and maintain the highest degree of customer service and satisfaction.

G L O B A L D I S T R I B U T I O N N E T W O R K



Service Parts Sales & Rental

We service all lift truck brands
410-355-1000

Space Maker Systems of MD., Inc.

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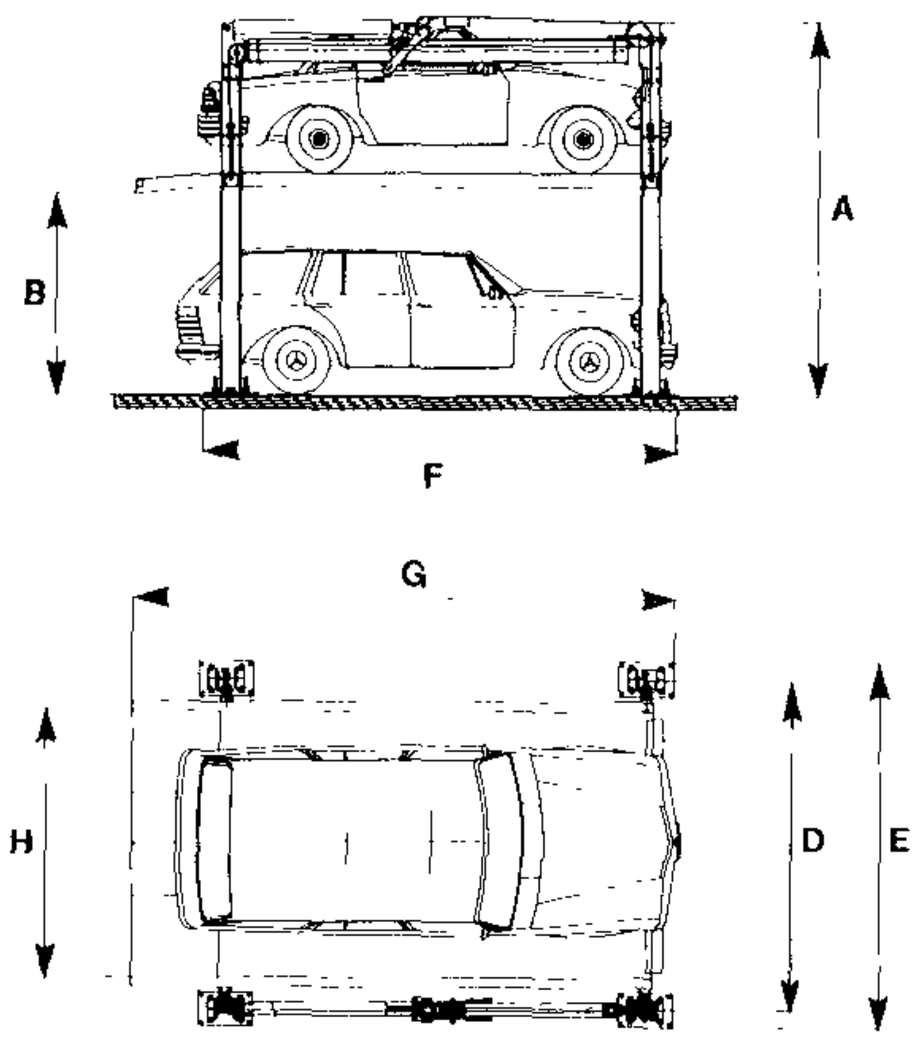
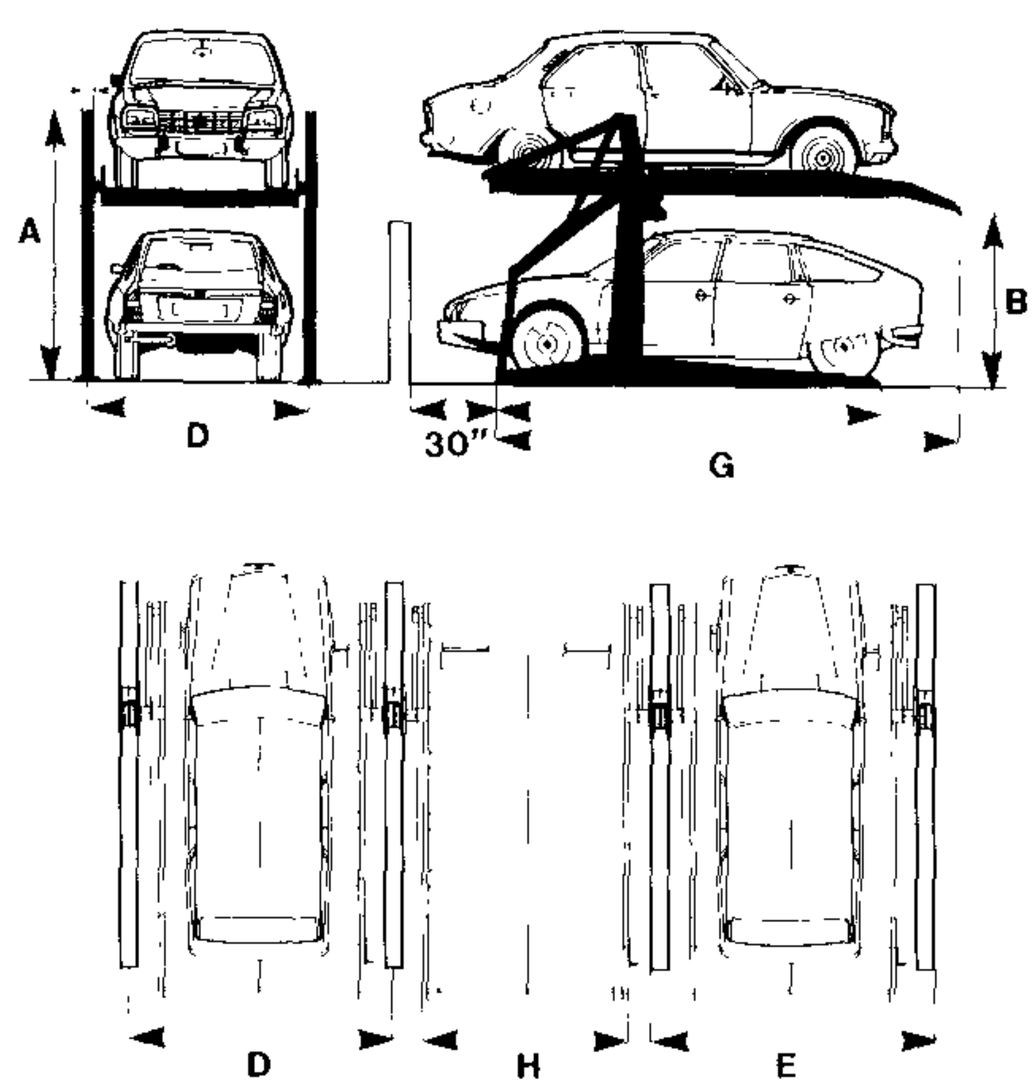
COMMERCIAL DP001 / RESIDENTIAL DP002



COMMERCIAL DP004 / RESIDENTIAL DP005

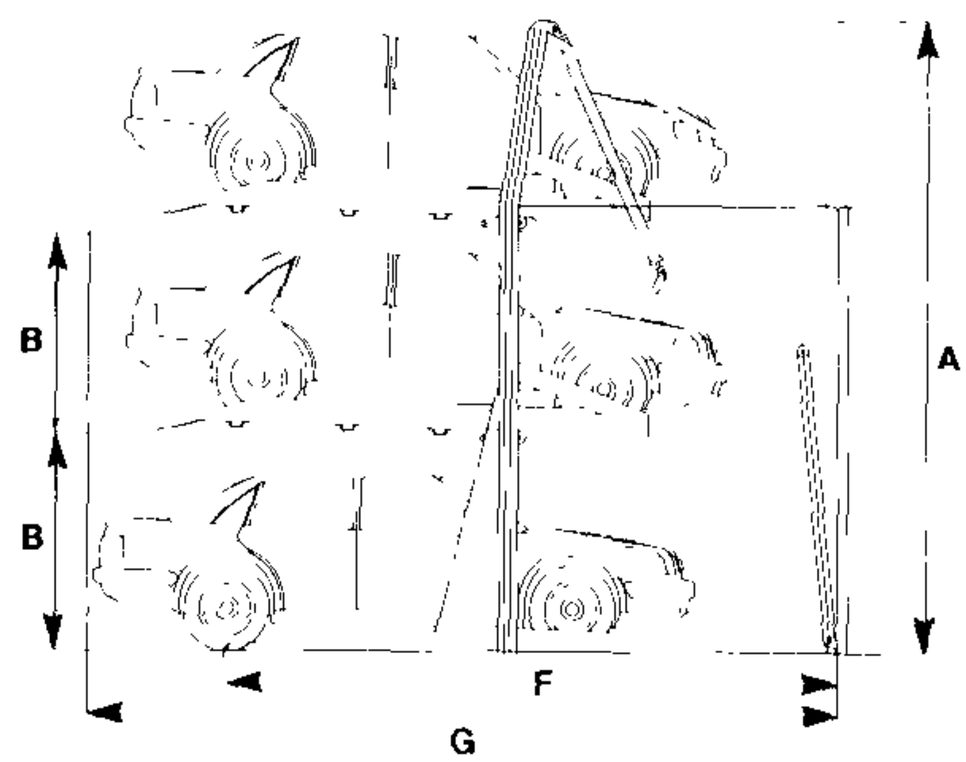


COMMERCIAL TRIPLE TP006

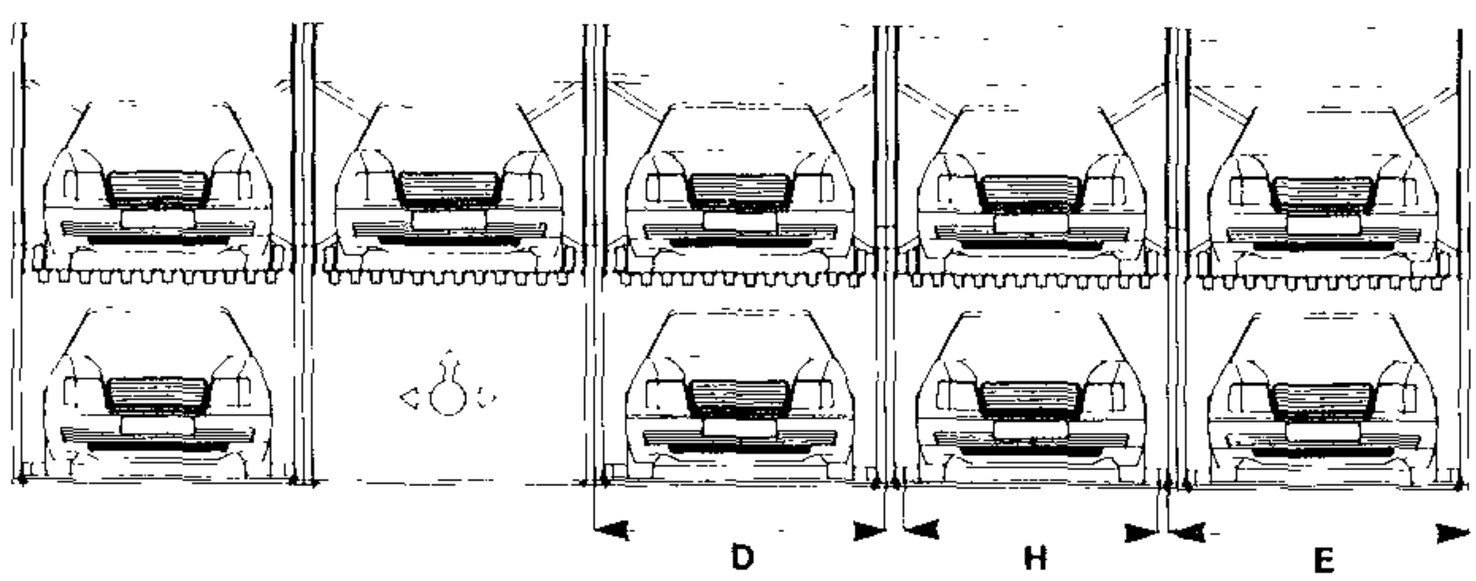
Park three cars in the space of one.

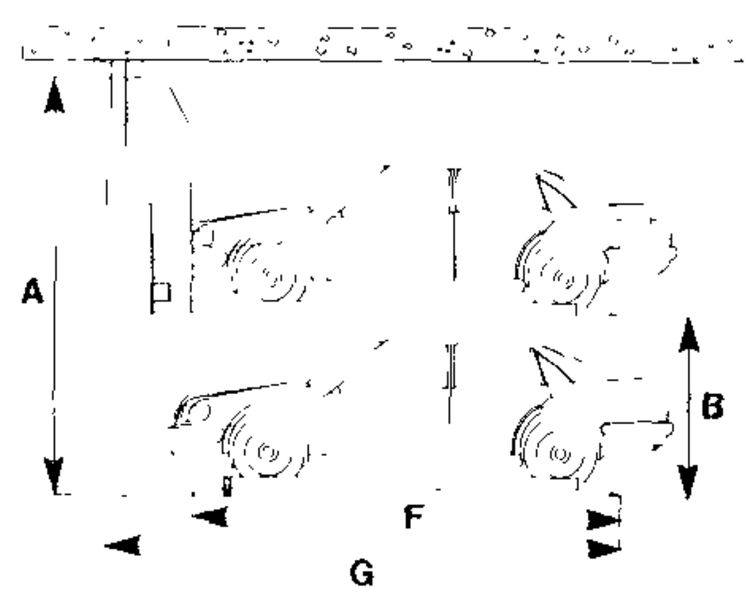
The SpaceMaker TP 006 Triple can be assembled side by side, or in a drive through single line configuration. Troublesome gears, wire and cable have been eliminated in this unique design. Two cylinders directly connected to the platform perform all the work.

Simplicity of design ensures many years of safe and trouble free operation.



C2000 AUTOMATIC COMPUTERIZED SERIES





Available in 1994, the C2000 Series is a computerized parking system which does not require a parking attendant. A vehicle parked on the top platform is retrieved in the following manner: there is always an open space on the lower level. The lower platform automatically moves either left or right placing the open space underneath the vehicle to be lowered. All functions are automatic and may be activated by either credit card, security card or voice control.

COMMERCIAL DOUBLE DP004

- Patented cantilever 2-post design
- No chains, cables or gears to break or malfunction
- 3 positive safety locks
- No ground bolts required
- Conforms to U.S. and California earthquake code
- For use indoors and outdoors - Operates in all weather conditions
- Certified 7,000 lbs. lift capacity - Tested to 14,000 lbs.

RESIDENTIAL DOUBLE DP005

- Patented cantilever 2-post design
- No chains, cables or gears to break or malfunction
- 3 positive safety locks
- No ground bolts required
- Conforms to U.S. and California earthquake code
- For use indoors and outdoors - Operates in all weather conditions
- Certified 7,000 lbs. lift capacity - Tested to 14,000 lbs.
- Built in power supply 110/220 Volts

COMMERCIAL DOUBLE DP001

- 4-post design
- Cable lift suspension
- Ground bolts necessary
- For use indoors and outdoors - Operates in all weather conditions
- Automatic safety cable lock
- Certified 7,000 lbs. lift capacity - Tested to 14,000 lbs.

RESIDENTIAL DOUBLE DP002

- 4-post design
- Cable lift suspension
- Ground bolts necessary
- For use indoors and outdoors - Operates in all weather conditions
- Automatic safety cable lock
- Certified 7,000 lbs. lift capacity - Tested to 14,000 lbs.
- Built in power supply 110/220 Volts

COMMERCIAL TRIPLE TP006

- Park three cars in the space of one
- Patented cantilever 2-post design
- No chains, cables or gears to break or malfunction
- 6 safety locks
- Conforms to U.S. and California earthquake code
- For use indoors and outdoors - Operates in all weather conditions
- Certified 10,000 lbs. lift capacity - Tested to 14,000 lbs.

AUTOMATIC COMPUTERIZED DOUBLE C2000

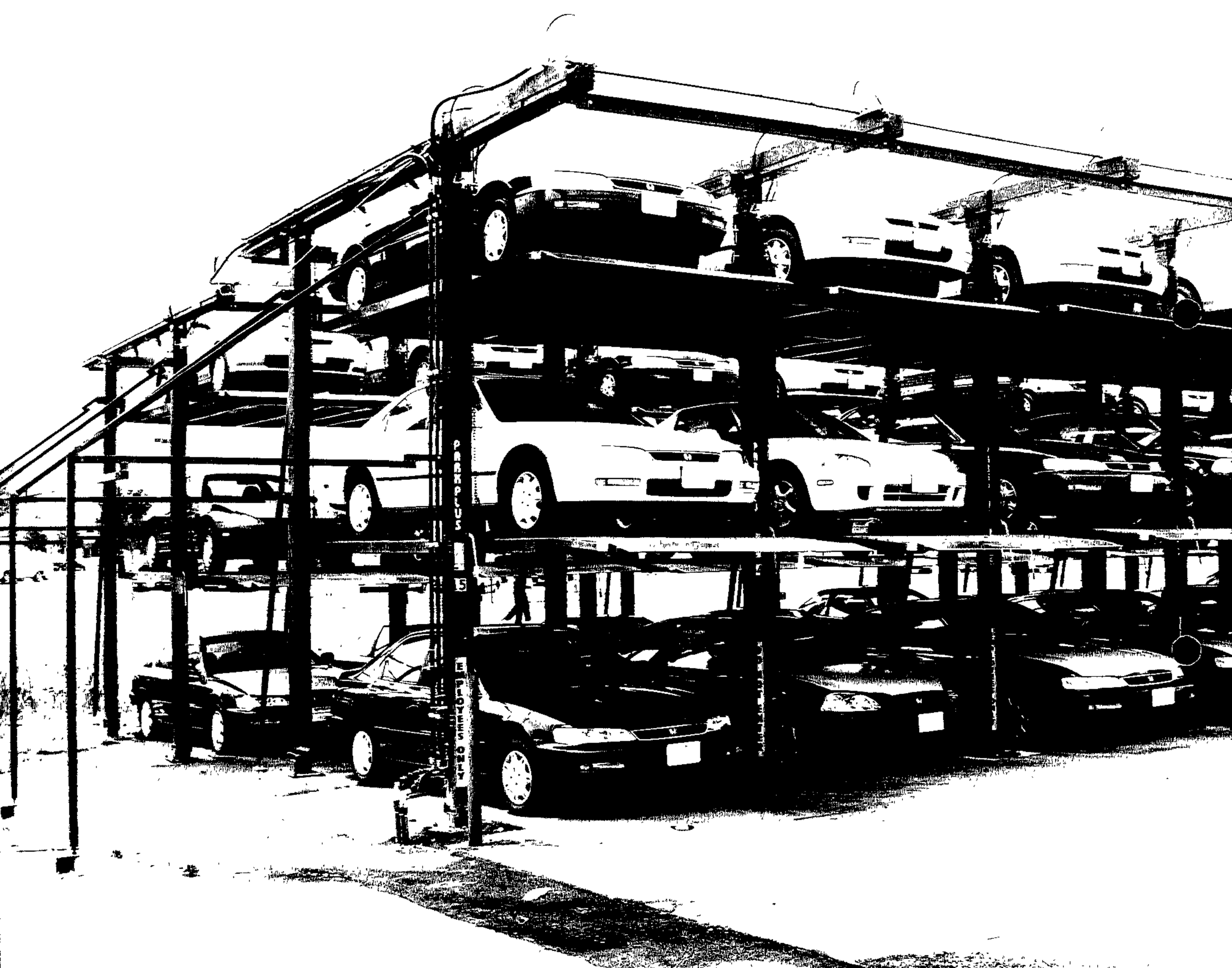
- Patented cantilever 2-post design
- Incorporates unique 2 platform design
- Fully computerized - No parking attendant necessary
- System activated by credit card, security card or voice control
- Certified 7,000 lbs. lift capacity - Tested to 14,000 lbs.

Date: 6-17-97 Time: 2PM Roll: 1
Shot: 02 Exposure: 3 View NW
Description: NORTHWEST HONDA
FILE: STOLER

NEWMAN VIDEO & PHOTOGRAPHIC
SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

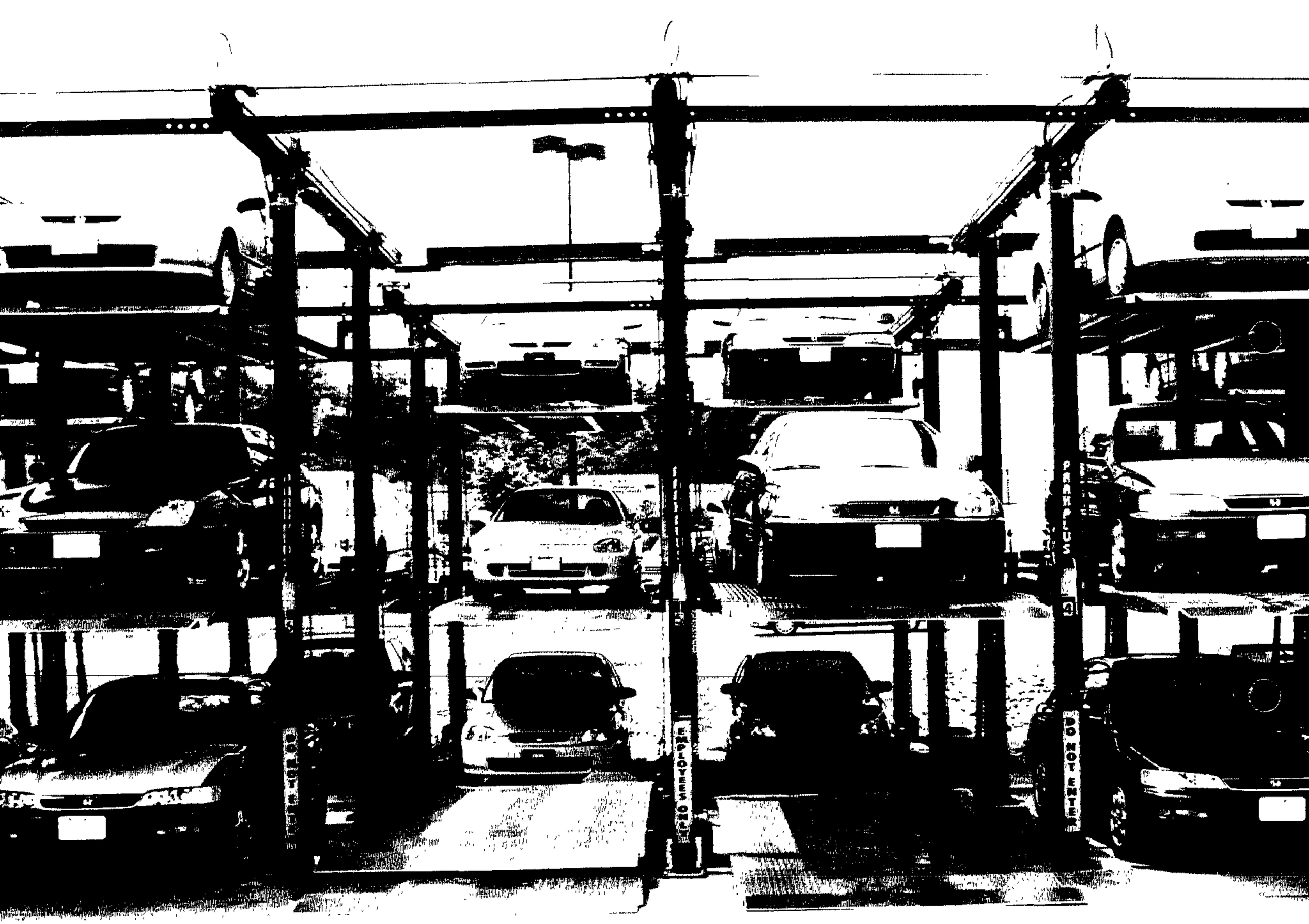
Date: 6-17-97 Time: 2PM Roll: 1
Shot: 03 Exposure: 4 View: W
Description: NORTHWEST HONDA
FILE: STOLER

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525


PARKPLUS
EMPLOYEES ONLY

Date: 6-17-97 Time: 2 PM Roll: 1
Shot: 04 Exposure: 7 View: W
Description: NORTHWEST HONDA
FILE: STOLER

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice Fax (410) 833-4525


EMPLOYEES ONLY
DO NOT ENTER

Date: 6-17-97 Time: 2:1m Roll: 1
Shot: 05 Exposure: 8 View: SW
Description: NORTHWEST HONDA
FILE: STOLER

NEWMAN VIDEO & PHOTOGRAPHIC
SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

EMPLOYEES ONLY
DO NOT ENT

Date: 6-17-97 Time: 2PM Roll: 1
Shot: 06 Exposure: 9 View: S
Description: NORTHWEST HONDA
FILE: STOLER

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

DO NOT E

EMPLOYEES ONLY

Date: 6-17-97 Time: 2PM Roll: 1
Shot: 07 Exposure: 10 View: SE
Description: NORTHWEST HONDA
FILE: STOLER

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
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Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: 6-17-97 Time: 2PM Roll: 1
Shot: 01 Exposure: 1 View: E
Description: NORTHWEST HONDA
FILE: STOLER

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Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **8** Exposure: **12** View: **S**
Description:
STOLER - Kingsley Rd.

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Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **7** Exposure: **11** View: **SW**
Description:
STOLER - Kingsley Rd.

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11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **3** Exposure: **4** View: **NW**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **4** Exposure: **6** View: **W/NW**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **5** Exposure: **9** View: **W**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **9** Exposure: **13** View: **W**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **10** Exposure: **14** View: S
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **11** Exposure: **16** View: **E**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **12** Exposure: **17** View: **NE**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **13** Exposure: **18** View: **SE**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time. **10AM** Roll: **01**
Shot: **14** Exposure: **19** View: **E**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **15** Exposure: **20** View: **S**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **16** Exposure: **21** View: **W**
Description:
STOLER - Kingsley Rd.

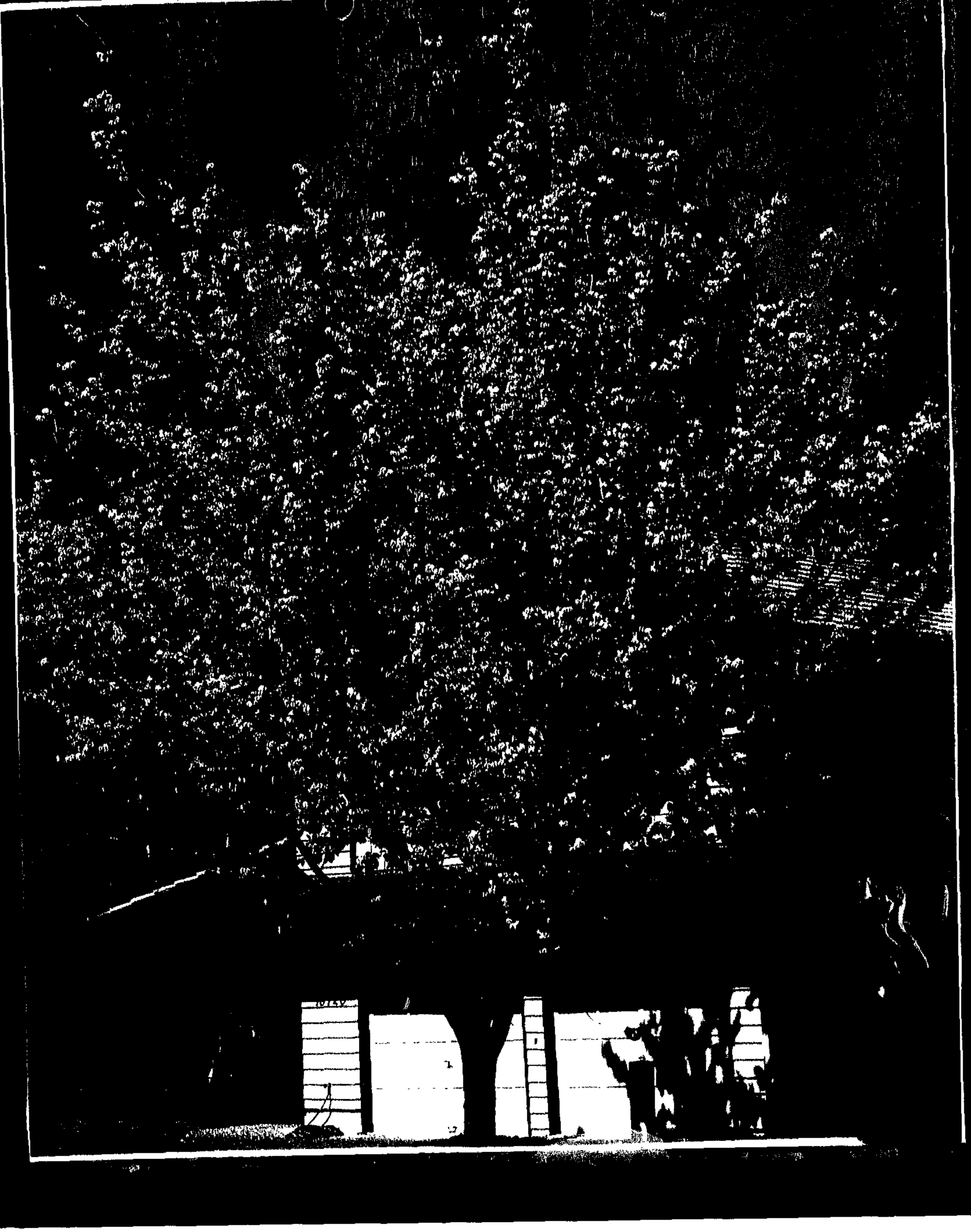
NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **17** Exposure: **22** View: **E/NE**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525

Date: **02-25-97** Time: **10AM** Roll: **01**
Shot: **18** Exposure: **23** View: **NE**
Description:
STOLER - Kingsley Rd.

NEWMAN VIDEO & PHOTOGRAPHIC SERVICES
11811 Maren Court
Reisterstown, MD 21136
Voice/Fax (410) 833-4525



PET. EKH. # 5
CBA

Prunus x yedoensis
Yoshino Cherry

97-513-SPHA
STOLER

Habit: Rounded

Mature Size: 40' - 60' Height

Growth Rate: Rapid

Flowering: March - April

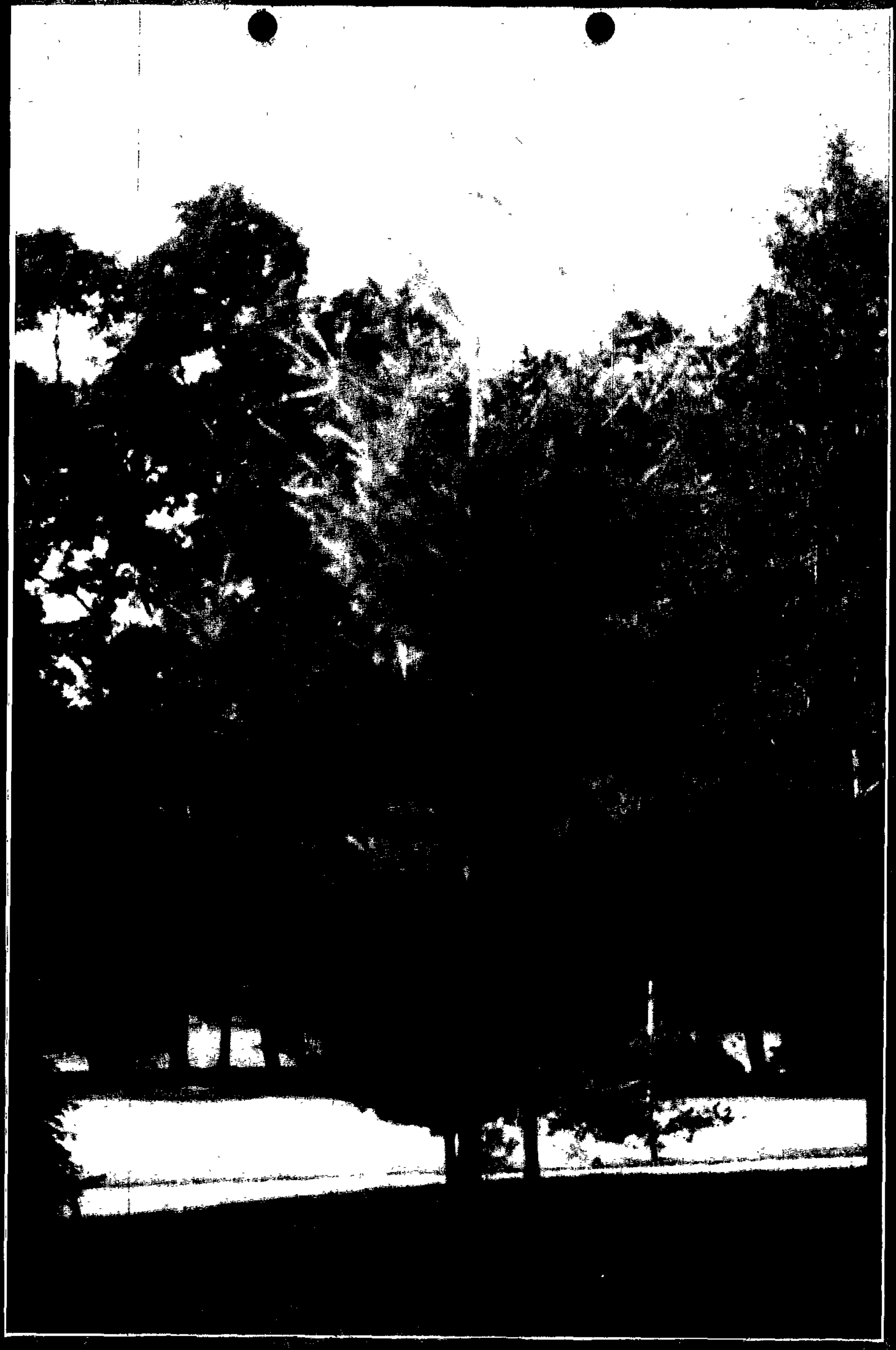
Picea abies
Norway Spruce

Habit: Pyramidal

Mature Size: 40' - 60' Height

Growth Rate: Medium to Fast

Colonial Stoke
97-513 SPIA



Pinus strobus
Eastern White Pine

Habit: Pyramidal

Mature Size: 50' - 75' Height

Growth Rate: Rapid

Platanus x acerifolia 'Bloodgood'
London Planetree

Habit: Pyramidal in Youth, Large & open when Mature

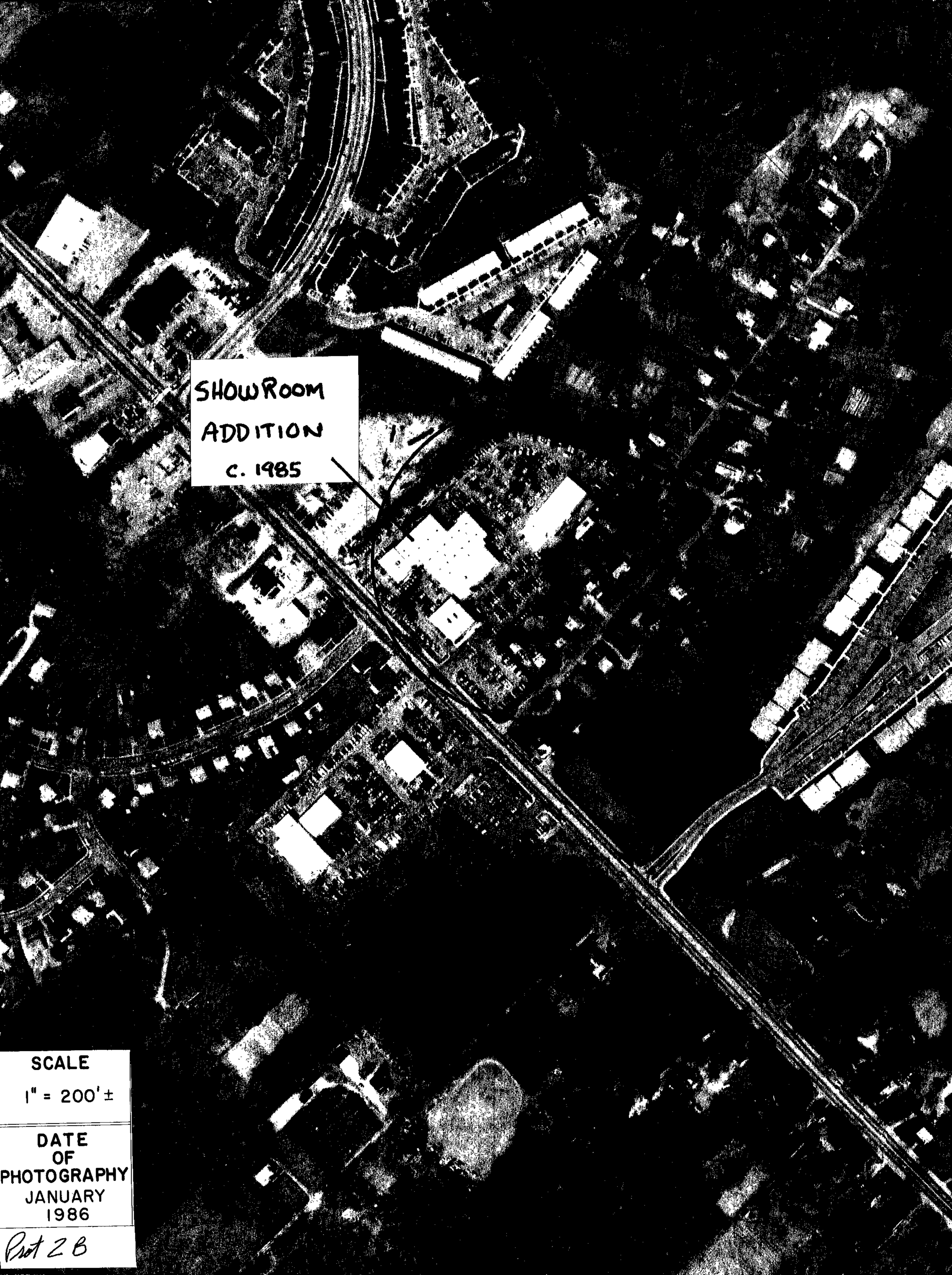
Mature Size: 65' - 80' Height

Growth Rate: Medium to Fast

DATE OF PHOTO 1982

Proj# 2A

AERIAL DATA R
PENNSA
RICHMOND,



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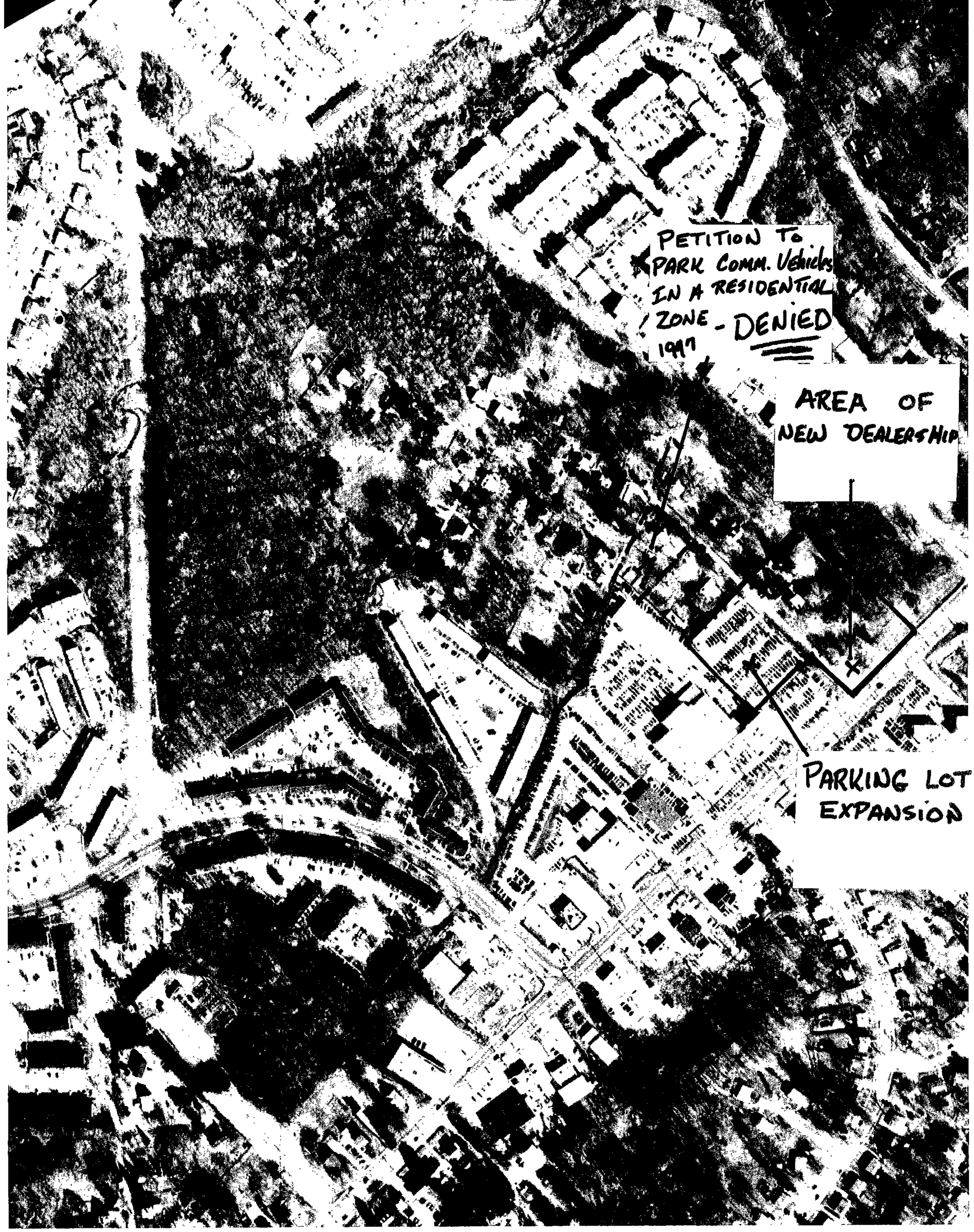
1986

Prot 2B



Prot #2C

DATE OF PHOTO 1996

SHOWS AREA OF 1988 COMMERCIAL REZONING AND RESULTING PARKING LOT EXPANSION AND AREA FOR NEW DEALERSHIP. - ALSO SHOWS AREA PETITIONED TO PARK COMM. VEHICLES IN A RESIDENTIAL ZONE

IN THE MATTER OF THE	*	BEFORE THE
APPLICATION OF	*	COUNTY BOARD OF APPEALS
COLONIAL STOLER PARTNERSHIP	*	OF
(Petitioner) FOR SPECIAL	*	BALTIMORE COUNTY
HEARING AND VARIANCE ON THE	*	Case No. 97-513-SPHA
NW/S KINGSLEY ROAD, 650' NE	*	May 8, 1998
OF C/L REISTERSTOWN ROAD	*	
(22 Kingsley Road)	*	
4TH ELECTION DISTRICT	*	
3RD COUNCILMANIC DISTRICT	*	

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 401 Washington Avenue, Towson, Maryland 21204, at 10 o'clock a.m., May 8, 1998.

* * * * *

Reported by:

C.E. Peatt

1 BOARD MEMBERS:
2
3 CHARLES L. MARKS, Panel Chairman
4 HARRY E. BUCHHEISTER, JR.
5 DONNA FELLING
6
7 APPEARANCES:
MARVIN I. SINGER, Esquire
8 On behalf of Petitioner/Appellant
9 J. CARROLL HOLZER, Esquire
10 On behalf of Protestants
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1 P R O C E E D I N G S
2 THE CHAIRMAN: On the record. The County Board
3 of Appeals for Baltimore County is now in its regularly
4 scheduled session for today, Friday, May 8th, at 10 a.m.,
5 to hear the continuing matter of Colonial Stoler
6 Partnership, 22 Kingsley Road, in which a petition for
7 special hearing was denied, and a variance which was also
8 denied.
9 We're continued from day one. For the record,
10 will counsel identify themselves, please.
11 MR. SINGER: For the record, Marvin I. Singer,
12 for the Petitioner.
13 MR. HOLZER: J. Carroll Holzer, representing the
14 protestants.
15 THE CHAIRMAN: I think on the end of day one, we
16 had heard Mrs. Fadely, and we can continue with the
17 protestants' case.
18 MR. HOLZER: Mr. Hughey.
19 W I L L I A M H U G H E Y,
20 having been called as witness, was duly sworn and
21 testified as follows:

1 DIRECT EXAMINATION
2 BY MR. HOLZER:
3 Q. Mr. Hughey, would you state your present place of
4 employment, please.
5 A. I work for the Baltimore County Office of
6 Planning, and I am the community planner for the 3rd
7 Councilmanic District.
8 Q. Does that 3rd Councilmanic District include the
9 area of Kingsley Road off of Reisterstown Road, which is
10 the general area of this subject request?
11 A. Yes, it does.
12 Q. In your responsibility at they planning office,
13 are part of your responsibilities to review special
14 exceptions and variance requests to determine what the
15 planning office's position is in regard to these various
16 zoning petitions?
17 A. Yes.
18 Q. Did you review the Colonial Stoler Partnership
19 request for variance and a special exception in this
20 particular case?
21 A. Yes.

1 Q. Could you give us some history of the zoning
2 background for this property in this general area?
3 A. The zoning history that I am aware of goes back
4 to -- I know there's probably been issues prior to it, but
5 I am familiar with the 1988 comprehensive rezoning when
6 additional commercial zoning was added along the front
7 part of Kingsley Road and the acreage to the south of
8 Kingsley Road. Other than that rezoning, the only other
9 history I'm aware of is the sign variance from about a
10 year ago and the petition to park commercially in a
11 residential zone.
12 Q. Which is this petition?
13 A. Yes.
14 Q. Do you have any exhibits or aerial photos which
15 would show the progression of development in this general
16 area that the office has?
17 A. Yes.
18 Q. Could you produce them, please. Let me show them
19 to counsel. Let's just identify them in the order you like
20 to think.
21 A. I have three aerial photographs. These are all

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1 200 scale. And I have a base line photo which is CIRCA,
2 1982, which shows within the circle the Stoler dealership.
3 Q. It would also show Reisterstown Road and the
4 Kingsley intersection?
5 A. That is correct.
6 Q. Why don't you identify the others?
7 A. The second photograph is an aerial photograph
8 dated 1986 and it shows some additions to the footprint
9 that was in the first photograph.
10 Q. All right. The third?
11 A. The third aerial photograph is the most recent,
12 dated 1996, and it shows the 1986 -- the area of the 1986
13 rezoning and the consequential parking lot expansion and
14 also the area where the new Pontiac dealership is located,
15 plus the area of the petition for commercial parking in a
16 residential zone.
17 MR. HOLZER: Thank you. If there's no
18 objection, I would --
19 MR. SINGER: I have no objection.
20 MR. HOLZER: I think I already have Protestants'
21 No. 1, so the 1982 photograph would be marked as

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1 Protestants' No. 2.
2 THE CHAIRMAN: Why don't you do 2A, B and C, and
3 the witness can accordingly testify to each one.
4 MR. HOLZER: I'll mark the '82 photo as 2A, the
5 '86 photo as 2B, and the 1996 as Protestants' 2C.
6 Q. Mr. Hughey, if you could, for the benefit of the
7 Board, use these photographs and tell the Board of the
8 history of the site.
9 A. Well, I thought these three photographs would
10 show the progression or incremental expansion of the
11 dealership.
12 The 1982 photograph I used simply as a base line
13 photo to show the existing conditions in relation to the
14 next two photographs.
15 Q. The circle would include the Kingsley Road
16 intersection with Reisterstown Road and basically includes
17 the dog-leg of Kingsley Road and the subject site within
18 the circle?
19 A. That is correct. The second photograph is
20 Exhibit 2B, and this shows, once again around 1985, the
21 showroom expansion within the commercial zone, but it does

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1 show the expansion to the north.
2 Q. It would also still show the dog-leg of Kingsley
3 Road and the subject site as well?
4 A. Yes.
5 Q. The third photo?
6 A. The third photograph, dated 1996, does show the
7 area that was rezoned to commercial in 1988. And it shows
8 the consequential parking lot expansion and the area that
9 is now used by the new Pontiac dealership.
10 And if you look at the photographs in relation to
11 one another, you can see that certain homes were taken as
12 part of this incremental expansion, the homes of the
13 Kingsley Road Community Association.
14 Q. Within the L-shaped block on Exhibit 2C, the
15 parking lot expansion would be related to the Stoler
16 operation on the north side of Kingsley and then that
17 portion of it on the south side would be the Pontiac
18 dealership?
19 A. Yes.
20 Q. Now, having examined the zoning history for the
21 subject site, when the request by Colonial Stoler

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1 Partnership for a variance and special exception was
2 received in your office, what, if any, analysis did you
3 and your staff perform?
4 A. Well, we did do a zoning history which is
5 fundamental to most of our reviews and we also -- well, I
6 had two separate site visits. I did meet with the
7 community association to get a better perspective, and we
8 drafted our staff recommendation.
9 Q. Was that recommendation dated June 10 of 1997?
10 A. Yes.
11 MR. HOLZER: I believe, members of the Board,
12 that's already in in the case below, if I could look at
13 the record.
14 A. I have a copy.
15 MR. HOLZER: Let me show it to counsel.
16 MR. SINGER: I have a copy of the record. June
17 10, 1997?
18 MR. HOLZER: Yes.
19 Q. Could you advise the Board what your staff
20 analysis was and the summary of the recommendation?
21 A. The Baltimore County Office of Planning

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1 recommended denial of the petition because we firmly
2 believed that the request was a significant commercial
3 intrusion into the small, but stable Kingsley Road
4 community.
5 Q. Could you tell us, first of all, the variance
6 request for the RTA requirement, could you tell us what
7 the RTA's are and why generally they were established and
8 what they're to do with them?
9 A. The RTA, known as the residential transition
10 area, was to provide a buffer/separation from dissimilar
11 land use in order to protect the, most probably, the
12 preexisting use from the new use.
13 Q. In the request of Colonial Stoler here for a
14 variance, there were two variances requested, were there
15 not? Two variances from the RTA setback as well as the
16 landscaping?
17 A. That is correct.
18 Q. What was your thinking, the planning staff's
19 thinking, in regard to that request?
20 A. That there was nothing irregular or unique about
21 that particular lot that should warrant RTA relief; that

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1 it was necessary the full RTA requirements would have at
2 the very least been necessary.
3 Q. Turning to this special exception request for
4 parking in the residential zone, the staff, I am sure, is
5 familiar with the 502.1 criteria the Board must apply.
6 Did you apply those same land analyses to your
7 determination which resulted in your conclusion?
8 A. Yes.
9 Q. If you could just sort of walk through, you don't
10 have to submit them all if they are not relevant, but what
11 was your thinking?
12 A. That if the parking was permitted at that
13 location, it would have a detrimental effect on the
14 Kingsley Road Community Association, would destablilize
15 the community, and possibly affect the values of the
16 property.
17 And we did notice that there was -- there were
18 renovations going on in the existing community, new
19 residents were moving into the community, and that it was
20 a viable community, and we didn't want to risk losing
21 that.

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1 Q. The Schultz v. Pritts test, and other cases which
2 I sure you're familiar with, talk about the impact on this
3 particular community must be different than the general
4 impact on similar properties in the same zone.
5 Could you share with us your thinking in regard
6 to how the impact of this is different on the Kingsley
7 Road community versus, you know, another property of the
8 same zone?
9 A. I thought personally, from a a community planning
10 perspective, this was a classic situation where this was a
11 unique location, a different location than anywhere else
12 in a particular zone.
13 This particular location, if converted to a
14 parking lot, would sever the community, and that unto
15 itself made it a unique location.
16 Q. You had the benefit of sitting and listening to
17 the testimony of Mr. Gerber two weeks ago when he had the
18 opportunity to testify on behalf of the petitioner.
19 In his analysis and discussion, he spent a
20 significant portion of time talking about this general
21 area being a growth area, and the designation of Owings

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1 Mills generally as a growth area.
2 Do you, as a representative of the staff, have
3 any comment that you can share with us in regard to the
4 growth area and what needs to be balanced between that and
5 the community conservation or older community areas?
6 MR. SINGER: I am going to object. I think the
7 witness has been expressing his own opinion and not of the
8 department.
9 THE CHAIRMAN: I'm going to overrule that. I
10 think Mr. Hughey has testified before us sufficiently
11 well. Let him answer the question.
12 A. Well, based on Mr. Gerber's testimony, I don't
13 believe that it is black and white as presented through
14 his testimony.
15 Although the Kingsley Road community may
16 technically fall within the boundaries of the Owings Mills
17 growth area, we still have the fact that within that area
18 there are at least three older neighborhoods and
19 communities.
20 There's the Tolgate Community Association, or
21 Tolgate community. There's the older Pleasant Hill

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1 community. And, of course, Kingsley Road. And they are
2 within the growth area.
3 So we cannot ignore another principle of the
4 master plan or land use designation which is the principle
5 of community conservation where the older communities are
6 supposed to be nutured and kept away from destabilizing
7 factors, and we have at least three of those within the
8 Owings Mill growth area.
9 So we cannot just say within the growth area we
10 are going to nurture businesses. We're going to
11 certainly assist with expansion, and although we must do
12 that in certain situations, we cannot totally divorce the
13 older residential communities.
14 Q. Did the staff and you have any final closing
15 perspective or conclusion in regard to your report about
16 the proper method for analyzing the issue of expansion of
17 the Stoler dealership?
18 A. Well, in the twelve years that I have been
19 drafting staff comments for my service area, special
20 exceptions and petitions are -- let's face it -- many
21 times you skate on thin ice and you have certain rationale

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1 that may not hold up under certain situations, but from
2 the very beginning I thought it was a clear case for
3 denial. Like I had said earlier, a classic situation that
4 should be denied.
5 MR. HOLZER: Can I have your report and we'll
6 mark it as an exhibit and we'll make sure you get it back.
7 Since it's the last one in your file, I want to make sure
8 that you don't lose it.
9 I will mark this as Protestants' No. 3.
10 MR. SINGER: No objection.
11 THE CHAIRMAN: Thank you.
12 MR. HOLZER: Thank you, Mr. Hughey. No further
13 questions.
14 THE CHAIRMAN: Mr. Singer.
15 CROSS EXAMINATION
16 BY MR. SINGER:
17 Q. Mr. Hughey, under the Singer definition of
18 geography, so we are all on the same page, looking at
19 Kingsley going in a straight east and west dirction and
20 Reisterstown Road going north and south, we can adopt that
21 for simplicity sake?

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1 A. Okay.
2 Q. What is to the rear of this property?
3 A. To the --
4 Q. To the north.
5 A. The Kingsley Road community.
6 Q. No. Of this property that we are talking about,
7 22 Kingsley Road.
8 A. The additional commercial use.
9 Q. The Stoler dealership?
10 A. Yes.
11 Q. That's true of the Clifton property next door?
12 A. Yes.
13 Q. These are the only two properties that would have
14 that kind of access directly to a commercial property
15 without going through any street, Kingsley Road, or
16 otherwise, isn't that true in this area?
17 A. You're talking about both dealerships?
18 Q. No, not both dealerships. These two properties
19 have direct access or are adjacent to the dealership?
20 A. Yes.
21 Q. Those are the only two in this community that

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1 have that kind of relationship to this commercial tract?
2 A. That is correct.
3 Q. Now, as I read your report, you regard this as a
4 commercial intrusion into the neighborhood?
5 A. That is correct.
6 Q. Isn't it true there is already the four
7 dealerships to the north already constituting an
8 intrusion?
9 A. The existing Stoler --
10 Q. Yes.
11 A. Well --
12 Q. It extends to the full extent of not only the
13 Clifton property, but the subject property, is that right?
14 A. That is correct. But it had the correct zoning
15 for commercial.
16 Q. We are talking about a commercial use?
17 A. Yes.
18 Q. And that already extends to the full width of the
19 subject property?
20 A. Yes.
21 Q. Now, one thing I am a little unclear about is

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1 that your report says that this property isn't unique if
2 used for its originally intended use?
3 A. That is correct.
4 Q. Isn't that true of all properties? You don't
5 need an exception, you don't need a conditional use
6 request, you don't need a variance if they are used in the
7 way they are zoned, isn't that a true statement?
8 A. I differentiate between properties originally
9 lotted off for commercial use and those done for
10 residential use.
11 Q. How do you make that distinction, sir? If a
12 property is zoned and it's used for that use as permitted
13 by that zone, then there's no need for a variance, isn't
14 that true?
15 A. No. I believe that there are physical
16 topographical issues that come to bear on a variance, the
17 size and the shape of the property.
18 Q. How about a conditional use? If you use it and
19 in the zone for which it was designated, then there is
20 nothing unusual about it, is there?
21 A. Not under a special exception test.

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1 Q. And are we talking about a special exception test
2 here?
3 A. For the subject property, yes.
4 Q. We are here for the subject property?
5 A. Yes.
6 Q. And you're saying that if it's used for its
7 originally zoned use, and there's nothing different about
8 it, and there's no need to apply the criteria?
9 A. That's my perspective. If it's used residential,
10 that there's no variance relief necessary.
11 Q. And that would be true of all properties in which
12 a conditional use or a special exception is requested if
13 they are used for their originally zoned use, isn't that
14 true?
15 A. Yes.
16 Q. Now, under that theory, zoning regulations
17 permitting a parking on residential property that's
18 adjacent to commercial property, it becomes entirely
19 inapplicable, they are meaningless, because you never
20 reached that, under your reasoning?
21 A. No, I don't look at it that way. If this

Page 20

1 property was larger --
2 Q. I'm not talking about this property right now. I
3 am talking about your application of the zoning
4 regulations, your interpretatain of the zoning
5 regulations.
6 You said on a conditional use that there's
7 nothing unique about property if it's used in it original
8 zoning classification?
9 A. Correct.
10 Q. That's true across the board, no matter where the
11 property is located?
12 A. Yes.
13 Q. Now, you recognize, do you not, the zoning
14 regulations permit parking in a residential zone that's
15 adjacent to a commercial zone?
16 A. Yes.
17 Q. Upon application?
18 A. Yes.
19 Q. Is that correct?
20 A. Yes.
21 Q. And that's a prima facie permitted use?

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1 A. If it meets the test.
2 Q. If it meets the test, it's prima facia allowable?
3 A. Yes.
4 Q. There's no decision to be made then that it has
5 to be used in its existing zoning category to be granted
6 such a request as we have here?
7 A. That is correct.
8 Q. Now, you're familiar with the site plan, you have
9 studied that?
10 A. Yes.
11 Q. You admit there's no increase in traffic?
12 A. That is correct, if the access is through Stoler.
13 Q. Let's assume if it would be granted, it would be
14 developed in that manner, and there would be no additional
15 traffic on Kingsley Road --
16 A. Yes.
17 Q. -- or any of the existing roads.
18 A. Correct.
19 Q. Now, are you familiar with the prior use of the
20 property when Mrs. Archibald had it?
21 A. I didn't know Mrs. Archibald, but I know it was

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1 being used residentially and as a day care center.
2 Q. And it was approved for eight to ten children in
3 the day care?
4 A. I'm not sure what the number was, or what
5 approval she had to get.
6 Q. But did you know it was used for a day care?
7 A. Yes.
8 Q. You understood that would increase the traffic on
9 Kingsley over and above just the normal residential use?
10 A. I am sure there were some additional cars,
11 traffic, on Kingsley, to pick up children.
12 Q. And drop them off in the morning?
13 A. That is correct.
14 Q. So this plan will actually reduce the traffic
15 from what it was prior?
16 A. From what it was, yes. During that particular
17 use?
18 Q. Yes.
19 A. When it was the day care.
20 Q. This proposed use vis-a-vis the use made by Ms.
21 Archibald in the residential category, that's a decrease

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1 in traffic?
2 A. Not from her using it residentially, but her use
3 as a day care center, yes.
4 Q. Yes?
5 A. Yes.
6 Q. And it was in a residential category when she
7 used it as a day care center?
8 A. Yes.
9 Q. I'm a little unclear about your suggestion in
10 your report that the proper approach is to go through the
11 comprehensive map process.
12 Let me ask you some specific questions about
13 that.
14 A. Okay.
15 Q. You studied this question?
16 A. Yes.
17 Q. You visited the site?
18 A. Yes.
19 Q. And you're opposed to the request?
20 A. Yes.
21 Q. Now, you're not suggesting, are you sir, that a

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1 commercial application through the comprehensive process
2 would receive any different treatment in terms of your
3 view of the appropriateness?
4 A. Personally, I believe that if this came in as an
5 outright zoning change request, that my staff
6 recommendation would still be negative.
7 Q. So your suggestion is that that's the way to go
8 really doesn't have anything to do with this case?
9 A. Well, it does. I believe that's the proper
10 process, that if this property is, or will, or if it's to
11 go through a land use change, then the proper process
12 would be for an outright zoning change request that would
13 go through the entire review process, at staff level, at
14 planning board level, and the County Council level, and
15 the widom of the wise prevail. Then it would go to
16 commercial, or stay residential.
17 Q. Let's go down that road then. The planning staff
18 recommendation wouldn't be any different?
19 A. Probably not.
20 Q. And the County Council has already decreed
21 through the ordinance that properties such as this

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1 adjacent to a commercial site is, if it meets the
2 criteria, prima facia, is that correct, for parking?
3 Isn't that true?
4 A. Yes.
5 Q. So you're suggesting that to go through all those
6 steps again in a request that would open the door to all
7 the commercial uses that would be in a B.M. or B.R. zone,
8 that's what you are suggesting?
9 A. That would have to be considered as part of the
10 review process.
11 Q. But that's what you are suggesting happen?
12 A. Yes.
13 Q. You're saying that in order to obtain employee
14 parking on this site, one ought to go through the
15 comprehensive zoning process? Is that what you are
16 saying?
17 A. Yes.
18 Q. But you do admit, don't you, this request is more
19 restrictive than if one approached it through the
20 comprehensive process in asking for commercial zoning on
21 the site, isn't it?

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1 A. Unless --
2 Q. Isn't this request as pending before this Board
3 more restrictive in terms of a proposed use than what
4 you're suggesting would have to happen if one went through
5 the comprehensive zoning process?
6 A. Unless there are covenants attached to the
7 conprehensive zoning process.
8 Q. But you can't have conditional zoning, can you?
9 A. Not from the official county -- the county cannot
10 enter into covenants, but community associations can.
11 Q. Did you review this request? You said from the
12 outset you were opposed to it.
13 Did you review this presumably as a bad request
14 from the very outset?
15 A. Yes.
16 Q. Do you regard such requests as this to be part of
17 the comprehensive zoning plan where you have conditional
18 use approval?
19 A. During outright rezoning request?
20 Q. Do you regard this process where one comes in for
21 a conditional use for parking in a residential zone to be

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1 part of the existing cmnprehensive plan, is that your view
2 or not?
3 A. I consider it to be a permitted use under the
4 zoning regulations that has to meet certain tests.
5 I don't know what you mean, comprehensive plan.
6 The master plan?
7 Q. No. The zoning regulations permit this?
8 A. That is correct.
9 Q. And that's part of the overall existing zoning
10 mechanism for change in this county?
11 A. Yes.
12 Q. Whenever you have a request such as this where
13 you're using residentially zoned property for parking, you
14 have a greater intrusion into the residential community,
15 do you not?
16 A. In certain instances more than others.
17 Q. But you do have an intrusion into the community
18 because you're converting the use, in essence?
19 A. That's true.
20 Q. There is a certain amount of incompatatibility in
21 that extension?

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1 A. To a different extent on a case-by-case basis.
2 Q. As a general principle, there is some general
3 incompatibility existing?
4 A. Different degrees, yes.
5 Q. But there's a certain base level of
6 incompatibility?
7 MR. HOLZER: Objection. He's answered twice.
8 MR. SINGER: I don't think he's answered the
9 question.
10 MR. HOLZER: I object.
11 THE CHAIRMAN: I am going to sustain. I think
12 he's answered, at least as I understand it.
13 Q. I think we have agreed that the conditional use
14 in special exceptions are roughly equivalent? They are
15 synonomous in terms of zoning?
16 A. Yes.
17 Q. Would you agree with this statement, Certain uses
18 are compatibile with permitted uses in a use district, but
19 the beneficial purposes such other uses serve do not
20 outweigh the possible adverse effects --
21 A. Would you say that again, please.

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1 Q. In other words, there's always adverse effects in
2 terms of a special exception or a conditional use, are
3 there not?
4 A. Detrimental effect?
5 Q. Isn't that the philosophy behind those zoning
6 regulations?
7 MR. HOLZER: Objection. What question is he
8 supposed to be answering?
9 MR. SINGER: He seemed not to understand the
10 first one, so I am changing it.
11 THE CHAIRMAN: He can answer the question.
12 A. Would you repeat it?
13 THE CHAIRMAN: I think it might be wise if you
14 rephrase it in the context of the Schultz v. Pritts case.
15 Q. You're familiar with Schultz v. Pritts?
16 A. Yes.
17 Q. I am going to quote from that case. If certain
18 uses are compatible with permitted uses in a use district,
19 but that the beneficial purpose of a use does not outweigh
20 their possible adverse effects, such uses are designated
21 as conditional or special exception uses?

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1 A. Yes.
2 Q. You agree with that?
3 A. Yes.
4 Q. That's generally true where you have a
5 conditional or special exception request?
6 A. Yes.
7 Q. Would you agree that a conditional use is a
8 desirable use?
9 A. Under certain circumstances.
10 Q. What are the circumstance?
11 A. Where there will be no detrimental effect on the
12 adjoining properties at that particular location, and the
13 proposed use involved.
14 Q. This area has already been impacted by commercial
15 uses nearby, hasn't it?
16 A. Yes.
17 Q. Have you been out there at night?
18 A. Yes.
19 Q. The glare from the Pontiac dealer is pretty
20 strong?
21 A. I was out there several months ago and that was

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1 my very exact impression.
2 Q. Can you read a newspaper by the lighting?
3 A. With that lighting?
4 Q. Yes.
5 A. No.
6 Q. But it's very strange and very noticeable?
7 A. Yes. I was surprised by it.
8 Q. The commercial uses along Kingsley road -- the
9 commercial uses in the area have been hightened by the
10 reclassification in '88 of the four lots on the north side
11 and the Pontiac dealership on the south side?
12 A. I agree.
13 Q. And that has had an impact on this community?
14 A. Yes, I believe it has.
15 Q. Do you think that's been a detrimental impact?
16 A. Personally, yes.
17 Q. Do you think that there's a detrimental impact
18 due to the Stoler dealership extending as far east as it
19 does to include the entire width of this lot?
20 A. Are we talking about the parking lot expansion?
21 Q. No.

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1 A. To the rear?
2 Q. Yes. When I say not to the north, I mean up. So
3 to the rear of 22, do you think that the extension of
4 commercial zoning all the way to behind the subject
5 property is detrimental to this area?
6 A. I can only relate to you the fact that the
7 neighbors complained about fumes and noise.
8 Q. And lighting?
9 A. And lighting yes.
10 Q. That's on the existing dealership?
11 A. Yes.
12 Q. You understand the height of the lighting on this
13 property?
14 A. That's the petitioner's --
15 Q. As proposed.
16 A. Yes. I understand he would taylor the lighting.
17 Q. Would you agree you're not going to have the kind
18 of spillage of light you have from the Pontiac dealership
19 and the existing Ford dealership?
20 A. I agree it probably would not be as severe as
21 those lights.

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1 Q. It wouldn't be noticeable at all, would it, if
2 it's behind the fence and screen?
3 A. I think it would be noticeable. To what degree,
4 I'm not sure it would be noticeable.
5 Q. Even though the lighting would be no higher than
6 the height of the fence and angled and focused downward,
7 that's your opinion?
8 A. I believe there would still be some ambiant light
9 that would be emitted from the fixtures.
10 Q. The existing master plan, you've worked with that
11 and are familiar with it?
12 A. Yes.
13 Q. I don't mean chapter and verse, but you're
14 generally familiar with the philosophy?
15 A. Yes.
16 Q. On page 48, there is a sentence with respect to
17 commercial redevelopment. It says, As vacant land prices
18 increase, redevelopment of older, underutilized parcels in
19 areas already served by public facilities becomes an
20 attractive alternative. Do you agree with that statement?
21 A. Yes.

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1 Q. And page 97, with respect to the north central
2 Reisterstown road, it states in part it was the object of
3 the plan to encourage new residents of Owings Mills to
4 patronize the established businesss along the two
5 corridors.
6 It says, Despite the tremendous business
7 possibilities this has opened for owners of property along
8 Reisterstown Road, little has been done to date to improve
9 the quality of existing premises.
10 That's when the plan was adopted, isn't that
11 true, the master plan?
12 A. Yes.
13 Q. You had the photos, the aerial photographs that
14 were introduced through you, dating back to 1982?
15 A. Yes.
16 Q. Have you seen any photographs or are you familiar
17 with the area as it was roughly thirty years ago?
18 A. No.
19 Q. Are you familiar at all with the full extent of
20 the change of the properties that are occupied by Len
21 Stoler Dealership as to what existed that far back?

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1 A. Not thirty years. I came on -- I moved into the
2 county in '74. And for twelve years I have been with the
3 planning office, but I have seen the change, the
4 commercial changes along Reisterstown Road.
5 It's no more obvious than it is today, as we
6 speak, the changes that are going on.
7 Q. Do you recall the old Colonel Inn?
8 A. Yes. Vaguely.
9 Q. Would you agree with me that was a pretty
10 run-down property?
11 A. Yes.
12 MR. HOLZER: Objection. We're not here --
13 MR. SINGER: You opened the door on this, sir.
14 THE CHAIRMAN: I will let him proceed.
15 Q. That has been replaced now by an existing new
16 dealership building?
17 A. Yes.
18 Q. Would you agree with me it's an attractive
19 building?
20 A. Yes.
21 Q. And that was part of the incremental expansion

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1 you referred to earlier of the various dealerships of Len
2 Stoler?
3 A. Yes, but that property was commercially zoned and
4 used for years.
5 Q. I'm not talking about the commercial zoning. I
6 am talking about the type of development that existed
7 there.
8 A. Yes.
9 Q. And that is an example, is it not, of fulfillment
10 of the policy goals as stated in the master plan?
11 A. Yes.
12 Q. Now, you sat throught the hearing two weeks ago?
13 A. Not all of it.
14 Q. Were you here for Mr. Piccinini's testimony?
15 A. No.
16 Q. Mr. Piccinini was the landscaper. I am referring
17 now to Petitioner's Exhibit No. 4, to familiarize yourself
18 with it, what his testimony was, and showing the fence
19 that is proposed to be enclosed, 22 Kingsley Road, and the
20 type of planting.
21 He shows at the time of installation and at the

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1 time of growth, and Petitioner's Exhibit No. 7 shows the
2 location of such plantings.
3 A. Yes.
4 Q. And, finally, Petitioner's No. 5, or photograph,
5 shows the types of trees that are proposed to be planted?
6 A. Uh-huh,
7 Q. They would act in essence as a buffer between the
8 subject property and other properties around it, would
9 they not?
10 A. Yes, they would serve as a buffer.
11 Q. In fact, you would not be able to see through the
12 fence and the plantings into the subject property from any
13 of the other properties?
14 A. If done according to the rendering, yes, you
15 probably wouldn't see the cars.
16 Q. Now, you did, I think, testify that this area is
17 in the Owings Mills growth area, is it not?
18 A. It is in the technical boundaries of the Owings
19 Mills growth area.
20 Q. You met with the community?
21 A. Yes. Prior to the original petition, before the

1 Zoning Commissioner. That was last summer.
2 Q. And you went out and met with them in the
3 community?
4 A. Yes.
5 Q. And they urged you to oppose this request?
6 A. They didn't urge me to oppose it. They were
7 really trying to gather information as to the process and
8 how they could present their positions.
9 Q. And you gave them whatever advise you thought was
10 appropriate?
11 A. Yes.
12 Q. Did you meet with Len Stolar or anybody in his
13 organization to find out their need, or other viewpoint?
14 A. No.
15 Q. Have you sat down and analyzed the incremental
16 expansion, as you have termed it, of Len Stoler's
17 dealership along Reisterstown Road?
18 A. I am familiar with them, yes.
19 Q. Have you analyzed in terms of the benefits and
20 the detriment that they may generate?
21 A. I have to say I never sat down and analyzed the

1 detriments. There probably aren't any in the commercially
2 zoned sections of this expansion.
3 Q. Aren't?
4 Q. Are not.
5 Q. You don't know then how the testified need for
6 parking fits in with the overall operation of the
7 dealership?
8 A. I believe he probably needs employee parking.
9 Q. Now, you understand the proposed
10 access-ingress-egress from the subject property would be
11 to the north onto the existing area?
12 A. Yes.
13 Q. Around the existing body shop?
14 A. Yes.
15 Q. Is that correct?
16 A. That's my understanding.
17 Q. And on the Clifton property next door, the body
18 shop extends for the full width of that property, does it
19 not?
20 A. Yes.
21 Q. So you're coming in and out, hypothetially, would

1 you say it's a solid wall of the body shop?
2 A. Yes.
3 MR. SINGER: If the Board will bear with me for
4 just a moment?
5 THE CHAIRMAN: Sure.
6 Q. Mr. Stoler would be free in any event to raze the
7 existing house on the property, would he not?
8 A. Yes.
9 Q. He could put a fence around the property, could
10 he not?
11 A. I believe he could, yes.
12 MR. SINGER: I have no further questions. Thank
13 you.
14 THE CHAIRMAN: Mr. Holzer?
15 REDIRECT EXAMINATION
16 BY MR. HOLZER:
17 Q. Mr. Hughey, previously, in your opinion, did the
18 Colonial Inn negatively impact the Kingsley Road community
19 like the Len Stoler Ford operation does today, or the Len
20 Stoler operation? Forget the Ford, but all of it?
21 A. I'm not sure of the relative impacts of Colonial

1 Inn.
2 Q. Okay. In counsel's questions in regard to the
3 significant impact that the business zone and the Colonial
4 Stoler operation has already in that it's negatively
5 impacted the community so far, the implication from the
6 question seems to be since it's already negatively
7 impacting the community, why shouldn't we let it impact
8 the community just a little bit more by granting this
9 special exception, that's the thrust of his questions to
10 you.
11 Do you have an answer why we shouldn't let it
12 impact the community by this particular grant?
13 A. Because, notwithstanding the commercial
14 intrusions to date, we still, I believe, have a stable
15 viable community to the rear.
16 Q. And he raised the question in regard to the
17 Pontiac dealership. Are you aware that Baltimore County
18 has cited the Pontiac dealership for a light violation?
19 MR. SINGER: Objection.
20 MR. HOLZER: He opened the door.
21 MR. SINGER: I didn't open the door to that.

1 THE CHAIRMAN: I sustain the objection.
2 Q. Now, in terms of buffering, it seems to be the
3 general position of counsel if you put a fence up and one
4 row of Pine trees in front of the fence and you can't see
5 what's behind it, that's buffering it.
6 Isn't it a fact that included in the RTA setbacks
7 and buffering requirements is the fact that a certain
8 amount of distance helps dilute the sound occasioned by
9 the intrusion, so it's more than just sight?
10 A. I consider it to be visual and spacial.
11 Q. Finally, has anything that's been referred to in
12 the planning, in the master plan, by counsel, or anything
13 that he's drawn your attention to in regard to the
14 landscaping plans changed your original opinion and your
15 original recommendation against this particular project?
16 A. No.
17 MR. HOLZER: I have no further questions.
18 MR. SINGER: Just a few about the buffering.
19 RECROSS EXAMINATION
20 BY MR. SINGER:
21 Q. The fence and the screens as proposed would

1 visually buffer this property, would it not?
2 Perhaps.
3 Q. It appears that if -- you would not be able to
4 see the cars parked behind the fence, if you couldn't see
5 the dealership behind it, if you were in front of Kingsley
6 road?
7 A. Well, they are not fencing the entire dealership.
8 They are fencing the small parking lot.
9 Q. But if you had a U-shaped fence and screening, as
10 proposed, from Kingsley Road, you would not be able to see
11 through the subject site in any way at all the parking
12 here or the dealership beyond?
13 A. You might see the roof of the dealership.
14 Q. Okay. You can see the roof of the dealership
15 now?
16 A. Right.
17 Q. It would also act as a sound buffer, would it
18 not, a fence and the vegetation that's proposed?
19 A. Minimally.
20 Q. Minimally?
21 A. Yes.

1 Q. Why do you say that?
2 A. Because it's the spacial separation that I think
3 kills the sound more than anything.
4 I cannot argue that the fence would deaden the
5 sound somewhat, but I don't think to the extent the RTA
6 was supposed to function.
7 Q. So you're saying over a short distance, the
8 distance line would be more of a buffer to sound than the
9 type of fence and vegetation that's proposed?
10 A. I think they all work in combination to kill the
11 noise.
12 Q. That wasn't my question.
13 MR. HOLZER: But that's his answer.
14 MR. SINGER: But he's supposed to answer the
15 question.
16 Q. The question was, does the distance that we're
17 talking about here act more as a buffer to sound than the
18 fence and the vegetation as proposed?
19 MR. HOLZER: Objection. What are we talking
20 about here? Are you talking about as exists on the plan?
21 MR. SINGER: I pointed it out to him, sir.

1 Q. I am talking about the site. You're saying
2 distances act as a greater buffer. Do you know the
3 dimensions of the site?
4 A. Yes.
5 Q. Would the distance -- and sound would travel --
6 be more of a buffer than the fence and the vegetation as
7 proposed?
8 A. No, probably not.
9 Q. Would you agree with me that the proposal as
10 outlined here with the fence and vegetation and so forth
11 would be more attractive than if there were just a fence
12 there?
13 A. Yes.
14 MR. SINGER: Thank you.
15 MR. HOLZER: Nothing further.
16 THE CHAIRMAN: Thank you, Mr. Hughey.
17 MR. HOLZER: May he be excused to go back to the
18 county?
19 THE CHAIRMAN: Yes. Thank you.
20 MR. HOLZER: Mr. Paris, do you have this thing
21 ready to go?

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1 May we have a second?
2 THE CHAIRMAN: Do you have a videotape?
3 MR. HOLZER: Yes. A very short one.
4 THE CHAIRMAN: Are you going to admit it as
5 evidence?
6 MR. HOLZER: Yes.
7 THE CHAIRMAN: Why don't we view it first and,
8 Mr. Singer, you can hold your reservation to object to it.
9 MR. SINGER: Thank you.
10 THE CHAIRMAN: Is the witness going to be
11 referring to the videotape?
12 MR. HOLZER: He's going to walk you through it by
13 testimony, not sound.
14 THE CHAIRMAN: Off the record.
15 (Discussion held off the record.)
16 MR. HOLZER: Mr. Paris, would you take the stand,
17 please.
18 S A M U E L T H O M A S P A R I S,
19 having been called as a witness, was duly sworn and
20 testified as follows:
21 DIRECT EXAMINATION.

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1 BY MR. HOLZER:
2 Q. Sir, give your full name and address, please.
3 A. MY name is Samuel Thomas Paris. I live at 21
4 Kingsley road.
5 Q. Where in relationship on Petitioner's Exhibit No.
6 2 do you reside. Is it on this plat?
7 A. Yes, it is.
8 Q. Could you just point it out for us?
9 A. Certainly. My property is right here.
10 Q. Directly across the street from the subject site?
11 A. Not exactly, but my property line extends to the
12 center of the hedge.
13 THE CHAIRMAN: Mr. Holzer, can the witness
14 identify that spot?
15 A. Yes. This is right here.
16 Q. Says Thomas and Deborah Ann Paris?
17 A. That's my residence.
18 Q. Thank you. Is your house generally across the
19 street from the house existing on the subject site?
20 A. Yes.
21 Q. How long have you resided there?

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1 A. Approximately seventeen years.
2 Q. I know you have a number of things to make some
3 comments on and we'll get to that, but did you have
4 occasion to take a video generally of the neighborhood
5 showing Kingsley Road?
6 A. Yes, I did.
7 Q. You personally produced that video, or made it?
8 A. Yes.
9 Q. Could you tell us approximately when you made it?
10 A. Approximately two and a half weeks ago.
11 Q. Two and a half weeks ago?
12 A. Right.
13 Q. Could you tell us what time of day it was?
14 A. I videoed during the day and also I have a couple
15 of clips at night.
16 Q. Now, at my request you did this, and you did not
17 put any sound on the video, is that correct?
18 A. I had no additional sound. Whatever ambiant
19 sound was there.
20 Q. So we have the sound turned down, and what I'd
21 like you to do as we turn the video on, tell the Board

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1 where you were when you started taking this picture, what
2 direction we are going, and what we are looking at,
3 because counsel on the other side has a right to ask you
4 questions, and he can't question the video, he has to
5 question you.
6 A. I understand.
7 Q. All right. So you may begin.
8 (Videotape is now playing.)
9 Q. Where were you sitting when you started this?
10 A. This at the very entrance to our road, so this is
11 right at Reisterstown and Kingsley Road, right at the
12 intersection, and I am on a bike, and I just rode back.
13 Q. What are we looking at?
14 A. Len Stoler's property heading north, the north
15 side of Kingsley Road, and going down Kingsley Road. Len
16 Stoler's property is on the left. The Pontiac dealership
17 is on the right.
18 Q. So we are going in an easterly direction?
19 A. Yes.
20 Q. Could you tell us -- the fence is on the left?
21 A. Len Stoler's property. The one on the right part

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1 of that -- the next property would be 15 Kingsley Road,
2 and the property right now to the left is 16, where those
3 trees are.
4 Q. So do you know who lives at 16?
5 A. Yes.
6 Q. Who lives there?
7 A. That's the Clifton's property and that's there
8 fence right there.
9 Q. That's the Clifton fence?
10 A. Yes. This is the subject property right there.
11 Q. That's the house that's currently on the subject
12 site?
13 A. Yes. And that's going around the dog-leg turn.
14 Q. This is where Kingsley Road bears to the left?
15 A. Yes, just starting to turn. I am still facing
16 the property.
17 Q. Who's house is that white house in the back?
18 A. That's 26 Kingsley road. I am a little nervous.
19 Q. That's where Mrs. Fadely lives?
20 A. Yes. You can prompt me on that.
21 Q. I'm not supposed to.

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1 A. I am very nervous. I'm sorry.
2 Q. Counsel could have and should have objected.
3 MR. SINGER: He's too young to be forgiven.
4 A. I'm sorry.
5 Q. Now where are we going?
6 A. This is around the corner. And I stopped the
7 camera roughly here. And the next scene is going from the
8 opposite direction.
9 Q. What's that right there?
10 A. That's the driveway, the current driveway.
11 Q. What are those buildings in the back?
12 A. That is Mr. Stoler's paint and body shop.
13 Q. Okay. Now, stop it right there.
14 A. Now we're going the opposite direction. This is
15 heading east, going towards the dog-leg. The subject
16 property is directly ahead.
17 Q. Is the subject property on the right-hand side?
18 A. Directly ahead. Directly ahead, opposite
19 direction coming from the community out. As you would
20 leave the community, this is what you would see on the way
21 out.

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1 Q. So the white house on the right-hand side here
2 would be --
3 A. Mrs. Fadely's house. The Hengst property is to
4 the left. That's 22 Kingsley.
5 Q. This is what you can see at the dog-leg
6 presently?
7 A. Right.
8 Q. In terms of site?
9 A. Line sight, yes.
10 Q. Is that it?
11 A. The other shots are just stills from that area.
12 If you want to go on, it's -- this is 17, the view from 17
13 Kingsley Road.
14 Q. I'm sorry, you're standing where?
15 A. On the Hengst property, in the driveway facing
16 the property. That's just a couple shots of their house.
17 Q What is that?
18 A. That's from my property, 21 Kingsley Road. That's
19 standing on my porch.
20 Q. You're standing on your porch taking this shot?
21 A. Yes, I am. This is from 25 Kingsley Road. That's

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1 Mr. Hengst's property. I am standing right in front of
2 his porch.
3 And I think the next one is from Mrs. Fadely's
4 porch. Yes, it's from her side porch.
5 That's her view of the property from her porch,
6 side porch. This is again the fencing that exists. There
7 is the paint shop.
8 Q. Where were you standing?
9 A. I am still standing in the same position, just a
10 different point of view.
11 Q. Standing where?
12 A. The same position. I am still on the porch.
13 Q. Your porch?
14 A. No. Her porch. 26 Kingsley. Still standing
15 there, but I am facing what she sees to the -- I guess her
16 east. Excuse me, west. What was before was just a little
17 further to the right of that.
18 Q. Okay.
19 A. This is where her property adjoins Stoler, and
20 that's the subject property, and that falls to the left
21 and across the driveway. That's all the property in

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1 question.
2 The next is just the fencing at another angle of
3 the same fence where you can see the cars through the
4 fence here.
5 Q. Where are you here?
6 A. That's just a little further forward. That's
7 where I am standing at the driveway, and this is right at
8 the edge of the property.
9 I am still standing on her property. Okay? This
10 is 16 Kingsley Road.
11 Q. Sixteen is who?
12 A. That's -- I did it again. I'm sorry.
13 Burkindine. I'm sorry.
14 Q. It's okay.
15 A. It's from their back yard, looking across the
16 property from the opposite side.
17 This is still from 16, but just up closer towards
18 the road.
19 Q. Is that from the Cliftons?
20 A. Yes. I'm sorry. I said Burkindines. I meant
21 Clifton. I'm sorry.

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1 Q. Where's this taken?
2 A. This is at night, same location. This is Mr.
3 Stoler's property, right at the intersection of Kingsley
4 Road and Reisterstown Road.
5 It's the same view at night. There is that
6 fence just to the east of the Clifton property at night.
7 Q. You're standing on Kingsley Road here?
8 A. Yes, I am.
9 Q. You're shooting from west to east?
10 A. We are now looking east, and it's turning south,
11 and I just circled all the way around.
12 This is the Pontiac dealership. You're looking
13 at their fencing there. That's the dealership at night,
14 the Pontiac dealership, south of Kingsley Road.
15 That's the Len Stoler property. I think that's
16 just the same section during the day. That should be all.
17 Q. Is this the last shot?
18 A. Yes. I believe.
19 Q. There's nothing further on the tape at all?
20 A. No.
21 Q. There's no sound at all on this if the Board were

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1 to play it?
2 A. Only the ambient sound.
3 Q. You didn't --
4 A. No voice-over, just whatever was available.
5 I didn't disable the microphone.
6 MR. HOLZER: I would offer the tape as
7 Protestants' Exhibit No. 4.
8 MR. SINGER: NO objection.
9 THE CHAIRMAN: Its admitted.
10 Q. Mr. Paris, I recognize you're nervous up there so
11 just take a deep breath. This is the easy part.
12 What concerns, if any, do you have in regard to
13 the Colonial Stoler request for a special exception and a
14 variance?
15 A. My major objection is now, as in real estate, you
16 know, the location, my location, is now being changed.
17 Formerly, I was next to a residential property,
18 and now I will be next to vitually a commercial property
19 with this exception.
20 And I feel that it's semantics. In other words,
21 if I were going to look at a parking lot that was zoned

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1 fully commercial or whether I was going to look at this
2 particular property, with their exception, from my
3 perspective, if I asked a person, Can you see a
4 difference? I doubt you'd be able to. And thus I feel
5 that the value of my property will be greatly affected in
6 a negative way.
7 I also feel that the noise level and activity
8 level, although it won't be on the street itself, is again
9 semantics. Virtually forty-nine vehicles will be moving in
10 and out of there every day, a hundred car doors will close
11 and open, you know, a day, roughly, and that becase it's
12 not located on the street, that's been the argument that
13 that's not traffic. And I feel that that is, again, you
14 know, with such close proximity, it's virtually the same
15 as if it were on the street.
16 And in terms of pollution and also when they make
17 the parking lot, the trees, the big trees in the property
18 right now will be gone. Asphalt is black.
19 The Cliftons have had problems with the added
20 heat because of the parking lot next to them. I feel I
21 will probably get the same.

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1 Without the building there, my line of sight,
2 especially from my upper floors, will be Mr. Stoler's
3 paint shop, which I really don't see from my property
4 right now.
5 In fact, when I first moved there and bought the
6 property, I didn't realize it was back there. Because it
7 blocked my view, I really didn't notice it.
8 Also, with the dog-leg turn, unless it was a very
9 concrete plan as to the landscaping, as to the line of
10 sight, that turn is very, very dangerous. Any type of
11 landscaping on that turn would be critical to my children.
12 Q. In what way?
13 A. Someone coming around the turn, especially if
14 they haven't been down that road before, might come into a
15 turn a whole lot faster until it was too late, and my
16 children ride their bikes there in the neighborhood. A
17 lot of children are there. Someone could easily hit them
18 them.
19 I think it's a concern now as it is with a
20 relatively good line of sight, and unless you know
21 exactly, you know, standing there and saying, yes, right

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1 here is where you have a line of sight, whereas the plans
2 are kind of -- when I was last looked two weeks ago, they
3 weren't exactly sure where they were going to put the
4 landscaping on that corner.
5 Q. Well, let's just assume we have to go with what
6 the plans call for and the plans call for a fence which
7 runs down the property in this direction within the shaded
8 blue or gray area and the landscaping is calling for these
9 types of trees.
10 I think their witness went through exactly what
11 kind, and they changed to some extent during the course of
12 the testimony. We went from an eight-foot high fence to a
13 six-foot high fence, and I'm not sure what fence they are
14 now proposing, but they were proposing a number of large
15 trees on the corner as well as a setback.
16 So with this as a guide, which is all we have to
17 go by, do you have an opinion in regard to the sight line
18 distance?
19 A. Yes, I do, and unless those trees are very large
20 where the branches would be above the normal car line of
21 sight, I would find it, until they got to that height, a

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1 hazard.
2 Q. We can only go by what they are showing on the
3 exhibit. Any other concerns?
4 A. My only other concern is the lighting at night.
5 I know they have gone to great extent to explain the
6 lighting will be minimal, but I have a house that's -- you
7 know, my top floor is over twenty-five feet from the
8 ground level, and from there, looking down, I know I will
9 notice lights, and the existing Pontiac dealership has a
10 lot of lights that filter through.
11 I just feel it's going to be more of an
12 intrusion, not less of one, and I know they are trying to
13 minimize that as much as possible, but any added light is
14 going to be a problem, I feel, for me.
15 MR. HOLZER: Thank you. I have no further
16 questions.
17 THE CHAIRMAN: Mr. Singer, do you want the tape
18 rewound for any reason?
19 MR. SINGER: I can do it with one of the photos
20 that was put in two weeks out ago without doing that, if I
21 may.

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1 CROSS EXAMINATION
2 BY MR. SINGER:
3 Q. I think it's the Hengst's property?
4 A. That's 25 Kingsley Road.
5 Q. To the right?
6 A. Yes. To this diagram, it's directly to the
7 right, yes.
8 Q. The photographs --
9 A. I have a few.
10 Q. It showed up only in one of your pictures that
11 you had. Directing your attention to the shrubbery that's
12 right at the bend on the Hengst property, this is going
13 out in a westerly direction?
14 A. Yes, it is.
15 Q. The telephone pole is to the left and there is
16 some shrubbery behind?
17 A. Yes.
18 Q. That's Petitioner's Exhibit 7F. And Petitioner's
19 Exhibit 7G is a little further back, still looking
20 generally in the westerly direction?
21 A. Yes.

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Q. That's what you see as you drive out, isn't it?
A. Yes, it is.
Q. It shows shrubs blocking your view of anything that's coming eastward on Kingsley?
A. Yes, they certainly do.
Q. That's an existing situation?
A. That is.
Q. Now, did you hear testimony with respect to the proposed plantings at the corner?
A. I was here the previous Friday and I heard all the testimony.
Q. That there would be no foliage lower than six feet from the ground at the corner?
A. Yes. But there was also some discussion as to the exact placement of the corner plantings and the location was not exact. It was some discretion on the plants, I do recall that.
Q. The fence is back at the corner?
A. I understand.
Q. You understand whatever trees are planted there will be no lower than six feet from the ground?

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A. No lower than six feet from the ground, yes.
Q. And that certainly gives you a clearer sight line when driving your vehicle, does it not? When you're sitting in a car, you're not above six feet from the ground?
A. Yes. But what I was trying to explain earlier was that unless I actually saw it, that's when I am going to say there's no obstructions. I'm not an expert looking at the plan. But when I'm standing there, I can say I can or I can't, which this plan doesn't tell me exactly what the line of sight is going to be when I am around the corner, coming around the corner in a vehicle.
It might be to someone who's an expert, but looking at the plan I can't tell you exactly whether that's a good line of sight. I know there is one now.
Q. I'm sorry, I didn't hear you?
A. I know there is a fairly good line of sight on the property now.
Q. You just admitted it's obscured in part by the scrubs on the Hengst property?
A. Yes, that is true.

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Q. Now, when you're seated in your car, your eyes aren't higher than six feet from the ground, are they?
A. No.
Q. Now, I have a question about the video, the night shot. Did you have lights on your camera?
A. No.
Q. So the light is what is presently existing?
A. That's ambient lighting, yes.
Q. From the dealership, primarily?
A. Yes.
Q. There was some no parking signs on the wall along Kingsley on your side and the Stoler property?
A. Mr. Stoler has no parking signs along those fences, yes.
Q. Now, you expressed some concern about across the street from this type of use?
A. Yes.
Q. And from the top floor, you'd be able to see over?
A. Yes, I'd be able to see right down on all the cars.

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Q. That would be true, no matter where you were? If you had a use that's across the road from you, you could see across?
A. I can see the building in question right now, yes, and I have a video to prove it.
Q. Can you see the paint shop now?
A. No, not from my property. I have to leave my property to see the paint shop.
Q. You mean from the second floor of your house you can see the paint shop?
A. I'd have to see over top of the building. That building is nearly as high or as high as the building behind.
Q. You're at the bottom here?
A. Right.
Q. You can't see to the left side of the body shop, between the Clifton house and the existing property?
A. No. The only place I can see the paint shop is if you go around the corner and head down the road, and looking around and see the fence.
The first thing you notice is the fence. And if

1 you look carefully, you can see the top -- the fence
2 covers most of the paint shop. There's only a very little
3 bit that's above the line of sight of the fence. But I
4 have to leave my property to see the paint shop.
5 Q. When Mrs. Archibald had the day care center
6 there, did you object to that?
7 A. No, I did not.
8 Q. The dog-leg turn as it exists now requires one to
9 be cautious in traveling either direction, isn't that
10 true?
11 A. Yes.
12 MR. SINGER: I have no further questions. Thank
13 you, Mr. Paris.
14 MR. HOLZER: Thank you, sir. You may step down.
15 Tanya Clifton.
16 TANYA CLIFTON,
17 having been called as a witness, was duly sworn and
18 testified as follows:
19 DIRECT EXAMINATION
20 BY MR. HOLZER:
21 Q. Ma'am, would you give your full name and address,

1 please.
2 A. My name is Tanya Clifton, 16 Kingsley Road.
3 Q. How long have you lived there?
4 A. About 22 years.
5 Q. You're going to have to speak up a little bit.
6 A. Okay. I am getting over bronchitis two weeks
7 ago.
8 Q. You were very sick. I remember that.
9 A. Yes, I was.
10 Q. Without getting up, is it fair to say that 22
11 Kingsley Road is -- I'm sorry. Number 16 Kingsley Road is
12 this property that's located here on Petitioner's Exhibit
13 No. 2, which is marked Raymond and Arlene Clifton?
14 A. Yes.
15 Q. I learned that is your mother?
16 A. Yes.
17 Q. She's here?
18 A. Yes, she is.
19 Q. You testified below in the Zoning Commissioner's
20 hearing?
21 A. Yes, I did.

1 Q. You also prepared at that time an exhibit which
2 showed the general neighborhood?
3 A. Yes.
4 Q. Is that correct?
5 A. Yes, I did.
6 Q. Did you bring that with you?
7 A. This is a duplicate of what we had at the first
8 hearing.
9 Q. Could you tell what it is? And I will show
10 counsel. What did you take to do it?
11 A. Well, I got a copy of the map from Bill Hughey,
12 which is in the planning office.
13 MR. SINGER: I can't hear you.
14 A. I got a copy of the map from the planning office
15 and basically what I did was, by using color, I colored in
16 No. 22 Kingsley in yellow. I colored in the Kingsley Road
17 residential community in red. And I colored in the Stoler
18 dealerships in gray.
19 Q. Okay. Let me ask you a question about the
20 property that you colored in red. Who do they represent?
21 A. That red marking represents -- it represents the

1 Kingsley Road Community Association and the people that
2 are opposed to this plan.
3 Q. Do you have a petition which you prepared which
4 indicates that the properties that were colored in red
5 were in opposition?
6 A. I don't have it. Another member.
7 Q. Somebody else has it?
8 A. Of the association has it.
9 VOICE: I have it at home.
10 MR. HOLZER: Oh, great. That's not doing us much
11 good here.
12 A. I know that was submitted last year.
13 MR. SINGER: I can't hear the witness.
14 THE CHAIRMAN: If the the witness will speak up,
15 please.
16 THE WITNESS: Is this on?
17 THE CHAIRMAN: Just speak up as best you can.
18 Q. Speak into it.
19 A. I believe that that petition was introduced last
20 year at the first hearing.
21 MR. HOLZER: It should be in here.

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1 Q. I show you what was in the file marked
2 Protestants' Exhibit 3B, page one through page three. Is
3 this document you're referring to?
4 A. Yes, it is.
5 Q. That document was prepared and executed by
6 various people on Kingsley Road who opposed the Stoler
7 request, is that fair to say?
8 A. Yes, it was.
9 Q. It was admitted before the Zoning Commissioner?
10 A. Yes, it was.
11 Q. It was from this document that you then proposed
12 and colored in, in red, those addresses of people shown on
13 that document?
14 Q. Is that correct?
15 A. Yes,
16 MR. SINGER: I am going to object. I don't think
17 this is a current petition. It doesn't reflect currently
18 what the position of these people may or may not be.
19 As I recall, some people were not opposed at that
20 time. I don't know if that's changed.
21 MR. HOLZER: The petition speaks for itself. The

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1 petition indicates there is opposition to the request at
2 the time it was submitted, and it's been in the Board's
3 official county file since the Zoning Commissioner
4 hearing.
5 So I would offer, first of all, the petition that
6 was submitted as Protestants' No. 3 below as the next
7 Protestants' Exhibit 5, and then I would offer the plat
8 colored in red as Protestants Exhibit 6.
9 MR. SINGER: I will object.
10 THE CHAIRMAN: Are all the folks who signed the
11 petition, are their homes represented on that map, or is
12 it all inclusive?
13 A. Can I point? Now, the ones that are colored in
14 in the brighter red, each of the homes -- there are some
15 homes like this one down here and that one there that --
16 they were not -- each of those individual homes that was
17 colored in were the ones who are opposed. Where this home
18 here and that one, they didn't -- they didn't want to get
19 involved.
20 Q. For the record, within the red area which is the
21 Kingsley Road community area are individual existing homes

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1 that are colored in a darker red.
2 There are some that are not colored in a darker
3 red and their names are not on this petition?
4 A. Correct.
5 THE CHAIRMAN: For further clarification, that
6 does not indicate any individual who favored the request?
7 MR. HOLZER: That's correct.
8 MR. SINGER: I would again renew my objection
9 because it doesn't reflect what may or may not be the
10 position of these people today.
11 I know there are protestants or we wouldn't be
12 here today.
13 THE CHAIRMAN: We are going to take it not as
14 evidence, but for whatever weight the Board as each
15 individual will assess to it.
16 MR. HOLZER: Thank you. Now -- I'm sorry. That
17 was 5 and 6.
18 Q. Ms. Clifton, you said you resided there at the
19 property with your mother and father, is that correct?
20 A. Yes, with my family.
21 Q. What problems exist at the present time in regard

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1 to your occupancy of your house?
2 A. You mean exterior?
3 Q. What problems, if any, are there now?
4 A. Well, for a number of years we have had a paint
5 fume problem eminating from the Stoler body shop. We have
6 been dealing with the State Department of Environment on
7 that for probably many years, let's put it that way.
8 We also do get a lot of lighting off the Stoler
9 property, so much so, our bedroom windows, we need to have
10 the shades down. Otherwise, it would be almost daylight in
11 there.
12 We had a problem fairly recently around the
13 perimeter of our land, which would be on, I guess, the
14 left side of our property along Stoler's fence. Seems
15 that the employees are parking there currently, and
16 because we get, starting about 6:30, 6:45 in the morning,
17 we get a lot of door slamming. Then, around nine in the
18 morning, maybe 8:30 to nine in the morning, we get some
19 more.
20 Lunchtime, there is noise there, and a lot of
21 people sit there in their cars and play the radio, sit

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there and talk, make some more noise.

The afternoons, starting about, say, anywhere between 3:30 and five, there's a lot of car doors and engines starting, people leaving.

Then, again, anywhere between nine and 9:30, again, the last people who are there are leaving. So we have that currently.

So my concern is that if we have it on both sides of us, that would be a lot a lot of noise throughout the day at different times.

Q. At the present time, on the west side of your property, you just described what is the parking situation?

A. Yes.

Q. Directly behind your property is the existing body shop?

A. Yes.

Q. Is that where the fumes or smells are coming from?

A. Yes, odors are coming from.

Q. So if the subject site were approved, your

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property, your mother's property, or house, would be bounded on three sides by the Stoler operation?

A. Yes, it would.

Q. What concerns, if any, do you have in regard to Colonial Stoler using the subject site just for employee parking?

A. I believe it's just an absolute intrusion into our neighborhood and into our homes. I think it would destroy the character of our community.

And I believe that the land is not large enough to accommodate the request using the buffers that are in the county guidelines.

So in order to provide the adequate buffer, they would have to have a much larger piece of property to do it properly.

I mean, we, my family and I, we do a lot of gardening and use -- we like to use our yard. So we are seeing if we had this parking lot and such on the other side, we'd lose some of the usage of it because of the increased heat, which is something that wasn't mentioned before.

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Since they constructed the extended parking lot, in the summertime we can feel the heat coming off the blacktop, even through the fence and through the road and Cyprus, the buffer, we can feel that heat coming through there. And it's not as nice under our shade trees as it used to be in the past.

It's just cut down on our enjoyment of our back yard, and it would probably be not as nice if that were granted as such.

MR. HOLZER: No further questions.

CROSS EXAMINATION

BY MR. SINGER:

Q. Ms. Cliftion, you live there now?

A. Yes.

Q. You go to school still?

A. What?

Q. You go to school still?

A. I am taking some college courses now.

Q. Are you employed?

A. Not at the moment. Not at the present time.

Q. You mentioned the existing lighting from the

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Stoler lot?

A. Yes.

Q. You also have existing lighting from the Pontiac dealer down the road?

A. Yes, we do.

Q. You have a stone building to the rear of your property along the fence? It's stone or wood?

A. A concrete block shed.

Q. It's about twenty, thirty feet long?

A. I haven't measured it, so I'm not sure of its exact dimensions.

Q. You recognize that heat rises, do you not?

A. Yes, I do.

Q. You're saying it comes up and over the fence?

A. No. It comes through it.

Q. Through the fence?

A. Yes, it does.

Q. You understand that if this petition were granted, there would be, in addition to the fence, there would be landscaping?

A. Yes, I understand that. But from our experience

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1 with the landscaping on the west side of our property, it
2 doesn't work.
3 I mean, I can't imagine if there were no fence
4 and no trees along there how it would be, but it is quite
5 hot.
6 Q. You understand the proposed landscaping here is
7 different than the landscaping that exists on the west
8 side of your property?
9 A. Yes, I am aware of that. But from what I saw two
10 weeks ago, it didn't ensure me that it would be any --
11 without me looking at it closely, which from being in the
12 back of this room I really didn't see specifically what
13 the specific plants were, but I'm not convinced it would
14 be any better.
15 Q. So you haven't looked at the proposed landscaping
16 plans closely?
17 A No, I haven't. I haven't had the opportunity.
18 Q. You mentioned that you didn't think the land was
19 large enough?
20 A. Yes.
21 Q. You understand that this proposal, if approved,

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1 couldn't be constructed unless this met with county
2 requirements for the number of spaces proposed?
3 A. Yes, I realize that. But part of their -- isn't
4 there a request for reduction in the size of the setbacks?
5 Q. You talking about the --
6 A. For your proposal?
7 Q. But we are talking about the regulations, that
8 the number of cars that are proposed to be parked there
9 would have to meet county requirements, do you understand
10 that?
11 A. I'm not totally versed on county law, but I
12 just -- I know that what your request was, that you were
13 requesting a reduction in the size of the setback, and I
14 know that the idea of having the setbacks, the purpose was
15 to provide a transition zone for -- between business and
16 residential zones.
17 So any reduction in that would decrease the
18 protection.
19 Q. That's a feeling on your part?
20 A. Well, I mean, the county would have a
21 regulation -- I mean, their purpose for the regulation is

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1 to provide a buffer and to protect the residential areas.
2 Q. You understand the county would also require a
3 certain amount of space for the parking?
4 A. Yes, yes.
5 Q. And you couldn't park an unlimited number of cars
6 without meeting county requirements?
7 A. Yes.
8 Q. You understand that?
9 A. Yes.
10 Q. Did your family or did you -- you're probably
11 younger -- oppose the reclassification of the four homes
12 to the west?
13 A. Yes, we did.
14 Q. Did you oppose the reclassification of the site
15 where the Pontiac dealership is?
16 A. Yes, we did
17 Q. Prior to the development of the Pontiac site,
18 there was an old house on that location?
19 A. Which one?
20 Q. The Pontiac site.
21 A. There were several homes there.

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1 Q. Sat down in like a little hollow?
2 A. There were two brick structures and one carriage
3 house.
4 Q. They were unoccupied?
5 A. Well, right before they tore them down, they
6 were, yes.
7 Q. Prior to that, they had been in a dilapidated
8 state?
9 A. I wouldn't say so, in my estimation. Not being a
10 contractor, I don't know these ins and outs of all that.
11 But, to me, they did not look in disrepair.
12 Q. They needed extensive repairs, didn't they?
13 A. I wouldn't know. There were people living in
14 them.
15 MR. HOLZER: I'm not sure of the relevance.
16 MR. SINGER: I have no further questions
17 THE CHAIRMAN: Any redirect?
18 MR. HOLZER: No.
19 THE CHAIRMAN: You may step down. Off the record.
20 (Discussion held off the record.)
21 THE CHAIRMAN: We will take a break until about

1 12:30.
2 (A luncheon recess was taken.)
3 - - - - - - - -
4
5 THE CHAIRMAN: Are we ready go go back on the
6 record?
7 MR. HOLZER: Yes. Arlene Clifton.
8 ARLENE CLIFTON,
9 having been called as a witness, was duly sworn and
10 testified as follows:
11 DIRECT EXAMINATION
12 BY MR. HOLZER:
13 Q. Ms. Clifton, would you state your name and
14 present address, please.
15 A. My name is Arlene Clifton. 16 Kingsley Road.
16 Q. How long have you lived in your present address?
17 A. Since '76.
18 Q. Since 1976?
19 A. Yes.
20 Q. That was your daughter that previously testified?
21 A. Yes.

1 Q. She testified that your property is this, located
2 on Petitioner's Exhibit No. 2, which is currently bounded
3 by Len Stoler, or Colonial Stoler, on two sides, is that
4 correct?
5 A. Yes.
6 Q. What concerns, if any, can you state very briefly
7 in regard to this request by Mr. Stoler for special
8 exception and variance.
9 THE CHAIRMAN: You have to speak up.
10 A. On the west side of our property, Len Stoler's
11 car lot which is used for new cars and employee parking,
12 with noise. And the heat from the lot has changed the
13 temperature of our yard.
14 There are lot of lights. Our yard is basically
15 lit up all the time. The body shop along the back of the
16 yard has lights on the body shop itself, which shine into
17 our yard.
18 The fence on the back is slats, and you can see
19 through it. You can see everything that's going on back
20 there. The door to the body shop is facing our property.
21 There's blacktop out there where the cars drive back and

1 forth. And there's space for cars parked right up against
2 the fence, and then it's no -- nothing green back there.
3 Only thing green is what I keep planted. And
4 this will be on the other side, and I will be totally
5 surrounded in this little box by cars, lights. No matter
6 what side the lights are, how many, they are still going
7 to -- they are not going to not be seen over the fence.
8 So I just -- it would definitely be more noise,
9 more heat, more lights. The lights -- it doesn't have to
10 be right next to you for it to light up your yard. There's
11 a light that is maybe three dealerships down to the north
12 of our property that shines right in the back of our
13 house. It goes off every morning at 6:30.
14 And I mean, it's not really close, but it's so
15 close that it shines right in our house. So I look out
16 the window at 6:30 every morning and knowing that at 6:30
17 that light goes off.
18 Q. In regard to -- you have been here, Mrs. Clifton,
19 and heard all the testimony about fencing and planting, is
20 that correct?
21 A. Yes.

1 Q. Do you believe that will resolve the problem that
2 you're foreseeing?
3 A. No. Because noise travels through fences. And
4 it depends on the type of the slat fences. You see
5 through them. It's only at certain angles that maybe you
6 don't. It depends.
7 If you have a privacy fence that would be tall
8 enough, that might make a difference visually and cut down
9 noise somewhat, but they are not going to have a fence
10 that's going to be so tall it's going to take away the
11 lights, that's impossible.
12 Q. Do you have an opinion of your own as to whether
13 or not, if this special exception is granted, whether it
14 will impair your property value?
15 MR. SINGER: Objection.
16 THE CHAIRMAN: Sustained.
17 MR. HOLZER: If I may just mention to the Board
18 that a property owner has the right to testify as to
19 whether or not the property values would be decreased,
20 whether they believe it so. Let me rephrase the question.
21 Q. Have you gone to the Department of Assesments and

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1 Taxation when your property was assessed?
2 A. Yes, I have.
3 Q. And did you complain about your assessment that
4 they had assigned to your property?
5 A. Yes, I did.
6 Q. What was the basis of your complaint for the
7 assessment?
8 MR. SINGER: I am going to object. This is
9 immaterial. The property owner can't testify to value, a
10 real property owner cannot.
11 What this lady did or what the Department of
12 Assessments may have done is totally irrelevant.
13 THE CHAIRMAN: Let him pursue it on a limited
14 basis.
15 MR. HOLZER: Thank you.
16 Q. Did you object to the assessment of the
17 Department of Assessments and Taxation?
18 A. Yes, I did.
19 Q. What was your basis for objecting?
20 A. The extention of the body shop in back of the
21 property, the condition of the lights, the noise, the

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1 paint fumes, the loudspeakers, the radio playing over the
2 loudspeaks.
3 Q. As a result of that, did you receive any
4 reassessment of your property?
5 MR. SINGER: Again, it's not irrelevant. It's
6 improper to introduce it through this lady anyhow.
7 If it were relevant material, it would have to be
8 some action certified by the Board of Assessments.
9 MR. HOLZER: Here, I am going to put in the
10 exhibit.
11 THE CHAIRMAN: That's fine. Then you can
12 continue.
13 MR. HOLZER: Thank you.
14 Q. Are these your assessments for your property?
15 There are three pages. Was the first assessment to
16 establish in 1995 your assessment of $99,260.
17 A. Yes.
18 Q. And then is the second page document that you
19 received recently a reassessment of your property?
20 A. I received this is in December '97.
21 Q. Did you ask for a hearing?

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1 A. Yes, I did.
2 Q. As a result of that hearing, was the third page,
3 the new assessment for your property?
4 A. Yes.
5 Q. Does that reflect the total of $95,030?
6 A. Yes.
7 MR. HOLZER: I would submit that as Protestants'
8 next exhibit.
9 MR. SINGER: Objection. The fact the property
10 has been assessed downward could be for a host of reasons.
11 THE CHAIRMAN: I am going to overrule and we are
12 going to admit it.
13 MR. HOLZER: I have no further questions.
14 CROSS EXAMINATION
15 BY MR. SINGER:
16 Q. Mrs. Clifton, how long has the body shop been
17 there?
18 A. The body shop as it is now?
19 Q. Yes, ma'am.
20 A. It was extended, but maybe four years ago. There
21 was a body shop there. I think it was there when we

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1 bought the property.
2 But then it was enlarged several times, I think,
3 over the years since we have been there, and I think in
4 the last, what, four or five years, that new addition was
5 put on. I don't remember just what year they did that.
6 Q. So any addition, you think, was four or five
7 years old? Approximately.
8 A. Yes.
9 Q. But there has been a body shop there since you
10 bought the property?
11 A. Yes.
12 Q. Is this light that shines onto your property from
13 the Pontiac dealership across Kingsley Road?
14 A. Yes.
15 Q. Has that increased, the amount of light at night,
16 significantly?
17 A. Maybe somewhat in the front yard, but not --
18 doesn't actually shine into my windows.
19 Q. The lights are about even with your front first
20 floor because that property is lower than Kingsley Road?
21 A. Right. It's in the front. It has increased

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1 somewhat, but it was already bright. It was already lit
2 from the Stoler lot, so the brightness -- the brightness
3 is insignificant because it was bright, so it's still
4 bright.
5 Q. It's been bright for a number of years, has it
6 not?
7 A. Yes.
8 Q. Are there many properties along Reisterstown
9 Road, including the Heritage property, that have extremely
10 bright lights, is that true?
11 A. Yes.
12 Q. That's true also for the new Target store just
13 below the Heritage property?
14 A. I really don't notice their lights, because
15 that's aways.
16 Q. But you do note the Heritage property lights?
17 A. When I go out on the street, yes.
18 Q. They are very bright also?
19 A. Yes, they are.
20 Q. That's a rather large number of franchises?
21 A. Yes.

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1 Q. Significant acreage?
2 A. Yes.
3 MR. SINGER: I have no further questions. Thank
4 you.
5 MR. HOLZER: Thank you, ma'am. You may step
6 down. Mr. Orr.
7 DENNIS ORR,
8 having been called as a witness, was duly sworn and
9 testsified as follows:
10 DIRECT EXAMINATION
11 BY MR. HOLZER:
12 Q. Mr. Orr, can you state your full name and present
13 address, please.
14 A. My name is Dennis Robert Orr, and I live at 28
15 Kingsley Road.
16 Q. How long have you resided at 28 Kingsley Road?
17 A. I am a relative newcomer, been there only twelve
18 years.
19 Q. In relationship to the subject site, where's your
20 property located?
21 A. I'd point to it, if I may.

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1 Q. Sure.
2 A. The other map shows my property. I don't know.
3 Q. The one we submitted?
4 A. Yes.
5 Q. With the red markings on it. The yellow being
6 the proposed special exception, my house is the second
7 house away from it. I am next to Mrs. Fadely right here,
8 No. 28.
9 Q. What concerns, if any, do you have -- let me ask
10 you this. You attended and testified at the Zoning
11 Commissioner's hearing?
12 A. Yes sir.
13 Q. And you are familiar with the Colonial Stoler
14 plans and testimony as well as the landscaping that they
15 propose?
16 A. Yes, I am.
17 Q. What concerns, if any, do you have in regard to
18 their request?
19 A. I have a number of concerns. I have seen during
20 my twelve years there in the neighborhood, I have seen the
21 neighborhood get nibbled away at.

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1 We have lost eight homes to commercial
2 development on both sides of the entrance of Kingsley
3 Road.
4 We have had the houses torn down and car
5 dealerships put up. It's had a very bad effect on the
6 neighborhood. As you drive in now, instead of entering a
7 residential street, it looks like you're entering a
8 commercial dealership land.
9 I am concerned that this latest proposal will
10 really destabilize our neighborhood. As it shows on the
11 map, it cuts into the visual heart of the neighborhood.
12 Kingsley Road runs straight east from that site.
13 It's approximately seventy-five percent of the houses are
14 in visual line of site of that property.
15 We all looking at it coming and going every day.
16 In addition, the ground slopes away and that site sits at
17 the top of the hill. Right now, walking up that hill at
18 night, the glare from the existing dealerships behind that
19 site are such that it's tough to see straight at your
20 feet, the glare is in your eyes here and the dark areas
21 are tough to see.

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1 So I am concerned about destabilizing the
2 neighborhood. This is cutting into our neighborhood.
3 It's fragmenting our neighborhood.
4 My neighbors, the Cliftons, are being surrounded
5 in their own island there. This is a neighborhood. We all
6 know each other. We know each others' cars as we come and
7 go. We greet each other.
8 This is going to physically isolate three houses
9 from the rest of us, destabilizing the neighborhood. In
10 addition to having this kind of commercial usage come into
11 the neighborhood, it is going to contribute to our
12 property values, in my opinion, decreasing.
13 My wife has more to say on that later. Then
14 there is a domino effect I have seen happen along the
15 steet. One property is purchased by a car dealer and who's
16 going to buy the property next to it? Who wants to live
17 in a house next to a parking lot?
18 We don't have a parking lot there now. I look
19 out my windows and I see my neighbor, Mrs. Fadely, and I
20 see the house that used to be my neighbor, Vivian
21 Archibald. I see green grass. Her lilacs. I see trees. I

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1 see a house from my second floor window. I would be
2 looking down on that site, and despite an eight-foot high
3 fence, despite what's proposed, and in my opinion,
4 inadequate landscaping, I would see cars instead of
5 another neighbor's house.
6 Right now, looking out my master bedroom window,
7 actually, I don't have to look out. I have light
8 streaming in all night long. There's a light on the back
9 of the body shop which is on all night long.
10 I don't need a nightlight. My mother stayed with
11 us recently and she commented on the nightlights we have.
12 Right now, I have a lot of problems with the
13 lights, as I mentioned, noise from the dealership
14 operations. I too have smelled the fumes from the paint
15 shop which sits back there, and I too have complained to
16 the Maryland Department of environment.
17 I have a separate file folder here devoted just
18 to record complaints, and I just make a notation on our
19 family calendar as to what complaints I have and when I
20 have notified the Stoler organization about them.
21 I speak to Kim or Fran at the reception phone and

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1 state my name and the problem I am experiencing. They are
2 very professional handling it. I don't know if Mr. Stoler
3 was getting all my complaints. I have got a long history
4 of problems with the dealership operation.
5 Their proposed expansion, it is an expansion of a
6 dealership operation. It's just going to aggravate an
7 already bad situation.
8 These buffers, as I understand it, were
9 established to provide literally a buffer between
10 commercial and residential operations, and it's not just
11 having a line of trees, a single line of forest buffer
12 planting that's going to do it.
13 The physics of the site, the heat, heat radiates.
14 It doesn't just rise. It radiates. Light reflects also,
15 even off the atmosphere. At times we get a tremendous
16 amount of ambiant light pollution. The moon and stars
17 which are dear to me, I love the sun and stars, and can't
18 see them. And noise echos, so it's a spacial requirement
19 for a buffer, that we need somewhere at some point to
20 establish seventy-five feet and fifty feet as buffers. If
21 anything, they should be increased, not decreased,

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1 certainly not down to as little as five feet.
2 Q. Do you have anything further?
3 A. I have run down for the moment.
4 Q. If you have run down, we have run out.
5 MR. HOLZER: Your witness.
6 CROSS EXAMINATION
7 BY MR. SINGER:
8 Q. Mr. Orr, you're talking about isolating three
9 homes?
10 A. Yes.
11 Q. Which three are those?
12 A. I have the Clifton's property, No. 16. Across
13 the street from them, the Hengst property, and the
14 Burkindine property. I will indicate those, if you'd like.
15 Q. Hengst is No. 15?
16 A. The plan at the bottom shows better.
17 Q. Using petitioners Exhibit 2, Hengst is 15 on the
18 south side of Kingsley?
19 A. Yes.
20 Q. Burkindine is the house to the left at No. 13,
21 is that correct?

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1 A. Yes, it is.
2 Q. And then next to them is the Paris house?
3 A. I did not mention the Parises. The Clifton --
4 Q. But I am talking about next to Hengst is Paris?
5 A. Yes.
6 Q. So the Hengst house adjoins the Paris house?
7 A. Yes.
8 Q. And then the Paris property adjoins the Hengst
9 property further to the east?
10 A. Joins the Michaelides property, not shown on your
11 drawing. There's a driveway coming off there. That's my
12 neighbor, Michaelides.
13 Q. The Burkindines and the Hengst and the Parises
14 and the Michaelides property are all contiguous?
15 A. Yes.
16 Q. South and to the east?
17 A. Yes.
18 Q. The Burkindine property to the west next to the
19 Pontiac dealership?
20 A. Yes.
21 Q. Did you oppose the rezoning of the Pontiac

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1 dealership?
2 A. Yes, I did. The community organized back in '88
3 and opposed it.
4 Q. The County Council in the comprehensive zoning
5 rezoned that property? Is that correct?
6 A. Yes, they did.
7 Q. Also, the four properties on the north side of
8 Kingsley through the west of Ms. Clifton's property was
9 rezoned at the same time through the comprehensive zoning
10 process, is that correct, sir?
11 A. A covenant agreement was drawn up.
12 Q. Is that correct, sir?
13 A. Yes, through a covenant agreement, after
14 execution of a covenant --
15 Q. Was it done by the comprehensive zoning process?
16 Yes or no.
17 A. Yes.
18 Q. Now, you have opposed every application Mr.
19 Stoler has made through his dealership all the way up to
20 the Mitsubisi sign, a variance?
21 A. Yes. I was the sole representative against that.

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1 Q. You personally were opposed to that, were you
2 not?
3 A. I have a personal interest in all of this, yes.
4 Q. Were you personally opposed to that variance for
5 the site of the Mitsubishi at High Falcon and Reisterstown
6 Road?
7 A. I was -- not professionally.
8 Q. That's not visible from your property at all, is
9 it? Yes or no.
10 A. The sign is not visible from my property.
11 Q. The lights from the Mitsubishi shop are visible?
12 A. Yes, from my back porch.
13 Q. I take it then, also, the other dealerships along
14 Reisterstown Road, the lights are visible?
15 A. Yes, they are.
16 Q. At the present time?
17 A. Yes, they are.
18 Q. Can you see the lights from the Heritage
19 property?
20 A. I cannot see all of the lights from the Heritage
21 property. I can see some of the lights.

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1 Q. You see the lights coming from the Pontiac
2 dealership?
3 A. Yes, I do.
4 Q. And all those presently exist?
5 A. Yes.
6 Q. When Ms. Archibald lived there and operated the
7 day care center, did you protest that?
8 A. No, I didn't.
9 Q. You made the statement rhetorically, Who would
10 want to live next door to a parking lot, is that right?
11 A. Yes.
12 Q. You'd feel that way no matter where the parking
13 lot was located?
14 A. I spent twelve years in commercial property
15 management prior to becoming a cabinet maker.
16 Q. You wouldn't want to live next to a parking lot,
17 no matter where it was?
18 A. I would like to finish.
19 MR. HOLZER: Can the witness finish his answer?
20 MR. SINGER: I want him to answer. I don't want
21 his employment history.

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1 THE CHAIRMAN: Be specific as to your answers.
2 A. If I may explain the relevance?
3 Q. No. We're not discussing the relevance. We are
4 discussing the answer to my question.
5 You wouldn't want to live next to a parking
6 parking lot anywhere, would you?
7 MR. HOLZER: Objection.
8 A. I don't think so. Nither you or I would. I
9 would not.
10 Q. That's all I'm asking. Mr. Stoler has told you
11 in the past if you had any complaint, to come to him,
12 hasn't he? Hasn't he made that statement to you?
13 A. Yes, he did. Unfortunately --
14 Q. No. Behind the house to the south of the homes
15 along the south side of Kingsley, there's an apartment,
16 large apartment complex, is there not?
17 A. Yes, there is, to the south of Kingsley on the
18 east side of Reisterstown Road.
19 Q. Do you understand that the present proposal will
20 not create any traffic on Kingsley Road?
21 A. I see forty-nine nine cars traveling daily onto

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1 that property as increased traffic onto Kingsley Road. If
2 you're talking physical --
3 Q. Stop right there.
4 A. Where?
5 Q. Where are the forty-nine cars going to be from,
6 Kingsley Road?
7 A. Are you defining Kingsley Road as the asphalt
8 only? Is there additional travel on the site from
9 Kingsley Road, the asphalt?
10 Q That's what I'm asking you.
11 A. I live on Kingsley Road.
12 Q. You live on Kingsley. There won't be any
13 additional traffic on Kingsley Road from this proposal,
14 will there?
15 A. Not accessing that site from Kingsley Road, no.
16 Q. Is the Pontiac dealership that exists there now
17 screened by any shrubbery or trees?
18 A. No, except with regard to existing shrubbery on
19 the Burkindine property. You used the word mature. It is
20 not mature.
21 Q. It's rather sparse, isn't it, along Kingsley Road

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1 with the border of the Pontiac property?
2 A. That's the best visual screen we could get out of
3 the developer.
4 Q. I didn't ask you that.
5 A. That's my answer.
6 MR. HOLZER: Objection. You get to ask the
7 question or get the answer.
8 MR. SINGER: The answer has to be to the
9 question.
10 THE CHAIRMAN: I am inclined to be specific to
11 Mr. Singer's questions.
12 MR. HOLZER: I object. Of course, it's sparse.
13 It was just planted.
14 MR. SINGER: You don't have to testify. He can
15 say that as well. He doesn't have to editoralize.
16 MR. HOLZER: You're not letting him answer the
17 question. The obvious answer to the question is what he
18 started to say before you interrupted him.
19 THE CHAIRMAN: Let's start over again.
20 THE WITNESS: My emotions, perhaps, in this whole
21 issue is coming through. I will try to focus a little

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1 more, but it's a very personal issue to all of us in this
2 room.
3 Q. Actually, Mr. Orr, you don't like Mr. Stoler, do
4 you?
5 MR. HOLZER: Objection.
6 THE CHAIRMAN: Overruled. That's relevant to
7 this issue. Mr. Orr, just answer the question, please.
8 Q. You don't like him, do you?
9 MR. HOLZER: Objection. It's not relevant.
10 THE CHAIRMAN: It can show bias.
11 A. In my dealings over the past few years,
12 I do not trust Mr. Stoler.
13 Q. And you don't like him, either?
14 A. I don't know him that well. I am only judging by
15 the action he has manifested towards us. We have sent a
16 letter, and I have a copy here --
17 Q. Answer the question, Mr. Orr.
18 A. There you go.
19 Q. We want to finish today.
20 A. I am glad to hear that, sir.
21 Q. You were familiar with the Colonial Inn site?

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1 A. Yes, sir.
2 Q. Was that a decrepid property, badly run?
3 A. I'm not a structural engineer. It was a bar.
4 It was also the home of Dr. Norris Bobble (phonetic), a
5 historic property.
6 Q. What was the status of the property before the
7 Alexis dealership? Was it --
8 A. It was the Colonial Inn.
9 Q. -- a bar? It added a huge billboard sign on the
10 property, did it not?
11 A. I believe it did.
12 Q. It had another sign, said, Colonial Inn?
13 A. Yes.
14 Q. And it was rather unattractive and badly run,
15 wasn't it?
16 A. I don't know how well it was run. As far as its
17 attractiveness, I didn't consider it an asset to the
18 neighborhood.
19 Q. Would you agree that the Alexis property is more
20 attractive that exists on that site now?
21 A. No, sir. The bar didn't have lights that shine in

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1 my windows.
2 Q. Other than that, is it more attractive than what
3 was there before?
4 A. Yes.
5 Q. And you opposed the variance to the interior
6 property line between the Alexis and the other property
7 line owned by Mr. Stoler, did you?
8 A. The interior property line?
9 Q. One of the variances that was necessary?
10 A. No. No, I didn't.
11 Q. But you did oppose the Alexis, didn't you, an
12 appeared at the hearing on the Alexis property variance?
13 A. On the signage variance, I did.
14 Q. Would you agree that there were adverse affects
15 of any residential property next to a commercial site?
16 MR. HOLZER: Objection. It's not the correct
17 standard if he's trying to get him to discuss the Schultz
18 v. Pritts question.
19 THE CHAIRMAN: Why don't you rephrase the
20 question?
21 Q. Would you feel that a residential property next

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1 to a commercial property that has lighting suffers a
2 detriment by being so close or next to it?
3 MR. HOLZER: Objection. It's not the proper
4 standard.
5 MR. SINGER: I'm not asking --
6 MR. HOLZER: Don't sandbag him with a question.
7 MR. SINGER: I'm not sandbagging. I resent that.
8 I am asking him his opinion about a location of one
9 property to another.
10 He's not a lawyer. I'm not asking him about
11 Schultz v. Pritts.
12 MR. HOLZER: That's an inappropriate question
13 because if you ask anybody is anything next to anybody's
14 property a detriment, the answer is going to be uniformly
15 yes, if it's changed. That's not the standard.
16 THE CHAIRMAN: I think we have to be a little
17 more specific, Mr. Singer, if we can.
18 Q. Do you feel that a commercial use of, say, for
19 parking on a residentially zoned property next to a
20 commercially zoned property is detrimental?
21 MR. HOLZER: It depends on the specifics of the

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1 situation. I feel this one is.
2 MR. SINGER: I gathered that.
3 A. We understand.
4 Q. I am asking your feeling generally.
5 MR. HOLZER: Objection.
6 THE CHAIRMAN: He can answer.
7 MR. HOLZER: For the record, I object on the
8 basis that the question is an inappropriate question,
9 because no matter what property is going next to another
10 residential zone, the answer is always going to be yes.
11 It does not mean anything.
12 THE CHAIRMAN: I will note your objection, but I
13 can understand Mr. Singer's point of view of questioning
14 and what he's attempting to do is to determine whether or
15 not this particular witness has any bias against the
16 Stoler organization. So he can answer.
17 A. Yes.
18 MR. SINGER: Bear with me for just a moment.
19 Sir.
20 THE WITNESS: Can I go into that?
21 MR. HOLZER: No.

1 THE CHAIRMAN: No.
2 Q. From your second floor window now, can you see
3 the cars on the Ford dealership?
4 A. Yes, I can.
5 Q. Can you see the lights along Reisterstown Road?
6 A. All of them, no. Some of them, yes.
7 Q. Can you see some of the lights along Reisterstown
8 Road at the present time from your second floor window?
9 A. Yes, I can.
10 MR. SINGER: I have no further questions.
11 REDIRECT EXAMINATION
12 BY MR. HOLZER:
13 Q. Mr. Orr, you were not permitted to answer the
14 question in regard to the discussion on the north side of
15 Kingsley Road and on the east side of Reisterstown Road as
16 to whether or not you opposed that comprehensive rezoning
17 of that individual home, is that correct?
18 A. That is correct.
19 Q. You're familiar when that was rezoned?
20 A. 1988.
21 Q. Was there a private agreement or restrictive

1 covenant agreement as executed between the community and
2 Len Stoler that was a part of the comprehensive rezoning
3 process?
4 MR. SINGER: I am going to object, unless the
5 question includes the fact was that agreement ever, by its
6 terms, operative.
7 THE CHAIRMAN: I'm going to admit it, and then
8 you can bring it in.
9 A. It did exist, but it did also include the
10 Heritage auto group that purchased the homes on the south
11 side of Kingsley Road.
12 Q. So as a result of community discussion and before
13 the comprehensive mapping process was adopted by the
14 county, there was an agreement of some sort executed in
15 terms of that property, is that correct?
16 A. Yes, there was.
17 Q. Go ahead.
18 A. Thank you. In trying to achieve some sort of
19 compromise between the car dealerships and the
20 neighborhood, if I may use this map here, the first four
21 homes on the north side had been purchased by the Stoler

1 dealership and the first four on the south side had been
2 purchased by Heritage Auto Group, which is across the
3 street.
4 And the entire community was very upset and many
5 of us stayed until 1 o'clock in the morning at the hearing
6 just to get our chance to speak, including a lot of the
7 elderly, and we met with Jack Dillon and we met with
8 Dutch Rupperberger, and tried to thrash out some kind of
9 compromise, and the suggestion was made --
10 Q. Let's not go into that. All of this is irrelevant
11 anyway, but it was opened up by counsel's question.
12 Let me get to the bottom line. There was an
13 agreement executed in regard to that comprehensive
14 rezoning, is that correct?
15 A. Yes, sir.
16 Q. Did that agreement ever take place or ever come
17 into existence?
18 A. No.
19 Q. Why not?
20 A. It was predicated on Dolfield Boulevard being
21 driven through the back yard of my neighbor across the

1 street and a new entrance to Kingsley Road was going to be
2 behind the Pontiac dealership.
3 This would give us private entrance to the
4 street. The dealerships could have their frontage that
5 they wanted. We would have a heavily landscaped and
6 buffered private entrance onto the new Dolfield Boulevard,
7 and that would also give us safe, controlled light access
8 on Kingsley Road.
9 Q. As a result of the county never going ahead with
10 Dolfield Boulevard, basically, the agreement is in the
11 never-never land?
12 A. With one important exception, and that is the
13 neighborhood dropped its opposition to the zoning changes
14 that were proposed at the time, and that went through
15 unobstructed.
16 Q. So, therefore, there was no further activity on
17 the part of the community as a result of this agreement to
18 oppose the commercial zoning of those lots?
19 A. That is correct.
20 Q. In regard to counsel's questions with Mr. Stoler
21 asking you to call him, you acknowledged that he had asked

1 you to call him when there was a problem, and you started
2 to say, "Unfortunately," and you were stopped.
3 Would you like to finish the "unfortunately" part
4 of that answer?
5 A. Yes, I would. We have had a few meetings with
6 Mr. Stoler. There have been numerous documents, letters
7 sent to Mr. Stoler.
8 The prior president of the Kingsley Road
9 community association, Michael Quinn, who's present today,
10 directed some correspondence outlining complaints from the
11 neighborhood Mr. Stoler.
12 I have sent some, and there have been private
13 individuals here who sent letters as well.
14 Q. Have those complaints been addressed?
15 A. By and large, no, they have not. Just prior to
16 the initial hearing on this site, we noticed some changes,
17 the loudspeakers got turned down a bit. The woven chain
18 link fence in front of the street was rewoven.
19 I have photographs of that from the previous
20 hearing. Some other minor concerns seemed to be addressed
21 at that time.

1 Q. Counsel made a point to question you in regard to
2 the traffic issue and -- without beating a dead horse -- I
3 believe we all understand that the access to the site is
4 not to be on Kingsley Road, but through the car
5 dealership.
6 However, having said that, what was your position
7 in regard to the forty-nine parking spaces that would be
8 on the site itself?
9 A. The site is on Kingsley Road. It's in my
10 neighborhood, it's a part of it. We are adding forty-nine
11 cars coming in the morning and leaving in the evening, and
12 if that's not increasing traffic onto a site, I don't know
13 what is.
14 Q. So when you say onto a site, you're
15 differentiating traffic on the actual subject site versus
16 traffic on Kingsley Road?
17 A. That is correct.
18 Q. You're not contending there will be forty-nine
19 cars traveling on Kingsley Road?
20 A. That is correct.
21 MR. HOLZER: I have no further questions.

1 RECROSS EXAMINATION
2 BY MR. SINGER:
3 Q. You are aware that the body shop had installed a
4 new filtration and purification system a couple years ago?
5 A. Yes. The Maryland Department of Environment also
6 told me that.
7 Q. Do you understand the forty-nine cars that would
8 be on this site presently park somewhere?
9 A. Yes, I do.
10 Q. And that testimony has been they park on some
11 residential streets in the area?
12 A. I believe Mr. Stoler testified he has changed
13 that there, but they had been.
14 MR. SINGER: I have no further questions.
15 MR. HOLZER: Thank you.
16 THE CHAIRMAN: You may be excused.
17 MR. HOLZER: Mr. Denmark.
18 L A R R Y D E N M A R K,
19 having been called as a witness, was duly sworn and
20 testified as follows:
21 DIRECT EXAMINATION

1 BY MR. HOLZER:
2 Q. Sir, would you give your full name and present
3 address and occupation, please.
4 A. My name is Larry Denmark. My present address is
5 40 Kingsley Road. My occupation is that I am the manager
6 in the Pikesville Hilton Hotel of San Marco Restaurant and
7 Gabby's Sports Bar.
8 Q. How long have you resided on Kingsley Road?
9 A. Not real long. Six years and change. At least
10 as compared to most of my neighbors.
11 Q. You heard the testimony of your neighbors, and if
12 you would, let's not try to repeat what they have already
13 said.
14 Could you tell us where your property is in
15 relationship to the subject site?
16 A. I am probably closest to the south or, rather --
17 I'm sorry. That would be east. And I am at the end, close
18 to the end of the dead-end. There are two houses below
19 me.
20 However, the side of my property, which is three
21 acres, actually is further east than the two houses that

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1 go behind it and towards the Woodbrook area.
2 Q. So you have to go past the subject site and to
3 the dead-end of Kingsley Road to get to your home?
4 A. Yes.
5 Q. There's no other access to your property other
6 than going out on Reisterstown Road?
7 A. Just going through the woods, but no vehicles.
8 Q. What are your concerns, apart from what's been
9 addressed?
10 A. I would like to approach this from a different
11 point of view, especially to the members of the Board, if
12 I could, or take you right down Kingsley Road. There would
13 be no other -- we wouldn't need to be here, it would be
14 that obvious.
15 When my children were two and four-years old, we
16 lived downtown in Union Square, kind of a yuppy community
17 with a park. It just was not safe. A fourteen-year old
18 mother of three was not the ethics I was looking to impart
19 on our children.
20 So I moved and we looked at townhouses and we
21 looked all over the place, and this community is

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1 absolutely unique.
2 It's an oasis, not odd, but it's something that
3 is absolutely different than any community like it, and
4 even the films of the video does not communicate that.
5 The first day when I saw the ad in the newspaper
6 I drove down and three people waved at me. When the first
7 person waved at me, I thought I had a problem with my car.
8 I got out, looked at my front tires. There's not been my
9 experience living in Baltimore County.
10 The second waved at me, and I realize that's the
11 homes -- that's the attitude, that's the sincerety of the
12 community. We all feel that way, not just the ones here,
13 but the ones who are not here as well.
14 I knew my children would be in the right
15 situation. And we checked the schools and we found out a
16 little bit more about the merchants in the area, and we
17 were very comfortable there, and still are.
18 My house is 110 years old. It's been totally
19 renovated. It's probably as old as the house in question,
20 which I think was externally renovated, and it does have
21 some cracks and some walls that don't go exactly even, but

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1 it's not falling down. It's in impeccible shape. The
2 insurance company we use has it rated as well as a new
3 residence.
4 Because of the fact that we are as far east, and
5 I, again, with my three-acre back yard, the kids go and
6 play there.
7 We recently took a tree, hung a couple swings on
8 it, got ready to do a tire, and you will find this is not
9 unusual. They're eighteen-year old Pines, a couple dogs
10 roaming around, kids climbing trees. Not like any other
11 community you find anywhere.
12 I am worried also that the proposed use that Mr.
13 Stoler has for his empire may not ultimately turn out to
14 be that.
15 From what I have heard -- and this is just from
16 my neighbors --
17 MR. SINGER: Objection.
18 Q. Don't tell us what somebody else said. Tell us
19 what your concerns are.
20 A. The lights, since I am lower down than those most
21 of my neighbors, the only ones that are bothersome are the

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1 Stoler lights.
2 I don't see the Pontiac lights. I don't see the
3 other side. My children, when they were about four, got a
4 telescope. My daughter was learning at school. They both
5 loved to see the stars, and for about seventy degrees of
6 the sky at any given time of night you can't see anything
7 with the reflection from the lights of the dealership.
8 I can, looking to the other side, it was as if
9 we're in the middle of a forest. It you look towards the
10 Gwynnbrook area, I can smell, almost taste the paint from
11 the paint shop as it occurred down back towards our
12 property from the paint shop.
13 And, again, I am almost the furthest one away, so
14 that obviously indicates everybody else in the middle is
15 affected by that, and probably even worse than I am.
16 The children in the community ride their bikes.
17 There's not a close park. And, again, from four-year olds
18 to seventeen-year olds riding up and down playing
19 together.
20 The point of it, just to accentuate the fact if
21 you go to everyone of the new fifty townhouse communities

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1 going south on Reisterstown Road, or north, you won't find
2 one like our community.
3 And it would be dreadful, because what appears to
4 be a growing corridor of commercial usage is making my
5 property worthless, and certainly worthless to me as well,
6 because I don't find the quality of life for my children
7 or my wife, and I -- nor my friends in the neighborhoods,
8 and I am very concerned and worried about that.
9 MR. HOLZER: Thank you, Mr. Denmark. Your
10 witness.
11 CROSS EXAMINATION
12 BY MR. SINGER:
13 Q. Mr. Denmark, when you moved there this first
14 visit, the dealership was existing, was it not?
15 A. Yes.
16 Q. You saw the light standards?
17 A. I came back at night.
18 Q. You saw the lights?
19 A. Of course.
20 Q. Now, they are the lights you're complaining about
21 now?

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1 A. There have been more added,
2 Q. Pardon?
3 A. There have been more lights added, yes.
4 Q. Near Kingsley Road?
5 A. Yes.
6 Q. By whom?
7 A. I see more lights. I don't have a light meter. I
8 really don't get a good view of the Pontiac dealership,
9 nor a view of the Heritage Group across the street, so I
10 guess it must be coming from increased uses by one of the
11 Stoler dealerships, or his expansion.
12 Q. But you don't know that, do you?
13 A. I see it.
14 Q. You see the lights?
15 A. I have senses. I can tell.
16 Q. What I'm asking you, do you know the source of
17 this increased lighting?
18 A. No.
19 Q. You don't know if it's coming from the Pontiac
20 or --
21 A. It's not coming --

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1 Q. Let me finish the question. -- or other lights
2 along Reisterstown Road?
3 A. I don't see the Pontiac dealership at all, so it
4 can't be from that. I'm not in that view. Our location --
5 I am not blind, so that the only thing I see is the Stoler
6 dealership lights.
7 Q. This growing corridor of the commercial uses,
8 you're referring to Reisterstown Road?
9 A. Uh-huh.
10 Q. You have to say yes or no.
11 A. Yes.
12 MR. SINGER: Thank you. I have no further
13 questions.
14 THE CHAIRMAN: Thank you.
15 MR. HOLZER: Mr. Goldberg. I'm sorry. Mr. Quinn.
16 Apparently Mr. Quinn has a time problem. Sorry.
17 MR. QUINN: Thank you.
18 M I C H A E L Q U I N N,
19 having been called as a witness, was duly sworn and
20 testified as follows:
21 DIRECT EXAMINATION

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1 BY MR. HOLZER:
2 Q. Mr. Quinn, give your full name and address,
3 please.
4 A. My name is Michael Kevin Quinn at 27 Kingsley
5 Road.
6 Q. Is that past the subject site?
7 A. Just past, yes. It is on the east side of the
8 Hengst property.
9 Q. I think we know where everybody lives in this
10 whole neighborhood by now, so I feel like I am old friends
11 with the Hengsts and Mrs. Fadely.
12 Without repeating what other people have
13 testified to, because we don't want to be cumulative, what
14 concerns, if any, do you have in regard to your property?
15 A. Well, at this point, I want to also clarify some
16 things.
17 First off, let me start with my own personal --
18 yes, from my front door, I can see, looking on the angle,
19 I can see the body shop. I can see almost the entire body
20 shop because the fence around is it is poorly kept.
21 The lights spillage, there's some on the east

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1 side of my house, but not on the west. Vivian Archibald's
2 house shades that side of my house. If the house were to
3 be removed, the entire front of my house and the west side
4 will be lit.
5 When the windows are open this time of year,
6 later on in the fall, I like to sleep in because sometimes
7 I work two jobs. Saturday morning, obviously, the Stoler
8 dealership operates Saturday mornings. I am routinely
9 awakened by the sound of dumpsters being dumped at 6:30 in
10 the morning, sometimes earlier.
11 When I communicated with Mr. Stoler in the
12 eighties about the problem, it would go away for a time,
13 but eventually come back.
14 Most of the time the problems would go away when
15 Mr. Stoler needed to put on a decent appearance, but soon
16 would return. It was just about a month or so ago we were
17 all awakened about 5:30 in the morning with a dumpster.
18 This was Thursday morning. The dumpsters was emptied and
19 when they empty them, they make sure they get every little
20 bit out by going, gu-bang, gu-bang, gu-bang, gu-bang.
21 Q. Let's focus the comments on the request.

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1 A. Okay.
2 Q. Which is forty-nine parking places. What impact,
3 if any, will that have?
4 A. Well, Saturday morning, if I want to sleep in
5 until 9 o'clock, at 6:30, 7 o'clock in the morning his
6 employees will begin to pull in, so I will have forty-nine
7 cars making noise, coming in, some in decent repair, some
8 maybe not.
9 People will be getting out, talking to each
10 other, slamming the doors. At this point, you know, I
11 realized that I will hear that, but also will my
12 neighbors.
13 They are talking about the subject site having
14 less or more traffic. Vivian Archibald did not run a
15 licensed day care center, unless you have a license number
16 that you can recite or show the license. She talked about
17 getting it, never got it. She never watched more than
18 five kids at a time, and several of the kids were usually
19 also kids of the neighborhood at one time. My two sons --
20 I have a son here who will testify there were never more
21 than five kids at a time.

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1 Standards are high. The other kids from outside
2 the neighborhood were infants, not yet old enough to
3 attend a licensed day care center. They usually have to
4 be two-year olds or potty trained. These children she was
5 watching were not. They also stated previously at the
6 last hearing Vivian Archibald --
7 MR. SINGER: Objection.
8 Q. We don't want to go into that.
9 A. Not a problem. My reference is this, the hedges
10 have been kept low on purpose by the previous owner for
11 sight lines.
12 When I back out of my driveway, I can look up the
13 road and I can see almost to the Burkindine's house. It
14 was nice when my sons were a little younger and so were
15 the Burkindine's boy. I would stand in my driveway and
16 call to the Burkindines and see if they were there.
17 Obviously, all this will change, no matter what
18 you think. You're going to go with what is drawn for the
19 fence. A six-foot high fence will obstruct that view. I
20 will no longer have this distance of fifty yards of the
21 west side of Kingsley Road in order to see as I travel up

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1 the eastern section before hitting what I calling the --
2 it's not a dogleg. It's a "Z."
3 My point is, there are no sidewalks right now.
4 The children play on the street. They walk to the bus on
5 the street. They ride their bikes. They roller blade.
6 Riding bikes and roller blading create speed for the
7 children.
8 Q. Let me ask you a question. Does the bus come
9 down Kingsley Road to pick the children up?
10 A. No, it does not, because it wasn't able to make
11 the turn around the road. It's too small at some point.
12 It's only ten feet wide.
13 Q. So all the children that ride the school bus have
14 to walk up to Reisterstown Road?
15 A. Yes. They walk the middle of the road. Parents
16 walk with them, but, you know, every day.
17 Q. Any other problems?
18 A. Yes. At this point where Mr. Stoler now has up
19 at the end of Kingsley Road and Reisterstown Road, he has
20 to maintain it with landscaping, lawn, grass cutters, so
21 forth, he will have to do so if he changes the property.

1 Even now, he's taking care of that property with
2 the same lawn care company or landscape company. They
3 park in the road. We constantly have to honk, call to ask
4 that they park in either the driveway or someplace else so
5 that traffic can get by.
6 You put up the fence, the landscaping, someone's
7 got to take care of it. It's an increase in traffic.
8 Q. Any other concerns that are not duplicate?
9 A. I believe I have covered it.
10 MR. HOLZER: Thank you. Your witness, counsel.
11 CROSS EXAMINATION
12 BY MR. SINGER:
13 Q. You understand that the employee parking under
14 this proposal, that would be in the body shop in large
15 measure?
16 A. That's not what has been testified earlier. It
17 was told it was going to be employees of the body shop and
18 also some sales and clerical staff.
19 Q. Do you know that the body shop doesn't operate on
20 Saturday?
21 A. No, I do not, but there are sometimes in the past

1 they did have a vehicle serviced there. That been three or
2 four years, but I was able to talk to the manager there on
3 a Saturday, so apparently.
4 Q. Talking about service?
5 A. I am talking about the body shop. I had an
6 Escort a deer had hit.
7 Q. The body shop wasn't in operation that --
8 A. The body shop was, yes, because they fixed it.
9 The body shop employees that do the physical work, they
10 may not have been there, but a manager was there to answer
11 the phones, so someone was working there.
12 Q. There was an individual?
13 A. There was an individual, so I would assume he
14 would use that parking.
15 Q. Let me be clear now. You're objecting to the
16 six-foot fence, referring to Petitioner's Exhibit No. 2?
17 That's got a cutout there?
18 A. Yes, sir.
19 Q. Do you know how far back that would be from the
20 roadbed?
21 A. Well, Mr. Piccinini at one point testified it was

1 supposed to be maybe only five feet back.
2 Q. Talking about the fence now?
3 A. The fence? Well, if the fence is ten feet,
4 fifteen feet, Vivian Archibald's house is further back
5 than that, and there's a view that I am accustomed.
6 Q. This is one inch to thirty feet and it looks
7 like there is, from the point closest to the S-turn, I'll
8 call it, S-turn, it looks like roughly, at the most, more
9 than an inch, and here about a half inch?
10 A. To that corner. But come down to where you're
11 looking at, the south side, that south corner of that
12 fence is what will be blocking my view. Connect -- we
13 can drew a straight line, if you wish.
14 Q. Just a moment. Talking about where it says RW
15 line here?
16 A. Yes, where you're showing the shaded area.
17 Q. The shaded area?
18 A. Uh-huh.
19 Q. You're talking about then from the shaded area to
20 the property line, which is the end of the red line, is
21 that what you are talking about?

1 A. That would probably be the most advantageous you
2 would have. As people come up here -- right now, they are
3 able to see, as I say, almost to the Burkindine property.
4 As they are coming west on Reisterstown road, they can
5 see --
6 Q. Is this the photograph that shows --
7 A. No.
8 Q. Just a moment. Let me finish the question,
9 please. The photograph shows there which block that site
10 line you're now describing?
11 A. Your photographs was advantageously taken.
12 There's one lilac bush right here. As you pull here from
13 this point up to that very corner, you can see through the
14 Hengst property, across the hedges to the Burkindine
15 property.
16 That's is the view of the site now. If I come up
17 here, I now see fence. As I am coming this way, I now see
18 the fence from back beyond.
19 Q. How fast do you travel --
20 A. I only travel maybe anywhere from ten to twenty
21 miles an hour, depending how you're coming down, but

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1 people travel quickly coming east from Reisterstown Road,
2 and sometimes they are taking this turn closer to the
3 twenty miles an hour rate.
4 And at this point, the road widens here, so one
5 can pull off. Over here on the east side that runs along
6 the property, the road shrinks in size and shrinks as you
7 go back further so you don't have anywhere to pull off
8 except an apron of somebody else's.
9 Q. You can see from this point where the twenty-
10 foot mark is across there to the corner of the property,
11 can you not?
12 A. I don't know because we don't -- at this point,
13 yes, I can, but what you have drawn here, I can't tell
14 that because I don't know what vegetation there is.
15 And as stated previously, even though Mr. Stoler
16 is promising something, he has a history of keeping that
17 promise for a very short term.
18 Q. You don't know about the vegetation, but you also
19 know about the fence, do you?
20 A. Yes, I do, because you said and stated that it
21 was going to be a solid fence six-foot high. The

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1 vegetation is unknown because it's something that changes
2 every year. The fence, I assume, will not.
3 Q. You're talking about being able to see through
4 the lilac bush?
5 A. The one lilac bush.
6 Q. May I have the photograph? Is the the bush we
7 are talking about? I am referring to a photograph marked
8 Petitioner's Exhibit 7. Is that the one we are talking
9 about, sir?
10 A. You're looking at this?
11 Q. Is that the bush?
12 A. There are two.
13 Q. That's what I'm asking. First, I am trying to
14 identify whether or not that's --
15 A. That's the lilac bush right there.
16 Q. What's next to it?
17 A. That's a holly -- it looks like a holly tree.
18 Q. That's located on the corner where Kingsley makes
19 the second turn to go east?
20 A. They are located somewhat next to each other.
21 There's a space between them.

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1 Q. Did I understand you to say that if the Archibald
2 house were moved, no matter what happens to this proposal,
3 then you would see the light from the west side?
4 A. Yes, sir.
5 Q. From the west?
6 A. Yes, sir.
7 Q. And you have complained about the dumpster now?
8 A. Yes.
9 Q. From the existing site?
10 A. Yes, sir.
11 Q. I'm sorry. From the existing dealership, not the
12 site in question?
13 A. Yes, sir.
14 Q. How far back, in your opinion, would the fence
15 have to be moved in order to maintain what you feel is an
16 adequate sight line?
17 A. To the current construction lines of the Vivian
18 Archibald house, or I guess Mr. Stoler's house, the
19 existing house.
20 Q. The closest point to the house looks to be like a
21 couple of feet?

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1 A. If you're referring to the interior cut.
2 Q. I am. To begin with, the interior cut, that's
3 the closest point?
4 A. Uh-huh.
5 Q. Then further out here, it's further, and away
6 from the back of the house it's less than as indicated on
7 the plat?
8 A. That is correct.
9 Q. You would want the fence then to correspond to
10 the -- I am going to draw a line here. This is the end of
11 the Archibald house. Is that what you are talking about?
12 A. At the point where the line joins the red line,
13 that is correct.
14 Q. So if the fence were moved back to there, then,
15 in your estimation, the existing sight line would be
16 maintained?
17 A. No. You have not moved the fence that you're
18 showing at the south side, the proposed fence. You have
19 just proposed to move what's on the east side.
20 Q. So the fence then would have to go another angle?
21 A. Actually --

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1 Q. Cut off the square, is that what you are
2 suggesting? I am trying to arrive at your view or opinion
3 as to what would maintain the existing sight line.
4 Where I have drawn the blue line is the end of
5 the existing hedge. Do you want to get closer? This is
6 the east end of the house where I have drawn the blue
7 line?
8 A. Yes, sir.
9 Q. Then this is like a little cut?
10 A. Yes, sir.
11 Q. What I'm asking you is if the fence were cut at
12 an angle here so that it obliterated or removed the
13 square, would that maintain the sight line you described?
14 A. Yes, sir.
15 MR. SINGER: Thank you, sir. sir I have no
16 further questions.
17 MR. HOLZER: No further questions.
18 THE CHAIRMAN Thank you.
19 MR. HOLZER: Could we take a two-minute recess?
20 THE CHAIRMAN: Let's take a five-minute break.
21 (A recess was taken.)

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1 THE CHAIRMAN: Mr. Holzer.
2 MR. HOLZER: Mr. Goldberg.
3 R A N D A L L G O L D B E R G,
4 having been called as a witness, was duly sworn and
5 testified as follows:
6 DIRECT EXAMINATION
7 BY MR. HOLZER:
8 Q. Mr. Goldberg, give your full name and address,
9 please.
10 A. My name is Randall Emmerson Goldberg. I live at
11 No. 5 Montgomery Road.
12 Q. Where is that in relationship to the subject
13 site?
14 A. I don't believe I am on the map that Mr. Stoler
15 has produced. Montgomery Road plugs into Kingsley Road a
16 little further down. Just a house and a half before Mr.
17 Denmark's house.
18 Q. So your only access is around the curve and down
19 to Reisterstown Road?
20 A. Yes.
21 Q. How long have you lived there?

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1 A. Just shy of two years, moved from San Diego, came
2 to Baltimore. We closed the escrow on the house on
3 Montgomery Road July of two years ago.
4 Q. Did you appear and testify at the Zoning
5 Commissioner's hearing?
6 A. Yes, I did.
7 Q. The other thing, I want to begin to admonish
8 everyone, while it's your day in court, we have also heard
9 a lot of different testimony, so please try to address
10 your comments to things that have not been talked about by
11 others, because we have heard your neighbors.
12 A. Okay. I consider myself well admonished.
13 Q. Not that it will do any good.
14 A. I'd like to say, first of all, that I'd much
15 rather be fishing today, and I'd like to thank Mr. Stoler
16 for his civics lesson. We wouldn't be here if it weren't
17 for his intrusion into our neighborhood.
18 I have some very serious concerns about the
19 development as it is and a couple of them have not been
20 addressed, I think, at this point, at least from the way I
21 am going to try to discuss it.

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1 First of all, the property that he's proposing to
2 develop commercially has a sixty-six foot frontage
3 connection with his land, and it is at the visual center
4 of our neighborhood.
5 When I leave my home and drive up Montgomery
6 road, I turn right and head up towards the property in
7 question, and I look directly -- the property lays right
8 directly at the head of the road.
9 So when I leave and I turn right -- I've taken a
10 series of photographs -- from my home on Kingsley Road, I
11 am looking up at green trees that are matures trees and a
12 bush. It's all green, very nice to look at.
13 And if Mr. Stoler has his way, there will be an
14 eight-foot or six-foot high, whatever it is, fence that I
15 will be looking straight up Kingsley Road at, not
16 currently, maybe part of a house, et cetera. And also by
17 protruding the way this property does, down into this "Z,"
18 right now that property is our buffer. He bought the
19 buffer and he's going to have us directly exposed and
20 instead of sixty-six feet contiguous property to the
21 residential surroundings, he's going to have 600 feet of

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1 whatever it is around that whole area.
2 Where does this process stop? This is not the
3 only one of two properties that are lined along his
4 existing commercial property. All of Mrs. Fadely's
5 property is too, and she's been there seventy-five years.
6 And when she's gone, what's going to stop him from using
7 the same argument to move down that area?
8 So we are going to be looking straight up the
9 road and he's directly, directly, impacting. Now, rather
10 than having this buffer that's the Archibald residence, we
11 are going to be staring straight up at his landscaping and
12 maybe beautifiction project.
13 I don't think that this is appropriate
14 development. This is totally inappropriate. It's a very
15 dangerous curve, and it must be stated that you can't have
16 it two ways. Either the buffer is going to block our
17 view of the cars or it's going to obstruct our view going
18 around that corner. You can't do both.
19 I have a couple photographs here. At the end of
20 the dog-leg here, you can actually see across behind the
21 Archibald's. You catch a glimpse. And being familiar

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1 with what's coming around that corner, I will glance
2 behind the house, I see across that property behind the
3 house. I'd like to show that because we keep nickeling
4 (phonetic) around about this, about being able to see her.
5 I can see when I am coming up this dog-leg, I can
6 catch a glimpse of what's coming on the street over here
7 behind the property. That's totally obstructed. And as I
8 am coming here, up here, I can see a lot more property,
9 and visibility isn't going to be allowed by his proposal.
10 Either we are going to be able to see across, or what he's
11 going to develop is going to be much more dangerous.
12 I have lived there two years. I have had two
13 close calls going around the corner, being aware of what's
14 coming up.
15 Kids along here, this hedge that he's talking
16 about is about this height. Okay? So when you're driving
17 in a car, you can see across the top of it, you can see
18 the head of a child with their helmet on, on their
19 bicycle, going along there.
20 That's going to be gone. It's going to be more
21 dangerous if you raze the house. If the house is raized

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1 and you put up a fence, it's going to be a much more
2 dangerous intersection than it is now.
3 Yeah, it could be ameliorated by putting up big
4 mirrors up in the sky so we can have visibility, but
5 that's going to change the nature of my neighborhood. I
6 bought my house sight unseen on the inside --
7 Q. Mr. Goldberg, let me interrupt you a minute.
8 Let's do this. You took some photographs. To some
9 extent, these photographs illustrate your point, and did
10 you take these pictures?
11 A. Yes, I took the pictures last Tuesday.
12 Q. Do they accurately depict the scene of Kingsley
13 Road as you know it to be?
14 A. Yes, absolutely.
15 Q. Did you place this numbering on here yourself?
16 A. Yes.
17 Q. On the back, you just stamped your name and
18 address on the back of all this?
19 A. Uh-huh. Also, there's a little map I have here
20 and I put a number there with -- where I was kind of --
21 the angle I was at when I took the picture.

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1 Q. So the number on this exhibit corresponds with
2 the number two? One is the first picture, two is the
3 second, et cetera?
4 A. And there's an arrow showing which direction I
5 was looking essentially when I took the picture.
6 MR. HOLZER: I'd like to show these to counsel.
7 These would be Protestants' No. 7.
8 THE CHAIRMAN: Eight.
9 MR. HOLZER: I messed seven. What's No. 7?
10 MR. BUCHHEISTER: No. 7 was the Notice of
11 Assessment.
12 MR. HOLZER: I'm sorry. Thank you. I would
13 offer the colored plat with the numbering as Protestants
14 No. 7.
15 THE CHAIRMAN: Any objection.
16 MR. HOLZER: I'm sorry. No. 8.
17 MR. SINGER: No objection.
18 MR. HOLZER: And perhaps just mark them as nine,
19 and it's eighteen photographs that are numbered from one
20 to twelve.
21 Q. Mr. Goldberg, you identified these with numbers

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1 so why don't you just tell us what number one is and go
2 through the photographs, and the Board will be able to
3 follow on the chart.
4 I am passing them to the Board so they can look
5 while you're describing them.
6 A. Number one is leaving my home, my driveway,
7 leading up Montgomery Road.
8 Number two is turning right onto Kingsley Road
9 from Montgomery Road and looking up directly at what
10 was -- what is the Stoler property now, and it just so
11 happened at that time there were a couple cars that were
12 trying to get by, and a truck.
13 The postman was making a delivery, so I took a
14 couple shots of that to show you how narrow the street is.
15 One car has to pull over to get the other car by. And
16 then a shot of just straight up the road with no cars.
17 Q. We have had three marked as No.2.
18 A. Number 3 on it is looking across the dog-leg, or
19 the "Z", or the leg from the -- what is it, the east or --
20 from the east side of it.
21 Q. The box that you put on there is to point out the

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1 area that you can see across?
2 A. That you can see across the subject site that's
3 going to be at least partially obstructed by the fencing
4 and landscaping.
5 The next one, number four, is from the corner of
6 the "Z" where you can actually see across behind the
7 house. It's a glimpse, but you can certainly see across
8 this property from behind the house. That's going to be
9 totally obstructed.
10 Q. Next.
11 A. The next one, number five, is further along as
12 you're leaving the area and it shows the fact that you
13 can, from the corner of that house, get quite some view up
14 Kingsley Road.
15 Q. Number five, you have a box on that, and that
16 would be -- you're going south and about to turn right
17 towards Reisterstown Road?
18 A. Correct. And some proposed fencing that is going
19 to be doing some obstructing of that view.
20 Number six is a little further along there.
21 Q. This also shows -- did you write "proposed fence"

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1 in there?
2 A. Yes.
3 Q. That's not to scale?
4 A. No, it's not to scale, but it's going to be in
5 that area, and I don't know how far, but I can tell that
6 it's going to further obstruct the view from where we are.
7 It's going to make it a more dangerous
8 intersection.
9 Number six is just a little tad further along,
10 essentially the same view, but you can see how much more
11 visibility -- each foot you move forward, you can see a
12 lot further along. Then, from the corner of that dog-leg
13 where the appeals process sign is, right at the corner
14 there.
15 Q. Number seven, that is looking straight out to
16 Reisterstown Road?
17 A. Uh-huh.
18 Q. In a westerly direction?
19 A. Yes. Going back the other direction, number
20 eight, and that fencing is going to further obstruct the
21 view across that area.

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1 Q. This is your drawing of where you believe the
2 fencing will be and it's not to scale?
3 A. Not at all to scale, but I know there's going to
4 be additional obstruction, and more dangerous for my
5 daughter and the children in this neighborhood.
6 Also, the guy that walks up, you know, from the
7 Brown house, he walks up to the bus stop every day. I
8 almost took him out one day, being careful.
9 Q. Number nine?
10 A. Or one evening. Number nine shows the fact you
11 can catch a glimpse of a corner of that dog-leg. You can
12 see Mrs. Fadely's property from behind across that current
13 lot.
14 Q. You're coming from west from Reisterstown Road to
15 east?
16 A. Into the property now, yes.
17 Q. So we are going back?
18 A. Yes, looking back now, and then here you can see
19 Mrs. Fadely's house. You can catch a glimpse of the
20 dog-leg on the other side. And then all this area to the
21 right, you know, there's limited visibility. There's

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1 problems with it
2 But it going to be worse by what Mr. Stoler is
3 proposing. It's going to be more dangerous.
4 And then these last two, eleven and twelve, are
5 shots of the fencing, that I think this is the kind of
6 fencing Mr. Stoler is proposing. It's eight-foot high
7 double-slate fence, and I think this is, you know, that's
8 what he's coming into the project, that's what he's
9 planning on putting up across this area.
10 And these are just a couple other shots
11 essentially looking behind, showing you can see now across
12 behind and in front, and that this is going to be totally
13 behind, is going to be gone.
14 Q. Are there any other concerns other than the
15 fencing and the safety issue that you care to race?
16 A. The fencing and the safety that other people
17 covered, the noise, the banging of cars, et cetera, et
18 cetera, et cetera.
19 I want to say that I don't -- I think it's time
20 to stop the push into this little residential
21 neighborhood.

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1 It's going to be essentially destroyed by
2 incursion the way it's been proposed here. The entire
3 city of Baltimore disappears essentially when you hit the
4 Cliftons and get beyond it. Okay?
5 You go under a canopy of trees, and the city
6 tends to totally disappear. As you're coming down
7 Kingsley Road, when you get to the Cliftons, it no longer
8 appears to be commercial. It appears to be a residential
9 area.
10 And the entire nature of this community is going
11 to be changed by putting in commercial use that's going to
12 penetrate all the way around that "Z", or dog-leg. It's
13 going to change it dramatically.
14 And I bought back there an eighty-year old home
15 in an isolated little area that is really quite
16 spectacular for what it is.
17 There is an inexpensive way for Mr. Stoler who
18 wants to expand his commercial operation, and I don't want
19 to feel like I am living in Mr. Stoler's landbank of
20 expensive property.
21 Q. Thank you, Mr. Goldberg. Your wife was also

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1 supposed to testify, but you incorporated her thoughts?
2 A. I have attempted to.
3 Q. Not that any of us could ever speak for our
4 wives.
5 MR. HOLZER: Having said that and put that on the
6 record, your witness.
7 THE WITNESS: Oh, one other point I'd like to
8 make. We do already see lights, the ambiant light. The
9 trees on my property, I have a couple beautiful tall Pine
10 trees, must be fifty, sixty feet high, and the lights from
11 the car operations light those things up at night.
12 I live far enough away where I only can recall
13 two different times -- I am quite aways away, and this
14 paint shop has been a real problem for people living
15 closer for me. It's only twice that I have been able to
16 detect it. I am a nurse and, luckily, I don't have a
17 great nose.
18 MR. HOLZER: Thank you. Your witness.
19 CROSS EXAMINATION
20 BY MR. SINGER:
21 Q. Mr. Goldberg, you're opposed to any fencing that

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1 is going to completely screen off this site?
2 A. That is correct.
3 Q. You'd be opposed to any fencing you could see
4 through?
5 A. It doesn't -- it depends on what I'm going to be
6 looking through and at.
7 Q. We know what you're going to be looking through
8 and what are you going to be looking at?
9 A. What am I going to be looking at? I don't know.
10 Q. You have been sitting here, haven't you?
11 A. Yes.
12 Q. You see cars parked there if it were approved?
13 A. If it were approved, I could would see cars.
14 Q. Under the proposal, if the fence had a
15 see-through kind of arrangement, you would see cars?
16 A. It's totally inappropriate to develop it in this
17 way because you can't have your cake and eat it too.
18 Q. I am asking you, you'd be opposed to that kind of
19 fence too, would you not?
20 A. Yes.
21 Q. Now, as you come driving and you have glimpses

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1 behind the Archibald house --
2 A. Uh-huh.
3 Q. -- not a steady line in a moving car?
4 A. No, but I can see the reflection of cars coming,
5 you know. Yes, you can. It's a glimpse, but there's some
6 visibility across that lot that's going to be lost.
7 Q. My point is, it's not a continuous view?
8 A. Absolutely not.
9 Q. The photographs you took and have been admitted
10 into evidence, as you make a right turn out of Montgomery
11 and look down, see the two cars side by side, it's a
12 narrow road, isn't it?
13 A. Yes, absolutely.
14 Q. And it's a little better in terms of width, but
15 coming in from Reisterstown Road, it's still a narrow
16 road, isn't it?
17 A. Yes. The way it's set up, it's quite much wider
18 occurring in the commercial, you know, areas, and then
19 very quickly tapers down.
20 That's part of the beauty for me, because at that
21 point where the road does taper down, that's where you hit

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1 the canopy of the trees, and that's where the city
2 disappears.
3 Q. Where it tapers down at either end, you don't
4 have to be a rocket scientist if you're driving a car to
5 know you have to slow down and be careful when you're
6 driving, do you?
7 A. No, you don't have to be a rocket scientist, no.
8 Q. And any reasonable person driving an automobile
9 would know you have to cut your speed down because it
10 narrows and there may be cars coming the other direction,
11 isn't that so?
12 A. Any reasonable person would so down.
13 Unfortunately --
14 Q. Just a moment. You have answered the question.
15 Don't editoralize.
16 Other than your photograph number nine, you said
17 you can see the Fadely house, but you coulnd't see the
18 road as you cut through your number nine?
19 A. Right. You can't see the ground, no, you can't
20 see the ground. But you can catch a glimpse of a car
21 coming across there. You can saw the mail truck parked

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1 there.
2 Q. When you come around this S-curve or "Z" curve or
3 dog-leg, however one wants to describe it, when you're
4 coming eastward and you come here, again, any reasonable
5 person is going to slow down, are they not? Because it's
6 essentially a right angle turn?
7 A. More than a right angle turn. I believe it's a
8 very, very sharp. But say most people --
9 Q. You have answered the question. Let's not
10 editoralize your answer. You'll get your chance if your
11 counsel wants you to testify more.
12 Q. Coming from east and going to the west, you have
13 the same kind of situation?
14 A. Yes. And assuming a reasonable person, yes.
15 Q. It is essentially, if I understand your
16 testimony -- if I don't, correct me, please. -- these
17 glimpses that you object to being removed from the --
18 A. It's the total use of the property.
19 Q. Let me finish the question please. It's these
20 glimpses that you object to losing as you have described
21 them as you're driving either east or west, is that

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1 correct?
2 A. It's the safety factor of having an opportunity
3 to --
4 Q. Say yes or no.
5 A. -- to see what's coming.
6 THE CHAIRMAN: Mr. Goldberg, just answer Mr.
7 Singer's question directly with a yes or no, because Mr.
8 Holzer will have an opportunity to let you expound on
9 those.
10 Q. Is it these glimpses that you describe --
11 A. Yes.
12 Q. -- that you object to losing?
13 A. Yes, absolutely.
14 Q. Now, from your house, you can see the site?
15 A. No.
16 Q. Because you're down and then you make a left turn
17 as you come in. Are you at the bottom of that hill?
18 A. No, not at the bottom of the hill, no.
19 Q. When you're traveling west, I think you
20 testified, you're looking directly at trees and bushes and
21 so forth, is that correct?

1 A. Yes. And the little -- if you can see on the
2 picture, you can see the little -- you know, the macadam
3 parking area that's existing on the the property now with
4 one car, maybe two. It's an an Alexis. It's nice.
5 Q. You object to then seeing the fence as screened
6 by whatever vegetation there would be?
7 A. To the commercialization of that, yes.
8 Q. Actually, you wouldn't see the commercialization
9 if you have the fence that you described it that blocked
10 your vision, you would see the fence and the trees and the
11 bushes, is that correct?
12 A. Yes.
13 MR. SINGER: Thank you, sir.
14 THE CHAIRMAN: Mr. Goldberg, you may step down.
15 MR. HOLZER: Mr. Schaler. I can't get it right
16 for trying. I should have said Keith.
17 KEITH SCHALER,
18 having been called as a witness, was duly sworn and
19 testified further as follows:
20 DIRECT EXAMINATION
21 BY MR. HOLZER:

1 Q. Mr. Schaler, how long have you recided -- excuse
2 me. What's your current address and how long have you
3 resided there?
4 A. My current address, 6 Mountain Road. I've been
5 residing there eight years.
6 Q. During the break, I asked you to try to focus
7 your comments on what has not been talked about.
8 Is it fair to say that you basically adopt a lot
9 of the comments that the other people have already given?
10 A. Yes, I do.
11 Q. So having adopted that, let's go to what's
12 particular, what you want to say in regard to your site,
13 your property?
14 A. Well, naturally, the safety issue was already
15 addressed by Randy just a moment ago, because I have five
16 children that play in the area, they're allowed to go up
17 to that proposed property line with their bikes. Besides
18 those issues, the safety issue, I am mostly concerned
19 about, I have a financial interest in purchasing -- in the
20 property that I purchased back there. I purchased the
21 property in '82 and I had a chance to build a home that I

1 now reside at beginning in 1989 and ending in 1990.
2 Again, the financial interest is an important one
3 to me. I relied heavily on a good assessment of my
4 property because I do require a loan here and there to get
5 any vehicles or additional improvements to the current
6 residence.
7 If this proposal goes into effect, the
8 commercialization effect of the neighborhood would cause
9 the marketability of my home to be decreased and,
10 therefore, I may not be able to get a loan in the future
11 either for college for my kids and other financial areas.
12 Q. All right sir. Is that it?
13 A. That will will be it.
14 MR. HOLZER: Thank you very much. You have to
15 wait. He may have some questions.
16 CROSS EXAMINATION
17 BY MR. SINGER:
18 Q. Your children go from your home up to the S-curve
19 here?
20 A. Yes, they do.
21 Q. Do you have any concerns about traffic coming

1 around that S-curve and your children riding bikes at this
2 time?
3 A. Very much so. As it currently exists, as Randy
4 said in his prior testimony, it's currently a dangerous
5 situation. My kids aren't six or seven foot tall.
6 Therefore, if a fence goes up six-foot tall, that
7 particular corner, I travel it between five and ten miles
8 an hour.
9 Any faster than that, making that turn, a six or
10 seven-foot high fence, no time to stop whatsoever and,
11 therefore, I'd hate to see one of my children get hurt, or
12 anybody else in the neighborhood.
13 Q. You feel that's true no matter where the fence is
14 located?
15 A. On the proposeal that you had there on the lot,
16 on the plan, it's certainly going to be worse, even if
17 pushed back a little further.
18 Q. There was some discussion earlier about how one
19 would feel about the sight lines if the fence ran diagonal
20 across here and didn't extend any further to the southeast
21 than the corner of the Archibald property, it would allow

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1 a greater sight line? Would you agree?
2 A. Yes, I would. Although a forty-five degree
3 angles, you'd still have immediate blockage until you got
4 around that particular angle, and if a child is there,
5 it's a hard time to stop.
6 Q. You'd have a clear shot? If the fence did not go
7 beyond the point where the house presently exists, you'd
8 have essentially the same sight line?
9 A. Not with a six foot high fence.
10 Q. But you could see to the right of it, couldn't
11 you, sir?
12 A. To the right, yes, you could.
13 Q. Isn't the house more than six feet high?
14 A. I am sure it is, yes.
15 Q. Have you tried to borrow any money on your home?
16 A. Several times.
17 Q. Have you discussed the possibility of this
18 proposal being approved and what effect it might have on
19 the value of your house?
20 A. Only by my own guesswork as to what might happen
21 commercially, how it will affect other areas, and I

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1 believe it will.
2 Q. You haven't made any study of this possible
3 impact upon your house?
4 A. No, I haven't. I don't need to.
5 MR. SINGER: Thank you, sir.
6 MR. HOLZER: Valerie Robinson.
7 VALERIE ROBINSON,
8 having been called as a witness, was duly sworn and
9 testified as follows:
10 DIRECT EXAMINATION
11 BY MR. HOLZER:
12 Q. Mrs. Robinson, give your full name, present
13 address, and how long you have lived there?
14 A. My name is Valerie Leah Robinson, 30 Kingsley
15 Road. I have been a resident there for twelve years.
16 Q. In regard to this subject site, where are you in
17 relationship to it? Are you further east of it, around
18 the dog-leg?
19 A. Yes, I am further east of it on the left-hand
20 side. I am three houses down. Mrs. Fadely, the Orrs, and
21 then the Robinsons.

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1 Q. Again, I will say the same thing to you I said to
2 the previous witnesses. We have already heard from many
3 people in the community, so if you would focus your
4 comments on what has not been addressed at this point.
5 Let me ask you the question. What concerns, if
6 any, do you have in regard to the proposed variance and
7 special exception requests?
8 A. My biggest concern is when my husband and I came
9 into the area in 1986, it was a community that was already
10 established.
11 It did not seem to appear that there would be any
12 type of construction happening at all. On the left side,
13 which is the side my house is on, all the houses have an
14 acre lot, and my house backs up to a townhouse community.
15 On the right-hand side, all the houses have half
16 acres, and they are already backed up to an apartment
17 complex.
18 Coming into the neighborhood, there were
19 established houses which we have heard in earlier
20 testimony have been slowly taken away by commercialism,
21 which, again, I was one of them that opposed, and we were

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1 very sad to see that go.
2 But I felt that this neighborhood was unique
3 because my house is a ninety-year old house. My husband
4 and I have put a lot of time and effort into keeping it
5 close to the original foundation as possible.
6 We have done a lot of renovations to it, and when
7 we bought into this, we thought there was no way there
8 could be any type of development.
9 I assumed -- I mean, that was one of the things
10 we looked at when looking out in Westminster. We feared
11 that the open areas around us, that there could be the
12 possibility for construction and possibly commercial.
13 I don't have anything against big residential,
14 but we chose to go into a smaller neighborhood because we
15 did not want a planned residential community.
16 So when we found this property, we thought it was
17 the best of both worlds, an older house in an already
18 established neighborhood, no chance of someone coming in
19 and change it to commercial.
20 I couldn't fathom anybody could come that far
21 back into a neighborhood and change it commercially and

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1 destroy what was there, ninety years of neighborhood.
2 So I took it upon myself to go up and down
3 Reisterstown Road and take pictures of all the commercial
4 properties that I have seen available within a half a mile
5 from the said property of Len Stoler and Colonial.
6 Q. When did you do that?
7 A. I did that about three weeks ago.
8 Q. Did you take pictures?
9 A. I did.
10 Q. Do you have it with you?
11 A. Yes. This is my exhibit.
12 MR. HOLZER: Let me show it to counsel.
13 MR. SINGER: I am going to object on the basis it
14 doesn't really bear on the issue of whether or not the
15 Board thinks this is an appropriate place to have
16 conditional approval.
17 MR. HOLZER: I think that the testimony of Mr.
18 Stoler was that, under the circumstance, he needed to
19 enlarge his commercial operation by way of additional
20 employee parking.
21 I think this is within the normal context one

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1 would look at commercial property to park commercial
2 vehicles, unless it wasn't available, or unless it wasn't
3 accessible, or relevant, and I think this goes to the
4 hardship or practical difficulty issues in the variance,
5 so that would be my proffered relevance.
6 THE CHAIRMAN: How close are these properties to
7 the subject site?
8 THE WITNESS: Within half a mile.
9 THE CHAIRMAN: In that case, I will admit it.
10 MR. HOLZER: I will show it to counsel. Just
11 relax. I will get you through this.
12 MR. SINGER: I object.
13 THE CHAIRMAN: It's noted, for the record.
14 Q. Very briefly, you took these photographs about
15 two week ago?
16 A. Yes, I did.
17 Q. Do they accurately depict the scenes as you saw
18 them?
19 A. Pretty much so, yes.
20 Q. Did you do anything other than take these
21 pictures? Did you inquire as to what the zoning was, to

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1 inquire whether the property has been sold or whether
2 there was a contract on it, anything like that?
3 A. Some of them already have what the property is on
4 them. I did not inquire whether or not they had been
5 sold. Several of the signs have been up for a year or
6 more.
7 Q. So my question is, did you conduct any further
8 in-depth investigation to each the property?
9 A. No, I did not.
10 Q. Could you just tell us then --
11 MR. HOLZER: I would offer this as Protestant
12 Exhibit No. 10.
13 MR. SINGER: Objection.
14 THE CHAIRMAN Noted.
15 Q. These are all within a half a mile of the Stoler
16 property?
17 A. Yes.
18 Q. Could you just tell us what No. 1 was?
19 A. No. 1 is on the right-hand side of -- it's 8.5
20 acres at 11125 Reisterstown Road. It's on the right-hand
21 side as you are approaching the Stoler auto dealership.

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1 Q. So it would be on the -- using Reisterstown Road
2 as north south – it would be on the east side?
3 A. The east side, yes.
4 Q. No. 2?
5 A. No. 2 is 11150 Reisterstown Road. It again is on
6 the east side and it is just passed the Alexis dealership.
7 Q. North of the Len Stoler property?
8 A. Right. I'm sorry. Yes, north.
9 Q. But also on the east side?
10 A. On the east side.
11 Q. No. 3?
12 A. It's 5.0 acres. 11024 Reisterstown Road. It is
13 on the left side and that is, again, I took the shot to
14 show it going towards the Stoler dealership.
15 Q. So it's south?
16 A. South of the dealership.
17 Q. On the west side of Reisterstown Road?
18 A. Yes.
19 Q. No. 4?
20 A. Three acres of the corner of Reisterstown Road.
21 I don't have an exact address.

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1 Q. Is says on here Ritters Lane?
2 A. Ritters Lane. It's the corner of Reisterstown
3 Road and Ritters Lane. Again, that is the west side and --
4 Q. Is that south or north?
5 A. That is south.
6 Q. South of the Stoler property. No. 5?
7 A. That's 1.3 acres at 11600 Reisterstown Road.
8 That is on the -- that is north on the west side, north of
9 the Alexis dealership.
10 Q. No. 6?
11 A. No. 6 is a building site and pad. That's 11406
12 Reisterstown Road, directly across from the Alexis
13 dealership.
14 Q. Right across the street?
15 A. Directly across from the Alexis dealership. And
16 then, what I have at the bottom, I didn't know, but I did
17 take several pictures of the Roy Rogers parking lot.
18 I did not know if that was being utilized as
19 rent, or if he had actually purchased it, because maybe if
20 you take down that building, that could give you
21 forty-some more sites.

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1 Q. At the time you made this, you had not heard Mr.
2 Stoler's testimony?
3 A. I did not hear his testimony since.
4 Q. Since you weren't present, he testified that this
5 Colonial Stoler had acquired that Roy Rogers?
6 A. Yes, that is correct.
7 Q. That's the Roy Rogers that is right adjacent to
8 his current operation right now?
9 A. Yes. And my question was, why isn't he taking
10 the building and putting the forty-nine spots there?
11 MR. HOLZER: I think he already answered that
12 question a day ago, a hearing ago. Thank you very much,
13 ma'am. No further questions.
14 CROSS EXAMINATIN
15 BY MR. SINGER:
16 Q. Mrs. Robinson, you said some of these sites have
17 been for sale for over a year?
18 A. Uh-huh.
19 Q. You don't know what the asking price for any of
20 these are, do you?
21 A. No. I'm not in business for commercial property

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1 right now.
2 Q. You didn't call and make any investigation?
3 A. No.
4 Q. You don't know whether any of the sites have any
5 problems topographically or otherwise that might be an
6 obstacle to development?
7 A. No, I do not.
8 Q. For any purpose?
9 A. No.
10 Q. You don't know what the zoning is, do you?
11 A. A lot of them actually have on there, if you read
12 the signs, they have it.
13 Q. But you didn't make any investigation?
14 A. No, I did not.
15 Q. Some of them are to have sidewalks in front of
16 them?
17 A. There are two that don't have sidewalks in front
18 of them, yes. That is number one and number -- I'm sorry.
19 Three.
20 Q. Number 4?
21 A. And No. 4. This one does. This is not showing

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1 it, but this one has a sidewalk in front of it. This has a
2 walk in front of it, but those that don't have sidewalks,
3 people would have to walk from those sites to the Stoler
4 dealership where they would -- well, I would just assume
5 yes, or I would assume you could have a shuttle service
6 for your customers to and from. I don't understand what
7 you --
8 Q. You don't know whether there's a shuttle service
9 or not?
10 A. For your company or Len Stoler service?
11 Q. Available for --
12 A. No, I am saying -- I am assumming if Len Stoler
13 would be interested in this property, he could use a
14 shuttle service back and forth.
15 MR. SINGER: Thank you for your suggestion. I
16 have no further questions.
17 MR. HOLZER: Thank you, ma'am. You may step
18 down.
19 Our last witness is Caroline, or Carolyn, Orr.
20 C A R O L Y N O R R,
21 having been called as a witness, was duly sworn and

1 testified as follows:
2 DIRECT EXAMINATION
3 BY MR. HOLZER:
4 Q. Mrs. Orr, you're the wife of Dennis Orr that
5 testified earlier?
6 A. Yes, I am.
7 Q. You reside at the same address, 28 Kingsley Road?
8 A. I do.
9 Q. You have heard my admonition to everyone else.
10 You had quite a few things to say, but I think they have
11 all been said.
12 Let's focus your attention just directly to one
13 or two specifics in regard to your property value. Would
14 you do that, please?
15 A. Yes. Like a lot of people here, I have concerns
16 about the value of property decreasing and future resale
17 problems, marketability issues.
18 Q. Okay. Could you tell us whether you did any
19 investigation in regard to your own house to determine
20 what or not and what impact the potential commercialism
21 has had or would have?

1 A. Yes. Our assessment went down a little bit
2 and --
3 MR. SINGER: I am going to object again.
4 THE CHAIRMAN: You're going o admit it?
5 MR. HOLZER: It would be the same as the other
6 one.
7 THE CHAIRMAN: Okay.
8 Q. You may proceed?
9 A. Anyway, our assessment went down, so I went over
10 to the Department of Assessments and Taxation, and I asked
11 to look at the worksheets the assessors use when they
12 prepare the assessment.
13 Q. Did you get copies of that?
14 A. Yes.
15 Q. Is this for your property?
16 A. Yes it is.
17 Q. I'm looking at one, two sheets of paper?
18 A. Right.
19 Q. Could I separate them from thereabouts?
20 MR. HOLZER: Sure.
21 Q. Could you tell us when you obtained these

1 documents?
2 A. About three weeks ago.
3 MR. SINGER: I object to this.
4 MR. HOLZER: I'd offer these as Protestants' No
5 11.
6 MR. SINGER: There's no reason given. There's no
7 basis for any action by the Assessment Board.
8 MR. HOLZER: Let me lay the foundation and
9 instead of just offering them at this point --
10 Q. Ma'am, could you take a look at these and could
11 you, from reading the pages, determine why your assessment
12 was reduced?
13 MR. SINGER: I am going to object. I think the
14 document will speak for itself.
15 MR. HOLZER: Then you have to read it to hear
16 what it says.
17 THE CHAIRMAN: I think we can read it adequately.
18 MR. SINGER: Since the Board can read it, rule on
19 my objection.
20 MR. HOLZER: Fine. I have no problem. I would
21 direct the Board's attention to Item No. 14.

1 THE CHAIRMAN: This is a residential sheet
2 recorded in the ordinary course of assessment so we'll
3 admit it.
4 Q. As a result, Mrs. Orr, when I read this, there's
5 a notation on Item No. 14, says five percent waved, wet
6 basement, foundation, five percent odor and noisy body
7 shop, is that correct?
8 A. Yes.
9 Q. Thank you very much.
10 MR. HOLZER: I'm sorry, I didn't mark this as
11 Protestant 11.
12 Q. I know there are probably a lot of other things
13 you'd like to say, but I think they have all been said.
14 Thank you.
15 MR. SINGER: Can I look at that last exhibit,
16 please?
17 CROSS EXAMINATION
18 BY MR. SINGER:
19 Q. Total land value is $50,000 as part of the total
20 assessment, is that?
21 A. According to the line 12, it says $50,000.

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1 Q. Out of the $86,680 total assessment?
2 A. Right.
3 Q. How old is your house?
4 A. Well, I don't know that. Nobody knows for sure.
5 I think it dates back to about 1914. It might be a little
6 bit older.
7 MR. SINGER: I would just refer the Board's
8 attention to item six where the deduction for
9 depreciation.
10 THE CHAIRMAN: I undestand.
11 MR. SINGER: I have no further questions.
12 THE CHAIRMAN; Thank you.
13 MR. HOLZER: You may step town. If I could just
14 have a few moments to address the Board for housekeeping
15 purposes, I was contacted by Mr. Robert Sellers who the
16 Board and counsel will recall was here at the last hearing
17 and attended who had a legal seminar to go to, and he
18 asked me to convey to the Board the letter on behalf of
19 ROG, which is the Reisterstown-Owings Mills-Glyndon
20 coordinating counsel, the letter along with their Rule 8
21 material, in view of the fact he didn't come back and he

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1 didn't have the opportunity to speak last time, so I told
2 him that I would convey that to the Board and he provided
3 a copy to counsel. He didn't provide a copy to me, but I
4 don't think I need it.
5 MR. SINGER: I object to the letter. It purports
6 to be evidence, and there's no opportunity for
7 cross-examination.
8 I'm not sure that it does -- it seems to be more
9 in the nature of argument, if the Board will accept it as
10 such. I don't think you can try a case by paper.
11 THE CHAIRMAN: I am inclined to agree with Mr.
12 Singer.
13 We can't accept it as evidence, but as we have
14 done very frequently before, we'll accept it for
15 identification purposes, and the Board will consider it as
16 far as its weight.
17 MR. HOLZER: I have a letter from Deborah Paris,
18 a letter from John and Barbara Michalides of 23 Kingsley
19 Road and a letter from George and Dorothy Isaac of 34
20 Kingsley Road, and Catherine and Cody Burkindine of 13
21 Kingsley road.

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1 All letters that I would offer the same as we
2 just did, I am sure counsel has the same objection.
3 MR. SINGER: I have an objection to those. I am
4 sure there is now argument by counsel.
5 MR. HOLZER: Those are just letters. As a
6 matter of fact, I could have told the people to send them
7 to the Board, and they'd both have gone in the Board's
8 files. Just like the Zoning Commissioner's file.
9 THE CHAIRMAN: I am going to accept them with the
10 comment the Board will take these as identification
11 purposes only, but from a standpoint of the record, the
12 Board really doesn't give a great deal of credence to
13 these types letters, because, again, counsel has not had
14 the opportunity to cross-examine these folks, but for
15 whatever weight they might hold, we will take them in.
16 MR. HOLZER: Thank you. One last point, that
17 while it's not the custom normally at the Board to have a
18 sign-in sheet, like at the Zoning Commissioner last April
19 24, I had a sheet sent around for all the protestants to
20 sign.
21 And today, on May 8, I also have seen the same

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1 sheet on the backside, and for the purposes of the record,
2 I would just submit that showing the attendees --
3 THE CHAIRMAN: Any objection?
4 MR. SINGER: No.
5 MR. HOLZER: That would be our case, members of
6 the Board.
7 THE CHAIRMAN: Anything further?
8 MR. SINGER: No, sir.
9 THE CHAIRMAN: Thank you. Just for those that are
10 in the hearing room today, at this point in the hearing,
11 normally, both counsel would present their closing
12 arguments to the Board.
13 However, during the break, counsel and I
14 discussed the situation and I opted to give both counsel
15 the opportunity to either have oral closing statements or
16 they could submit written briefs to the Board, and both
17 opted to submit written briefs to the Board for their
18 consideration.
19 They are due on May 29th. The briefs will be
20 submitted simultaneously to the Board's administrative
21 assistant, and following receipt of those briefs, each

1 individual member of this Board will review very
2 exhaustively the notes they have taken, the evidence that
3 was actually submitted during the hearing, and those items
4 that were admitted for identification purposes, which
5 means the Board will consider the weight of those
6 particular documents and also the briefs that will be
7 submitted containing a statement of fact and also the
8 applicable laws, both statutory and case law, that apply.
9 And then, following that, the Board has scheduled
10 a public deliberation.
11 The law requires the Board publicly deliberate
12 these cases, and that is scheduled for Wednesday, June 24
13 at 9:30 a.m. in the morning.
14 Of course, you're welcome to come back at that
15 time. There will be no participation on the part of anyone
16 in the hearing room. It's simply a situation where the
17 Board members will render their opinions and discuss the
18 case further.
19 I understand Mr. Holzer may not be here at the
20 time, but he'll have an assistant present and, of course,
21 counsel, copies of those minutes will be available for

1 both counsel.
2 At the conclusion of that public deliberation,
3 the Board will issue an official opinion an order, and
4 from that final order and opinion, any party may
5 subsequently appeal that to the Circuit Court of Baltimore
6 County within thirty days after that order has been
7 issued.
8 Having said that, I appreciate the demeanor of
9 both counsel in their presentation of the case.
10 It's been a very important one for all parties,
11 and I can assure you each member of the Board will give it
12 their fullest assistance to arrive at what is a very fair
13 and equitable decision. So thank you for attending.
14 (Hearing suspended.)
15 * * * * *
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REPORTERS PAPER & MFG. CO., LOUISVILLE, KY.

IN THE MATTER OF THE	*	BEFORE THE
APPLICATION OF	*	COUNTY BOARD OF APPEALS
COLONIAL STOLER PARTNERSHIP	*	OF
(Petitioner) FOR SPECIAL	*	BALTIMORE COUNTY
HEARING AND VARIANCE ON THE	*	Case No. 97-513-SPHA
NW/S KINGSLEY ROAD, 650' NE	*	April 24, 1998
OF C/L REISTERSTOWN ROAD	*	
(22 Kingsley Road)	*	
4TH ELECTION DISTRICT	*	
3RD COUNCILMANIC DISTRICT	*	

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 401 Washington Avenue, Towson, Maryland 21204, at 10:15 a.m., April 24, 1998.

* * * * *

Reported by:

C.E. Peatt

1 BOARD MEMBERS:
2
3 CHARLES L. MARKS, Panel Chairman
4 HARRY E. BUCHHEISTER, JR.
5 DONNA FELLING
6
7 APPEARANCES:
MARVIN I. SINGER, Esquire
8 On behalf of Petitioner/Appellant
9 J. CARROLL HOLZER, Esquire
10 On behalf of Protestants
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1 THE CHAIRMAN: Good morning. I apologize for the
2 delay. Let the record show that the County Board of
3 Appeals for Baltimore County is in its regularly scheduled
4 session for today relative to the matter of Colonial
5 Stoler Partnership which involves a decision from the
6 Zoning Commissioner of Baltimore County involving a
7 special hearing and a variance.
8 The case has been scheduled for today. If counsel
9 present will please identify themselves for the record.
10 MR. SINGER: Marvin I. Singer, on behalf of the
11 petitioner.
12 MR. HOLZER: J. Carroll Holzer, 305 Washington
13 Avenue, on behalf of a number of individual protestants
14 and the Kingsley Road Community Association.
15 If you want, I can articulate all the
16 protestants, or I could do that as they testify.
17 THE CHAIRMAN: That's fine. Okay. Gentlemen, are
18 there any preliminary matters we have to address?
19 MR. SINGER: I don't believe so, sir.
20 THE CHAIRMAN: Why don't we take opening
21 statements then.

1 MR. SINGER: Briefly, as the Chairman has
2 indicated, this is a request for a use permit for business
3 parking in a residential zone joining commercial property
4 and for a variance from the RTA requirement and landscape
5 buffer requirements.
6 The facts are relatively simple and
7 uncontradicted, for the most part. If the Board will
8 allow me some geographical license, I'd like to refer to
9 Reisterstown Road as a north-south street to get away from
10 the northeast-southeast, which I find a bit confusing.
11 The property is located on Kingsley Road which
12 runs in an easterly direction from Reisterstown Road in
13 Owings Mills approximately five miles north of the
14 beltway. It's indicated on the plat and there's a copy of
15 that in the file which we'll introduce into evidence.
16 The property from Reisterstown Road to here is
17 owned by Stoler Ford. Stoler Colonial Partnership and the
18 related entity is the petitioner today.
19 This is a residential property with a house on
20 here, which is the Clifton property. Then there is the
21 subject site here. Kingsley Road runs along here and then

1 makes a dog-leg or an S-turn here so that it runs in front
2 of the property as well as along side the property for
3 about half of its length.
4 Just as an aside, as you may notice, it looks
5 like actually the road is on the subject property. That
6 really is not at issue. The proposal is and the request
7 is to utilize this property for parking in connection with
8 the employees who work on the Ford dealership.
9 I think one of the significant things to keep in
10 mind is that commercial zoning, and that is the dealership
11 property, which is B.R., extends easterly from
12 Reisterstown Road to the full extent of the back of the
13 subject property as immediately adjacent thereto.
14 So it comes right up to here, and, of course,
15 it's in back of the Clifton property as well as all this
16 portion.
17 The proposal is to utilize the access and ingress
18 from the subject site solely from the existing dealership
19 property. There will be no entrance and no traffic from
20 the subject property to Kingsley Road on either side.
21 There will be lighting that will be eight-foot

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1 tall for the parking area as proposed, which will be
2 solely down lit, focused down lit, and there will be an
3 eight-foot fence surrounding the property which will be
4 landscaped. Mr. Piccinini is the landscape designer and
5 he will testify this morning.
6 The restrictions under the RTA requirement and
7 the landscape buffer requirements are such that without
8 the variance aspects of our request, there is no portion
9 of the property that could be used for parking.
10 That is why we have joined the variance with the
11 request for the use permit. There are photographs that
12 are already in the file which we'll introduce, and we have
13 some updated photographs showing the property and the
14 adjacent area which we'll address things as they apear,
15 sight lines for traffic and so forth. That essentially is
16 the physical aspects of our request.
17 The request for parking is necessitated by the
18 fact that at the present time there is simply not enough
19 parking in the dealership to accommodate the necessary
20 storage of vehicles and new vehicles and employee parking.
21 I wish to emphasize the subject property will

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1 solely be used for employee parking. There will be no
2 storage. There will be no deliveries of any type. This
3 will be solely for that, and the testimony will be as to
4 the hours of operation and so forth.
5 There will be no loudspeakers on the subject
6 property as one normally finds in auto dealerships.
7 Obviously, as I mentioned, since this is in the Owings
8 Mills area, it is in a portion of the county which has
9 been developed under county guidance as one of the two
10 primary growth areas in the county and Mr. Stoler has
11 operated dealerships here from the time he first acquired
12 the Ford dealership some thirty years ago.
13 There will be testimony as to what was there
14 before and the development that has taken place. As I
15 said, the facts are not complex. It's straightforward,
16 and it a question of whether or not these two requests for
17 relief are appropriate. Thank you.
18 THE CHAIRMAN: Thank you, Mr. Singer. Mr. Holzer?
19 MR. HOLZER: Thank you. Members of the Board, I
20 was just asking Mr. Sellers, who's here to represent a
21 client, whether he wanted to go and make a statement. He

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1 says that he will -- are you planning to come back?
2 MR. SELLERS: I will come back later.
3 MR. HOLZER: So the Board will address that at
4 the appropriate time.
5 Normally, the Board knows I don't make an opening
6 statement. I very rarely make opening statements in
7 regard to these cases, but I think there should be a few
8 comments made identifying where we are going in this
9 particular case.
10 The subject site as was described does not really
11 adequately show the whole neighborhood, and we'll have a
12 plat that shows the neighborhood. But, basically, the
13 protestants that I represent, the individuals, are
14 individuals who reside in their homes along Kingsley Road,
15 and then where Kingsley Road turns and goes back further,
16 what you can see from the vicinity map of up here, live
17 back along Kingsley Road off of Reisterstown Road. They
18 live on both sides of the road, east of Reisterstown.
19 In fact, two of the witnesses that you'll hear
20 today, the Cliftons, will be totally surrounded on all
21 three sides by Len Stoler Enterprises if this project were

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1 to go through. The Cliftons live right here.
2 The two issues that are before you have already
3 been identified. First, there is the variance request and
4 these are variance requests from RTA setback requirements.
5 In this case, the variance would request ten, fifteen and
6 twenty feet respectively from the required seventy-five,
7 and the second aspect of the variance would be the
8 landscape buffer, and that would request ten, fifteen and
9 twenty feet in lieu of the fifty.
10 I ask the Board keep in mind these RTA buffers
11 and landscape buffers were designed in the regulations to
12 protect communities exactly like this community from
13 intrusion of the type that is being requested by the
14 petitioner, so the intent of the legislation was to
15 prohibit the kind of activity and provide a buffer that
16 this variance is being requested from.
17 The use permit is also under the regulations
18 needed in this case, and I would indicate that basically
19 the use permit criteria here under the regulations are the
20 same as a special exception. Because the law requires in
21 the use permit a determination of this Board, an analysis

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1 of Section 502.1.7.G criteria, to determine whether or not
2 there's an impact upon the neighborhood.
3 A review of the Zoning Commissioner's decision
4 below, although this is a hearing de novo, he has analyzed
5 both of those legal criteria and set out what I believe is
6 the appropriate legal standard.
7 I believe the facts will demonstrate that Len
8 Stoler acquired the subject site after and purchased the
9 property after the RTA legislation and certainly with
10 knowledge of what the existing zoning was on both his
11 property, on the subject site, and it's my understanding
12 the existing home there now was being used prior to the
13 time he purchaed it as a residence, it's still being used
14 as a residence, and will be destroyed, I understand.
15 Also, that while in the opening statement it was
16 indicated that the lighting standards would be eight feet
17 high, according to the plat that had been submitted
18 previously, it indicates that the lighting standards would
19 be sixteen. I don't know whether that's some sort of
20 change or not since the last submission of the document,
21 but it was identified as Item No. 16 on the print date of

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1 May 5th of 1997.
2 The Zoning Commissioner denied both of these
3 variances and the use permit and the petitioner took an
4 appeal to this Board.
5 As we know, it's a hearing de novo. The planning
6 staff submitted a report. And you also will hear
7 testimony from Mr. Bill Hughey, who's on call at this
8 time, that the planning staff opposes this request, both
9 the variances and the use permit.
10 Finally, since it was introduced in opening
11 statement, the necessity of the need for parking for the
12 commercial operation, we would be presenting evidence that
13 there, indeed, is commercial property available on
14 Reisterstown Road, properly zoned commercial property, to
15 satisfy any overflow requirements.
16 And as a last response to the opening statement,
17 there's currently existing a noice, light and smell
18 intrusions from the Stoler paint shop that is close to
19 this subject site that it is already impacting this
20 neighborhood, and that will be demonstrated by the
21 protestants in their testimony, and to further impact the

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1 existing aggravating factors is the reason that the
2 protestants are here today and will be testifying.
3 That would basically be the opening statement.
4 Thank you.
5 THE CHAIRMAN: Thank you, Mr. Hozer. Your first
6 witness, Mr. Singer.
7 MR. SINGER: We call Ed Howe, please.
8 THE CHAIRMAN: Before the witness is sworn, let
9 me make some observations.
10 There's quite a few people that will be
11 testifying today, and the Board would very much appreciate
12 it if each witness will speak slowly and very distinctly.
13 Frequently transcripts are not provided in proceedings and
14 the only record that the Board members have are their own
15 notes, and sometimes it's very difficult to take notes
16 when the testimony goes along too swiftly.
17 So if each witness called will take their time,
18 we are not in any hurry.
19 This case is important both to the petitioner and
20 the protestants, and we'd like to have everyone have their
21 opportunity. So if you speak slowly and distinctly, we

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1 would appreciate it. Thank you.
2 E D W I N S. H O W E, III,
3 having been called as a witness, was duly sworn and
4 testified as follows:
5 DIRECT EXAMINATION
6 BY MR. SINGER:
7 Q. Please state your full name, for the record.
8 A. Edwin S. Howe, III.
9 Q. By whom are you employed?
10 A. KCW Consultants.
11 Q. What type of organization is KCW?
12 A. It's a civil engineering and landscaping
13 consulting firm.
14 Q. What is your occupation?
15 A. I am a professional engineer.
16 Q. Where did you go to school?
17 A. The Georgia Institute of Technology.
18 Q. When did you graduate?
19 A. 1988.
20 Q. Are you registered to practice in the state of
21 Maryland?

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1 A. Yes, I am.
2 Q. Since when?
3 A. 1993.
4 Q. How long have you bee engaged in your operation?
5 A. Approximately ten years, nine to ten.
6 Q. Before you came to KCW, what did you do?
7 A. I was a bartender while I was in college.
8 Q. What are you duties at KCW?
9 A. I am an associate at KCW. I do project management
10 planning. I supervise employees. Design and drafting
11 land development projects throughout the state of
12 Maryland.
13 Q. Do you do the engineering and design work for
14 projects?
15 A. Yes, sir, I do.
16 Q. You have done that the entire time you have been
17 at KCW?
18 A. Yes, I have.
19 Q. Do you work with the zoning regulations of
20 Baltimore County?
21 A. Yes, I do.

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1 Q. Are you familiar with them?
2 A. Yes, I am.
3 Q. Have you previously qualified as an expert
4 witness before any tribunal?
5 A. Yes, I have.
6 Q. Before whom?
7 A. Before the zoning appeals board here as well as
8 the Zoning Commissioner in Baltimore County, and I believe
9 also Carroll County as well.
10 Q. You've qualified as an engineer?
11 A. Yes, I have.
12 Q. Did the qualifications include all aspects of
13 engineering and design for projects such as this?
14 A. Yes.
15 Q. What other types of projects have you worked on
16 in terms of scope?
17 A. Many projects. I have done industrial,
18 commercial, residential, municipal, utilities design,
19 storm water, sediment control, environmental, and I have a
20 Master's degree in environmental engineering from Johns
21 Hopkins.

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1 Q. When did you get that degree?
2 A. I believe I got that one in 1996.
3 Q. In what area?
4 A. Environmental engineering.
5 Q. Do you utilize that aspect of your education in
6 your work today?
7 A. Yes, I do.
8 MR. SINGER: I would offer Mr. Howe as an expert.
9 MR. HOLZER: Just one question or two.
10 VOIR DIRE
11 BY MR. HOLZER:
12 Q. When you testified before the Zoning
13 Commissioner -- I don't recall that -- you said you had
14 qualified before the County Board of Appeals?
15 A. Before this body.
16 Q. Have you qualified here since that time?
17 A. Since that time?
18 Q. Yes.
19 A. I have been here since that time. I believe I
20 was qualified prior to that.
21 Q. So this Board has qualified you as an expert?

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1 A. Yes, they have.
2 MR. HOLZER: I have no further questions.
3 THE CHAIRMAN: Fine. He will be accepted as
4 such.
5 MR. SINGER: Thank you, sir.
6 CONTINUED DIRECT EXAMINATION
7 BY MR. SINGER:
8 Q. Mr. Howe, you were engaged by Colonial Stoler
9 Partnership in connection with this property known as 22
10 Kingsley Road?
11 A. Yes.
12 Q. What were the outlines of your engagement?
13 A. To prepare a plat to accompany business parking
14 in a residential zone as well as any variances or whatever
15 might be necessary to create an employee parking area on
16 this recently purchased property.
17 Q. Do you know what the zoning on this property is?
18 A. Yes.
19 Q. What is that?
20 A. D.R. 3.5.
21 Q. In my openings remarks, I indicated that this is

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1 adjacent to the Stoler dealership property, what I refer
2 to as the north. Is that correct?
3 A. That would be correct.
4 Q. What is the zoning of that property?
5 A. B.R.
6 Q. Are those two properties immediately contiguous?
7 A. Yes, they are.
8 Q. The plat that you designed, would you describe
9 the ingress and egress from the subject site and its
10 relationship to the Ford dealership to the north?
11 MR. HOLZER: Could we have that marked as an
12 exhibit so we can refer to it?
13 MR. SINGER: What I'd like to do, if I may, is
14 mark the exhibit that's before the Board as part of the
15 file as Exhibit No. 1 and you can have that in front of
16 you and we can use this.
17 MR. HOLZER: If we are going --
18 THE CHAIRMAN: We should use this one.
19 MR. SINGER: All right. For purposes of
20 clarification, I'll use this one then.
21 MR. HOLZER: Marvin, why don't you mark the one

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1 that's in the file as one and then mark this as two, and I
2 agree to that.
3 MR. SINGER: I'll use a darker pen. I would move
4 for the introduction of the plat prepared by Mr. Howe
5 dated March 13, 1997, that's in the Board's file as
6 Petitioner Exhibit No. 1, and I would ask that the one
7 that's on the board Mr. Howe has marked as Petitioner's
8 No. 2.
9 MR. HOLZER: I have no objection.
10 THE CHAIRMAN: Admitted.
11 Q. Mr. Howe, I think my question was, would you
12 describe, if you will, the access to the site and its
13 relationship to the Stoler dealership to the Board.
14 A. Certainly. The existing dealership Stoler owns
15 has frontage all along Reisterstown Road with multiple
16 entrances.
17 We propose to utilize that access to access the
18 property at the rear here, or the subject property,
19 thereby not gaining any access or ingress or egress from
20 Kingsley Road. This can be done since the property is
21 directly adjacent to the Stoler property.

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1 Q. The point of ingress as shown with the two arrows
2 is at the northern boundary of the property?
3 A. Correct.
4 Q. There's no access from the site to Kingsley Road
5 on either side?
6 A. That would be correct.
7 Q. Now, how big would the parking space be?
8 A. I believe we are showing a standard
9 nine-by-eighteen space.
10 Q. How many spaces do you indicate?
11 A. We are indicating forty-nine.
12 Q. The purpose that's on the plat as indicated, who
13 would utilize this parking?
14 A. Employees.
15 Q. Would there be any unloading or loading on the
16 site?
17 A. Not that I know of.
18 Q. Would there be any storage proposed, as far as
19 you know?
20 A. There is none proposed, as far as I know.
21 Q. Now, what type of lighting would there be on the

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1 property?
2 A. The lighting note that we indicate on the plan
3 was given to us by the zoning department in Baltimore
4 County as the requirement to meet 409.8.B.2.
5 As I understand, Mr. Stoler would find adequate
6 lighting with an eight-foot standard which would be less
7 than what would be needed to meet the zoning requirements.
8 Q. So the part of the legend on the plate that says
9 no light fixtures over sixteen feet high, your testimony
10 is that would be within that outer perimeter of height?
11 A. Yes, that would be. That's a maximum. It's not
12 necessarily what would be there.
13 Q. What you just testified to, as I understand, is
14 the light standards would be eight-feet high?
15 A. That's what I have been told, or indicated so
16 far.
17 Q. Which direction would the light be focused?
18 A. It would be directed towards the parking area.
19 They can do those with the fixtures.
20 Q. Now, what would surround the perimeter of the
21 site as proposed?

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1 A. As we are proposing -- it would be probably
2 further testimony as far as the landscaping. I'm not
3 qualified as a landscape expert, but we are proposing to
4 erect a fence around the parking area and screen the fence
5 utilizing some sort of landscape type buffer.
6 Q. The landscaping would be on the outside of the
7 fence?
8 A. It would be on the outside of the fence.
9 Q. What kind of fence would be erected?
10 A. Similar to the fence that's already there. It's
11 a board-on-board, kind of the wooden slat-type fence.
12 Q. Now, would you describe how Kingsley Road abuts
13 the property?
14 A. Certainly. Kingsley Road as it comes directly
15 from Reisterstown road is essentially perpendicular to
16 Reisterstown Road. As it crosses in front of the subject
17 property. It takes basically a dog-leg left turn, even
18 greater than ninety degrees.
19 It travels on the property itself, and then takes
20 another very sharp right-hand turn about midway down the
21 property line along the eastern border, and then continues

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1 on its path in almost a perpendicular direction to
2 Reisterstown Road.
3 Q. The properties to the south across Kingsley are
4 zoned in what category?
5 A. D.R. 3.5.
6 Q. Dropping back for a moment at the entrance of
7 Kingsley Road at Reisterstown Road, which would be, under
8 my geography at least, west of the subject site and on the
9 southwest corner, what's presently located there?
10 A. There's another auto dealership.
11 Q. Is that the Pontiac dealership?
12 A. I believe it's a Pontiac dealership.
13 Q. That extends back along the south side of
14 Kingsley Road for a certain distance?
15 A. For a certain distance. I don't know the exact
16 distance, but you can see the last property line, I
17 believe, where it is.
18 Q. Here?
19 A. I don't know if it encompasses those two
20 properties. It might be to that point.
21 Q. These two are indicated to be Kingsley Road

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1 Partnership?
2 A. That's -- I'm sorry. These two -- so the
3 property line right there would be the end of the Pontiac
4 dealership.
5 THE CHAIRMAN: Would the witness indicate that,
6 for the Board?
7 MR. SINGER: This would be the westernmost
8 property line for the Burkindine property. I'll mark that
9 with a pen here.
10 Q. To the west of that along the south side of
11 Kingsley Road is the Pontiac dealership?
12 A. Yes.
13 Q. Then there's the Burkindine property as shown on
14 this, and then there are two other properties on the south
15 side, and then the dog-leg --
16 A. Yes.
17 Q. -- of Kingsley Road?
18 A. Yes.
19 Q. Have you been back along Kingsley Road further to
20 the east?
21 A. Not in quite some time, but I have in the past,

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1 yes.
2 Q. Would you describe, briefly, what's back there?
3 A. Just a single family residential community.
4 Q. Now, does this site plan conform in all aspects
5 to the zoning regulations?
6 A. Yes, it does, with the variances and such.
7 Q. Now, you talk about the use permit for parking.
8 I'd like to talk about the variances and the need for
9 them, if you will.
10 A. Certainly.
11 Q. Would you explain, briefly, what the RTA
12 requirements and the landscape buffer requirements are?
13 A. Certainly. The zoning manual spells them out
14 fairly clearly. When a use within a D.R. single family
15 type zoning is experiencing doing something like multiple
16 family housing, or in this case a commercial use, a
17 residential transition area is generated on the property
18 which you happen to be working on.
19 In this particular case, the setbacks are from
20 the property lines on all three sides that border the D.R.
21 3.5 zone. The setback requirements requires a seventy-five

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1 foot setback to any structure as parking, et cetera, as
2 well as the fifty-foot landscape buffer to be within that
3 seventy-five foot setback that must be created as well.
4 Q. Now, if the use permit for parking were not
5 granted, and given the existing RTA requirements and the
6 landscape buffer requirements, what portion of the
7 property would be available for parking?
8 A. There would be absolutly no portion of the
9 property available for parking.
10 Q. So the setbacks and the buffer zones would
11 consume the entire use of the property for parking?
12 A. Yes, they would.
13 Q. You had indicated to me this morning, I think
14 earlier, before the Zoning Commissioner that with respect
15 to the variances and some of the numbers, distances, were
16 on the plot plat, incorrect?
17 A. Yes, they are.
18 Q. Would you please give us the correct numbers?
19 A. Certainly. The actual variance from the setback
20 should be ten, fifteen and nine, nine being along the
21 frontage on Kingsley to the ultimate right-of-way.

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1 And then, with respect to the landscape buffer,
2 it should be ten, five and nine. The nine, once again,
3 from the front.
4 Then, because there's a sanitary line and a
5 public easement that travels along the western boundary of
6 the property, that, for landscaping, can only occur in the
7 five feet outside of that easement.
8 Q. You said there was an easement on the west side
9 of the property?
10 A. Yes.
11 Q. For utilities?
12 A. It's for a public sanitary system.
13 Q. How wide is that?
14 A. It's ten feet.
15 Q. So that is totally out of any consideration for
16 use?
17 A. Exactly. I mean, it depends on what you use, but
18 as far as being able to landscape on top, it would not be
19 allowed within that easement.
20 Q. You have alluded to the fact a short time ago of
21 the location of Kingsley Road vis-a-vis the property line

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1 of the subject site?
2 A. Yes.
3 Q. Would you explain that, please.
4 A. Well, Kingsley Road itself is maintained by
5 Baltimore County, but there's never been a truly
6 established right-of-way through there, so Kingsley Road
7 does tend to travel through certain properties in this
8 area, and the subject property happens to be one of them,
9 and it does come onto the property approximately ten feet
10 along the eastern boundary.
11 Q. Now, would you come to the board and show the
12 roadway of Kingsley as it is situated on the subject
13 property?
14 A. Certainly. You see the dark lines here
15 indicating the existing edge of paving. Takes a left turn,
16 or a turn towards the northwest.
17 Q. Would you mark the plat and show the outlines of
18 the roadway as it exists?
19 A. Okay. There's a driveway right here, another
20 driveway right here, and then this comes out this way.
21 Q. On the -- well, I guess the southeast side, where

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1 is the paving? I know there's a driveway --
2 A. You've got a couple driveways here, so for the
3 travelway -- do you want me to crosshatch it?
4 Q. I'd like to show on the southeast corner,
5 opposite the corner of the property, where the paved
6 portion is with respect to the property line.
7 A. This is all paved right here. Let's do it like
8 that. Does that work?
9 Q. Now, the dark line that comes to a sharp angle
10 here is the property line?
11 A. Yes.
12 Q. Is it accurate to say, at the corner, the entire
13 width of the paved portion of Kingsley Road lies within
14 the property line?
15 A. That would be fairly safe to say, yes.
16 Q. And it varies as you go east and west?
17 A. Yes.
18 Q. Thank you. Mr. Howe. Especially with respect to
19 your training and environmental engineering, can you
20 express your opinion whether or not this proposal as you
21 testified to in this petition would be detrimental to the

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1 health, safety, or general welfare of the locality
2 involved?
3 A. It would not.
4 Q. Pardon?
5 A. It would not, in my opinion.
6 Q. Would it in any way tend to create congestion on
7 roads, streets or allies in this area?
8 A. No.
9 Q. In your opinion, can you tell us whether or not
10 it would create a potential hazard from fire, panic or
11 other dangers?
12 A. No, it would not.
13 Q. Do you know what the property was previously used
14 for?
15 A. I believe it was used for a residential home.
16 Q. In your opinion, would this proposal tend to
17 overcrowd land and cause undue concentration of
18 population?
19 A. No.
20 Q. Can you tell us whether, in your opinion, it
21 would interfere in any way with adequate provisions for

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1 schools, parks, water, sewerage, transportation, or other
2 public requirements, conveniences or improvements?
3 A. It would not.
4 Q. What is your opinion with the issue of whether or
5 not it would interfere with adequate light and air?
6 A. I believe it would not impact that.
7 Q. Would this petition in any way be inconsistent
8 with the purpose of the property's zoning classification?
9 A. Well, we are requesting something different from
10 the zoning, but in my opinion it's a use that should be
11 looked at for this property since it's adjacent to a
12 commercial use.
13 Q. Will this petition in any other way be
14 inconsistent with the spirit and intent of the zoning
15 regulations?
16 A. No, it will not be.
17 Q. The provisions for a use permit is provided for
18 in the zoning regulations, is it not?
19 A. Yes, it is.
20 Q. Would this use be inconsitent with the
21 impermeable surface and vegetative retention provisions in

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1 the zoning regulations?
2 A. No, it would not.
3 Q. How wide is the property at its widest point,
4 which I assume is at the southern end?
5 A. I guess, in width -- you're looking in a
6 north-south direction?
7 Q. No. It would be east-went, my understanding of
8 the geography.
9 A. The widest portion would be at the actual
10 property line along Kingsley Road, which is approximately
11 107 feet.
12 Q. And at the northern end, adjacent to the
13 dealership property?
14 A. It's approximately 97, 98 feet.
15 Q. Will there be any construction, any structures,
16 outside of the fence, other than the landscaping as
17 proposed?
18 A. There is none proposed.
19 Q. On the inside will be paving for the automobiles?
20 A. Yes.
21 Q. And the lighting?

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1 A. Yes.
2 Q. Is there anything else proposed on the interior?
3 A. I believe we have curb and gutter proposed there
4 as well.
5 Q. Now, on the dealership to the north, is there an
6 underground stormwater facility?
7 A. Yes, there is.
8 Q. That's at the northern -- towards the northern
9 end of that?
10 A. Yes. I believe it's actually outlined on the
11 plan as well. To the left, see the rectangle?
12 Q. Here? That would be in the center of the plat on
13 the northern end?
14 A. Yes.
15 Q. Would you describe what effect, in your opinion,
16 the proposed development would have on the adjoining or
17 surrounding properties?
18 MR. HOLZER: Objection.
19 THE CHAIRMAN: Overruled. He can answer.
20 A. In my opinion, with the landscaping and the
21 fencing and the low light standards, any impact should be

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1 minimal. That's basically my opinion.
2 I mean, any impact that could be potential from
3 the site, we are in an effort to mitigate any of those,
4 using the fencing, using the landscapint, and using the
5 lower light standards.
6 Q. Would the impact as being minimal be any
7 different here than anywhere elsewhere you have a
8 residential property abutting a commercial use and the
9 same kind of proposal was made?
10 A. No.
11 Q. Just for purposes of completeness, we talked
12 about the homes on the the south side of Kingsley Road and
13 you indicated there was a driveway at the southeast
14 corner, sort of the catercorner from the subject site?
15 A. Uh-huh.
16 Q. Then, across Kingsley to the east, is there a
17 home there?
18 A. I believe there is.
19 Q. And then, on the north side of Kingsley Avenue,
20 it makes the second segment of the dog-leg, there's a home
21 there, is that correct?

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1 A. I believe that's correct.
2 Q. Those two are shown in your plat?
3 A. Yes, they are.
4 Q. Does the screening as proposed comply with county
5 requirements?
6 A. It will.
7 Q. Now, with respect to this site as it really
8 exists in its zoning category, is there any reason why the
9 house couldn't be razed?
10 A. Just requires a razing permit.
11 Q. That is a discretionary kind of thing, certainly
12 administrative --
13 A. Basically administrative. You have to file with
14 Permits and Licenses, show what you're razing, pay your
15 fees, and hire a licensed contractor to do it.
16 Q. If one wished to erect a fence around that,
17 assuming that the house were razed, if one wished to erect
18 a fence, is there any restriction against erecting a fence
19 around the property?
20 A. No, there isn't, except for -- there's no zoning
21 restrictions, but there is one another thing that's been

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1 marked on the plan.
2 Based on this being within a residential zone,
3 Permits and License will only allow a six-foot fence,
4 rather than an eight-foot fence.
5 Q. What I'm asking then, as a matter of right, could
6 a six-foot fence be erected around the property?
7 A. Yes, it could be.
8 Q. And the use of the property could not be used for
9 any use at all in association of a commercial nature?
10 A. No, it could not.
11 Q. But you could have just an empty piece of ground
12 if the house were taken down with a six-foot fence around
13 it?
14 A. Certainly.
15 MR. SINGER: I have no further questions.
16 THE CHAIRMAN: Mr. Holzer?
17 MR. HOLZER: Yes, sir.
18 CROSS EXAMINATION
19 BY MR. HOLZER:
20 Q. Sir, would you tell us how many errors there are
21 on both Petitioner's Exhibit 2 and Petitioner's 3, based

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1 upon your testimony here today and your testimony previous
2 at the Zoning Commissioner's hearing?
3 Tell us where there are mistakes on this plan so
4 at least we know what we're dealing with.
5 A. Well, I described them earlier. Would you like
6 me to point to the plan?
7 Q. Start with what you just referred to in terms of
8 the six foot versus eight-foot fence.
9 THE CHAIRMAN: I would like for the witness, as
10 he identifies each one of these, to indicate them on the
11 chart with specific numbers, one, two, three and four.
12 A. Certainly. I believe it says an eight-foot
13 fence. That was originally proposed for standard
14 commercial property. That's the case. And by zoning
15 regulations, it would be allowed.
16 But we found out from Permits and License in a
17 D.R. 3.5 zone, the maximum fence height is six feet, so --
18 Q. Would you -- could you just mark that as number
19 one? Maybe put a circle around it.
20 A. It says proposed eight-foot wooden fence. I'll
21 put a triangle. It should be six foot.

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1 Q. Okay?
2 A. Okay.
3 Q. That's the first one
4 A. Then the request for special hearing with it has
5 variance from RTA setbacks, has ten, fifteen and twenty.
6 The twenty needs to be nine in the ultimate right-of-way,
7 and that's along the front line on Kingsley. We'll mark
8 that as two.
9 Q. Okay?
10 A. And then in the second half where it has ten,
11 fifteen and twenty, the landscape buffer, the fifteen
12 should be five due to -- whoops -- due to the sewer
13 easement. The sewer easement is going down here since you
14 want to landscaping in this area. Mark that as three.
15 And then the twenty should be nine foot, once again for
16 the same reason, the ultimate right-of-way. We'll mark
17 that as four.
18 Q. That's not the only mistakes on there, is it?
19 Weren't there some mistakes you acknowledged at the Zoning
20 Commissioner's level with regard to the zoning lines?
21 A. With regard to the zoning lines?

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1 Q. Yes. Wasn't there an extension of the zoning
2 line on the site that did not exist on the vicinity map?
3 A. I don't recall at the moment what that was.
4 Q. You don't recall?
5 A. If I had a zoning map in front of me, I could do
6 that. Was it in relation to where the D.R. 16 comes
7 through here?
8 Q. I believe it is.
9 A. It might be that the 3.5 might be extended too
10 far, and there's a D.R. 16 that comes within that area
11 that's not shown on the plat, but I --
12 Q. Let's get it right.
13 A. Okay.
14 Q. There was at the Zoning Commissioner hearing, I
15 asked you, and you acknowledged, there was an error raised
16 concerning the zoning line in the vicinity map which
17 shows --
18 A. I don't have the zoning lines in the vicinity
19 map.
20 Q. Well, it used to be. See, it's out of their
21 there -- if you look on Petitioner's Exhibit No. 1, there

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1 would be a line in there. You must have corrected that
2 since the Zoning Commissioner?
3 A. That may have happened.
4 MR. HOLZER: Could we take a look at No. 1?
5 MR. SINGER: I assume this would be -- let's see
6 if it was marked previously. This was marked as
7 Petitioner Exhibit No. 2, previously.
8 Q. Take a look and see.
9 A. There isn't a zoning line in the area.
10 What happened, well, it's not marked as such, but it looks
11 like it's a continuation, but --
12 Q. But that's been corrected in what is now
13 Petitioners's No. 2?
14 A. That line is no longer there, the continuation of
15 that line.
16 Q. Did you go back and mark these requests for
17 special hearing after the Zoning Commissioner's case?
18 A. I believe we marked them during the Zoning
19 Commissioner's case.
20 Q. You amended the same way you amended this?
21 A. I believe we marked up these.

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1 Q. I see those changes, and I didn't recall those.
2 A. Yes. And in his order as well, it seems there
3 was also some confusion as to the numbers down there.
4 Q. Okay. In regard to your opinion, based upon the
5 fact there would be no impact on the adjacent property
6 owners, that's not based on the fact you live there in the
7 neighborhood, is it?
8 A. I do not live in that neighborhood.
9 Q. On your exhibit here, also under item number
10 thirteen, this is on Petitioner's Exhibit No. 2 --
11 A. Okay.
12 Q. -- proposed land use. It says parking of
13 passenger vehicles. That doesn't limit the parking to
14 employee parking on this site?
15 It appears to indicate any passenger vehicle,
16 which could very well be a new car, a car for sale?
17 A. Someone could infer that, but I believe it can be
18 indicated by testimony it would be employee parking only.
19 Q. But when somebody makes a complaint a year from
20 now and we go back and look at the plat, the plat would
21 permit -- if approved by this Board -- parking of

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1 passenger vehicles, which you acknowledge a new car would
2 be a passenger vehicle, it could fit under that
3 classification?
4 A. I would acknowledge a passenger vehicle could be
5 a new car.
6 Q. There's no other limitation on the plan that
7 talks about that employee parking only, is there?
8 A. I don't believe it's on the plan.
9 Q. Now, the underground stormwater facility that you
10 pointed out, is that in any way connected to the subject
11 site? Is it relevant to the subject site in anyway?
12 A. It would be relevant to the subject site since
13 drainage from the subject site, when we get into the final
14 engineering, would be in that direction, and that facility
15 would be utilized or modified or retrofitted to handle the
16 stormwater management from this parcel.
17 Q. But on this plan, there's no showing of any
18 inlets that would at all cause the water, standing water
19 on this property to drain up that way or to enter the
20 stormwater facility?
21 I mean, if you see here, there's inlets to the

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1 southwest, but I don't see anything that indicates this
2 property would drain to that stormwater management pond?
3 A. Well, inlets don't necessarily -- inlets are not
4 an indicator of what drains where. Overland flow is more
5 a determining factor. But the topography shown on the
6 plan, we can modify to get flow to that facility.
7 Q. But isn't there an existing auto body shop
8 between the stormwater management pond and the subject
9 site? Isn't that an existing building?
10 A. That's an existing building.
11 Q. Isn't that a use that's currently in use all the
12 time? It's an active use?
13 A. It certainly is.
14 Q. I see a dotted line. I mean, does it come out to
15 this line, or this line? What is the length of the
16 building?
17 A. It comes out to the -- to the first line, 12-inch
18 storm drain underneath the building, which intercepts flow
19 that come off this site and adjacent residential property.
20 Q. I'm sorry. I am looking at this rectangle?
21 A. Yes.

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1 Q. And you're telling me that is a storm drain?
2 A. There's a pipe that goes underneath the building.
3 Q. Is that what this line is?
4 A. That's what that line is, yes.
5 Q. This is the actual building up here?
6 A. That, it is.
7 Q. So the building interferes with any surface flow
8 of water to any of these exits?
9 A. Well, the storm drain was placed there to
10 intercept the surface flow and transfer it to the other
11 side of the stormwater facility.
12 Q. Is there surge flow now from the subject site?
13 A. I would imagine a portion of it. I don't know if
14 all the site is. I couldn't answer that.
15 Q. Is it a fact the site has a house on it and has
16 grass on the lawn and a rear yard, a front yard, and a
17 side yard?
18 A. Yes, it does.
19 Q. And after you're finished, if this plan were
20 approved, the whole site would be paved except for the
21 portion for the planting of the buffer, is that correct?

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1 A. That would be correct. I mean, whatever is shown
2 being paved will be paved, and whatever is shown as not
3 being paved will not be.
4 Q. Do you know how many square feet will be paved?
5 A. I don't know that number exactly.
6 Q. You haven't calculated it for the stormwater
7 aspects?
8 A. No. We traditionally, until we get final
9 approval from zoning, we don't get into final engineering
10 plans on these type sites.
11 Q. Now, the RTA, tell us what your understanding of
12 the RTA is in the regulations, what is the intent of the
13 RTA?
14 A. The intent of the RTA, I would believe, to create
15 buffers or distance from differing uses.
16 Q. We have different uses here, do we not, if you're
17 permitted to use this for parking?
18 A. Yes, we would.
19 Q. So, therefore, the RTA is applied, and you know
20 what the basis, from reading the regulations, of being
21 familiar with the development process in the county, what

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1 the intent of those regulations are insofar as the setback
2 and then so far as landscaping buffers?
3 A. The intent -- well, I wasn't involved in the
4 original legislation. All I do is follow the book.
5 Q. If you don't understand what the original intent
6 was, how can you tell us that this is not inconsistent
7 from the original intent?
8 A. What I can tell you is that in my experience in
9 doing land development projects, there are certainly
10 variances that are granted. There are certainly
11 mitigative factors to be determined in utilizing these
12 standards, and that's why we come here today.
13 Q. Tell me the intent. You said it was to create a
14 buffer, right, between the uses?
15 A. That's why it's called a buffer. There's a
16 landscape buffer as well as setback.
17 Q. And a setback buffer, I assume, would be to keep
18 commercial parking away from a residence, an existing
19 residence?
20 A. I don't believe it's just created for commercial
21 parking. It's also created for single family structures,

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1 townhouses versus multi-family, but that's basically the
2 intent of the RTA legislation.
3 Q. Do you know whether or not the RTA legislation
4 existed prior to Len Stoler acquiring this property last
5 year?
6 A. I don't know the exact -- there's always been an
7 RTA. There's a different RTA legislation or different RTA
8 in the book now than there was, I guess, five or six years
9 ago. There was a different application of that. They
10 revised it, but --
11 Q. But the intent has always been the same since the
12 initial legislation created RTA for buffers, is that a
13 fair statement?
14 A. I would say that's a fair statement.
15 Q. So is it fair to say at the time Len Stoler
16 acquired this property that there was an existing RTA for
17 setbacks as well as for landscaping of some sort?
18 A. I would say that.
19 Q. Now, explain to me how, by granting this
20 variance, the Board would not be damaging the intent or
21 going against the intent of the legislation?

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1 A. I would imagine buffers can be made many ways.
2 Distance alone is not the only way a buffer can be
3 created. Vegetation can do it. Fencing can do it.
4 There's many ways to do it.
5 Q. But isn't it true that you're asking not only for
6 a variance from the setback, but you're asking for a
7 significantly reduced variation, or variance to the
8 landscaping buffer?
9 A. Yes, we are.
10 Q. And in some cases, if I've gotten the corrections
11 straight, you're asking for a sixty-six foot variance when
12 it comes to a setback in one case, and a sixty-foot
13 setback on the other, on the other side, and a sixty-five
14 foot variance in the third, is that right?
15 A. Without doing all the math, I am sure you're in
16 the neighborhood.
17 Q. Then, in the landscape buffer, normally 50 feet,
18 and you're asking for a forty-one foot setback in the case
19 of the --
20 A. Uh-huh.
21 Q. And you're asking for a forty-five foot variance

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1 in relation to the other line, and a forty-foot variance
2 in regard to the third?
3 A. As far as sheer numbers, that would be the case.
4 There is some explanation. For one thing, you have an
5 ultimate right-of-way along Kingsley that is basing that
6 buffer or that setback from. Whether that ultimate
7 right-of-way is ever developed, Kingsley Road would have
8 to be, if expanded to a full thirty foot, on a fifty-foot
9 section for that to occur. Right now, we are showing
10 landscaping in that area.
11 So what is realistic is more in the neighborhood
12 of twenty-nine feet in that area for the actual setback
13 and for a landscape buffer.
14 Q. So you're actually planting in the right-of-way
15 for the county on the idea that the county would never --
16 A. As an ultimate right-of-way. It's not being
17 dedicated. It's not offered. It's not been conveyed.
18 It's just being placed on the plan and shown on the plan.
19 Q. Now, isn't the use of a D.R. 3.5 residential lot
20 for parking to support a larger commercial operation,
21 isn't that inconsistent with the zoning classification for

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1 the D.R. zone?
2 A. The manual itself offers an opportunity for
3 business parking within a residential zone, which includes
4 D.R. 3.5.
5 So, therefore, I would say the manual itself
6 offers a way to utilize commercial parking within a
7 residential zone.
8 Q. But the D.R. zones, when one reads the D.R.
9 regulations, one does not find the primary use for a D.R.
10 zoned lot to be for commercial parking or for parking of
11 any sort to support any other kind of activity, do you?
12 A. I don't believe it's directly in the D.R.
13 section, no. It's in the special regulations.
14 Q. Now, what studies, if any, did you perform to
15 make your opinion that there would be no impact on the
16 schools by this project? Did you study anything, or do
17 anything at all?
18 A. As far as schools?
19 Q. Yes.
20 A. No, we did not create any studies. Generally,
21 schools don't enter into the equation when it comes to

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1 commercial properties.
2 Q. But schools do enter into that criteria which you
3 said that you had an opinion on and rendered it. It is
4 under 502.1, which is the special exception criteria which
5 you must proceed under, isn't that correct?
6 A. I believe it would be, yes.
7 Q. So you didn't do any study in regard to the
8 schools. Did you perform any studies or ask for any
9 reviews of anything to relate to the hazards from fire?
10 A. No, we didn't.
11 Q. Did you do any traffic analysis, or analysis in
12 regard to the flow and congestion of traffic to determine
13 whether or not this impacted or impeded traffic on
14 Kingsley Road?
15 A. Well, since there's no access/ingress or egress
16 to Kingsley Road, I don't believe that would be required,
17 and I don't think, in my opinion, it would be necessary.
18 Q. The first question is, did you do a study?
19 A. No, I did not.
20 Q. So the second part of the question is, having not
21 done a study, these are just our own conclusions, aren't

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1 they?
2 A. They would be my own conclusions.
3 Q. Are you trained as a traffic expert?
4 A. Am I trained as a traffic expert?
5 Q. Yes, traffic engineer.
6 A. I'm not a traffic engineer, no.
7 Q. In terms of your analysis in order to testify
8 today, could you tell us when Kingsley Road was
9 established and paved in the fashion you have described it
10 on Petitioner's Exhibit 2?
11 A. I would not know that exact time, no, I would
12 not.
13 Q. Is it fair to say Kingsley Road has existed as an
14 old residential neighborhood road for many, many years
15 prior to this year?
16 A. That would be safe to say, yes.
17 Q. And so wherever Kingsley Road happened to wander,
18 it has wandered that way for many years?
19 A. I would imagine that to be the case, yes.
20 Q. On the subject site, you have described it's a
21 corner lot, is it not?

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1 A. It doesn't meet a corner lot definition because
2 Kingsley Road is one road.
3 Q. So if we don't describe it – if it doesn't meet
4 the technical definition, it's fair to say it's a lot
5 that's bounded on two sides by Kingsley Road?
6 A. That would be fair to say, yes.
7 Q. And I am not an engineer and I would normally
8 hesitate to define what a lot that is smaller in the back
9 and larger in the front, with fairly straight sides, but
10 that would be called -- is that a trapezoid?
11 A. A trapezoid would be it.
12 Q. That's from elementary school.
13 A. Good work.
14 Q. Still, I never understood it then, and I don't
15 understand it now.
16 Basically, that trapezoid has fairly straight
17 sides to it, is that correct? I mean, the western
18 boundary appears to be 205 feet straight in a -- I'll
19 adopt counsel's request – in a north-south direction?
20 MR. SINGER: You're in trouble.
21 Q. Is that right?

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1 A. Yes.
2 Q. And then the east-west, front and back, they are
3 fairly straight lines? I mean, there are no jogs?
4 There's no unusual --
5 A. There's no curvature in the line, right.
6 Q. The eastern boundary simply runs along Kingsley
7 Road, which is also a fairly straight line. To join the
8 two -- the base and the front of the property line,
9 correct?
10 A. As a straight line, certainly.
11 Q. Now, this property as it exists right now is
12 flat, is it not?
13 A. There's many definitions to "flat." There's no
14 extreme grade on the property.
15 Q. Also, would it be fair to say there are no slopes
16 on the property?
17 A. There's many definitions for slopes as well, but
18 in my opinion, I would say no.
19 Q. Would you say the grade differential is less than
20 five percent?
21 A. That's probably a safe assumption.

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1 Q. Are there any streams or wetlands designated for
2 the site?
3 A. No, there are not.
4 Q. Are there any other environmental aspects that
5 would impact this lot as it stands right today?
6 A. As impact in Baltimore County generating a forest
7 buffer?
8 Q. Yes.
9 A. I don't believe there's anything that would
10 generate a forest buffer.
11 Q. And, of course, it is currently developed with --
12 is it a two-story residence?
13 A. I believe it's two-story.
14 Q. It has an existing dwelling, which is shown here.
15 Are there any outbuildings on the site, to your knowledge?
16 A. I believe there is. One outbuilding, which is
17 what we show to the rear -- I'm sorry. Maybe two.
18 Q. Is that a garage or just a shed of some sort?
19 A. Looks to be a shed.
20 Q. Beyond those outbuildings, from there to the rear
21 to where Len Stoler's property is, is that all basically

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1 in grass now?
2 A. I believe it is.
3 Q. So from a development standpoint, this is a
4 fairly straightforward lot to be able to develop either
5 for a residence or for a parking lot, is that correct?
6 A. It would be fairly -- it would not be excessive
7 grading involved in working on this particular property.
8 Q. Now, going back, I just want to clarify, on
9 Protestants' Exhibit 2, as I understand it, Reisterstown
10 Road is to the left of this exhibit and off of the plat,
11 is that right?
12 A. That would be correct.
13 Q. It would run in a north-south direction? It
14 would run in a vertical direction?
15 A. Yes.
16 Q. So from Reisterstown Road to the subject site,
17 how far is that back, do you know?
18 A. I believe we show on the plan like 801 feet.
19 Eight hundred feet plus or minus to the rear portion of
20 the property. To the front, it could be somewhere in the
21 630 range.

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1 Q. Meaning along Kingsley Road, 630 feet?
2 A. Somewhere in that neighborhood to that corner.
3 Q. To the southwest corner?
4 A. Right.
5 Q. Then you would take in the 107 feet of the
6 subject site. Okay. Now, then, south of Kingsley Road --
7 let me -- north of Kingsley Road is the Stoler complex, is
8 that fair say?
9 A. That's fair to say.
10 Q. The first privately owned property north of
11 Kingsley Road as one proceeded east on Kingsley would be
12 the Clifton property, is that correct?
13 A. I believe on the north side, yes. On the north
14 side, yes, that would be correct.
15 Q. And if this parking lot is to be approved by the
16 Board, the Clifton family will have a parking lot on the
17 east, an existing auto body shop on the north, and parking
18 for the Len Stoler enterprises on the western boundary, is
19 that correct?
20 A. That is correct.
21 Q. The first residence actually lived in on the

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1 south side of Kingsley Road would be, as you said, the
2 Burkindine property, is that correct?
3 A. That is correct.
4 Q. And that is basically before you get to the
5 Clifton property?
6 A. Yes.
7 Q. You would hit that before you got to the Clifton
8 property?
9 A. Yes.
10 Q. All the other properties south of Kingsley and
11 west of Burkindine is operated by another car dealership?
12 A. That is correct.
13 Q. Not related to Stoler?
14 A. Not related to Stoler.
15 Q. From the Burkindine property east along Kingsley
16 are all residents, individual properties, currently being
17 served as individual homes?
18 A. Yes.
19 Q. On the east side of Kingsley, after it makes the
20 dog-leg, again, are residences?
21 A. Yes.

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1 Q. And then where Kingsley makes the dog-leg back to
2 go in an easterly direction, there are residents further
3 down the road in that direction?
4 A. Yes, there are.
5 Q. And it's a dead-end at some point?
6 A. Yes, it is.
7 Q. So all access to back there must come out this
8 direction to Reisterstown Road?
9 A. At this point in time, yes.
10 Q. Now, insofar as some sort of -- working back in
11 your testimony, as you can gather, is the easiest way to
12 do it. Is it my understanding then that insofar as the
13 fence that would be placed up here would be six-feet high
14 or eight-feet high, which is it going to be?
15 A. Six feet is what is permissible in a residential
16 zone.
17 Q. Are you asking for a variance?
18 A. We have not asked for a variance at this point in
19 time, no.
20 Q. So is it fair to state then, if this were
21 approved, we would see a six-foot high board and batten

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1 fence where you have proposed the fence?
2 A. Yes.
3 Q. I assume there's going to be another witness to
4 talk about landscaping, so I'm not going to ask you any
5 questions about that
6 A. That would be fine.
7 Q. Save you that hassle. Insofar as, again, the
8 light poles, just to make sure, the light poles are shown
9 in here as a maximum, but, as a minimum, you're talking
10 about an eight-foot high pole?
11 A. As I understand, that's what's being proposed.
12 Q. But we don't have, as we understand it, because
13 it's either going to be, you know, approved with certain
14 height or requests that you all are making or it's going
15 to be -- I need to know one way or the other. Are we
16 going to limit it to an eight foot or sixteen foot, or
17 what?
18 A. What was shown on the plan was strictly a note
19 that was generated to meet the policy of zoning.
20 Q. I understand, but definitively one way or the
21 other, tell me what it's going to be, eight or sixteen?

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1 A. As far as I know -- okay -- because I'm not the
2 developer of the site, as far as I know, it's proposed to
3 be eight feet. I am sure that can be handled on a
4 conditional basis in an order, whatever is issued.
5 Q. So maybe Mr. Stoler will testify and he can say
6 it's eight feet?
7 A. That would be a better person to ask.
8 Q. Don't want to get you on the hot seat. Now, if
9 there are going to be, as I understand, there are
10 forty-nine parking places on this site, and it's going to
11 be all reserved for employees?
12 A. As I understand, yes.
13 Q. Are there forty-nine employees of Stoler? Do you
14 know how many employees there are?
15 A. That's -- I am probably the wrong person to ask
16 on that.
17 Q. I will take your word. Okay. Do you know --
18 first, when were you retained by Len Stoler partnership?
19 A. In just this particular instance or --
20 Q. Just for this purpose.
21 A. I believe -- I would have to recall. It would

1 probably be sometime in the spring of '97
2 Q. At that time, had Mr. Stoler acquired the subject
3 site, or was it just a contract to purchase, do you know?
4 A. I'm not absolutely positive. I believe he had
5 already acquired the property.
6 Q. I guess the question was, when you filed the
7 petition, was it filed as a contract purchaser or as the
8 owner, do you recall?
9 A I believe he was filed as the owner, yes, because
10 on the notes here showing owner-applicant as Len Stoler.
11 Q. That was filed when?
12 A. Do I have --
13 Q. March of '97?
14 A. I believe it was sometime around then.
15 MR. HOLZER: I have no further questions. Thank
16 you.
17 REDIRECT EXAMINATION
18 BY MR. SINGER:
19 Q. Mr. Howe, you indicated you had testified to
20 changes in the amounts of the setbacks before the Zoning
21 Commissioner?

1 A. Yes, we had.
2 Q. Now, you're testifying now that the development
3 restrictions would be a six-foot high fence?
4 A. It's not a development -- it's strictly from
5 Permits and Licenses. It's not a zoning requirement.
6 Q. Now, is there any hinderance or obstacle to tying
7 in the appropriate drainage from this site to the property
8 to the north for storm drainage?
9 A. Well, where there's a will, there's a way. It
10 certainly can be done.
11 Q. It must be done in order to develop the property?
12 A. Well, we haven't analyzed everything to determine
13 how the drainage will work on this site. Whatever it
14 takes will be done to connect to that facility.
15 Q. You were asked about the intent or philosophy
16 behind the RTA and the buffer zone. As proposed, you
17 mentioned the fencing and the vegetation?
18 A. Uh-huh.
19 Q. Can you tell us whether or not that would serve
20 as a substitute for the requirements that we have
21 mentioned?

1 A That's the intent of those.
2 Q. You were also asked about studies with respect to
3 schools, traffic and fire hazard. Based upon your
4 knowledge of the site and what is proposed here, did you
5 feel any such studies were necessary?
6 A. No, I did not feel they were necessary.
7 Q. How far is it from the subject site to the
8 Pontiac dealership on the south side of Kingsley Road?
9 A. If I had a scale, it would be easier, but we can
10 approximate here. It would appear to be approximately 160
11 to 180 feet.
12 Q. From this site to the Pontiac site?
13 A. Yes, but that's an approximation. I do not have a
14 scale.
15 Q. How far is it from this site to the Burkindine
16 property? Let's say the western edge. That would be the
17 same thing, I imagine.
18 A. To the western edge of Burkindine would be the
19 same line.
20 Q. How about the eastern edge?
21 A. The Burkindine property appears to have about

1 sixty feet of frontage, so somewhere in the neighborhood
2 of a hundred to 120 feet.
3 Q. The Burkindine property, you testified earlier,
4 was adjacent to the Pontiac site?
5 A. Yes.
6 MR. SINGER: I have no further questions. Thank
7 you meant.
8 MR. HOLZER: Nothing.
9 THE CHAIRMAN: Will this witness be recalled by
10 anybody?
11 MR. SINGER: As of right now, I don't anticipate
12 doing so.
13 THE CHAIRMAN: You are excused. Thank you.
14 We'll take about a two-minute break.
15 (A recess was taken.)
16 THE CHAIRMAN: We'll go back on the record.
17 Mr. Singer, call your nest witness, please.
18 V I N C E N T P I C C I N I N I,
19 having been called as a witness, was duly sworn and
20 testified as follows:
21 DIRECT EXAMINATION

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1 BY MR. SINGER:
2 Q. State your name, please.
3 A. My name is Vincent Piccinini. P-i-c-c-i-n-i-n-i.
4 Q. By whom are you employed, Mr. Piccinini?
5 A. By Quito Piccinini and sons.
6 Q. What kind of firm is that?
7 A. It's a design-build firm, landscape firm.
8 Q. What is your function or occupation?
9 A. I am director of operations. I am in charge of
10 sales, designing, installation, maintenance, and in charge
11 of the crews, et cetera.
12 Q. How long have you been so occupied?
13 A. Twenty-five years plus.
14 Q. How long has the company been in business?
15 A. Forty-eight years.
16 Q. Would you describe your experience in the field,
17 please.
18 A. Yes. We basically start from scratch on projects
19 and existing projects and oversee the purchase of plant
20 material, placement of plant material, oversee the crews,
21 also the maintenance of plant material for the longevity

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1 of the projects.
2 Q. Do you engage in preparing landscape plans?
3 A. Yes.
4 Q. For how long have you done that?
5 A. I have done that for eleven years.
6 Q. What does that involve?
7 A. Basically getting topos, plats, meeting with
8 clients, doing field visits, surveying, trying to achieve
9 the goals to meet the criteria that's required, overseeing
10 employees in the office also.
11 Q. Do you involve yourself in the design of
12 landscaping plans?
13 A. Yes, I do.
14 Q. Do you oversee the design of others in your firm?
15 A. Absolutely.
16 Q. How about the implementation of those plans, are
17 you involved in that?
18 A. Day-to-day.
19 Q. Do you also supervise others who perform that
20 function?
21 A. Yes, I do.

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1 Q. Do you have people who do both of those
2 categories of work in your firm?
3 A. Yes, we have.
4 Q. Do you have landscape architects in your firm?
5 A. Yes, I do.
6 Q. Are they registered?
7 A. Yes, they are.
8 Q. Do you immediately supervise their work?
9 A. Yes, I do.
10 Q. You work with them?
11 A. Work right along with them.
12 Q. Your yourself are not a landscape architect?
13 A. No, I'm not.
14 Q. Through your training and experience, have you
15 become familiar with the various types of shrubs, bushes,
16 flowers, trees, ground cover, so forth?
17 A. Yes, I have.
18 Q. You work with those types of things on a daily
19 basis?
20 A. Yes, sir.
21 Q. Are you are knowledgeable about the various

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1 characteristics of these types of vegetation?
2 A. Yes, I am.
3 Q. I refer to characteristics. I mean growth
4 periods and patterns?
5 A. Yes.
6 Q. You work with their care, you testified to?
7 A. Yes, we do.
8 Q. You concern yourself with appearance?
9 A. Yes.
10 Q. Do you make decisions for appropriate choices of
11 vegetation for different areas which would be subject to
12 different conditions?
13 A. Yes, we do.
14 Q. Such as sun, shade, moist and dry?
15 A. Exactly.
16 Q. Type of soil?
17 A. Yes.
18 Q. You're familiar with that?
19 A. Critical.
20 Q. During the entire period of time you mentioned,
21 have you been engaged in carrying out the functions of the

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1 design and landscape plan and implementing them?
2 A. Yes.
3 Q. Does your company and do you particularly also
4 get involved in what I will call "after care," after the
5 installation design is completed, to the care of what you
6 have installed or dealing with any problem?
7 A. Yes. We have a maintenance division also that
8 directly takes cares of projects that we installed and
9 projects that we haven't installed.
10 Q. Are you involved in that activity as well?
11 A. Yes, I am.
12 Q. You supervise that?
13 A. Yes, I do.
14 Q. Do you engage in problem solving with respect to
15 all of these areas?
16 A. Yes.
17 Q. Have you previously qualified to testify on these
18 types of matters?
19 A. Yes, I have.
20 Q. As an expert witness?
21 A. Yes, I have.

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1 Q. Where?
2 A. In Baltimore County.
3 Q. Before which tribunal?
4 A. The Zoning Commissioner.
5 Q. How about the County Board of Appeals?
6 A. I think it was just the Zoning Commissioner.
7 Q. Any other tribunal?
8 A. No.
9 MR. SINGER: I would offer Mr. Piccinini based on
10 his experence and training as an expert in landscape
11 design and planning, and installation and care of the
12 landscaping, trees and vegetation.
13 THE CHAIRMAN: Mr. Holzer?
14 MR. HOLZER: Just a few questions.
15 VOIR DIRE:
16 BY MR. HOLZER:
17 Q. You're not a landscape architect?
18 A. No, sir.
19 Q. And you're not licensed in any way other than a
20 business license to do business as what, someone who
21 plants trees and bushes?

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1 A. Also licensed in pesticide application.
2 Q. But as far as someone who understands how to
3 design, you don't do that yourself, but you said there was
4 somebody in your firm that was a landscape architect?
5 A. Yes.
6 Q. Who's that?
7 A. Joan Flora.
8 Q. Did Joan Flora design what you're about to
9 testify to?
10 A. Yes, she did. Her seal is on the drawing.
11 Q. And so you're really an expert in coordinating
12 the landscape architect, all the other people that work
13 for you, the planters and so forth, that counsel has just
14 described, is that what your expertise is in?
15 A. Well, I physically do the work also and I make
16 the choices with the architect to make amendments to the
17 site according to what should and shouldn't be planted.
18 Q. You also said you do aftercare. Do you do the
19 aftercare and maintenance of anything else on Len Stoler's
20 property, currently?
21 A. At the commercial site?

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1 Q. Yes.
2 A. No.
3 Q. Does he have plantings and bushes, in terms of
4 landscaping, in terms of the existing Stoler operation?
5 A. Yes, he does.
6 Q. But you don't have a contract with him to
7 maintain that?
8 A. Not for that area over there, no.
9 Q. Do you know whether anyone has a contract to
10 maintain --
11 A. I am assuming someone does.
12 MR. HOLZER: Now, I just object to the
13 designation of the witness as an expert landscape designer
14 and planner, because I don't think really that's what he
15 is.
16 I don't doubt that he coordinates and supervises
17 a lot of people, but I don't know that he meets or rises
18 to the level of an expert in that area.
19 I have no problem with him testifying as to what
20 plan they want to propose and what they want to do, but I
21 just don't think he meets the criteria.

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1 MR. SINGER: A few questions.
2 Q. (MR. SINGER) Do you do design work yourself?
3 A. Yes.
4 Q. With respect to the plan involved with this site,
5 did you work with Joan Flora?
6 A. Yes, I did.
7 Q. And did you do part of the design on that?
8 A. Yes, I did. I did the field study with Joan in
9 person and we chose the plant material accordingly
10 together, and designed it.
11 Q. That's the usual and ordinary kind of activities
12 for you throughout this time we are talking?
13 A. Normal process, yes.
14 MR. SINGER: I would renew my offer of this
15 gentleman based on his experience and training for this
16 extended period of time, his supervision, and actual
17 participation in these activities.
18 THE CHAIRMAN: I find I have to agree with Mr.
19 Holzer the proper party to be here is not here. I will
20 say this, for the record, that the Board will accept his
21 testimony based on his experience and his observations,

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1 and in doing that the Board will give considerable weight
2 to that testimony.
3 But I don't think we are prepared to qualify him
4 as an expert.
5 Q. Mr. Piccinini, were you engaged by Stoler
6 Partnership to prepare a landscape plan for the property
7 known as 22 Kingsley Road?
8 A. Yes, sir.
9 Q. You testified you were personally involved in
10 that activity?
11 A. Yes, sir.
12 Q. What were you attempting to achieve with this
13 plan?
14 A. After we got the drawings, the plat, and it was
15 introduced to us with the objectives, what we did was I
16 personally called Avery Harden in charge of the
17 landscaping for Baltimore County and worked hand in hand
18 with him to achieve the code and achieve the aesthetics,
19 screening, and the board-on-board fence.
20 Q. The landscape plan, that was developed by you?
21 A. Yes, it is.

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1 Q. Would you briefly describe what it depicts?
2 THE CHAIRMAN: Maybe it would be better if you
3 put ir up here.
4 MR. HOLZER: If you could mark it so I could make
5 note of what exhibit we are talking about?
6 THE CHAIRMAN: Are you going to have it admitted?
7 MR. SINGER: Yes, sir.
8 THE CHAIRMAN: There will be Petitioner's No. 3.
9 Q. The area in gray is shown as the subject site?
10 A. Yes.
11 Q. The yellow area on the left is what? Because it
12 was left out in the sun, would you describe what you have
13 done here?
14 A. What we tried to do, is using evergreens and
15 decidious trees and some flowering trees, create a buffer
16 around the board-on-board fence to eventually screen and
17 create a forest type buffer to obscure vision from the
18 existing community.
19 Q. Now, there are two red circles, one on the west
20 and one on the eastern border. Would you identify what
21 they are?

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1 A. Yes. They are Yoshino cherries, a flowering type
2 blossom decidious tree.
3 Q. Just for the record, there would be no vegetation
4 at the northern end of the property?
5 A. No.
6 Q. You have designated on here certain types of
7 plantings with their names and size and quantity?
8 A. Yes.
9 Q. Would you please go through that and indicate
10 what's being planted where and sort of make allowance for
11 people like me who know grass is green, and nothing more.
12 A. The first objective on the symbol,
13 the plant list, you have Norway Spruce, which is a
14 quantity of twenty, height is five to six foot, and which
15 is designated PA.
16 It's designated on the plan and shows the symbols
17 as it goes through all the way around.
18 The second item would be Pinus Strobus, Eastern
19 White Pine, five to six foot, which is a symbol of PS, and
20 they are intermingled. Norway Spruce, White Pine, Norway
21 Spruce Pines, they continue around the property line.

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1 Thirdly, we have a London Plane tree, which is
2 designated with the symbol PO, a quantity of six. They
3 are planted accordingly to give structure and height to
4 the community.
5 Last was the PY, which is a Yoshino Cherry,
6 designated as a flowering one on this side and one on the
7 opposite side.
8 Q. The size, you indicated in the legend at the top
9 right, those are the sizes at what point in time?
10 A. At time of purchase.
11 Q. At time of planting?
12 A. At planting and purchase to put in the ground,
13 yes.
14 Q. Now, there's also intermingled in here a coloring
15 of a green nature, various spots. What does that
16 designate?
17 A. Designates grass.
18 Q. And all this vegetation would be outside the
19 fence that's been preferred to?
20 A. Yes, outside of the fence. Nothing inside.
21 Q. Now, have you also prepared certain renderings of

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1 design to illustrate the appearance after these plantings?
2 A. Yes, we have.
3 MR. SINGER: I am going to mark this --
4 MR. HOLZER: No. 4.
5 MR. SINGER: Was No. 3 introduced?
6 THE CHAIRMAN: Yes.
7 MR. SINGER: I would like to have this introduced
8 as Petitioner's Exhibit No. 4.
9 Q. Was this prepared by you or under your direction?
10 A. Yes.
11 Q. What does this represent?
12 A. This is trying to give you a side view of what
13 the board-on-board fence would look like with the plant
14 material in size, would look like at the time of planting.
15 Here, you have the Cherries. You have the
16 Spruces. You have Pines. And then you have the London
17 Plane trees.
18 Q. The London Plane is the tallest?
19 A. Yes.
20 Q. On the lower right corner -- that's at the time
21 of installation, at the upper left?

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1 A. Yes.
2 Q. The lower right, what does that indicate?
3 A. It's just a more tight picture, the same concept.
4 This would be a year after.
5 Q. A year or three?
6 A. Three years of growth. I'm sorry. The height is
7 much larger. You can see the Evergreens come to the point
8 where they are almost touching and try to complete a
9 permanent screen.
10 Q. So this is the same location, same view?
11 A. Yes.
12 Q. At the time of installation and after three years
13 of growth?
14 A. Correct.
15 Q. This exhibit which I would offer as Petitioner's
16 Exhibit No. 5, what do these represent?
17 A. This is the colored picture of the plant material
18 and it's full size with the description underneath, as the
19 Cherry.
20 Q. These are the materials that you have indicated
21 on the prior two exhibits?

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1 A. Yes, sir.
2 Q. As part of the landscaping plan?
3 A. Yes. Those are photographs.
4 Q. Would you just describe what they are and at what
5 point in their maturity they are?
6 A. This right here is the Yoshino Cherry, the mature
7 size, forty to sixty foot, has a rapid growth rate, and
8 flowering in March and April. And this picture shows
9 almost a mature --
10 Q. This is the upper left-hand corner of the
11 exhibit?
12 A. Correct.
13 Q. At maturity. You see a rapid growth rate?
14 A. Yes.
15 Q. Would would that rate be?
16 A. A foot or two foot a year.
17 Q. The second picture, counting from the left, is
18 what?
19 A. This is the Norway Spruce, which has more of a
20 pyramidal habitat. Mature growth is forty to sixty foot in
21 height. It's a medium to fast growth rate.

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1 Q. What would that be in terms of feet?
2 A. That would be eight to fifteen inches or so a
3 year.
4 Q. Are they the ones that were shown on Petitioner's
5 Exhibit No. 4 as the smaller trees?
6 A. These are the Norway Spruce. These are the White
7 Pines.
8 Q. The White Pine is at the lower right-hand corner
9 of Exhibit No. 5?
10 A. Correct. This White Pine, again pyramidal-type
11 habitat, fifty to seventy-five feet in height. Has a
12 rapid growth rate, one to three feet a year. Decidious.
13 Q. The second picture from the right?
14 A. This is a London Plane tree, decidious. More of a
15 hardwood type product. Has more of a broad head,
16 sixty-five to eighty foot in height at maturity size,
17 medium to fast growth rate, which again could be between
18 one to two foot a year.
19 Q. Thank you. You may take the stand, please.
20 Dumb question. The Evergreens are green all year, is that
21 true of the ones you have referred to here?

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1 A. Yes.
2 Q. With respect to the corner of the property, I say
3 corner, I mean where Kingsley Road curves around the edge
4 of the property, would there be any plantings that would
5 flower or have leaves or branches below six feet from the
6 ground?
7 A. No. The London Plane that's directly on the
8 corner is more of a straight type tree, which would be six
9 foot plus and higher in branching, so visibility would be
10 permissible underneath in a vehicle.
11 Q. The trees in back of that, how close would they
12 be to the actual tip of the property, can you tell?
13 A. They would be approximately, say, fifteen feet
14 back. I don't have a scale, but that's -- you can see off
15 the corner of the property line there would be
16 approximately like thirty feet or so back, both corners
17 used as a diagonal, so the line of visibility is
18 acceptable.
19 Q. Would this proposed plan, to your knowledge,
20 comply with Baltimore County requirements?
21 A. Yes, it does.

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1 Q. Do you recall what is presently on the property
2 in terms of vegetation or shrubbery?
3 A. Yes. They have a small hedge on the corner that
4 wraps around the radius of the corner.
5 Q. How tall is that?
6 A. I believe it's twenty-four inches or so. That was
7 the last time I saw it.
8 Q. What other vegetation?
9 A. There's some large maple trees. Birch trees.
10 Lillac shrubs.
11 Q. Do you know where they are located?
12 A. The lillacs are going down the -- I have to go up
13 there and show you. As far as I remember, the house is
14 here. I believe they're Maple trees here, Birch trees
15 this side, small hedges in this place here, and then there
16 is some large tree that forms right in this area here.
17 Q. That would be on the eastern boundary of the
18 property?
19 A. Yes. And then this is miscellaneous and
20 foundation plants.
21 Q. Are they around the house?

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1 A. Around the house, yes.
2 Q. Are there any plantings on the west side of the
3 property along here between the subject property and the
4 house to the west?
5 A. I don't recall.
6 Q. How is it your proposed landscaping plan compares
7 with what is presently existing, in your opinion?
8 A. Well, basically, at the present time, everything
9 that's on the property basically will be a foundation
10 planting around the house, and it has some large trees
11 around, so it will be completely open except for the small
12 hedge that's on the corner of the property.
13 Q. Do you recall whether, from Kingsley Road, one
14 can see out and around the house to the rear of the
15 property?
16 A. Yes.
17 Q. Is the body shop visible? Do you recall?
18 A. I don't.
19 MR. SINGER: I have no further questions.
20 Mr. Holzer, do you have any objection to these being --
21 MR. HOLZER: I believe they were in before the

1 Zoning Commissioner. Actually, that's one of the first
2 questions that I have.
3 CROSS EXAMINATION
4 BY MR. HOLZER:
5 Q. As I understand it, as I recall, Petitioner's
6 three, four and five were all exhibits that were presented
7 by you and testified about by you before the Zoning
8 Commissioner, is that correct?
9 A. Yes.
10 Q. So there's nothing new that has been added to
11 these plans since that hearing?
12 A. No, sir.
13 Q. And how many times since the Zoning
14 Commissioner's hearing to today did you go out and visit
15 this site and look at it to prepare for today?
16 A. Once.
17 Q. Once since the Zoning Commissioner's hearing?
18 A. Yes.
19 Q. How many times had you been out to see it before
20 the Zoning Commissioner's hearing?
21 A. Twice.

1 Q. So three times, total?
2 A. Yes.
3 Q. Up to today?
4 A. Yes, sir.
5 Q. When did you look at this most recently?
6 A. About a month ago.
7 Q. Insofar as your Petitioner's Exhibit No. 3, your
8 landscape plan, could you tell me, please, for me, exactly
9 how wide the buffer planting area will be on the western
10 side that you have planted all these bushes on?
11 A. I don't have a scale with me here to do this.
12 It's one inch equals thirty feet, is on the base there.
13 Q. You have got an engineer working for your team so
14 maybe he would have one. Lawyers, at least this lawyer,
15 doesn't carry one.
16 A. I would say about eighteen to twenty feet, it
17 looks like.
18 Q. Eighteen or twenty feet from the property line to
19 where this fence is going to go?
20 A. This is where you're talking? I --
21 Q. Well, why don't you take a look at Petitioner's

1 Exhibit No. 2. Does that help you any? That's where the
2 fence is supposed to go.
3 I assume you -- you used this Petitioner's
4 Exhibit 2 to prepare your plan, didn't you?
5 A. Yes.
6 Q. Okay. Tell me how much space there is between
7 the property line and where the board fence will be?
8 A. Fifteen feet.
9 Q. Okay. So in fifteen feet on the western boundary
10 you will be planting the items that you have put up here
11 in Petitioner's Exhibit 3?
12 A. Correct.
13 Q. In doing that, how many matures trees is that?
14 This London Plane tree, how many are you going to have
15 along that side?
16 A. One.
17 Q. Where's that?
18 A. Right here. Forward of the center.
19 Q. And that will grow sixty-five to eighty feet high
20 in maturity?
21 A. Yes, sir.

1 Q. You're going to have one. Where else are you
2 going to have those?
3 A. We have one on the corner.
4 Q. Right.
5 A. And as you come down, you have another one here,
6 another one here.
7 Q. So you have four altogether?
8 A. And then one on the inside and front two corners.
9 Q. Six altogether?
10 A. As the fence kicked around, two here, one on this
11 side here, and then one, two, three on this side, so six
12 total.
13 Q. Let's just take this western boundary again.
14 You're going to have the Norway Spruce on the western
15 boundary?
16 A. Yes.
17 Q. It grows forty to sixty feet high?
18 A. Correct.
19 Q. How many of those are going to be along that
20 boundary?
21 A. Norway Spruce, you have three, five.

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1 Q. Five Norway Spruce?
2 A. Eight.
3 Q. Eight Norway Spruce on the west side?
4 A. Correct.
5 Q. That grow forty to sixty feet high in maturity?
6 A. Right.
7 Q. Now, are there going to be any other plants?
8 A. Yes. Also five White Pine.
9 Q. Five White Pines in addition to the five Norway
10 Spruces and the White Pine, fifty to seventy-five feet
11 high?
12 A. Correct.
13 Q. How can all that plant material live in a fifteen
14 foot area along the property line?
15 A. How can it?
16 Q. Yes.
17 A. It does every day.
18 Q. It will when it's first planted, but when it
19 becomes mature, how can it?
20 A. It has to be maintained.
21 Q. It has to be maintained?

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1 A. To create a buffer.
2 Q. If it's maintained, are you telling me all that
3 plant material will live there?
4 A. Yes.
5 Q. I'm sorry. Before you sit down --
6 A. Yes, sir.
7 Q. -- how wide is the eastern boundary of the --
8 A. Here?
9 Q. Yes.
10 A. It varies from different portions, from twenty
11 to ten feet.
12 Q. But you're taking from the property line to show
13 this, aren't you?
14 A. Yes.
15 Q. When you designed your plan, when you designed
16 the Petitioner's Exhibit 3, you took from the property
17 line in, right, to create you buffer, right?
18 A. From the property line that's shown here.
19 Q. Yes. Well, the witness just before you showed
20 that the road is actually along that edge there, so this
21 plan that you have drawn can't possibly be planted there

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1 or you're going to be putting trees down the middle of the
2 road.
3 A. I had said it has to adjust according to where it
4 varies.
5 Q. So you're saying that the fence would have to be
6 moved back inwards to the property to allow your planting
7 scheme to take place?
8 A. That's not my choice. What I'm saying is the
9 area that we use will be the property lines, not knowing
10 the road was there.
11 Q. So Petitioner's Exhibit 3 was drafted up before
12 you realized that the property -- that the road actually
13 encroaches into that easternmost boundary landscape?
14 A. Yes, sir.
15 Q. So you can't plant it the way it's designed?
16 A. It would have to be adjusted accordingly.
17 Q. But it hasn't been, has it?
18 A. No. Can I rephrase how I answer that?
19 Q. No. Your counsel will get a chance to ask you a
20 question.
21 Now, you have also on Petitioner's Exhibit 3 --

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1 to save you the trouble from getting up again -- you have
2 also planted out into the southeast corner additional
3 plantings on Petitioner's Exhibit 3 that, in fact, will be
4 in the middle of the road, now that you understand what
5 the situation is?
6 A. According to that plan.
7 Q. That has to be changed as well, doesn't it?
8 A. It has to be adjusted to fit the criteria.
9 Q. Well, would you tell me how much space there is
10 is in the Kingsley Road side to do the planting, not
11 counting the cutout, but just along the road?
12 A. This area here?
13 Q. Yes.
14 A. It looks like about nine to twelve feet.
15 Q. Nine to to twelve feet. Thank you. So in an
16 area of nine to twelve feet in the front of the property,
17 in front of the board fence, you're going to create what
18 you described as, quote, a forest type buffer, is that
19 correct?
20 A. Yes. We'll have to re -- we have it drawn
21 showing it's a staggered mode. We have to do a more

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1 straight line columner shape to create that buffer
2 Columner mode
3 Q. Isn't the idea -- let me ask you this. If you
4 were given your choice as a landscape planner between nine
5 to twelve feet to plant what you would hope would become a
6 forest type buffer, and fifty feet, wouldn't you rather
7 have fifty feet in which to use your creative juices to
8 design a nice plan?
9 A. We have to deal with what we have.
10 Q. So what we have is what is being forced upon you
11 by the engineer who designed forty-nine parking places, is
12 that correct?
13 A. Yes.
14 Q. In your Petitioner's Exhibit 3, 4 and 5, how high
15 is the fence that you showed in Exhibit 4? In this
16 rendering, isn't there an eight-foot high fence?
17 A. Yes.
18 Q. Now, we know that you can't put an eight-foot
19 high fence there, can you?
20 A. Correct.
21 Q. It's got to be a six-foot high fence. So that

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1 drawing is not accurate of what the current situation
2 would be today?
3 A. Right. It would be a foot less -- two foot less.
4 I'm sorry.
5 Q. Now, if you were to -- as you said, you went out
6 and saw the property about a month ago.
7 On the curve where Kingsley Road makes the bend,
8 right now, from an easterly direction to a northerly
9 direction, generally, that's where the two-foot high hedge
10 goes at the present time?
11 A. That I remember, yes.
12 Q. Did you drive that or walk that?
13 A. Drove it.
14 Q. Do you drive around that turn and go down
15 Kingsley Road any further?
16 A. No.
17 Q. Did you stop there?
18 A. I went to the corner and stopped, the back rear,
19 the south corner.
20 Q. So you went around this way?
21 A. And stopped there.

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1 Q. At the present time, you don't have any problem,
2 do you, in seeing what was coming on that curve?
3 A. I really didn't pay attention to it.
4 Q. As I understand it, these trees that are
5 designated as PO --
6 A. Correct.
7 Q. -- are the large trees that we just described as
8 the London Plane tree?
9 A. London Plane, right.
10 Q. And then you have -- do you have some Spruce or
11 White Pines planted on that corner as well?
12 A. White Pines that set back behind the trees,
13 correct.
14 Q. So the White Pine is a tree that basically has
15 full bottom from the ground up?
16 A. Yes.
17 MR. HOLZER: I have no further questions, sir.
18 Thank you.
19 REDIRECT EXAMINATION
20 BY MR. SINGER:
21 Q. Mr. Piccinini, where the road impinges on the

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1 property, would there be any difficulty in adjusting the
2 plantings back to afford what's on the ground?
3 A. That's one thing I wanted to explain. Anytime
4 there's a plan in design on paper, you always run into
5 problems on the field, and whether it be electrical lines
6 or pipes, et cetera, you have to adjust accordingly.
7 So if it's moved a foot this way or that way,
8 everything is adjusted accordingly to fit the extremities
9 that are given to you.
10 Q. And having seen the site, is there any reason
11 that you know of that would prevent you from adjusting the
12 plantings to look like the exhibit that you prepared and
13 entered into testimony here?
14 A. No. It can be adjusted.
15 Q. The White Pines on the corner will be set back
16 behind the Plane tree?
17 A. Right. The Plane trees would have the minimum of
18 the six-foot height, if not more, in branching. And the
19 Pine trees would be set back behind the London Plane
20 trees.
21 Q. Where you're putting the Plane tree is where the

1 shrubbery is now?
2 A. Correct.
3 MR. SINGER: I have no further questions. Thank
4 you.
5 MR. HOLZER: I do, just off that one question
6 there.
7 RECROSS EXAMINATION
8 BY MR. HOLZER:
9 Q. If you have to move this landscaping back another
10 ten feet or so, you do not have any idea whether or not or
11 how that will impact the ability to get forty-nine parking
12 spaces in there, do you?
13 A. Will it impact the parking spaces?
14 Q. Yes. That's my question.
15 A. Between the fence and the -- you know, no, it
16 wouldn't impact the parking space. We'd have to shape the
17 materials to fit in the spaces.
18 Q. My question is, so what you're saying is, you're
19 not going to remove the forty-nine or adjust the
20 forty-nine parking spaces?
21 You're going to try to squeeze into nine feet

1 what you've shown on this plan as being on fifteen to
2 twenty feet?
3 A. Correct. What we would do is change the stagger
4 mode into a straight line and then shear the plant
5 meterial and put it tighter. That way, it would create a
6 green wall.
7 Q. So instead of having plant material which is
8 offset which gives you some depth to the planting, you're
9 going to have a single line of bushes or trees, whatever
10 they may be?
11 A. Whatever that road would have to constrain us to.
12 Q. So the landscape buffer will actually be, in
13 those areas, will actually be diminished from Petitioner's
14 Exhibit 3, diminished, but no effort will be made to
15 maintain the consistent depth of the landscape buffer and
16 sacrifice some parking spaces?
17 MR. SINGER: Objection. Two questions, or
18 statement.
19 MR. HOLZER: I will restate it.
20 Q. Just so I understand, there will be no effort to
21 reduce the number of parking spaces to accommodate the

1 additional width needed for your plan, other than
2 Petitioner's Exhibit 3, correct?
3 A. That would not be my choice to make.
4 MR. HOLZER: I have no further questions.
5 MR. SINGER: I have nothing else of this witness.
6 THE CHAIRMAN: Thank you very much, sir.
7 MR. SINGER: May he be excused?
8 THE CHAIRMAN: Yes. Off the record.
9 (Discussion held off the record.)
10 THE CHAIRMAN: Why don't we take about a half
11 hour lunch break, and then come back and we'll continue.
12 - - - - -
13 (A luncheon recess was taken.)
14 - - - - -
15 THE CHAIRMAN: We can go back on the record.
16 MR. SINGER: I'd like it recall Mr. Howe, very
17 briefly.
18 E D W I N S. H O W E, III,
19 having been recalled, testified further as follows:
20 DIRECT EXAMINATION
21 BY MR. SINGER:

1 Q. Mr. Howe, at my request over the lunch recess, I
2 had asked you to determine permissible heights of the
3 fence around the subject property?
4 A. That is correct.
5 Q. What is permitted in terms of the height of the
6 fence? That was unclear earlier.
7 A. As I understand now, it's a use rather than based
8 on zoning, and based on it being a commercial use on this
9 site versus a residential use, the eight-foot fence would
10 be allowable.
11 Q. As shown on the plat?
12 A. As shown on the plat.
13 MR. SINGER: Thank you. I have no further
14 questions.
15 RECROSS EXAMINATION
16 BY MR. HOLZER:
17 Q. Mr. Howe, I assume that you got that information
18 not from your own knowledge or thought processes, but from
19 someone in the county?
20 A. Yes.
21 Q. So you're taking someone's word for what the

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1 regulations do or do not say, is that a fair statement?
2 A. That would be a fair statement.
3 Q. If that person was wrong, legally in saying that
4 the fence height was related to a use issue which is
5 commercial versus the zoning for a D.R. property which
6 would require a six-foot height fence, you're not an
7 attorney, are you?
8 A. That, I'm not.
9 Q. So, therefore, if there was a legal issue
10 involving that distinction, you're not prepared to comment
11 on that one way or the other today, are you?
12 A. No, I would not be.
13 MR. HOLZER: No further questions.
14 FURTHER REDIRECT EXAMINATION
15 BY MR. SINGER:
16 Q. Mr. Howe, in any event, in regards as the height
17 of the fence, following the actual zoning of the property
18 rather than the use, a six-foot fence is permitted, is it
19 not?
20 A. Yes.
21 Q. Without question?

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1 A. Without question.
2 MR. SINGER: Thank you.
3 MR. HOLZER: No questions.
4 THE CHAIRMAN: The witness is excused. Thank you.
5 MR. SINGER: Mr. Hffman.
6 DENVER HUFFMAN,
7 having been called as a witness, was duly sworn and
8 testified as follows:
9 DIRECT EXAMINATION.
10 BY MR. SINGER:
11 Q. Please state your full name.
12 A. Denver Huffman.
13 Q. How do you spell that?
14 A. Denver? D-e-n-v-e-r.
15 Q. Huffman.
16 A. H-u-f-f-m-a-n.
17 Q. By whom are you employed?
18 A. Len Stoler company.
19 Q. What capacity?
20 A. I am a fixed operations manager.
21 Q. How long have you been so employed?

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1 A. Eight years.
2 Q. Are you familiar with the property known as 22
3 Kingsley Road?
4 A. Yes, I am.
5 Q. Where are you presently residing?
6 A. 22 Kingsley Road.
7 Q. How long have you lived there?
8 A. Since August of 1997.
9 Q. Is that a temporary or permanent arrangement?
10 A. Temporary.
11 Q. Why is that?
12 A. I am constructing a new home.
13 Q. You're living with your family?
14 A. Yes, I am.
15 Q. How much longer do you anticipate living there?
16 A. Three to four weeks.
17 Q. Now, just briefly, would you describe the
18 condition of the property at 22 Kingsley Road?
19 A. It's a two-story frame dwelling, approximately a
20 hundred plus years old, with a cellar under the house.
21 Q. Is it a finished cellar?

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1 A. No. It's a carved -- it's a dirt cellar.
2 Q. What is the condition of the property, generally?
3 A. It's in need of repair.
4 Q. Have you done anything to improve the property?
5 A. I have tried to maintain the property as it is.
6 I installed several smoke detectors.
7 Q. How many?
8 A. There was three there to begin with, and I
9 installed three more.
10 Q. Why did you do that?
11 A. The house is old. The wiring is old. I did it
12 for my own safety and the family's safety and well-being.
13 Q. What, if any, improvements or renovations are
14 necessary to the house?
15 A. I would say that, you know, to maintain it, it
16 depends on, I guess, who wants to live there and what they
17 expect out of the property.
18 Personally, I would say that it would need a lot
19 of maintenance inside, outside, maybe some wiring.
20 Q. Now, would you describe the traffic along
21 Kingsley Road as you witnessed it?

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1 A. Surprising as it is to me, it's a very busy
2 street.
3 Q. At what hours?
4 A. Well, I am gone – I'm not there during the day
5 from eight until eight in the evening, thereabouts, as a
6 rule, except for weekends.
7 The evening traffic is, surprising enough, is
8 heavier than what I would expect it to be.
9 Q. Can you describe the present level of noise you
10 witness from the house?
11 A. The house is kind of situated in the street. The
12 traffic really drives up one side and down the other side,
13 and in the house, I think because of the age of the house,
14 the lack of insulation, whatever, the amount of traffic is
15 quite loud.
16 Q. How about the lighting conditions at night?
17 A. The house itself --
18 Q. No. The area around the house.
19 A. There's illumination, but not enough to make it
20 satisfactory for me. As a matter of fact, there is a
21 floodlight there, and I actually had the floodlight

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1 repaired on the house because I wanted light outside the
2 house at night.
3 Q. What effect, if any, is there from the lighting
4 on the Pontiac dealersip on the corner?
5 A. From that location?
6 Q. From your house.
7 A. I'd say minimal.
8 Q. Do you see any of the lights from the Pontiac
9 dealership?
10 A. You can see the lights. They don't necessarily
11 illuminate that particular house.
12 Q. Now, the use of the site as proposed in the
13 petition would be for employee parking?
14 A. Yes, it would.
15 Q. Would it be for any other purpose at all?
16 A. No, it would not.
17 Q. Would it be restricted to employee parking?
18 A. Yes, it would.
19 Q. What hours of use would be made of the site?
20 A. Well, employee hours run from approxiately 7 a.m.
21 to 9 p.m.

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1 Q. Monday through Saturday?
2 A. It would be limited to employee parking, I would
3 say, after five.
4 Q. You have employees work then in the Ford
5 dealership building to the northwest as well as in the
6 collision and repair building just to the north of the
7 property, is that right?
8 A. That is right.
9 Q. Were you familiar with the previous owner of the
10 property?
11 A. Yes, I was.
12 Q. Who was that?
13 A. Vivian Archibald.
14 Q. Were you familiar with the use she previously
15 made of the property?
16 A. Yes, I was.
17 Q. What was the use? Did she live there?
18 A. It was a residence as well as a day care center.
19 Q. How long was the day care center operated from
20 that location, do you know?
21 A. I don't know, you know, the specifics as far as

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1 dates. I can't tell you.
2 Q. Approximately how long?
3 A. Well, in my time with the Stoler company, I would
4 say all during that period.
5 Q. The eight years you have been there?
6 A. Yes, up until the time that she departed the
7 house. Close to the time.
8 Q. That was what, in September of 1996 --
9 A. She left there?
10 Q. -- or April of '97?
11 A. That she left the house?
12 Q. Yes.
13 A. She actually rented the house for awhile after we
14 purchased the property. I believe she left there the
15 second week -- first or second week, I believe, August of
16 '97.
17 Q. You don't know how many children she cared for at
18 that location?
19 A. I don't know the exact number. I would say more
20 than five.
21 Q. Now, with respect to the lighting, you have some

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1 literature that shows the type of lighting that is
2 proposed. Have you investigated the proposed lighting
3 that would be installed there?
4 A. Yes, sir.
5 Q. Would this lighting be perpendicular or
6 horizontal to the ground so it's downwards?
7 A. Ninety degrees, yes, sir.
8 Q. Would it be the type of floodlight shown
9 herewith, or would they be different?
10 A. It would be that type floodlight, It's a sealed
11 headlight, adjustable sealed headlight with a directed
12 beam, directed downward.
13 Q. Would it be different than the photograph shown
14 here, which are tilted upwards?
15 A. That's a tilt. Yes.
16 Q. So they're adjustable, so you can make them --
17 A. Ninety degrees.
18 Q. With the standards, but level with the ground?
19 A. Level, yes.
20 MR. SINGER: I'd like to have this marked,
21 please, as Exhibit 6.

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1 THE CHAIRMAN: Any objection?
2 MR. HOLZER: No, sir. Is that five or six?
3 THE CHAIRMAN: Six.
4 Q. Would there be any kind of timing device with
5 respect to the lighting?
6 A. Yes, there would.
7 Q. How would that work?
8 A. It would be -- there would be a timer device that
9 would be used to turn the lights on and off at set hours.
10 Q. They would coincide with the hours of use you
11 have mentioned?
12 A. Yes.
13 Q. Have you traveled back eastwards on Kingsley Road
14 recently?
15 A. Yes, I have.
16 Q. Would you describe, briefly, the types of homes
17 that are back there?
18 A. There is, I guess, single family dwellings. I
19 would say in the ranch styles and two-story homes.
20 Q. There's another street that goes off of Kingsley
21 to the left as you go in. That's a dead-end also?

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1 A. Yes, there is.
2 Q. Do you know how many homes are back there,
3 approximately?
4 A. Back where?
5 Q. East of the subject property?
6 A. I don't know the exact count. I would say
7 approximately twenty homes total, maybe.
8 Q. Are there any business activities carried on back
9 there that you observed?
10 A. Business --
11 MR. HOLZER: Objection. It's zoned D.R. Unless
12 he has some proof there's a business zone back there, it's
13 all zoned D.R. zoning.
14 THE CHIARMAN I'll let him answer the question.
15 It's overruled.
16 Q. The question was, was there any business activity
17 back there, that you observed?
18 A. I haven't necessarily observed business activity.
19 I have observed a tow vehicle that is quite frequent.
20 MR. HOLZER: I move to strike that answer. I
21 mean, that's not business activity.

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1 THE WITNESS: It is a business activity.
2 MR. HOLZER: I am am suggesting it's not a
3 business activity within the context, nor is there a
4 proffered zoning.
5 THE CHAIRMAN: I'm going to overrule the
6 objection. You can continue, but this will be very
7 limited.
8 Q. Have you seen any cars being towed back to or
9 from there?
10 A. Yes.
11 Q. You don't know the address there, do you?
12 A. I do not.
13 Q. Do you know whether it's on Kingsley itself?
14 A. As far as where the vehicles are being towed?
15 Q. Yes.
16 A. No.
17 Q. Have you had occasion to recently take
18 photographs of the area?
19 A. Yes.
20 Q. Particularly the area around the subject
21 property?

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1 A. Yes.
2 Q. Do you have those with you?
3 MR. HOLZER: I don't have any problem.
4 THE CHAIRMAN: Are you going to be showing a
5 series?
6 MR. SINGER: Yes, sir. I thought I'd do A, B, C.
7 THE CHAIRMAN: Take them as Petitioner's 7A, B,
8 C, for purposes of identification.
9 Q. The first picture I would show you -- you took
10 these yourself?
11 A. Yes.
12 Q. Within the past few days?
13 A. Yes.
14 Q. Do they fairly and accurately depict the scenes?
15 A. Yes.
16 Q. Would you describe what that photograph shows?
17 A. This is the east side of 22 Kingsley, the
18 property directly across on the east side.
19 Q. That would be over here?
20 A. Yes.
21 Q. On the other side?

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1 A. Yes.
2 Q. That would be 7A. I show you the next photograph.
3 What does that show?
4 A. That's the Kingsley property on the -- going out.
5 Q. Going out?
6 A. Yes.
7 Q. You said Kingsley property?
8 A. This is the corner of the driveway along
9 Kingsley.
10 Q. Off the subject property where you live?
11 A. The subject property.
12 Q. Is that the roadway of Kingsley Road?
13 A. That's Kingsley Road.
14 Q. So the subject property would be to the right?
15 A. Exactly.
16 MR. SINGER: 7B, please.
17 Q. The next photograph?
18 A. This is the east corner of the east side of
19 Kingsley, 22 Kingsley. This is the second turn. Second
20 dog-leg to the right,
21 Q. This looks like the lilac bushes on the subject

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1 property itself?
2 A. No. That's on the east side.
3 Q. So that would be across Kingsley Road to the
4 east?
5 A. Yes.
6 Q. And what road is shown on here? What part of
7 Kingsley is shown on there?
8 A. That's the second dog-leg of Kingsley.
9 Q. The one that goes directly east from the subject
10 property?
11 A. Exactly.
12 Q. So it's the second right?
13 A. Second right.
14 Q. What is that?
15 A. This is east. This is the same location at a
16 different angle. The second right.
17 Q. What does this show?
18 A. This shows a little further down on Kingsley,
19 going back in the opposite direction. It's actully the
20 second right, but it's going from a different angle. It's
21 out. It's to your left. The east would be to your left.

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1 Q. Where would the subject property be with respect
2 to this photograph?
3 A. Straight across.
4 Q. Straight across behind the bushes?
5 A. Behind the bushes.
6 Q. And the house to the east, the subject property
7 would be on the left of this photograph, is that correct?
8 A. I'm sorry. Say again?
9 Q. The house that's shown over here across Kingsley
10 to the east on this photograph, would that be to the left?
11 A. It would be to the left from where your thumb is.
12 Q. The next photograph?
13 A. That's standing on the road, on Kingsley.
14 Q. What's the building to the right?
15 A. That's 22 Kingsley.
16 Q. On the left is the lilac bushes you have shown on
17 the other pictures?
18 A. That's the house on the east.
19 Q. So a car going west on Kingsley would be coming
20 around, and that faces in that same direction on the
21 photograph?

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1 A Exactly
2 Q. This is another photograph of the same view?
3 A. Same view.
4 Q. 22 Kingsley would be on the right?
5 A. 22 Kingsley is on the right.
6 Q. That's what a motorist would see going westward?
7 A. That's about halfway into the turn.
8 Q. I show you another photograph. What does that
9 show, other than lilac bushes?
10 A. That's 22 Kingsley, and that's standing on the
11 west side of Kingsley going out toward Reisterstown Road.
12 Q. So the road here is looking westwards?
13 A. Exactly.
14 Q. And the yellow building up in the right-hand
15 corner is 22 Kingsley?
16 A. Yes, it is.
17 Q. So these lilac bushes would be on the subject
18 property itself?
19 A. Yes, they would.
20 Q. Alongside its eastern boundary?
21 A. Eastern boundary, right.

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1 Q. This photograph?
2 A. That's on Kingsley, showing 22 Kingsley to the
3 right, and in the center of the street on the second turn.
4 Q. If a motorist is going towards Reisterstown Road,
5 is this the view they would see?
6 A. Yes.
7 Q. 22 Kingsley is the yellow building on the right?
8 A. Yes, it is.
9 Q. That's looking westward?
10 A. Looking west.
11 Q. Is this photograph generally looking the same
12 direction?
13 A. Generally the same direction, same location.
14 Q. Last of this group, again, looking westward?
15 A. Looking westward.
16 Q. 22 Kingsley is the yellow building on the right?
17 A. Yes, it is.
18 Q. Is this taken from the roadbed of Kingsley
19 itself?
20 A. From the center of the street.
21 Q. And where are these bushes located?

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1 A. This is the east side of Kingsley. That's
2 directly across from Kingsley on the east side. That's
3 the view further back.
4 Q. This is looking then in a northerly or
5 northeasterly direction?
6 A. Yes.
7 Q. The subject property would be on the left across
8 Kingsley?
9 A. On the left.
10 Q. Mr. Huffman, I show you another set of
11 photographs which I'd like to have marked as Petitioner's
12 No. 8. What does this show?
13 A. It shows the back property of the GMC Pontiac
14 next door.
15 Q. On the southeast corner of Kingsley and
16 Reisterstown Road?
17 A. Yes.
18 Q. Looking in a southerly direction?
19 A. Yes?
20 MR. SINGER: That will be No. 8.
21 Q. Kingsley Road in this photograph, although not

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1 depicted very clearly except for the corner, would be on
2 the left of this photograph, is that correct?
3 A. That's correct.
4 Q. And the right side would be the south side of
5 Kingsley?
6 A. Yes.
7 MR. SINGER: 8A.
8 Q. What does this photograph show?
9 A. This is looking westwards. That's a view of
10 Kingsley Road looking westward into Reisterstown Road.
11 Q. The cars that are parked there, are they part of
12 the Pontiac dealership or are they across Reisterstown
13 Road?
14 A. It's part of the Heritage stores across the road.
15 Q. What is Heritage?
16 A. Automobile dealerships.
17 Q. They're located on the west side of Reisterstown
18 Road?
19 A. West side of Reisterstown.
20 Q. Across from the Pontiac dealership?
21 A. Across from the Pontiac -- across from Kingsley.

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1 Q. Kingsley actually dead-ends at that point on the
2 western end?
3 A. Yes.
4 Q. The cars and building shown there are part of the
5 Heritage dealership?
6 A. Yes, it is.
7 Q. How many dealerships are located there, do you
8 know?
9 A. Approximately five franchises.
10 Q. I am going to show you another photograph and ask
11 you to identify that.
12 A. Kingsley Road, 22 Kingsley to the left. This
13 would be before the first -- it would be before the left
14 turn, left dog-leg.
15 Q. The shrubs that are shown there are the shrubbery
16 for 22 Kingsley?
17 A. Yes, it is.
18 Q. And is this another view a little further down
19 the road in the same location?
20 A. This is Kingsley to your left. This is midway,
21 or just before the turn, the left turn.

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1 Q. But the street shown there is Kingsley Road?
2 A. Yes, it is.
3 Q. And the subject property is to the left?
4 A. The subject property is to the left.
5 Q. Those shrubbery then would be part of 22 Kingsley
6 property?
7 A. Yes, sir.
8 Q. I show you another photograph.
9 MR. SINGER: This would be Exhibit No. 9, if the
10 Board please.
11 Q What does that show?
12 A. This is Kingsley Road, and it's showing the Len
13 Stoler property and an eight-foot board fence that is
14 close to Reisterstown Road.
15 Q. This is on the north side of Kingsley Road?
16 To the west of the subject property?
17 A. Yes, it is.
18 Q. Does this show much the same view, a little
19 differently?
20 A Same view, differently.
21 Q. I show you another photograph. Can you identify

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1 that, please?
2 A. This is the backside of the Pontiac with the GMC
3 store that adjoins the Burkindines, whatever.
4 Q. The Burkindine property. That's the first
5 property on the south side of Kingsley Road as you come
6 into Reisterstown?
7 A. Yes, it is.
8 Q. First residence?
9 A. First residence.
10 Q. What does this next photograph indicate?
11 A. That's 22 Kingsley, showing the back side of the
12 property, and showing the eight-foot fence, Len Stoler,
13 that adjoins the property.
14 Q. What is the building that's shown beyond the
15 fence?
16 A. That's a collision repair center.
17 Q. You say this was taken from the subject property?
18 A. Yes, it was.
19 Q. Looking then generally in a northwest direction?
20 A. Yes, it was.
21 Q. On the Clifton property that's next door, is

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1 there any kind of outbuildings there?
2 A. Yes. There's a small -- like a utility building
3 on the back side of the property.
4 Q. Is that located near the fence?
5 A. Yes, it is.
6 Q. It would be on the north side of that property?
7 A. Yes.
8 Q. The collision repair building, can that be seen
9 from the front of 22 Kingsley, from Kingsley Road?
10 A. Yes.
11 Q. Can it be seen from the side where if you're
12 coming west on Kingsley, after you make the dog-leg here,
13 coming west towards the subject property, can that
14 building be seen?
15 A. Yes.
16 Q. What was the cause of seeking parking on this
17 site, in terms of your present ability to park vehicles?
18 A. The lack of space, plus we were having situations
19 where we were actually parking on the street across from
20 Reisterstown and other locations, and it was, you know,
21 one big concern, that even the neighbors were concerned we

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1 were parking in those areas.
2 Q. Would you describe what action you have taken to
3 move the vehicles around from the dealerships being
4 presently operated to other locations?
5 A. You went as transport?
6 Q. Yes.
7 A. Well, we are presently transporting all his
8 vehicles and vehicles that are going to be there for some
9 time, we are transporting those into the Westminster
10 location where we have more space, and we're leaving
11 vehicles there until the time they are called for, or
12 whatever.
13 Q. Does that involve towing them to the Westminster
14 center?
15 A. Yes, it does, towing and driving.
16 Q. Is that an acceptable procedure?
17 A. What do you mean by acceptable? It's a
18 necessity.
19 Q. Have you explored any alternatives for the Ford
20 dealership site for the storage of vehicles in terms of
21 any other kind of structures?

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1 A. Yes, we explored the stacking type parking lot
2 which is a mechanical type parking arrangement.
3 Mechanical elevator.
4 Q. Is there anything like that in this area?
5 A. Yes.
6 Q. Where?
7 A. There one located on Reisterstown road, and I
8 think it's the Northwest Honda store. It's located there.
9 That's actually what got my thought to investigate that.
10 Q. Was that investigated as an alternative to this
11 petition?
12 A. Alternative to this petition, alternative to
13 traffic and parking situations.
14 Q. Do you have any literature with respect to that
15 that would depict that? Is there a brochure or something
16 you obtained as part of your investigation?
17 A. Yes.
18 Q. Would you describe briefly how this works?
19 A. Briefly, it's a mechanical elevated hydraulic
20 electric parking system, and you can buy it, purchase it,
21 in different volumes.

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1 Normally, it will stack up to three vehicles per
2 row. The device they have at the Northwest Honda
3 presently stacks approximately ninety automobiles.
4 Q. Of how high?
5 A. Three foot high to approximately twenty foot in
6 height. Stacks three high.
7 MR. SINGER: I'd like to have this marked as I
8 think it's nineteen.
9 MR. HOLZER: Could I see that?
10 MR. SINGER: I'm sorry. I apologize.
11 THE CHAIRMAN: Admitted, No. 10.
12 Q. Mr. Huffman, I show you some photographs. Do
13 these accurately depict the stacking arrangement at the
14 Honda dealership down the road?
15 A. Yes, it does.
16 Q. On Reisterstown Road?
17 A. Yes.
18 Q. That's a mechanical device that lifts the vehicle
19 or the platform which the car sits on up to the second and
20 third level, is that how this works?
21 A. Yes. They are stacked, and then raised until the

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1 third level.
2 Q. Can you describe what kind, if any, noise that is
3 attached to that raising procedure?
4 A. Well, it has -- raising it has a certain amount
5 of noise to it. It's mechanical. It's made of steel.
6 MR. SINGER: These photographs are marked as
7 Petitioner's Exhibit No. 11A, B and C, so forth. Counsel
8 has seen them.
9 THE CHAIRMAN: Fine. They will be admitted as
10 Petitioner's No. 11.
11 Q. I take it, since we're sharing this afternoon
12 together, that the choice was made to try to use this site
13 as parking, rather than the stacking procedure?
14 A. Yes, the stacking procedure, as you can see from
15 the photographs, is quite ugly. There is a certain amount
16 of noise level there.
17 Q. In the photographs of the Honda dealership, could
18 you tell whether or not they were new vehicles that were
19 being stacked?
20 A. They were new.
21 Q. If you utilized such a stacking device for new

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1 vehicles, would that free up parking on the ground level
2 for employees of the Ford dealership site?
3 A. It wouldn't free up input parking.
4 Q. I'm sorry, I couldn't hear you.
5 A. What was the question?
6 Q. If such a stacking device were erected on the
7 Ford dealership property, would that free up parking for
8 employees on ground level on the dealership site?
9 A. Ultimately, it could free up parking. I mean, we
10 are talking about an input parking area versus a new car
11 parking area. I guess, ultimately, it could free it up
12 some.
13 MR. SINGER: I have no further questions. Thank
14 you.
15 THE CHAIRMAN: Mr. Holzer?
16 CROSS EXAMINATION
17 BY MR. HOLZER:
18 Q. Mr. Huffman, you said you're the fixed operations
19 manager and you have been there for eight years?
20 A. Yes, sir, I have.
21 Q. I thought that my notes reflected from the Zoning

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1 Commissioner that you were the director of parts and
2 service. Is that the same title?
3 A. Same thing, yes, sir.
4 Q. You started living in the subject site in August
5 of 1997, and I assume that was after the Zoning
6 Commissioner's denial came down on August 15 of 1997?
7 A. I'm not sure of the date. I started living there
8 in August.
9 Q. Which would -- I mean, I assume that you started
10 living there after you found out the Zoning Commissioner
11 would not permit the requested variances, et cetera, is
12 that a fair statement?
13 A. I started living there in August. I don't know
14 what the dates are for sure. I started living there in
15 August, the third week of August.
16 Q. Why did you decide to live there instead of
17 living where you were before that?
18 A. I sold my home.
19 Q. You're presently constructing another?
20 A. Yes, sir.
21 Q. Now, having lived there since August of 1997, I

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1 assume it's suitable to live in, at least from the
2 standpoint of providing adequate shelter and having a
3 working toilet and bathrooms and kitchen, et cetera, is
4 that right?
5 A. Usually, yes.
6 Q. And as the fixed operations manager of Len
7 Stoler, I assume then you would know precisely when Len
8 Stoler acquired this property, and I understand it was
9 sometime in 1996, is that correct?
10 A. I don't have the exact date, you know.
11 Q. Well, why don't you try to zero in on the month
12 and year and confirm it was in 1996?
13 MR. SINGER: We're willing to stipulate it was
14 acquired September of 1996.
15 THE CHAIRMAN: Thank you.
16 Q. And has Len Stoler, in terms of the company -- I
17 use that not as the man, but the entire operation -- spent
18 any money on maintenance and repair of this house since it
19 acquired in 1996?
20 A. Maintained it to make it liveable.
21 Q. But you didn't spend money? You testified it was

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1 in need of repair. I mean, you haven't spent any money on
2 it in view of the idea you're going to tear it down, I
3 assume?
4 A. Well, ongoing.
5 Q. If you were going to live there, this would
6 require maintenance, repair and maintenance, but Len
7 Stoler hasn't spent any money on it since 1996 to maintain
8 it?
9 A. No great amount.
10 Q. And you say it's a busy street, to your surprise.
11 Well, is it not true that the only people that utilize
12 that street generally are the people that live there to
13 exit onto Reisterstown Road and to come in, other than
14 whatever service vehicles have to service the houses?
15 A. I mean, I can't identify all the vehicles. I'd
16 have to tell you there is certainly more traffic than what
17 the residents, more than the residents.
18 Q. I mean, other than people delivering things to
19 the houses, what other kind of traffic generation are you
20 talking about, other than the residents using the street?
21 A. People that are driving around. People that are

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1 lost People that don't understand it's a dead-end.
2 Q That constitutes a lot of traffic, in your
3 opinion?
4 A. In my opinion, it does.
5 Q. You mentioned and you were describing on many of
6 these photographs the lighting conditions, and you
7 discussed Mr. Burkindine's property.
8 You're familiar with that property and that
9 property in the evening?
10 A. I know where it's located.
11 Q. I mean, you live there so you must know what this
12 neighborhood looks like at night, right? Or don't you pay
13 attention?
14 A. I really don't pay that much attention. I know
15 the property, if that's your question.
16 Q. Well, that's a start. Do you also know the
17 lights from the Pontiac dealership are shining on the
18 Burkindine property, enough that the county brought a
19 violation against the Pontiac dealer?
20 A. I wouldn't be aware of that.
21 Q. But having seen the property then, the lighting

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1 can be substantial in terms of the overflow from the
2 Pontiac dealership, at least onto the adjacent street,
3 isn't that fair to say?
4 A. I would think it would be fair to say there would
5 be some overflow to Kingsley.
6 Q. And Mr. Burkindine lives on Kingsley?
7 A. He lives behind the the GMC store, that's
8 correct.
9 Q. There's some over flow right from the Stoler
10 operation onto Kingsley, isn't that correct?
11 A. Yes, I'd say that's correct.
12 Q. You have testified that there's forty-nine spots,
13 as I understand, spaces, for parking of employee vehicles,
14 and you said you're going to limit the parking here to
15 employee vehicles, is that correct?
16 A. That's correct. Proposed.
17 Q. What employees will be parking there and when
18 will they be coming in and when will they be leaving?
19 A. We really haven't discussed or selected the
20 employees to park there, but I would say that would be
21 pretty much dedicated to the people working in the Ford

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1 building, and maybe even collision and repair, which are
2 directly across from that.
3 Q. What time is the collision and repair operation
4 started in the morning?
5 A. Starts at seven.
6 Q. What time does it end?
7 A. Ends at six in the evening.
8 A. How late is your sales force at this site?
9 A. The sales force are there until nine.
10 Q. How many employees do you have that work in the
11 collision repair shop?
12 A. Fifteen to twenty. Eighteen.
13 Q. So do all eighteen come on the same time or come
14 in shifts?
15 A. They come pretty much the same time.
16 Q. So they could use eighteen spots out of the
17 forty-nine, and who would be dedicated the rest of the
18 spots? The salesperson or --
19 A. I can't say who they would be dedicated to.
20 Q. If there's such a need, you ought to be able to
21 tell me who.

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1 A. I can say it would fill up very quickly because
2 the need is great. So I mean, it would be -- we don't
3 have assigned parking areas because of the need for
4 parking.
5 We are basically first come, first serve. But to
6 answer your question, the parking space will be filled up
7 pretty quickly.
8 Q. I mean, I visited your lot and I actually had
9 work done in your repair shop. There is all sort of
10 parking area around in the back behind the sales staff
11 back in here?
12 A. I differ with you on that.
13 Q. Well, I am just one of your customers.
14 MR. SINGER: I'm going to object to the
15 testimony.
16 MR. HOLZER: I can say I visited the site.
17 Q. And I am asking you where do the employees park
18 now?
19 A. We have a dedicated parking area which is
20 directly below our Alexis facility on the lower level.
21 And that overfills very quickly, and it's first come,

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1 first served.
2 And at that point, they pretty much find parking
3 spaces, and the space you referred to that you think isn't
4 full, it stays full pretty much all the time.
5 Q. I didn't stay it wasn't full.
6 A. It's also customer parking, such as your vehicle.
7 Q. I didn't say it wasn't full. I said I saw there
8 was a lot of parking area back by the collision --
9 A. Depends what time of the day you would arrive.
10 If it's late in the evening, there's a chance, yes,
11 because of the different times the employees come and go.
12 You know, 4 o'clock in the evening, 5 o'clock in
13 the evening, is not a peak time, so you would have empty
14 spaces.
15 Q. Now, is it true if you're able to use this area
16 for parking of the employees, that you would -- the area
17 would be able to have greater area for new cars coming in
18 or cars that need work for the collision and repair shop
19 and for your other employees who can't get on this lot?
20 A. We're utilizing off parking areas other than Len
21 Stoler right now, and we did.

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1 Q. Where are they?
2 A. We're utilizing part of the Good Will lot. We
3 have parking there. And, of course, again, we have people
4 that are parking just about everywhere. We have people
5 parking across the street, on the streets, along the
6 street.
7 Q. Are you leasing the old Roy Rogers facility?
8 A. I don't know what the status is. I can't tell.
9 Q. Are you using it?
10 A. It's in use, yes.
11 Q. How do you use the area that surrounds the Roy
12 Rogers? Ex-Roy Rogers.
13 A. We have both employee parking and some new
14 vehicles there as well.
15 Q. That's zoned commercial, is it not?
16 A. I don't know what the zoning is.
17 Q. Well, it's on Reisterstown Road directly, is it
18 not? And it was used for a Roy Roger's restaurant?
19 A. Makes sense, yes.
20 Q. So I would assume it's not residential?
21 A. I would assume.

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1 Q. Have you acquired that property?
2 A. I don't have that knowledge. I have no direct
3 knowledge of that.
4 Q. There's other property zoned commercial property
5 along Reisterstown Road that's also available for rent or
6 for sale, is it not?
7 A. I'm not sure.
8 Q. You haven't explored that?
9 A. I have not personally explored that.
10 Q. So, to your knowledge, you have not at least
11 tried to find other locations in a commercial zone for
12 this overflow parking that might be necessary?
13 A. I personally have not pursued parking, but, other
14 than rental, and we transport vehicles for parking.
15 Q. I'd like to stay on that before I go to some
16 other questions that I have. You told us about
17 Westminster. What kind of space are you leasing up at
18 Westminster and how many spaces are up there?
19 A. We are not leasing property.
20 Q. You own it?
21 A. Yes.

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1 Q. How much overflow parking do you put in
2 Westminster?
3 A. We put -- numbers, is that what you're asking me?
4 Q. Yes.
5 A. We have as many as twenty, thirty vehicles at any
6 given time.
7 Q. Would those be new vehicles you just store up
8 there? Or could you tell me?
9 A. Well, in most cases, they are police vehicles
10 there that may be, or a lease vehicle that may be returned
11 off lease, and they have a final destination.
12 That's not Len Stoler. It's a leaseholder, or
13 lease corporation, and those are the most -- those are the
14 easier vehicles to transport.
15 Q. How much more space would that area
16 accommodate -- how many more cars, vehicles, would that
17 accommodate up there?
18 A. Not a whole lot. It's a store within itself, so
19 anything that we do, whatever we transport there, creates
20 a problem there as well.
21 Q. Would you say you could double the number of

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1 vehicles parked up there currently?
2 A. No.
3 Q. Half of it?
4 A. No.
5 Q. One more?
6 A. Maybe.
7 Q. Now, let me ask you this. In regard to the
8 approval of this particular site, if this were approved by
9 the Board, would some of the vehicles that are currently
10 parked at Westminser be parked there?
11 A. No.
12 Q. Now, let's talk about this stacking, because you
13 introduced that as your Petitioner's Exhibit 10 and 11.
14 So stacking is an alternative to free up some
15 parking on the whole side, is that a fair statement?
16 A. It would be an option.
17 Q. It would be done in the clearance section, the
18 commercially zoned portion of the property, I assume?
19 A. I don't know what the zoning requirement is for
20 the stacking.
21 Q. In addition to your having explored the

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1 alternative parking in Westminster, which you're doing,
2 the possibility of stacking of the vehicles as shown on
3 those two exhibits, are there any other alternatives you
4 looked at to explore for purposes of resolving the parking
5 problem?
6 A. Well, we are always looking for ideas, but we
7 haven't come up with any solutions.
8 Q. I mean, at least to date, the Westminster
9 solution, and possibly stacking would be a solution?
10 MR. SINGER: Objection to the characterization.
11 MR. HOLZER: I used his words.
12 THE CHAIRMAN: He can answer the question.
13 Q. Where those two solutions?
14 A. I would say the Westminster -- it's a hardship
15 within itself.
16 Q. And the stacking, is that a solution?
17 A. Stacking would be a solution, if you want
18 something that ugly to be installed.
19 Q. Is another solution the acquisition of
20 commercially zoned property along Reisterstown Road?
21 A. I have no idea what's available.

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1 Q. Now, going back to just some of the specifics,
2 I'd like to make sure I understand.
3 In terms of the lighting proposal, what is the
4 height of the current lights on the Len Stoler property?
5 Not the subject site, but just generally on your property.
6 A. They range from different levels, different
7 locations, different levels.
8 Q. Could you give us an idea?
9 A. They range from eight foot to twenty-five foot or
10 so.
11 Q. Could you tell us where the eight-foot standards
12 are that you use?
13 A. The eight-foot lights are along the back
14 property line between the apartments and the Alexis
15 parking area.
16 Q. That's not on this plat? You can't see that on
17 this plat?
18 A. I don't think it's on there.
19 Q. Are those eight-foot lights the same type that
20 you're proposing in Exhibit 6?
21 A. No.

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1 Q. That you showed us?
2 A. No. They are similar, but not the same.
3 Q. Petitioner's Exhibit No. 6, I looked at it very
4 quickly. I didn't have a chance to really study it. But
5 could you identify which of these two lights, the standard
6 floodlights or the cutoff floodlights, which of these two
7 you're proposing?
8 A. It's the cutoff.
9 Q. Which is the bottom light depicted?
10 A. The bottom.
11 Q. Are you saying that that would be a horizontal
12 light instead of what is shown in that picture, in that
13 exhibit?
14 A. It's the same light. It's adjustable.
15 Q. Just angled differently?
16 A. Yes, sir.
17 Q. Is it fair to say the twenty-five foot lights are
18 the ones that would be along Reisterstown Road that light
19 up the front of the facility?
20 A. That's the larger lights, I would say, yes.
21 Q. Could you -- in the collision repair shop, is

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that where the paint shop is also? There's painting that goes on in that building?

A. Yes, there is.

Q. Are there loud speakers on the Stoler property which address the employees and so forth all over the total lot?

A. No. There is loud speakers. They are not over the total lot, but there's loud speakers.

Q. They are designed to be heard throughout the entire Stoler property?

A. Pretty much. Within a certain perimeter.

MR. HOLZER: I'd like to look at the packet of photographs with nine each. I will try to be brief. You didn't put all the photographs in?

MR. SINGER: Some were duplicates.

MR. HOLZER: Could I take a look at them, the rest of them?

MR. SINGER: I don't have them.

MR. HOLZER: Where are they?

MR. SINGER: They are not part of nine.

MR. HOLZER: While I am looking at this -- I

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thought you were putting all the exhibits in.

Q. Which ones did nine come out of?

A. I have no idea. There's duplicates of each.

Q This is nine. This isn't the packet from which the Exhibit No. 9 came? Okay. This photograph shows the corner of Kingsley as it goes from an east to west direction and then in a north direction, is that correct?

A. That is correct.

Q. That shows the current hedge?

A. Yes, it does.

Q. It shows the current site visibility from, let's say, from where the zoning sign is depicted on the right-hand side all the way around the corner, does it not?

A. Into the curve. Not all the way around.

Q. Well, whoever took the picture, I assume it was you, was standing on the road after it had finished curving?

A. The curve doesn't go all the way around though.

Q. It shows well past the zoning sign that was for this hearing?

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A. It's past the zoning sign.

Q. This shows, therefore, the sight distance of the corner as it currently looks when you took the photograph?

MR. SINGER: Objection.

Q. I said, it shows the sight distance as it looked on the day you took the photograph?

A. From that angle, yes.

MR. HOLZER: I would offer this as Protestants' Exhibit No. 1.

MR. SINGER: No objection.

MR. HOLZER: I think that's all the questions I have.

THE CHAIRMAN: Any redirect?

MR. SINGER: I have nothing further.

THE CHAIRMAN: The witness is excused. Thank you, Mr. Huffman.

THE WITNESS: Thank you.

MR. SINGER: Mr. Stoler.

L E O N A R D S T O L E R,

having been called as a witness, was duly sworn and testified as follows:

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DIRECT EXAMINATION

BY MR. SINGER:

Q. Would you state your full name, please.

A. Leonard Stoler.

Q. Mr. Stoler, you're the principal in Colonial Stoler Partnership?

A. Yes, I am.

Q. That's the owner of the subject site?

A. Yes.

Q. I think I estimated it was purchased in 1996, September?

A. Yes.

Q. Did you purchse that from Vivian Archibald?

A. Yes.

Q. Did she continue to live there for a period of time after the purchase?

A. Yes, she did.

Q. You occupy the adjoining Ford dealership which is to the north of the site?

A. Yes, I do.

Q. When did you acquire the Ford dealership?

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1 A. In June of 1968
2 Q. Would you describe the physical site at that
3 time?
4 A. There were two dwellings situated between the
5 Ford dealership and Kingsley Road, and it was also
6 bordered on the north by a Jim Gentile's carryout chicken
7 place.
8 The property was located on approximately four
9 acres, but it needed a tremendous amound of fill in the
10 back because it dropped. It was pretty severe.
11 So the effective acreage was something like two
12 acres, one and a half to two acres. The building was in
13 the neighborhood of 7500 square feet. Pretty small by
14 standards.
15 Q. What was the condition of the building at that
16 time?
17 A. It was pretty historic, really. It was pretty
18 bad. We had no air conditioning, and in the summer months
19 we used to supply the salesmen with flyswatters.
20 Q. Is that the building that was so aptly described
21 by Jimmy Walker on the radio commercial?

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1 A. Yes, sir.
2 Q. What was the size of the service department?
3 A. We had five bays, five stalls.
4 Q. Is that part of the sales building or a separate
5 building?
6 A. It was actually, some prior date, it was another
7 building that was added onto the showroom, but, yes, that
8 was at that point part of one building.
9 Q. Was there a body repair shop there also at that
10 time?
11 A. Well, we had an outdoor lift. It was located
12 outside the building. And sometime around 1969 or '70,
13 I've forgotten which, we put up some plywood on top and
14 enclosed that lift and called it the body shop. The
15 one-time body shop, yes.
16 Q. How was that? Describe that in terms of the
17 frequency?
18 A. It was a challenge working there every day, I can
19 tell you that.
20 Q. How about environmentally, how would it stack up?
21 A. It would never past muster today.

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1 Q. Now, did there come a time you acquired
2 additional acreage?
3 A. Yes.
4 Q. When was that, roughly?
5 A. My goodness. I would say in the early seventies,
6 might have been '71, could have been '72, the property
7 immediately to the south of me became available and I
8 bought that.
9 And then, about a year or year and a half later,
10 the property on the corner of Kingsley and Reisterstown
11 became available, and I bought that.
12 Q. Were there two lots on the corner that were
13 acquired, one right on the corner and one next to it at
14 that time?
15 A. That what we are talking about.
16 Q. That's what you just referred to?
17 A. Yes.
18 Q. Did you ever petition those properties to be
19 rezoned?
20 A. Yes, I did.
21 Q. They were changed to commercial zoning?

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1 A. That is correct, yes.
2 Q. Now, did there come a time when you replaced the
3 old Ford dealership structure?
4 A. Yes.
5 Q. When was that?
6 A. It was completed in 1979.
7 Q. What was the approximate cost of that facility?
8 A. A million one.
9 Q. That's the building that is there today?
10 A. Yes.
11 Q. Mr. Stoler, I show you a photograph and ask you
12 to identify that.
13 A. That's a picture of Len Stoler Ford. It was
14 taken sometime in the early eighties.
15 Q. That's looking generally at Reisterstown Road in
16 a northeast direction?
17 A. That is correct.
18 MR. SINGER: May I have this marked as 11A.
19 Q. I show you another photograph --
20 MR. BUCHHEISTER: That's going to be 12A.
21 MR. SINGER: I'm not good at numbers. You may

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have guessed by now.
A. This is a picture showing Len Stoler Ford, another building just to the north of it which could be the Porsche-Audi dealership taken approximately the same time as the first picture.
Q. Looking in the southeast direction from Reisterstown Road?
A. Yes.
Q. Just to orient to our present discussion, on the lower right-hand side there's a sign, and Kingsley Road would be below that?
A. That is correct.
Q. I show you another photograph. What does that show?
A. This shows the Heritage Chevrolet picture taken northwesterly.
Q. Where is Kingsley Road roughly in relationship to what's shown on this photograph?
A. Just to the right of it. As a matter of fact, this picture was probably taken right on the corner of Kingsley Road.

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Q. I show you another photograph and ask you to identify that.
A. This is a picture taken the year before on the corner of High Falcon and Reisterstown Road, shot in the northwesterly direction.
Q. Your dealership would be on the left, extending south?
A. That's correct.
Q. Here's another photograph.
A. This is generally a northerly view of Len Stoler Ford. The dealership is to the north of it.
Q. Kingsley Road would be just below this?
A. Yes.
Q. Roughly?
A. That is correct.
Q. Off to the right?
A. Yes.
Q. I show you another photograph.
A. This is Len Stoler Mitsubishi. It's a photograph taken north -- point west probably, and the picture is probably less than a year old.

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Q. It's on the east side of Reisterstown Road?
A. That's right.
Q. So it would be looking northeast?
A. That is right.
Q. Across Reisterstown Road?
A. That is correct.
Q. And the other dealerships would be to the right?
A. To the right.
Q. And below just to the south?
A. Yes.
A. Lastly, this is another photograph. Do all those photographs accurately and fairly depict the scenes shown there?
A. Yes, they do.
Q. Now, did there come a time when there was a relocation of the body shop or the collision and repair shop?
A. You're talking about from the original one-car?
Q. Yes.
A. Yes, that's right. In the early seventies, I built a body shop roughly on the location that it serves

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now.
Q. That would be behind the Clifton property which is next to the subject site?
A. Well, if you consider, once again, Reisterstown Road, it be would be perpendicular to it.
Q. Actually, according to the plat which is Petitioner's Exhibit No. 2, the body shop could actually extend partially behind the subject site at 22 Kingsley?
A. Yes.
Q. Correct?
A. Yes.
Q. And the zoning of your property extends entirely behind the subject site?
A. Yes, it does.
Q. That's the B.R. zone?
A. That's right.
MR. SINGER: Would these be 13?
THE CHAIRMAN: No. 13.
Q. I am going to show you certain photographs. I am not going to ask you to identify all of them.
Does this show the collision and repair, the body

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1 shop, the top photograph?
2 A. It shows the back of it. Looks like it might be
3 coming from the subject property.
4 MR. SINGER: If the Board will bear with me just
5 a moment, I'd like to open this up and take out some of
6 the pictures.
7 Mr. Holzer has an objection to some of them, and
8 I don't have any problem with that.
9 Q. You have identified the top picture showing the
10 body shop looking roughly to the northwest from
11 approximately the subject site?
12 A. That is correct.
13 MR. SINGER: I'd like to have this as 13A,
14 please.
15 Q. The next photograph is taken from, roughly,
16 looking the same direction, but further back?
17 A. This is a wider angle, yes. This shows more of
18 the northern portion of the body shop.
19 Q. There's a structure roughly the left center of
20 the photograph. Would you identify that?
21 A. It's some sort of shed.

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1 Q. Is that on the Clifton property?
2 A. Yes, it is.
3 MR. SINGER: I'd offer this as 13 B.
4 Q. Seems to be a northerly looking view. Is that
5 the same shed you just mentioned?
6 A. Yes.
7 Q. The building to the left would be the Clifton
8 property?
9 A. Yes, it is.
10 MR. SINGER: I'd offer this as 13C. I apologize
11 for having torn the exhibits apart.
12 THE CHAIRMAN: No problem.
13 Q. Now, the present -- we'll call it the body
14 shop -- how many employees work there? Roughly.
15 A. Between seventeen and twenty.
16 Q. Would you describe its operation in terms of
17 industry standards today?
18 A. Talking about the operation itself?
19 Q. Yes, and the the equipment that's located there.
20 A. It's a complete state of the art place. No finer
21 body shop in the state of Maryland. Maybe in the state of

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1 Maryland. We have two downdraft bake ovens, a filtration
2 system that only one or two other body shops in the entire
3 industry has, that greater Baltimore has, purifies
4 ninety-nine percent of the air over, you know, a
5 forty-five minute period.
6 We have one, two, three frame straightening
7 machines, all different, to handle different types of
8 automobiles. And most of the technicians that we employ
9 are I-Cross sertified. They had to go through a series of
10 tests and qualify as body shop technicians.
11 As I stated, we're one of the finest in the
12 Baltimore area, if not the state.
13 Q. Where was the old Colonial Inn located with
14 respect to the photographs that we have indicated or
15 placed into evidence?
16 A. Well --
17 Q. Was it on the same side of Reisterstown Road, on
18 the east side?
19 A. Yes, it was. It's north of the Ford dealership
20 and it would be situated roughly where the Chrysler
21 building stands today.

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1 Q. How old was that building?
2 A. That building was an old house converted into a
3 bar and package liquor store, and I would have to say it
4 was probably built in the very early nineteen hundreds.
5 Q. Did it have an identification sign outside the
6 business?
7 A. Yes. As a matter of fact, it not only had a very
8 large sign which said Colonial Inn, food, drinks, things
9 of that sort, but it also had a neon sign in front and
10 then a billboard facing in a southerly direction forty
11 feet high and seventy-five feet long, a huge, huge
12 billboard.
13 Q. What happened to that billboard?
14 A. I took it down.
15 Q. Did you ever replace it with anything similar?
16 A. No.
17 Q. The other sign was taken down and replaced by a
18 Chrysler sign?
19 A. Yes.
20 Q. Would you describe the condition of that building
21 and, briefly, its operation before you acquired it?

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1 A. Well, at one time it was a restaurant, and they
2 turned it into more of a bar than restaurant, then into a
3 bar and package liquor and nightly entertainment.
4 It was not unusual at all starting at 7 o'clock
5 for 911 to dispatach the police there because they had
6 fights and a pool hall there and a lot of drinking, a lot
7 of noise, and it was just a terrible place.
8 They used to --
9 MR. HOLZER: I move to object and strike all
10 this. That's not on the subject site.
11 I have given counsel lattitude to go into the
12 history a little bit, which I think he's done, but I don't
13 see where any of this is relevant.
14 MR. SINGER: I don't have to go any further.
15 That's fine.
16 Q. That was replaced with the Alexis-Chrysler?
17 A. Yes.
18 Q. Did some of the same protestants who are present
19 today oppose your efforts in connection with that?
20 MR. HOLZER: Objection. Totally irrelevant.
21 THE CHAIRMAN: I agree.

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1 Q. Did you also acquire some property to the rear of
2 the Alexis site?
3 A. Yes. It was two small parcels owned by the Pappas
4 brothers, and I bought that to supply what is now a good
5 portion of our employee parking.
6 Q. Did you also enter into a landscaping agreement
7 with parties at that time?
8 A. Yes. Hardy's was just to the north of this
9 subject property we're talking about. There's a strip
10 that, on their side of a hill, and then a landing on the
11 top, a flat portion, and we made a deal with Hardy's we
12 would mow the lawn, take care of the snow removal and
13 landscape it, and they let us do that, and we did take
14 care of that property.
15 Q. That wasn't your property at the time?
16 A. No, it was not my property.
17 Q. But it was subsequently acquired by you?
18 A. That is right.
19 Q. Now, one or two of the photographs show the
20 Mitsubishi dealership?
21 A. Yes.

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1 Q. That's located on the east side of Reisterstown
2 Road, north of High Falcon?
3 A. Yes.
4 Q. That's been developed by you with a new building
5 for that dealership?
6 A. That is correct.
7 Q. Did you construct the building there?
8 A. Yes.
9 Q. Do you own that site?
10 A. No. I have a lease on it. I own the building
11 and I have an option to buy that at some future date.
12 Q. Now, do you have any kind of parking arrangement
13 with Good Will?
14 A. Yes, we do.
15 Q. Where are they located with respect to the
16 Mitsubishi?
17 A. Just to the north. There's a next-door neighbor
18 to the north of the Mitsubishi dealership.
19 Q. What's that arrangement and purpose?
20 A. We don't have any employee parking there either,
21 so they agreed to let -- it's approximately fifteen

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1 spaces, and in return we do their lawn care and we do
2 their snow removal and we do a lot of the site work there.
3 And their business, initially, of course, was
4 getting off the ground, wasn't as active as it is now, and
5 we are expecting shortly to have them tell us we have to
6 leave there because they need the space themselves.
7 Q. Now, when you first started the Ford dealership,
8 how many employees did you have?
9 A. Fourteen.
10 Q. How many employees do you have now?
11 A. Short of 300.
12 Q. I show you this summary sheet. Was that prepared
13 at your request by your organization?
14 A. Yes, that's right.
15 Q. That indicates the number of full-time employees
16 to be 259?
17 A. Yes, sir.
18 Q. And the increase since 1989 has been 140
19 employees?
20 A. That is correct.
21 Q. In the last nine years?

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1 A. That is right.
2 Q The other information is economic contribution by
3 your organization?
4 A. That is right.
5 Q. In terms of the taxes?
6 A. Yes.
7 MR. SINGER: I would offer this as Petitioner's
8 Exhibit No. 14.
9 MR. HOLZER: No objectin
10 THE CHAIRMAN: Admitted.
11 Q. What's the total investment you have in the
12 physical facilities that you own there in Reisterstown?
13 MR. HOLZER: Objection. I don't know that's
14 relevant either.
15 THE CHAIRMAN: I agree. Sustained.
16 Q. The significant number of your employees come
17 generally from the Owings Mills- Reisterstown-Pikesville-
18 Glyndon area?
19 A. If you broaden that out to cover a seven to ten-
20 mile area, I'd say the greatest majority of them do.
21 Q. Just briefly, I don't know that we have gotten

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1 into this before with you, but would you describe the
2 nature of the area around the dealership on Reisterstown
3 Road.
4 There are a couple pictures that showed Heritage
5 and then the corner of High Falcon and Reisterstown, but
6 would you describe, briefly, what's located in that area?
7 MR. HOLZER: Objection. It's been testified to
8 by two people already on his behalf.
9 THE CHAIRMAN: To the extent he can give us his
10 observation, I will let it in.
11 A. Reisterstown Road, both north and south, are very
12 level commercial on both sides of the street. Directly
13 across the street is Heritage, and they have five
14 franchises there. Just to the south of that, there's a
15 Target store, a very large store.
16 Q. How old is that?
17 A. That's, I'd say, less than three years old,
18 probably two years old. Brand new.
19 We have a lot of commercialization on
20 Reisterstown Road. In addition, there's a lot of
21 apartment complexes.

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1 Q There's been mention made of the Pontiac
2 dealership on the corner of Kingsley and Reisterstown
3 Road.
4 Do you have any connection or interest in that
5 dealership?
6 A. No, I haven't.
7 Q. How long has that been open?
8 A. Less than a year.
9 Q. Now, did there come a time when you acquired
10 additional property in the form of four lots coming east
11 from Reisterstown Road along Kingsley on the north side?
12 A. Yes.
13 Q. When was that?
14 A. I don't recall.
15 Q. Did you petition the county to have that rezoned
16 to commercial?
17 A. Yes, I did.
18 Q. That was done by a comprehensive rezoning?
19 A. Yes, that's right.
20 Q. Prior to that, had you owned a strip of land that
21 ran from the dealership on the north, south to Kingsley

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1 Road?
2 A. Yes, I did.
3 Q. How wide was that?
4 A. Wide enough for two cars to travel.
5 Q. Did you ever use that for ingress and egress?
6 A. No. As a matter of fact, I blocked it off.
7 Q. Why was that?
8 A. Because I knew the neighbors would object, and I
9 didn't think it was that necessary to invade Kingsley
10 Road.
11 I just didn't think it would be fair to create
12 that kind of traffic. Even though a road with two cars to
13 pass, it's still kind of narrow, and it went between two
14 houses.
15 Q. How long had you owned that strip?
16 A. Since 1968.
17 Q. Now, there come a time in 1996 when you acquired
18 22 Kingsley Road?
19 A. Yes.
20 Q. That was on outright purchase?
21 A. Yes.

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1 Q. What was your motivation in purchasing this site?
2 A. To try to get it zoned for the use we are trying
3 to get now, for more employee parking.
4 Q. Why was that done? What was -- I say motivation.
5 Would you describe for us whether or not there was a need
6 for the employee parking?
7 A. Well, there's a very, very great need. It's
8 unique in this sense, that that property is only one of
9 two as contiguous to the dealership.
10 And rather than go off site, I would rather stay
11 contiguous to the dealership. There's Mrs. Clifton and
12 Mrs. Archibald. This property was available to me for
13 approximately two years, maybe two and a half years prior
14 to me purchasing it. Can I give a little background on
15 that?
16 Q. Briefly.
17 A. Okay We -- because of the very tight problems
18 with employee parking -- we found from our neighbors'
19 complaints that our employees were parking on Kingsley
20 Road.
21 Some of the neighbors called, and I immediately

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1 sent out a memo by way of their paycheck they were not to
2 park on Kingsley Road. And over a period of time of two
3 weeks, we monitored that and put notes on the windshields
4 of those cars that were there, and we knew them to be
5 employees of ours. So that employee parking on Kingsley
6 Road stopped.
7 Q. Is there any restriction on parking on Kingsley
8 Road?
9 A. No. Only the restriction we imposed ourselves.
10 When the Pontiac dealership was being built, the
11 construction workers were parking all up and down that
12 street, both sides, and it did present a hazard because --
13 coming out of Kingsley, because we parked on the corner.
14 It was difficult to see around. We chased them a
15 number of times, called the police on them a couple of
16 times, and subsequently put up no parking signs on our own
17 to keep those cars off Kingsley Road.
18 Q. Now, describe the employee parking situation on
19 your site.
20 A. Well, the greatest majority of the employee
21 parking is in back of the Alexis dealership, to the east

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1 of the Alexis dealership. New cars, the demonstrators,
2 are parked on the main facility themselves. Usually, the
3 kind of cars that they were, Mustangs would be parked with
4 Mustangs and Crown Victorias parked with Crown Victorias.
5 We have service employees, body shop employees
6 parking in back of the dealership because they can't get
7 on that lot in back of the Alexis.
8 Q. Would any of your sales people park on this
9 site?
10 A. On the new site?
11 Q. Yes.
12 A. No, they would not.
13 Q. Would your office and clerical people from the
14 Ford dealership park on this site?
15 A. No, they would not.
16 Q. There are other employees that are there that
17 would?
18 A. Yes. Primarily the service department and body
19 shop.
20 Q. Now, what effect, if any, has the parking
21 arrangements that are presently in existence have on the

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1 cars that are parked there in terms of the damage or
2 collision, anything like that?
3 A. Well, anytime you get an overcrowded situation
4 like that, you know what happens. You park the cars too
5 close together. Doors collide. Doors go into the fenders
6 and doors of other cars.
7 And, generally speaking, moving around vehicles
8 can be very, very difficult, to a point where we have
9 already been cited by the fire department for not keeping
10 our lanes wide enough for the fire truck to be able to
11 come in and out.
12 Q. You heard Mr. Huffman's testimony about
13 consideration of erecting a rack structure?
14 A. Yes.
15 Q. What was your decision with respect to that?
16 A. I decided against that for a number of reasons.
17 The first one is those racks are twenty feet high, and
18 they are pretty ugly.
19 There's no way to put up fences to screen, to
20 hide that. In addition to that, because of our hours of
21 operation, we would have to light it, and I know that my

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1 friends on Kingsley Road would be in discord right away.
2 Q. The prior testimony, just briefly touching on
3 that, Mrs. Archibald, it was testified to, ran a day care
4 center at the site?
5 A. That's right.
6 Q. Now, the height of the fence and the height of
7 the lights we discussed earlier, would you tell us whether
8 or not the height of the lights will exceed the height of
9 the fence?
10 A. No. The height of the fence, if it's eight feet,
11 the lights will be eight feet. If the fence is six, it
12 will be six.
13 Q. That's a commitment you're making?
14 A. That's right.
15 Q. If this request were to be granted, what effect
16 would it have on the parking on the Ford dealership?
17 A. It would take a lot of pressure off, for one
18 thing. We have forty-nine spaces, and that means we can
19 accommodate, you know, forty-nine customers for the
20 employees that are now finding alternate sources to park.
21 Some, as a matter of fact, we have or had a

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1 representative here from the Community Times and it wasn't
2 too many months they wrote me up in the paper for having
3 my employees park on Cedarmere.
4 Q. Where is Cedarmere?
5 A. That's across the street, other side of
6 Reisterstown Road, the street that empties into
7 Reisterstown Road, but runs perpendicular to it. Runs
8 into more or less in an easterly, westerly direction.
9 And it turns out now that I read in the paper our
10 employees are parking there, denying elderly people the
11 privilege of parking in front of their houses.
12 So, once again, as we did in Kingsley, we sent
13 out letters, memos, and to the best of my knowledge they
14 are not parking there. At least, I don't think they are,
15 but those kinds of things will happen.
16 Q. Will there be any loudspeakers on this site?
17 A. No. I must also tell you because of the fact
18 it's not a sales location, we are not demonstrating new
19 cars, showing new cars, the amount of light there would
20 have to be just minimal, and for that reason we are not
21 talking about a great number of light standards.

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1 I don't know how many that would take, you know,
2 it depends a great deal on the height. The higher you go,
3 the further standards are required, but depending on
4 whether six feet or eight feet, it would be a very minimal
5 number of standards required, because we are only talking
6 about walking to your car, locking the door.
7 Q. Now, there was some discussion earlier about
8 whether or not there would be an adequate area for
9 maintanence. What would be your position with respect to
10 that, along the perimeter?
11 A. The planting will be done, and if we have to
12 bring that fence in, we'll bring it in. If we have to go
13 from forty-nine spaces to thirty spaces, I'm willing to do
14 that.
15 Q. But you're saying that the plantings that were
16 indicated by Mr. Piccinini will be accomplished if
17 permission is granted?
18 A. Absolutely.
19 Q. Now, there was also mentioned made of Mr.
20 Huffman's testimony about the Roy Rogers site?
21 A. Yes.

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1 Q. That's located on the corner of High Falcon and
2 Reisterstown Road, on the south side of High Falcon?
3 A. Right.
4 Q. On the east side of Reisterstown Road?
5 A. That is correct.
6 Q. And you own that site?
7 A. Yes.
8 Q. That was acquired when?
9 A. Less than a year ago. As a matter of fact,
10 it's --
11 Q. September of '97?
12 A. That is correct.
13 Q. What is the present use?
14 A. New car storage and for customer parking. I'm
15 sorry. For employee parking.
16 Q. Employee parking?
17 A. Yes.
18 Q. Is that economical for that purpose?
19 A. Positively not.
20 Q. Why is that?
21 A. Well, it's on a very heavily traveled street,

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1 Reisterstown Road, and a traffic light on the corner.
2 It's got two entrances. One on High Falcon and one on
3 Reisterstown. It's an extremely expensive site to buy,
4 and it's too expensive to store cars on.
5 Q. As to too expensive, how, with respect to
6 employee parking?
7 A. Much too expensive for that. You'd have to find
8 a commercial use for that property.
9 Q. I can't hear you.
10 A. We have to find a commercial use for that
11 property.
12 MR. SINGER: I have no further questions. Thank
13 you.
14 CROSS EXAMINATION
15 BY MR. HOLZER:
16 Q. Thank you, Mr. Stoler. Thank you you for being
17 here to answer some of these questions personally, because
18 you're the man that everybody seems to be pointing to.
19 I think your last answer probably sums this case
20 up, but let me just ask you again. On the Roy Rogers
21 site, if you were to tear down the Roy Rogers building

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1 now, could you get forty-nine parking spaces on that, or
2 thereabouts?
3 A. Thereabouts.
4 Q. So, really, I think you explained it better than
5 I could ever hope to do, that that site, the Roy Rogers
6 site, is just too expensive to store cars, be they
7 employee cars or for the parking of cars on a site that
8 could be used for another commercial venture?
9 A. You're right. That's what I said.
10 Q. I will try to go through fairly quickly the rest
11 of my questions. As I understand it -- let me just make
12 sure I understand the entire breadth of the operation.
13 You own the property on Reisterstown Road which
14 is depicted on Petitioner's Exhibit No. 1 and 2, and more
15 than what is just depicted on those two exhibits northward
16 from Kingsley Road which would encompass the Ford
17 dealership, the Porsche-Audi dealership, the Nissan
18 dealership, the Chrystler-Plymouth dealership, what was
19 the Roy Rogers, the Alexis, and across the next road,
20 whatever that is, to the Mitsubishi dealership?
21 A. (Nodding head.)

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1 Q. So from your humble beginning, so to speak, in
2 terms of what you got in 1988, what you described at 2500
3 square feet --
4 A. Seventy-five.
5 Q. I'm sorry. Seventy-five hundred?
6 A. Yes.
7 Q. Seventy-five hundred square feet, could you tell
8 me how many square feet all of this, all of your complex
9 covers at the present time?
10 A. 172,000 square feet of building.
11 Q. Of building?
12 A. Yes.
13 Q. What about of parking and the other part of the
14 operations that are not the building?
15 A. I can give you a good guess.
16 Q. Okay.
17 A. Ten and a half acres.
18 Q. Ten and a half acres from the original two acres?
19 A. Including that.
20 Q. I mean, you started off with two acres. It's now
21 ten and a half acres?

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1 A. Yes.
2 Q. 7500 square feet to 172,000 square feet of
3 building?
4 A. Yes.
5 Q. In the past, in the course of your development of
6 the original site and the new sites, you have gotten
7 zoning variances on prior occasions from the county, be it
8 the Zoning Commissioner or this Board of Appeals, is that
9 correct?
10 A. Yes, sir.
11 Q. And those variances were designed to permit you
12 to enlarge the operation at that time, whatever the issue
13 was?
14 A. Yes, sir.
15 Q. In the body shop -- I have some familiarity with
16 it, although it's been a few years. You do the necessary
17 banging out of fenders and dents and whatever, and along
18 with that you do spray painting to put it back looking
19 like it was new, right?
20 A. Yes.
21 Q. That's basically what goes on there. And at the

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1 time you acquired the subject site, you had been put on
2 notice, I believe, by the neighbors, by way of a letter,
3 that they would oppose any zoning changes or variances if
4 you tried to change the subject site from a residential
5 unit, is that a fair statement?
6 A. I'm not sure if that was before or after I bought
7 it, to be honest. I have forgotten.
8 Q. You were aware very early on in the process that
9 the community was not happy with the change from a
10 residence to any sort of operation?
11 A. Mr. Holzer, it's not a surprise, because the
12 neighbors have opposed every variance, every change, every
13 deviation from the size of -- like the height of the
14 lights that we erected to the size we erected. There's
15 been neighborhood opposition on everything, so it didn't
16 surprise me at all.
17 Q. And, of course, at the time you acquired it in
18 1996, having been through the zoning process and not only
19 through the Zoning Commissioner and the Board of Appeals,
20 but also you had been through the comprehensive rezoning
21 process the county does every four years, you were

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1 somewhat familiar with the zoning issues and the
2 regulations, is that a fair statement?
3 A. I am a lay person.
4 Q. You're not a zoning expert, but you're familiar
5 with what had to be done in order to have your business
6 grow, is that correct?
7 A. Yes.
8 Q. In regard to the racks that your predecessor
9 witness indicated was an alternative, those racks would
10 have to be constructed, I assume, on the commercial
11 portion of your property, is that correct?
12 A. Yes.
13 Q. And they, generally, from what I understand from
14 his testimony, they would be used for new car storage
15 versus employee parking, or parking of vehicles that
16 needed repair, is that how you would use them?
17 A. Well, I don't think that we would put used and
18 cars that needed repair, because they have to be moved too
19 frequently.
20 Chances are we would put cars there that didn't
21 have to be moved as frequently, so chances are it would be

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1 new cars.
2 Q. But that, as he said, that would then free up
3 another area, at least to some extent?
4 A. A parking space is a parking space.
5 Q. Your conclusion was that the neighbors would be
6 unhappy with you for doing that, and that's why?
7 A. No, no. There's another factor, a number of
8 factors. The first one, it's certainly not as safe as
9 parking on the ground, for a number of reasons.
10 Obviously, accidents do happen when you're taking
11 a car up three stories. It's not the best thing in the
12 world, if you can avoid it.
13 The second thing, these things are very
14 expensive. They have to be lit. And they are noisy. And I
15 just --
16 Q. So the lighting and it's noisy, and you figured
17 the neighbors would be upset?
18 A. More so than they would be with just plain
19 parking.
20 Q. But I would imagine if push came to shove and you
21 weren't able to acquire any other property, you weren't

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1 able to get anything else done to relieve it the on-ground
2 parking, that would be a viable option you might need in
3 the future?
4 A. Could be.
5 Q. One thing you said in regard to the fence, and we
6 have had a lot of discussion and I don't want to beat that
7 issue anymore, but you made the commitment in regard to
8 the height of the fence, if it was an eight-foot high
9 fence, it would be an eight-foot high light, and if a
10 six-foot fence, the lights would be six feet high?
11 A. That's right.
12 Q. In all honesty, I've never seen a six-foot high
13 light standard. Would that really be of any value to you
14 putting a six-foot high light standard there?
15 A. Of course. It's better than having people go
16 into the dark to their car.
17 Q. So you could live with a six-foot high light
18 fixture of some sort?
19 A. Like I can live with a lot of things. I would
20 prefer, you know, something much taller, obviously,
21 because it would give off more light. I'd require fewer

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1 of them, but, you know, you do what you can.
2 Q. And you have also indicated that -- and I had
3 these questions listed because other others kept telling
4 me you would be the one that would have to answer that,
5 and you tried to -- so if a fifteen-foot wide landscaping
6 border was not able to be placed on the subject site in
7 the manner depicted in Petitioner's Exhibit 3 and 2
8 because of the present road location, you would amend the
9 alignment of the parking scheme to permit the full
10 landscaping buffer?
11 A. That is correct.
12 Q. Which would then require this plat to be re-drawn
13 in some fashion by the engineer, I would assume?
14 A. Yes.
15 Q. I understand that you're not going to put a
16 loudspeaker on the subject site. There's not much need to
17 have loudspeakers there, but the reality is your
18 loudspeakers which are currently designed to be able to
19 call employees and page salesmen, so forth, can be heard
20 over the whole site now?
21 A. We have turned those speakers around as a result

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1 of some complaints by the neighbors and we have turned
2 them down as far as they will go.
3 I don't know. I haven't stood on the, you know,
4 Clifton site and listened to the speakers. I guess if the
5 wind is right, you could hear. I don't know, because I
6 haven't been there myself.
7 Q. And it's also fair to say that as far as lights
8 are concerned, lights on the frontage of the property
9 along Reisterstown Road are those big twenty-five foot
10 tower things that light up the front of the property
11 pretty well, don't they?
12 A. Yes.
13 MR. HOLZER: I have no further questions.
14 THE CHAIRMAN: Mr. Singer?
15 MR. SINGER: Just one or two questions.
16 REDIRECT EXAMINATION
17 BY MR. SINGER:
18 Q. Mr. Stoler, you answered the question about prior
19 variances designed to enlarge your operation.
20 Isn't it true over all the variances with respect
21 to the county, that the vast majority virtually have all

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1 been with respect to signs?
2 A. That is correct.
3 Q. And one had to do with the Chrysler-Plymouth
4 interior property line next to your existing property?
5 A. To build a canopy, yes.
6 Q. It wasn't on the border of the property?
7 A. No.
8 Q. It didn't involve any other property owner?
9 A. That's right.
10 MR. SINGER: I have no further questions.
11 MR. HOLZER: Nothing further.
12 THE CHAIRMAN: For the interest of the reporter,
13 let's take a brief five-minute break.
14 (A recess was taken.)
15 THE CHAIRMAN: Better go back on the record. Just
16 for the benefit of the folks in the adience, we obviously
17 will not be able to finish this case today.
18 Both counsel have checked their schedules, and
19 we'll reconvene on Friday, May 8th, which is two weeks
20 from today, at 10 o'clock.
21 So everyone can mark their calendars accordingly,

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1 and we'll progress as far as we can today to accommodate
2 counsel and its witnesses. So that being said --
3 MR. SINGER: I wanted to ask Mr. Stoler a couple
4 questions. May I do so?
5 THE CHAIRMAN: Do so.
6 MR. HOLZER: No problem.
7 FURTHER DIRECT EXAMINATION
8 BY MR. SINGER:
9 Q. Mr. Stoler, in the event the petitioner is turned
10 down, what would be your plans with respect to the subject
11 site?
12 A. I plan on razing it or putting up a fence.
13 Q. Why would you do that?
14 A. I was in the rental business once before and I
15 had a terrible experience, and I just don't want to rent
16 property.
17 I don't want to be a landlord. I want don't to
18 be responsible for an empty house in the area. I don't
19 want to be.
20 MR. SINGER: Thank you.
21 MR. HOLZER: No questions.

1 MR SINGER· Mr Gerber
2 NORMAN GERBER,
3 having been called as a witness, was duly sworn and
4 testified as follows:
5 MS. FELLING: For the record, I served on the
6 Baltimore County Planning Board during the time Mr. Gerber
7 was the director of the planning department.
8 I do not believe it would in any way affect my
9 ability to make a decision fairly.
10 THE CHAIRMAN: Does counsel ahve any objection?
11 MR. SINGER: No, sir.
12 MR. HOLZER: No.
13 THE CHAIRMAN: Fine.
14 MR. SINGER: Do you want me to qualify Mr.
15 Gerber?
16 MR. HOLZER: We will stipulate Mr. Gerber is an
17 expert in planning in Baltimore County, having utilized
18 him on some occasions myself.
19 MR. SINGER: For the record, I would like to have
20 his CV introduced as an exhibit.
21 THE CHAIRMAN: This will be No. 15, Petitioner's

1 No. 15.
2 DIRECT EXAMINATION
3 BY MR. SINGER:
4 Q. Mr. Gerber, have you reviewed the Board's file in
5 this case?
6 A. Yes, I have.
7 Q. Along with the photos and the landscaping plan?
8 A. Yes, and comments from the various departments
9 and agencies as well as looking at the outside of the
10 record. I looked at the Baltimore County zoning
11 regulations, the development code and the population data
12 in the area. I looked at the master plan and actually
13 went out and visited the site and surrounding neighborhood
14 earlier this week, and obviously had some discussion with
15 the rest of the professional people Mr. Stoler hired on
16 this project.
17 Q. You have been sitting here through the testimony
18 all day today?
19 A. Yes.
20 Q. You have seen all the exhibits that were
21 introduced today?

1 A. Correct.
2 Q. As well as exhibits that had been presented to
3 the Zoning Commissioner?
4 A. Yes.
5 Q. The two requests, the request for a conditional
6 use for parking and the variance in order to expand the
7 area that would be available for parking if that
8 conditional use is granted?
9 A. That's the purpose of it, yes.
10 Q. I think it was indicated by Mr. Holzer earlier
11 the conditional parking use permit is equivalent to the
12 request for a special exception?
13 A. It refers to Section 502 essentially dealing with
14 off street parking in business commerical zones, refers to
15 having to meet the test of 502.1, the test for a special
16 exception.
17 Q. Is this site eligible because it is zoned a
18 commercially zoned property?
19 A. It meets the criteria of the off street parking
20 section.
21 Q. What relationship does this kind of conditional

1 use have with the comprehensive zoning plan as is provided
2 for in the zoning regulations?
3 A. The zoning regulations permit this kind of
4 activity to take place on property zoned residentially and
5 adjacent to and to be able to support commercial uses in a
6 commercial zone.
7 Q. Now, generally speaking, this is in the Owings
8 Mills growth area, is that correct?
9 A. Yes, it is.
10 Q. Are you familiar with the goals enumerated in the
11 master plan for this area?
12 A. Generally speaking, without going into a lot, the
13 county final master plan, the master plan for Baltimore
14 County 1989-2000 adopted February '90, identified Owings
15 Mills along with the White Marsh area as two main growth
16 areas within the county where the county would expect and
17 would encourage development to occur, both residential,
18 commercial, industrial, office kind of zoning, that kind
19 of activity.
20 Q. What steps has the county taken to promote that
21 in terms of supporting improvement in infrastructure?

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1 A. Over the years, the county has directed large
2 portions of the capital program into providing the
3 infrastructure to support growth in those two growth
4 areas.
5 In this area, the major changes, in addition to
6 the sewer system, to the water system, has been a number
7 of roads that have been contructed. The State Highway
8 Administration, the Department of Transportation, has also
9 put a great deal of money into providing new
10 transportation facilities.
11 So for the Owings Mill area, the Northwest
12 Expressway and the metro lines being the two major
13 improvements funded primarily by the state; a lot of
14 assistant from the federal government.
15 Q. Has the nature of that governmental investment
16 been in the level of tens of millions or hundreds of
17 million?
18 A. I would say -- I don't have an exact figure now,
19 but it's in the level of hundreds of millions, I would
20 think, at this point.
21 Q. As a result of that planning and that

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1 implementation, can you describe briefly what kind of
2 growth has taken place in the Owings Mills area in recent
3 years?
4 A. Well, the most easy one to obtain at the moment
5 is population growth. The commercial industrial census for
6 '97 data is not available yet, so it's hard to get a
7 comparison for what happened earlier, in 87, in '93.
8 So I didn't really try to extrapolate what had
9 happened between those two. But for population, it's been
10 pretty dramatic growth when compared to the growth in the
11 county.
12 For the Owings Mills growth area, these are two
13 recent planning districts where most of the data collected
14 for on this area, essentially from Painter's Mill
15 northward along the Reisterstown Road corridor on both
16 sides, covers the towncenter over to the drop towards
17 Worthington Valley out to Reisterstown. The 1990 census,
18 40,207 people that are in that RPD. The planning office's
19 last statement had that same area.
20 Now, the 1988 population, January 1,'98
21 population, 48,805. That's essentially a 22 percent growth

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1 factor for that area. For the same period, the county has
2 grown by about 4.6 percent.
3 So it's clearly a larger percentage of the
4 growth. And the county has gone into this growth area,
5 and I don't have the numbers here, but an equally large
6 percentage has gone into the White Marsh area. So it has
7 performed as expected and proposed, in my opinion, and is
8 providing the area with a substantial amount of county
9 growth over the past decade.
10 Q. What kind of growth has taken place in the areas
11 of manufacturing and retail, if any?
12 A. I don't have the figures for the actual growth,
13 but I know there's been a substantial amount of
14 development approved just within this RPD.
15 I have some data here, but I don't have many
16 comparisons over the past ten years, but something on the
17 order of -- well, I know this. Within the RPD, it
18 excluded the growth part of Reisterstown. Just in the
19 Owings Mill area from Painter's Mill northwards, just
20 south of Reisterstown, I know over the last -- since '90,
21 there's been office complexes approved, four commerical

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1 developments approved, and four industrial tracts
2 approved.
3 And within that, there's obviously a lot of -- I
4 can't give you figures for the number of employees because
5 the county doesn't really know how many employees have
6 been generated, but a substantial amount.
7 And it's all of the Owings Mills growth area.
8 This came from the planning office's data where they keep
9 a record of the development that's been approved over that
10 period of time.
11 Q. What were the principles enunciated in the master
12 plan with respect to the existing businesses located in
13 the area?
14 A. Well, the master plan really talks about having a
15 number of goals, in addition to wanting to channel
16 development, economic development, residential development
17 to the growth areas.
18 It also talks about making sure that the existing
19 commercial industrial development is able to expand and be
20 modernized and keep pace with the times so it doesn't
21 become obsolete.

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1 The only thing it does is recognize their need to
2 be emphasis on at least preserving the quality of life in
3 existing neighborhoods. So they are the three policies
4 that have been enunciated in the master plan I think have
5 some effect here and then.
6 Q. What bearing, if any, do they have with respect
7 to this petition?
8 A. Well, we heard today the Len Stoler enterprise
9 certainly has been an existing long-term business, has
10 been expanded in the area, certainly has been there a very
11 long time, I don't know how long, but like a variety of
12 dates on house styles from when I visited the area, there
13 is clearly, in my opinion, what I would call a hard area
14 in terms of delineation.
15 It's almost -- I want to say like with the rubber
16 cleats in the road -- it's a hard line between commercial
17 and residential development, and they are always
18 difficult. That's why the zoning regulations have such
19 things as requirements for landscaping, fencing, and that
20 sort of thing.
21 I think what this particular plan as it's being

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1 proposed and clarified and I think been more specific
2 about, today, what I think is a good compromise where it
3 can meet both of these goals, can be met allowing for the
4 expansion of existing commercial development so it doesn't
5 become obsolete and also preserving the existing
6 neighborhood, so I think this is a good plan and should
7 meet all of those goals.
8 Q. In arriving at that conclusion, just to be
9 specific, did you take into consideration what was
10 testified to earlier, namely, the parking for employees
11 and the type of lighting and no ingress or egress from
12 Kingsley Road?
13 A. I think all those are important factors. If it
14 is as it's been specified here and I would assume, if it
15 were to be granted, it would be part of the order they can
16 only be used for employee parking, have to be low-level
17 lighting, I think there should be a substantial amount of
18 screening as described earlier here today, adequate
19 fencing.
20 What this plans does is virtually remove this
21 property from the neighborhood so that all that is left is

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1 a visual wall of screening and fencing.
2 It's actually reducing what I would say not a
3 great deal of traffic, but reduce traffic coming out of
4 Kingsley Road. It's surprisingly. An average house in
5 Baltimore County generates between ten and fifteen trips a
6 day over twenty-four hours, so it doesn't surprise me
7 there are reasonable amounts of traffic on Kingsley Road,
8 because each house generates on the average quite a few
9 trips a day.
10 This literally reduces that, and it is an
11 effective way of isolating this property from the
12 neighborhood if the lot is used for parking. For low
13 level lights, the impact on this neighborhood from
14 whatever goes on inside that fence should be very minimal.
15 Almost shouldn't -- you almost shouldn't know what's going
16 on in there, if it's done correctly.
17 Q. Do you think the proposal is the correct proposal
18 to accomplish that type of result?
19 A. Again, as the plan was proposed, as it's been
20 clarified and refined here today, yes.
21 Q. In your experience, have you come across lighting

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1 that's less than six feet in height?
2 A. I can show you some parking lots, some industrial
3 areas, manufacturing areas, lighting in industrial areas
4 where they are three-foot lighting standards. You have to
5 have a lot more of them, of course. I'v some six-foot
6 lighting standards, but they are not nearly as economical
7 to put in and operate because you have more lights, and
8 the lights eventually cost more money putting in a lot
9 more lower lights.
10 The lighting isn't even as some people like to
11 have on a parking lot, but the low level lights, you can
12 make it enough lighting condition one see to get to their
13 car without stumbling out in the driveway, without running
14 into a car with no lights, and they can be very
15 attractive.
16 Q. You traveled this neighborhood going back to
17 Kingsley Road?
18 A. Yes, I did.
19 Q. You touched upon it. I just want to be a little
20 more focused about the effect that this proposed
21 development for parking on this site would have on the

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1 neighborhood in general.
2 A. Well, as I said, it should not have any
3 significant negative impact on the neighborhood. What
4 impact it's going to have, I think it's going to, again,
5 as I said, help. It's going to remove some traffic from
6 Kingsley Road. It should take into account the proper
7 fencing and landscaping. It should look fine.
8 I don't believe it's going to create a problem,
9 as I heard earlier, about sight distance. Nobody is going
10 to traverse that dog-leg at any speed anyhow, it's a very
11 difficult turn. You're going to be going slowly. And the
12 road, obviously, is not built in the last ten or fifteen
13 years in Baltimore County. Obviously, it was built a long
14 time ago.
15 Q. I want to ask you whether or not you have an
16 opinion, as a basis for that, whether or not that opinion
17 is based not only on your experience and your training,
18 but your factual investigation in this case, your
19 inspection of the site and surrounding area, and
20 considering also the things you have just mentioned, which
21 is the proposed manner which the site would be constructed

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1 and operated, and given those things as part of your
2 basis, do you have an opinion as to the propriety of this
3 generally as a proposed parking site, with a reasonable
4 degree of probability in your field of expertise, whether
5 this be would any different than what you just indicated?
6 A. No, it wouldn't be any different.
7 Q. In your opinion, would it be detrimental to the
8 health, safety or general wefare of the locality involved?
9 A. As it's been -- again, as it's been described
10 here today, I do not believe it would be detrimental to
11 the health, safety or general welfare.
12 Q. Would there be any possibility of tending to
13 create congestion in the roads, streets, or alleys?
14 A. No, it will not. As I said, I think it's
15 relatively minor. I think it will improve it by removing
16 some traffic that's generated by the houses which would be
17 ten or fifteen trips a day. Those houses would be
18 destination or origin, so that's not a great deal, but
19 it's going in that direction, rather than creating
20 congestion in my mind, in my opinion.
21 Q. In your opinion, would it tend to create any

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1 potential hazard from fire, panic or other danger?
2 A. I have not seen anything in the record before or
3 heard anything here today that would suggest that there's
4 going to be anything there that's going to create a danger
5 to the neighborhood.
6 Q. Would any --
7 A. On the specific site.
8 Q. I'm sorry. Would it tend to overcrowd the land
9 or cause undue concentration of population?
10 A. No, it will not.
11 Q. Would there be any possibility of it interfering
12 with adequate provisions for schools, parks, water,
13 sewerage, transportation, or other public requirements,
14 conveniences, or improvements?
15 A. No. Here again, it's a theoretical point of
16 view. The number of students, if it's going to have an
17 impact on the school system, it's going to have an impact
18 of reducing the number of students that might attend the
19 schools in the area, or the schools, whether it be
20 elementary, junior, middle, or senior, by removing that
21 house from the stock of housing and what family might live

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1 there and then send their child or children to one of the
2 county schools, so I don't believe that's going to really
3 create any interference with adequate provisions of the
4 schools. I think that's not really relevant here at all.
5 Water and sewerage has not been identified as an
6 issue by anybody here, and I don't see any other public
7 improvements that are being required by the county at this
8 point that this might interfere with, and I don't see it
9 creating a problem with transportation.
10 Q. Could it, in your opinion, interfere in any way
11 with adequate light and air?
12 A. No.
13 Q. Would it be inconsistent or consistent with the
14 purposes of the property's zoning classification nor in
15 any other way inconsistent with the spirit and intent of
16 the zoning regulations?
17 A. It is permitted in the D.R. zone. I think it's
18 developmentally consistent with that.
19 Q. Do you know how long that provision has been in
20 the zoning regulations?
21 A. There's been provisions like that, I think,

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1 almost since the 1953 ordinance. There's some
2 modifications over the years, but it's essentially one
3 that's been able to do that since around 1953.
4 Q. Talking specifically about permitting parking in
5 a residential zone adjacent to commercial?
6 A. When I first came to the county, the Zoning
7 Commissioner just looked at this and decided to grant the
8 permit, or right after I came here.
9 Q Would it in any way be inconsistent with the
10 impermeable surface and vegetative retention provisions in
11 the zoning regulations?
12 A. No.
13 Q. In your opinion, based upon your examination, can
14 you tell us whether or not the facts or circumstance exist
15 showing whether any effect of this site would be any
16 different than any other site located elsewhere you have
17 parking in a D.R. zone next to a commercial zone?
18 A. I think in some ways this is better than many I
19 have seen because it does not allow access onto Kingsley
20 Road, which is clearly a residential street.
21 Residential traffic, in fact, all the access is

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1 being restricted to access from the commercial part of the
2 site. I think that's helpful, and I think that really
3 goes a long way towards mitigating some of the possible
4 problems that could occur from traffic using this site at
5 odd hours of the morning or evening, that sort of thing,
6 using Kingsley Road.
7 Q. Other than what you described as a positive,
8 would this have any different effect than any other
9 similar location where you have the D.R. use for parking
10 next to a commercial area?
11 A. I've not seen anything or heard anything today or
12 seen anything in the record to indicate there would be
13 something very unusual about this site that would create
14 another problem.
15 Q. In terms of its use for parking?
16 A. Yes, in terms of its use for parking.
17 Q. Now, with respect to the variance, you have
18 identified the fact it's eligible to be used for parking.
19 In terms of its location in this growth area, is
20 there any characteristic that's unusual or different about
21 this site?

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1 A. To look at the neighborhood which I would define
2 as having boundaries, again, there's no real requirement
3 for definition of neighborhood in this particular part of
4 the regulation, but if you kind of apply what's used in
5 the development regulations, it really talks about from
6 the south, probably something to the effect of Richmar
7 Road area which on the south side is developed in garden
8 apartments and entirely different kind of development than
9 here on Kingsley Road.
10 If you go north to -- I forget the name of that
11 road -- it's a similar situation. High Falcon Road.
12 Again, that area is surrounded by -- it's basically a
13 development, an apartment development.
14 And on the west side of the Kingsley Road
15 neighborhood it's Reisterstown Road, and which is
16 commercial all along the frontage, and between the two
17 apartment developmenta would be B.M., business major,
18 business roadside, and in the back it's bounded by
19 essentially Gwynns Falls and the flood plains, so this is
20 a very tightly defined neighborhood, very clearly
21 homogeneous in the type of housing.

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1 The context, if you look at the properties in
2 here, there are only a few properties that really present
3 this kind of a possibility, and the properties on the
4 north side of Kingsley Road and the subject property and
5 the property just to the west of this subject lot, and
6 property to the north, which also abuts the Stoler
7 properties, they have the opportunity to meet the
8 requirement of the regulations. There is a house on the
9 south side of Kingsley Road which is immediately abutting
10 the Pontiac dealership. I heard discussed today the
11 grades are substantially different there, and any use of
12 that for residential parking would have to involve the
13 cars entering that property from Kingsley Road. They could
14 not actually enter it from the site itself on the Pontiac
15 property.
16 So there are three properties that have a very
17 unique situation in terms of their locational position in
18 the neighborhood.
19 I don't see that anything that might happen on
20 this or the other property having any real prospect of
21 being expanded further into the neighborhood. I think

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1 this is as far as it can go, if it happens at all.
2 Q. What you are saying, as I understand it, the
3 subject property and the Clifton property over here to the
4 northeast all have direct access to the Stoler tract?
5 A. That is correct.
6 Q. And would be eligible for this kind of parking on
7 a residential area without having any traffic on any of
8 the streets, including, or specifically, Kingsley Road, is
9 that correct?
10 A. Right. But I don't see any of the other
11 properties in that Kingsley neighborhood as having that
12 potential, other than what I just talked about, which is
13 immediately adjacent to the newer dealer on the south side
14 of Kingsley Road.
15 I think that's a different kind of situation,
16 because the topography is substantially lower than that.
17 MR. SINGER: I think that's shown in one of the
18 photographs introduced today.
19 Q. You have seen the site and what the RTA
20 requirements and the buffer area would require if the
21 parking were allowed?

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1 A. Yes.
2 Q. Would the property be capable of being used at
3 all for parking if that conditional use were granted?
4 A. Not without variances to the RTA buffer
5 requirements.
6 Q. That is because, as Mr. Howe testified, there
7 wouldn't be any space at all for parking?
8 A. That's right.
9 Q. Now, there was some question earlier today about
10 the purpose of the RTA and whether or not these variances
11 were in accord with the, or contrary, to the spirit and
12 intent of their purpose.
13 Would you briefly describe what the intent and
14 purpose of the RTA is?
15 A. The residential transition area first surfaced in
16 1972. They have undergone some changes. They have become
17 less strict than they were in '72.
18 Essentially, they first came into play because,
19 at that time, the county had zoning regulations which
20 permitted, really, governed the development of housing on
21 D.R. lots simply by the density. There was some

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1 relationship between house to house, but it was no
2 change -- no requirement as to housing type.
3 Over the years, the RTA was set up as a way to
4 provide a buffer or transition between the different
5 housing types. That was the original purpose of it. It
6 was to provide a buffer, and it was modified, I guess,
7 around 19 -- early eighties -- to allow for a smaller
8 area, but provide planning buffers so if someone wanted to
9 put differing housing types next to single family houses,
10 they would be essentially screened from them and wouldn't
11 be seen, so that one could still live in a single family
12 area as if they lived there and literally not see a
13 townhouse on an adjacent lot. That was the idea of
14 providing the screening.
15 What I think happens here is a combination of the
16 fence and screening obliterates whatever is going on
17 behind this in terms of what you will ultimtely be able to
18 see, so I think from the spirit and intent of the
19 regulations, I think that is met by this particular plan
20 as it's been described here today.
21 Q. Earlier, Mr. Piccinini testified with respect to

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1 the landscaping plan that he had prepared, admitted into
2 evidence. Is that kind of landscape plan the final plan
3 submitted to the county?
4 A. Typically not. In fact, the zoning regulations
5 and Department of Public Works in their comment simply say
6 a sketch plan has to be submitted, and by the time of the
7 hearing.
8 So that there is not -- there's an idea of how
9 the landscaping will finally be applied. In fact, the
10 actual landscaping plan does not get, in terms of housing
11 development, does not really get approved until after the
12 development is placed on the ground so one can be sure
13 what is on the plan, is going to go on a preliminary plan,
14 a sketch plan, is going to do the job.
15 If it doesn't, then Mr. Harden has the ability to
16 say, No, we have to do some more here to make the
17 screening work effectively and meet the tests of --
18 Q. The county has the final say as to approval of
19 the landscaping plan as to whether or not it carries out
20 the orignal intent?
21 A. Whether it carries out the reasonable intent,

1 that's right
2 Q. And that reasonable intent would be the spirit
3 and intent of the RTA requirement?
4 A. Right.
5 Q. Is there anything else you feel is appropriate to
6 add that might be helpful to the Board in deciding these
7 issues?
8 MR. HOLZER: Objection. Normally, I wouldn't
9 object if he was a lay witness, but this is an expert
10 witness, and he normally asks questions of the expert
11 witness.
12 THE CHAIRMAN: Do you have any more specific
13 questions, Mr. Singer, rather than of a general nature?
14 He has been admitted as an expert witness.
15 MR. SINGER: Yes. I accept that, your Honor. I
16 have nothing further. Thank you.
17 CROSS EXAMINATION
18 BY MR. HOLZER:
19 Q. Mr. Gerber, starting with the last few things you
20 said, normally, the development process and the landscape
21 plan that's approved by Avery Hardin would note any

1 approval, but here we don't have a development plan.
2 Here, we only have whatever it is in the special
3 exception or in the granting of the use permit that the
4 Board attaches, so there's no requirement for Avery Harden
5 to approve any plan at this point, is there?
6 A. I have seen -- I think that it does have to be
7 approved, but also I have seen orders by this Board and
8 Zoning Commissioner conditioned to gaining approval of a
9 final landscape plan being put in place and gaining
10 approval through Avery Hardin.
11 Q. But the Board would have to say that?
12 A. I would suggest that would be a good thing to do
13 under any circumstances.
14 Q. Now, in terms of the RTA discussion you just went
15 through, the RTAs have been there in the zoning reguations
16 since '72, or thereabouts?
17 A. In some fashion.
18 Q. The intent was to buffer, in situations like
19 this, buffer existing residences from whatever kinds of
20 different uses either in the residential zone or
21 commercial uses that might intrude into the neighborhoods,

1 isn't that correct?
2 A. What I said originally was for housing. I
3 wouldn't draw it out a lot more because it's been over the
4 years, somewhere in the mid-eighties, when it was
5 determined by subsequent court cases that other uses also
6 could be considered different, would be brought in.
7 Q. The question is use, it's triggered by use?
8 A. Yes.
9 Q. Here, there's a different use and, in fact, back
10 in '72, the use would have triggered the need for the RTA,
11 whether housing or whatever?
12 A. It was only being applied to housing in '72.
13 Q. The court decision said that was wrong?
14 A. That's right.
15 Q. It should have been applied to parking for
16 commercial ventures, so the intent, really, as the court
17 subsequently found, was, in '72, to protect uses, protect
18 residences from uses, correct?
19 A. Yes.
20 Q. Now, here, it would be one thing if you were
21 asking to vary the setback requirement of the RTA, but

1 you're asking more than that.
2 You're asking not only to vary the setback
3 requirements, but you're asking to vary the landscaping
4 requirements as well, correct?
5 A. Not asking to vary the basic goal behind the
6 landscaping. They can sometimes be fulfilled without the
7 distance of the landscaping put in, and Avery Hardin can
8 identify that.
9 Q. I guess, under your theory, if they were to build
10 a stone wall twenty feet high around this lot, you
11 wouldn't need any RTA setbacks and you wouldn't need any
12 landscaping, because, under your theory of that, you
13 couldn't see what was going on behind the stone wall,
14 right?
15 A. I would not think that a twenty-foot high stone
16 wall would be, my own opinion, I don't think that would be
17 a very aesthetic thing to do.
18 Q. I understand, but I am drawing the point -- I was
19 illustrating the point that what you are saying is that
20 the intent was just simply to hide whatever it is from
21 sight of the residents?

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1 A. Using fencing and landscaping.
2 Q. But wasn't it also to design, to create a special
3 relationship of buffering, not just putting it behind a
4 stone wall six feet, eight feet or twenty feet high, but
5 to create a space between the use and the residence?
6 A. A space was identified there.
7 Q. Yes, it sure was. Now, let's go back, if I may,
8 to the early part of your testimony.
9 You were retained -- you didn't testify before
10 the Zoning Commissioner, correct?
11 A. Correct.
12 Q. You were retained after the Zoning Commissioner
13 decision?
14 A. That is correct.
15 Q. Your discussion about the master plan -- well, I
16 guess basically we all know from hard or sad experience
17 that the master plan is sort of advisory only, and not
18 binding?
19 A. It says in the law it's an advisory document.
20 Q. In that master plan, as you referred, it does
21 equate not only to the ability to expand and modernize

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1 existing businesses, but it equates with that preservation
2 the quality of life and existing neighborhoods, correct?
3 A. That's correct. That's what it says. Not quite
4 those words, but --
5 Q. Well, I was using your words, and I figure your
6 words are golden, for purpose of this record.
7 Now, hadn't all this discussion about the growth
8 area -- hadn't the growth area really being the growth
9 area of the Owings Mills Towncenter and the adjacent
10 property also dealing with that, the development that has
11 been permitted around the towncenter?
12 A. The figures I gave you covered their area also.
13 Q. They covered this area geographically, but.
14 Practically, hasn't the development occurred around the
15 Owings Mills Towncenter.
16 A. A lot of it has, but a lot has hapened in the
17 Reisterstown Road corridor also. It's not just solely
18 around the towncenter and the new area.
19 Q. The discussion that you had about the State Roads
20 recognizing the need for relieving problems, wasn't the
21 fact that 795 was constructed to relieve the congestion

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1 and the problems on Reisterstown Road, wasn't it?
2 A. That was a factor, but I believe it was primarily
3 there to encourage development in the growth area, to
4 place -- for the state to take care of it and provide a
5 path for the heavy transit system.
6 Q. So the growth that 795 spurs is not on
7 Reisterstown Road, but it's, in fact, around the Owings
8 Mill Towncenter? That's where it was put to spur growth
9 in that area?
10 A. But the county has been building radial roads,
11 and all roads lead to downtown. And the county has been
12 building. So everything is focusing on that towncenter,
13 so it has an impact not just on the vacant land around the
14 original towncenter, but all that area that funnels into
15 that transit station and to the commercial development and
16 to the employment opportunities.
17 Q. Frankly, I don't really believe that the
18 discussion that we just had, you had earlier about the
19 master plan, really means a hill of beans to this case,
20 but letting you focus then down to your discussion of this
21 particular neighborhood, which is really where this case

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1 is at, and you talk about there was a hard area of
2 delineation, meaning the idea of trying to balance the
3 ability to allow existing expansion of business versus the
4 protection of the community, I guess. Is that what you
5 were referring to?
6 A. The fact is very -- a number of houses are right
7 up against the commercial line, yes.
8 Q. And then you also stated -- I am paraphrasing to
9 some extent -- that obviously this neighborhood, the
10 Kingsley Road neighborhood, if we can call those residents
11 as a community of Kingsley Road, is it fair to call them a
12 community, the Kingsley Road dead-end street?
13 A. You mean is this something that everybody else
14 bucks? I would say the neighborhood community is
15 something a little bit larger, but some people would call
16 three or four houses a community.
17 Q. Certainly a neighborhood?
18 A. I think it's a neighborhood, yes.
19 Q. If I said the neighborhood was worse off because
20 of the commercial development to begin with, you're not
21 contesting that?

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1 A. Along Reisterstown Road, I suspect any of the
2 activities that go along Reisterstown may have made that
3 neighborhood just a little bit less desirable to live in,
4 if nothing else, with the traffic on Reisterstown Road.
5 Q. It's clear these residences on Kingsley Road are
6 old residences; it's an old subdivision; it's not a new
7 subdivision just constructed?
8 A. And I said that.
9 Q. So the continued expansion of the commercial
10 property and commerical along Reisterstown Road has
11 already negatively impacted this neighborhood?
12 A. To some degree, I think so, yes.
13 Q. You then drew the conclusion that this approval
14 of this project would benefit the community because it
15 removes the property from the neighborhood, and you're
16 saying physically by putting a fence and plantings, it
17 will take this residence and this lot out of the existing
18 community, so --
19 A. And removing the access off Kingsley Road.
20 Q. So we wouldn't be aware of it?
21 A. And removing access to Kingsley Road.

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1 Q. An interesting thing you talked about, one of the
2 benefits of taking this out of the neighborhood is you're
3 reducing the traffic on Kingsley Road and ultimately
4 Reisterstown Road, right?
5 A. Well, just at the intersection right there. I am
6 trying to get out onto Reisterstown Road.
7 Q. I guess --
8 A. The only way that any of these problems would
9 be -- and if I listened to what I heard today -- we are
10 talking about expanding a place for existing employees. I
11 don't know that we ever heard anything about expanding for
12 more employees on this particular site.
13 Q. They have expanded from seven and ten employees
14 to 259 over the course of '68. Who knows how many more
15 will expand from 259?
16 I mean, the rationale from saying if you take
17 this property out of the neighborhood it's benefitting the
18 neighborhood, I guess the best thing I can suggest then
19 for the neighborhood is to eliminate all the houses in the
20 neighborhood and we wouldn't have --
21 MR. SINGER: Objection.

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1 Q. Isn't that a logical extension of your arguement?
2 MR. SINGER: Objection. it's argumentative.
3 THE CHAIRMAN: Sustained.
4 MR. HOLZER: It probably is.
5 Q. One of the things that you didn't analyze -- I am
6 surprised that you didn't analyze it, Mr. Gerber, because
7 I believe you're thorough. You never discussed the impact
8 of this additional use by Len Stoler on the Clifton
9 property.
10 The Clifton property is now surrounded, if this
11 is approved, on three sides, is it not?
12 A. The Clifton property is now surrounded on two
13 sides by the intensive commercial use, no question about
14 that.
15 Q. Is that correct?
16 A. And it's -- again, the use that's been proposed
17 here is going to be less objectionable, less intensive,
18 and should not have the kind of impact the rest of the
19 Stoler property has.
20 Now, they are going to have a fence around three
21 sides of their property, no question. Now, some people

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1 like that and some people don't.
2 Q. Mr. Gerber, if we only had a fence around their
3 property and that was all, I'd say maybe your argument
4 holds some water.
5 But the fence around the property is designed to
6 include forty-nine parking places with employees that will
7 be coming in at 7 o'clock in the morning going to work in
8 the auto body shop and be leaving at late as 9 o'clock at
9 night, salesmen who have been selling cars all day long,
10 coming back here to get in their cars.
11 There will be a constant use of this site which
12 is now a house and now a residence. There will be a
13 constant use of going and coming of vehicles, slamming and
14 banging of doors, the lights going on in the wintertime
15 after 6 o'clock.
16 Won't that negatively impact the Cliftons who are
17 still living here and residing is their home?
18 A. Mr. Holzer, unlike the other two sides of the
19 fence, this fence will have what I perceive as being a
20 relatively large planting area which should reduce any
21 noise factors that come out of there.

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1 How much, I haven't done that kind of study to
2 know, but it will not be nearly the hard kind of noise out
3 of the other fence where there's no landscaping.
4 Q. Mrs. Clifton and her daughter, they will be here
5 and testify later, but right now they are subjected to the
6 noise eminating from the auto body shop right behind
7 there?
8 A. That isn't going to change, no matter what
9 happens to this property.
10 Q. But I guess the question is, how much noise do
11 you have to listen to? How many lights do you have to
12 suffer from? And conversations and noises? Now it will
13 be down on the east side of them as well.
14 Isn't that a more severe impact on them than
15 currently exists?
16 MR. SINGER: Which question do you want answered?
17 Q. Is it more impact than currently exists, is the
18 question.
19 A. It may be, but I think the landscaping is going
20 to mitigate a great deal of whatever impact is there, and
21 the fence, I think, that's going to be different.

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1 Q. Could you tell me why your clients haven't
2 landscaped the back of the property between Mrs. Clifton
3 and the existing paint operation now, which we look at the
4 pictures, see through the fence, and see through the
5 landscaping, and see all of that here, all of this, why
6 hasn't he shown that he intends to preserve the residence
7 by landscaping?
8 MR. SINGER: Objection. That has nothing to do
9 with the situation petition.
10 THE CHAIRMAN: That's sustained.
11 MR. HOLZER: All right.
12 Q. Did you take the Clifton property into your
13 consideration, or didn't you, in your opinion?
14 A. Yes, I did.
15 Q. Now, you have rendered some opinions in regard to
16 the 502.1 criteria and also this site. Let me ask you, do
17 you disagree with the Zoning Commissioner when he found
18 that the adverse impact in this case impacted above and
19 beyond those impacts which would ordinarily be associated
20 with the use proposed?
21 Do you disagree with that premise?

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1 MR. SINGER: I object. The basis for this, this
2 is a de novo hearing. We are not here to review the
3 correctness of the conclusion.
4 THE CHAIRMAN: I think it's a fair question,
5 because he's made the ruling.
6 I'd like to hear the answer. You may answer.
7 A. Yes, I do disagree, because the Zoning
8 Commissioner never spelled out where it was more
9 objectionable here than any other place where parking can
10 be permitted in a residential lot.
11 He never spelled it out. He talked about a lot
12 of factors he considered, but why is this different than
13 other locations? I don't know.
14 And he didn't say that, I don't believe, it is
15 going to be different than other locations.
16 Q. He then said the uniqueness here is the location
17 of the property itself.
18 Do you disagree that this property is in some way
19 unique because of its location? Do you disagree with his
20 statement on that point?
21 Q. You did that out of context. I'd like to see it

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1 again.
2 Q. You're welcome to see the opinion, because I am
3 going to ask you right on down the line all of the points
4 that were raised.
5 Let me see if I can get you a clean copy. I have
6 a clean copy. I am basically referring to -- here it is.
7 Let me see. I am referring to page five. Do you have
8 page five there?
9 A. Yes.
10 Q. He found the uniqueness of this property was the
11 location of the property itself, being its physical
12 location on this plat.
13 Do you agree with that, or do you disagree with
14 that?
15 A. I said I thought it was unique because it was
16 located along with two other properties adjacent to this
17 commercial property and could be used.
18 Q. You're talking uniqueness from the standpoint of
19 the variance, but he's talking about uniqueness or
20 something special in terms of the granting of the special
21 exception.

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1 You're not talking about the same uniqueness.
2 Right now, I am on the question of whether or not this
3 property is different in a way that some other property in
4 the same zone, and that's what he's referring to here. Do
5 you disagree with him?
6 A. I think the location next to the commercial
7 property is a very unique point about it, and makes a
8 difference from most of the other properties in the
9 neighborhood.
10 Q. So the next statement is the proposal presents
11 the deepest intrusion into the residential communities
12 which exist in the interior of Reisterstown Road.
13 Do you agree that if you look at the vicinity
14 map, the site plan, and any other document that you
15 reviewed, that this lot, the subject site, No. 22 Kingsley
16 Road, penetrates further into the residential living area
17 than any other commercial property?
18 A. It says -- what he's saying is deepest intrusion
19 into the residential community based on the interior of
20 Reisterstown Road.
21 I think within this area is the -- basically, the

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1 Kingsley neighborhood is the only neighborhood around here
2 that's single family residence. So, all right, this is
3 within that particular road frontage, yes, but the
4 commercial property to the rear of it is also very deep
5 into the D.R. 3.5 zoning, so I don't see that going any
6 deeper than that.
7 Q. Now, the way the Zoning Commissioner said this
8 property differed from all other properties or other
9 properties in the zone was he found that this property was
10 the deepest penetration, and he says this is not a case
11 where a property adjoining Reisterstown Road carrying with
12 it a business zoning ought to be developed.
13 So my question to you is, isn't it possible to
14 have a D.R. zoned property on Reisterstown Road that would
15 be an appropriate candidate for a special exception being
16 granted or a use permit being granted for parking versus a
17 piece of property which has a deep penetration into the
18 residential community of a D.R. zone, that's the
19 difference between this property and why it impacts the
20 neighborhood and a piece of D.R. zoned property on
21 Reisterstown Road?

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1 MR. SINGER: I am going to object to counsel
2 testifying.
3 MR. HOLZER: It's a question.
4 Q. Isn't there a difference?
5 A. I'm not quite sure I understand the question.
6 Q. The premises of a special exception being granted
7 is that somehow the subject site must impact one
8 neighborhood in a way different from that in the zone in
9 general. That's the first premise.
10 Secondly, the Zoning Commissioner found that this
11 property, because of its intrustion into the residential
12 neighborhood, is different from other properties similarly
13 zoned D.R. 3.5 which could be out on Reisterstown Road and
14 more appropriate candidates for the granting of a use
15 permit. Isn't that what he found here?
16 A. I'm not sure what he found, Mr. Holzer. That
17 situation you just outlined doesn't exist here, and I am
18 really not sure what he was saying here. That's one of
19 the things I think is very unclear about the decision.
20 Q. Let me rephrase it in another way. Do you
21 disagree with me that this property, No. 22 Kingsley Road,

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1 is different from other D.R. zones in that it intrudes
2 into a residential community as opposed to a D.R. sitting
3 on Reisterstown Road next to a commercial zone which could
4 be an appropriate subject of a use permit? Isn't that --
5 A. Are you implying I would think this is not an
6 appropriate subject?
7 Q. No.
8 A. Because of the difference in the location?
9 Q. No.
10 A. I don't understand your question, Mr. Holzer.
11 MR. HOLZER: I will drop it at this point.
12 Q. There's something else that the Zoning
13 Commissioner pointed out. See whether you agree with it.
14 He says the only side of this subject site that is
15 adjacent to commercial zoning is the north side which is
16 adjacent to the Stoler property, and that the other three
17 sides are all adjacent to D.R. residentially zoned
18 property. Do you agree with that?
19 A. Well, that's obviously the case. I don't
20 remember the wording.
21 Q. Is that not an important factor to take into

1 account when you render an opinion in regard to whether or
2 not this property is unique or different from other
3 properties similarly situated in the same zone?
4 A. I have seen few properties that aren't used in
5 this fashion that are not adjacent to commercial
6 development where they only have one common line. They may
7 have other lines that join not only D.R. but other
8 residential zones.
9 I don't know that that makes it so unique, that
10 this is an unusual circumstance. I don't believe it is an
11 unusual circumstance.
12 Q. Well, it's interesting, we keep using the word
13 "unique," because, remember, we really are using the word
14 whenever we feel like it will help us.
15 You said this property was unique. Well, if it's
16 unique, then that means it will have a different impact on
17 this property than in the same zone someplace else for the
18 purpose of the special exception.
19 What you were talking about, it's unique for the
20 variance, isn't that what you were testifying to?
21 A. I was saying this property -- maybe unique is not

1 the right word. But what it is, it's different than the
2 other properties within the neighborhood, except the other
3 two that I mentioned, all of which share a common boundary
4 with the commercial zone.
5 Q. I don't want to belabor the point. I think the
6 point is obvious in terms of the law. Now, one thing that
7 I would like to ask you, you are not contesting the
8 testimony of the other witnesses for your client, when you
9 look at lot number 22, it's basically a flat lot, right?
10 A. Essentially, yes.
11 Q. It basically has regualar boundaries, isn't that
12 correct?
13 A. Fairly regular. It's a trapezoid.
14 Q. It's basically like maybe a little bit larger,
15 but basically the same as every other residential lot
16 along Kingsley Road, for the most part?
17 A. All the lots on Kingsley Road are all kinds of
18 different shapes, but it's not that unusual in its shape
19 and topography.
20 Q. It has no streams running through it?
21 A. None I could see.

1 Q. Is has no steep slopes that cause development
2 problems on it?
3 A. I didn't see any that would.
4 Q. There's nothing on the property that creates any
5 environmental difficulty which would form the basis for
6 saying this property is unique somehow?
7 A. There was no visible environmental problems. I
8 don't know what's under the ground.
9 Q. That's fair a qualification.
10 MR. HOLZER: I have no further questions.
11 MR. SINGER: I just have a few.
12 REDIRECT EXAMINATION
13 BY MR. SINGER:
14 Q. You were asked about the impact of the door
15 slamming, so forth, the use of the site as proposed?
16 A. Uh-huh.
17 Q. Would it be different, any different here than it
18 would be for any other residential lot that was next to
19 what was used for parking that was next to another
20 residential lot?
21 A. No. All the factors are the same, given this is

1 to be used strictly for an employee parking lot and not
2 for storage of other kind over vehicles, sales or anything
3 like that, yes, it would be the same wherever it is.
4 Q. Wherever located?
5 A. Yes.
6 Q. Two excerpts from the master plan adopted 1990.
7 I'd like you to look at with my page 48. As vacant land
8 prices increase, redevelopment of older, underutilized
9 parcels in areas already served by public facilities
10 becomes an active alternative.
11 Reading on page 97 with respect to north central
12 Reisterstown Road, Despite the tremendous business
13 possibilities this has opened for owners of properties
14 along Reisterstown Road, little has been done to date to
15 improve the quality of existing premises.
16 Do you think that, with respect to the Ford
17 dealership, that that development has fulfilled the plan's
18 goals as I just read to you?
19 A. I maybe said it in a different way, but I think
20 the expansion of this particular facility and being able
21 to keep modern with the needs of that particular industry,

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1 I think fulfills the goal. It meets the idea, the concept
2 of it.
3 Q. Do you think that expanding the parking capacity
4 by utilizing this site for parking would be in furtherance
5 of that goal?
6 A. Yes, I do.
7 MR. SINGER: I have no further questions.
8 RECROSS EXAMINATION
9 BY MR. HOLZER:
10 Q. Mr. Gerber, what you're really saying in the
11 question before the last is that anywhere in the zone this
12 is the same as you would always have business property
13 next to residential, but you don't always have there a
14 house, a residence, that's been used as a residence
15 surrounded by a commercial zone, did you?
16 A. That's still not a commercial zone, Mr. Holzer.
17 That's still a residential zone.
18 Q. But it's a commercial use to support a commercial
19 zone?
20 A. In supporting a commercial zone.
21 Q. Isn't this something unusual? You don't find

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1 this every day of the week if you have a commerical zone
2 on Reisterstown Road and there's another lot, you don't
3 end up enclaving residences by --
4 MR. SINGER: Objection to the statement.
5 THE CHAIRMAN: Overruled. You can answer.
6 A. Mr. Holzer, I don't see this as unusual. I have
7 seen not exactly the same situation, but every situation
8 is slightly different, but there have been places like
9 this where this has happened before, especially on Belair
10 Road where it happens all the time.
11 MR. HOLZER: Thank you.
12 MR. SINGER: I have no further questions.
13 THE CHAIRMAN: Thank you, Mr. Gerber, very much.
14 Did you have anyone else, Mr. Singer?
15 MR. SINGER: No, sir. That would be the
16 Petitioner's case.
17 THE CHAIRMAN Mr. Holzer?
18 MR. HOLZER: Well, yes, I have one witness that
19 we brought especially, and I'd like to get that person on,
20 and then I believe we have so many other ones, we have the
21 other day for one thing.

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1 Mr. Huey, from the planning office, has been
2 here. I would like to be able to excuse him because it's
3 past his hours of employment.
4 THE CHAIRMAN: He can return on the next date, I
5 think.
6 We'll give the reporter about five minues, and
7 then, if you don't mind, we'll come back.
8 MR. HOLZER: I think we'll be very brief.
9 (A recess was taken.)
10 THE CHAIRMAN: Mr. Holzer.
11 MR. HOLZER: Ms. Fadely.
12 M A R G A R E T F A D E L Y,
13 having been called as a witness, was duly sworn and
14 testified as follows:
15 DIRECT EXAMINATION
16 BY MR. HOLZER:
17 Q. Ma'am, would you state your name and present
18 address, please?
19 A. My name is Margaret L. Fadely, 26 Kingsley Road,
20 Owings Mills.
21 Q. I am going to pull this exhibit -- I don't want

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1 you to have to get up, but I will point to wherever you
2 tell me to. Where's your house?
3 A. It says 26 Kingsley Road. Margaret Fadely.
4 Q. L-y?
5 A. L-y.
6 Q. Is this your house or is this your house right
7 here? I'm sorry. It says number 26, right? Is that
8 where you live?
9 A. Yes. As the road turns, it runs right past my
10 house.
11 Q. When you look out your front window or front
12 porch, do you see basically the back of the lot that we
13 are talking about --
14 A. Yes.
15 Q. -- in question?
16 A. Yes.
17 Q. You can look also at the existing auto body shop
18 for Len Stoler?
19 A. Yes.
20 MR. HOLZER: For the record then, I have
21 indicated on the Petitioners' Exhibit No. 2, it says No.

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1 26, existing house. That's Mrs. Fadely's house.
2 THE CHAIRMAN: Would you identify that in yellow
3 for us, please.
4 MR. HOLZER: Sure. For the record, I have marked
5 that in yellow, Mrs. Fadely's house.
6 Q. How long have you lived at that address?
7 A. Seventy years.
8 Q. One of the questions that I would have that I
9 don't know that you're expecting, but I am going to ask it
10 anyway, how long has Kingsley Road in its present
11 configuration where it comes in off Reisterstown Road and
12 then makes the turn, how old is that road?
13 A. Oh, more than seventy years.
14 Q. It has existed in that fashion before you moved
15 there?
16 A Yes, it did.
17 Q. Now, you attended the whole hearing, I believe,
18 in front of the Zoning Commissioner, is that correct?
19 A. Today?
20 Q. No. In front of the Zoning Commissioner.
21 A. Oh, yes.

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1 Q. Do you know what Mr. Stoler was proposing to do
2 with lot number 22?
3 A. Yes.
4 Q. While you haven't been here all day today, what
5 concerns, if any, do you have about his proposal?
6 A. Well, mainly our property values, and the looks
7 of a parking lot looking out your windows, seeing a
8 parking lot with distracting lights. We have a nice green
9 lawn there now.
10 Q. At the present time when you look out the front
11 of your house, do you look towards lot number 22?
12 A. No. I look out of the side of my house.
13 Q. The side of your house. Okay. there's a walkway
14 or something it looks like, leading to your house. Can
15 you see the existing body shop from your house?
16 A. From the back of my house.
17 Q. From the back of your house. What concerns, if
18 any, or experience have you had in regard to the operation
19 of the Stoler business on that site at the present time?
20 A. The noise and the fumes.
21 Q. Coming from where?

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1 A. From the body shop when the door is open.
2 Q. Could you describe what kind of fumes there are?
3 A. Well, they are obnoxious.
4 Q. Is that during the time that they are working
5 over there during the working hours?
6 A. Yes, and sometimes at night.
7 Q. What kind of noise eminates from that?
8 A. Just the banging noise.
9 Q. You know they are proposing to tear down the
10 existing house on the corner and turn that into forty-nine
11 parking spaces. What concerns about those parking spaces
12 do you have?
13 A. Well, the whole idea of a parking lot there, the
14 looks of it and the decrease in value of our property.
15 Q. Anything else?
16 A. Well, it's bound to be noisy at times.
17 Q. What about the lighting situation, is there
18 currently any problem with lighting from the Stoler
19 property?
20 A. Always been distracting.
21 Q. Could you tell us how? We haven't been there and

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1 lived there. Could you tell us how it's distracting?
2 A. Well, from the side of my house, I can't look out
3 without these lights shining in on us.
4 Q. And that comes from the existing property that he
5 has right now?
6 A. Yes.
7 Q. And you know he's proposing lights, although in
8 the course of the testimony today, Mr. Stoler has said he
9 would limit the height of the lights to six feet or eight
10 feet, however high the fence is.
11 Does that change your opinion in any regard about
12 this property?
13 A. I guess I'd have to see it.
14 Q. Currently, in addition to the noises from the
15 body shop, do you hear any other noises from the Stoler
16 site?
17 A. No. Occasionally a loudspeaker.
18 Q. You can hear the loudspeaker on your property?
19 A. Occasionally, yes.
20 Q. Would that normally be during working hours?
21 A. Yes.

1 Q Are there any other concerns about this project?
2 And this is the Board of Appeals and they have the power
3 to grant or deny this request.
4 Is there anything else you'd like to address to
5 them at this point?
6 A. Well, there's always the possibility it might be
7 an invitation to crime.
8 Q. There was a time before Mr. Stoler acquired that
9 corner lot that it was utilized as a private residence,
10 and I forget the lady's name who owned it --
11 A. Archibald.
12 Q. Yes Do you recall her living on the site?
13 A. Yes.
14 Q. Do you recall whether or not she had a child care
15 operation there?
16 A. Yes, she did.
17 Q. Did that child care operation cause you any
18 concern, or bother you in any way?
19 A. No, it didn't.
20 Q. Do you recall how many children she may have had
21 at any one time there?

1 A. I doubt if it was more than five or six.
2 Q. But the use of that site as a day care by Ms.
3 Archibald didn't bother you as a neighbor?
4 A. No.
5 MR. HOLZER: I have no further questions. Thank
6 you, ma'am. He might ask you some other questions.
7 CROSS EXAMINATION
8 BY MR. SINGER:
9 Q. Mrs. Fadely, I just have a few questions. You can
10 see the body shop from your house?
11 A. Yes.
12 Q. From the back?
13 A. Yes.
14 Q. Ans also from the side, the side facing it?
15 A. Well, the side and the back.
16 Q. That's directly on a line if you look out that
17 rear side window?
18 A. Yes.
19 Q. Did you understand how the parking lot was to be
20 built? Do you have any knowledge about that?
21 A. I wasn't here for the whole testimony this

1 morning.
2 Q. I understand that, ma'am. Do you have any
3 understanding about what kind of fencing or landscaping
4 there might be?
5 A. From the first zoning hearing, I remember.
6 Q. So do you understand there would be trees and --
7 A. I will never see them.
8 Q. I hope so. I hope you do.
9 A. One of my arguments, I'd like to have my
10 remaining years not looking out at a parking lot.
11 Q. You know how high the lights in the parking lot
12 would be?
13 A. You have been saying six to eight feet.
14 Q. Do you know how high the fence would be?
15 A. No.
16 Q. Did you ever complain about the child care
17 operation?
18 A. No.
19 Q. Do you know that the parking area would not have
20 access to Kingsley Road?
21 A. Yes.

1 Q. You understand that?
2 A. Yes.
3 Q. You understand there would be less traffic from
4 this site than there was when Mrs. Archibad was carrying
5 on her child care operation?
6 A. I don't see how that could be.
7 MR. SINGER: I have no further questions. Thank
8 you, ma'am.
9 MR. HOLZER: Thank you, Mrs. Fadely. You may step
10 down.
11 That would be all the witnesses that we would
12 call today.
13 THE CHAIRMAN: That will conclude the hearing for
14 today and we will reconvene two weeks from today at 10
15 o'clock.
16 The general public is invited to that hearing.
17 Thank you for your kind attendance.
18 (Hearing adjourned.)
19 * * * * *
20
21

1 INDEX

Witness	Direct	Cross	Redirect	Recross
2 Edwin Howe, III	13	36	62	
3 Vincent Piccinini	65	86	96	98
		100	100	
4 Denver Huffman	103	130		
5 Lenard Stoler	148	178	187	
6 Norman E. Gerber	191	214	236	238
7 Margaret Fadely	240	247		

8

9 EXHIBITS

Petitioner's Ex	No. Page	No.	Page
10 No. 1, 2	19	No. 9	123
No. 3	76	No. 10	128
11 No. 4	79	No. 11A,B,C	129
No. 5	80	No. 12	153
12 No. 6	110	No. 13	157
No. 7A, B, C	114	No. 13A	158
13 No. 8	120	No. 13B	159
No 8A	121	No. 14	166
14		No. 15	190

Protestant Ex. No.	Page
16 No. 1	148

17

18

19

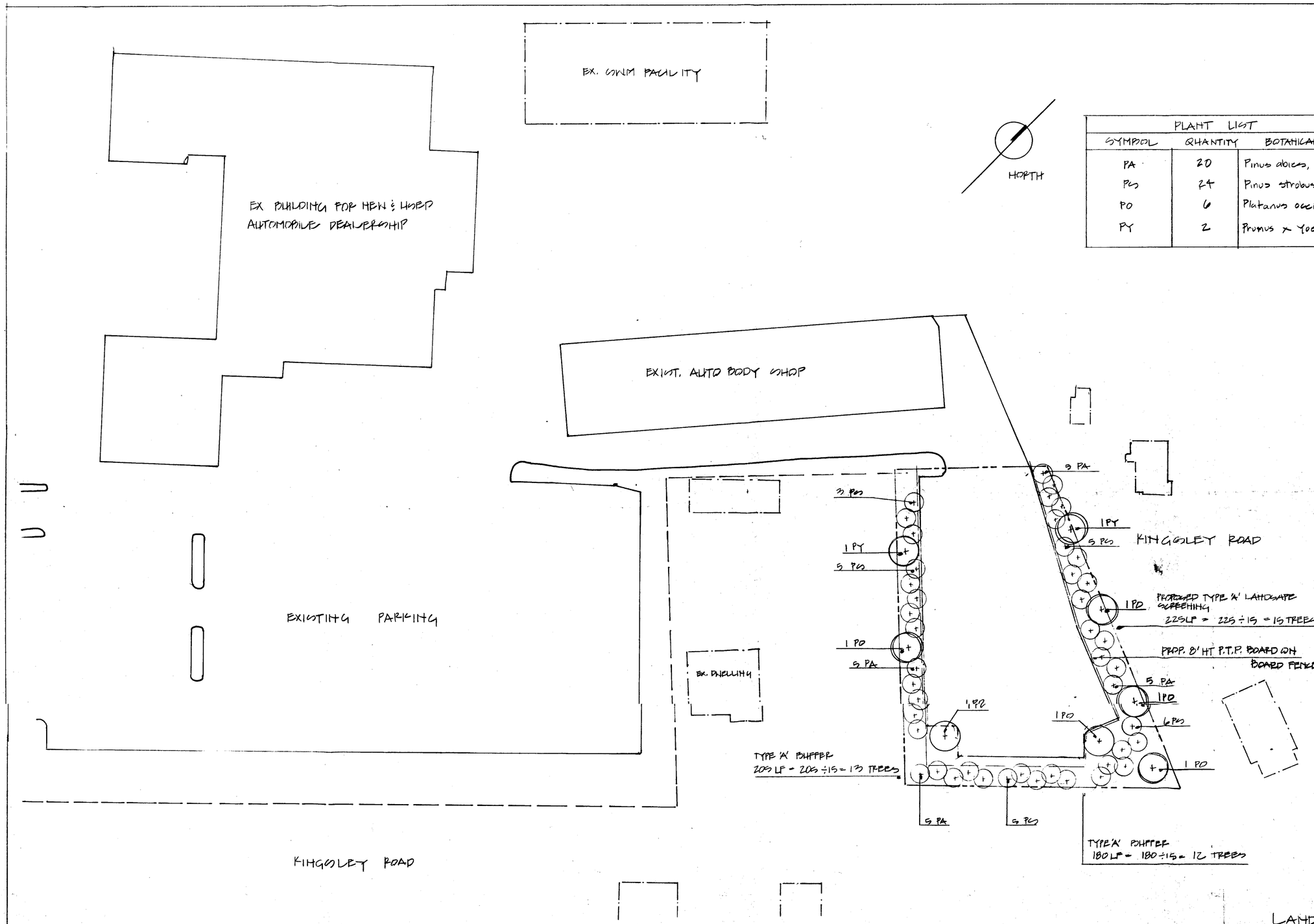
20

21

LAWYER'S NOTES

PAGE	LINE	

PET. EXH. # 4



PLANT LIST			
SYMBOL	QUANTITY	BOTANICAL / COMMON NAME	SIZE
PA	20	Pinus abies, Norway Spruce	5'-6' ht.
PCS	24	Pinus strobus, Eastern White Pine	5'-6' ht.
PO	6	Platanus occidentalis 'Bloodgood' / London Plane Tree	2'-2½" cal
PY	2	Prunus x Yoedenisis / Yoshino Cherry	1½"-2" cal

GENERAL NOTES & CALCS

1. 51 SPACES: 51 ÷ 12 = 4.25
   4 SHADE TREES
2. CONTRACTOR TO SEED ALL DISTURBED AREAS.

"I certify that I have reviewed this Final Landscape plan, that I am aware of the Landscape Regulations presented in the Baltimore County Landscape Manual, latest edition, and I agree to comply with these regulations and all applicable policies, guidelines, and ordinances. I agree to implement this plan within one year of approval by Baltimore County and assure the maintenance and survivability of the material planted for one year."

SIGNATURE OF APPLICANT DATE

PRINT NAME & ADDRESS

LANDSCAPE PLAN

Pet Exh #4

GUIDO PICCININI & GOMES
LANDSCAPE SERVICES
1810 BROADWAY ROAD
LUTHERVILLE, MD
410-252-9041

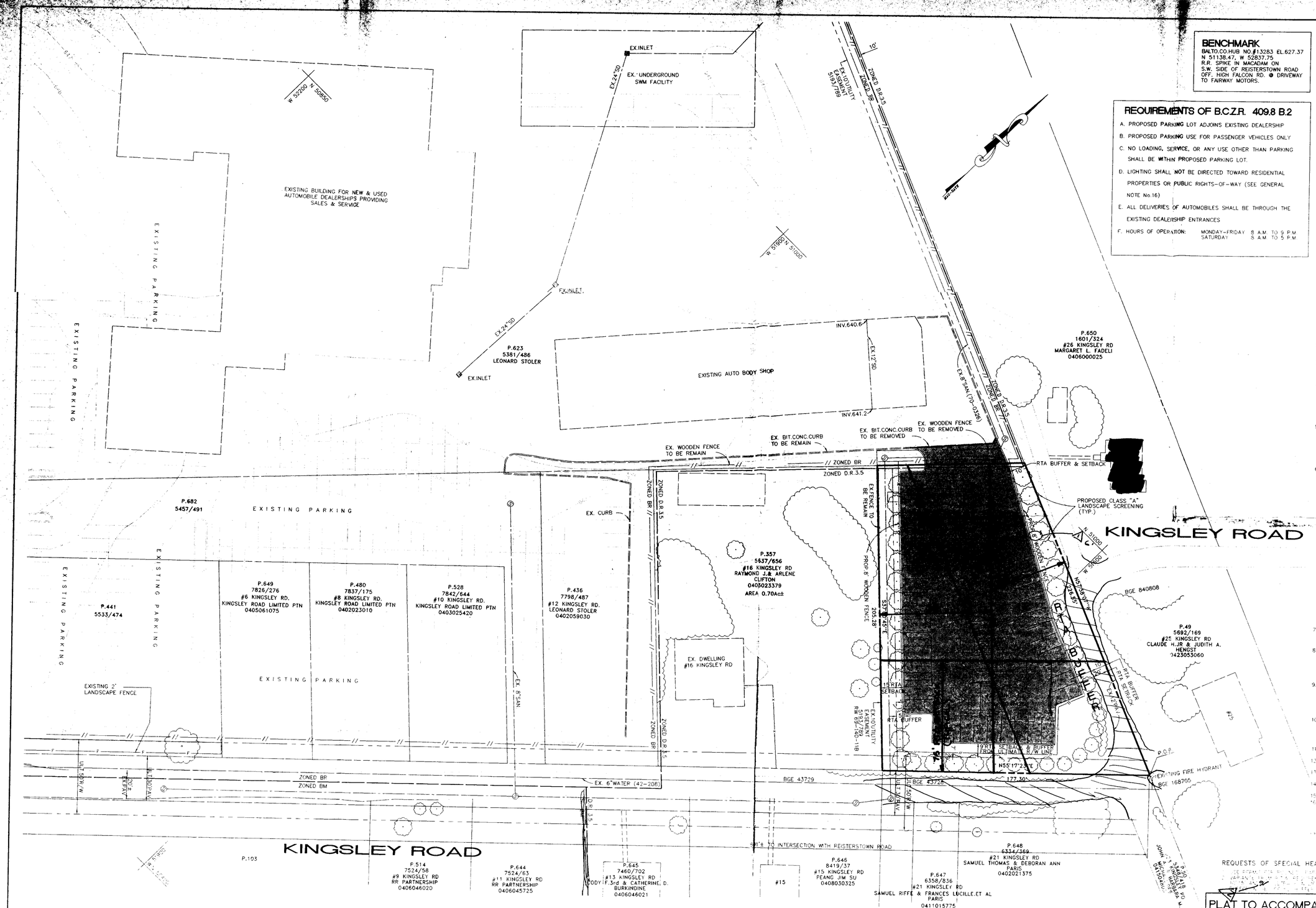
BOARD OF EXAMINERS OF LANDSCAPE ARCHITECTS
1093
JOAN ANDREA FLOURA
STATE OF MARYLAND

OWNER:
COLONIAL STOLER PARTNERSHIP
11273 PENNSTERSTOWN ROAD
OWINGS MILLS, MD 21117
ATTEN: LEN STOLER
TEL: (410) 356-7000

DEVELOPER:
LEN STOLER, Inc.
11273 PENNSTERSTOWN ROAD
OWINGS MILLS, MARYLAND 21117
ATTEN: LEN STOLER
TEL: 410-356-7000

1" = 30'-0"
MAY 20, 1997
REV. June 1, 1997
L-1

LEN STOLER @ KINGSLEY ROAD
22 KINGSLEY ROAD
BALTIMORE COUNTY, MD
SCALE: 1" = 30'-0"
ELECTION DISTRICT - 4
COUNCILMANIC DIST. #3



BENCHMARK

BALTO.CO.HUB NO.#13283 EL.627.37
N 51138.47, W 52837.75
R.R. SPIKE IN MACADAM ON S.W. SIDE OF REISTERSTOWN ROAD OFF. HIGH FALCON RD. @ DRIVEWAY TO FAIRWAY MOTORS.

REQUIREMENTS OF B.C.Z.R. 409.8 B.2

A. PROPOSED PARKING LOT ADJOINS EXISTING DEALERSHIP

B. PROPOSED PARKING USE FOR PASSENGER VEHICLES ONLY

C. NO LOADING, SERVICE, OR ANY USE OTHER THAN PARKING SHALL BE WITHIN PROPOSED PARKING LOT.

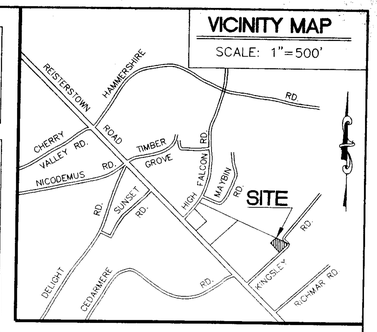
D. LIGHTING SHALL NOT BE DIRECTED TOWARD RESIDENTIAL PROPERTIES OR PUBLIC RIGHTS-OF-WAY (SEE GENERAL NOTE No.16)

E. ALL DELIVERIES OF AUTOMOBILES SHALL BE THROUGH THE EXISTING DEALERSHIP ENTRANCES

F. HOURS OF OPERATION: MONDAY-FRIDAY 8 A.M. TO 9 P.M. SATURDAY 8 A.M. TO 5 P.M.

VICINITY MAP

SCALE: 1"=500'



Ex. 1. #2

GENERAL NOTES:

1. OWNER / APPLICANT: COLONIAL STOLER PARTNERSHIP, 11275 REISTERSTOWN ROAD, OWINGS MILLS, MARYLAND 21117, Tele: (410) 356-7000
   TAX ACCOUNT NO: 0403050240
2. PROPERTY ADDRESS: 22 KINGSLEY ROAD, BALTIMORE, MARYLAND 21117
3. GROSS AREA: 28,542 SQ.FT. 0.65Ac±
4. PREVIOUS COMMERCIAL PERMIT:

DATE	PERMIT No.	DESCRIPTION
1/89	B-000068	RAZING PERMIT

5. PREVIOUS GRADING PERMIT:

DATE	PERMIT No.	DESCRIPTION
1/90	B-057450	GRADING PERMIT

6. PREVIOUS ZONING HEARINGS.

DATE	CASE No.	DESCRIPTION
1947	1947	ZONING RECLASSIFICATION
1968	68-264-R	ZONING RECLASSIFICATION
1978	78-182-RA	ZONING RECLASSIFICATION
1975	75-190-R	ZONING RECLASSIFICATION
1984	84-10-A	GRANTED REQUEST ON 9-8-83 FOR 4 BUSINESS SIGNS IN LIEU OF PERMITTED 3 AND REQUEST TO ALLOW TOTAL SIGN AREA OF 176 s.f. INSTEAD OF THE PERMITTED 100 s.f.
1986	86-169-A	GRANTED THE SEPARATION OF PORSCHE AND SEPARATE AUDI SIGN
1993	93-80-A	GRANTED REQUEST ON 11.17.93 TO PERMIT 6 FREE STAND SIGN HEIGHT OF 30' IN LIEU OF PERMITTED 25'

7. ZONING: D.R. 3.5
8. SIGNS: ANY SIGN SHALL COMPLY WITH BALTIMORE COUNTY ZONING REGULATIONS SECTION 413 AND ALL ZONING POLICIES FOR MUR ZONING
9. ENTRANCES: ALL DELIVERIES OF AUTOMOBILES THEIR PARTS OR OTHER SUPPLIES AND EQUIPMENT SHALL BE THROUGH THE EXISTING PARKING LOT
10. ELECTION DISTRICT: 4
    COUNCILMANIC DISTRICT: 3
    CENSUS TRACT: 4103.01
    REGIONAL PLANNING DISTRICT: NW
    WATERSHED: JONES
11. SUBSEWERSHED: 24
12. EXISTING LAND USE: [illegible]
13. PROPOSED LAND USE: [illegible]
14. HOURS OF OPERATION: M-F 8 A.M. TO 9 P.M. SAT 8 A.M. TO 5 P.M.
15. NUMBER OF EMPLOYEES: 24
16. LIGHTING: [illegible]

REQUESTS OF SPECIAL HEARING

[illegible]

PLAT TO ACCOMPANY SPECIAL HEARING AND VARIANCE FOR BUSINESS PARKING IN RESIDENTIAL ZONE

LEN STOLER @ KINGSLEY ROAD

22 KINGSLEY R[illegible]

BALTIMORE COUNTY, MARYLAND

KCW Consultants, Inc.
CIVIL ENGINEERS AND LAND SURVEYORS
3104 TIMANUS LANE, SUITE 101
BALTIMORE, MARYLAND 21244
TELE:(410) 281-0033
FAX:(410) 289-0604

5-5-97

OWNER:
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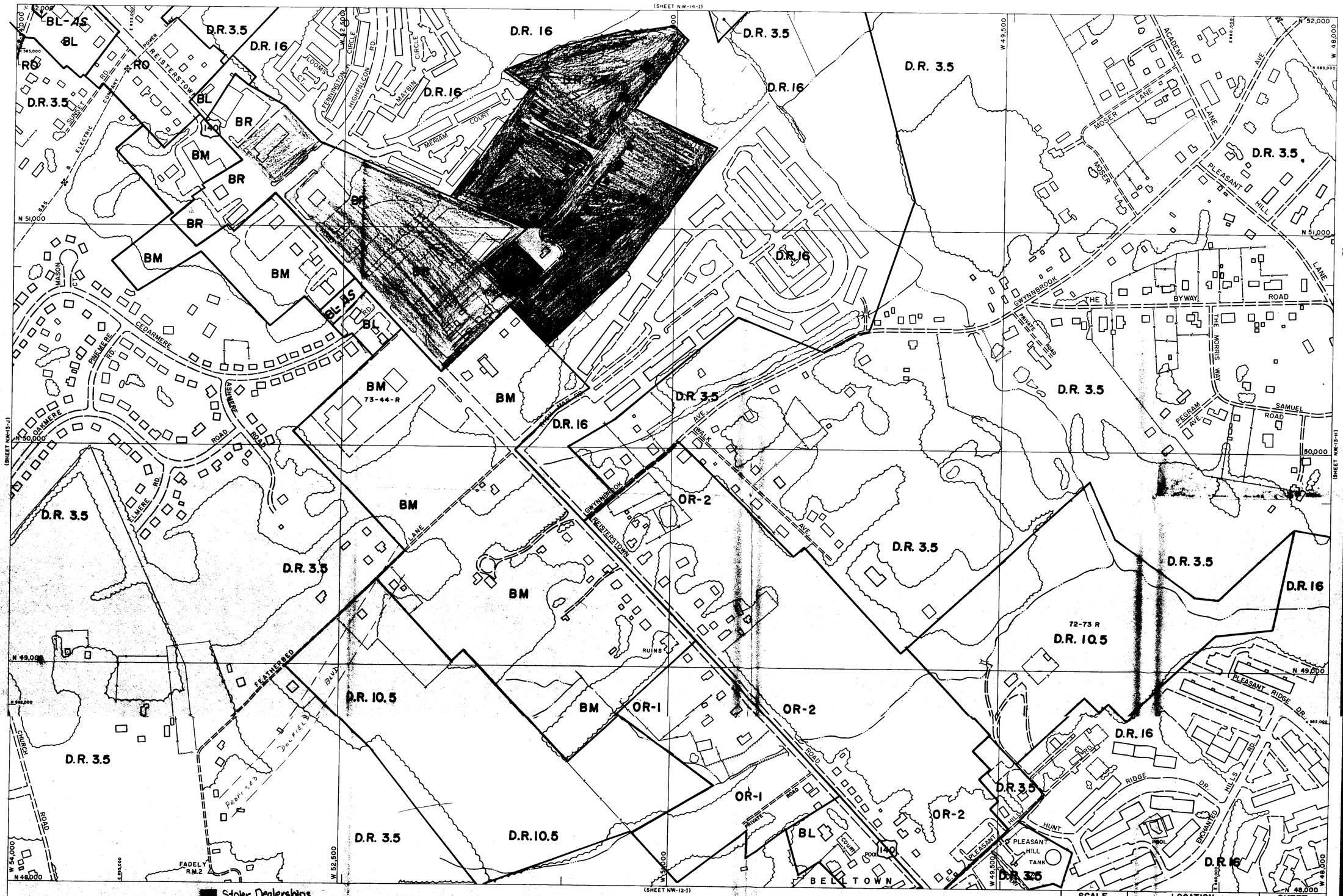
Attn: LEN STOLER
Tele: (410) 356-7000

REVISIONS

DATE	DESCRIPTION
5/4/97	REVISED TO BALTIMORE COUNTY COMMENTS

DRAWING No. G-[illegible]



T-NW

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

Stoler Dealerships
#22 Kingsley Road
Kingsley + Montgomery Road Residents Properties

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	BELLTOWN	N.W. 13-I
DATE OF PHOTOGRAPHY JANUARY 1986		

Petitioner's Exhibit #6