EILING ORDER RECEIVE

PETITION FOR VARIANCE IN KE:

SE/S Pulaski Highway, 705' SW

of the c/l of Golden Ring Road

(8515 Pulaski Highway) 15th Election District 7th Councilmanic District * BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 99-72-A

Joseph F. Evering, Jr., Owner; Alban Tractor Co., Contr. Lessee *

Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Joseph F. Evering, Jr., and the Contract Purchaser, Alban Tractor Company, Inc., by Frank B. Izzo, Vice President, through their attorney, Thomas W. Biddison, Esquire. The Petitioners seek relief from Section 450.4.5(b)(u) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an identification sign of 280 sq.ft. (140 sq.ft. per face) in lieu of the maximum permitted 100 sq.ft. The subject property and relief sought are 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 Petition were Michael Criswell a representative of the Alban Tractor Company, and Latonya Dargan, Esquire, who appeared on behalf of Mr. Biddison to represent the Petition-There were no Protestants or other interested persons present. ers.

Testimony and evidence offered revealed that the subject property consists of 2.10952 acres, more or less, zoned M.L.-I.M., and is improved with a large warehouse building and concrete loading dock which is used by the Alban Tractor Company. Mr. Criswell testified that the Alban Tractor Company has leased the property for many years and currently holds a 99-year lease with Mr. Evering, the owner of the property. Testimony

THE PROPERTIES.

indicated that the Alban Tractor Company is now desirous of entering into the rental business wherein they will rent their construction equipment to the general public. In conjunction with this new endeavor, the Petitioner wishes to add a 3' x 14' sign to the existing sign identifying the new rental aspect of the Alban Tractor Company. The existing sign contains approximately 204 sq.ft. of signage mounted on an approximately 22.6' high pole. Currently, that sign consists of two separate signs, one that identifies the company name "ALBAN" and is 58" x 14' in dimension, and the other which advertises the fact that they sell and lease the Caterpillar brand of machinery, or "CAT", which is 30" x 14' in dimension. Apparently, this sign has existed on the property for many years. However, the Petitioners now propose to add a third sign, approximately 3' x 14' in dimension, to identify the rental business, or "ALBAN RENTS"/"CAT The Rental Store" with the telephone number listed below. Thus, due to the size of the existing sign, the requested variance relief is necessary to legitimize same and to permit the addition of the third proposed sign.

It should be noted that the Office of Planning recommended approval of the variance, provided the Petitioners combine the proposed third sign with the existing "CAT" sign. The fact that the current sign has apparently existed on the property in its present condition for many years, without causing any detrimental impact to the surrounding locale, is persuasive to my finding that the existing sign should be permitted to remain. Furthermore, combining the two smaller signs would not negate the need for a variance. Therefore, I see no need to require the Petitioners to incorporate the third proposed sign into the existing second sign. The Office of Planning also recommended that additional landscaping be provided along Pulaski Highway in keeping with the Pulaski Highway Revitalization

Plan. In my view, sufficient landscaping already exists in the grassy area along the front portion of the site. Therefore, additional landscaping is not necessary.

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

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

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, I am persuaded to grant the variances. The Alban Tractor Company has been a good neighbor to the Golden Ring area for many years and have properly maintained their operation to be an asset to the community. In addition, there was no opposition from any adjoining property owner, and there were no adverse comments submitted by any Baltimore County reviewing agency. In my view, to require strict compliance with the zoning regulations would be unreasonable, given the reasons set forth herein, and the location of the property in a commercial area. I find that the requested variance will

ing locale, and meets the spirit and intent of the B.C.Z.R.

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

1) The Petitioners may apply for their sign permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs

ORDER PRECEIVED FOR FILING Sy.

IN THE MATTER OF THE APPLICATION OF JOSEPH F. EVERING, JR. -OWNER; * COUNTY BOARD OF APPEALS ALBAN TRACTOR CO., INC. -LESSEE/PETITIONER FOR ZONING VARIANCE ON PROPERTY LOCATED ON THE SE/S PULASKI HIGHWAY, * BALTIMORE COUNTY 705' SW OF THE C/L OF GOLDEN RING RD (8515 PULASKI HWY) 15TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT

BEFORE THE

OF

* CASE NO. 99-72-A

OPINION

This case comes to the Board of Appeals based on an appeal taken by People's Counsel for Baltimore County, from a decision of the Deputy Zoning Commissioner in which a Petition for Variance relative to an increase in the square footage of a sign was granted by his Opinion and Order dated October 15, 1998. Carole S. Demilio, Deputy People's Counsel, appeared on behalf of the Office of People's Counsel. The Petitioner /Lessee, Alban Tractor Company, Inc., was represented by Thomas N. Biddison, Esquire. A public hearing was held on May 5, 1999 with appropriate opening statements made by both counsel. At the conclusion of the hearing, counsel agreed to present argument before the Board. Following this, the Board publicly deliberated this request.

The facts of the case are such that Alban Tractor has been leasing this property since 1980 from the property's legal owner, Joseph F. Evering, Jr. There presently exists on the subject property a 70-square foot sign for Alban Tractor and a 35-square foot sign for CAT. Petitioners need an additional sign for their activities involving "Alban Rents." They interpret the Baltimore County Zoning Regulations (BCZR) to allow them three separate signs at 100 square feet, 75 square feet, and 75 square feet. In lieu of

this, they are requesting a zoning variance to accommodate a sign which would be 140 square feet per face and involve advertising for all three businesses. The Petitioner cites that to do three separate signs would be a hardship and unsightly as well.

The Appellant, People's Counsel for Baltimore County, argues that the Petitioner is not reading the 1997 sign law for Baltimore County correctly. They contend that the Petitioner is entitled to erect one sign on the premises. The zoning is ML-IM and they cite BCZR Section 253.1F, which permits the sign under item #8 as an accessory use. Furthermore, Ms. Demilio referred to Section 450 of the BCZR which addresses old signs, new signs, and changes to existing signs, as well as an abatement period. The currently existing sign, which advertises Alban Tractor and CAT, is approximately 204 square feet and currently is classified as a nonconforming sign, as it was legal when erected at some previous time, but does not conform to the new requirements passed in 1997. In addition, People's Counsel points out Section 458.C.4 which allows a legally, nonconforming sign to be structurally altered, replaced, relocated or otherwise changed only for the purpose of correcting nonconformity. In requesting a special exception or variance, Section 450.8.A.1 notes that the provisions of this section shall be strictly construed. Ms. Demilio also provided information that Pulaski Highway is the subject of an intensive revitalization effort.

Mr. Biddison, on behalf of the Petitioner, Alban Tractor Company, Inc., brought forth two witnesses in support of the

variance request which would allow one sign with 280 square feet in lieu of the maximum permitted 100 square feet. Currently there exists a sign of 205 square feet.

The first witness, Mike Criswell, is the Business Manager for Alban Tractor. He has worked for them for the last two years. was hired to start the rental business for Caterpillar, which is the reason the sign message (an in this case the sign also) is in need of change. A Plat to Accompany Petition for Special Exception and Variance (Petitioner's Exhibit 2) was admitted and shows the subject property, owned by Joseph F. Evering, Jr. This property is leased to Alban on a 99-year lease. The plat also shows two adjoining lots owned by Alban Tractor to the north of the subject property and one large parcel to the south of the subject property. Mr. Criswell testified that frontage of all three lots is less than 650 square feet. He stated that rental of CAT equipment is a corporate mandated activity. Corporate helped to create the logo, and assisted Caterpillar dealers to get into the rental business. They must use their trademarks and they require rental identification logo use to differentiate from the sales logo. There are minimum requirements for identity elements. A whole package exists with selection sheet, design, and exterior signage requirements (Petitioner's Exhibit #5). Caterpillar proposes to erect the sign outside of the business. They did a study for Alban and would like a 15 foot by 10 foot sign. Mr. Criswell stated that he went to get a sign permit and learned of the new law in Baltimore County. It was at this point that they went with the

sign they are now proposing. The proposed sign has the requirements of CAT and the rental yellow. Mr. Criswell advised that CAT would like more signage; however, they have worked this out with their consultant. He explained that they very much want to convey that it is a separate company.

On cross-examination, Ms. Demilio established that the company had been doing business since 1948, and that all three parcels connect and have one entrance and exit. She established that the topography was the same, flat, and that Pulaski Highway was a four-lane roadway. She, as well, questioned Mr. Criswell about the Alban agreement which, it was determined, dictates that they must use the logo but does not mandate sign size.

Next for the Petitioner, Alan Nathan, Executive Vice President of Claude Neon Signs, who is the owner since 1964, testified. He is familiar with the sign law in Baltimore County. In fact, he sat on several committees charged with drafting the sign law. He testified that they were instrumental in suggesting this sign and that the owners wanted to keep it clean by adding to the existing sign. They wanted to eliminate visual clutter. He indicated that other options were to tear down the sign and start over or place the sign on one of the other parcels. Mr. Nathan gave testimony about his qualifications to establish his expertise in this area. He indicated that his recommendation, given the parameters of CAT design and what Alban wanted, was a new sign, similar to the existing CAT sign. He stated that this would provide the most aesthetic appearance. He also testified that the sign should

orient the customer to the entrance. This concluded the Petitioner's case.

At the conclusion of Petitioner's case, Ms. Demilio moved for dismissal of the case. This Motion was held <u>sub curia</u> and later withdrawn.

People's Counsel presented only one witness, Brent Flickinger, a Planner III with Baltimore County Office of Planning. He is a Community Planner in the 7th Councilmanic District. Testimony was given relative to his educational and employment history. He was established as an expert in land planning. He did testify to his familiarity with the Alban request, his familiarity with the sign regulations, and the site. Mr. Flickinger noted that comment dated September 15, 1998 from the Planning Office indicates that a variance is needed and that the request is really a nonconforming use. He noted that the existing sign is already a nonconforming sign. In their note of 9/15/98, which had been entered previously (Petitioner's Exhibit #1), it was suggested that the CAT section of the existing sign be replaced with the proposed new sign. It was noted that a variance would still be needed, but the staff would not oppose this alternative, because the Applicant would not be enlarging the sign beyond its present size. Mr. Flickinger testified that the suggestions of September 1998 could be accomplished without a variance, and that it was recommended that all information needed be incorporated into one sign, and it would be considered a nonconforming use under Section 450 of the BCZR. He further testified that the basis for change was in Section

450.6.C.3, which he quoted as stating that "...a legally nonconforming sign may be structurally altered, replaced, relocated or otherwise changed only for the purpose of nonconformity."

Although testimony was given by Mr. Criswell that this is three separate lots, Mr. Flickinger testified that the premises consists of one (1) lot and is entitled to one 100-square foot per face allowance. Mr. Flickinger, in response to further questioning by Ms. Demilio, testified that a contiguous sign was a sign that had "any part within one foot of another sign in the same class, and having the same support structure." In further clarification, Mr. Flickinger testified that the owner could not have more than one freestanding sign on this premise. Mr. Flickinger, in discussing frontage, indicated that an argument could be made for frontage along Contractors Road, which is located on the back side of the property. However, he noted that the entrance to the premise is located on Pulaski Highway.

In testimony, Mr. Flickinger confirmed his knowledge of the Pulaski Highway revitalization effort. He testified that the Rosedale Community Association produced a privately contracted study which was not adopted. However, the County has attempted to honor the recommendations. He also testified that this site's topography is flat, with good visibility, and is rectangular in shape, and that there was no uniqueness to the site. Relative to practical difficulty, Mr. Flickinger stated his familiarity with the property, heard the discussions and negotiations relative to the sign. He could find no justification for adding a new sign.

He also reiterated that Mr. Nathan testified that a new sign could be designed. He also testified to the 15-year abatement period allowed under the new Baltimore County sign law. He stated that this was to allow for time to make changes and to give the sign a life as well as flexibility to business owners. In concluding his testimony, Mr. Flickinger discussed Section 450.8.A.1 of the BCZR regarding interpretation of the sign regulation. This section states: "In considering requests for special exceptions and variances, the provisions of this section shall be strictly construed." Mr. Flickinger stated that they are looking for conforming signs; otherwise, allowing signs would be counter to the legislation passed by the County Council.

In cross-examination, Mr. Biddison referred his questioning to the September 15, 1998 letter from the Planning Office and questioned Mr. Flickinger as to error in the correspondence regarding the need for a variance. Mr. Flickinger concurred and reinforced his previous testimony regarding their sign request as a nonconforming use. As well, Mr. Biddison challenged Mr. Flickinger's testimony regarding strict adherence to the law. Again, Mr. Biddison made reference to the Planning Office's September 1998 letter and the lack of clarity in their reasons for support relative to size of the sign.

The facts of this case are simple. The Petitioner operates a large warehouse building, offices and concrete loading dock on a ML-IM zoned property known as Alban Tractor. They represent an internationally known tractor and earth moving equipment company,

CAT. They now are involved in the rental portion of the CAT company. They have guidelines for the signage when representing this international company. Their zoning variance request involves allowing them to enlarge their road signage from its current 105 square feet by adding a 35-square foot sign to this contiguous sign located at the entrance to their premises. The maximum permitted signage is 100 square feet.

People's Counsel counters that the Planning Office review, which originally felt a variance was needed, has testified that this situation is a nonconforming sign and that changes could be made without a variance. Ms. Demilio points out that CAT does not specify the size that the sign must be and that presently they are operating without a sign. She suggests that efforts be made to strike a balance. They have 15 years to abate the existing nonconforming sign. The sign can stay nonconforming for 15 years if they change the face. People's Counsel argues against the variance due to uniqueness, substitute justice when 15 years of nonconforming use is allowed, and that if relief is granted, public safety is compromised in consideration of the ongoing Pulaski Highway revitalization efforts.

The Board, in its deliberation, acknowledges the excellent case presentation and closing statements presented by both counsel. In reaching its conclusion, the Board is mindful of the responsibility in this "de novo" hearing, that the Petitioner has the burden of proving his case by the weight or preponderance of evidence. The granting of variances is governed by Section 307 of

the BCZR and the standards set forth by the Court of Special Appeals in Cromwell v. Ward, 102 Md.App 691 (1995).

"The variance process is at least a two step process. The first step required 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 variances 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 hardship, resulting unreasonable from 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."

On cross-examination by Ms. Demilio, Mr. Criswell acknowledged that the topography of the subject property was the same as others in the area and that it is flat. As well, People's Counsel's witness, Brent Flickinger, testified that the property under discussion was three separate lots all used by Alban. He testified that the property was flat, provided good visibility, and was rectangular in shape. He stated that there was no uniqueness to the site.

Also referring to the elements of variance law, in order to grant the requested variance, the Board must conclude that the Petitioner has met his burden of proof under the law to support the three elements of uniqueness as referenced in North v. St. Mary's County, 99 Md.App. 502 (1994). These specific elements were: (1)

the shape of the site; (2) its topography; and (3) practical restrictions imposed by abutting properties (such as obstructions, or similar situations). The testimony and supporting documents reflect that this is a rectangular parcel with about 300 feet of road frontage on a major thoroughfare, Pulaski Highway. There is nothing to support any uniqueness relative to shape, topography, or practical restrictions. As a result of the Board's finding that the first prong of the Cromwell test had not been satisfied, the inquiry under BCZR Section 307.1 stops, and the variance must be denied. However, the Board did as well consider the requirements of practical difficulty and/or unwarranted hardship. To that end, the Board is mindful of Easter v. Mayor & City Council, 195 Md 395 (1950):

"The burden of showing facts to justify an exception or variance rests upon the applicant, and it must be shown that the hardship affects the particular premises and is not common to other property in the neighborhood."

Additionally, the Board is constrained to follow the requirements established by McLean v. Soley, 270 Md 208, 1214-15 (1973):

- "1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- "2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

"3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

Upon review of the testimony and documentation, the Board finds no declared hardship on the part of the Petitioner. Mr. Criswell testified that CAT would like more, "but they were able to work it out with their (CAT) consultant." As well, CAT is allowing Petitioner to engage in rental activities presently with no signage to suggest same. There was no testimony to support that the rental business activities would have to cease without such signage. There was no testimony either from or about other neighboring properties to mitigate the justice to the Petitioner in allowing this signage or to establish the converse consideration. There was testimony by Baltimore County Office of Planning that they were looking for sign conformity, and that granting of the variance would be counter to the legislation passed to secure public safety and welfare. As well, contrary to their activities regarding revitalization in this corridor, there was no testimony to support that not granting the variance would prevent the owner from using the property for its permitted purposes.

Based on the testimony and evidence presented, this Board also concludes that the three parcels being used or controlled by the same owner does in fact comprise a "premise" and is to be viewed as one parcel and not three parcels as was presented by the Petitioner for purpose of calculating sign square footage. BCZR Section 450.3, under the definition section, defines "Premises" as:

"A recorded lot, or in the case of a multi-occupant lot

such as a shopping center, office park or industrial park, the total area of the development under common ownership or control. "Premises" also means two or more contiguous lots under common ownership, leasehold or other assignment of interest in real property which are used as a unified parcel."

The Board further finds this to be a nonconforming sign, bound by the 15-year conformity rule.

For the reasons specified, the Board must deny the request for variance submitted by the Petitioner.

ORDER

THEREFORE, IT IS THIS 16th day of July , 1999 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance to permit an identification sign of 280 square feet (140 square feet per face) in lieu of the maximum permitted 100 square feet 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

Lawrence M. Stahl, Panel Chairman

Lawrence S. Wescott

Donna M. Felling



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

July 16, 1999

Carole S. Demilio
Deputy People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: In the Matter of Alban Tractor Co., Inc. -Lessee/Petitioner; Joseph F. Evering, Jr. -Owner Case No. 99-72-A

Dear Ms. Demilio:

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. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco

Administrator

encl.

C: Peter Max Zimmerman
People's Counsel for Baltimore County
Thomas N. Biddison, Jr., Esquire
Latonya B. Dargan, Esquire
Michael Criswell /Alban Tractor
Company, Inc.
Mr. Joseph F. Evering, Jr.
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

ORDER RECEIVED

99-72-A

8515 PULASKI HIGHWAY 15th ED - 7th CD Joseph Evering, Jr. (LO) Alban Tractor Co., Inc. (CP)

for Variance

issioner of Baltimore County

for the property located at 8515 Pulseli Hawy Balt Wd 21237
which is presently zoned WL-IM

This Petition shall be filed with the Department of Permits & 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)

Section 450.4.5 (b) (v) to permit a total of 1404.2 of signage per face in lien of the required 100 ft.2.

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

To be discussed at time of public hearing.

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

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

	(Type of Finit Name)
Signature Signature	Signature Signature
8531 Polaski Highway	
Beldmore Ud 21237	(Type or Print Name)
City State Zipcode	Signature
THOMAS N-BIDDISON, JR (Type or Print Name)	800 CREST
TParell) Ruller	Hille River
Signature Callon Evelyn Callon	City Name, Address and phone numb
218 Wall Charles Sheet	Michael C
Butt Md ?(20)	8531 Pukski
State Zipcode	Address
	ESTIMATED LENGTH OF HEAR
	the following dates
Printed with Soybean Ink on Recycled Paper	ALL
Revised 9/5/95	REVIEWED BY:

19.72.A

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).
Joseph F Evering St.
Signature Signature
(Type or Print Name)
Signature
800 Chester Pol (410) 335-8602 Address Phone No.
Udble River UD 21220
Name, Address and phone number of representative to be contacted
Michael Criswell
Neme 8531 Pukski Hawy Balt Md 21237
OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING
unavailable for Hearing
the following dates Next Two Months
ALLOTHER
REVIEWED BY: BL DATE 8/11/98

A. L. Snyder

Surveyor, Inc.

1911 Hanover Pike

Hampstead, Maryland 21074

(410) 239-7744

Zoning Description

(410) 374-9695

All that lot or parcel of land in the Fifteenth Election District of Baltimore County, Maryland and described in the deed to Joseph F. Evering, Jr., dated October 24, 1984 and recorded among the Land Records of Baltimore County, Maryland in Liber E.H.K., Jr. 6823 folio 757 etc.

Beginning for the same at a point on the southeast side of Pulaski Highway (U.S. Route 40) which is 150 feet wide, at the distance of 705 feet southwest of the centerline of Golden Ring Road, thence running, the following four courses,

- 1.) along a curve to the right having a raduis of 25,539.79 feet and an arc length of 247.41 feet, being subtended by a chord of S 52° 07' 55" W for a distance of 247.41 feet, thence
- 2.) S 38° 13' 25" E for a distance of 374.12 feet, thence
- 3.) N 50° 28' 57" E for a distance of 248.90 feet, thence
- 4.) N 38° 26' 52" W for a distance of 366.97 feet to the place of beginning.

Containing 2.10952 Acres of land, more or less.

94.72-A



PROCESS ACTIVITY TIME TANKS	MIER PWES PE	4 V24500U 4 250.00 CHECK	Faltimre County, Maryland		CASHIER'S VALIDATION
No. 056124	Rool- 6150	20,028	7 27	96	USTOMER
BALTIMORE COUNTY, MAF AND OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT	DATE S/1/ GB ACCOUNT	A MOUNT \$	RECEIVED A 1 DOL TOL for Co.	FOR: Das Zuhing Vori	DISTRIBUTION WHITE - CASHIER WHITE - CASHIER WHITE - CASHIER

The Zoning Commissional of the Zoning Act and Regulations of Baltimore County Will tions of Baltimore County Will hold a public hearing in Tow-hold a public hearing in Tow-lidentified herein as follows:

Case: #99-72-A
8515 Pulaski Highway
8515 Pulaski Highway
SE/S Pulaski Highway, 705
SE/S Pulaski Highway, 705
SW of centerline Golden Ring
Road
15th Election District
7th Councilmanic District
7th Councilmanic District
Ford
Contract Purchaser: Alban
Tractor Company, Inc.

Variance: to permit a total of 140 square feet of signage per square feet.

Square feet.

Hearing: Thursday, September 24, 1998 at 10:00 a.m., ber 24, 1998 at 10:00 a.m., ber 24, 1098 at 10:00 a.m., ber 24, 1000 a.m., ber 24, 1000

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Ballimbre County
NOTES: (1) Hearings are
NOTES: (1) Hearings are
special accommodations
special accommodations
Please Call (410) 887-3353.
[10] the File and/or Hearing,
Ing the File and/or Hearing,
Please Call (410) 887-3391.

0265971 9/024 Sept. 8

PUBLICATION OF TE

 $\sqrt{g_{1}}$ TOWSON, MD.

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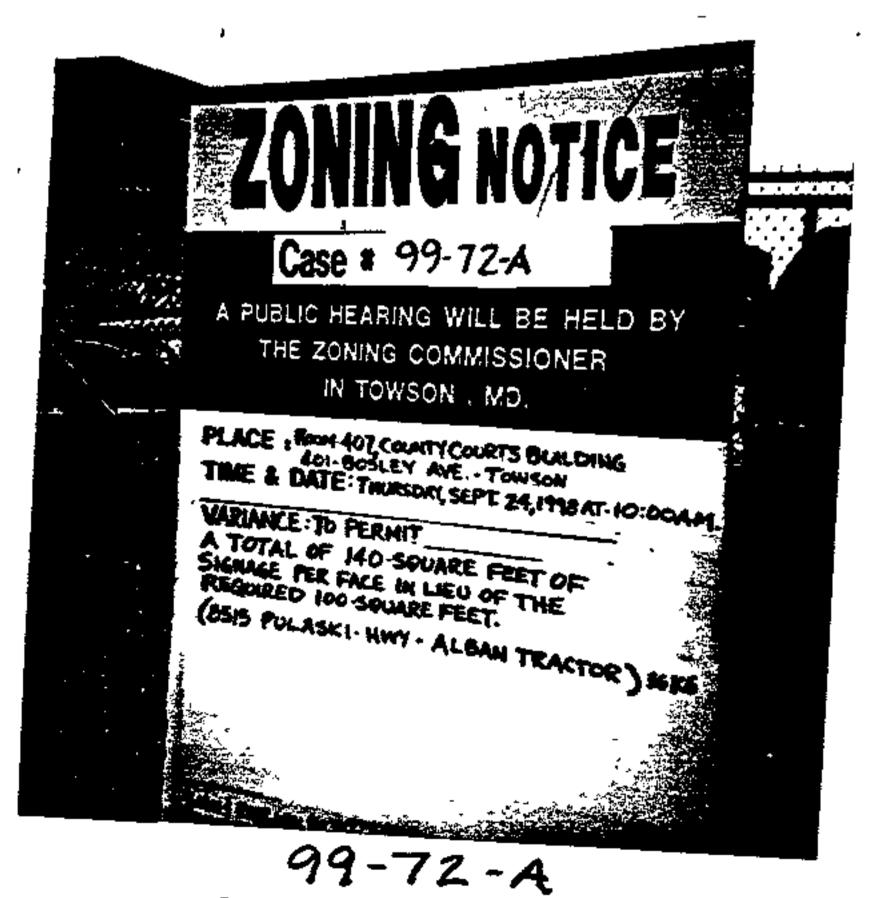
THIS IS

JEFFERSONIAN, a weekly newspaper published successive CERTIFY, that the annexed advertisement was County, Md., once in each pf. weeks, the first publication appearing on . Baltimore published in THE in Towson,

THE JEFFERSONIAN,

- TOWSON AD. LEGAL

	RE: Case No
	Petitioner/Developer; ALBAN TRACTOR, ET
	Date of Hearing/Closing: 9/24/98
Baltimore County Department of Permits and Development Management County Office Building, Room 111 11 West Chesapeake Avenue Towson, MD 21204	
Attention: Ms. Gwendolyn Stephens	
Ladies and Gentlemen:	•
•	erjury that the necessary sign(s) required by law sated at #8515 PULASKI HWY.
	·
The sign(s) were posted on	9/2/98 (Month, Day, Year)



94-72-A
ALBAN TRACTOR
9/2/98
H-9/2/00

Sincerely, Wahrell Wall 2/4/98

PATRICK M. O'KEEFE

(Printed Name)

(Signature of Sign Poster and Date)

523 PENNY LANE

(Address)

HUNT VALLEY, MD. 21030

(City, State, Zip Code)

410-666-5366; CELL-410-905-8571

(Telephone Number)



	2
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•	RE: Case No.: <u>99-72 A</u>
	Petitioner/Developer:
	JOSEPH EVERING JR
	Date of Hearing/Closing:
Baitimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Ladies and Gentlemen:	
This letter is to certify under the penalties of perwere posted conspicuously on the property locations.	
The sign(s) were posted on $\frac{12/8/98}{6}$	Month, Day, Year)
	Sincerely,
	Hay C Secret 12/8/98 (Signature of Sign Poster and Date)
	GARY C. FREUND
	(Printed Name)
	(Address)
	(City, State, Zip Code)
	(Telephone Number)

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.: 99-72-A				
	A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD				
PLACE:					
DATE AND TIME:					
	nce to request a total face sign of 140 e in lieu of the vertical 100 ft. 2				

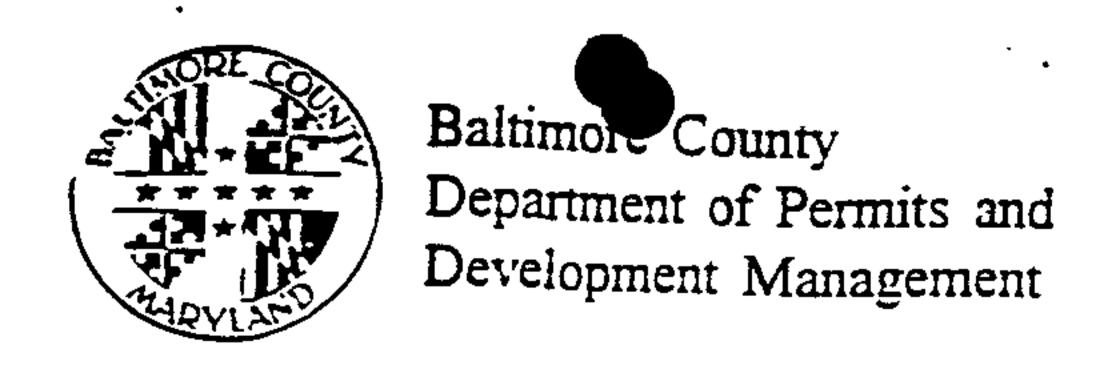
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.

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



Development Processin.

County Office Building

111 West Chesapeake
Towson, Maryland 212.

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.: 72			
Petitioner: Alban Tractor Co.	Inc.		
Location: 8515 Pulaski Hu	Y		
PLEASE FORWARD ADVERTISING BILL TO: NAME: Alban Pents advission of DDRESS: 8513 Polaski Hai Baltimore MD 21 HONE NUMBER: (410) 687-3689	2317	Albaia	Tractor Co

AJ:ggs

99-72-(Replised 09/24/96)

TO: PATUXENT PUBLISHING COMPANY September 3, 1998 Issue - Jeffersonian

Please forward billing to:

Alban Rents, a division of The Alban Tractor Company, Inc. 8513 Pulaski Highway
Baltimore, MD 21237
410-687-3689

NOTICE OF ZONING 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: 99-72-A 8515 Pulaski Highway

SE/S Pulaski Highway, 705' SW of centerline Golden Ring Road

15th Election District -7th Councilmanic District

Legal Owner: Joseph F. Evering, Jr.

Contract Purchaser: Alban Tractor Company, Inc.

<u>Variance</u> to permit a total of 140 square feet of signage per face in lieu of the required 100 square feet.

HEARING:

Thursday, September 24, 1998 at 10:00 a.m. in Room 407, County Courts

Building, 401 Bosley 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.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

August 19, 1998

NOTICE OF ZONING 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: 99-72-A 8515 Pulaski Highway

SE/S Pulaski Highway, 705' SW of centerline Golden Ring Road

15th Election District -7th Councilmanic District

Legal Owner: Joseph F. Evering, Jr.

Contract Purchaser: Alban Tractor Company, Inc.

Variance to permit a total of 140 square feet of signage per face in lieu of the required 100 square feet.

HEARING:

Thursday, September 24, 1998 at 10:00 a.m. in Room 407, County Courts

Building, 401 Bosley Avenue

Arnold Jablon

Director

c: Thomas W. Biddison, Esquire

Joseph F. Evering, Jr.

Alban Tractor Company, Inc.

Michael Criswell

NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY SEPTEMBER 9, 1998.

- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3391.







County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

March 10, 1999

NOTICE OF ASSIGNMENT

CASE #: 99-72-A

IN THE MATTER OF: JOSEPH F. EVERING, JR.-OWNER; ALBAN TRACTOR CO., INC. -LESSEE/PETITIONER 8515 Pulaski Highway 15th E; 7th C

(Petition for Variance GRANTED by D.Z.C.)

ASSIGNED FOR:

WEDNESDAY, MAY 5, 1999 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: Appellant

: Peter Max Zimmerman /People's Counsel for Baltimore County Carole S. Demilio /Deputy People's Counsel

Counsel for Petitioner

: Thomas N. Biddison, Jr., Esquire

Latonya B. Dargan, Esquire

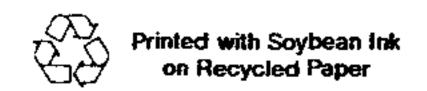
Petitioner

: Michael Criswell /Alban Tractor Company, Inc.

Property Owner

: Mr. Joseph F. Evering, Jr.

Pat Keller, Director /Planning Lawrence E. Schmidt /Z.C. Arnold Jablon, Director /PDM Virginia W. Barnhart, County Attorney





Baltimore County Department of Permits and Development Management

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

September 17, 1998

Mr. Michael Criswell The Alban Tractor Company 8531 Pulaski Highway Baltimore, MD 21237

Thomas N. Biddison, Esq. 218 N. Charles Street Baltimore, MD 21201

RE: Item No.: 72

Case No.: 99-72-A

Location: 8515 Pulaski Highway

(Sign Location)

Dear Sirs:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on August 11, 1998.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure 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. All comments 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.

Very truly yours,

W. Carl Richards, Jr.

Zoning Supervisor Zoning Review

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

To:

MCP

FROM:

R. Bruce Seeley Rossy Permits and Development Review

DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: Nup 24

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

Item #'s:

RBS:sp

BRUCE2/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director

and Development Management

DATE: September 15, 1998

FROM: Arnold F. 'Pat' Keller, III, Director

Office of Planning

SUBJECT: 8515 Pulaski Highway

INFORMATION

Item Number: 72

Petitioner: Alban Tractor Company, Inc.

Zoning: ML-IM

Requested Action: Variance

Summary of Recommendations:

The current total sign area appears to be approximately 205 square feet. The Office of Planning recommends replacing the second part of the existing sign that says "CAT" with the proposed sign. Even though this would, in fact, require a variance, the staff would not oppose this alternative because the applicant would not be enlarging the sign beyond its present size.

Consistent with all other variance requests along Pulaski Highway during the past year, this office has requested that street trees be planted adjacent to the highway. Providing additional landscaping would be in keeping with the Pulaski Highway Revitalization Plan and would also help to improve the visual appearance of this commercial corridor.

Section Chief: Jeffy M-

AFK/JL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: August 28, 1998

Department of Permits & Development

Management

Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT:

Zoning Advisory Committee Meeting

for August 31, 1998 Item Nos. 68, 69, 70, (72) 73, 74

and

Case No. 98-125-SPHXA

The Development Plans Review Division has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File



Partis N. Glendening
Governor

David L. Winstead
Secretary

Parker F. Williams

Administrator

Date:

8-21.91

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

RE: Baltimore County

Item No. 72

BR

Dear Ms. Stephens:

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.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

1.0

Ronald Burns, Chief

P. J. Soul L

Engineering Access Permits

Division

LG

						*]	BEFORE	ETHE		
RE: PET 8515 Pulas of c/l Gold		y, SE/S P	ulaski H			*	2	ZONINO	GOMM	IISSION	ER
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Legal Owr Contract P	-		_	apany, In	C.	*	j	BALTIM	ORE CO	OUNTY	
Pe	titioner(s)					*	(Case Nu	mber: 99	-72-A	
* *	*	*	*	ak:	*	*	*	*	*	*	:

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 of other proceedings in this matter and of the passage of any preliminary or final Order.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of August, 1998, a copy of the foregoing Entry of Appearance was mailed to Thomas N. Biddison, Jr., Esq., Gallagher, Evelius & Jones, 218 N. Charles Street, Baltimore, MD 21201, attorney for Petitioner(s).

Seterflag Zimmeinan PETER MAX ZIMMERMAN **RE:** Petition for Variance 8515 Pulaski Highway, SE/S Pulaski Highway, 705' SW of the c/l of Golden Ring Road 15th Election District 7th Councilmanic District

ON APPEAL TO:

BALTIMORE COUNTY

BOARD OF APPEALS

Case No.: 99-72-A *

Joseph F. Evering, Jr., Owner Alban Tractor Co. Inc., Lessee/Petitioner

ENTRY OF APPEARANCE

Please enter the appearance of Thomas N. Biddison, Jr., Latonya B. Dargan and Gallagher, Evelius & Jones, LLP, as attorneys for Alban Tractor Co. Inc., in this Notice should be sent of any hearing dates, scheduling orders or other proceedings in this matter.

Thomas N. Biddison, Jr

Latonya B. Dargan

GALLAGHER, EVELIUS & JONES, LLP

218 North Charles Street, Suite 400

Baltimore, MD 21201

(410)727-7702

Attorneys for Alban Tractor Co. Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December, a copy of the foregoing Entry of Appearance was served, via first-class mail, postage pre-paid, upon Peter M. Zimmerman, Esquire and Carole S. Demilio, Esquire, Office of Peoples' Counsel, Room 47, Old Courthouse, 400 Washington Ave., Towson, MD 21204, attorneys for Peoples' Counsel.





OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

PETER MAX ZIMMERMAN People's Counsel November 5, 1998

CAROLE S. DEMILIO
Deputy People's Counsel

Amold Jablon, Esq., Director Department of Permits and Development Management 111 W. Chesapeake Avenue Towson, MD 21204

Hand-delivered

Re: PETITION FOR VARIANCE

8515 Pulaski Highway, SE/S Pulaski Hwy,

705' SW of c/l Golden Ring Rd,

15th Election District, 7th Councilmanic

Legal Owner: Joseph F. Evering, Jr.,

Contract Purchaser: Alban Tractor Co., Inc.,

Petitioners
Case No.: 99-72-A

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Finding of Fact and Conclusions of Law dated October 15, 1998 of the Baltimore County Deputy Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/caf

PDM

cc: Thomas N. Biddison, Esq., Gallagher, Evelius & Jones, 218 N. Charles Street, Baltimore, MD 21201, Attorney for Petitioners

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: March 15, 2000

Permits & Development Management

FROM: Charlotte E. Radcliffe

County Board of Appeals

SUBJECT: Closed Files /Case Nos.:

98-468-SPHXA /Abraham P. Korotki

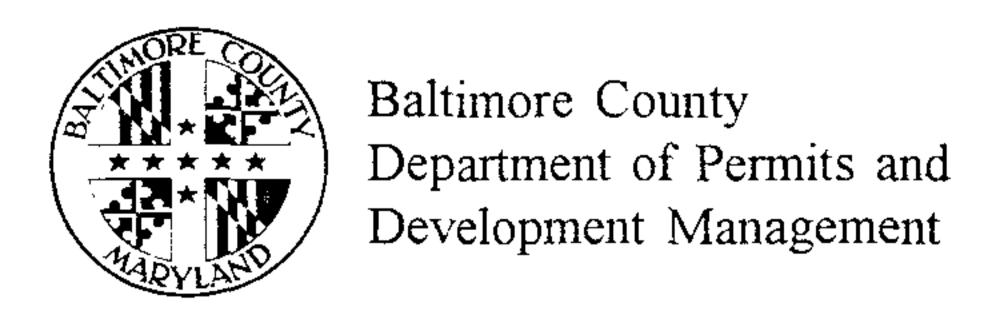
99-72-A /Joseph F. Evering, Jr. & Alban Tractor Co.

98-490-A /Patrick Lynch, et ux

98-445-SPHA /Blackhorse Run Jt. Venture

Since no appeals were taken from the Board's Orders in the above captioned cases, we are hereby closing the files and returning same to you herewith.

Attachment (Nos. 98-468-SPHXA; 99-72-A; 98-490-A & 98-445-SPHA)



Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us
410-887-3391

November 9, 1998

Thomas N. Biddison, Jr., Esquire Gallagher, Evelius & Jones 218 North Charles Street Baltimore, MD 21207

Dear Mr. Biddison:

RE: Petition for Variance, Case No.: 99-72-A, 8515 Pulaski Highway, District: 15c7, Joseph F. Evering, Jr. - Owner, Alban Tractor Co., Lessee-Petitioner

Please be advised that an appeal of the above referenced case was filed in this office on November 6, 1998 by Peter Max Zimmerman and Carole S. Demilio on behalf of People's Counsel. 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 the Board of Appeals at 410-887-3180.

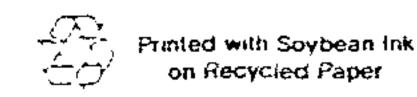
Sincerely,

Arnold Jablon-

Director

AJ:rye

c: People's Counsel



APPEAL

Petition for Variance
SE/S Pulaski Highway, 705' SW of the c/l of Golden Ring Road
(8515 Pulaski Highway)

15th Election District - 7th Councilmanic District
Joseph F. Evering, Jr. - Owner
Alban Tractor Co., Inc. - Lessee-Petitioner
Case Number: 99-72-A

Petition for Variance

Description of Property

Certificate of Posting

Certification of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Petitioners' Exhibits: 1 - Plat to Accompany Petition for Variance

Deputy Zoning Commissioner's Order dated October 15, 1998 (Granted)

Notice of Appeal received on November 6, 1998 from Peter Max Zimmerman and Carole S. Demilio on behalf of People's Counsel

c: Latonya B. Dargan, Esquire, Gallagher, Evelius & Jones, 218 N Charles Street, Suite 400, Baltimore, MD 21201
Mr. Joseph F. Evering, Jr., 800 Chester Road, Middle River, MD 21220
Mr. Michael Criswell, Alban Tractor Company, Inc., 8531 Pulaski Highway,

Baltimore, MD 21237

*People's Counsel of Baltimore County, MS #2010 Timothy Kotroco, Deputy Zoning Commissioner Arnold Jablon, Director of PDM



Case No. 99-72-A

VAR -To permit identification sign of 280 sf (140 sf per face) ilo maximum permitted 100 sf

10/15/98 -D.Z.C.'s Order in which Petition for Variance was GRANTED.

3/10/99 -Notice of Assignment for hearing scheduled for Wednesday, May 5, 1999 at 10:00 a.m. sent to following:

Peter Max Zimmerman /People's
Counsel for Baltimore County
Carole S. Demilio /Deputy
People's Counsel
Thomas N. Biddison, Jr., Esquire
Latonya B. Dargan, Esquire
Michael Criswell /Alban Tractor
Company, Inc.
Mr. Joseph F. Evering, Jr.
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

^{5/05/99 -}Deliberated at conclusion of testimony and evidence. Petition for Variance DENIED. (Stahl, Wescott, Felling) Written Opinion and Order to be issued; appellate period from date of order.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY MINUTES OF DELIBERATION

IN THE MATTER OF: Joseph F. Evering, Jr. -Owner; Alban Tractor

Co., Inc. -Lessee /Petitioner

Case No. 99-72-A

DATE: Wednesday, May 5, 1999

BOARD / PANEL : Lawrence M. Stahl (LMS)

Lawrence S. Wescott (LSW)

Donna M. Felling (DMF)

SECRETARY: Kathleen C. Bianco

Administrator

PURPOSE: To deliberate Case No. 99-72-A /Petition for Variance

(sign); hearing held before the Board this date.

The Board, having recessed at the conclusion of the testimony and evidence in this matter, reconvened for public deliberation; upon conclusion of same, the following decision was reached by the Board:

At issue is a variance request and the appropriate and relevant case law is Cromwell v. Ward; applicable law is Section 307.1 of the zoning regulations. The Board has been asked to vary the statute.

Two problems -- one is uniqueness; addressed before the second prong. Not addressed below by Deputy Zoning Commissioner - he did not address uniqueness -- this is a conscientious company with a good social and business conscience; they do the "right thing." But the law cannot be ignored. Statements in support are not the issue; must find something unique.

Addressed issue of contractual obligation being "uniqueness" -- but case law and the statute refer to property and structure; the sign is not unique; contractual obligations do not constitute uniqueness. North also cites uniqueness. Motion could have been granted at end of Petitioner's case, it was deemed better to hear it to the end.

Nothing unique about the property; nothing unique about the structure. Even going beyond uniqueness, they are already in business; must go to Caterpillar and advise that they cannot do this; design something to comply with Baltimore County regulations. The business is continuing without the sign; will rent machines with or without the sign.

County indicated in Planning Office letter of September 1998 that they would go along with the sign; but only meant you could change what was on the sign, not change the sign. The second sign could

Joseph F. Evering, Jr. -Owner; Alban Tractor Co., Inc. -Lessee /Petitioner Case No. 99-72-A /Deliberation

be taken down and modifications made. It still comes down in less than 15 years.

It's hard to find uniqueness. Even discussing practical difficulty, will strict compliance prevent use of the property? It does not. Property exists with a business today.

Petitioner was misled; uniqueness ignored. Understand Planning Board position and that of the Deputy Zoning Commissioner; but this hearing is de novo; from the evidence presented, Petitioner does not meet case law or statute; uses language "strictly viewed."

Alban is a good public citizen, but the Board cannot change the law.

Board's final decision is that:

Stahl: Denied Wescott: Denied Felling: Denied

Petition for Variance is therefore 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.

NOTE: This document confirms for the file that public deliberation was held this date in the subject matter and a final decision rendered in which the requested variance relief was denied.

Respectfully submitted,

Kathleen C. Bianco

Administrator

RICHARD O. BERNDT THOMAS N. BIDDISON, JR. ROBERT R. KERN, JR. SAUL E. GILSTEIN THOMAS B LEWIS BONNIE A. TRAVIESO STEPHEN A. GOLDBERG LINDA H. JONES JACK C. TRANTER LESLIE B SPEED* CHRISTOPHER J. FRITZ. DAVID E. RADERMAN PETER E. KEITH NITA L SCHULTZ MICHAEL W. SKOJEC KATHRYN KELLEY HOSKINS MARK P. KEENER KEVIN J. DAVIDSON EILEEN M. LUNGA LORI A. NICOLLE KENNETH S. GROSS THOMAS C. DAME VALARIE K. OULDS MARGARET STEVENS JACKS MATTHEW W. OAKEY REBECCA A. WEAVER

MICHAEL J. HENIGAN

LATONYA B. DARGAN

PATRICK T. WELSH, II

DAVID W. KINKOPF

PAUL S. CAIOLA

LAW OFFICES

GALLAGHER, EVELIUS & JONES, LLP

PARK CHARLES SUITE 400

218 NORTH CHARLES STREET BALTIMORE, MD 21201

TELECOPIER (410) 727-7702
TELECOPIER (410) 837-3079
TELECOPIER (410) 837-3085

*ADMITTED IN COLORADO ONLY

WRITER'S DIRECT DIAL: 410-347-1365 LITIGATION FACSIMILE: 410-837-0454

December 8, 1998

Kathleen Bianco
Board of Appeals
Room 49 – Old Courthouse
400 Washington Avenue
Towson, MD 21204

Re:

PETITION FOR VARIANCE

8515 Pulaski Highway, SE/S Pulaski Highway,

705' SW of c/l Golden Ring Rd,

15 Election District, 7th Councilmanic Legal Owner: Joseph F. Evering, Jr.

Contract Purchaser: Alban Tractor Co., Inc., Petitioner

Case No.: 99-72-A

Dear Ms. Bianco:

Enclosed please find the Entry of Appearance of this office in the appeal filed by the People's Counsel for Baltimore County to the County Board of Appeals.

Please forward copies of all hearing notices, documents or other papers related to this matter to my attention.

Very truly yours,

Latonya B. Dargan

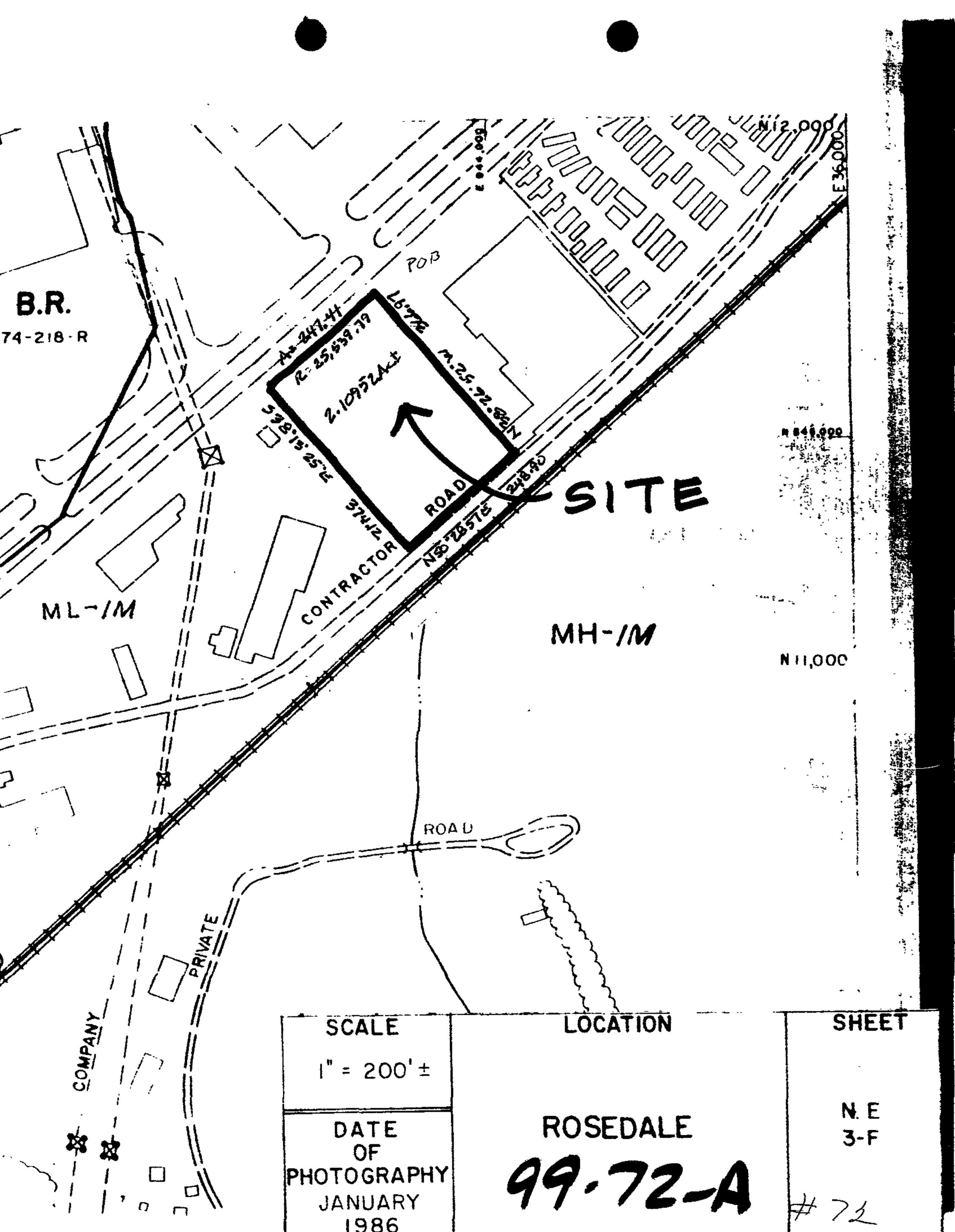
cc:

Carole S. Demilio, Esquire

Mr. Michael Criswell (w/encl.)

86980 LBD 003190-0000 98 DEC -9 PI112: 0%

٠...





Baltimore County Department of Permits and Development Management

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

September 17, 1998

Peter #1

Mr. Michael Criswell The Alban Tractor Company 8531 Pulaski Highway Baltimore, MD 21237

Thomas N. Biddison, Esq. 218 N. Charles Street Baltimore, MD 21201

RE: Item No.: 72

Case No.: 99-72-A

Location: 8515 Pulaski Highway

(Sign Location)

Dear Sirs:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on August 11, 1998.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure 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. All comments 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.

Very truly yours,

W. Carl Richards, Jr.

Zoning Supervisor

Zoning Review

BALTIMORE

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

DATE:

TO:

MCP

FROM:

R. Bruce Seeley Rossent Review

SUBJECT:

Zoning Advisory Committee
Meeting Date: New 24/

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

Itam #'s:

RES:sp

BRUCEZ/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: September 15, 1998

TO: Arnold Jablon, Director

and Development Management

FROM: Arnold F. 'Pat' Keller, III, Director

Office of Planning

SUBJECT: 8515 Pulaski Highway

INFORMATION

Item Number: 72

Petitioner: Alban Tractor Company, Inc.

Zoning: ML-IM

Requested Action: Variance

Summary of Recommendations:

The current total sign area appears to be approximately 205 square feet. The Office of Planning recommends replacing the second part of the existing sign that says "CAT" with the proposed sign. Even though this would, in fact, require a variance, the staff would not oppose this alternative because the applicant would not be enlarging the sign beyond its present size.

Consistent with all other variance requests along Pulaski Highway during the past year, this office has requested that street trees be planted adjacent to the highway. Providing additional landscaping would be in keeping with the Pulaski Highway Revitalization Plan and would also help to improve the visual appearance of this commercial corridor.

Section Chief: Jeffy M-

AFK/JL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: August 28, 1998

Department of Permits & Development

Management

Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT:

Zoning Advisory Committee Meeting

for August 31, 1998 Item Nos. 68, 69, 70, (72) 73, 74

and

Case No. 98-125-SPHXA

The Development Plans Review Division has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File



Parris N. Glendening
Governor

David L. Winstead
Secretary

Parker F. Williams
Administrator

Date:

8.21.91

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

RE: Baltimore County

Item No. 7 2

BR

Dear Ms. Stephens:

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.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

10

P. J. Soul L.
Ronald Burns, Chief

Engineering Access Permits

Division

LG

;



Petertenier's Ephillit # 4B



Petitioners Skhiliet #4A



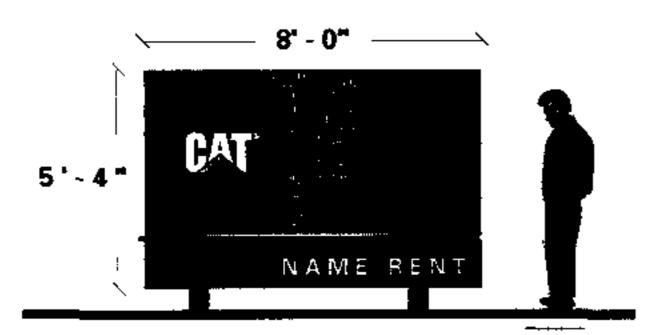
Peteteiner's Oshiliet #40



Peteteiner's Exhibit 4D

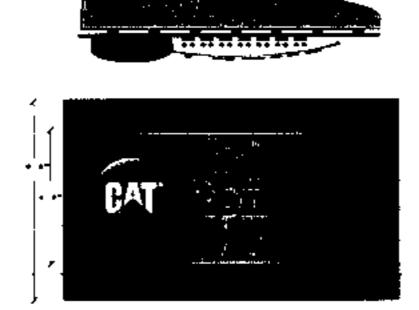
Exterior Signage Guide





Monument Sign 2 (Item 108)
Similar in size to the top of the Column sign (see above). Use of this sign is for municipalities that require that signs be of a particular height. Internally illuminated and personalized CAT logo is radiused and illuminated, rental logo has push trough 1" thick acrylic lettering

Sign face 52 ft sq.



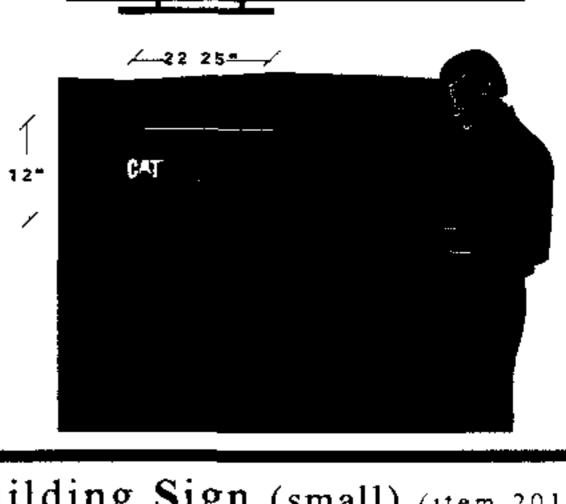
Building Sign (item 110)

Always used over an entrance to identify your rental office. The building sign is internally illuminated with 1" push through acrylic lettering and radiused CAT logo.

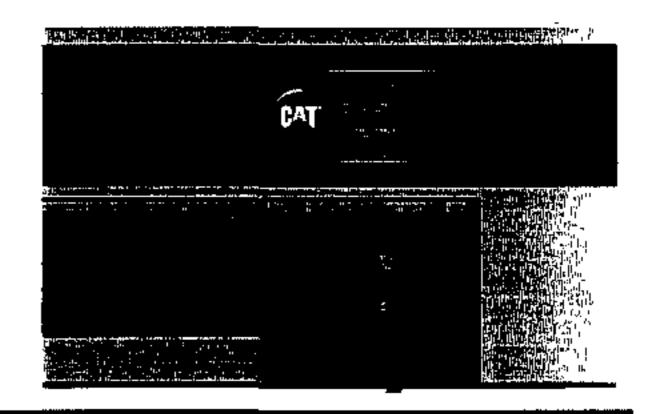
Always mounted on a red metal background; it gives any entrance the retail attention it deserves and identifies that you know your business.

Sign face: 52 ft. sq.

Features: Long life lamps, fluorocarbon paint system, welded construction around high stress framing.



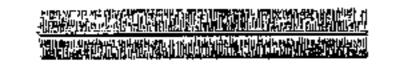
Building Sign (small) (item 201)
This non-lit flat sign is used as a door marker for sites that do not need an illuminated sign and whose primary sign is either the pole, or column sign.

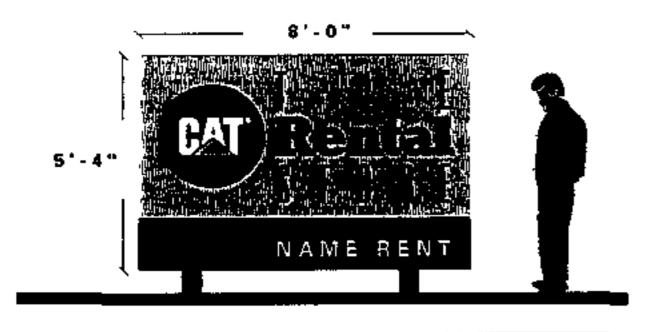


For buildings that are are 1 level this red metal band marks your main entrance. Seen clearly from a distance (curb/road) this is an excellent way to convey that rental red identifier Made of long lasting Aluminum Composite Material and made to mount to any

The band is 6 feet wide at any point and usually will have a sign mounted to it as shown Horizontal band is used to mark a complete wall or wrap a building corner.

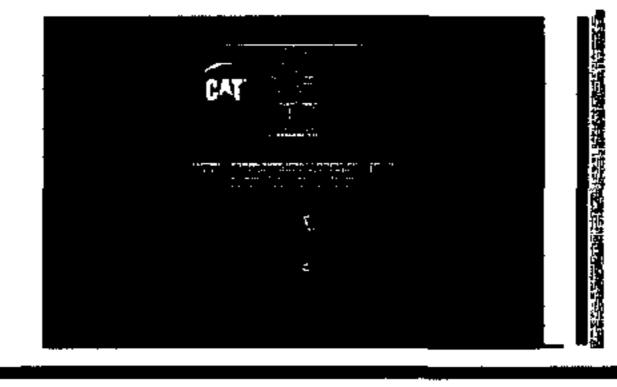
surface.





Monument 2 Flat (Item 109)
Simple signbox construction with HO lamps and flexible face material. Used in remote locations or lot locations where this is the primary signage.

Used in locations that have sign height restrictions



Entrance (marquee) (item 111)

For buildings that are at least 2 levels or warehouse style this red metal band marks your main entrance. Seen clearly from a distance (curb/road) this is an excellent way to convey that rental red identifier. Made of long lasting Aluminum Composite Material and made to mount to any surface.

The band is 6 feet wide at any point and usually will have a sign mounted to it as shown



A small detail to complete the entrance decor is the Rental Red Decal material.

Mounted to the window mullion this color sta-

Mounted to the window mullion this color stable material will create a unique look around your windows

Who Is Modagrafics?

Today's consumers are constantly on the run and value-driven when it comes to where they shop. However, consumers still make their buying decisions based on emotion and the look of your stores plays on consumers' emotions. Therefore, it is important to maintain a fresh, up-to-date look in order to stay competitive and grow. This has been evidenced by the myriad of retail chains that have recently undertaken re-imaging programs.

Modagrafics, founded in 1973, is a privately-held corporation that specializes in the design, engineering, manufacture and installation of high-performance retail graphics and signage. While we serve a wide array of retail chains, we are particularly experienced working in the specialty store arena.

An innovative leader in retail graphics systems, Modagrafics offers its customers custom-tailored, comprehensive, cost-effective visual marketing programs. Our client list includes companies like: McDonalds, General Mills, Lands End, Serta, and Caterpillar.

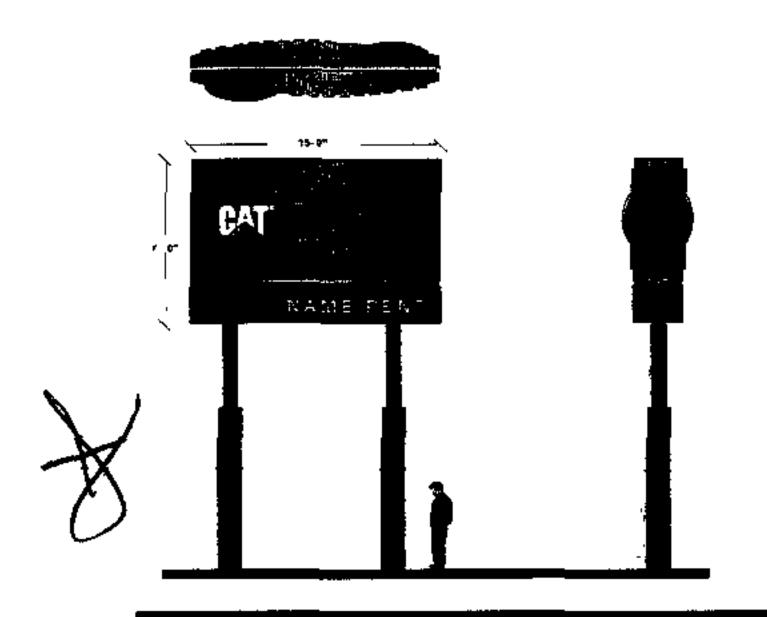
With corporate offices located just outside of Chicago, Modagrafics is a national firm with over \$20 million in revenues, state-of-the-art resources and a team of 200 people experienced at serving retail chains.

Modagrafics®

Speak to: Jill Carlson, Caterpillar Account Representitve 847-392-3980

Modagrafics 5300 Newbort Dr. Reving Meadows, IL 60008

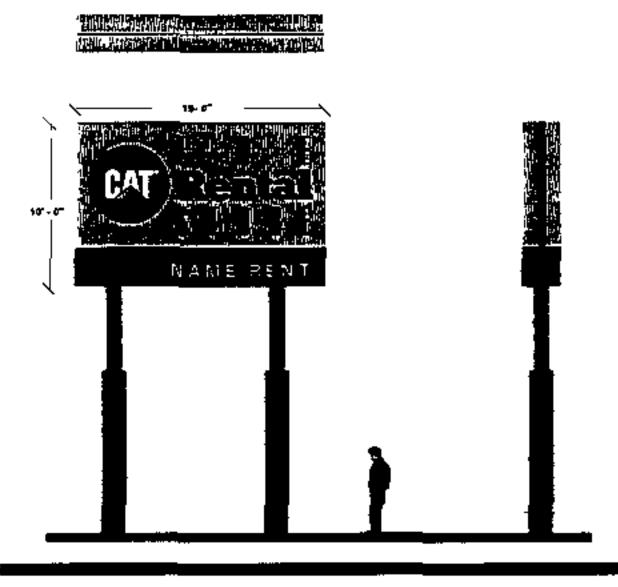
Exterior Signage Guide



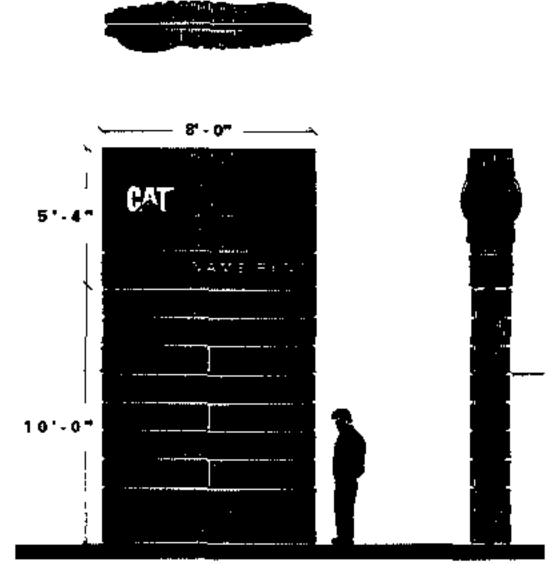
Pole Sign (item 100) he pole sign is internally illuminated with push trough 1" thick acrylic lettering The CAT logo is radiused and is illuminated. The sign has a halo glow effect for night visibility around the logo. Each sign is personalized with the dealer name. Sign construction is of Aluminum Composite Material bent to shape and mounted on 15' poles.

Sign face 150 ft. sq.

Features. Long life lamps, fluorocarbon paint system, welded construction around high stress framing.



Pole Sign Flat (item 101) mple signbox construction with H0 lamps. and flexible face material. Used in remote locations or lot locations where this is the primary signage

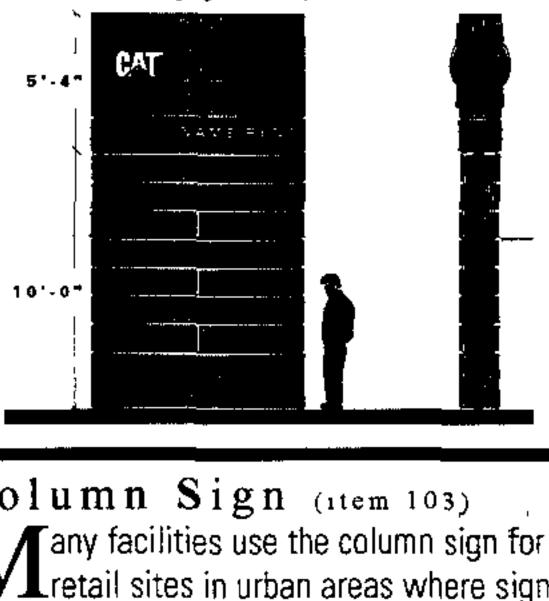


Column Sign (item 103) Tany facilities use the column sign for retail sites in urban areas where sign laws are tighter. The column sign features Aluminum Composite panels welded to a highstress framing system. The sign and column are radiused and articulated with channels for a designer look CAT logo is radiused and illuminated; rental logo has push trough 1" thick acrylic lettering. Sign is personalized for each dealer location

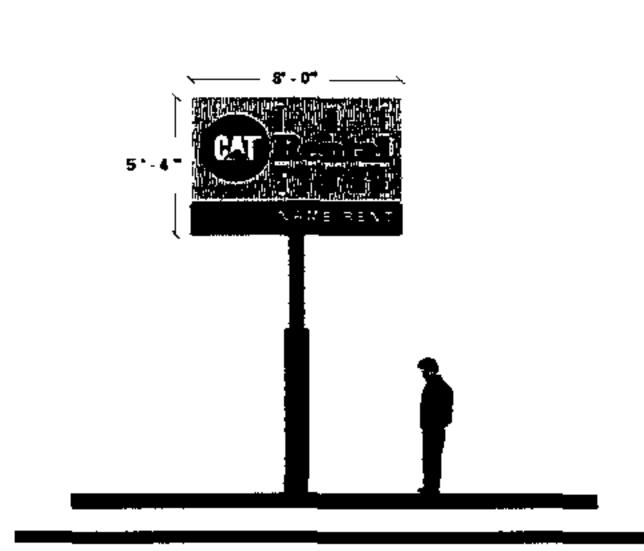
Sign face: 52 ft sq.

Optional allied product decals can be used where sign laws allow.

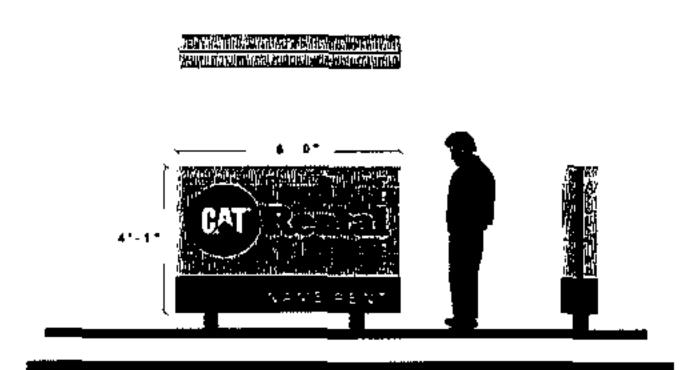
Features: Long life lamps, fluorocarbon paint system, welded construction around highstress framing.



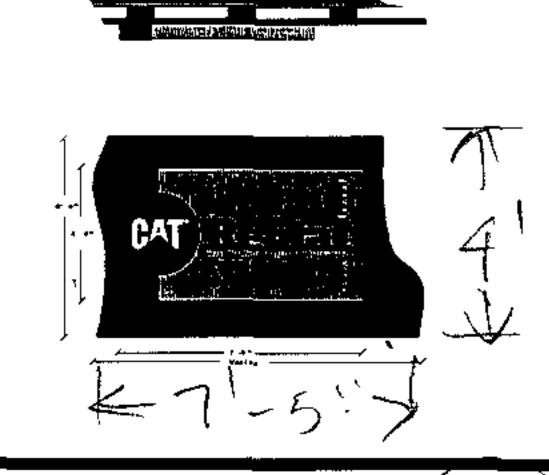
Monument Sign 1 (1tem 104) Tsed in locations with strict requirements or dealer locations that both rent and sell CAT equipment CAT logo is radiused and illuminated as is the Rental logo with push trough 1" thick acrylic lettering. Sign is personalized for each dealer location. Sign face 24 ft. sq.



Column Sign Flat (1tem 105) Simple signbox construction with HO lamps and flexible face material. Used in remote locations or lot locations where this is the primary signage. Smaller in size and mounted on one pole



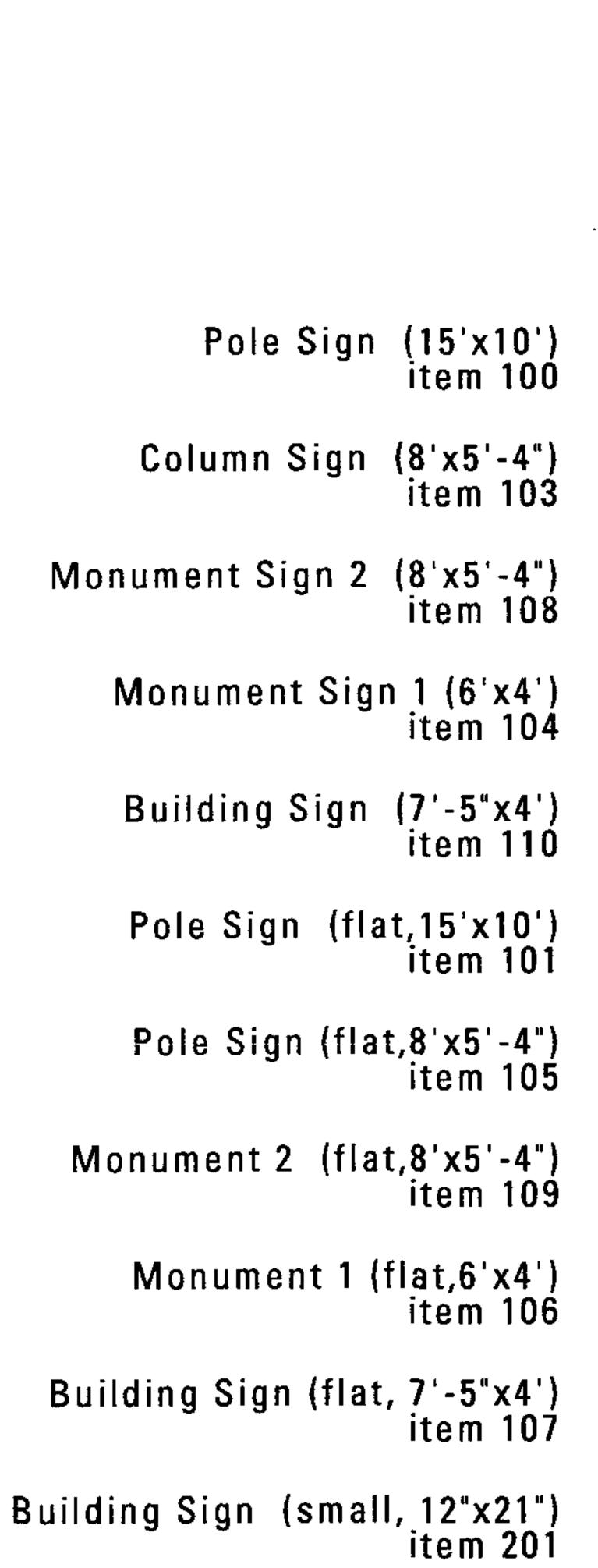
Monument 1 Flat (11cm 106) imple signbox construction with H0 lamps and flexible face material. Used in remote locations or lot locations where this is the primary signage. Used in restrictive municipalities with tight sign laws.

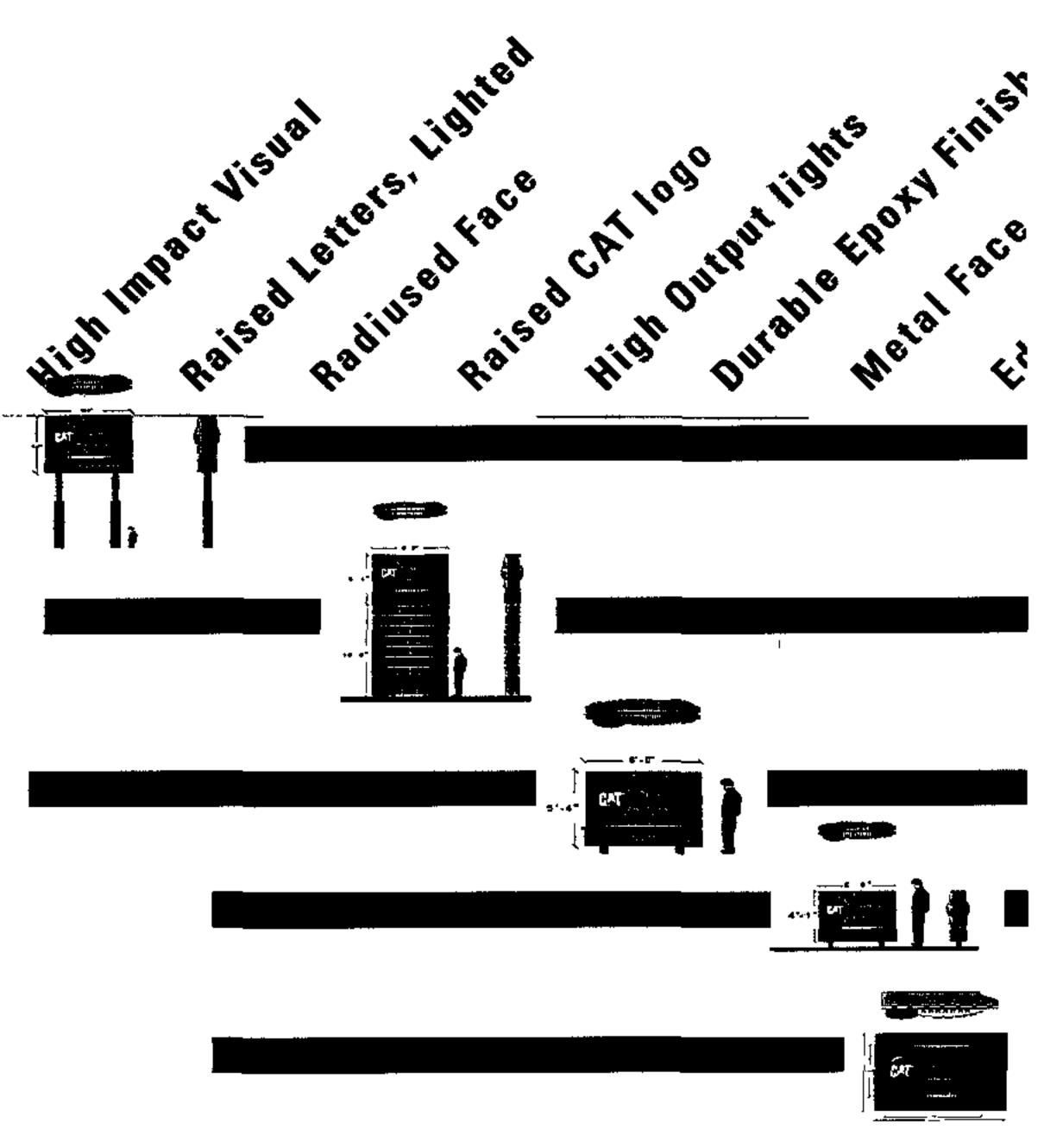


Building Sign 2 (11 km-107) Flat sign construction with polycarbonate screen printed face. High output lamps and square signbox construction complete this low impact visual.

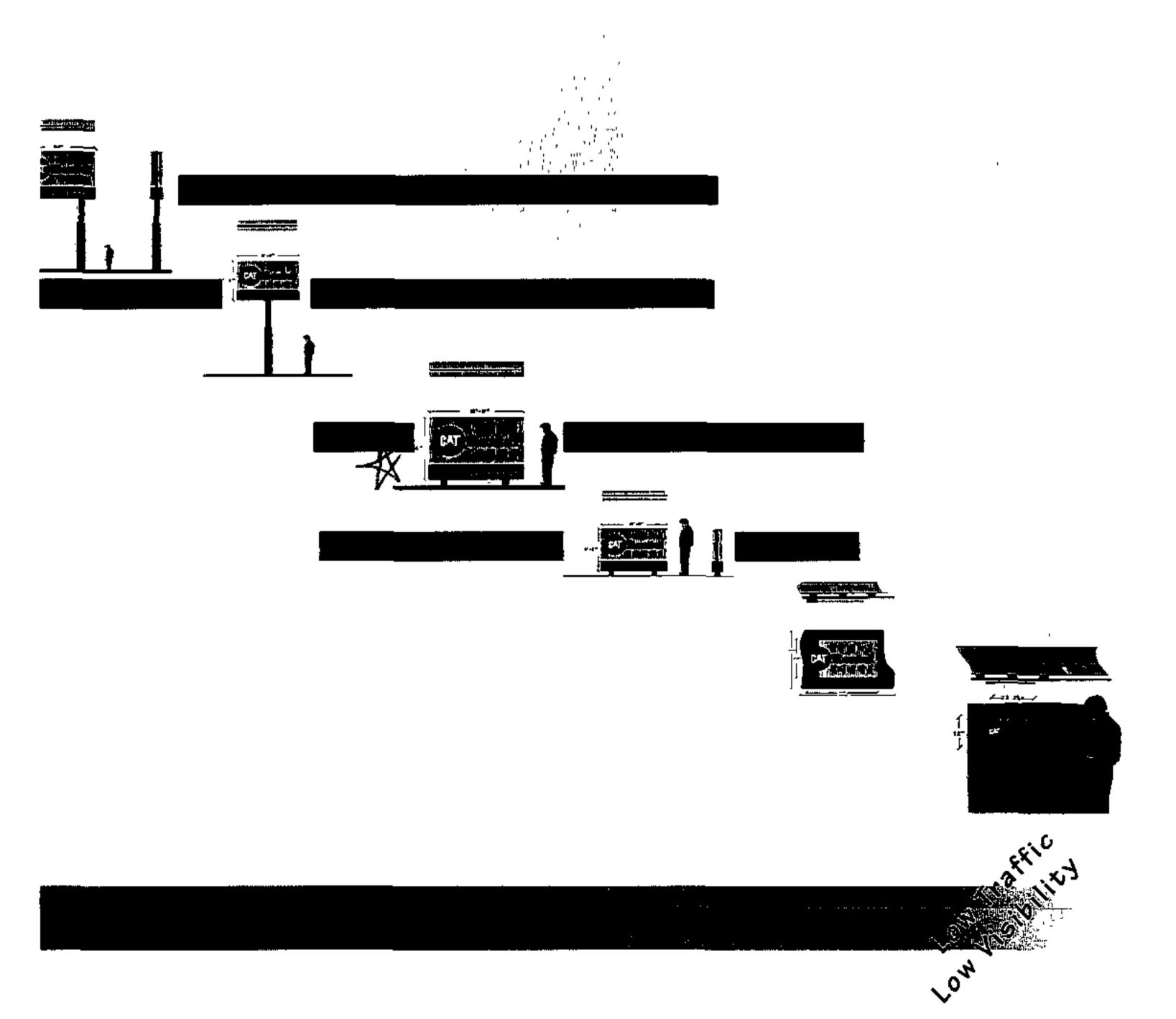
Feature Matrix

Use this matrix to decide what sign items up your particular location. Use the markers at tom to find out what elements fit your business area and geographical location. Level 1 imple tation should be used for dedicated Rental sites. Level 2 implementation should be used for rural or dealer primary sites.





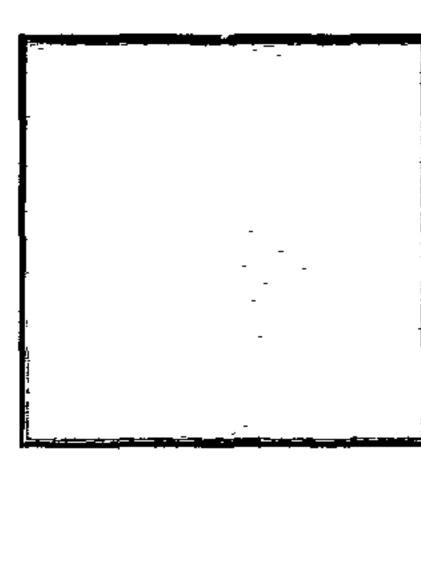
ole Maint Indact visual Exterior Lighting Face, Flat Lettering, Vinyl Small sign face



ALBAN

ALBAN RENTS (FM) Rental 410-123-4567

TYPICAL ILLIM, SIGN

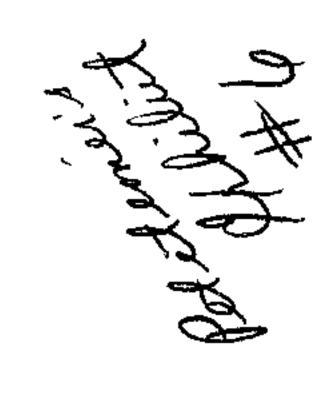


TRANSLUCEN SINFLOWER

TRANSLUCENT CARDINAL RED



MATTE BLACK



CLAUD 1808 (1808 (BALT

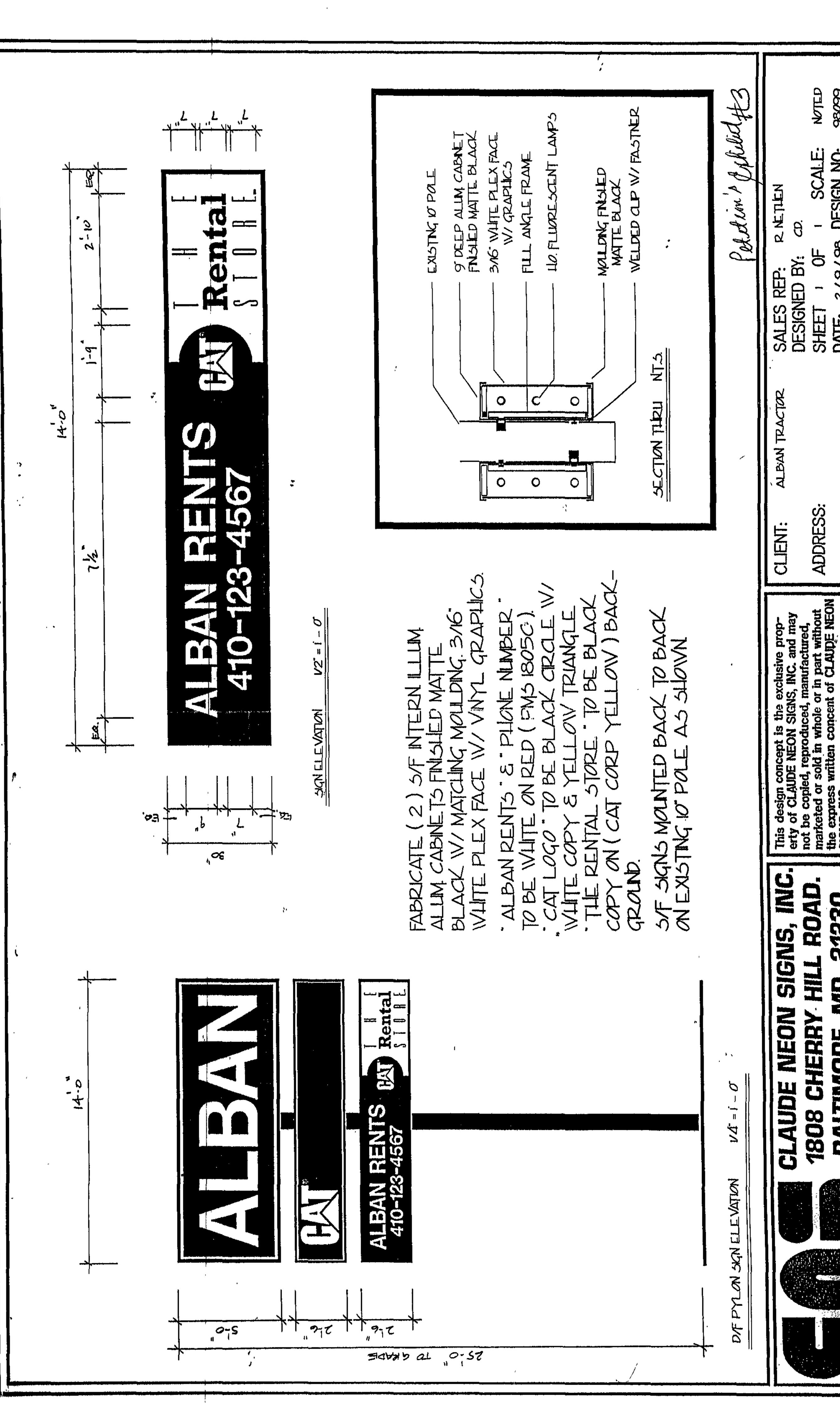
CLAUDE NEON SIGNS, INC.
1808 CHERRY HILL ROAD.
BALTIMORE, MD. 21230

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CLIENT: ALBAN ADDRESS:

SALES REP. R. NETTLEN
DESIGNED BY: CD.

SHEET OF SCALE: NOT DATE: 2/11/98 DESIGN NO: NA



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DESIGN NO:

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DATE:

the express significant signif

21230

MD.

LTIMORE,

