1/24/03

IN THE MATTER OF THE APPLICATION OF FAS, LLC –LEGAL OWNER; WYLIE FUNERAL HOME PA – LESSEE/PETITIONERS FOR SPECIAL EXCEPTION AND VARIANCE ON PROPERTY LOCATED ON THE NE/S LIBERTY ROAD, 532.95' +/- S OF C/L OF CHAPMAN RD (9142 & 9204 LIBERTY ROAD) 2ND ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	* * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 02-174-XA

* * * * * * * * *

OPINION

This matter comes before the Board of Appeals on an appeal from a decision of the Deputy Zoning Commissioner on a Petition for Special Exception and Petition for Variance filed by the owners of the subject property, FAS, LLC, a Maryland limited liability company, by and through Albert P. Wylie, its managing member. The special exception involved property located at 9142 and 9204 Liberty Road, located in the Randallstown area of Baltimore County. The Petitioners request a special exception for a funeral home and associated parking and accessory features on property zoned R.O. and D.R. 5.5. In addition, the variance relief is being requested to permit the illumination of an enterprise sign for the proposed use and approval for an ornamental accessory water fountain in the front yard, as shown on the site plan submitted into evidence.

The special exception was granted by the Deputy Zoning Commissioner with certain conditions. In addition, the variances for the fountain and illuminated sign were also approved.

Timely appeals were filed by Appellants /Protestants, Arna Y. Klohr, Ruth A. Meerdter, Christopher C. Woodin, and Brice Run Neighborhood Association, as well as by the Office of People's Counsel. The hearing was held before this Board on July 10 and October 22, 2002. Howard L. Alderman, Jr., Esquire, represented FAS, LLC, Legal Owner; Wylie Funeral Home, PA, the contract purchaser and Petitioner. Peter Max Zimmerman represented the Office of

People's Counsel, and the other Appellants /Protestants appeared *pro se*. The Board held a public deliberation on January 8, 2003.

Background

The property in question consists of 3.634 acres, more or less, split-zoned R.O. and D.R. 5.5. At the present time, the property is unimproved; however, at one time two residential homes existed on the property. The subject property is located on the northeast side of Liberty Road, south of its intersection with Chapman Road. It is rectangular-shaped and is proposed to be developed with a funeral home and associated parking.

Originally, Mr. Wylie proposed to have two means of access onto the property; however, after review by the State Highway Administration, modifications were made to the originally submitted site plan. A new site plan was prepared and accepted into evidence, and it shows that the subject funeral home will be serviced by one point of access, and a 15-foot highway widening will occur along the frontage of the property to provide a turn lane into the site. The north side of Liberty Road, on which the property is located, is substantially residential with several homes which have been converted to offices. The south side of Liberty Road, opposite the subject property, contains commercial operation of an individual storage facility and a lumber operation, as well as several other commercial enterprises.

East of the property, there is a traffic signal at the intersection of Offutt Road and Liberty Road. Liberty Road descends in a trough-like manner to the subject property, and then ascends to a hill at Chapman Road, which is west of the property and is an unsignalized intersection.

Testimony at the Hearing

Frederick Chadsey IV, vice president of G.W. Stephens and an accepted expert in civil engineering, testified on behalf of the Petitioners. He stated that the State Highway Administration would only allow one entry /exit as an access to Liberty Road. He indicated that

the funeral home would be 8,300 square feet with 99 parking spaces (only 90 spaces would be required). The building would meet all setbacks and additional landscaping would be provided on each side of the property. A small area for storm water management which would drain into the sewer on Liberty Road would be provided. The Petitioners were requesting a lighted sign to identify the property and a small landscaping fountain in the front. The parking lot would be lit and there would be lights on the building for security purposes. The owners of the funeral home had agreed to limitations on hours set by the Deputy Zoning Commissioner in his decision. The drains under the parking lot and the building would provide for the storm water management facility.

Mr. Chadsey indicated that there was a small area of wetlands on the site and that the Petitioner had applied for a license from the Department of the Environment ("MDE"). There would be a three-bay garage in the building for company vehicles, and no variance relief was requested for the building or the parking lot. In addition, Mr. Chadsey indicated that a gate would be constructed across the entryway to limit access to the property. A split-rail fence would also be constructed around the property to limit access, and landscaping and lighting would be done without affecting the property.

Mr. Chadsey felt that the requested relief was the minimum that could be used and that the proposed funeral home would not affect the public health, safety and welfare of the community. He stated that Liberty Road was predominantly commercial as you proceeded west from the Beltway and that another funeral home was established within 1/10 of a mile east of the property in question. Across from the property there was a storage facility and other commercial stores interspersed with homes on Liberty Road in the area. He did not feel that the funeral home would be detrimental to the general welfare of the community, nor would it overcrowd the land since the floor area was well below the ratio permitted. The public facilities in the area

were adequate and the home would have no effect on schools, etc. It would have no effect on light and air, and would not affect the impermeable surface area. It was also his position that the funeral home in this area would not affect the property and neighborhood any more than in any other area in the district. The proposed sign would be 15 square feet on each side with a 30-foot base. This was well within the limits of 25 square feet established by the County. The height limit is 6 feet, and the proposed sign is 6 feet high.

Mr. Albert Wylie testified that he is the managing member of FAS, LLC and President of Wylie Funeral Home. He is a licensed mortician with the State of Maryland.

Mr. Wylie has operated a funeral home at its present location at 38 N. Gilmor Street for the past 13 years. He intends to continue that operation, but the demand for services in the Liberty Road area from many families which he has serviced in the past has increased, and he is proposing to build the home on the subject site in order to service the families who have moved into the Liberty Road area. He anticipates employing four employees at the new home and conducting approximately three funerals a week. Mr. Wylie felt that most funerals are generally conducted from a church, but that there may be funeral services conducted at the funeral home. Mr. Wylie anticipated that approximately one funeral per week would be conducted with services at the home. It was Mr. Wylie's estimate that the normal funeral procession included approximately 10 to 15 cars. Where a well-known individual was being buried, and the number of cars was anticipated to be anywhere between 50 to 100, Mr. Wylie generally contacted the Police Department to provide traffic control at the funeral home when the procession was leaving the premises. In all other situations, M Wylie has individual employees with stop signs step into the street and stop traffic so that the funeral procession may proceed out of the property onto the street. This is the standard procedure in the industry, and Mr. Wylie presented photographs of similar stopping procedures as provided by other funeral homes, such as Lemmon Funeral Home

on Padonia Road, Hubbard Funeral Home on Wilkens Avenue, and Sol Levinson Funeral Home on Reisterstown Road. Mr. Wylie anticipated that at the subject site he would station employees with stop signs at the crest of the hill near Offutt Road to the east and at the crest of the hill near Chapman Road on the west. Mr. Wylie indicated that the normal time for a funeral procession is approximately 11:00 a.m. to 1:00 p.m. and viewing is held in the evenings from 4:00 p.m. to 8:00 p.m.

Sean Mackey, the architect for the project, indicated that the building would have a chapel area that could seat approximately 200 people. It had viewing rooms that would accommodate 30 to 60 people. The height of the roof was 35 feet, and the gross area of the home was 11,374 square feet. Lighting on the porte cochere would be inserted lighting and the lighting in the parking lot would be on low poles. The home is not higher than any other homes in the area, and he did not feel that there would be any problem with the lighting as it affects the neighborhood.

Henry Leskinen, an environmental science expert from Eco-Science Professionals, Inc., testified with respect to the wetlands located on the property. He indicated there were two wetland areas on the property, one adjacent to Liberty Road and another located further northward interior to the property. The interior wetlands appeared to be disconnected from any other wetland area or stream and existed because of prior grading and where old foundation areas were located. The area has already been disturbed and a visual inspection revealed that the area was mowed regularly.

The wetland area which exists adjacent to the paved area of Liberty Road is lower than the paved area of the road itself. It is located below a storm drainpipe under Liberty Road which, during storm events, conveys storm water from the subject property. Mr. Leskinen indicated that his investigation revealed that ordinarily a level of water in this wetland did not rise high

enough to get into the storm pipe and was generally disconnected from any downstream source. Mr. Leskinen indicated he felt there were no rare or endangered animal species or vegetation present in either of the wetland areas. Mr. Leskinen stated that a public hearing was to be held shortly before the Maryland Department of the Environment in connection with the joint Federal /State application filed by the owners for the issuance of a non-tidal wetlands or waterways permit and water qualify certification. Subsequent to the hearing in this matter, the Board received a letter from the MDE indicating that a public informational hearing was held on the project and that the Department's hearing officer would "make the authorization decision upon receipt of all project information." The Department was waiting only for the submission of final plans from the applicant before making a decision.

The president of The Traffic Group, Inc., Mr. John Guckert, testified as a recognized traffic engineer expert. In Mr. Guckert's opinion, the traffic generation associated with a funeral home was low to very low, occurring in off-peak hours. In his opinion, the typical funeral procession consisted of 10 to 15 cars in length and took approximately 30 to 45 seconds to exit a particular property. It was his opinion that approximately 2/3 of all funeral processions originated from a church or religious sanctuary as opposed to the funeral home, and then proceeded to the cemetery.

Mr. Guckert described the area in which the property is located and indicated he was familiar with the property. He testified that the Chapman and Offutt Roads intersections, Offutt Road being a signalized intersection, operated at more than acceptable levels of service. Liberty Road, in the area of the subject property, was described as a four-lane State roadway with a posted speed limit of 40 m.p.h. It was Mr. Guckert's opinion, after reviewing the State Highway Administration impact analysis, that the proposed funeral home, at the subject property, could

comply with all State Highway Administration access permit requirements, including the construction of the auxiliary lane.

Mr. Guckert also prepared a site distance study which analyzed the existing road conditions, widths, grades, speed limits, and the propriety of using flaggers at the crest of the vertical rises in each direction on Liberty Road. This study was submitted into evidence and indicated that the existing sight distances from the subject property were 605 feet in a westerly direction and 705 feet in an easterly direction, measured from the exiting driver's eye to that of the eye of the driver on Liberty Road. Mr. Guckert indicated that these distances far exceeded the standards of the American Association of State Highway and Transportation Officials, depicted in the top right-hand corner of the exhibit. Mr. Guckert felt that these sight distances were even greater than those required for a roadway with a posted speed limit of 50 m.p.h. Mr. Guckert testified that, to his knowledge, the use of flaggers is a long-standing custom in Baltimore County.

Protestants' Testimony and Evidence

Three residents whose property bordered on the subject property, Carl Leduff, 21 Chapmanview Court; Ruth Meerdter, 9206 Liberty Road; and Jack Wennerstrom, 9207 Samoset Road, testified with respect to their observations. They observed serious runoff problems based on topography, the presence of streams, and their personal observations. They saw the development and paving of the funeral home parking lot as an aggravating factor. They did not view storm water management as a satisfactory solution to the problems of runoff. In addition, they felt that the size of the development, the building and large parking lot, were incompatible with the surrounding areas.

However, the major contention of the Protestants, and People's Counsel, were the traffic hazards associated with the establishment of a funeral home on the subject site. In support of his

position, People's Counsel presented Mr. Stephen Weber, Chief of the Division of Traffic Engineering in the Department of Public Works of Baltimore County. Mr. Weber was not accepted by the Board as an expert in traffic engineering but gave his opinion as the Chief of the Department of Traffic Engineering for the County. Mr. Weber testified that he went to the subject site and did a field evaluation. It was his opinion that, once a hearse had entered the roadway and traffic was stopped and a queue was begun, the last car could not be seen by approaching traffic at the intersection of Chapman Road and Liberty Road. It would be necessary to have a flagger at the top of Chapman Road. He sampled the midday Liberty Road traffic and estimated the average length of a stopped queue would likely back up behind a funeral procession. He assumed a two-minute length of time for assembly of the procession and assumed an assigned speed of 50 m.p.h. for motorists on Liberty Road, based on the experience that drivers frequently go 10 miles over the speed limit. As a result, he found the available sight distance to be 330 feet from the crest of the hill, 95 feet short of the required sight line. Unless approaching drivers were warned of the funeral procession, they would likely not be able to avoid striking the queue. Mr. Weber did not know of any other funeral homes that were in a trough in the road like the subject property. He discussed the funeral home on Reisterstown Road, Sol Levinson; the one on Wilkens Avenue, Hubbard; and the one on Padonia Road, Lemmon. He found these were all dissimilar in setting and topography to the subject situation. Weber felt that the use of flagmen in those situations was close to the point of departure of the funeral procession and did not present the same problem as would be presented by flaggers being 600 feet away from the funeral as might be required in the subject situation. Mr. Weber agreed that if the traffic north and southbound would stop at the top of the hill a funeral could enter the Liberty Road.

Other residents from the area testified with respect to the traffic problems. Mr. Kenneth Stetsons presented a list of accidents that had occurred on Liberty Road in the area of the subject property. Chris Woodin testified that the neighborhood in the area of the subject property is mixed. He lives next to the subject property and has a very difficult time getting out of his driveway on many occasions. He testified that was difficult to see traffic about 70 feet from Chapman Road. He indicated that there were a number of accidents that occurred in the area of the subject property. Mrs. Arna Klohr also testified with respect to the traffic situation and as to the design of the funeral home. It was her opinion that the funeral home was not designed to fit in with the houses on the neighboring properties.

Jeanne Turnoch, a resident in the area who is a real estate salesperson, indicated that there were many commercial buildings in the area that were vacant and that could be utilized for a funeral business. She was concerned that, if the funeral home was unable to generate enough business, it would have to close down. In that event, there would be another commercial piece of property that would be standing vacant in the area.

Decision

In considering a special exception, the Board is bound by BCZR § 502, specifically §§ 502.1 and 502.2 which read:

> 502.1--Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:
>
> A. Be detrimental to the health, safety, or general welfare of the locality involved;
>
> B. Tend to create congestion in roads, streets or alleys therein;
>
> C. Create a potential hazard from fire, panic or other dangers;
>
> D. Tend to overcrowd land and cause undue concentration of population;

E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;

F. Interfere with adequate light and air; **[Bill No. 45-1982]**

G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; **[Bill No. 45-1982]**

H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor **[Bill No. 45-1982]**

I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C. 2, R.C. 4, R.C. 5 or R.C. 7 Zone. **[Bill No. 74-2000]**

502.2 -- In granting any special exception, the zoning commissioner or the board of zoning appeals, upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties....

In reviewing the requirements of § 502.1, the principal concern of People's Counsel and the Protestants appears to be the traffic problems raised by funeral processions leaving the property and entering Liberty Road, either going west or east. Going west, the procession would turn right onto Liberty Road and proceed up a hill. Going east, the funeral procession would have to cross three lanes of Liberty Road in order to get to the furthest eastbound lane and form a queue before proceeding to its destination. The Zoning Commissioner established as one of his conditions the requirement that the Petitioner be required to "post an employee at the crest of the hill located to the west of the subject property and a second employee at the crest of the hill located to the east of the entrance of the subject property whose job shall be to advise or warn approaching motorists that a funeral procession is exiting the property. Said employees shall utilize appropriate signage which shall be held in a position so as to be easily seen by approaching vehicles. These employees shall remain in their respective positions until such time as all of the cars associated with the funeral procession have existed the site." Petitioners are agreeable to this requirement.

The Protestants have introduced into evidence records of accidents in the area and testimony as to the difficulty they have in exiting their properties onto Liberty Road. There is some disagreement between the expert presented by the Petitioners, Wes Guckert, and Stephen Weber, Chief of the Division of Traffic Engineering for Baltimore County, with respect to the sight lines that are available from the property. However, both Mr. Guckert and Mr. Weber agree that if traffic north and southbound on Liberty Road would stop at the top of each hill, at Chapman and Offutt Roads, the funeral procession could enter Liberty Road.

The Board has reviewed the testimony of both Mr. Guckert and Mr. Weber and the testimony of the witnesses presented by the Protestants.

The Board is mindful of the testimony of Mr. Guckert that funeral home traffic generally is generated in off-peak hours. Most funerals begin at approximately 9:30 a.m. to 10:00 a.m. and visitation hours are usually 2:00 p.m. to 5:00 p.m. and 7:00 p.m. to 9:00 p.m. Mr. Wylie testified that he anticipates having approximately three funerals per week from the proposed funeral home, and that the average funeral procession would number approximately 10 to 15 cars. Mr. Wylie indicated that where a larger number of cars was anticipated it was his practice to notify the Police Department to have traffic control at the funeral home when the funeral procession left the property. The Liberty Road Business Association was in support of the proposed funeral home, according to Mr. Wylie. However, they wanted the hours of operation limited from 8:00 a.m. to 9:00 a.m. Mr. Wylie was agreeable to this condition.

The list of accidents submitted by the Protestants did not indicate the time of day nor the conditions under which the accidents took place. The Board feels that the funeral processions going onto Liberty Road during off-peak hours would not present a hazardous problem, particularly if there were individuals stationed at the top of the hills at Offutt and Chapman Roads to stop traffic. In addition, the Board feels that a temporary sign, placed at a point prior to where the flaggers

would be stationed indicating that a funeral procession was ahead and that traffic should be prepared to stop, would be a further safety measure which could be taken by the Petitioner. The Board also notes that the plans for the funeral home are of a rather modern nature and agrees with the requirement that the architectural plans be submitted for the review and approval of the Officer of Planning of Baltimore County. In making this comment, the Board is mindful of the fact that across the street from the subject site there are commercial ventures which do not blend in with the architectural nature of the homes on the opposite side of the street. The Board, not being experts in architecture, feels that the Office of Planning should make the decision with respect to the architectural requirements of the home.

In making its decision, the Board is mindful of the decision of the Court of Appeals in *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981), which stated:

> When the legislative body determines that other uses are compatible with the permitted uses in a use district, but that the beneficial purposes such other uses serve do not outweigh their possible adverse effect, such uses are designated as conditional or special exception uses. Such uses cannot be developed if at the particular location proposed they have an adverse effect above and beyond that ordinarily associated with such uses…The duties given to 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. If [the applicant] shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not 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 of the question of the disruption of the harmony of the comprehensive plan or zoning fairly debatable, the matter is one for the board to decide.

Based upon its assessment of the testimony and evidence presented to the Board, the Board feels that a funeral home of the nature presented by Mr. Wylie with the particular conditions attached to the special exception should not adversely affect or disrupt the harmony of the comprehensive plan or the neighboring area. The use is far more acceptable than the uses presented across the street where a storage facility and lumberyard are located.

The Petitioners have also requested a variance for the construction of a decorative fountain in the front yard as an accessory to the main building, and for an illuminated sign indicating the name of the funeral home.

The Board does not feel that a variance is necessary for the installation of the fountain, and submits that the fountain should be considered as part of the architectural plan being submitted to the Office of Planning for its approval. The sign meets all the requirements of the Baltimore County sign ordinance, except for the illumination. In considering the variance for the sign, the Board considers that the position of the property is unique in that it is at the bottom of a trough, so to speak, between Offutt Road on the east and Chapman Road on the west. In this situation, the property is unique as it pertains to other properties in the neighborhood under the test set forth in *Cromwell v. Ward*, 102 Md.App. 691 (1995). The Board also considers that if the illumination was not allowed it would cause practical difficulty and unreasonable hardship because individuals coming to the home in the evening might miss the home if the sign was not illuminated after dark. The Board will direct that the sign may be illuminated from dusk until the funeral home closes at 9:00 p.m.

The Board is also mindful of the fact that a non-tidal wetlands and waterways permit application is still pending before the Maryland Department of the Environment. The Board will make its granting of the special exception conditioned on the granting of that permit by MDE.

ORDER

THEREFORE, IT IS ORDERED, by the Baltimore County Board of Appeals, this 31st day of January, 2003, that the Petition for Special Exception for a funeral home and associated parking and accessory features on property zoned R.O. and D.R. 5.5 be and is hereby **GRANTED**, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The hours of operation of the funeral home in question shall be limited to 8:00 a.m. to 9:00 p.m. on any given day.

2. The Petitioner shall be required to submit a landscaping and lighting plan to Avery Harden, Landscape Architect for Baltimore County, for his full review and approval.

3. The Petitioner shall be required to submit to the Office of Planning architectural plans of the building to be constructed on the property. These plans shall be submitted for review and approval by the Office of Planning.

4. At all times during which a funeral procession is leaving the subject property, the Petitioner shall be required to post an employee at the crest of the hill located to the west of the subject property and a second employee at the crest of the hill located to the east of the entrance to the subject property, whose job it shall be to advise or warn approaching motorists that a funeral procession is exiting the property. Said employees shall utilize appropriate signage which shall be held in a position so as to be easily seen by approaching vehicles. These employees shall remain in their respective positions until such time as all of the cars associated with the funeral process have exited the site. In addition, the Petitioner shall consult with a traffic expert to determine a type of appropriate temporary signage to be placed in advance of the flaggers indicating that a funeral procession is entering the road ahead and that traffic should be prepared to stop. The Petitioner shall carry out the recommendations of the traffic expert with respect to the placing of the signs and the wording on said signs.

5. The Petitioner shall be required to construct and install a split-rail wooden fence along their common property line shared with Mrs. Meerdter. Said split-rail fence shall contain 2 or 3 rails and shall connect to the fence surrounding the storm water management facility and run the entire length of the common property line with Mrs. Meerdter back to the beginning of the area of the woods located to the rear of the site. The Petitioners shall be required to attach to this split-rail fence a screen fence which shall be rubber or plastic coated, so as to prevent rusting, along the entire length of this split-rail fence so as to catch any trash, debris and/or leaves that may blow across these adjoining properties. This same split-rail fence shall be installed along the rear of the subject property, not necessarily on the property line, but in an area so as to provide the least amount of disturbance to the existing woods line and still provide a barrier between the property owned by this Petitioner and the property owned by Jack Wennerstrom and Donna Shoemaker. Details of the fence to be installed and its location shall be submitted by Avery Harden, Landscape Architect for Baltimore County, for final review and approval.

6. The Petitioners shall be required to install a gate at the entrance to the facility so as to secure the subject property after hours. The purpose of this restriction is to prevent individuals from congregating in the rear parking lot of this property after its close of business.

7. The development of this property shall be closely monitored by the Department of Environmental Protection and Resource Management (DEPRM) relative to the natural springs and wetlands that exist on the property. DEPRM shall insure that all appropriate construction methods are used to preserve and protect those areas to the extent possible and that the property owned by Mrs. Meerdter is not adversely impacted by any alteration to these springs or wetlands.

8. This special exception is granted subject to the approval of the non-tidal wetlands and waterways permit issued by the Maryland Department of the Environment.

9. When applying for a permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petitioners' variance request to permit the illumination of an enterprise sign for the proposed use is hereby **GRANTED**. Said sign shall be illuminated only from dusk until the funeral home closes at 9:00 p.m.

The Board does not feel that the proposed decorative fountain should be considered an accessory to the building and therefore no variance is required. Plans for the fountain should be submitted in accordance with the building plans to the Office of Planning.

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

C. Lynn Barranger, Panel Chairman

Lawrence S. Wescott

Richard K. Irish

1/25/02

IN RE: PETITION FOR SPECIAL EXCEPTION AND VARIANCE	*	BEFORE THE
NE/S Liberty Road, 532.95' +/- S centerline of Chapman Road	*	DEPUTY ZONING COMMISSIONER
2nd Election District	*	OF BALTIMORE COUNTY
2nd Councilmanic District (9142 & 9204 Liberty Road)	*	CASE NO. 02-174-XA
FAS, LLC, a Maryland limited Liability company, by Albert P. Wylie,	*	
Managing Member	*	
Petitioners		

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception filed by the legal owners of the subject property, FAS, LLC, a Maryland limited liability company, by and through Albert P. Wylie, its managing member. The special exception involves property located at 9142 and 9204 Liberty Road, located in the Randallstown area of Baltimore County. The Petitioners are requesting a special exception for a funeral home and associated parking and accessory features on property zoned RO and DR.5.5. In addition, variance relief is being requested to permit the illumination of an enterprise sign for the proposed use and approval for an ornamental accessory water fountain in the front yard as is shown on the site plan submitted into evidence.

Appearing at the hearing on behalf of the special exception and variance requests were Albert Wylie, representing the owner of the property, Charleen and Brandon Wylie, Rick Chadsey with G. W. Stephens & Associates, the engineers who prepared the site plan of the property, Jean Mackey, representing Rubeling & Associates, the architects who designed the building in question, Adrienne Jones and Wes Guckert, a traffic expert with The Traffic Group. The Petitioners were represented by Howard L. Alderman, Jr., attorney at law. Appearing in

ORDER RECEIVED FOR FILING
Date 1/25/02
By R. Jameson

opposition to the Petitioners' request were nearby property owners Jack Wennerstrom, Ruth Meerdter, Arna Klorh and Chris Woodin.

Testimony and evidence indicated that the property, which is the subject of this special exception and variance request, consists of 3.634 acres, more or less, split-zoned RO and DR.5.5. The subject property is unimproved at this time. However, there did exist at one time 2 residential homes on this property. The subject property is located on the northeast side of Liberty Road, south of its intersection with Chapman Road. The subject property is rectangularly shaped and is proposed to be developed with a funeral home and associated parking. The details of the development of the property are more particularly shown on Petitioners' Exhibit No. 2, the site plan submitted at the hearing.

Testimony and evidence offered by Mr. Albert Wylie indicated that he currently owns and operates a funeral establishment located in Baltimore City. He is desirous of opening a new funeral home on the subject property. He testified that many of the families that he has served in the past and who are familiar with his establishment have moved to this area of Baltimore County. He wishes to construct a new funeral home at this location, in order to better serve the citizens of this area and the families who he has served in the past. The details of the design of the funeral home and parking lot are shown on the site plan.

Originally, Mr. Wylie proposed to have two means of access into the subject property. However, after review by the State Highway Administration, modifications were made to the originally submitted site plan. A new site plan was prepared and was accepted into evidence as Petitioners' Exhibit No. 2. It shows that the subject funeral home will be serviced by one point of access and that a 15 ft. highway widening will occur along the frontage of the property to provide a turn lane into the site.

1/25/02 JC Gruen

Mr. Wylie testified that he met with the Liberty Road Business Association and presented his proposal to them. They have voted to support Mr. Wylie in his special exception and variance request, so long as he limited the hours of operation of his business. In addition, the Office of Planning supports the Petitioners' request contingent upon certain conditions and restrictions. Mr. Wylie was more than happy to comply with and abide by all of the conditions and restrictions requested by the Planning Office, as well as the Liberty Road Business Association.

In addition, Mr. Wylie offered to meet with adjacent property owners regarding his request to locate this business on this property. Submitted into evidence as Petitioners' Exhibit Nos. 6A and 6B were letters sent to adjacent property owners advising them of his intention to develop the property and asking to discuss the matter with them.

As stated previously, several residents from the surrounding community appeared in opposition to the Petitioners' requests. The testimony and evidence offered by those in opposition expressed concern over the problems with traffic on Liberty Road. These residents are very much concerned that a traffic hazard would develop when patrons of the funeral home were coming and going into the site. This is of particular concern to these residents when a funeral procession may be leaving the subject property. Access to the subject property along Liberty Road occurs at a low point in that highway. That is, the subject property is located at the bottom of a hill, in both directions along Liberty Road. These residents are concerned that when motorists crest over the hill on either side from the entrance to this funeral home, they might not be aware of vehicles stopped in the roadway, waiting for a funeral procession to exit the property. These naturally occurring blind spots are of great concern to these citizens who regularly travel this highway.

ORDER REC'D 1/25/02 P. Jemison

Evidence of the blind spots in question was corroborated by the existence of a flashing warning sign, located on the north side of Liberty Road, close to the proposed entrance to this funeral home. At that location, there exists a warning sign that hangs over the traveled portion of the roadway advising motorists traveling west on Liberty Road that MTA buses enter the highway a short distance ahead. It is important to note that the State Highway Administration deemed it necessary to warn motorists about the large MTA buses that turn-around near the intersection with Chapman Road. These citizens argued that if a motorist cannot see a large MTA bus pulling out onto the highway, then another motorist traveling in the opposite direction on Liberty Road would not see a funeral procession pulling out onto Liberty Road. They, therefore, believe that a funeral procession pulling out at this location on Liberty Road would have a greater adverse impact, based on the fact that the property in question sits in a valley with blind spots occurring to the east and west of its entrance. For this reason, they ask that this special exception be denied.

In addition, other concerns were raised by these citizens in attendance. Mr. Wennerstrom, as well as Ms. Meerdter, were concerned over the existence of wetlands on the subject property. Both testified that there are underground springs which exist on this property. These springs drain under Liberty Road and into the Gwynns Falls. Ms. Meerdter was particularly concerned that alterations to this property might cause these natural springs to backup and cause flooding on her property. For this reason, the citizens requested that the special exception be denied.

The citizens in attendance also objected to locating a commercial establishment on this side of Liberty Road, which is predominantly improved with single-family, residential houses. They believe that adding a commercial business, such as a funeral home, will be out of character

1/25/02 J. Gunter

with the residences located on that side of Liberty Road. Objections were also made that the construction of this funeral home would devalue their properties and would result in light and noise pollution, as well as additional traffic congestion to the area. For all of these reasons, the Protestants request that the special exception be denied.

After considering the testimony and evidence offered at the hearing, both in support and in opposition to the Petitioners' request, I find that the operation of a funeral home at this location could have a greater impact at this location, because of the blind spots that occur to the east and west, along Liberty Road. However, these matters can be easily corrected by mandating that an employee of the funeral establishment stand at the crest of the hill, located to the west of the entrance to the site, and at the crest of the hill located to the east of the entrance of this site, who shall advise and warn motorists of the funeral procession ahead. This is a common occurrence at many funeral establishments in Baltimore County. Through the imposition of this condition, the concern over the inability to see stopped vehicles is eliminated and the special exception can be approved. This will alleviate the concerns raised over traffic and a motorist's ability to properly stop a vehicle during the time at which a procession is leaving.

The testimony offered at the hearing by Mr. Wylie indicated that he may have 2 or 3 funeral processions per week at this location. The imposition of this restriction upon the Petitioners should not prove burdensome, given the infrequency that this event occurs.

In addition, I find that the other areas of concern raised by these citizens who attended the hearing can be alleviated by virtue of the imposition of conditions and restrictions at the end of this special exception order. Therefore, I find that the special exception to approve the funeral establishment at this location should be granted.

1/25/02 L. Gruson

It is clear the Baltimore County Zoning Regulations permits the Petitioners' use in an RO and DR.5.5 zone by special exception. It is equally clear that the proposed use is not detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioners had the burden of adducing testimony and evidence which shows that the use meets the prescribed standards and requirements set forth in Section 502.1 of the Baltimore County Zoning Regulations. The Petitioners have shown that the use is conducted without real detriment to the neighborhood and does not adversely affect the public interest. The facts and circumstances do not show that the use at this particular location described by Petitioners' Exhibit No. 1 has any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The use is not detrimental to the health, safety, or general welfare of the locality, nor tends to create congestion in roads, streets, or alleys therein, nor is it inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the B.C.Z.R.

In addition to the special exception request, the Petitioners also requested variance relief to allow a water fountain to exist in the front of the building as an accessory structure and to permit the illumination of the enterprise sign for the Wylie Funeral Home. After considering the testimony and evidence offered in support of the variance relief, I find that the variance should be granted.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioners and their property. McLean v. Soley, 270 Md. 208

(1973). To prove practical difficulty for an area variance, the Petitioners must meet the following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether 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, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the property which is the subject of this request and that the requirements from which the Petitioners seek relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

Pursuant to the advertising, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception and variance shall be granted.

THEREFORE, IT IS ORDERED this 25th day of January, 2002, by this Deputy Zoning Commissioner, that the Petitioners' Request for Special Exception for a funeral home and associated parking and accessory features on property zoned RO and DR.5.5, be and is hereby APPROVED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning same property to its original condition.

2. The hours of operation of the funeral home in question shall be limited to 8:00 a.m. to 9:00 p.m. on any given day.

3. The Petitioners shall be required to submit a landscaping and lighting plan to Avery Harden, Landscape Architect for Baltimore County, for his full review and approval.

4. The Petitioners shall be required to submit to the Office of Planning architectural plans of the building to be constructed on the property. These plans shall be submitted for review and approval by the Office of Planning.

5. At all times during which a funeral procession is leaving the subject property, the Petitioners shall be required to post an employee at the crest of the hill located to the west of the subject property and a second employee at the crest of the hill located to the east of the entrance to the subject property, whose job it shall be to advise and warn approaching motorists that a funeral procession is exiting the property. Said employees shall utilize appropriate signage which shall be held in a position so as to be easily seen by approaching vehicles. These employees shall remain in their respective positions until such time as all of the cars associated with the funeral procession have exited the site.

6. The Petitioners shall be required to construct and install a split-rail wooden fence along their common property line shared with Mrs. Meerdter. Said split-rail fence shall contain 2 or 3 rails and shall connect to the fence surrounding the storm water management facility and run the entire length of the common property line with Mrs. Meerdter back to the beginning of the area of the woods located to the rear of the site. The Petitioners shall be required to attach to this split-rail fence a screen fence which shall be rubber or plastic coated, so as to prevent rusting, along the entire length of this split-rail fence so as to catch any trash, debris and/or leaves that may blow across these adjoining properties. This same split-rail fence shall be installed along the rear of the subject property, not necessarily on the property line, but in an area so as to provide the least amount of disturbance to the existing woods line and still provide a barrier between the property owned by this Petitioner and the property owned by Jack Wennerstrom and Donna Shoemaker. Details of the fence to be installed and its location shall be submitted to Avery Harden, Landscape Architect for Baltimore County, for final review and approval.

ORDER RECEIVED FOR FILING
Date 1/23/02
By

7. The Petitioners shall be required to install a gate at the entrance to the facility so as to secure the subject property after hours. The purpose of this restriction is to prevent individuals from congregating in the rear parking lot of this property after its close of business.

8. The Development of this property shall be closely monitored by the Department of Environmental Protection and Resource Management (DEPRM) relative to the natural springs and wetlands that exist on the property. DEPRM shall ensure that all appropriate construction methods are used to preserve and protect those areas, to the extent possible, and that the property owned by Mrs. Meerdter is not adversely impacted by any alteration to these springs or wetlands.

9. When applying for a permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED, that the Petitioners' request to permit the illumination of an enterprise sign for the proposed use and approval for an ornamental accessory water fountain in the front yard as is shown on the site plan submitted into evidence, be and is hereby APPROVED.

IT IS FURTHER ORDERED, that each and every one of the conditions and restrictions imposed at the end of this Order were a principal reason for the granting of the special exception and variance herein. Any appeal from any one of these particular restrictions and/or conditions shall be deemed to be an appeal of the entire relief granted herein. The Petitioners shall not be permitted to pick and choose any one particular restriction, thereby filing appeal of only that issue. Any appeal filed shall be an appeal of this entire Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

January 25, 2002

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, Maryland 21204

Re: Petitions for Special Hearing & Variance
Case No. 02-174-XA
Property: 9142 & 9204 Liberty Road

Dear Mr. Alderman:

Enclosed please find the decision rendered in the above-captioned case. The Petitions for Special Hearing and Variance have been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

Timothy Kotroco

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

Printed with Soybean Ink
on Recycled Paper

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 9142 & 9204 Liberty Road

which is presently zoned RO & DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Exception, advertising, posting, etc. and further agree to and are to be bounded 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.

[redacted]/Lessee:

Wylie Funeral Home, PA, a Professional Association
Name - Type or Print

By: Albert P. Wylie, President
Signature

638 North Gilmor Street **410-462-4070**
Address Telephone No.

Baltimore, MD **21217**
City State Zip Code

Legal Owner(s):

FAS, LLC, a Maryland limited liability company
Name - Type or Print

By: Albert P. Wylie, Managing Member
Signature

Name - Type or Print

Signature

638 North Gilmor Street **410-462-4070**
Address Telephone No.

Baltimore, MD **21217**
City State Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr., Esquire
Name - Type or Print

Signature

Levin & Gann, PA Nottingham Centre, 8th Floor
Company

502 Washington Avenue **410-321-0600**
Address Telephone No.

Towson, MD 21204
City State Zip Code

Representative to be Contacted:

Albert P. Wylie, Managing Member
Name

638 North Gilmor Street **410-462-4070**
Address Telephone No.

Baltimore, MD **21217**
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 3 hrs

UNAVAILABLE FOR HEARING

Reviewed By Date 10-30-01

Case No. 02-174-XA

REV 09/15/98

FILING
10/25/02

Attachment 1

PETITION FOR SPECIAL EXCEPTION

CASE NO: 02– –XA

Address: 9142 & 9204 Liberty Road

Legal Owners: FAS, LLC, a Maryland limited liability company

Present Zoning: RO & DR 5.5

REQUESTED RELIEF:

Pursuant to BCZR §§ 204.3B.1 & 1B01.1C.9, a funeral home and associated parking and accessory features on property presently zoned RO & DR 5.5, as shown more particularly on the Plat to accompany this Petition.

For Additional Information, Contact:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
Nottingham Centre
502 Washington Avenue
8th Floor
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801

halderman@LevinGann.com

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 9142 & 9204 Liberty Road

which is presently zoned RO & DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED

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

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded 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:

Wylie Funeral Home, PA, a Professional Association
Name - Type or Print

By: [signature]
Signature Albert P. Wylie, President

638 North Gilmor Street 410-462-4070
Address Telephone No.

Baltimore, MD 21217
City State Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr., Esquire
Name - Type or Print

[signature]
Signature

Levin & Gann, PA Nottingham Centre, 8th Floor
Company

502 Washington Avenue 410-321-0600
Address Telephone No.

Towson, MD 21204
City State Zip Code

Legal Owner(s):

FAS, LLC, a Maryland limited liability company
Name - Type or Print

By: [signature]
Signature Albert P. Wylie, Managing Member

Name - Type or Print

Signature

638 North Gilmor Street 410-462-4070
Address Telephone No.

Baltimore, MD 21217
City State Zip Code

Representative to be Contacted:

Albert P. Wylie, Managing Member
Name

638 North Gilmor Street 410-462-4070
Address Telephone No.

Baltimore, MD 21217
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING See X

UNAVAILABLE FOR HEARING

Reviewed By [signature] Date 10-30-01

Case No. 02-174-XA

REV 9/15/98

Attachment 1

PETITION FOR VARIANCE

CASE NO: 02– –XA

Address: 9142 & 9204 Liberty Road

Legal Owners: FAS, LLC, a Maryland limited liability company

Present Zoning: RO & DR 5.5

REQUESTED RELIEF:

A variance from BCZR §450.4.H.5(m)VIII to permit illumination of enterprise signs for the proposed use; and, if deemed necessary, from BCZR §400 for the ornamental, accessory fountain in the front yard as shown more particularly on the Plat to Accompany this Petition

JUSTIFICATION:

1. Need to identify business located along State roadway for purposes of public safety;
2. Existing topographic constraints; and
3. For such further reasons that will be presented at the hearing on this Petition.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

174

12/2/02

RE: PETITION FOR SPECIAL EXCEPTION PETITION FOR VARIANCE	*	BEFORE THE COUNTY
9142 & 9204 Liberty Road, NE/S Liberty Road 2nd Election District, 2nd Councilmanic District	*	BOARD OF APPEALS
	*	FOR
Legal Owner: FAS, LLC Contract Purchaser: Wylie Funeral Home, P.A.	*	BALTIMORE COUNTY
Petitioners	*	Case No. 02-174-XA

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

People's Counsel's Memorandum

I. Introduction

Petitioners apply for a special exception for a funeral home in Randallstown, on the northeast side of Liberty Road, along with variance relief for an illuminated enterprise sign and an ornamental water fountain in the front yard. The paramount issue of public importance is traffic safety at the access point. Citizens have also questioned the compatibility of the proposed architecture and design with the surrounding neighborhood of single-family homes. In addition, immediate neighbors are concerned that extensive construction and paving on the site will cause excessive runoff which will not be ameliorated by management.

The 3.634 acre property is split-zoned R.O. (Residential-Office) and D.R. 5.5 (Density Residential). The R.O. zone allows uses permitted and as limited in the D.R. 5.5 zone. BCZR 204.3A. A funeral home is among the special exception uses allowed in a residential zone. BCZR 1B01.1C.9

This section of Liberty Road, between Chapman Road to the west and Offutt Road to the east, has single-family homes, primarily zoned residential, on the northeast side

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BOARD OF APPEALS

and mixed uses on the southwest side. The key topographical feature is that it there is a trough or depression precisely at the location of the proposed funeral home. From there, the road ascends in each direction to the crests of hills west at Chapman Road (unsignalized intersection) and east toward Offutt Road (signalized intersection). The most troublesome sight distance problem occurs from the west, for eastbound travelers coming over the Chapman Road hill about 605 feet away. The key traffic safety issue is whether a queue will build up during the assembly and departure of a funeral procession headed eastward, to the extent that eastbound travelers at 50 MPH will come over the hill and be unable to stop before striking the queue and triggering a chain-reaction accident.

The site itself is characterized by wetlands, spring-fed water, and runoff problems. While the State of Maryland has issued a wetlands permit, this does not resolve the issue of storm water runoff.

II. The Law

The County Board of Appeals (CBA) is familiar with the statutory framework for special exceptions in BCZR 502.1. It is prerequisite to approval that "... it must appear that the use ... will not":

a. Be detrimental to the health, safety, or general welfare of the locality involved.

b. Tend to create congestion in roads, streets, or alleys therein;

c. Create a potential hazard from fire, panic, or other dangers.

d. Tend to overcrowd land and cause undue concentration of population.

e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;

f. Interfere with adequate light and air;

g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor

h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

The CBA is also familiar with the leading case of Schultz v. Pritts 291 Md. 1, 8-10, 22-24(1991) and the test whether the proposed use appears to have adverse impacts above and beyond those ordinarily found at locations in the zone generally. It is sometimes overlooked, however, that the specific issue in Schultz was similar to the key issue here: whether access to a proposed funeral home would be dangerous to traffic at the time of the departure of funeral processions. The Court remanded the case for further consideration of this issue. It also clarified that special exception uses could not be granted automatically by showing that uses permitted by right would create equally dangerous conditions. Rather, the legislature identified special exceptions for particular scrutiny, and that traffic safety is a relevant consideration. At the same time, a special exception could not be denied on the basis of problems associated with the use at any location, such as the depressing effect of a funeral home.

As early as Eger v. Stone 253 Md. 533 (1969), the Court had affirmed denial of a special exception for offstreet parking in a shopping center in a rural-residential zone. It based the denial on both expert and citizen testimony regarding traffic hazards and sight

distance problems. The evidence included accident statistics compiled by a citizen who made an investigation. The Court found this evidence, albeit hearsay, to be both credible and, at least sufficiently probative to support expert testimony about the hazardous conditions. Judge Barnes wrote:

> In our opinion, the testimony of Mr. Thomas [a land planner], confirmed in part by testimony elicited in cross-examination of the experts of the applicants as well as the testimony of Mrs. Raker [a citizen] constituted sufficient evidence to make the matters before the Board 'fairly debatable' so that its decision denying the application for the special exception was not arbitrary and capricious and the decision of the Board could not be successfully challenged in court. 253 A.2d 376.
>
> * * *
>
> The lower court, in our opinion, unduly summarized Mr. Thomas' testimony and, in effect, disregarded Mrs. Raker's testimony on the ground that it was 'hearsay'. We have recently decided, however, that not only is hearsay evidence admissible in administrative hearings in contested cases but that such evidence, if credible and of sufficient probative force, may indeed be the sole basis for the decision of the administrative body. 253 A.2d 377.

The Court of Appeals has also emphasized that visual impact and incompatibility of a proposed use to an adjacent single-family home could cause sufficient adverse impact to warrant denial of a special exception. Board of County Comm'rs v. Holbrook 314 Md. 210 (1988). The Court of Special Appeals identified traffic access, stormwater runoff, and visual compatibility issues in affirming this CBA's denial of a special exception for a convalescent home in a residential zone in People's Counsel v. Mangione 85 Md. App. 738 (1991).

While each case has its own location and set of facts, it is instructive to consider some of the problems found relevant in Mangione, based on citizen testimony alone:

> There was testimony concerning the effects of the development along the York Road corridor and the erosion created by the development and storm water runoff. There was testimony concerning the effects of the intrusion of the project

into the residential neighborhood presently existing around that location. There was testimony about small arterial streets whose only access to York Road from the community was by way of Greenridge Road, and that the narrow, winding nature of those streets, with the increased traffic, would jeopardize the safety of the children playing in the streets. Furthermore, there was testimony concerning the overflow of contaminated waste and storm water management.

The special exception standards relate to the basic premises of zoning legislation as an exercise of the broad police power. The Baltimore County Code Sec. 26-116 (attached) identifies the many public safety, health, and welfare functions of zoning law. The promotion of traffic safety is one way in which zoning protects neighborhoods and the public in general. Southland Corp. v. City of Laurel 75 Md. App. 375 (1988) illustrates this point. There, the Court affirmed the denial of a site plan for a convenience store based on the traffic hazards associated with the proximity of driveway locations to southbound Rt. 1, estimated queuing at Rt. 1, and potential hazardous conflicts during peak hours. The Court found unconvincing the testimony of John W. Guckert, Petitioners' expert here, that there was no sight distance problem. 75 Md. App. at 384. The Court relied both on expert and citizen testimony regarding the traffic hazards. 75 Md. App. at 384-87. Site plan review is sometimes said to "... perhaps have a certain analogy to special exceptions ...." See Board of County Comm'rs v. Gaster 285 Md. 233 (1979). In any event, the traffic hazard issue in Southland is relevant to the issue here.

In Marino v. City of Baltimore 215 Md. 206 (1957), involving an "exception" or"variance", the Court on its own observed that traffic congestion is a key issue in a zoning case, and that the proposed store and parking area would aggravate an existing problem at the York Road/Belvedere Avenue intersection. This alone justified denial of

the exception.

III. The Law Applied to the Facts

a. Traffic Hazards; Stephen Weber's Testimony; Citizens' Evidence

As in the cases cited above, there was both expert and citizen testimony to demonstrate the unusually hazardous traffic condition posed by the proposal for a funeral home at this site. Before discussing the substance of the testimony, we address again the unfounded objection to the testimony of Stephen Weber.

* * *

Mr. Weber was a key witness. As Chief of the Division of Traffic Engineering in the Department of Public Works, with about a quarter-century of experience, he was in the best position to give an unbiased analysis of the situation. In this connection, Rule 7a of the CBA Rules of Evidence allows all evidence admissible under the Maryland Rules. It also states that "...the board will not be bound by the technical rules of evidence" and will accept such other evidence as may be "needful and proper."

The CBA appeal proceeding is a *de novo* proceeding under Charter Section 603. It proceeds on a clean slate, as if nothing had yet occurred. Boehm v. Anne Arundel County 54 Md. App. 497 (1983); Hill v. Baltimore County 86 Md. App. 642 (1991). Any party is free to present any relevant evidence, regardless of whether produced at the lower Zoning Commissioner level. For example, Henry Leskinen, Petitioners' environmental expert, could testify here although not shown to be a witness at the Commissioner level.

Petitioners' reference to the "Review & Judicial Process" chart in Section 5-1 of the Zoning Commissioner's Policy Manual is immaterial. It is for "INFORMATION

ONLY, NOT LEGAL ADVICE." Moreover, its reference to Zoning Advisory Committee review and comments does not include any prohibition on evidence from other agencies at the Commissioner level, much less the *de novo* CBA level.

For many years, the Division of Traffic Engineering has not participated in the ZAC process. Rather, it has responded on some cases where traffic issues were apparent, often in reply to a request from People's Counsel for review.

Here, after the Deputy Zoning Commissioner's Order confirmed that there is a serious traffic hazard issue, People's Counsel made such a request. As shown during the hearing, People's Counsel is entitled under Charter Sec. 524.1(b) to the assistance of county employees and to obtain expert testimony, from county employees if available. People's Counsel has called Mr. Weber to testify on many occasions in the past, and the CBA has regularly accepted his testimony. This is the first time we can recall an objection being lodged, and it was rightly overruled.

* * *

Mr. Weber visited the site and particularly noted the crest of the hill to the west. He sampled the midday Liberty Road traffic and estimated the average length of a stopped queue which likely would back up behind a funeral procession. He assumed a two-minute length of time for assembly of the procession. He also assumed a design speed of 50 miles per hour, based on experience that drivers frequently go ten miles above the (40 MPH here) speed limit. As a result, he found the available sight distance to be 330 feet from the crest of the hill, 95 feet short of the required sight line. Unless

approaching drivers were warned of the funeral procession, they would likely not be able to avoid striking the queue.

This brought Mr. Weber to the subject of the practicality of the posting of funeral home employees as "flagmen" at the crest of the hill to warn or stop approaching traffic. Based on his experience, he found this impractical. Such employees have no legal right to stop traffic at that distance (about 600 feet away from the funeral) and a motorist would see no apparent reason to stop. The situation could also be complicated by the presence of any truck (or SUV) on the multi-lane road, potentially obscuring the visibility of the flagmen.

Mr. Weber found the situation not only hazardous, but also unlike the situation presented by any other funeral home locations of which he was aware. In this connection, he discussed funeral homes on Reisterstown Road (Sol Levinson's), Wilkens Avenue (Hubbard), and Padonia Road (Lemmon). He found all of these dissimilar in setting and topography, and noted that the use of flagmen close to the point of departure, such as at Levinson's, did not present the same problem because motorists would readily stop upon seeing the actual procession in close proximity. In sum, none of these locations presented comparable hill, slope, and sight distance problems.

While Petitioners' attorney referred to Mr. Guckert's assumption that the average funeral could queue up in 48 seconds (16 vehicles, 3 seconds per vehicle), Mr. Weber pointed out that some funerals would have 40 vehicles or more, especially in light of the ninety parking spaces provided onsite. He also observed that the assumption of 3 seconds per vehicle to assemble is possible, but may not be accomplished consistently. Some

funeral processions might assemble in less than two minutes, but others could well take more than two minutes. Upon lengthy cross-examination, Mr. Weber gave many details, stood by his opinion, and was comfortable with the assumption of two minutes for an average funeral. It is remarkable that in the Schultz case, the expert assumed five minutes as a reasonable estimate of time for assembly, without apparent criticism.

Of course, the greater the number of vehicles, the more time required to assemble, and the greater the hazard. Had Mr. Weber focused on a worst case scenario, with a larger funeral, the available stopping distance would have been compressed further. It needs to be stressed that he found a hazardous situation would likely occur even with an average size funeral.

Mr. Weber had listened to the testimony of John W. Guckert of The Traffic Group, Petitioners' expert, and reviewed his sight distance study, Pet. Exh. 17. He disagreed with Mr. Guckert's conclusion that the situation is safe. He also found errors in the Traffic Group study. It misrepresented the true steepness of the incline from Chapman Road and the topography, leaving the impression that the sight distance is less of a problem than in actuality.

Mr. Weber's analysis was more careful, realistic, in-depth, and credible than that of The Traffic Group. The expert retained by the Petitioner provided an optimistic view of traffic conditions.

* * *

Mr. Weber's analysis alone is enough to deny the special exception. Were there any doubt, it should be removed by the additional testimony and corroboration of area residents.

Kenneth Stetson of 3613 Chapman Road described his experience with the dangerous traffic conditions in the area. He also identified an important feature of Liberty Road at the subject site. To the west, there are just four lanes, so that there is no left-turn lane eastbound. To the east, the road widens into five lanes. This led him to express concern about traffic safety for motorists turning left into the funeral home, as well as for the situation at the time of funeral processions.

Mr. Stetson appeared as a citizen, although he also happens to be a police officer. He was wearing his uniform because scheduled to work later in the day. Petitioner's attorney objected strenuously and argued some sort of prejudice. These overwrought objections were properly overruled. A citizen does not give up the right to participate in zoning proceedings affecting his neighborhood upon acceptance of a government position, be it police, fire, education or other. Nor need he erase the knowledge and experience gained thereby. As long it is understood that he is appearing in the capacity of a citizen and not as a representative of the police department, Mr. Stetson's testimony is entitled to as much weight as his facts, knowledge, and reasons dictate. Here, he gave important personal observations about traffic conditions and accidents, and backed it up with Police Department 1998 traffic accident data between Offutt Road and Pikeswood Drive (the nearest signalized intersection to the west). P.C. Exh. 11. These showed a

trend upward between 1998 and 2001-02. Despite Petitioners' objection, Mr. Stetson confirmed that these are public records, available to any citizen.

Chris Woodin of 9215 Liberty Road lives just to the east of the Liberty/Chapman Road intersection, on the south side. He testified from personal observation as to the dangerousness of the road. He illustrated this by the fact that from his driveway, he cannot see the vehicles coming from the westerly direction up to the crest of the Chapman Road hill, so that he has difficulty getting out of his driveway. Correspondingly, the approaching vehicles cannot see across to the east side of the hill until at the crest. He pointed out that the situation was aggravated in bad weather and during the darkness of late winter afternoons. He described various accidents he had seen, and produced Department of Transportation accident statistics between Offutt Road and Chapman Road which showed a doubling of reported injury accidents from 1996 to 2000. P.C. Exh. 12.

Woodin expressed concern not only with danger during funeral processions, but also when vehicles stop to turn left across two lanes to enter the funeral home for visits. He noted that the absence of a left turn lane could not be remedied, and that there is not enough area in front of the subject property to provide such a lane.

All of the citizens who testified corroborated the severe traffic conditions. Arna Klohr produced photographs (P.C. Exh. 13), of which the last three (A-C) showed the two hills. Several of them, including Mr. Woodin, Ms. Klohr, and Jeanne Turnock, a real estate agent, emphasized they do not object to the addition of a funeral home in the Randallstown area. Rather, they object to this particular location. They identified various

commercial sites which they believe are suitable for redevelopment and do not present traffic hazards. Ms. Klohr included a group of photographs (A-G) of seven vacant sites within 1/10th of a mile of the site. She also photographed the Loring-Byers Funeral home at Brenbrook Road, which has good, visible access.

* * *

Traffic safety is a critical issue in our society. Many thousands of personal injury accidents occur every year. We cannot eliminate all risks. But citizens have a right to expect zoning decisions which do not unnecessarily increase the risks. We are concerned that if this funeral home use is approved, there will be one or more fatal or personal injury accidents eastbound involving a funeral procession or a left-turning vehicle, where limited sight distance is a contributing cause. Who will admit there were warnings, and that it could have been prevented? What remedy could there be? Would anyone admit to being wrong?

If there is a serious accident associated with a funeral procession turning eastbound (left), will management then determine that the only safe route is to turn west (right) on Liberty Road, double back on Chapman Road, and proceed through the narrow back roads of the Brice Run neighborhood, to Samoset Road, then Offutt Road, and eventually to the traffic signal at Liberty Road? That would avoid one problem, but create another by turning the interior of a residential area into a main street for funerals.

Compatibility; Visual Impact

Arna Klohr, 3509 Chapman Road, President of the Brice Run Community Association, produced the Rule 8 papers which identified her as representative of the

association. P.C. Exh. 9. Her set of photographs, mentioned above, also include eighteen photographs of single-family residences (one converted to a ministry). The entire length of the northeast side of Liberty Road is lined with residences in this area, and there are many on the southwest side, along with a few businesses. She testified, and the photos confirm, that the proposed funeral home and 90-vehicle parking lot design and size are monumental and institutional. They are not residential in character. They do not fit the immediate neighborhood, particularly on the northeast side. If this were a good location for a funeral home, this plan would nevertheless conflict with its surroundings, in a way analogous to the conflict in the Holbrook case, which involved just a single mobile home and its impact on one single-family residence.

Runoff Problems; Impact on Adjoining Properties Generally

There was testimony from three residents whose properties bordered the subject property: Carl Leduff, Sr., 21 Chapmanview Court; Ruth Meerdter, 9206 Liberty Road; and Jack Wennerstrom, 9207 Samoset Road. They all observed serious runoff problems, based on the topography, the presence of springs, and their personal observations. They saw the magnitude of development and paving for the funeral home as an aggravating factor. They did not view stormwater management as a satisfactory solution, either in theory or practice.

They also objected in general to the size and scope of the development --- the building and large parking area as incompatible with their surrounding residences. There is no mathematical formula to decide compatibility. It is part of the qualitative

consideration of consistency with public safety, health and welfare. Once again, the Holbrook case is the leading case in point.

Principles of Zoning; Right Thing in the Wrong Place

The applicant, Mr. Wylie, is an impressive and personable figure. He has established a successful funeral home operation on Gilmor Street in Baltimore City. He would like to make his services available to the growing Randallstown population. We do not question his good intentions.

He has chosen, unfortunately, a terrible location on a road which already is dangerous. The Supreme Court said a long time ago that one of the purpose of zoning, as an exercise of the police power, is to guard against incompatible or problematic uses, against "the right thing in the wrong place." Village of Euclid v. Ambler Realty Co. 272 U.S. 365 (1926). Sometimes, such uses have aspects of nuisances under common law. But they need not be nuisances to be incompatible or inappropriate at a particular location. Zoning issues are decided under the umbrella of the expansive concept of the police power.

Drawing on Euclid, legislatures have passed enabling legislation and created zoning mechanisms to advance land use plans and minimize incompatible uses. The special exception is one of these mechanisms. Cases such as Eger v. Stone, Schultz v. Pritts, County Comm'rs v. Holbrook, and People's Counsel v. Mangione define the standards and illustrate their application.

Each case generates its own fact pattern. But all of the above cases are instructive here. The proposed funeral home use raises unique problems, above and beyond that

associated with the use ordinarily in the zone. The most striking issue is the traffic safety issue. But there are also legitimate questions as to visual impact and compatibility with the predominant single-family home neighborhood. There are legitimate concerns as to topography and runoff. (Whatever the concerns may be about destroying wetlands, we will not urge them here in light of the State's issuance of a permit and the arguable preemption issue.)

There was compelling and unbiased expert testimony from Stephen Weber. There was cogent and respectful testimony by six citizens from the immediate neighborhood who addressed the problems. They pointed out not only the problems with this site, but the potential to explore many other vacant sites at more appropriate locations. They do not oppose Mr. Wylie coming to Randallstown. They do not oppose an additional funeral home in Randallstown. They oppose this location.

Ultimately, a zoning case must not be decided by a count of witnesses. It is based on the law. This proposal does not satisfy the BCZR 502.1 standards with respect to impact on the public safety, health, and welfare of the locality; traffic congestion and hazards; "other danger"; overcrowding of land; stormwater runoff; and inconsistency with the spirit and intent of the zone. Failure to satisfy any one of these standards is fatal to the petition. Here, the failures are multiple.

Conclusion

For the foregoing reasons, we submit that the petition for special exception should be denied.

Peter Max Zimmerman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2 day of December, 2002 a copy of the foregoing People's Counsel's Memorandum was ~~hand delivered~~ mailed to Howard L. Alderman, Esquire, 502 Washington Avenue, 8th Floor, Towson, MD 21204

Peter Max Zimmerman

PETER MAX ZIMMERMAN

in successive periods covered by future capital programs, the various public or quasi-public projects embraced in the plan without the imposition of unreasonable financial burdens. In such preparation, the planning board shall cause to be made careful and comprehensive surveys and studies of present conditions and the prospects for future growth of the county.
(Code 1978, § 22-14)

Sec. 26-84. Coordination of development of county.

The master plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the county and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development, and the maintenance of property values previously established. To such end, the master plan shall also include adequate provision for traffic and recreation, the promotion of safety from fire and other damages, adequate provision for light and air, the promotion of good civic design and arrangements, the wise and efficient expenditure of public funds, and adequate provision for public utilities and other public requirements.
(Code 1978, § 22-15)

Sec. 26-85. Action on specific projects.

Whenever the county council after public hearing has adopted by resolution the master plan, the county, before taking action on the master plan or on any portion of the master plan necessitating the expenditure of any public funds incidental to the location, character, or extent of one (1) or more projects thereof, shall refer the proposed action involving such specific project or projects to the planning board for review and recommendation and shall not act thereon without such recommendation or until forty-five (45) days after such reference shall have elapsed without such recommendation. This requirement shall apply to action by a housing, parking, highway or other authority, redevelopment agency, school board, or other similar public agency, federal, state, regional, or county.
(Code 1978, § 22-17; Bill No. 18, 1990, § 2)

Secs. 26-86–26-115. Reserved.

ARTICLE IV. ZONING*

Sec. 26-116. Powers of county.

For the purpose of promoting health, safety, morals, and general welfare of the community,

*Annotations–The following cases were decided under prior similar law. They are included here for the convenience of the user:

Zoning in Baltimore County was initiated by Ch. 715 of the Acts of 1939. This section is referred to and impliedly held valid in Kahl v. Cons. Gas Company, 191 Md. 249, 60 A.2d 754 (1948) sustaining the general validity of zoning regulations adopting thereunder. The case specifically upholds the requirements of a special permit for consideration of utility liens.

Baltimore County Circuit Court held to have jurisdiction to entertain suit of adjacent residential property owners to enjoin the construction and continued use of the premises under the purported sanction of a nonconforming use, time for appeal from the zoning commissioner's action having expired. Amereihn v. Kotras, 194 Md. 591, 71 A.2d 865 (1950).

The legislature has not authorized any appeals to the court of appeals from decisions of the Circuit Court of Baltimore County in zoning cases. Johnson v. Board of Zoning Appeals, 196 Md. 400, 76 A.2d 736 (1950).

Remedy provided in this subtitle held to be an alternative to that afforded by section 23-26 of this Code, at least where it is affirmatively alleged that the planning board has violated zoning regulations and that a violation of either the zoning or the subdivision regulations was subject to an injunction under this subtitle. Lynn v. Goldman, 216 Md. 562, 141 A 2d 174 (1958).

Where the zoning commissioner of the county, acting pursuant to powers vested in him by this subtitle, reclassified petitioner's tract of land, but the county council refused to approve the reclassifications, it was held that mandamus would not lie to compel the county council to approve the commissioner's action. County Council of Baltimore County v Egerton Realty, Inc., 217 Md. 234, 140 A.2d 511 (1958).

This subtitle construed as to a petition for an off-street parking permit for the use of land in a residential zone. Marek v. Baltimore County Board of Appeals, 218 Md. 351, 146 A.2d 875 (1958).

This subtitle construed as to a special exception to a public utility for the construction of a steam electric generating station and related facilities. Cassidy v. Baltimore County Board of Appeals, 218 Md. 418, 146 A.2d 896 (1958).

This subtitle construed as to an application for reclassification from cottage or semidetached area to group housing area. Baltimore County v. Missouri Realty, Inc., 218 Md. 155, 148 A.2d 427 (1959).

This subtitle construed as to the reclassification of the tract of the intersection of McDonogh and Reisterstown Roads for a

zoning maps and appropriate regulations shall be prepared in the manner hereinafter provided to regulate and restrict, within the county, the height, number of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of yards or courts; the setback or distance of any buildings or structures from front or side lot, road, street, or alley line and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purpose. Such zoning maps and regulations shall be made in accordance with a comprehensive plan. They shall be designed to reduce congestion in the roads, streets, and alleys; to promote safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land to avoid undue concentration of population; to facilitate adequate provision for schools, parks, water, sewerage, transportation, and other public requirements, conveniences, and improvements, including gas and electric structures and facilities.
(Code 1978, § 22-19)

Sec. 26-117. Validation of existing zoning regulations.

The zoning regulations adopted by the county on March 30, 1955 and as thereinafter and whenever adopted and amended are hereby declared to be in full force and effect provided, however, that in the case of any conflict between such regulations and the provisions of this title, these provisions shall control.
(Code 1978, § 22-31; Bill No. 18, 1990, § 2)

Sec. 26-118. Record and copies of rules, regulations, etc.; certified copies of rules, etc., as evidence.

The office of planning and zoning shall keep in a separate book all rules, regulations, and restrictions adopted by the county council from time to time under the authority of this title, and any amendments or supplements thereto, and the office of law shall cause copies thereof to be printed and made available for general distribution.
(Code 1978, § 22-34; Bill No. 18, 1990, § 2)

Sec. 26-119. Penalty for violation of regulations, etc.

Any violation of the zoning regulations or policies, rules, or regulations interpreting the zoning regulations or of any final written order made or adopted pursuant to this title shall be a misdemeanor.
(Code 1978, § 22-35; Bill No. 18, 1990, § 2; Bill No. 88, 1990, § 1)

Sec. 26-120. Injunctive proceedings.

In addition to all other remedies provided by law, the director of zoning administration and development management or any person whose property is affected by any violation, including abutting and adjacent property owners, whether specially damaged or not, may maintain an action in any appropriate court for an injunction enjoining the erection, construction, reconstruction, alteration, repair, or use of buildings, structures,

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regional shopping center and cottages. Trustees of McDonogh v. Baltimore County, 221 Md. 550, 158 A.2d 637 (1969).

Construed in Oursler v. Board of Zoning Appeals, 204 Md. 399, 104 A.2d, 568 (1954); Offutt v. Board of Zoning Appeals, 204 Md. 551, 105 A.2d 219 (1954); Daniels v. Board of Zoning Appeals, 205 Md. 36, 106 A.2d 57 (1954); Temmink v. Board of Zoning Appeals, 205 Md. 489, 109 A.2d 85 (1954).

Applied in Zinn v. Board of Zoning Appeals, 207 Md. 355, 114 A.2d 614 (1955).

Price v. Cohen et al., 213 Md. 457, 132 A.2d 125 (1957), denial of rezoning of a certain tract of land on the grounds that it would materially increase the traffic hazard at that particular location, was upheld pursuant to this section.

An order rezoning certain property from residential to commercial to permit erection of a shopping center was reversed in Hardesty v. Zoning Board, 211 Md. 172, 126 A.2d 621 (1956), on the grounds that such rezoning would clearly increase the traffic hazard in the vicinity. Such a reclassification would be a plain violation of the statutory requirement against congestion in the streets pursuant to this section.

Applied as to a rezoning from residential to manufacturing restricted. Huff v. Board of Zoning Appeals of Baltimore County, 214 Md. 48, 133 A.2d 84 (1957).

Cited in Nelson v. Montgomery County, 214 Md. 596, 136 A.2d 377 (1957).

Applied in Tyrie v. Baltimore County, 215 Md. 135, 137 A.2d 156 (1957).

Applied and appellant required to pay cost, Missouri Realty Co. v. Reamer, 216 Md. 442, 140 A.2d 656 (1958).

Charter references—Zoning maps, § 523; county board of appeals functions and powers relating to zoning, § 602(a).

Cross references—Parking commercial vehicles in residential zones, § 21-110; parking nonmotorized vehicles on residential streets, § 21-112; residential permit parking areas, § 21-186 et seq.

12/2/02

BEFORE THE

COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

Case No. 02-174-XA

FAS, LLC, *Owner*
Wylie Funeral Home, PA, *Lessee*

Petitioners

9142 & 9204 Liberty Road
2nd Election District
2nd Councilmanic District

PETITIONERS' POST-HEARING MEMORANDUM

FAS, LLC, a Maryland limited liability company ("Owner") and Wylie Funeral Home, PA, a Maryland Professional Association ("Lessee") (Owner and Lessee are referred to collectively herein as "Petitioners"), by and through their undersigned legal counsel, hereby submit this Post-Hearing Memorandum in accordance with the direction of the County Board of Appeals for Baltimore County ("Board") at the conclusion of the second day of hearing held on the above-referenced appeal, in lieu of closing argument.

STATEMENT OF THE CASE

The Petitioners in this case obtained at the Zoning Commissioner level the special exception and variance relief needed to locate a funeral home and illuminated sign on the

north[1] side of Liberty Road, a State roadway. The Wylie family currently owns and operates a funeral home in the

City of Baltimore. The existing Wylie funeral home, known for its excellent care of family members and attention to detail during the difficult times that family and friends are dealing with the consequences of death, finds its business growing and it continues to receive requests for a presence in Baltimore County. FAS, LLC, a separate entity owned by the Wylie family members, searched for an appropriate location in the County and purchased the property known as 9142 and 9204 Liberty Road (the "subject property") in 2001. The subject property is located in a stretch of Liberty Road dominated by commercial uses with several homes still fronting directly on Maryland Route 26.

Among the conditions agreed to by the Petitioners at the Zoning Commissioner level was that an employee ("flagger") take a position at the crest of each hill to the east and west, with each to utilize appropriate signage to provide notice to motorists of a funeral procession exiting from the subject property. Other conditions of the Order of the Deputy Zoning Commissioner, dated January 25, 2002 (the "Order"), included the installation of a gate across the entrance onto Liberty Road during non-business hours, limiting the hours of public operation from 8:00 a.m. to 9:00 p.m. and the submission for review and approval by appropriate County personnel/agencies of a landscape/lighting plan and architectural plans.

Several of those who attended the hearing before the Zoning Commissioner in

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[1] Liberty Road has been classified by the State of Maryland as running east and west in this area of Baltimore County.

opposition to the requested relief and the Office of People's Counsel for Baltimore County[2] (referred to collectively herein as the "Protestants") noted a *de novo* appeal to this Board. The Petitioners did not file any appeal, accepting the relief granted previously as conditioned by the Deputy Zoning Commissioner.

The Board held a hearing on the appeal which spanned portions of two separate days. In support of the relief requested, Mr. Wylie testified as did four (4) separate experts in the areas of engineering and zoning (Rick Chadsey), traffic (Wes Guckert), environmental factors (Henry Leskinen) and architectural design (Sean Mackey). In contrast, the Protestants presented the lay testimony of residents in the area and the Office of People's Counsel presented the testimony of Steve Weber, employed by the County's Traffic Engineering section.

At the conclusion of the hearing, the Board requested that written memoranda be submitted in lieu of closing argument.

THE EVIDENCE

There is no dispute that the subject property is vacant and is split-zoned Residential-Office (RO) and Density Residential 5.5 (DR 5.5). Likewise, a review of the entire file maintained by the Board in this matter will reveal that no reviewing County agency had any meaningful comment on the zoning relief as requested. The State Highway Administration submitted detailed comments associated with the permit required to access the State Highway.

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[2] The Office of People's Counsel did not attend the proceedings held before the Zoning Commissioner.

The purported concerns expressed at the hearing before the Board can be grouped, logically, into five areas: traffic, engineering/zoning, environment, architectural factors and general issues.

Traffic

Since Liberty Road is a State highway, it is the Maryland Department of Transportation, State Highway Administration's ("SHA") comments and approvals that control and govern the ingress and egress to any use of the subject property. Access to this State roadway is governed by an access permit to be issued by the SHA. The SHA comments in the Board's file reflect that such an access permit will need to be obtained and that, at a minimum, the following will be required by the SHA:

- A traffic impact analysis. The final design for any required roadway improvements will be determined following the review and approval of the traffic impact analysis. The preparation of such an analysis was acknowledged by Mr. Guckert.
- The site will be restricted to only one entrance on Maryland Route 26.
- Auxiliary lane widening, including curb, gutter and sidewalk, will be required from property corner to property corner.
- Traffic signal modifications will be required.

In addition to setting out the requirements for obtaining the required access permit, the December 3, 2001 written communication from the Chief of the SHA Engineering Access Permits Division indicated that the SHA had reviewed the referenced item and had no

objection to approval.[3] (Emphasis added.)

The president of *The Traffic Group, Inc.*, Mr. John ("Wes") Guckert, being first recognized as a traffic engineering expert[4], testified as to the studies and analyses conducted by him or under his direction and control with respect to the proposed funeral home use on the subject property. Mr. Guckert also testified as to his extensive knowledge of traffic related factors associated with funeral homes, having conducted separate analyses and testified on several other funeral homes in Baltimore County and elsewhere.

Mr. Guckert described traffic generation associated with a funeral home use as:

- low to very low, occurring in off-peak hours
- the typical funeral procession is 10 - 15 cars in length
- a typical funeral procession takes approximately 30-45 seconds to exit a property; although the average time to place a vehicle in motion is 2 seconds, Mr. Guckert used a **3-second standard, being 50% greater than the average**
- having been further reduced over the years as a shift in societal custom has evolved into the current practice, resulting in approximately 2/3 of all funeral processions originating at the church or religious sanctuary (as opposed to the funeral home) and then traveling to the cemetery

Mr. Guckert then described the area in which the subject property is located and his familiarity with that area. The subject property is located on the State roadway, between two intersecting streets, Chapman and Offutt Roads, with Offutt Road being a signalized intersection and with both intersections operating at more than acceptable levels of service.

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[3] The written comments of the SHA, like all other reviewing agencies, exist in the zoning file which the Board makes a part of the record of a zoning appeal.

[4] Mr. Guckert's *Curricula Vitae* is Petitioner's Exhibit No. 16.

Liberty Road in the area of the subject property was described by Mr. Guckert as a four (4) lane, State roadway with a posted speed limit of 40 mph. Mr. Guckert testified that he had reviewed the December 3, 2001, written comments from the SHA and that the submission of a traffic impact analysis was a standard request when seeking an access permit for use of a State roadway. Mr. Guckert described his extensive experience in meeting SHA representatives at a particular property, as part of the access permit evaluation, to discuss in detail the final design requirements and roadway improvements that will be required by the SHA as part of the State access permit issuance. Based on his experience of SHA design and roadway requirements, Mr. Guckert opined without contradiction that the proposed funeral home use at the subject property can comply with all SHA access permit requirements, including the construction of the auxiliary lane.

Turning to the specifics of the subject property and the proposed funeral home use, Mr. Guckert testified extensively as to sight distance and safety issues, as well as the factors associated with a funeral home on the subject property as compared to other locations in the County. Prepared under Mr. Guckert's direction and control in June of this year was a *Sight Distance Study* which analyzed existing road conditions, widths, grades, speed limits and the propriety of posting flaggers at the crest of the vertical rises in each direction on Liberty Road.[5] A review of the graphic presentation of the existing sight distances, especially the station-to-station analysis on the bottom, shows that sight distance for a vehicle exiting the

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[5] Petitioners' Exhibit No. 17 is the graphic presentation of the results of that Study.

subject property is: 605 feet in a westerly direction and 705 feet in an easterly direction, measured from exiting driver's eye to that of the eye of the driver on Liberty Road. Those distances far exceed the standards of the American Association of State Highway and Transportation Officials, depicted in the top, right-hand corner of Petitioners' Exhibit No. 17. In fact, the existing sight distances were, according to Mr. Guckert, even greater than those required for a roadway with a posted speed limit of 50 mph. Moreover, Mr. Weber, testifying on behalf of the Office of People's Counsel[6] acknowledged that the sight distance in both directions was totally adequate.

Mr. Weber expressed his (his agency's?) purported concern about there not being any specific statutory authority for flaggers to stop, temporarily, traffic associated with the proposed funeral home. However, on cross-examination, Mr. Weber did acknowledge that if flaggers were utilized as proposed, a "safe condition" would exist with respect to those funeral processions that did originate and exit from the subject property. Mr. Weber was, apparently, unaware of the common custom of using flaggers in connection with funeral home operations as witnessed and testified to by Mr. Guckert. The collection of photos taken by Mr. Wylie, Petitioners' Ex. No. 9, are of particular import. Reisterstown Road, where the Sol Levinson funeral home is located, is a State Highway like Liberty Road. At the Levinson location, Reisterstown Road is four lanes wide, as is Liberty Road in front of the subject property. (Petitioners' Ex. No. 9B) In connection with the improvements made when the Levinson

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[6] Mr. Weber was not accepted by the Board as an expert traffic engineer in his own right; rather he was accepted as a representative of the Baltimore County Bureau of Traffic Engineering.

funeral home was constructed, an auxiliary widening lane was constructed; the review comments from the SHA show that such a lane will also be required as part of the State issued access permit for the Wylie funeral home on the subject property. (Petitioners' Exhibit No. 9C & D)

It should not be overlooked by this Board that Baltimore County has no jurisdiction over whether or not a State access permit is issued for the funeral home use on the subject property. While Mr. Weber may be familiar with roadways in the County, he does not possess the unique skills of Mr. Guckert in analyzing the impacts, if any, associated with funeral home uses. Mr. Weber's alleged concern that a driver may not see a flagger if the view was obstructed by a large truck is, as he testified on cross-examination, not unique to the subject property or to funeral home uses. Both Mr. Guckert and Mr. Weber acknowledged that flaggers were used on County and State roadways in a variety of situations, including without limitation funerals, construction activities, vehicles backing into narrow entrance ways, etc. Absolutely no one who testified could point to any statutory or regulatory prohibition (or authorization) of the use of flaggers in such situations. Rather, as testified to by Mr. Guckert without contradiction, the use of flaggers is a long-standing custom recognized by the County police.

Several of the Protestants (including one who took the stand in a Baltimore County Police uniform but testified solely as a lay witness) expressed concerns about vehicular accidents that occurred on Liberty Road, including without limitation in the area of the subject property. In contrast, Mr. Guckert testified that he had examined recent accident data

collected by the SHA, from 1998 to 2001, in the area from Chapman Road to Offutt Road. Mr. Guckert's review of that State data and recommendations associated therewith included the following:

- there was a total of five accidents in the area of the subject property and 500 feet in each direction during the collection period, with 4 of those 5 accidents occurring on rainy days
- the information and data reviewed did not contain any recommendations for improvement to the intersections within the area between Offutt and Chapman Roads
- the information and data reviewed did not contain any recommendations for improvement to Maryland Route 26 in the area between Offutt and Chapman Roads

Several of the (lay) residents testified as to their alleged fear of placing additional traffic on this area of Liberty Road. As depicted in Petitioners' Exhibits No. 3 & 10, this area of Liberty Road is commercialized at present. Suggestions that the 30 - 45 seconds that will be required for any funeral procession to exit the subject property will somehow cause anyone to miss a doctor's appointment or similar event cannot be taken seriously by this Board.

Mr. Guckert described his involvement in the approval process for the Sol Levinson funeral home, which has one point of egress just over the crest of the hill of Reisterstown Road, also a State highway. The photos of the flaggers associated with the Sol Levinson funeral home (Petitioners' Exhibit No. 9A & D) are consistent with the standard procedures of that funeral establishment. Both Messrs. Guckert and Weber agree that a similar use of flaggers at the subject property will eliminate any sight distance issues that might otherwise arise. On direct examination, Mr. Guckert testified without contradiction or correction that,

in his professional opinion which is based on his years of traffic engineering work in Baltimore County and in the representation and analyses of various funeral home uses:

- the proposed funeral home use at the subject property **will not be** more detrimental to the health, safety or general welfare of the community and **will not tend** to create greater congestion in roads, streets or alleys beyond those normally inherent with funeral home uses elsewhere in the zone or the County

- the proposed funeral home use, once the required State highway access permit is obtained and any site frontage improvements made, will not interfere with adequate provisions for transportation and/or public requirements/improvements

- the proposed funeral home use at the subject property is not inconsistent with the spirit and intent of the *Baltimore County Zoning Regulations* ("BCZR")

- there are no facts or circumstances that suggest the proposed funeral home use on the subject property will have any adverse effect above those inherently associated with funeral home uses irrespective of their location in the zone

Engineering and Zoning

Frederick N. Chadsey, IV, a vice-president of GWS, Inc. and a licensed professional engineer testified as to the site plan and proposed development of the subject property. The plat/plan of the proposed development for which the Petitioners' are seeking approval exists in the record as Petitioners' Exhibits No. 2 & 2A (with 2A being the color-highlighted version). Mr. Chadsey, accepted as an expert witness, testified that the site proposed for a funeral home as a special exception use (BCZR §§ 204.3B.1 & 1B01.C.9):

- is approximately 3.6 acres in size, with 1.125 ± acres being zoned RO and the balance zoned DR 5.5

- is to be served by public water and sewerage facilities

- will contain a 99 space parking lot, located in the rear as required by the BCZR, in lieu of the minimum 90 spaces required

- the maximum floor area ratio of buildings allowed is 0.2; the proposed floor area ratio of improvements is only 0.07

- all residential transition area setback requirements are met or exceeded

- a small stormwater management facility is proposed which has a suitable outfall and which will meet all applicable requirements

- the site design has been finalized (Petitioners' Exhibit No. 2) after on-site visits with Rahii Family (at the time with the County's Bureau of Traffic Engineering) and incorporation of the required SHA improvement - auxiliary lane addition/widening

- the stormwater facility has been designed in a standard fashion with underdrains to address existing and proposed drainage, including that which can – at present – back up onto the Meerdter property which adjoins to the west

Mr. Chadsey next described for the Board, the variance relief for an illuminated enterprise sign (BCZR § 450.4.H.5(m)VIII and, if such relief is actually deemed necessary, an ornamental, accessory fountain (BCZR § 400) in the front yard of the proposed funeral home. It was Mr. Chadsey's considered opinion and expert testimony that the proposed fountain was "decorative in nature and a landscape feature" rather than an accessory structure requiring a variance from BCZR § 400. The proposed enterprise sign meets all size and locational requirements and limitation set forth in the BCZR. However, given that people can be expected to visit a funeral home in the evening hours, the requested illumination of the sign will assist in the identification of the funeral home during dusk and darkness. Mr. Chadsey testified that the Petitioners would only illuminate the sign during the hours of funeral home operation and that the illumination was desired as a safety element providing for ease of location.

As to the various conditions contained in the Order of the Deputy Zoning Commissioner, Mr. Chadsey testified that all conditions contained therein could be met without requiring modification of the site layout shown on Petitioners' Exhibit No. 2/2A. As to the variance relief requested, Mr. Chadsey opined without contradiction by anyone that: i) it was the minimum relief necessary; ii) its granting would not increase the residential density on the subject property; iii) the relief requested would do justice to the Petitioners as well as other property owners in the district; iv) public safety will be increased due to the resultant ease in identification of the proposed funeral home; and v) that the location of the subject property across the street and west of the existing mini-storage warehouse, car wash and lumber company make it a unique vacant property with split RO-DR zoning.

Mr. Chadsey testified as to his knowledge and understanding of the BCZR, the subject property and the commercial and non-commercial uses in the area of the subject property. He described in detail for the Board the commercial uses that exist along this stretch of Liberty Road. Having visited the subject property on a number of occasions, Mr. Chadsey identified a series of photographs introduced by the Petitioners as being fair and accurate representations of the area, adjusting for the season and time of year taken. Being familiar with the zoning classifications applicable to the subject property and funeral home uses, Mr. Chadsey opined that in his professional opinion, the proposed use could be conducted without detriment to the community being consistent with the spirit and intent of the BCZR. Mr. Chadsey testified further that in his expert opinion, he was unaware of any facts or circumstances that suggest that the proposed special exception use at the subject property would have any adverse effects

above and beyond those inherently associated with such special exception use irrespective of where it may be located in the zone.

Environment

The existing water conditions on the subject property, areas of disconnected wetland soils and streams in the general area of the subject property prompted testimony by several witnesses: an expert on behalf of the Petitioners and lay and one self-educated "expert" on behalf of the Protestants. The credible expert evidence was offered by Henry Leskinen of Eco-Science Professionals, Inc. Mr. Leskinen was accepted as an expert environmentalist, particularly in the area of wetland issues and the environmental rules and regulations of Baltimore County.

With respect to the two wetland areas on the subject property, Mr. Leskinen bifurcated his testimony between that wetland area adjacent to Liberty Road and that located further northward, interior to the subject property. With respect to the interior wetland area, Mr. Leskinen testified that: i) it was a minimal area disconnected from any other wetland area or stream; ii) it existed because of prior grading and/or old foundation areas; ii) the area has already been disturbed; and iv) that a visual inspection revealed that the area was mowed regularly.

Mr. Leskinen next described that wetland area which exists adjacent to the paved area of Liberty Road. This area, as described by Mr. Leskinen, is lower than the paved area of Liberty Road and is located <u>below</u> a storm drain pipe under Liberty Road which, during storm events conveys storm water from the subject property. Mr. Leskinen's investigation and

analysis revealed that, ordinarily the level of water in this wetland area did not rise high enough to get into the storm drain pipe. In other words, except for storm events, this wetland area was disconnected from any downstream resource. Moreover, when the water level was sufficiently high to get into the pipe, that water was combined with stormwater from inlets in Liberty Road leading to the same pipe, draining in a southeasterly direction to a suitable receiving area. Mr. Leskinen opined that there were no rare or endangered animal species or vegetation present in either of the wetland areas.

The alteration/elimination of the wetland areas on the subject property will be subject to review, approval and oversight by the Maryland Department of the Environment ("MDE"). At the conclusion of the first hearing day before the Board, Mr. Leskinen described a public hearing to be held shortly thereafter by MDE in connection with the Joint Federal/State Application filed by the Owners for the issuance of a Nontidal Wetlands and Waterways Permit and a Water Quality Certification. At the second day of hearing before the Board, Mr. Leskinen was recalled to the stand and described the MDE hearing and the subsequent, written MDE conditional notice of intent to issue the requested permit and certification (Petitioners' Exhibit No. 15). No final decision on the requested permit and certification will be made by MDE[7] until the conditions of that notice of intent are met.[8] Mr. Leskinen testified that in his

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[7] Although Petitioners' Exhibit No. 15 states that a "favorable decision has been made to issue" the requested permit and certification, the undersigned counsel received a telephone call from the MDE Hearing Officer on November 27, 2002, wherein she indicated that she was sending a letter to this Board advising that she, not the project manager, Mr. R. Aaron Brown (*see* page 2 of Petitioners' Exhibit No. 15), was the final decision maker and that no "final" decision had yet been made. There is (continued...)

experience, the procedure outlined in the MDE notice of intent was a standard procedure when dealing with nontidal wetland permits and water quality certifications.

Ms. Meerdter, who owns adjoining property to the west, testified as to her concern with existing pools of water and the future extent of pooling if the requested improvements are constructed. The testimony of both Messrs. Chadsey and Leskinen described how the proposed stormwater management facility would alleviate existing and address future conditions, including collection of existing, pooling stormwater and conveying it through a water quality facility to a suitable outfall.

Testimony that can only be described as "interesting" was offered by Mr. Jack Wennerstrom, a freelance writer and self-taught environmentalist in the theory of Henry David Thoreau. This witness suggested that the proposed improvements on the subject property would have a negative impact on a condition that he described as "capillary action" blocking off the "blood flow" to the Chesapeake Bay. Mr. Wennerstrom's comments and theory were offered apparently without a complete understanding of how the stormwater management facility and water quality facility would operate to improve existing conditions and convey

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[7](...continued)
no indication whatsoever that once the County approved plans have been submitted that the final "approval" decision will not be issued by the MDE Hearing Officer.

[8] MDE required the submission for review and approval, of complete construction plans for the proposed funeral home which include, without limitation, the limits of any nontidal wetland, nontidal wetland buffer areas, Best Management Practices, construction sequencing and County approved sediment erosion and sediment control plans. These construction plans are prepared and submitted by an owner only after all final zoning and development approvals have been obtained for the proposed use.

water of a better quality to the receiving waters leading to the Chesapeake Bay.[9]

The evidence shows clearly that the proposed use can be constructed and conducted without detriment to the environment. In fact, the proposed improvements and site modifications will, as testified to by the experts for the Petitioners, result in a better environmental situation than exists today, including relieving the water pooling situation currently experienced by Ms. Meerdteer.

Architectural Factors

Mr. Sean Mackey, a licensed architect employed by the architectural firm of Rubeling and Associates, Inc. appeared and testified on behalf of the Petitioners. Mr. Mackey described his familiarity with the subject property, the area in which it is located and his experience in designing another funeral establishment in Baltimore County. Utilizing Petitioners' Exhibit 4A, Mr. Mackey described the floor plan of the proposed improvements, including the chapel area set aside for those few families desiring the funeral service to be held at the funeral home instead of a religious facility and the interior storage of all funeral home vehicles. Being familiar with local requirements, Mr. Mackey opined that the proposed improvements meet all applicable code requirements, as well as the requirements of the Owner.

As the principal architect of the proposed improvements, Mr. Mackey testified as to how the conceptual elevations of the funeral home (Petitioners' Exhibit No. 4B) and the

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[9] It was interesting to note that certain issues raised by Mr. Wennerstrom at the Zoning Commissioner's hearing (which the Petitioners addressed by suggesting conditions and/or agreed to conditions on the relief granted) were not even mentioned at the hearing before this Board – perhaps because the Petitioners' were not seeking to eliminate any of the previously agreed to conditions.

specific elements incorporated into their design rendered the structure compatible with the uses in the immediate area of the subject property. The proposed funeral home is to be a single story, with residential window treatments incorporated into the design. The *porte cochere* (vehicle drive through overhang) is maintained at the same elevation to resemble a residential car port. The slightly elevated dome area above the interior chapel has been designed with residential elements to ensure compatibility. The primary access to and from the funeral home will be from the parking area to the rear. Mr. Mackey acknowledged that there are no glaring lights or other features proposed that could result in an undesirable condition on any adjacent or nearby properties.

One of the Protestants, Ms. Klohr, suggested that the proposed design does not fit in with the area.[10] Ms. Jeannie Turnock, a real estate broker, testified that although in her opinion the proposed funeral home would have no negative impact, she thought that existing, non-residential structures (such as in a nearby shopping center) should be used and she expressed her concern about the emptiness of commercial buildings that become vacant.

Mr. Mackey's expert testimony remains uncontradicted. The design for the proposed funeral home was selected to be compatible with the existing residential and non-residential uses in the area. To ensure one additional level of comfort, the Petitioners agreed to a condition at the Zoning Commissioner level that the Office of Planning review and approve all architectural elevations prior to building permit issuance; a condition that remains

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[10] Perhaps it contrasts too greatly with the lumber yard, car wash and mini-storage facilities.

unchallenged by the Petitioners on appeal.

General Issues

<u>The Testimony of Mr. Wylie</u>

Perhaps the most vibrant and sincere testimony offered during the Board's hearings was that of Albert P. Wiley, authorized member of the Owner and President of Wylie Funeral Home, PA. Mr. Wylie testified that a Baltimore County funeral home location was needed to meet the increasing number of families that he has been servicing for years that now desire funeral services in the County and to meet the growing number of families and friends of families who have experienced the quality treatment received at the Baltimore City location of Wylie Funeral. The Wylie Funeral Home is a family owned business and the County location will be operated by Mr. and Mrs. Wylie's son, Brandon.

Mr. Wylie testified as to the approximate number of funerals conducted on an annual basis by other funeral homes with County locations and how Wylie expected to be in the same range or slightly below the annual figure of most other locations. Mr. Wylie made a written attempt to establish a dialogue with property owners on either side of the subject property, to no avail. Mr. Wylie testified that he instructed his architect to prepare a "low key" design funeral home so that it would not intrude in the community.

As to issues of traffic, Mr. Wylie testified as to how he uses flaggers at his existing City location and how it is the <u>standard of the industry</u> to use flaggers to stop, temporarily, traffic so that a procession could exit a funeral home or religious building property. In the event that a very large funeral will be conducted, Mr. Wylie described how he and his fellow funeral

directors provide advance notice to the local police department for uniformed traffic control.

As to the particular business practices of Wylie funeral home, Mr. Wylie testified as to how he and his family become active and productive members of the community. The proposed use has already received the support of the Liberty Road Business Association and political leaders in the district.

Finally, Mr. Wylie indicated that he had reviewed the site design and layout, the architectural elevations, the SHA comments and requirements and had participated in the MDE hearing. The Owner, the Lessee and the entire Wylie family intend to comply in all respects with the requirements of applicable law, rule and regulation, with the site plan and architectural elevations **as well as** the conditions contained in the Order, in their continuing efforts to become quality business leaders in the County.

The Testimony of Others

The "general issues" raised during the hearing before the Board resulted from written material and verbal testimony. The concern about business competition is contained in that which has been marked as People's Counsel Exhibit No. 1. Although admittedly hearsay in that no one appeared to testify about the contents of the exhibit, it cannot be ignored that existing funeral home operations in the area will raise whatever concerns they think may be persuasive to this Board in their attempt to stifle additional competition. The alleged "precedential" character of the approval of the requested special exception is non-existent. Each special exception use must be evaluated on it own merits, irrespective of other special exception uses that may exist in the area. The alleged devaluation of real estate values is, at

best, a red herring.[11] A funeral home, architecturally designed to be compatible with residential uses in the area will not have a negative impact on real estate values. Can the same be said of the nearby, more garish mini-storage and car wash businesses?

Concerns about speeding on Liberty Road are based on existing conditions, unrelated to the proposed funeral home. These are enforcement issues of the County and State. Ms. Meerdter's purported concern about "seeing" people coming to and from a funeral home or "seeing" a funeral procession leaving the subject property are, apparently real concerns to her; however, they are immaterial to the issue pending before this Board. Likewise, alleged concerns of lighting are misplaced; any and all exterior lighting must meet all requirements of the County Code, the BCZR and all applicable regulation. Additionally, another one of the conditions not objected to by the Petitioners is that the lighting plan be reviewed and approved by County personnel.

In essence, the general concerns expressed are just that – general in nature and would apply irrespective of where the proposed use is located.

ARGUMENT

The Petitioners/Appellees have met their burden for the proposed Special Exception Uses as required by Sections 204.3B.1, 1B01.C.9 & 502.1 of the Baltimore County Zoning Regulations

A special exception use is "part of the comprehensive zoning plan sharing the

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[11] The Petitioners maintain that any testimony/evidence about alleged impact of special exception uses on real estate values is irrelevant to the proposed funeral home use. The County Council has authorized the consideration of such valuation factors only in the evaluation of certain, specified special exception uses; funeral homes are not included.

presumption that, as such, it is in the interest of the general welfare, and therefore, valid." *Anderson v. Sawyer*, 23 Md. App. 612, 617, 329 A.2d 716 (1974) [a **Baltimore County** funeral home case]; *See also, Harford County v. Preston*, 322 Md. 493, 498, 588 A.2d 772 (1991) The Petitioners were required to meet the statutory requirements established by the Baltimore County Council; the Petitioners did not have to show that the proposed use would be a benefit to the community. *Preston* at 498. However, in this case the evidence offered by the Petitioners showed that the proposed funeral home will provide a needed service to the community and meet the increasing demand for quality funeral services that families receive from the Wylie Funeral Home.

The facts and evidence in this case in support of the requested relief are overwhelming. The witnesses presented by the Petitioners, lay and expert alike, testified affirmatively and conclusively that the proposed funeral home at this location will not have any adverse impacts or effects above and beyond those inherently associated with such uses, irrespective of their location elsewhere in the zone.

The Petitioners in this case are seeking a statutorily authorized special exception for a funeral home, as well as variance relief for a sign and, if necessary, a decorative fountain. Special Exceptions are different and distinct from requests for variances from the County's Zoning Code. *Cromwell v. Ward,* 102 Md. App. 691, 651 A.2d 424 (1995) Unlike a variance request which seeks a relaxation or elimination of minimum bulk or area requirements in the Zoning Regulations, 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".

Creswell v. Baltimore Aviation Service, Inc., 257 Md. 712, 719, 264 A.2d 838 (1970).

The "fears" of the effects of a funeral home testified to by many of the Protestants are not new or particular to a funeral home merely because it is to be located on the subject property. Funeral homes are those uses that are an integral part of our society, yet few of us look forward to visiting them for obvious reasons. Addressing both the devaluation and the neighborhood enjoyment factors about which Ms. Meerdter testified, as well as other concerns expressed, in ruling on a proposed Carroll County funeral home the Court of Appeals has found:

> 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 <u>funeral homes are to be allowed in residential zones notwithstanding their inherent deleterious effects</u>. By defining a funeral home as an appropriate use by way of special exception, the legislature of Baltimore County has, in essence, declared that <u>such uses, if they satisfy the other specific requirements of the ordinance, do promote the health, safety and general welfare of the community</u>. As part of the comprehensive zoning plan **this legislative declaration shares in a presumption of validity and correctness which the courts will honor**.
>
> The <u>presumption that the general welfare is promoted</u> 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. Anderson, 23 Md. App. at 624-25, 329 A.2d at 724.*

Schultz v. Pritts, 291 Md. 1, 13-14 (1981). (italicized emphasis in original; all other emphases added.)

As noted by the appellate courts of this State, if the express conditions of the statutes governing special exceptions are met "it is a permitted use because the legislative body has made that policy decision." *Chester Haven Beach Partnership v. Board of Appeals*, 103 Md. App. 324, 336, 653 A.2d 532 (1995) Judge Cathell writing for the Court of Special Appeals in 1995, in the case of *Mossburg v. Montgomery County*, 107 Md. App. 1, 666 A.2d 1253 (1995), reaffirmed the Maryland standard for evaluating Special Exception requests articulated by the late Judge Rita Davidson in the *Schultz* case, Judge Cathell wrote:

> [I]t 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, **general 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.**

Mossburg at 8-9. (Emphases supplied.)

The proposed use is permitted by the BCZR, the zoning classifications attached to the subject property by the official zoning maps of the County and by the land use designation

assigned by the *Baltimore County Master Plan 2000 - 2010* to the community in which the subject property is located. The County Council and the appellate courts have defined clearly that the duty of this Board is 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." Once the Petitioners' have shown that the " proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest" they have met their burden. *Schultz* at 11.

The Petitioners have met their statutory burden (BCZR §502.1) as well as the additional test set out by *Schultz v. Pritts* and its progeny. Through expert and lay witnesses alike, the Appellees have introduced **substantial, probative evidence** in support of their case. In stark contrast, the Protestants have produced only lay witnesses and one County employee testifying on behalf of his agency (the Bureau of Traffic Engineering) which has no jurisdiction with respect to the subject property as it will be accessed solely by a State highway. The neighborhood Protestants testified as to their discontent with the proposed uses, their views on traffic in the area (which in part has resulted from other, unrelated development over the years) and their fears that their community will be affected adversely if the requested relief is granted. In reviewing applications for special exception approval, the appellate courts of this state have long held that:

> 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.**

Entzian v. Prince George's County, 32 Md. App. 256, 262-63 (1976), *quoting Rockville Fuel and Feed Company, Inc. V. Board of Appeals of the City of Gaithersburg*, 257 Md. 183 (1970) (Emphasis supplied.)

There is no probative evidence that the proposed funeral home use at the subject property will result in "harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan", therefore, to deny the requested special exception use would be "arbitrary, capricious and illegal". *Schultz* at 11 (citations omitted); *Lucas v. People's Counsel for Baltimore County*, ____ Md. App. _____, 807 A.2d 1176; 2002 Md. App. LEXIS 169 (2002); *Alviani v. Dixon*, 365 Md. 95, 113 (2001); *Commr. Of Cecil Co. v. Holbrook*, 314 Md. 210, 216-17 (1988).

The appellate courts of this State have considered more than one requested special exception for a funeral home.[12] In the Baltimore County funeral home case of *Anderson v. Sawyer*, 23 Md. App. 612 (1974), Mr. Eugene Sawyer and others filed a petition for special exception to construct a funeral home on property zoned DR 5.5, like the majority of the subject property. Access to the proposed funeral home was limited to a single point of ingress and egress to Merritt Boulevard, a multi-lane road with a deceleration lane in front of the subject property. The Court recounted the presentation at the hearing held by the Baltimore County Board of Appeals by those opposed to the requested relief:

> In opposition, the protestants, neighboring landowners, presented testimony intended to show that the grant of the requested special exception would tend to create congestion on neighboring roads and streets and would, in other respects, be detrimental to the health, safety and general welfare of the locality

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[12] *Anderson v. Sawyer* was a funeral home case in Baltimore County; *Schultz v. Pritts* was a funeral home case in Carroll County.

> involved. According to them, the entrance on the Merritt Boulevard deceleration lane was unsafe; the proposed use would create traffic congestion on Sunberry Road and would generally increase the amount of traffic moving throughout the residential community. Moreover, they alleged that the proposed use would create a wedge for future commercialization, 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.

Anderson at 615-16. (Emphases added.)

In denying the special exception for the funeral home in that case, the Board opined:

> The Board finds that this is a very close case to decide, but believes the greater weight of testimony in evidence is with the protestants. The Board believes the granting of the special exception will create traffic problems on Sunberry Road and will, in fact, be detrimental otherwise to the general welfare of the locality involved, and therefore, will deny the requested petition for a special exception for a funeral home.

Anderson at 616.

The Court of Special Appeals affirmed the Circuit Court's reversal of the Board, granting the requested special exception based, primarily on the nature and character of the evidence presented. The Court held that:

> A qualified traffic expert, presented by the applicant, testified with respect to the traffic impact which the proposed use would have upon Sunberry Road. His opinion was based upon a study of the traffic to be generated by the proposed use and the traffic conditions then existing upon Sunberry Road. He testified that in his opinion Sunberry Road could comfortably and safely accommodate the volume of traffic to be generated by the proposed use. In contrast, the only expert testimony presented to the contrary was that of Eugene J. Clifford, director of traffic engineering for Baltimore County. He stated that, although he had not made a study of traffic at the location of the proposed special exception, he had reviewed the proposal and had "checked over the roads and

> the property." [13] In essence, his testimony regarding Sunberry Road consisted of a statement that it is undesirable to increase traffic on a 30-foot-wide road in a residential neighborhood in which parking is permitted on both sides of the street. In addition, several nearby residents testified that the grant of the special exception would result in traffic congestion on Sunberry Road. Thus, the testimony presented by the protestants neither contradicts nor rebuts that of the appellant's qualified traffic expert to the effect that Sunberry Road is capable of absorbing the increase in traffic which the proposed use would generate. There are no facts provided by either the expert or the laymen to support the conclusion that increased traffic on Sunberry Road is "undesirable" or that traffic congestion will, in fact, result from the increase in traffic to be generated by the proposed use. Consequently, the testimony presented to the Board to show that the grant of the requested special exception would result in traffic congestion on Sunberry Road was totally devoid of probative value, and was, in effect, no evidence at all. The testimony presented to show that the grant of the special exception would otherwise be detrimental to the general welfare of the locality involved is similarly lacking in probative force. The applicant presented the testimony of a qualified traffic expert who opined that the entrance on Merritt Boulevard was safe. He pointed out that both the State Roads Commission and the Department of Traffic Engineering in Baltimore County have approved the location of the proposed entrance.

Anderson at 721.

The Deputy Zoning Commissioner determined that additional conditions were appropriate for the proposed funeral home use. The County Council, as part of the overall comprehensive plan of zoning and planning in the County has determined that the Commissioner and this Board should have the authority to impose such conditions. BCZR § 502.2 Even if the legislative body had not provided express authority for the imposition of conditions, the State's highest court, as late as 1995, held that:

> The power to impose conditions upon the grant of a variance or special exception is one which is implicit in the power to grant a variance or special

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[13] The analysis and testimony of Mr. Clifford was not unlike that of Mr. Weber in this case.

exception. "This is so because the whole basis for the exception is the peculiar hardship to the applicant, and the Board is justified in limiting the exception in such a way as to mitigate the effect upon neighboring property and the community at large." *Id. at 169, 148 A.2d at 432. See also Skipjack Cove Marina, Inc. v. Board of County Comm'rs of Cecil County, 264 Md. 381, 287 A.2d 49 (1972);* 3 Yokley, *Zoning Law and Practice*, § 21-12. Both a variance and a special exception authorize uses which otherwise would not be permitted. Having been given the power to authorize such unusual uses, the Board must also have the power to limit those uses to protect the health, safety, and welfare of the community. *See Skipjack Cove Marina, Inc., 264 Md. at 386, 287 A.2d at 51* (The board is justified in limiting the special exception in such a way as to mitigate its effect upon neighboring property and the community at large.); 3 Rathkopf, *The Law of Zoning and Planning*, § 40.02[3] ("Even in the absence of any specific provision therefor in the ordinance, the board would thus have inherent power to condition a variance. If this were not so, the board, for lack of such right, might be forced, at times, to deny a variance and thus perpetuate the hardship which the restrictions have imposed upon the landowner.").

Halle at 140-41.

The Petitioners' have not filed a cross-appeal challenging the conditions imposed. Rather, at the hearing held before the Deputy Zoning Commissioner the Petitioners suggested and/or agreed to each of those conditions. Notwithstanding the fact that some of the purported concerns (which were addressed by certain of the conditions imposed below) were not raised in the hearing before the Board, the Petitioners are not seeking to remove or relax any of those conditions.

It is obvious, for whatever reason or reasons, that the Protestants do not want a funeral home in their community. Some have suggested that it will foster a greater commercialization of this area of Liberty Road. However, the reasons presented cannot overcome the legislative presumption of compatibility and the probative evidence presented by the Petitioners. In response to those Protestants, perhaps the *Anderson* court summed it up properly when it

stated "[i]f the residents of Baltimore County do not want funeral homes in residential use districts, they should prevail upon the local legislature to change the ordinance." *Anderson* at 625.

Finally, a bright line must be drawn between the special exception relief sought by the Petitioners and their Petition for Variance relief. The variance relief sought does not involve the statutorily defined requirements for approval of the requested Special Exception.[14] The variance relief sought is for the illumination of the freestanding sign, a use permitted as of right and not by special exception. The Petitioners have shown the beneficial effects of an illuminated sign; enabling the traveling public to locate readily the Wylie Funeral Home in the dusk and evening hours. Petitioners' reassert that the variance relief prayed for the ornamental fountain (as an accessory use in the front yard) which is part of the comprehensive landscape scheme proposed for the subject property is not necessary. Rather, Petitioners included that relief at the direction of the Zoning Office in the event that the Zoning Commissioner or this Board determined that it was necessary.

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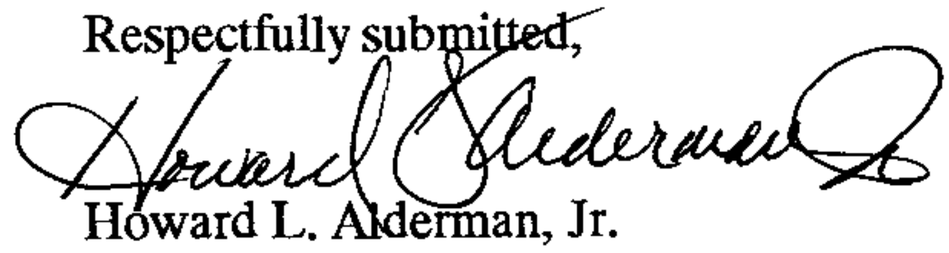
[14] In the *Chester Haven Beach* the Court of Special Appeals (in *dicta*) suggested that obtaining a variance from the express requirements necessary for special exception approval may destroy the legislative presumption of compatibility afforded special exception uses. *Chester Haven* at 336. However, in a more recent case, Judge Cathell (now sitting on the State's highest court) writing for the Court of Appeals held that where a local legislative body has prohibited variances to certain sections of that County's zoning regulations but not others (including the criteria for special exception approval) variances from those criteria are permissible if the special exception use continues to fall into the comprehensive zoning scheme. *Alviani v. Dixon*, 365 Md. 95, 117 (2001).

SUMMARY and CONCLUSION

This case is a *de novo* appeal of the Order, granting the requested special exception relief for a funeral home on Liberty Road. There is uncontroverted evidence in the record to support the granting of the special exception and variance relief sought by the Petitioners. Are there effects associated with the proposed funeral home? Yes and the County Council recognized that fact when it approved funeral homes as special exception uses which, by definition, have effects on an area different from those of uses permitted as of right. In this case, the Petitioners have shown conclusively that the adverse effects of the proposed special exception use at the subject property would be no greater than the adverse effects ordinarily associated with that funeral home use if located elsewhere in the district. The Petitioners have also shown that to deny the requested variance relief would result in practical difficulty to the Petitioners as well as the public at large. There is no probative evidence to negate the legislative presumption of compatibility of the Wylie Funeral Home on the subject property; a denial of the requested relief would be arbitrary, capricious and illegal.

For all of the foregoing reasons, this Board should grant the relief requested.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of December, 2002, a copy of the foregoing Petitioners' Post-Hearing Memorandum, was mailed, postage prepaid, First Class United States Mail to the following:

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
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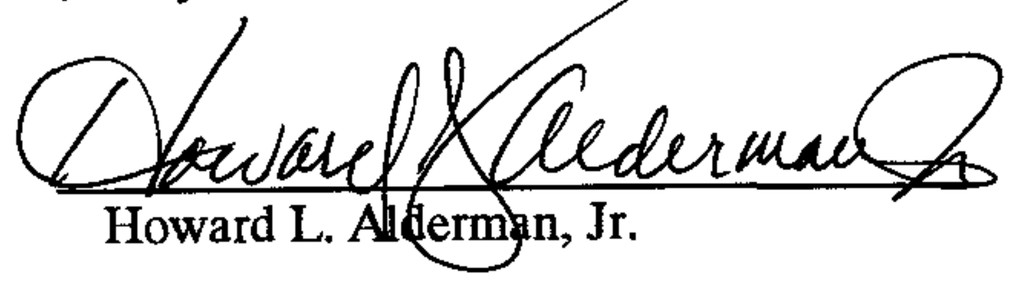
and

Wylie Funeral Home, PA
FAS, LLC
c/o Mr. Albert P. Wylie
638 North Gilmor Street
Baltimore, Maryland 21217



Howard L. Alderman, Jr.

FROM THE OFFICE OF

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CONSULTING ENGINEERS • LAND PLANNERS • LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD • TOWSON, MARYLAND 21286-3396

Description to Accompany
Petition for Special Exception and Variance
For Wylie Funeral Home

Date: October 29, 2001

Beginning at a point on the northerly right-of-way of Liberty Road, said point being South 63 degrees 32 minutes 14 seconds East 532.95 feet more or less, from a point formed by the intersecton of the centerlines of Liberty Road and Chapman Road thence leaving said point of beginning, along the following 4 courses:

1. Running thence leaving said northerly right-of-way of Liberty Road North 30 degrees 32 minutes 57 seconds East 528.99 feet, thence
2. South 59 degrees 23 minutes 41 seconds East 299.53 feet, thence
3. South 30 degrees 35 minutes 2 seconds West 525.63 feet, to a point on the northerly right-of-way of Liberty Road, thence binding on said right-of-way
4. North 60 degrees 2 minutes 18 seconds West 299.22 feet to the point of beginning.

Containing 3.634 Acres of land more or less

***Note:* The above description is for zoning purposes only and is not to be used for contracts, conveyances or agreements.**

BOARD OF EXAMINERS OF LANDSCAPE ARCHITECTS
BERNT CHRISTIAN PETERSEN
STATE OF MARYLAND

174

410-825-8120 • FAX 410-583-0288
gwstowson@erols.com

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 11205

DATE 2-25-02

ACCOUNT 001 006 6150

AMOUNT $ 460.00

RECEIVED FROM: CATHRYN L MILLER

FOR: APPEAL ON BEHALF OF ARNAY KLOHR RUTH A MEERDTER AND CHRISTOPHER C WOODIN
02-174-XA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
PAYMENT ACTUAL TIME
2/25/2002 2/25/2002 10:35:55
REG USER CASHIER PBOS CRB DRAWER
RECEIPT [illegible]
DEPT [illegible] 52: ZONING VERIFICATION
DR NO. 011205
Recpt Tot 460.00
460.00 CK .00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

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: #02-174-A
9142 & 9204 Liberty Road
NE/S Liberty Road, 532.95'+/- S centerline of Chapman Road
2nd Election District - 2nd Councilmanic District
Legal Owner(s): Albert P. Wylie
Lessee: Albert P. Wylie, President Wylie Funeral Home

Variance: to permit illumination of enterprise signs for the proposed use; and, if deemed necessary, for the ornamental, accessory fountain in the front yard as shown more particularly on the Plat. **Special Exception:** to allow a *funeral home and associated parking and accessory* features on property.

Hearing: Friday, January 4, 2002 at 11:00 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 Contact the Zoning Commissioner's Office at (410) 887-4386.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

12/116 Dec. 20 C511734

CERTIFICATE OF PUBLICATION

12/20/, 2001

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 12/20/, 2001.

- [x] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

In 1/4

RE Case No 02-174-XA

Petitioner/Developer WYLIE, ETAL

c/o G.W.S. / B. PETERSON

Date of Hearing/Closing 1/4/02

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

Attention: Ms Gwendolyn Stephens
MR. GEORGE ZAHNER

it' Fax Note 7671	Date	# of pages ▶
To ROBIN/BETTY	From O'KEEFE	
Co./Dept. ZONING COMM.	Co.	
Phone # 887 4386	Phone # 666-5366	
Fax # 887-3468	Fax # 666-0929	

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 #9142 & #9204 LIBERTY RD. onsite

The sign(s) were posted on 12/16/01
(Month, Day, Year)

Sincerely,

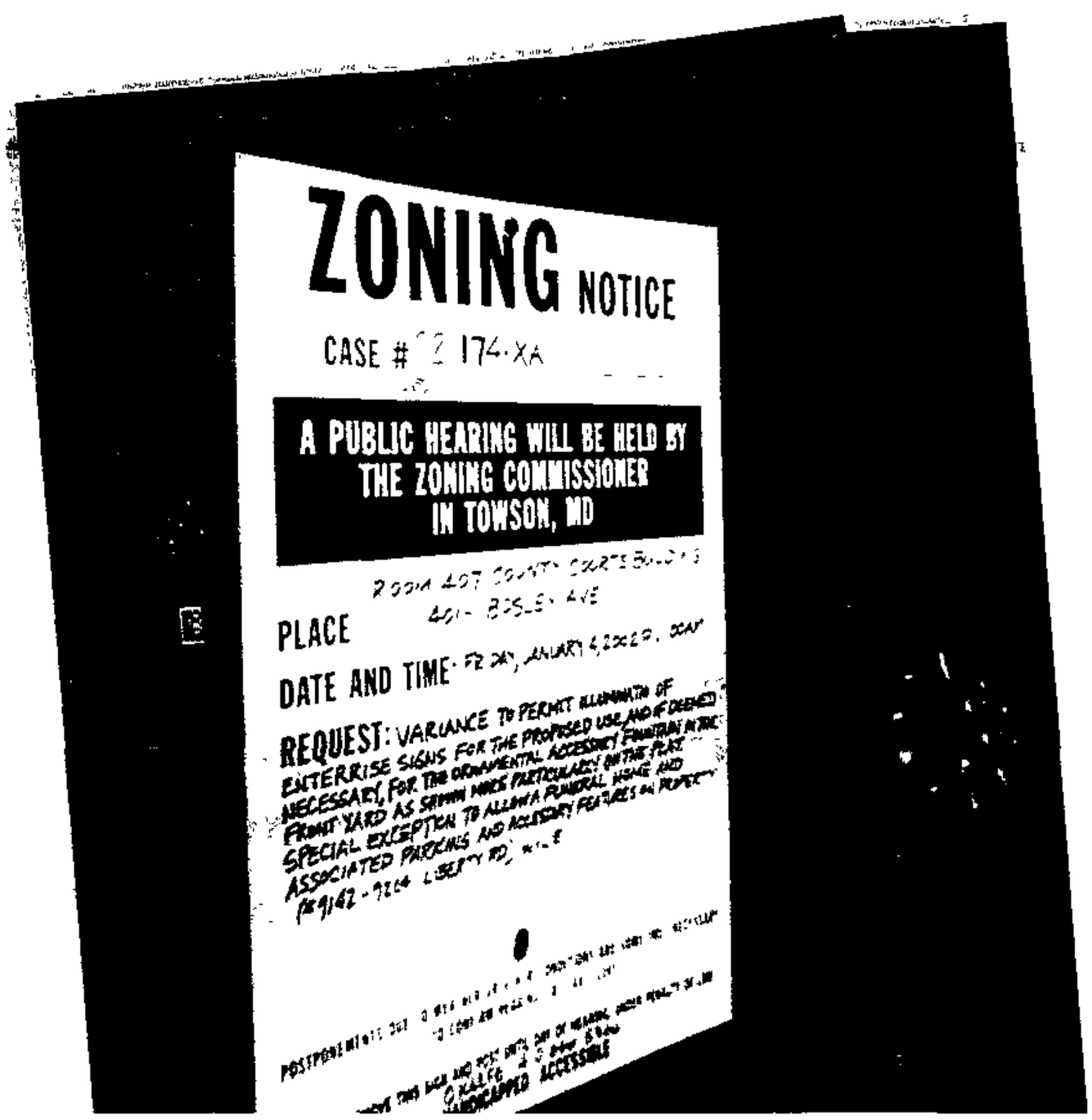
Patrick M O'Keefe 12/20/01
(Signature of Sign Poster and Date)

PATRICK M. O'KEEFE
(Printed Name)

523 PENNY LANE
(Address)

HUNT VALLEY, MD. 21030
(City, State, Zip Code)

410-666-5366 ; CELL-410-905-857
(Telephone Number)



7/10

APPEAL SIGN POSTING REQUEST

CASE NO.: 02-174-XA

FAS, LLC - LEGAL OWNERS

9142 & 9204 Liberty Road

2nd ELECTION DISTRICT APPEALED: 2/22/02

ATTACHMENT – (Plan to accompnay Petition – Petitioner's Exhibit No. 1)

**********COMPLETE AND RETURN BELOW INFORMATION*****

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Attention: Kathleen Bianco
Administrator

RE: Case No.: 02-174-XA

Petitioner/Developer:

FAS, LLC

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

_____

The sign was posted on 4/5, 2002

By: Gary Freund
(Signature of Sign Poster)

GARY FREUND /PDM
(Printed Name)

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) 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 the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: **02-- 174 --XA**

Petitioner: **FAS, LLC, a Maryland limited liabilty company**

Address or Location: **9142 & 9204 Liberty Road**

PLEASE FORWARD ADVERTISING BILL TO:

Name: **Albert P. Wylie, Mgr. Member**

Address: **638 North Gilmor Street**
Baltimore, MD 21217

Telephone Number: **410-462-4070**

Revised 2/20/98 - SCJ

TO: PATUXENT PUBLISHING COMPANY
Thursday, December 20, 2001 Issue – Jeffersonian

Please forward billing to:
Albert P Wylie
638 N Gilmor Street
Baltimore MD 21217

410 462-4070

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: 02-174-A
9142 & 9204 Liberty Road
NE/S Liberty Road, 532.95' +/- S centerline of Chapman Road
2nd Election District – 2nd Councilmanic District
Legal Owner: Albert P Wylie
Lessee: Albert P Wylie, President Wylie Funeral Home

Variance to permit illumination of enterprise signs for the proposed use; and, if deemed necessary, for the ornamental, accessory fountain in the front yard as shown more particularly on the Plat. Special Exception to allow a funeral home and associated parking and accessory features on property.

HEARING: Friday, January 4, 2002 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Lawrence E. Schmidt

LAWRENCE E. SCHMIDT GDZ
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

December 3, 2001

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: 02-174-A
9142 & 9204 Liberty Road
NE/S Liberty Road, 532.95' +/- S centerline of Chapman Road
2nd Election District – 2nd Councilmanic District
Legal Owner: Albert P Wylie
Lessee: Albert P Wylie, President Wylie Funeral Home

Variance to permit illumination of enterprise signs for the proposed use; and, if deemed necessary, for the ornamental, accessory fountain in the front yard as shown more particularly on the Plat. Special Exception to allow a funeral home and associated parking and accessory features on property.

HEARING: Friday, January 4, 2002 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon GDZ
Director

C: Howard L Alderman Jr, Esquire, Levin & Gann, Nottingham Centre 8th Floor, 502 Washington Avenue, Towson 21204
Albert P Wylie, 638 N Gilmor Street, Baltimore 21217

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, DECEMBER 20, 2001.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

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on Recycled Paper

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

July 12, 2002

NOTICE OF ASSIGNMENT /Day #2

CASE #: 02-174-XA

Day #2 from 7/10/02

IN THE MATTER OF: FAS, LLC –Legal Owner; Wylie Funeral Home PA - Lessee
9142 & 9204 Liberty Road
2nd Election District; 2nd Councilmanic District

1/25/02 – D.Z.C.'s Order in which special exception and variance petitions were approved with restrictions.

ASSIGNED FOR: **TUESDAY, OCTOBER 22, 2002 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).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Appellants /Protestants : Arna Y. Klohr
Ruth A. Meerdter
Christopher C. Woodin
Brice Run Neighborhood Assn.

Appellant : Office of People's Counsel

Counsel for Petitioners : Howard L. Alderman, Jr., Esquire
Petitioner /Legal Owner : FAS, LLC
Petitioner /Contract Purchaser : Wylie Funeral Home, P.A.

Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
James H. Thompson, Code Enforcement **/Ref. # 01-3641**
Arnold Jablon, Director /PDM

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on Recycled Paper

County Board of Appeals of Baltimore County

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

wcr

*** **HEARING ROOM** – ***Room 48*** ***
Basement –Old Courthouse
400 Washington Avenue

APPEAL HEARINGS SCHEDULED FOR THE WEEK OF **OCTOBER 21, 2002**

TUESDAY 10/22 10:00 am Case No.: 02-174-XA /HEARING

In the Matter of:
FAS, LLC – Legal Owner
Wylie Funeral Home PA – Lessee
9142 and 9204 Liberty Road
2nd Election District; 2nd Councilmanic District

RE: SE – For funeral home and assciated parking and accessory features on property zoned RO and DR 5.5
VAR – To permit illuminated sign; ornamental accessory water fountain in front yard

Day #2 from 7/10/02

WEDNESDAY 10/23 10:00 am Case No.: CBA-02-128 /HEARING

In the Matter of:
Roger Butt
9900 Hidden Valley Road, Perry Hall, MD 21128

RE: ERS Decision / Revocation of all rights to ERS pension

and Case No.: CBA-00-156 – ON REMAND FROM CIRCUIT COURT

RE: Cancellation of disability retirement benefits (no longer qualified) / remanded per Judge Fader's Order filed 6/5/02

THURSDAY 10/24 9:00 am Case No.: CBA-02-145 /HEARING

In the Matter of:
Honeugo Falls / PDM XI-892
Paul Amirault – Owner / Developer
11th Election District; 5th Councilmanic District

RE: Approval of Final Development Plan

---

c:

Executive Office	People's Counsel	County Council
Law Office	Planning Office	Board Members
Director /PDM	Court Info. Desk	Court Reporter

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on Recycled Paper

County Board of Appeals of Baltimore County

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

October 22, 2002

NOTICE OF DELIBERATION

IN THE MATTER OF:
FAS, LLC – Legal Owner; WYLIE FUNERAL HOME PS -Lessee
Case No. 02-174-XA

Having concluded this matter on 10/22/02 (first hearing day of 7/10/02), public deliberation has been assigned as follows:

DATE AND TIME : WEDNESDAY, JANUARY 8, 2003 at 9:00 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

NOTE: Memos are due from Counsel on Monday, December 2, 2002 (Original and three [3] copies).

Kathleen C. Bianco
Administrator

c: Appellants /Protestants : Arna Y. Klohr
Ruth A. Meerdter
Christopher C. Woodin
Brice Run Neighborhood Assn.

Appellant : Office of People's Counsel

Counsel for Petitioners : Howard L. Alderman, Jr., Esquire
Petitioner /Legal Owner : FAS, LLC
Petitioner /Contract Purchaser : Wylie Funeral Home, P.A.

Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
James H. Thompson, Code Enforcement /**Ref. # 01-3641**
Arnold Jablon, Director /PDM

FYI copy: B.S.R.

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on Recycled Paper

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

December 28, 2001

Howard L Alderman Jr Esquire
Levin & Gann
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson MD 21204

Dear Mr. Alderman:

RE: Case Number: 02-174-XA, 9142 & 9204 Liberty Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 30, 2001.

The Zoning Advisory Committee (ZAC), which consists of representatives from several 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, please do not hesitate to contact the commenting agency.

Very truly yours,

W Carl Richards, Jr.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: gdz

Enclosures

c: Albert P Wylie FAS LLC, 638 North Gilmore Street, Baltimore 21217
People's Counsel

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Mgmt.

DATE: December 20, 2001

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For December 3, 2001
Item Nos.* 151, 152, 155, 157, 161, 164,
165, 167, 168, 170, 171, 172, 173, 174,
and 175

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

*Items number 153 and 154 were not designated

RWB:HJO:jrb

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 28, 2001

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

28

SUBJECT: 9142 & 9204 Liberty Road

INFORMATION:

Item Number: 02-174

Petitioner: Wylie Funeral Home

Zoning: RO & DR 5.5

Requested Action: Special Exception/Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the subject request and recommends approval contingent upon the following:

1. The location, design, and timing of the proposed lighting fixtures designated for the parking area should be submitted on a plan for review and approval by the Office of Planning prior to the issuance of any building permits.
2. A detailed landscape plan should be submitted to this Office of Planning for review and approval prior to the issuance of any building permits.
3. The design of the structure shall be compatible with adjacent properties which were originally constructed for residential use and should include elements of the adjacent architecture including but not limited to: roof line, residential scale windows and door openings, front porch elements etc. Detailed architectural elevations shall be submitted to the Office of Planning for review and approval prior to the issuance of building permits.

Prepared by: Mark A Cunningham

Section Chief: Jeffrey W. Long
AFK:MAC:

\\NCH_NW\VOL3\WORKGRPS\DEVREV\ZAC\02-171.doc

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley RBS

DATE: November 30, 2001

SUBJECT: Zoning Item 174
Address 9142 and 9204 Liberty Road

Zoning Advisory Committee Meeting of November 26, 2001

____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

____ The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

__X__ The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

__X__ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

__X__ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

__X__ Additional Comments:

Submit a copy of the wetland delineation report to environmental impact review.

Reviewer: Betty Kelley Date: 12/10/01

Maryland Department of Transportation
State Highway Administration

Parris N Glendening
Governor

John D Porcari
Secretary

Parker F. Williams
Administrator

December 3, 2001

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. [redacted] (JJS)
MD 26
9142 & 9204 Liberty RD
Mile Post 4.81

Dear Mr. Zahner:

We have reviewed the referenced item and have no objection to approval of the proposed Variance.

However, we will require the owner/developer to obtain an access permit from our office and as a minimum the following will be required:

- A traffic impact analysis. The final design for any required roadway improvements will be determined following the review and approval of the traffic impact analysis.
- The site will be restricted to only one entrance on MD 26.
- Auxiliary lane widening, including curb, gutter and sidewalk, will be required from property corner to property corner.
- Traffic signal modifications will be required.

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

Very truly yours,

L. J. Gredlein

for Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

CC: Robert W. Bowling, P.E.

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

Maryland Department of Transportation
State Highway Administration

Parris N Glendening
Governor

John D Porcari
Secretary

Parker F. Williams
Administrator

Date: 12·3·01

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. [redacted] JNP

Dear. Mr. Zahner:

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,

for Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

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
Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

December 10, 2001

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF November 26, 2001

Item No.: See Below

Dear Ms. Stephens:

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:

151, 152, 155, 156, 157, 159, 161, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, and 175

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Mgmt.

DATE: December 20, 2001

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For December 3, 2001
Item Nos.* 151, 152, 155, 157, 161, 164,
165, 167, 168, 170, 171, 172, 173, 174,
and 175

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

*Items number 153 and 154 were not designated.

RWB:HJO:jrb

cc: File

RE: PETITION FOR SPECIAL EXCEPTION PETITION FOR VARIANCE 9142 & 9204 Liberty Road, NE/S Liberty Rd, 532.95 +/- S of c/l Chapman Rd 2nd Election District, 2nd Councilmanic	* * *	BEFORE THE ZONING COMMISSIONER FOR
Legal Owner: FAS, LLC Contract Purchaser: Wylie Funeral Home PA Petitioner(s)	*	BALTIMORE COUNTY
	*	Case No. 02-174-XA

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

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. **All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.**

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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 10th day of December, 2001 a copy of the foregoing Entry of Appearance was mailed to Howard L. Alderman, Jr., Esq., Levin & Gann, 502 Washington Avenue, 8th Floor, Towson, MD 21204, attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN

Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

February 28, 2002

Howard L Alderman Jr Esquire
Levin & Gann
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson MD 21204

Dear Mr. Alderman:

RE: Case No. 02-174-XA, 9142 & 9204 Liberty Road

Please be advised that an appeal of the above-referenced case was filed in this office on February 22, 2002 by Arna Y Klohr, Ruth A Meerdter & Christopher C Woodin, as individuals and on behalf of a neighborhood association known as Brice Run Neighborhood Association and also Peter M Zimmerman, Office of People's Counsel, Baltimore County Maryland. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

Arnold Jablon GDZ
Director

AJ: gdz

c: FAS, LLC, Albert P Wylie, 638 N Gilmor Street, Baltimore 21217
People's Counsel

APPEAL

Petition For Special Exception and Variance
9142 & 9204 Liberty Road
NE/S Liberty Road, 532.95' +/- S of centerline of Chapman Road
2nd Election District – 2nd Councilmanic District
FAS, LLC - Legal Owner
Wylie Funeral Home PA - Lessee
Case No.: 02-174-XA

02 JAN -1 AM 10:45

✓ Petition for Special Exception (dated 10/30/01)
✓ Petition for Variance (dated 10/30/01)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (dated 12/3/01)

✓ Certification of Publication (The Jeffersonian issue dated 12/20/01)

✓ Certificate of Posting (12-16-01 posted Patrick M. O'Keefe)

✓ Entry of Appearance by People's Counsel (dated 12/10/01)

✓ Petitioner(s) Sign-In Sheet (1 sheet)

✓ Protestant(s) Sign-In Sheet (1 sheet)

Citizen(s) Sign-In Sheet (none)

✓ Zoning Advisory Committee Comments

Petitioners' Exhibits:
1. ✓ Plat To Accompany Petition For Special Exception And Variance (dated 10/30/01)
2. ✓ Plat To Accompany Petition For Special Exception And Variance (Revised 01/04/02)
3. ✓ Nine (9) Photos
4. ✓ Conceptual Elevations
5. ✓ Letter to Timothy Kotroco Deputy Zoning Commissioner from Richard W Montalto, President, Liberty Road Business Association (dated 12/21/01)
6. ✓ Letter to William D. Darling from Albert P Wylie, Wylie Funeral Home PA (dated 12/06/01)
7. ✓ Two (2) Photos
8. ✓ One (1) Photograph

Protestants' Exhibits:
1. ✓ Objections To The Special Exception from Jack Wennerstrom and Donna Shoemaker (dated 01/04/02)
2. ✓ Protestants' List AGAINST Petition For Special Exception & Variance
3. ✓ Various photographs taken on 01/2 & 3 2002 of 9122-9301 Liberty Road
4. ✓ Statement Against Petitions

Miscellaneous (Not Marked as Exhibits):
- ✓ Division of Code Inspections & Enforcement; Violation Case 01-3641

√+

✓ Deputy Zoning Commissioner's Order (dated 01/25/02 – APPROVED subject to restrictions)

✓ Notice of Appeal received on February 22, 2002 from * Arna Y Klohr, Ruth A Meerdter & Christopher C Woodin as individuals and on behalf of neighborhood association known as Brice Run Neighborhood Association and Peter M Zimmerman, People's Counsel for Baltimore County, Baltimore County Maryland

c: * Arna Klohr et al - see addresses in file.
James H. Thompson, Code Enforcement (Enforcement Case No. 01-3641)
* People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM
Howard L Alderman Jr, Levin & Gann, Nottingham Centre, 8th Floor, 502 Washington Avenue, Towson 21204
FAS LLC, Albert P Wylie, 638 N Gilmore Street, Baltimore 21217

Case No. 02-174-XA

In the Matter of: FAS, LLC and Wylie Funeral Home, P.A.
- Petitioners

SE – Funeral home and associated parking and accessory featuares on property zoned RO and DR 5.5; VAR –illumination of enterprise sign and ornamental accessory water fountain in front yard.

1/25/02 –D.Z.C.'s Order in which Petitions for Special Exception and Variance were GRANTED with restrictions.

3/15/2002 -Notice of Assignment sent to following; assigned for hearing on Wednesday, July 10, 2002 at 10 a.m.:

Arna Y. Klohr
Ruth A. Meerdter
Christopher C. Woodin
Brice Run Neighborhood Assn.
Office of People's Counsel
Howard L. Alderman, Jr., Esquire
FAS, LLC
Wylie Funeral Home, P.A.
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
James H. Thompson, Code Enforcement **/Ref. # 01-3641**
Arnold Jablon, Director /PDM

7/10/02 – Concluded day #1 (Barranger, Wescott, Irish); assigned for 10/22/02 for day #2 /awaiting final confirmation for this date.

7/12/02 – Notice of Assignment /Day #2 sent to parties; assigned for Tuesday, October 22, 2002 at 10:00 a.m. FYI copy to BSR.

10/22/02 – Board convened for day #2 of hearing (B.S.R.); concluded this date. Memos due from counsel on Monday, 12/02/02; deliberation assigned for 1/08/03; notice to be sent.
-- Notice of Deliberation sent to parties; assigned for Wednesday, January 8, 2003 at 9:00 a.m.; FYI copy to B.S.R.

11/26/02 – Closing Brief in form of letter filed by Arna Y. Klohr, President, Brice Run Neighborhood Association; copy cc to People's Counsel; copy to be provided by this office to Howard Alderman.

12/02/02 – Closing Memorandum received from People's Counsel and H. Alderman, Jr., Esquire, on behalf of Petitioner; copies to be sent to B.S.R.

12/09/02 – Letter from Amanda Sigillito, Chief, Nontidal Wetlands and Waterways Division, Md Dept of Environment – "...Department has not made an authorization decision on the Wylie Funeral Home...permit appliation...waiting only on the submission of final plans from the applicant."

12/10/02 – Letter to Counsel and Arna Klohr requesting comments to above MDE letter by close of business on 12/23/02.
-- Copies of all Briefs filed, Ms. Sigillito's letter, and my letter to counsel sent to B.S.R. this date; Upon receipt of comments from parties, will forward same to B.S.R. prior to 1/08/03 deliberation.

12/23/02 – Letter from Office of People's Counsel in response to above; had been left with impression that final issuance of wetlands permit was formality; if Board agrees with position of People's Counsel that special exception is to be denied independent of wetland issues, wetlands issue is moot point; however, if the Board feels otherwise, the case "may have to be held open for consideration of the State's final decision."
-- Scheduled for deliberation on 1/08/03; will wait until Monday, 12/30/02 for any other responses; will then forward all responses received to B.S.R. prior to deliberation.

1/08/03 – Deliberated (B.S.R.); G –SE for funeral home with conditions /restrictions; G –Variance request for illuminated enterprise sign; no variance needed for fountain – determined to be part of architectural plan. Written Opinion /Order to be issued; appellate period to run from date of written Order.

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: November 29, 2001

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 174 (02-1740-A)
Legal Owner/Petitioner: Albert P Wylie
Property Address: 9142 & 9204 Liberty Rd
Location Description: NE/S Liberty Rd, 532.95' +/-S centerline of Chapman Rd

VIOLATION INFORMATION: **Case No.: 01-3641**
Defendants: Edward Hoffman

Please be advised that the aforementioned petition is the subject of an active violation case. **When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:**

NAME	ADDRESS
Ruth Meerdter	**9206 Liberty Rd**

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Complaint Intake Form/Code Enforcement Officer's report and notes
State Tax Assessment printout
Update Message Form
2 Correction Notice
Property Work Checklist

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/lrs

c: Code Enforcement Officer Turner

Case Entry/Update Mode . . . . . : CHANGE
Format . . . . : CASREC File . . . . . : PDLV0001

Dt Rec: 6112001 Intake: TURNER, R Act: Case #: 01-3641
Insp: Insp Grp: ENF Insp Area: 8 Tax Acct: 220800020
Address: 9204 LIBERTY RD Apt #: Zip: 21133
Problem Descript.: TALL GRASS, WEEDS, VACANT LOT;

MAP: 24 D 11
Complainant Name (Last): MEERDTER (First): RUTH
Complainant Addr: 9206 LIBERTY RD
Complainant City: State: Zip: 21133
Complainant Phone (H): 4106552893 (W):
Date of Reinspection: 10242001 Date Closed: 10252001 Delete Code (P): X

F3=Exit F5=Refresh F6=Select format
F9=Insert F10=Entry F11=Change

Case Entry/Update Mode . . . . : CHANGE
Format . . . . : CASREC File . . . . : PDLV0001

Notes: 6/12/01 LARGE VACANT LOT- TLL GRASS, WEEDS. WROTE CORRECTION NOTICE . PO
STED ON TREE ON PROPERTY & AMILED . P/U 6/20/01 . CALLED MS.MEEDTER (H.F/SS)****
**06/15/01 RECEIVED MESSAGE FROM ED HOFFMAN. HE SAID THAT ALL WOULD BE CUT WITHI
N THE WEEK. HF/JF**.
***6/25/01 GRASS CUT , ONLY PARTS IS IN COPSE BY ???? WHERE GRASS EXCEPT IS ?.
COMPLAINANT CONTACTED BY PHONE. P/U 7/25/01 (R.M/SS)*****
**7/26/01 GRASS IS IN NEED OF CUTTING AGAIN. WROTE NOTICE < POSTED & MAILED . P
/U ON 8/3/01 LEFT MESSAGE FOR MS.MEERDTER (H.F/SS)*****
**8/6/01 95% OF GRASS CUT ON LARGE LOT BY OWNER , IN COMPLIANCE. VACANT LOT. CH
ECK AGAIN FOR TALL GRASS,WEEDS.COMPL. INFORMED(J.TS/SS)****
****9/7/01 GRASS NOT OVER 12", 4" TO 6". P/U 10/1/01 FOR UP KEEP. LEFT MESSAGE
FOR COMPLAINTANT. SK/JM***
***10/2/01 HIGH GRASS, WEEDS, BIG LOT. ISSUED A CORRECTION NOTIICE TO CUT GRAS
S. CALLED COMPLAINANT. P/U ON 10/10/01 (N.P/SS)******
** 10/11/01 GRASS HAS NOT BEEN CUT. GO TO BID (N.P/SS)*****
******10/24/01 REINSPECT GW1030 RAMSEL,(GF).**********

F3=Exit F5=Refresh F6=Select format
F9=Insert F10=Entry F11=Change

Case Entry/Update
Format . . . . : CASREC

Mode . . . . . : CHANGE
File . . . . . : PDLV0001

Notes 2: 10/25/01 OK TO PAY. CLOSE CASE FOR SEASON(J.R/SS)****

F3=Exit
F9=Insert

F5=Refresh
F10=Entry

F6=Select format
F11=Change

DATE: 06/11/01 INTAKE BY: RT CASE #: 01-3641 INSPEC: 8

COMPLAINT LOCATION: 9204 Liberty Road

ZIP CODE: 21133 DIST:

COMPLAINANT NAME: Ruth Meerdter PHONE #: (H) 410-655-2893 (W)

ADDRESS: 9206 Liberty Road ZIP CODE: 21133

PROBLEM: Tall grass and Weeds, Vacant LoT

IS THIS A RENTAL UNIT? YES ____ NO ____
IF YES, IS THIS SECTION 8? YES ____ NO ____
OWNER/TENANT INFORMATION:

TAX ACCOUNT #: ZONING:

INSPECTION: 06-12-01 Large Vacant Lot. TALL Grass & Weeds Work Correction notice. Posted on a Tree + Seat. P.U. 06-20-01

REINSPECTION:

REINSPECTION:

REINSPECTION:

RA1001B

DATE: 06/11/2001 STANDARD ASSESSMENT INQUIRY (1)
TIME: 11:38:57

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
02 20 800020	02	1-1	06-00	N	NO		01/08/01

HOFFMAN EDWARD
DESC-1.. 1.8 AC NES LIBERTY
DESC-2.. 523 E CHESAPEAKE RD
4010 NORTH POINT BLVD PREMISE. 09204 LIBERTY RD
00000-0000
BALTIMORE MD 21222-3641 FORMER OWNER: 9204 LIBERTY ROAD

---------- FCV ----------			---------- PHASED IN ----------		
	PRIOR	PROPOSED		CURR FCV	CURR ASSESS	PRIOR ASSESS
LAND:	87,190	87,100				
IMPV:	0	0	TOTAL..	87,100	87,100	34,870
TOTL:	87,190	87,100	PREF...	0	0	0
PREF:	0	0	CURT...	0	0	0
CURT:	0	0	EXEMPT.		0	0
DATE:	03/98	10/00				

---- TAXABLE BASIS ----		FM DATE
01/02 ASSESS:	87,100	12/20/00
00/01 ASSESS:	34,870	06/01/00
99/00 ASSESS:	34,870	06/04/99

ENTER-INQUIRY2 PA1-PRINT PF4-MENU PF5-QUIT PF7-CROSS REF

Baltimo· ·unty
Departm... of Permits and
Development Management

Code Inspections and Enforcement
County Office Buildi
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement:	410-887-3351	Plumbing Inspection:	410-887-3620
Building Inspection:	410-887-3953	Electrical Inspection:	410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No. 01-3641

Property No. 02 2080002 0

Zoning:

Name(s): Edward Hoffman

Address: 4010 NORTH Point Blvd, BALMD 21222

Violation Location: 9204 Liberty Rd

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

BCC 22-81, 22-82, 22-83
TALL Grass and weeds on Vacant Lot. All TALL Grass and weeds must Be Cut to 3" or Less, Trimmed, and Be maintained as Such. Failure to do So Will Result in a county Approved Crew doing so and All Costs Being Added to The tAx Bill.

Posted on Lot and mailed

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before: 06-20-01

Date Issued: 06-12-01

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name HARRY FAHL, 410887.3352 8:00 - 8:30 3:30 - 4:00

INSPECTOR: Harry Fahl

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN

Not Later Than:

Date Issued:

INSPECTOR:

AGENCY

UPDATE/MESSAGE FORM

Date: 06-15-01

Time: _____ a.m. p.m.

Inspector: H Fahl

Case No.: 01-3641

Address: 9204 Liberty Rd

Comments: Received message from ED Hoffman. He said that all would be cut within the week now P.U. 06-22-01

ENTERED INTO AS400 _____

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Buil
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement:	410-887-3351	Plumbing Inspection:	410-887-3620
Building Inspection:	410-887-3953	Electrical Inspection:	410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No.	Property No.	Zoning:
01-3641	0220800020	

Name(s): ED Hoffman

Address: 4010 NORTH Point Blvd, BAL MD 21222

Violation Location: 9204 Liberty Rd

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:
BCC 22-81, 22-82, 22-83
TALL Grass + weeds (Again) on
Vacant Lot. All non exempt
Areas must Be properly Cut
and Be maintained.

Posted + Sent

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before:	Date Issued:
08-09-01	07-26-01

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name: Harry Fahl 410 8873352 8:00-8:30 3:30-4:00

INSPECTOR: Harry Fahl

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN

Not Later Than:	Date Issued:

INSPECTOR:

Balt e County
Department of Permits and
Development Management

24-D11

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No.	Property No.	Zoning:
01-3641	0220 & 0002 C	

Name(s): HOFFMAN EDWARD

Address: 4010 NORTH POINT BLVD. BALT. MD 21222

Violation Location: 9204 LIBERTY Rd BALT. MD 21133

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

CUT ALL OVERGROWN GRASS & WEEDS TO HIGHT OF 3 INCHES & MAINTAIN

22-1 22-2 22-81 22-82 22-83 BCC.

Posted & Mailed

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before:	Date Issued:
10.10.01	10.3.01

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name: PERUZOVIC

INSPECTOR: [signature]

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

Not Later Than:	Date Issued:

INSPECTOR:

PROPERTY MAINTENANCE CHECK LIST

A. INSPECTOR'S NAME Josip Pepuzovic CASE NO. 01-3641 PDM ___ DEPRM ___

B. ADDRESS 9204 Liberty Rd Bal. MD. 21133 ZIP CODE 21133

C. VACANT Lot UNIMPROVED X OCCUPIED ___

D. CORRECTION NOTICE POSTED ON SITE? YES X NO ___

E. CORRECTION NOTICE SENT BY REGULAR MAIL TO OWNER SHOWN ON CURRENT TAX PRINTOUT?
YES X NO ___ (USE BCC 22-1,2; 22-47,49; AND/OR 22-81,82,83) open

F. ADC MAP COORDINATES 24. D11 G. ACCESS TO SITE EXCEEDS 48" ___ 60" ___ (Y or N)

WORK TO BE DONE

1. General grass mowing to 3" height: Acre 7800- Details CUT GRASS in front of lot
2. Bushhog mowing, brush, vines, saplings to 1', etc: Acre ___ Details ___
3. Trimming along walks, buildings, fences, etc: Foot ___ Details ___
4. Raking, removal, and disposal of grass and mowing debris: Acre ___ Details ___
5. Tire removal and disposal: Each ___ Details ___
6. Litter, debris, bulk trash removal and disposal: Ton ___ Details ___
7. Recyclables, removal and disposal: Ton ___ Details ___
8. Vehicle removal and disposal: Each ___ Details ___
9. Pool, drain water into storm drain: Gallons ___ Details ___
10. Trimming bushes, cut up and removal of fallen trees and/or branches, removal of clippings, etc:
Hour ___ Details ___
11. Mobilization fee for all numbers **except 5 and/or 6.**
12. Mobilization fee for **all numbers including 5 and/or 6 and/or the use of dump trucks or heavy equipment.**
13. Chemical treatment of noxious weeds: Square feet ___ Details ___

H. SPECIAL INSTRUCTIONS:

OUT 10/12 GW No. 1030 Pop-Up 10/24/01

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF:	Wylie Funeral Homes 02-174-XA	
DATE:	January 8, 2003	
BOARD/PANEL:	C. Lynn Barranger Lawrence S. Wescott Richard K. Irish	CLB LSW RKI
RECORDED BY:	Theresa R. Shelton / Legal Secretary	

PURPOSE: To deliberate the Petition for Variance filed to permit illumination of enterprise signs and if deemed necessary, ornamental accessory fountain and the Petition for Special Exception filed to allow a funeral home and associated parking on property.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- Section 502.1 – Sections a through I
- Shultz vs. Pritz
- visual impact
- building should be of same scale and layout of existing homes – needs to blend in
- the design is modern as compared to the older homes
- both sides of road need to be considered
- architectural plans should be presented to planning for review/approval
- letter from DEPRM discussed with regards to if exception is approved, it would be contingent on non-tidal wetlands survey/approval
- run off problems – no expert testimony on this area – permits would have to be obtained and the Board should not legislate this issue
- traffic is main concern
- accident rate and parking spaces discussed
- contour lines omitted from the map that cross the road
- access permit would have to be pobtained by SHA
- applicant is suppose to put in a turning lane – corner to orner
- stopping and site distance discussed
- flagers stop traffic for funerals
- funerals are general not during rush hour traffic
- both experts agree that if traffic was stopped, traffic could enter Liberty Road
- Weber visited site and stated that there would be a shortage of footage

- difficult road
- weather conditions discussed
- none of the other funeral homes has such a large distance for flagers
- funeral homes in general cause adverse affects, but is this enough of a detriment to be considered a hazard
- traffic is troubling, but with proper signage/flagers, the procession can safely enter
- the Board strongly recommends that signage be placed prior to the flager

Variance

- the sign is unique in that it in a valley and should be illuminated for locating at night and for safety factor
- sign shall be illuminated from dusk to closing only
- the fountain is not considered an accessory structure – it is part of the landscape

UNANIMOUS DECISIONS BY BOARD MEMBERS: To Grant the Petition for Special Exception with conditions and to Grant the Petition for Variance with regards to the illumination of the sign with condition and that the petition with regards to the fountain is not considered an accessory structure and will be considered as part of the landscaping.

FINAL DECISION:

Special Exception GRANTED with the following restrictions:

1. Operation hours 8 am to 9 pm
2. Petitioners to submit a landscaping plan (to include the fountain) ; lighting plan
3. Petitioners to submit an architectural plan
4. During funeral processions, employees must be posted with signs and also freestanding signs shall be placed in the roadway, prior to the flagers
5. a split rail fence shall be constructed between common property line and details must be submitted to the Landscape Arch for Baltimore County
6. A gate at entrance must be installed
7. Development of Property will be closely monitored by the EPA to ensure wetland requirements/restrictions
8. When applying for a permit, it must site this case number.

Request for illumination of sign shown on site plan is APPROVED, but the hours of illumination shall be from dusk to closing.

The fountain was not considered an accessory structure by the Board and the fountain plans/design will be included in the landscaping.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted,

Theresa R. Shelton

Theresa R. Shelton
County Board of Appeals

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

3/31/03
WCR

DATE: March 28, 2003

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: James H. Thompson

FROM: Theresa R. Shelton
Board of Appeals

SUBJECT: **CLOSED APPEAL CASE FILE**

The following case has been finalized and the Board of Appeals is closing the copy of the appeal case file and returning the file (w/exhibits, if applicable) that is attached herewith.

CASE NUMBER	NAME
REF # 01-3641 02-174-XA	FAS, LLC Wylie Funeral Home PA 9142 and 9204 Liberty Road

c: Arnold Jablon, Director / PDM

Attachment: SUBJECT FILE(S) ATTACHED (2 files)

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

DATE: April 3, 2003
TO: Arnold Jablon, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton TRS
Board of Appeals

SUBJECT: **CLOSED APPEAL CASE FILES**

The following case(s) have been finalized and the Board of Appeals is closing the copy of the appeal case file(s) and returning the file(s) and exhibits (if applicable) attached herewith.

BOARD OF APPEALS CASE NUMBER	*PDM FILE NUMBER*	NAME	LOCATION
02-174-XA	*02-174-XA*	FAS, LLC Wylie Funeral Home PA	9142 and 9204 Liberty Road

Attachment: SUBJECT FILE(S) ATTACHED

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE, 8TH FLOOR
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4525
410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

March 6, 2002

Charles E. Marks, Chairman
Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Old Courthouse
Towson, Maryland 21204

02 MAR -7 AM 2:00

Re: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
9142 & 9204 Liberty Road
Legal Owner: FAS, LLC
Contract Purchaser: Wylie Funeral Home, P.A.
Case No. : 02-174-XA

Dear Mr. Marks:

I have the pleasure of representing the Wylie Funeral Home, P.A., a family owned business and their subsidiary family owned company, FAS, LLC. Deputy Zoning Commissioner Timothy Kotroco issued a decision in the above-referenced case, granting the requested relief with conditions. My client accepted without hesitation the conditions as imposed, and, in a prudent manner, waited for thirty (30) days to pass before moving on that decision.

I have received a letter dated February 22, 2002 that the Office of People's Counsel noted an appeal of the above-referenced decision to the Board.

The purpose of this letter is to request that the hearing on this matter be heard as quickly as possible. The Wylie family has purchased the subject property and would like to have a resolution of the zoning relief requested as soon as possible. Obviously, the carrying charges on a vacant piece of land can be burdensome.

In order to schedule an expedited hearing as requested, should you or any member of the Board or Ms. Bianco need any additional information, as always, please do not hesitate to contact me.

G:\Clients\Wylie Funeral Home\Marks, Charles ltr chairman 3-6-02.wpd

9/10/02

Thank you for your consideration of this request.

Very truly yours,

Howard L. Alderman, Jr.

HLA/br.

cc: Wylie Funeral Home, P.A.
Baltimore County Office of
People's Counsel

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION

NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)

RECEIVED
DEC 23 2002
BALTIMORE COUNTY
BOARD OF APPEALS

December 23, 2002

Ms. Lynn Barranger, Acting Chairperson
Baltimore County Board of Appeals
400 Washington Avenue, Suite 48
Towson, Maryland 21204

Re: FAS, LLC
Case No. 02-174-XA

Dear Madam Chair and Members of the Board:

I am in receipt of a letter dated December 10, 2002 from Ms. Bianco, the Board's Administrator. Attached to that letter is correspondence addressed to Ms. Barranger from Amanda Sigillito, Chief of Nontidal Wetlands and Waterways Division of the Maryland Department of the Environment.

While at first blush, this letter may seem to have some import on the Board's decision, a complete reading of that letter will reveal that nothing has changed since the filing of the Memoranda in this matter. First, I would direct the Board's attention to footnote number 7 in the Post-Hearing Memorandum filed on behalf of the owner/petitioner. I believe that note clears up any misunderstanding that may be caused by the letter received from the MDE.

In the event that additional elaboration is necessary, one need only look at the procedural posture of the processing of the Permit Application.

Had there been no request for a hearing on the Application as filed, the letter of Mr. Aaron Brown of the MDE, which exists in the record as Petitioner's Exhibit No. 15, would not need further clarification. Once all final drawings had been prepared, submitted to Baltimore County and reviewed and approved by the County, those same drawings would have been submitted to MDE and the final approval would have been given. That is based on a very clear reading of Mr. Brown's correspondence.

In this instance, a request for hearing was filed. Therefore, once MDE has received copies of all approved project drawings, the Department's Hearing Officer will make the decision rather than Mr. Brown.

Thus, in either event, no "final" decision will be rendered until all project drawings, as approved by the County, have been received by MDE. The only difference is who actually makes the decision – Mr. Brown or the Hearing Officer. Finally, it should not be overlooked that Ms. Sigillito states very clearly at the end of her first paragraph that "the Department is waiting only on the submission of final plans from the Applicant."

Upon your receipt and review of this letter in conjunction with the Petitioner's Post-Hearing Memorandum, should any member of the Board desire additional information, please do not hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr.

HLA/pal
cc: FAS, LLC
Peter M. Zimmerman, People's Counsel for Baltimore County
Brice Run Neighborhood Association
G:\Clients\Wylie Funeral Home (13691)\barranger-l.ltr.wpd

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)

December 2, 2002

HAND DELIVERED
Ms. Kathleen Bianco, Administrator
County Board of Appeals for Baltimore County
400 Washington Avenue, Suite 49
Towson, Maryland 21204

RE: *In Re: FAS, LLC & Wylie Funeral Home, PA*
9142 & 9204 Liberty Road
Case No. 02-174-XA
Petitioners' Post-Hearing Memorandum

Dear Ms. Bianco:

In accordance with the direction received from the Board at the conclusion of the hearing on the above-referenced matter, I am pleased to provide to the Board an original and three (3) copies of the *Petitioner's Post-Hearing Memorandum*. Should you or any member of the Board desire additional information or additional copies, please do not hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr.

HLA/gk
Enclosures (4)
c (w/one encl.): FAS, LLC & Wylie Funeral Home, PA
Peter Max Zimmerman, Esquire

RECEIVED
DEC 0 2 2002
BALTIMORE COUNTY
BOARD OF APPEALS

Resolution of

BRICE RUN NEIGHBORHOOD ASSOCIATION

WHEREAS, Wylie Funeral Home is seeking zoning approval to establish a funeral business at the site located at 9142 and 9204 Liberty Road;

WHEREAS, the unique topography of the immediate area surrounding the site of the proposed funeral business, which is located at the bottom of a narrow depression suffering from imminent inclines, results in poor visibility and dangerous road conditions that are not conducive to the operational requirements of a funeral home, such as the right-of-way of funeral processions;

WHEREAS, there is already an inordinate number of minor to deadly traffic accidents in the immediate area surrounding the site of the proposed funeral business;

WHEREAS, the proposed building for the funeral home does not reflect nor compliment the homes on the adjacent properties surrounding the site nor the other residences in its immediate proximity;

WHEREAS, the hours of operation will include after-hours deliveries which will create light and noise pollution for the surrounding residences;

WHEREAS, the presence of an open parking lot and associated lighting will present an opportunity for potential loitering, mischief and criminal activity and adversely affect the quality of life for the surrounding homes;

WHEREAS, there are concerns regarding the environmental impact resulting from the destruction of wetlands located on the site that feed one extension of Brice Run, the local spring system;

WHEREAS, we wish to reaffirm a formal vote held on February 21, 2002 to oppose the special exception and variance for establishment of a funeral home at 9142 and 9204 Liberty Road;

NOW THEREFORE, in recognition of our Association's mission to preserve the residential quality and tranquility of our neighborhood and our wish to voice our opinion, we authorize our President, Arna Y. Klohr, First Vice President, Christopher C. Woodin, or any member so designated by either of the foregoing officers if they are unable to fulfill their duties, to represent us before the appropriate officials of Baltimore County before whom the zoning request hearing is to be held for the Wylie Funeral Home matter.

The designated representative(s) of Brice Run Neighborhood Association will convey our position that while we reasonably recognize the needs of businesses around our neighborhood, we must balance those needs with the existing homes in the immediate vicinity. Our organization's mission is to preserve the existing residential character of our neighborhood; consequently, we request that the zoning official(s) deny the special exception and variance for establishment of a funeral home business at 9142 and 9204 Liberty Road due to, among other things, the adverse impact on the environment and quality of life in the neighborhood, as well as the serious traffic problems it poses for Liberty Road.

Attachment 1

This Resolution is hereby adopted by a quorum of the members of Brice Run Neighborhood Association at the emergency meeting duly called by its officers this 8th day of May, 2002.

Brice Run Neighborhood Association

Arna Y. Klohr

Arna Y. Klohr, President

Ruth Meerdter

Ruth Meerdter, Secretary

The Sun : Friday, Nov. 15, 2002, Page 3B

Police identify man killed trying to cross Liberty Rd.

RANDALLSTOWN — A Woodlawn man was identified by Baltimore County police yesterday as the pedestrian killed Wednesday night trying to cross Liberty Road.

Police said John I. Phears, 62, of the 2000 block of Woodlawn Drive was crossing Liberty Road near Chapman Road when he was hit by a car headed west.

Police said no charges have been filed against the driver, who was not identified.

Attachment 2

The Sun : Thursday, Oct. 17, 2002; Page 3B

BALTIMORE CITY/COUNTY

Man accused of dragging officer held on $100,000 bail

MILFORD MILL — A man accused of dragging a police officer who was trying to get him out of his car was being held yesterday at the Baltimore County Detention Center on $100,000 bail, authorities said.

Robert Kunkel, 31, of the 3900 block of Franklinville Road in New Windsor was charged with first-degree assault after a struggle with a county police officer trying to arrest him Monday morning, authorities said. Kunkel is accused of driving through a roadblock set up on Liberty Road at a nonworking traffic signal, police said. The officer was dragged a short distance before he was able to break free, according to police.

Kunkel's PT Cruiser was spotted by state police in Carroll County that morning. He was arrested when the vehicle went out of control on Interstate 795, police said.

Attachment 3

ACCIDENT DATA FOR MD 26 (LIBERTY ROAD) FROM CHAPMAN ROAD TO OFFUTT ROAD FOR YEARS 1984 THROUGH 2001

Severity	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	TOTAL 1984 - 2001
Fatal	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	**3**
Injury	10	6	15	13	11	16	7	10	13	10	9	9	6	4	12	13	15	5	**184**
***PDO**	0	10	3	3	12	8	11	5	4	5	14	5	5	6	9	9	7	11	**127**
Total	10	16	19	16	24	24	18	15	17	15	23	14	11	10	21	22	22	17	**314**

* PDO - Property Damage Only

The following are facts regarding these statistics:

1. Weather and time of day are unknown.
2. Minor fender benders where the Police were not called are not included in these figures.
3. Deaths that occurred subsequent to accidents are not included in these figures.
4. While yearly accidents have fluctuated, accidents constantly occur along this stretch of road.

The above was compiled by Arna Y. Klohr, from reports received by same in 2002, from the MD. Dept. of Transportation, State Highway Administration.

PLEASE PRINT CLEARLY

CASE NAME FAS, LLC/WYLIE FUNERAL HOME
CASE NUMBER 02-174-XA
DATE 04 JANUARY 02

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Howard L. Alderman, Jr.	LEVIN & GANN, PA, Nottingham Centre 8th Floor, 502 Washington Avenue	TOWSON, MD 21204	halderman@LevinGann.com
Albert P. Wylie	6236 Gilston Park Rd.	Catonsville, MD. 21228	Wylie@all-systems.com
Charleen Wylie	6236 Gilston Park Rd.	Catonsville, md. 21228	" "
Brandon Wylie	6236 Gilston Park Rd.	Catonsville, md. 21228	" "
RICK CHADSEY	1020 Cromwell Bridge Rd	BALTO MD 21286	GWS
SEAN MACKEY	RUBELING & ASSOC. 401 JEFFERSON AVE	TOWSON MD 21286	SMACKEY@RUBELING.COM
ADRIENNE JONES	3100 TIMANUS LN	BALTO, MD. 21244	
WES GUCKERT	9900 FRANKLIN SQ. DR. SUITE H	BALTO. MD 21236	WGUCKERT@TROTTGROUP.COM

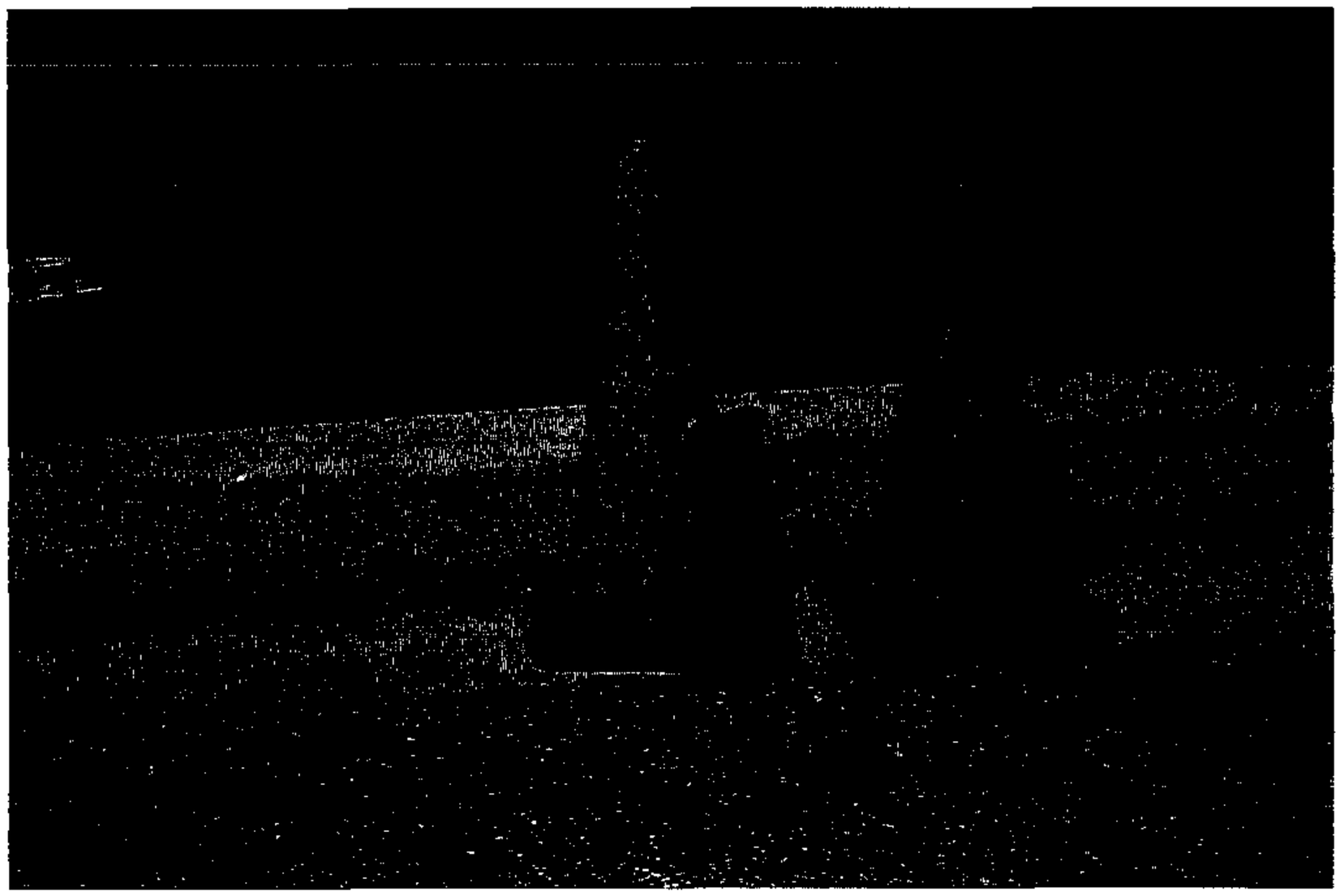
Case Number 02-174-XA
1/4/02

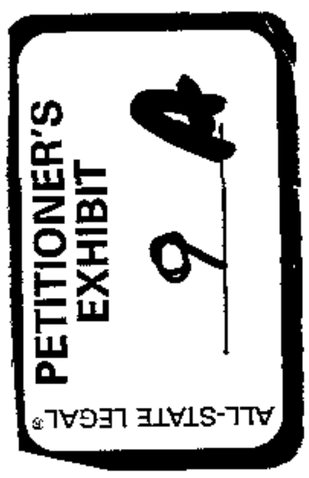
PLEASE *PRINT* LEGIBLY

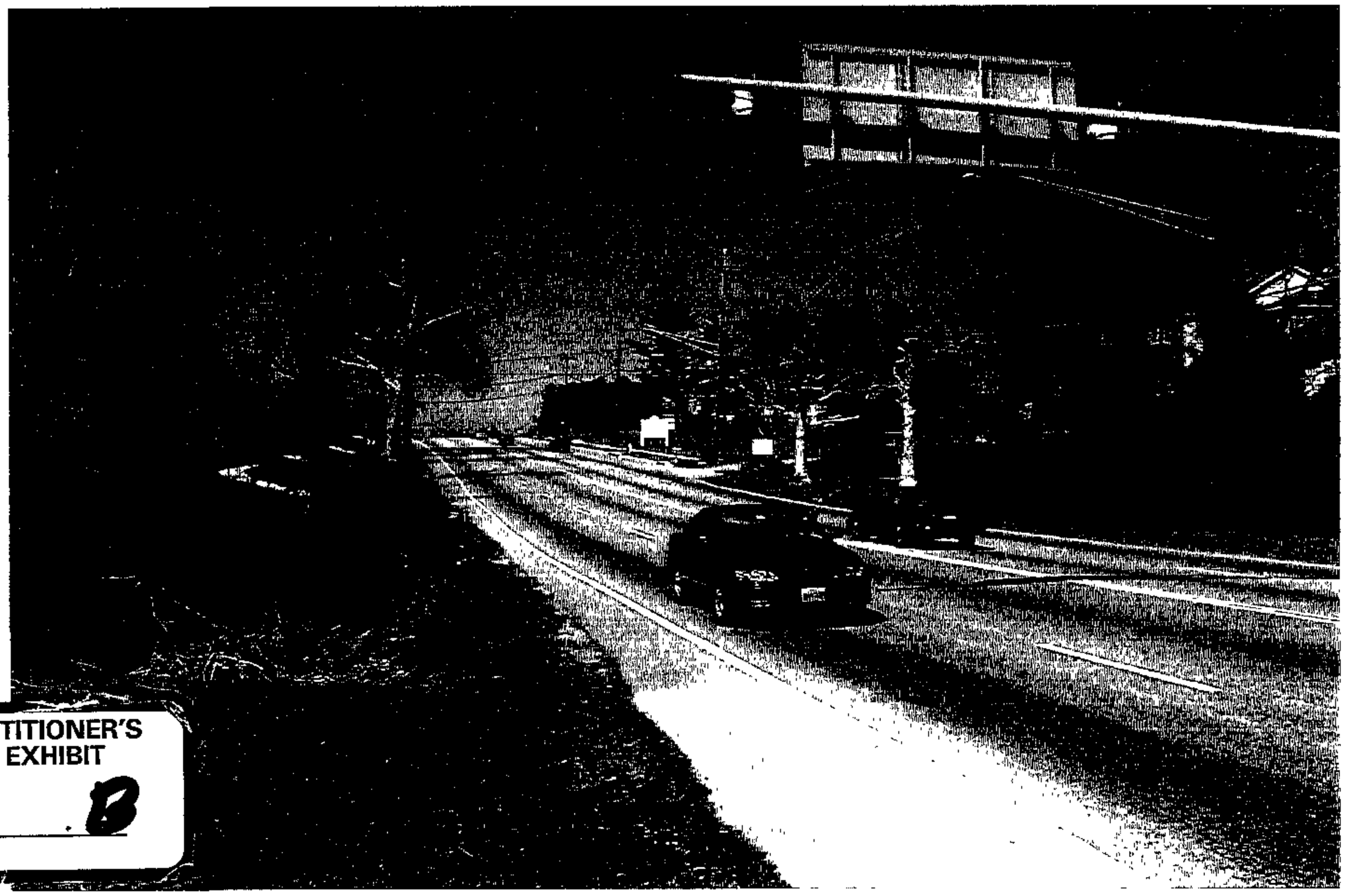
PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
JACK WENNERSTROM	9207 SAMOSET RD.	RANDALLSTOWN, MD	21133
RUTH MEERDTER	9206 LIBERTY RD	RANDALLTOWN	21133
Arna Y. Klohr	3509 Chapman Rd	Randallstown	21133-3501
Chris Woodin	9215 Liberty Rd.	Randallstown	21133

Sol Levinson & Bros Funeral Home
8900 Reisterstown Rd.
Pikesville,Maryland







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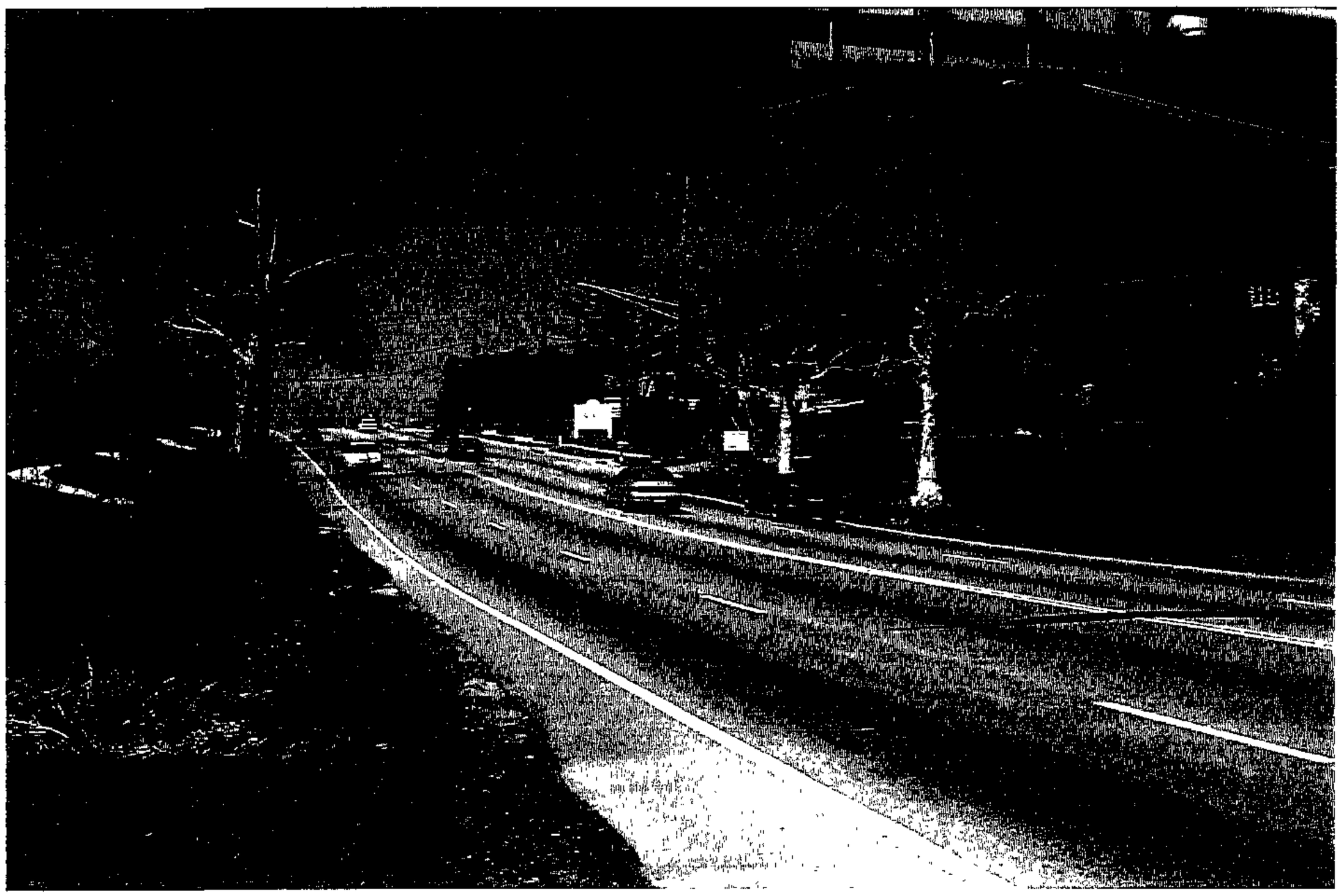

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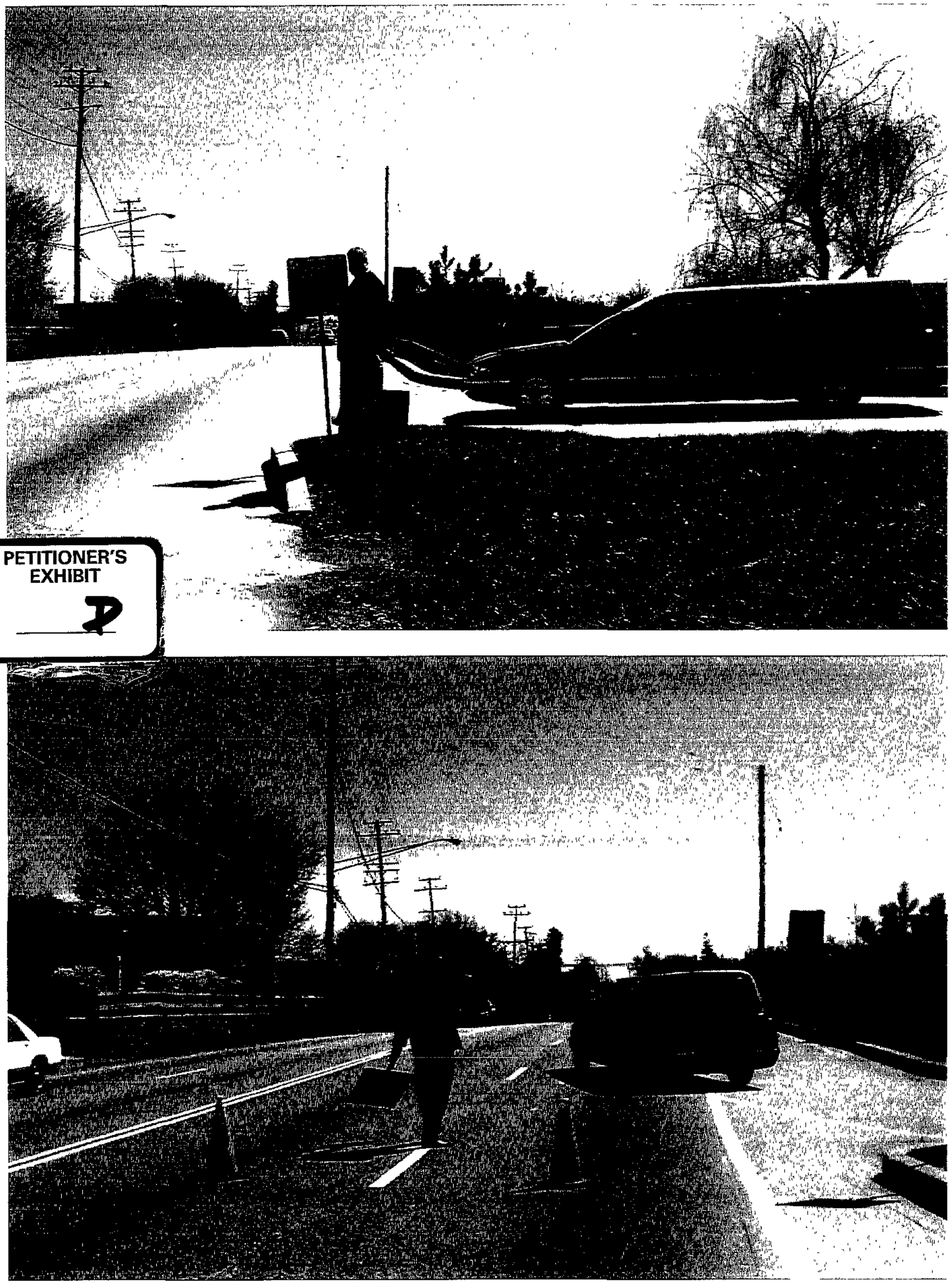

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Lemmon Funeral Home
10 W. Padonia Rd.
Dulaney Valley, Maryland

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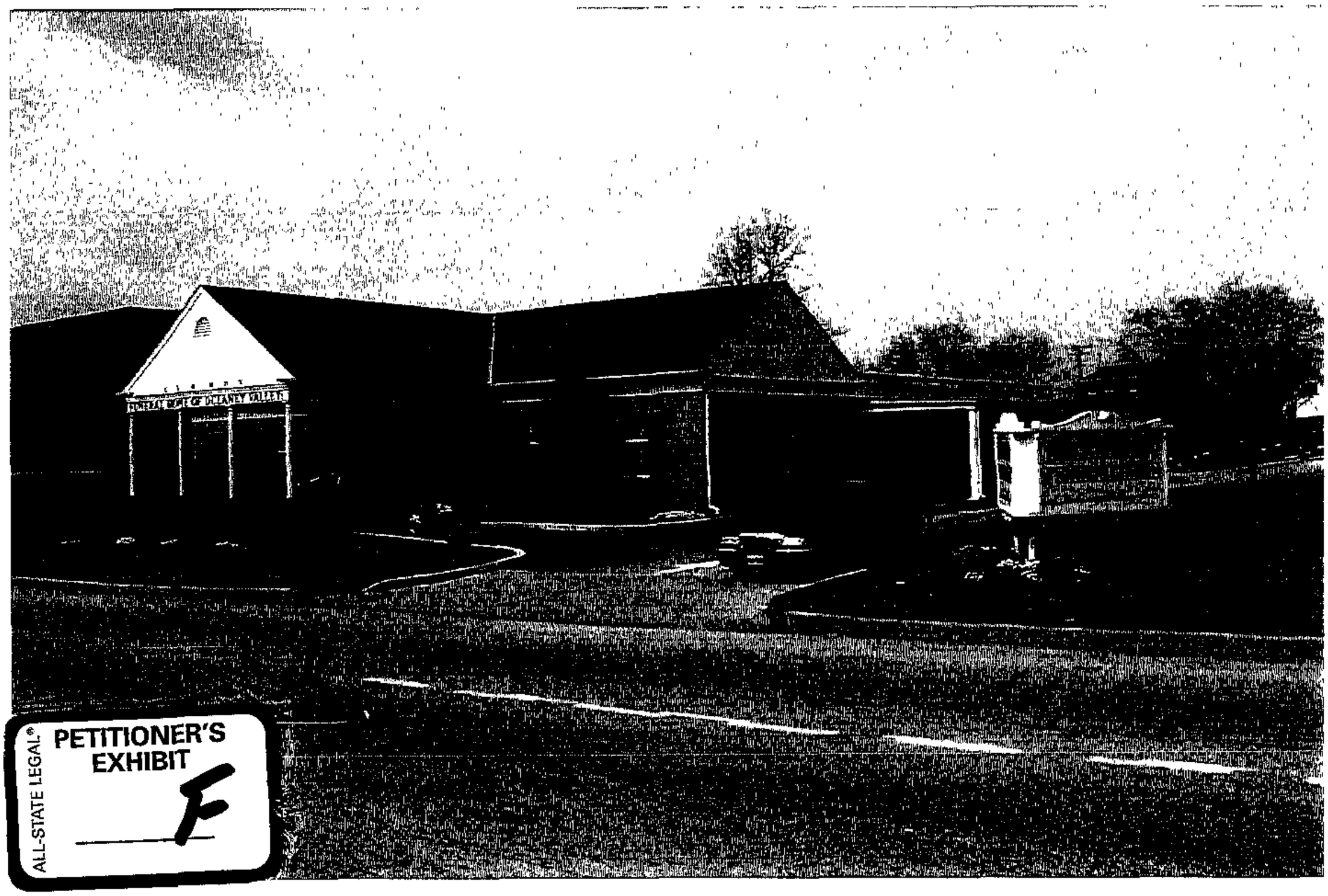

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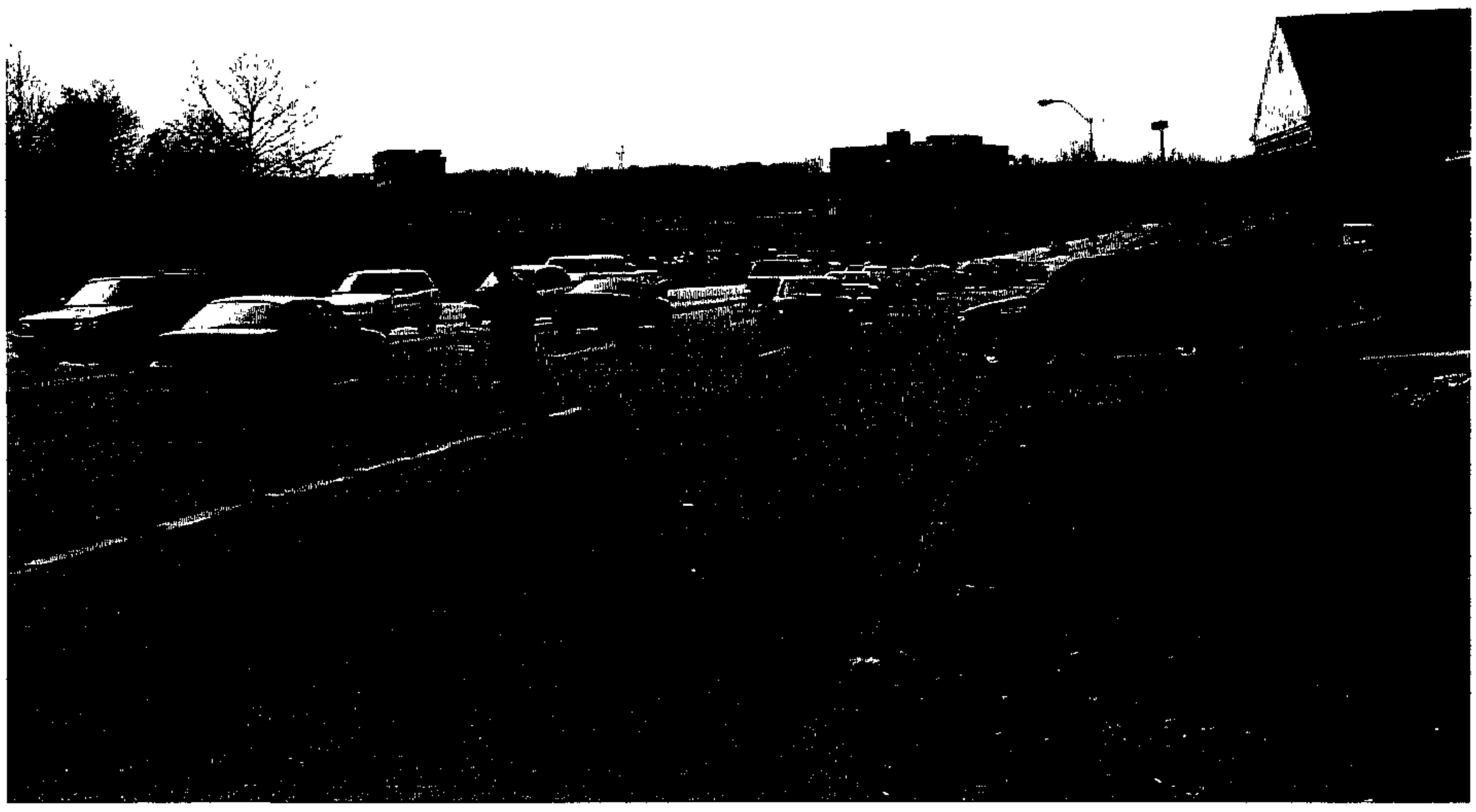

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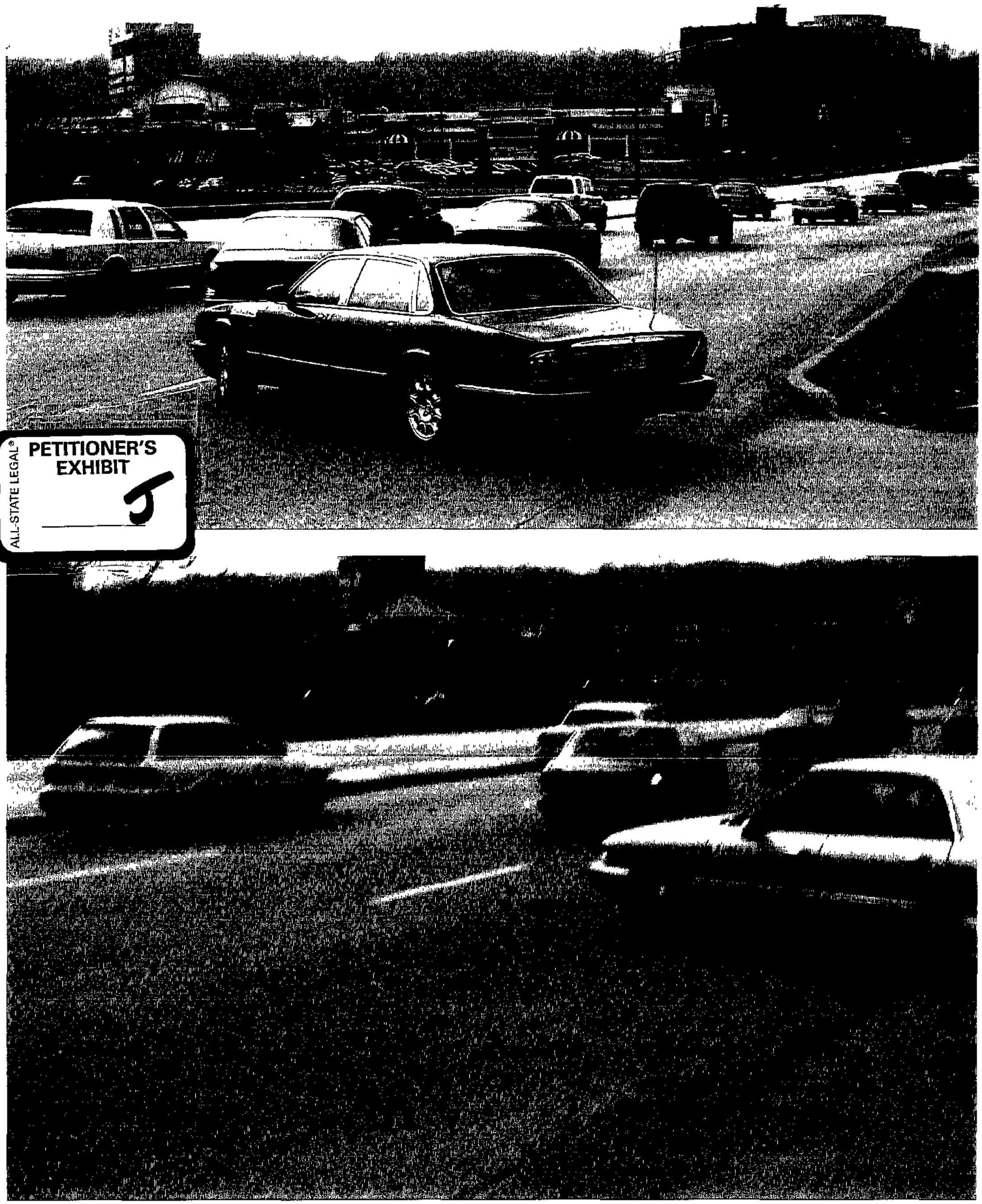

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Hubbard Funeral Home
4107 Wilkens Ave.
Baltimore, Maryland
21229

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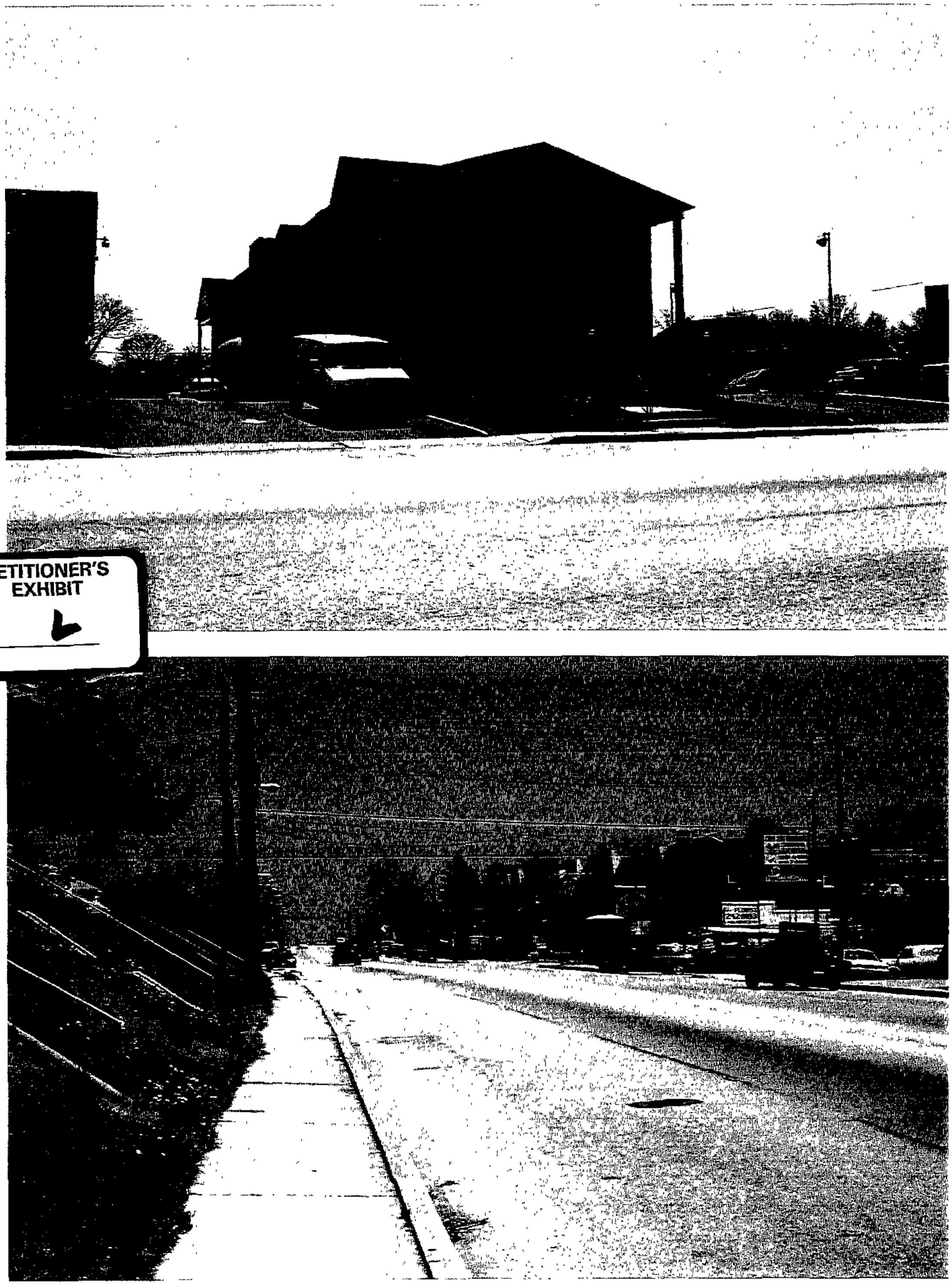

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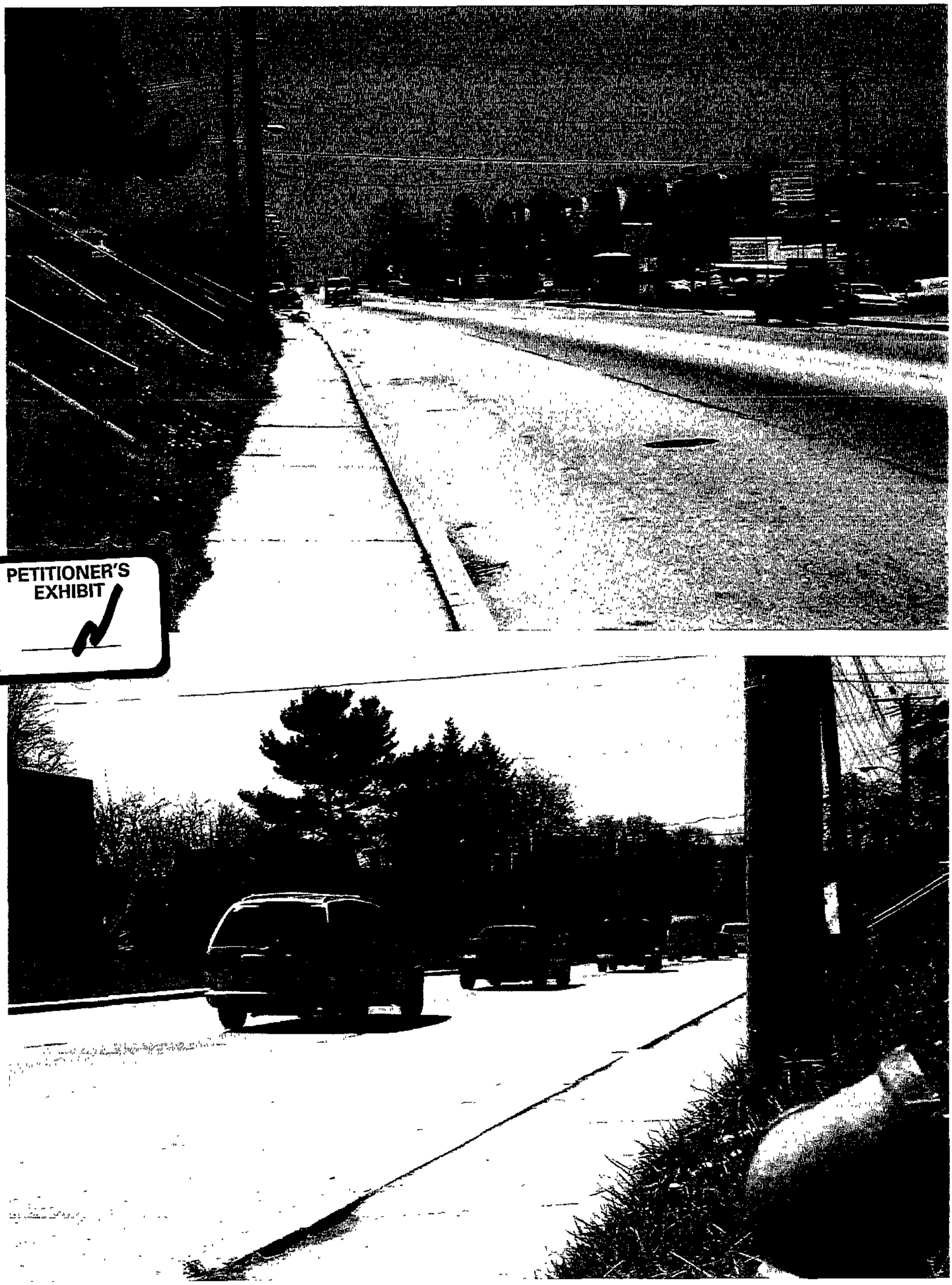

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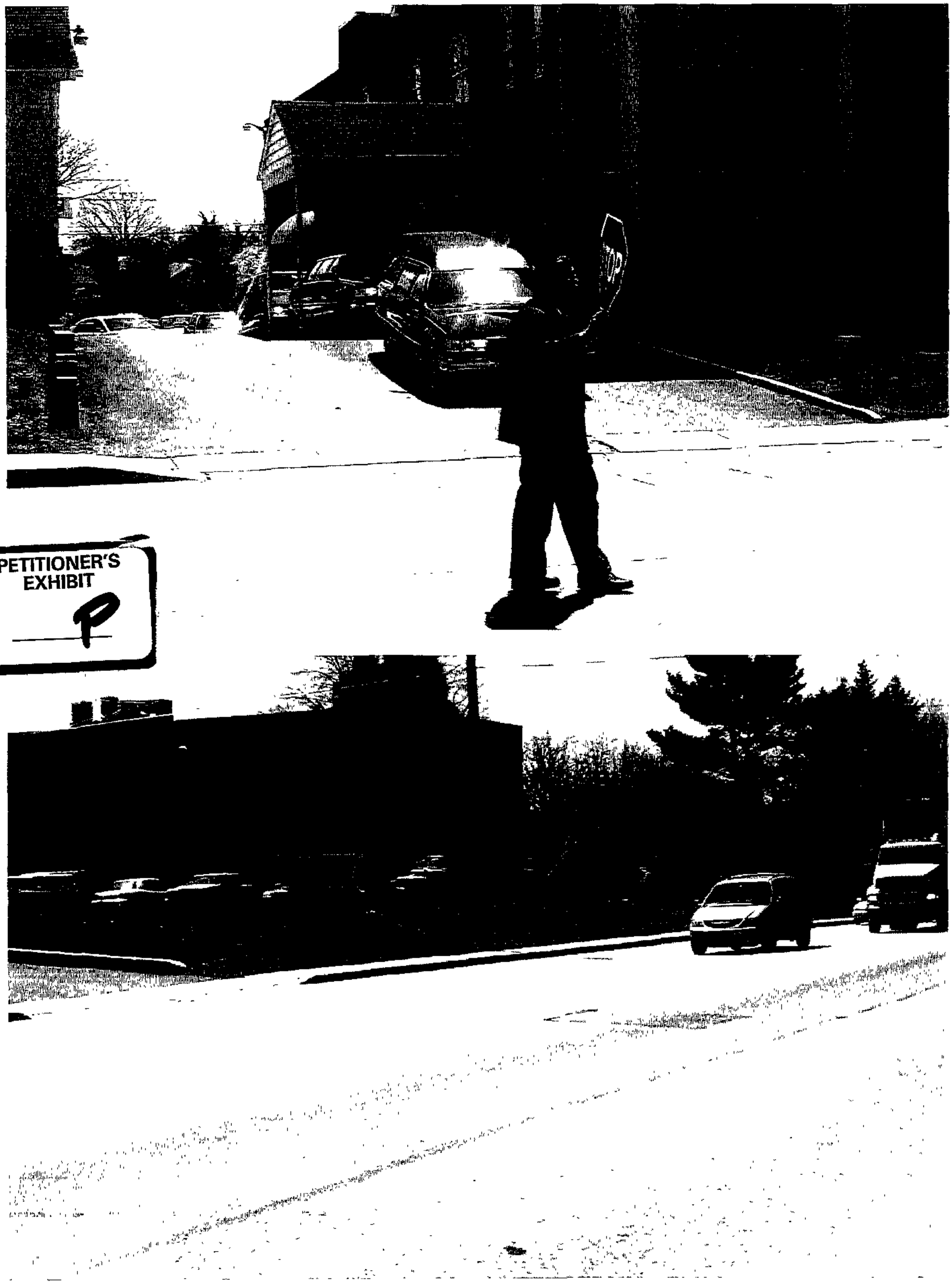

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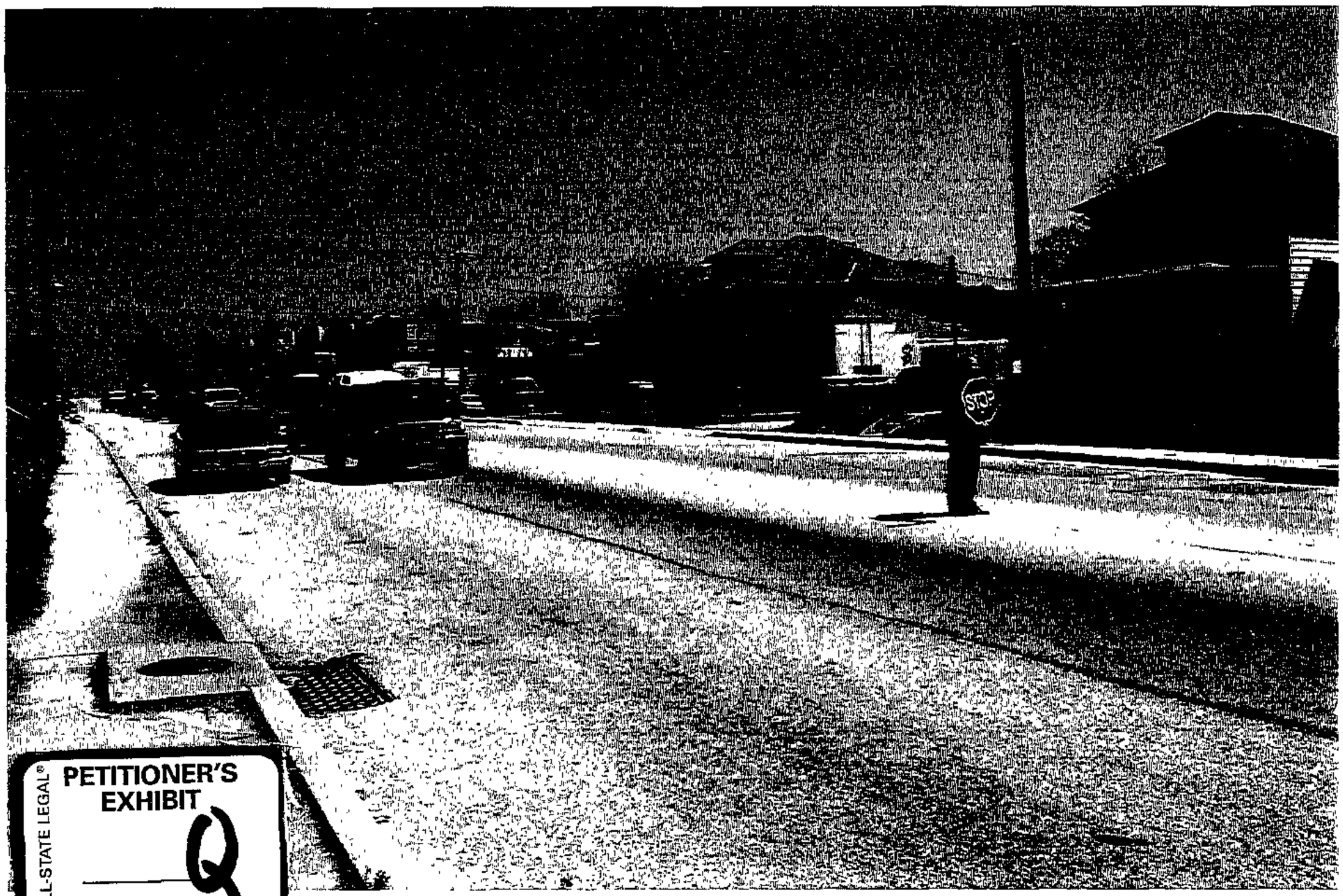

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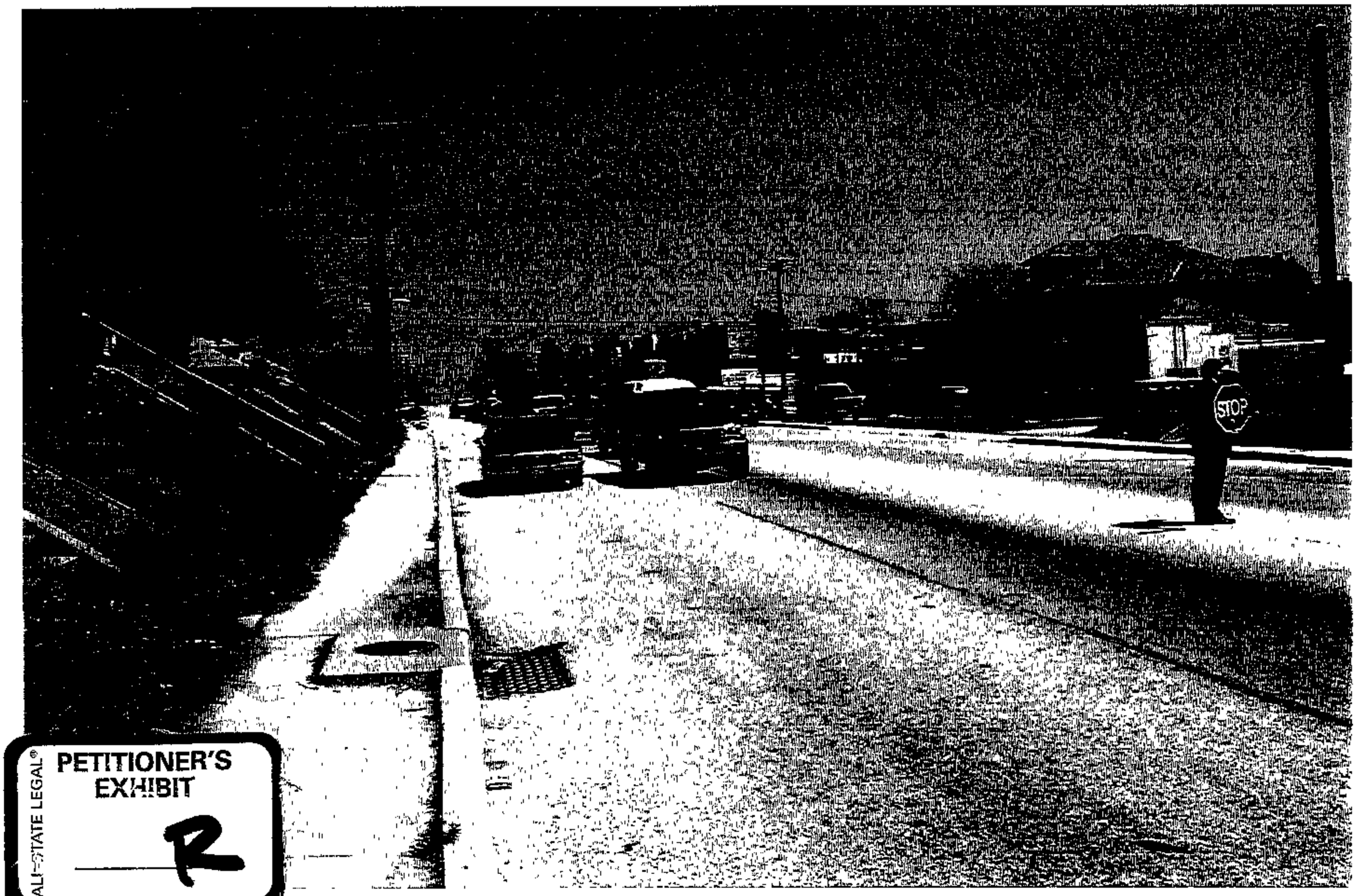

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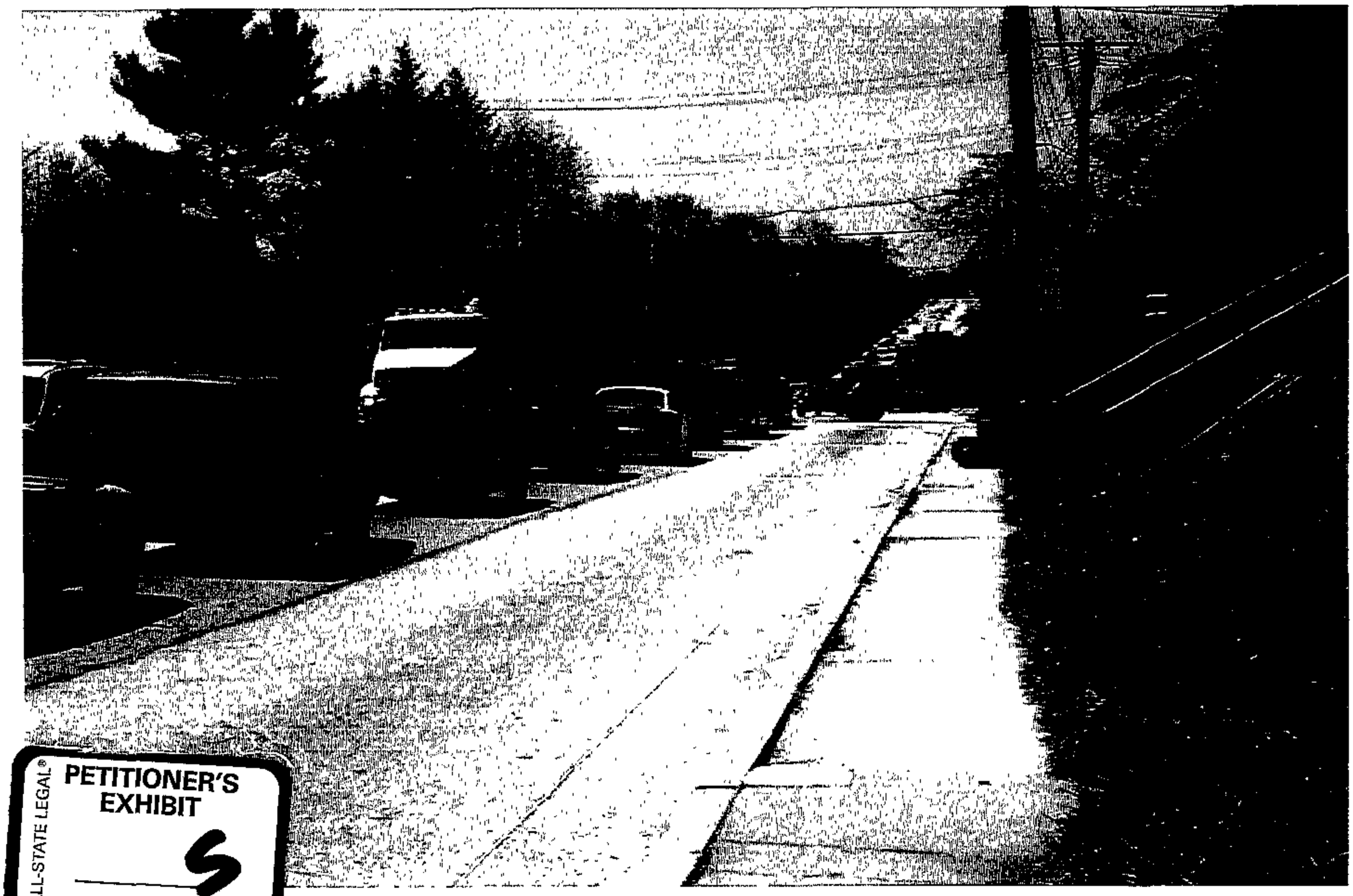

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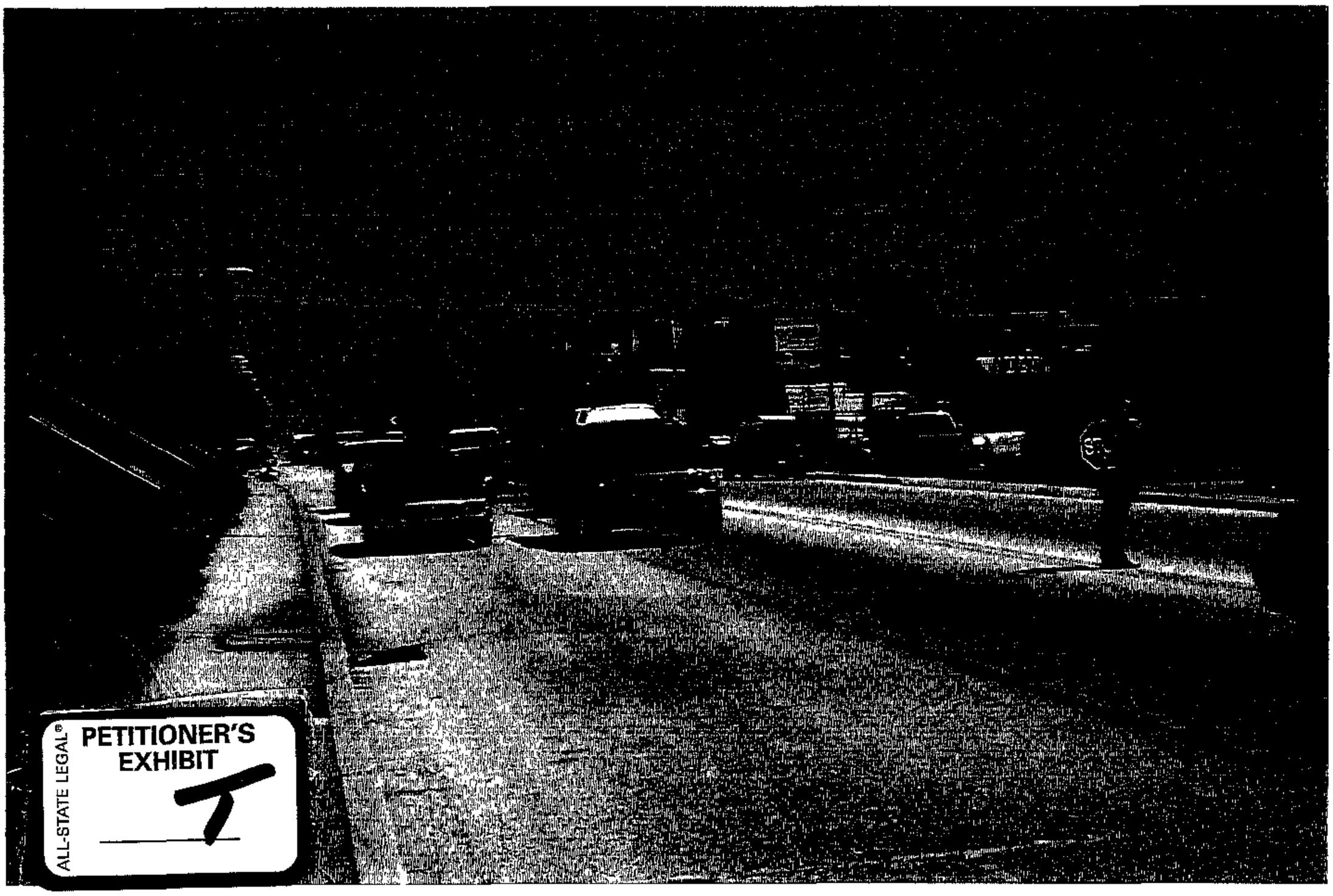

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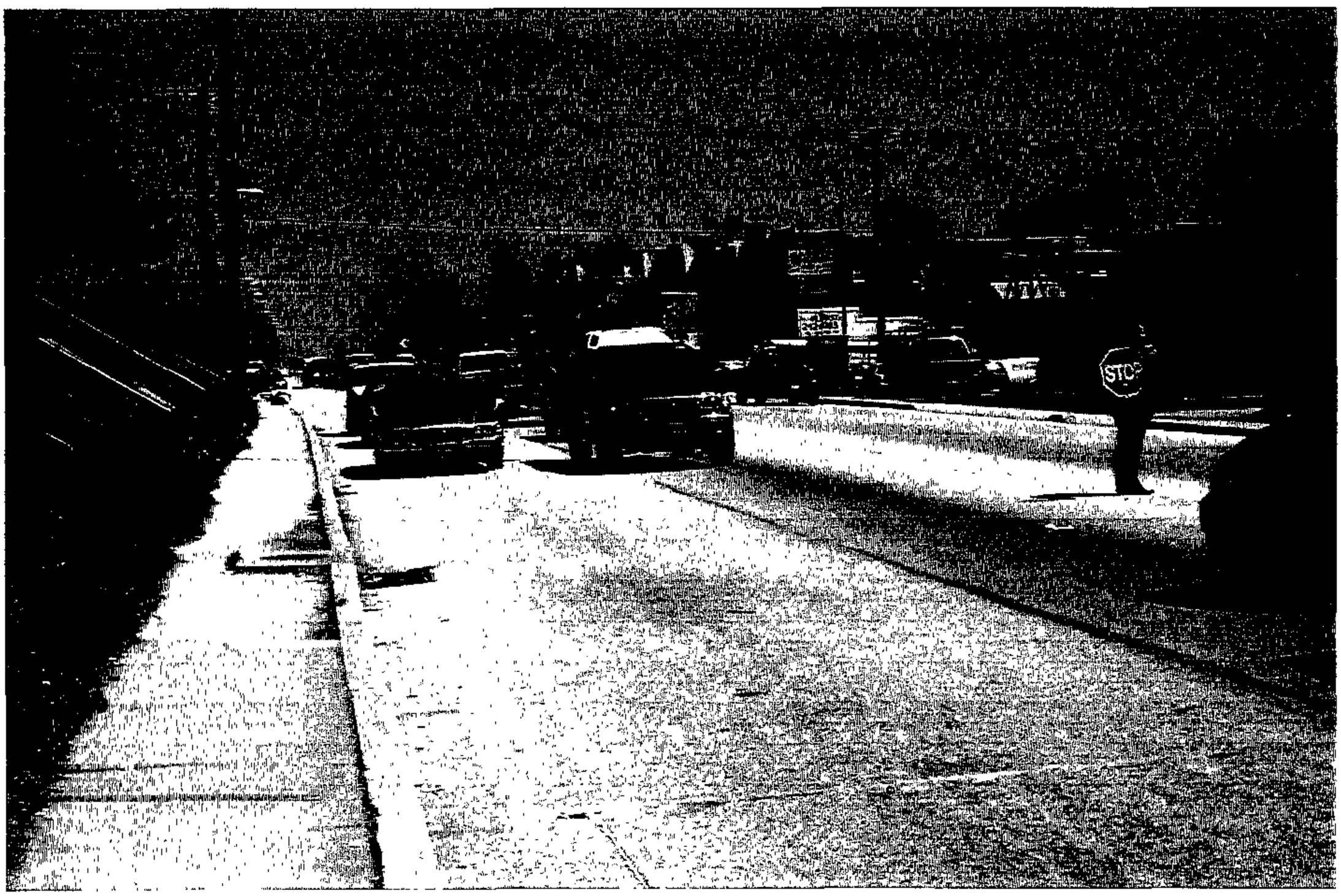

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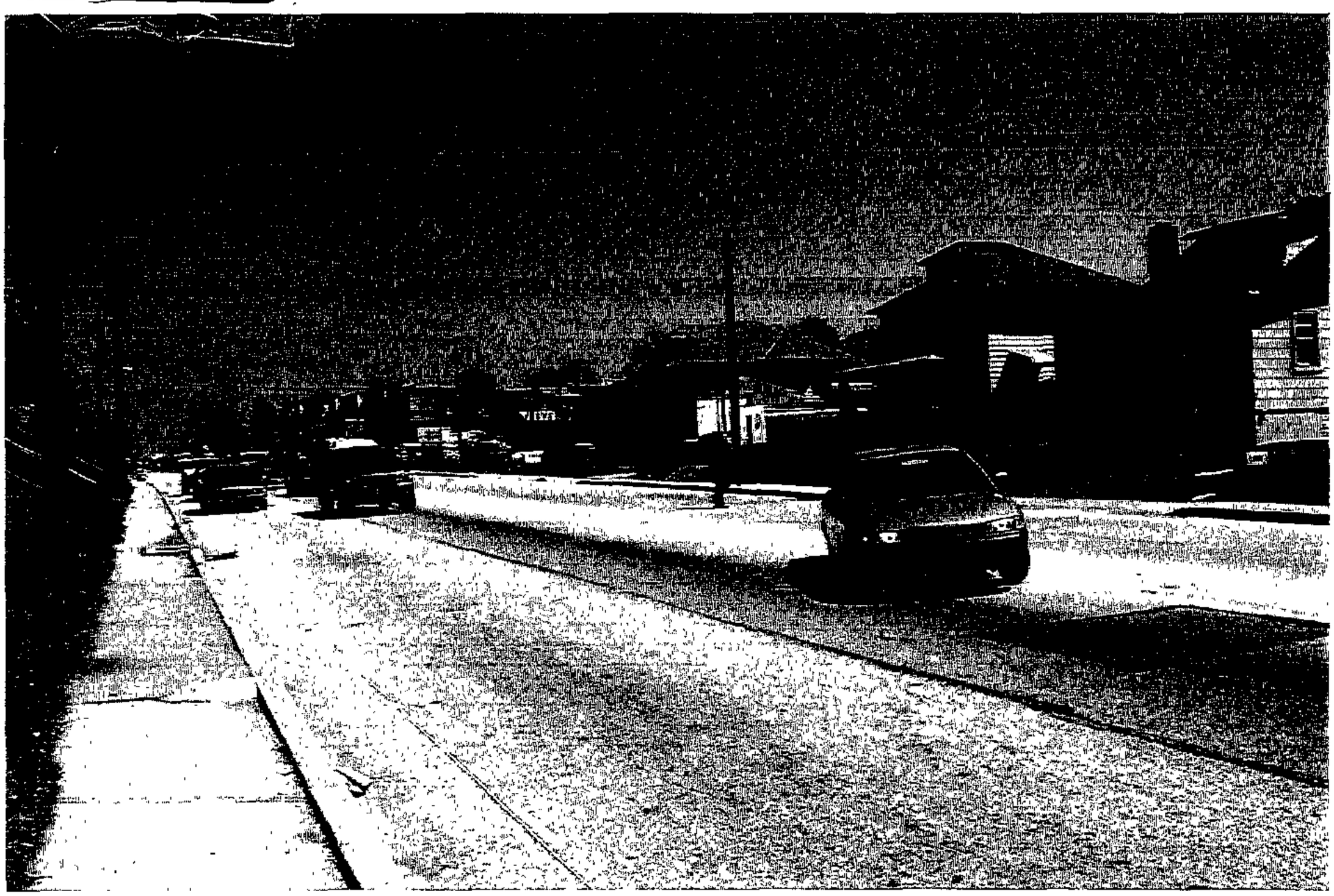

Collective Christian Ministries
9138 Liberty Road
Randallstown, Maryland
21133

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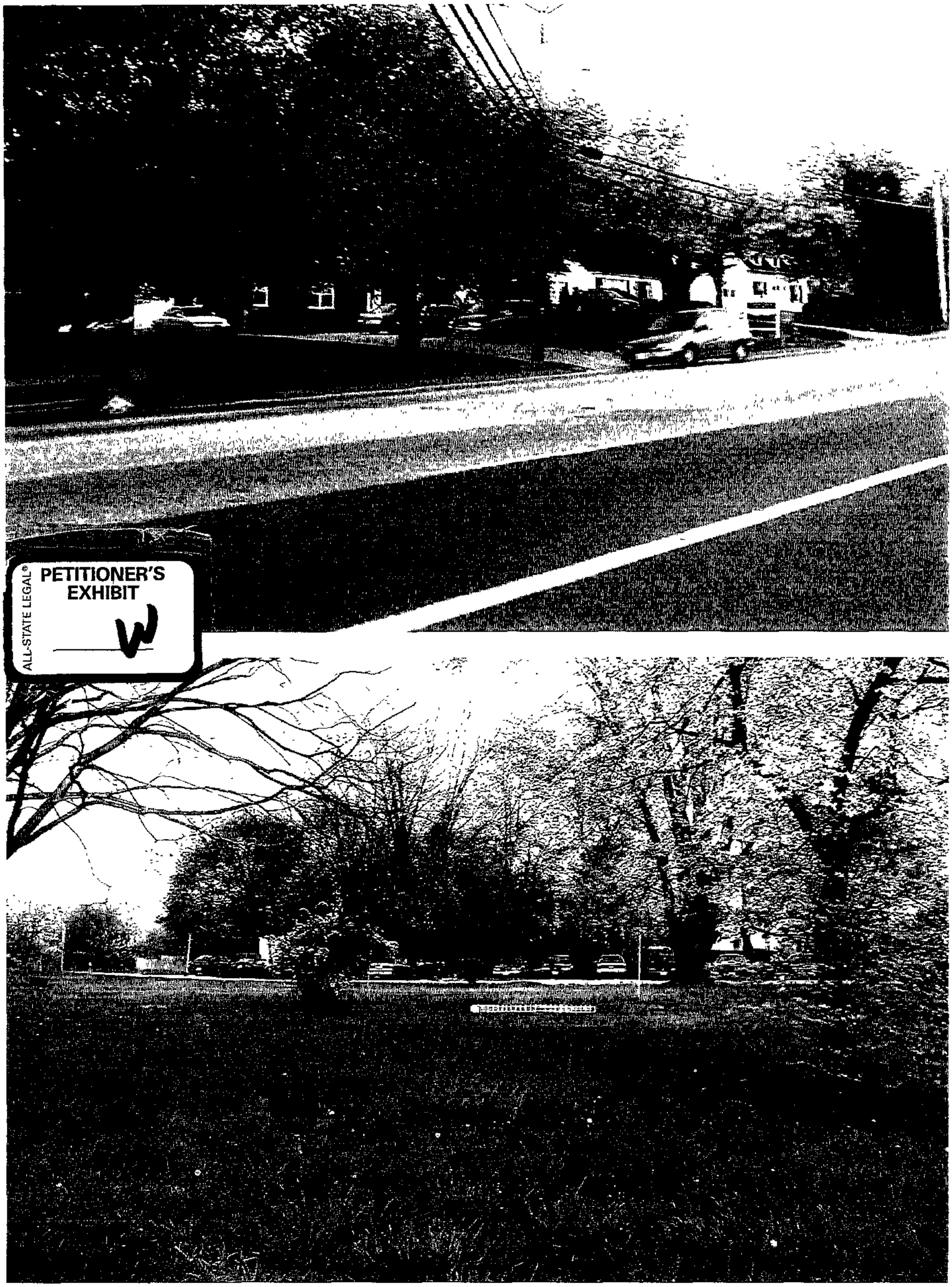

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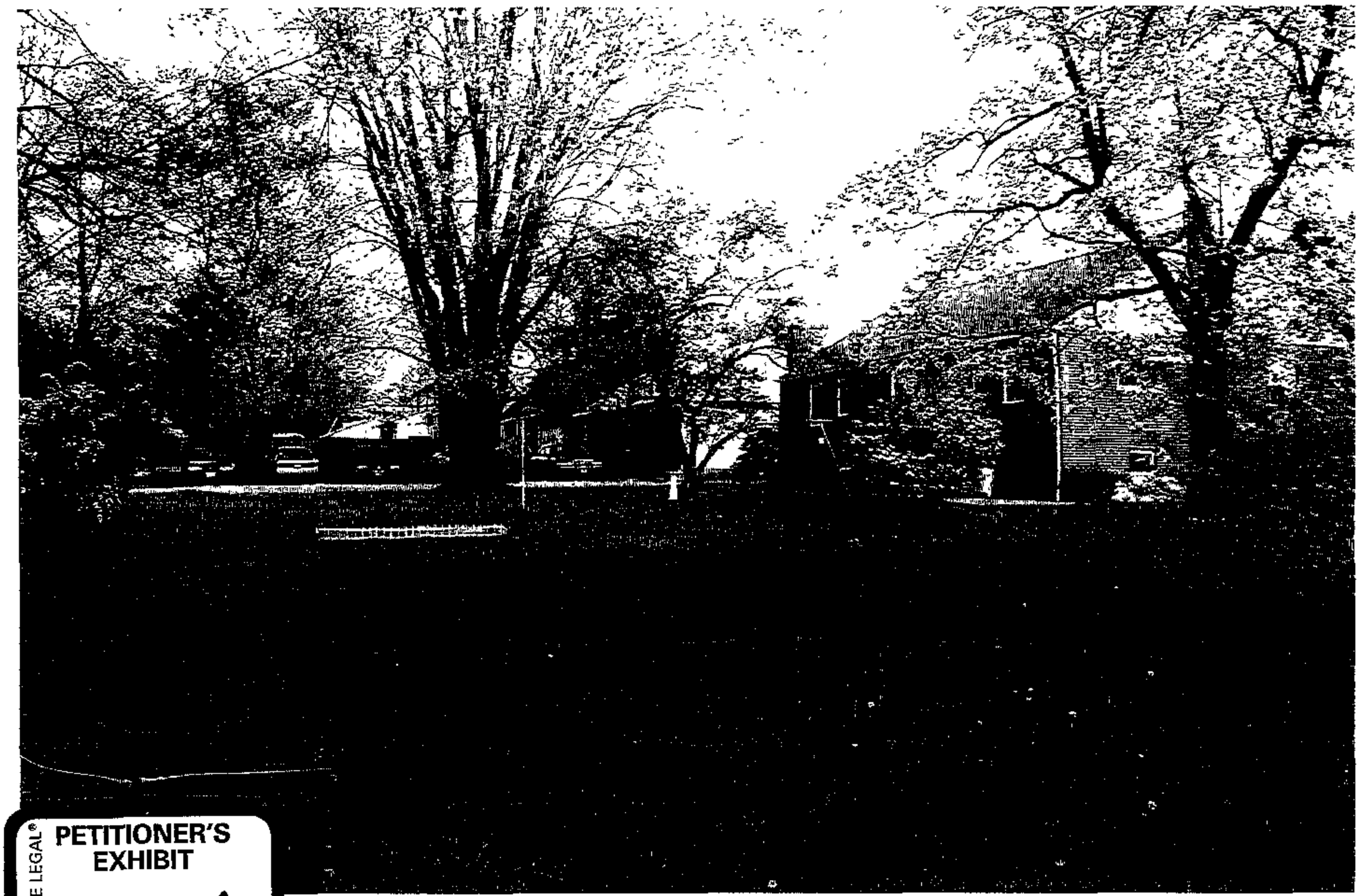

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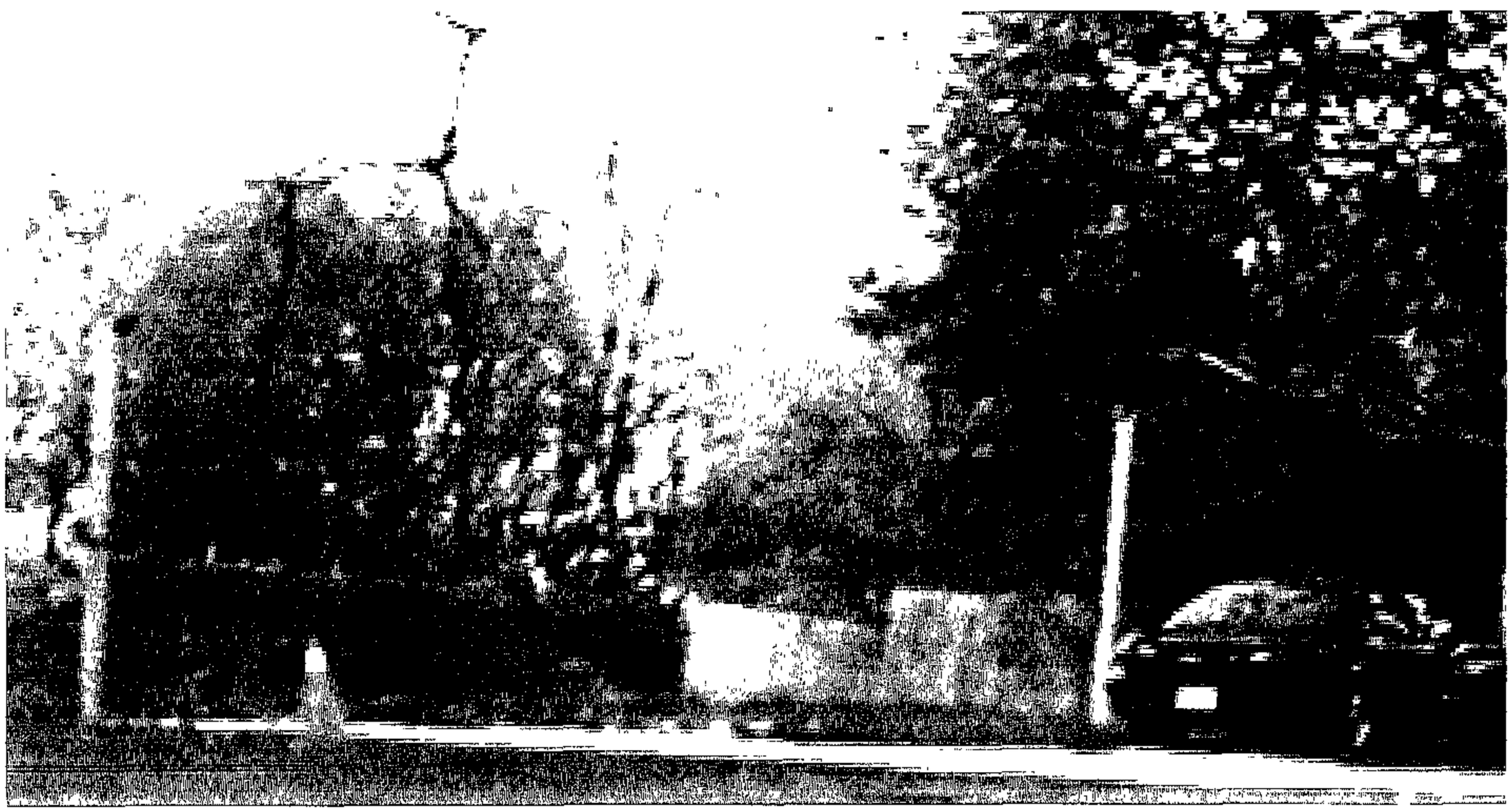

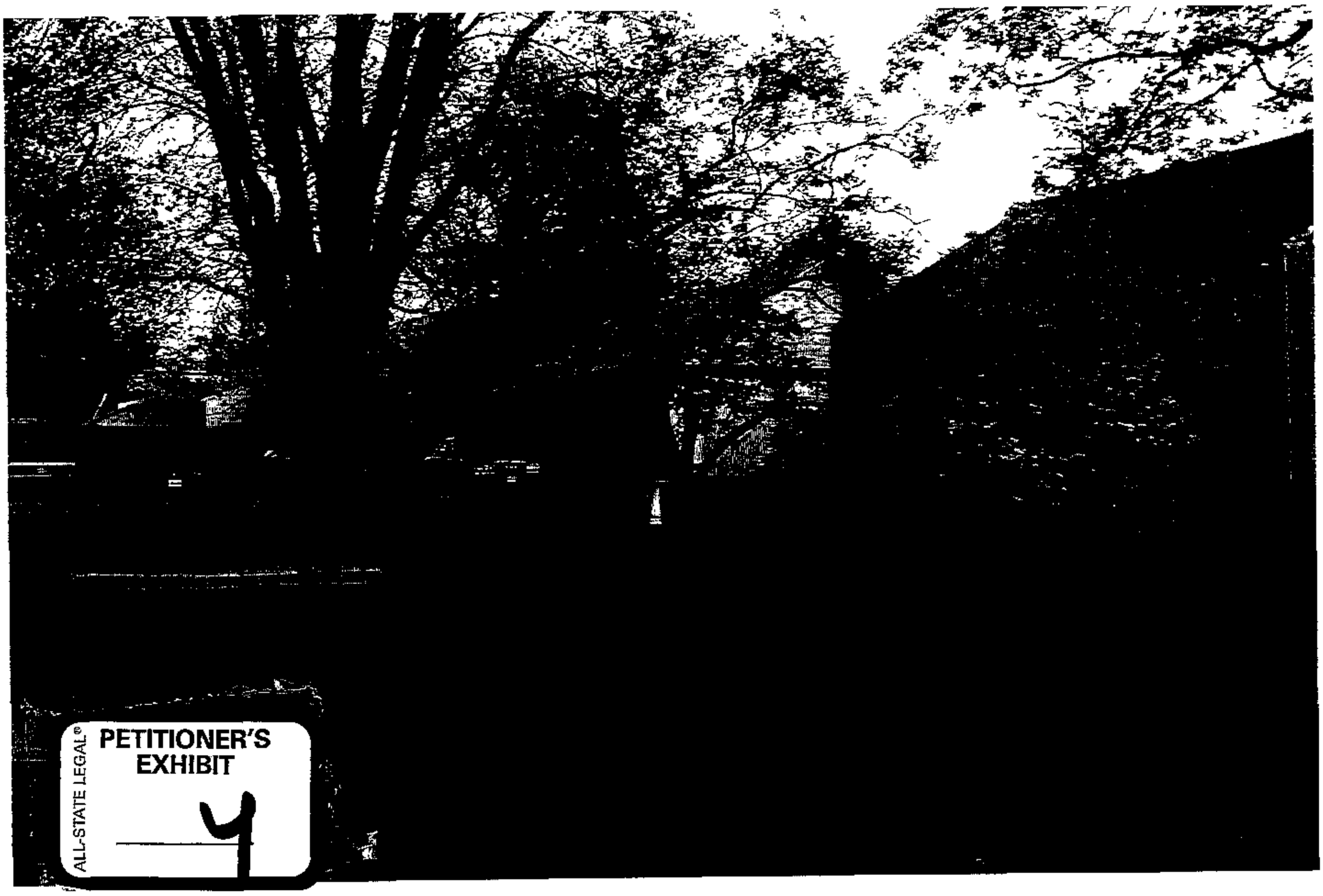

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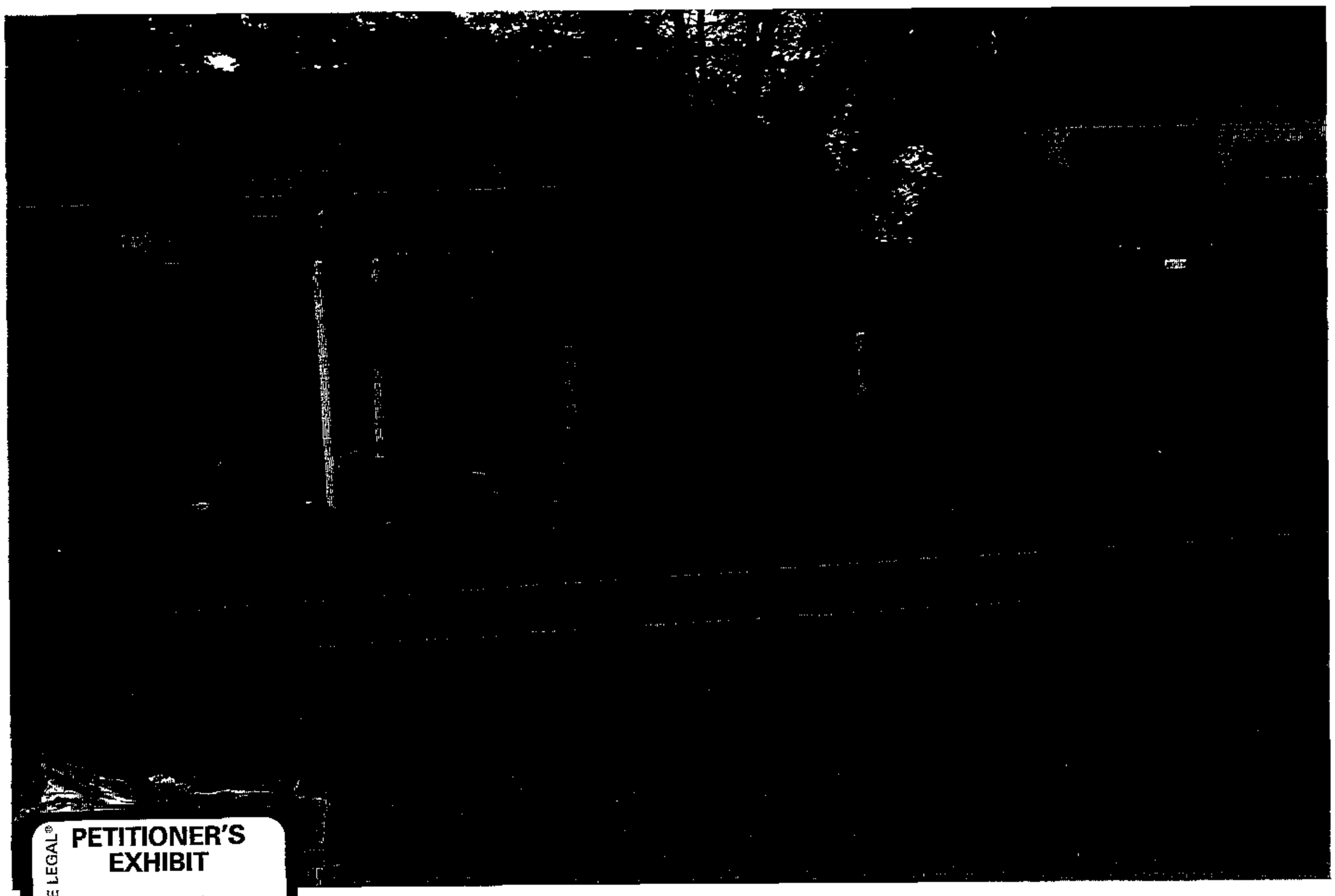

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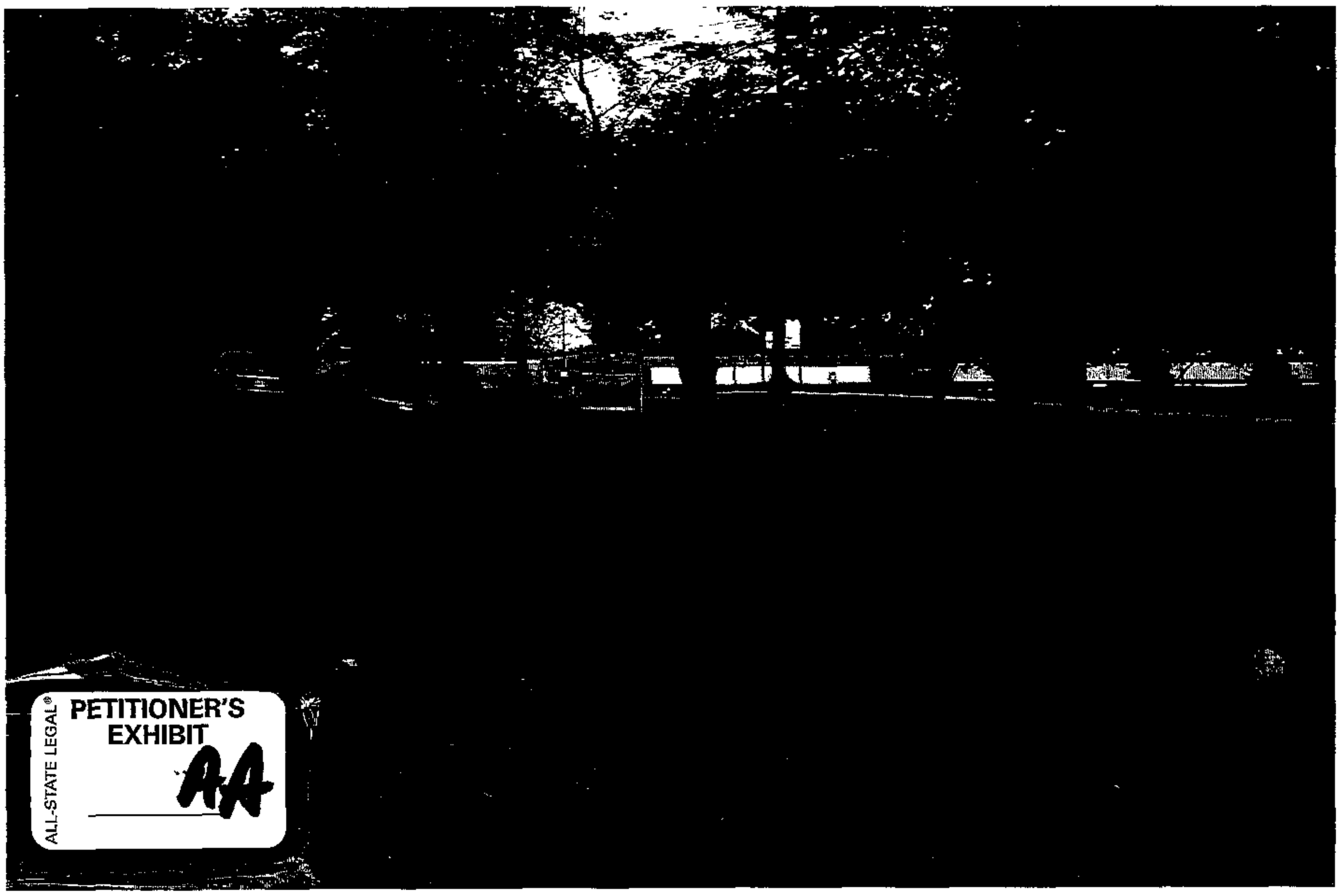

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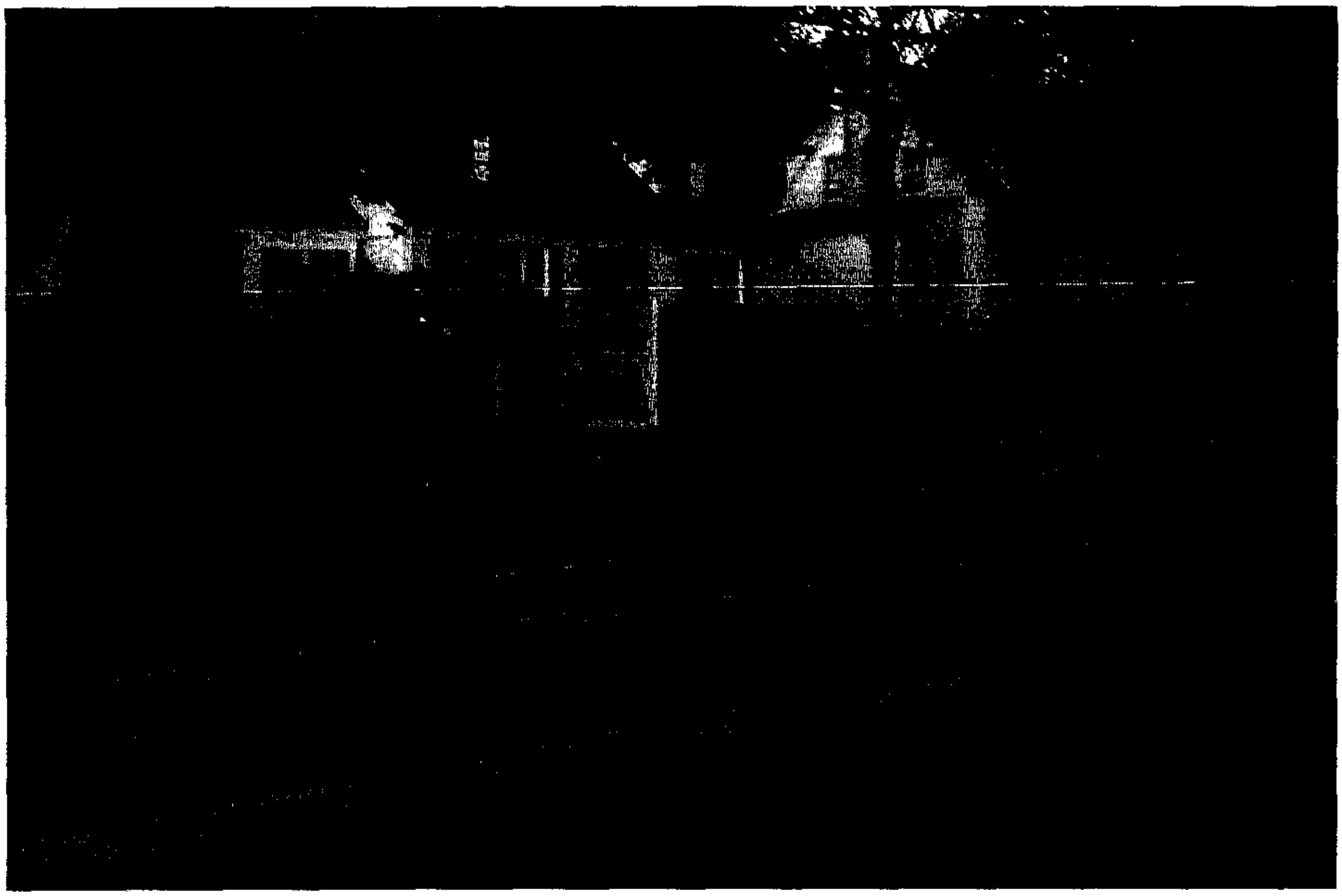

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PETITIONER'S EXHIBIT

BB

ZONING APPEAL

PUBLIC HEARING

CASE NUMBER:

02-111-XA

FOR INFORMATION CALL

410-887-3180

DO NOT REMOVE
UNDER PENALTY OF LAW

BALTIMORE COUNTY BOARD OF APPEALS

ALL-STATE LEGAL®

PETITIONER'S
EXHIBIT

9 CC

CASE #: 02-174-XA

Verified 10/23/02

EXHIBITS

Verified

PETITIONERS

1. [illegible] before DZC - dated 1/24/02
2A. Plat " " in color.
3A. Photos (8)
3I.
photos
4A. 3 elevation layouts on 1 sheet
4B. floor plan
5. letter from Liberty Road Business Association to Mr. Kotroco dated 12/01
6A. letter to Darling from Wylie
6B. letter to Meerdteer " "
SKIPPED PKT 7. NONE
8. NONE
9A--9CC. Photos taken by Mr. Wylie (Binder)
10A-10G- Photos
11. Deed to property
12. LRBA letter for Emily Wolfson to speak

~~PROTESTANTS~~

13. Henry Leskinen C-V
14. Notice of Public Informational Hearing

People's Counsel

ID ONLY ← 1. Letter from Burrier - Queen to BOA.

Where are exhibits 7 and 8?

SKIPPED PKT

BOARD EXHIBIT

1. People's Counsel sign-in sheet
2. People's Counsel sign-in sheet

CASE #: 02-174-XA

Verified 10/23/02

EXHIBITS

PETITIONERS

✓ 15. MDE letter dated 9/17/02 issueing permit.
✓ 16. Resume - CV - Wes Guckert
✓ 17. Site Distance Analysis by The Traffic Group 6/02

PEOPLE'S COUNSEL

✓ 2. CONTOUR LINE DWG. SCALE: 1" = 200'
✓ 3. ZC documents 9 pages
✓ 4. MAP
✓ 5. Tax map parcel lot 36 a 57
✓ 6. Zoning map 1" = 200'
✓ 7. Ortho Photo Plot 1" = 2400' (GIS)
✓ 8. Advertisement/Map 2 pgs.
✓ 9. Prior Plan Rule 8 material
DROPPED 10. NONE
✓ 11. Auto accident reports
✓ 12. MDT accident report from 1996
✓ 13. Red notebook containing photos
✓ 14. 7 photos, 2 pages

DATE: 10/22/02

PEOPLE'S COUNSEL'S SIGN-IN SHEET

CASE NAME: FAS, LLC

CASE NO.: 02-174-XA

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify	Name / Address Phone Number	Community Group You Represent / Basis of Your Concerns
✓	Arna Y. Klohr 3509 Chapman Rd Randallstown, MD 21133 410-922-4744	Brice Run Neighborhood Assoc. - traffic wetland commercial in Home
✓	Jeanne L. Turnock 410-922-5496 3321 Offutt Rd. 21133	Brice Run Nbrhd Assoc - Mix of commercial/residential Large number of vacant commercial properties
	A. J. Dresel 3612 Edgewood R	Brice Run Asso. - Water pollution
✓	RUTH MEERDTER 9201 LIBERTY RD	BRICE RUN ASSOC - TRAFFIC COMMERCIAL/RES
	GILBERT MEERDTER 9206 LIBERTY RD	" " " "
	JOANNE COSDEN 3433 Chapman Rd.	Brice Run Assoc - concern about traffic safety Bldg in/Roads
	Bill Cosden 3433 Chapman Rd	" " "
	EYLEI DARLING 9140 Liberty Rd	" " "
	Donald Darling 9140 Liberty Rd	" " "
✓	ROBERT KLOHR. 3509 CHAPMAN Rd. 21133	" " " Spring concern about Traffic
	JACK WENNERSTROM 9207 SAMOSET RD.	" "
✓	BILL BRALOVE 4272 Mary Ridge Dr 21133	RENEW INC
✓	KEN STETSON 3613 Chapman Rd. 21133	BRICE RUN
	Carl Fendell 31 Chapmanview Ct	
	Chris Woodin 9215 Liberty Rd 21133	Brice Run / Traffic
	John EVANS 16 Chapmanview Ct 21133	Brice Run / Traffic
		10/22/02

DATE: 7/10/02

PEOPLE'S COUNSEL'S SIGN-IN SHEET

CASE NAME: FAS, LLC

CASE NO.: 02-174-XA

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify	Name / Address Phone Number	Community Group You Represent / Basis of Your Concerns
✓	Christopher C. Woodin 9215 Liberty Rd. 410-521-1128	Self and Brice Run Neighborhood Assoc. Traffic, Wetlands and Impact
✓	Anna Y. Klohr 3509 Chapman Rd 410-922-4764	Self, Brice Run Neighborhood Assoc. Traffic Wetlands Impact to Residential Comm.
✓	RUTH MEERDTER 9206 LIBERTY RD 410-6552893	SELF + BRICE RUN NEIGHBORHOOD ASSOCIATION TRAFFIC, WETLANDS + IMPACT ON RESIDENTIAL COM
	H.L. Meerdter 9206 LIBERTY RD 410-6552893	" " " "
	Ethel Darling 9140 Liberty Rd 410-922 6160	" " " "
	Donald Darling 9140 Liberty Rd. 410-922 6160	" " " "
	Bill Cooden 3433 Chapman Rd. 410-922 2900	" " " "
	Joanne Cooden 3433 Chapman Rd 410-922-2900	" " " "
✓	Richard Russell 9212 Liberty Rd 410-922-3971	" " " "
	Louise Wylie 5515 Gwynndale Ave 21207 410 2985796	Wylie Funeral Home
	JACQUELYN PITTS 5510 McCORMICK 21206 410-866-2990	SELF
	Rosa Martin 3907 Winlee Rd. 21133	Wylie Funeral Home
	JOHN EVANS 16 Chapman view ct 21133	Brice Run Neighborhood Assoc Wylie Funeral Home
	Jimmy Johnson 17 CHAPMAN View ct 21133	Brice Run Neighboard Ass Wylie Funeral Home, Traffic Wetland Impact
✓	JACK WENNERSTROM 9207 SAMOSET RD.	BRICE RUN NEIGHBORHOOD ASSOC. WYLIE FUNERAL HOME
	Jeanne L. Turnock, 3321 Offutt Rd 410-922-5496	BRICE RUN NEIGHBO ASSOC
		7/10/02
		BOARD EXHIBIT #1

DATE: 7/10/02

SUPPLEMENT TO BOARD EXHIBIT 1

PEOPLE'S COUNSEL'S SIGN-IN SHEET

CASE NAME: FAS, LLC

CASE NO.: 02-174-XA

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify	Name / Address Phone Number	Community Group You Represent / Basis of Your Concerns
✓	Carl LeDuff SR 21 Chapman View Ct	SELF & BRICE RUN NEIGHBORHOOD ASSOC

BE #1 Pg. 2 of 2

WYLIE FUNERAL HOME
Special Exception - 9142& 9240 Liberty Road
Case No. 02-174-XA

Date: July 10, 2002

EXHIBIT NO.	PETITIONER	PROTESTANTS
1	Plat as Filed before DZC	
2	Plat as Revised before DZC	
2A	Colored Version of Plat as Revised	
3 A-I	Photographs of Site Jan 2002	
6A & 6B	Wylie Letter to Neighbors 12/2001	
5	LRBA Letter to Kotroco 12/2001	
9 A-CC	Wylie Photos	
A-B	Architectural Drawings	
	Road Profile	

WYLIE FUNERAL HOME
Special Exception - 9142& 9240 Liberty Road
Case No. 02-174-XA

Date: July 10, 2002

Pet

EXHIBIT NO.	PETITIONER	PROTESTANTS
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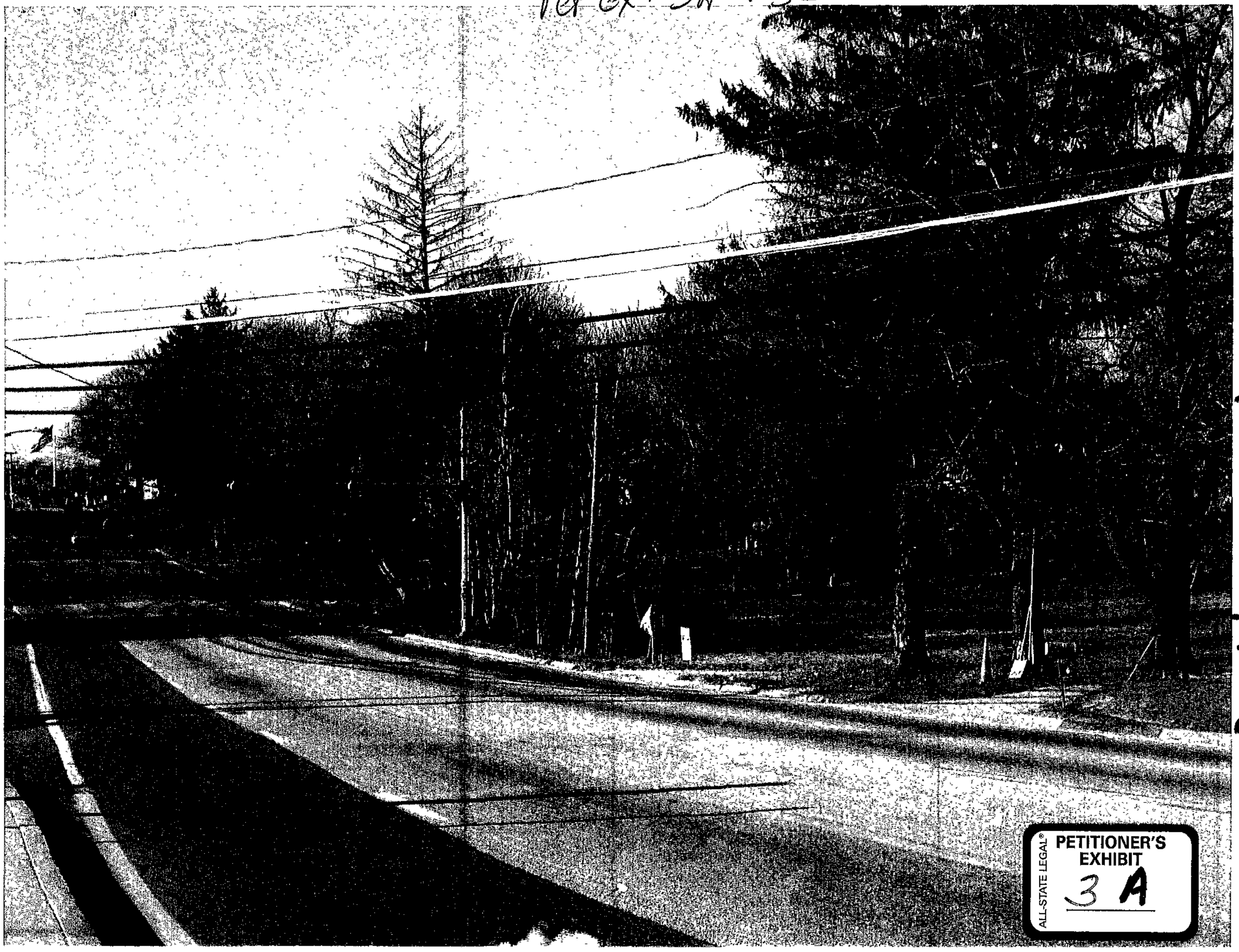
2	Plat as Revised before DZC	
~~Pet.~~ 2A	Colored Version of Plat as Revised	
3 A-I	Photographs of Site Jan 2002	
6A-6B	Wylie Letter to Neighbors 12/2001	
5	LRBA Letter to Kotroco 12/2001	
A-CC	Wylie Photos	
~~Pet~~ 4 A-B	Architectural Drawings 4A & B below	
	Road Profile	
9A-9CC	Photos taken by Wylie after DZC hearing	
10 A-G	Photos taken by Wylie	
11	Deed to property	
12	Letter from Liberty Road Business Assoc	
13	Curriculum Vitae Harry Gechman	
14.	Notice of Public Info Meeting Wetlands.	

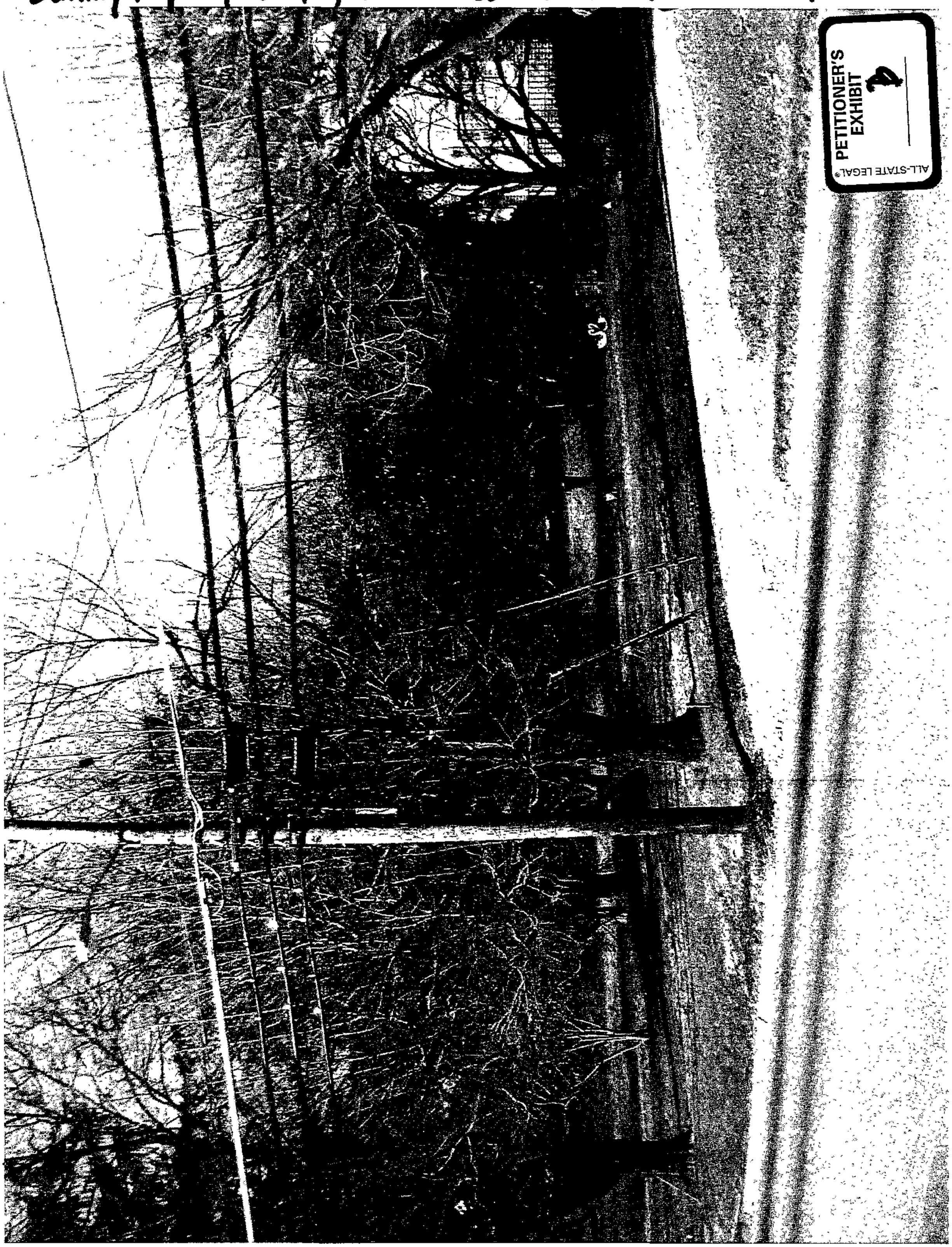
Pet Ex #3A -> 3I



SUBJECT PROPERTY @ N/W Liberty Road

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
3A

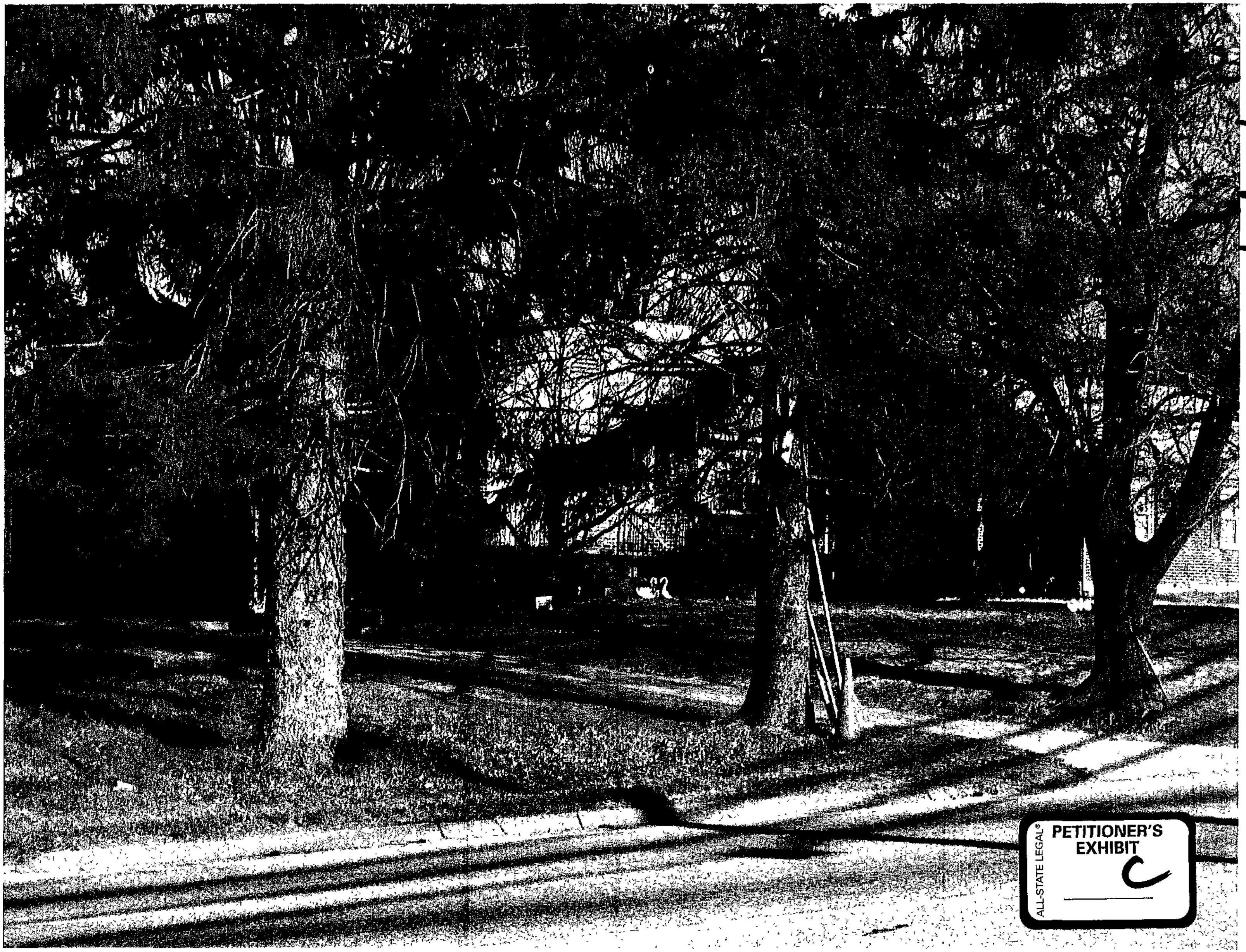
Darling Property on Right - SUBJECT PROPERTY TO LEFT



PETITIONER'S EXHIBIT 4

ALL-STATE LEGAL®

Darlin Property & Drive



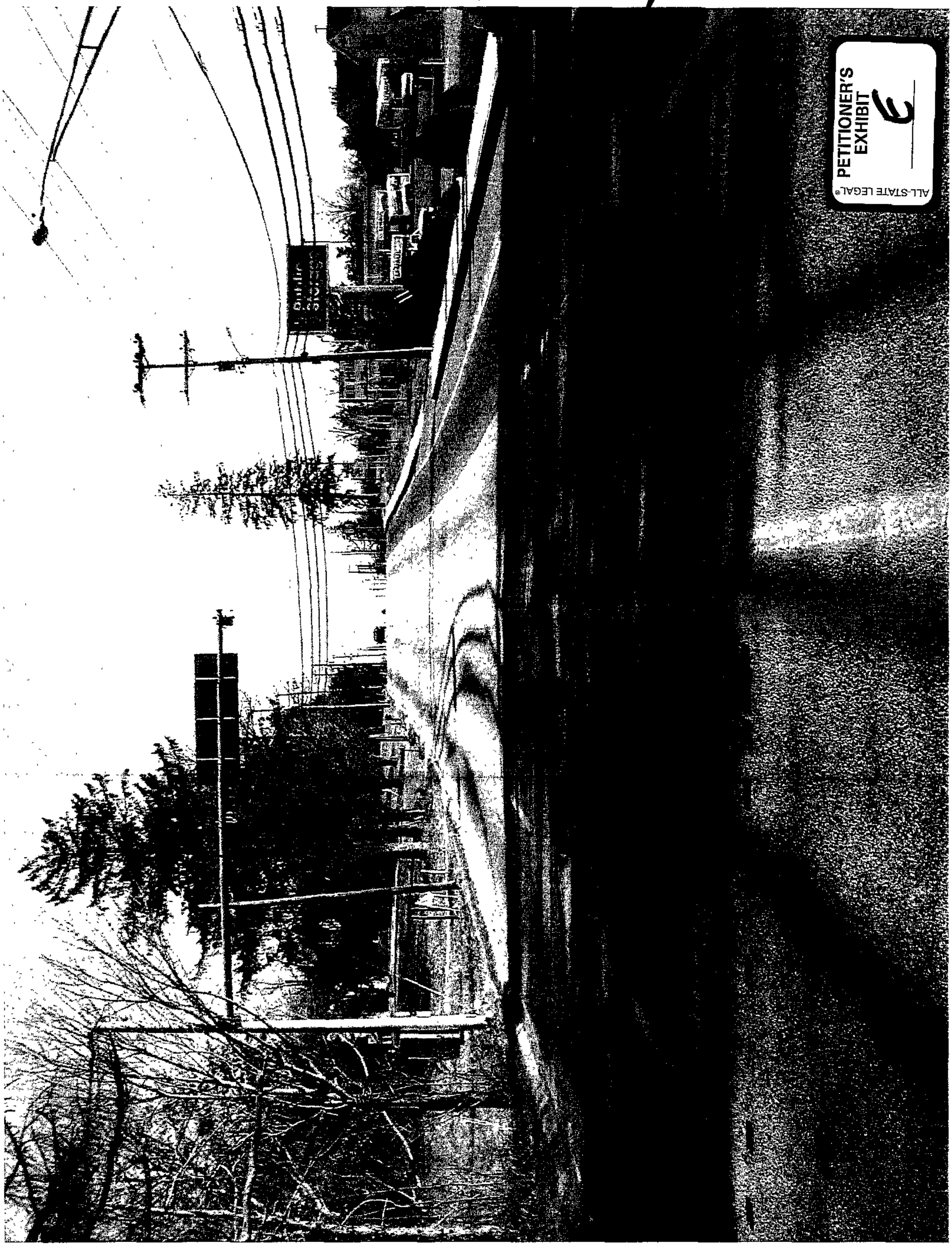
ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
C

WEST- NORTHWEST "UP" LIBERTY ROAD IN FRONT OF SUBJ. PROP

PETITIONER'S EXHIBIT 1

ALL-STATE LEGAL®

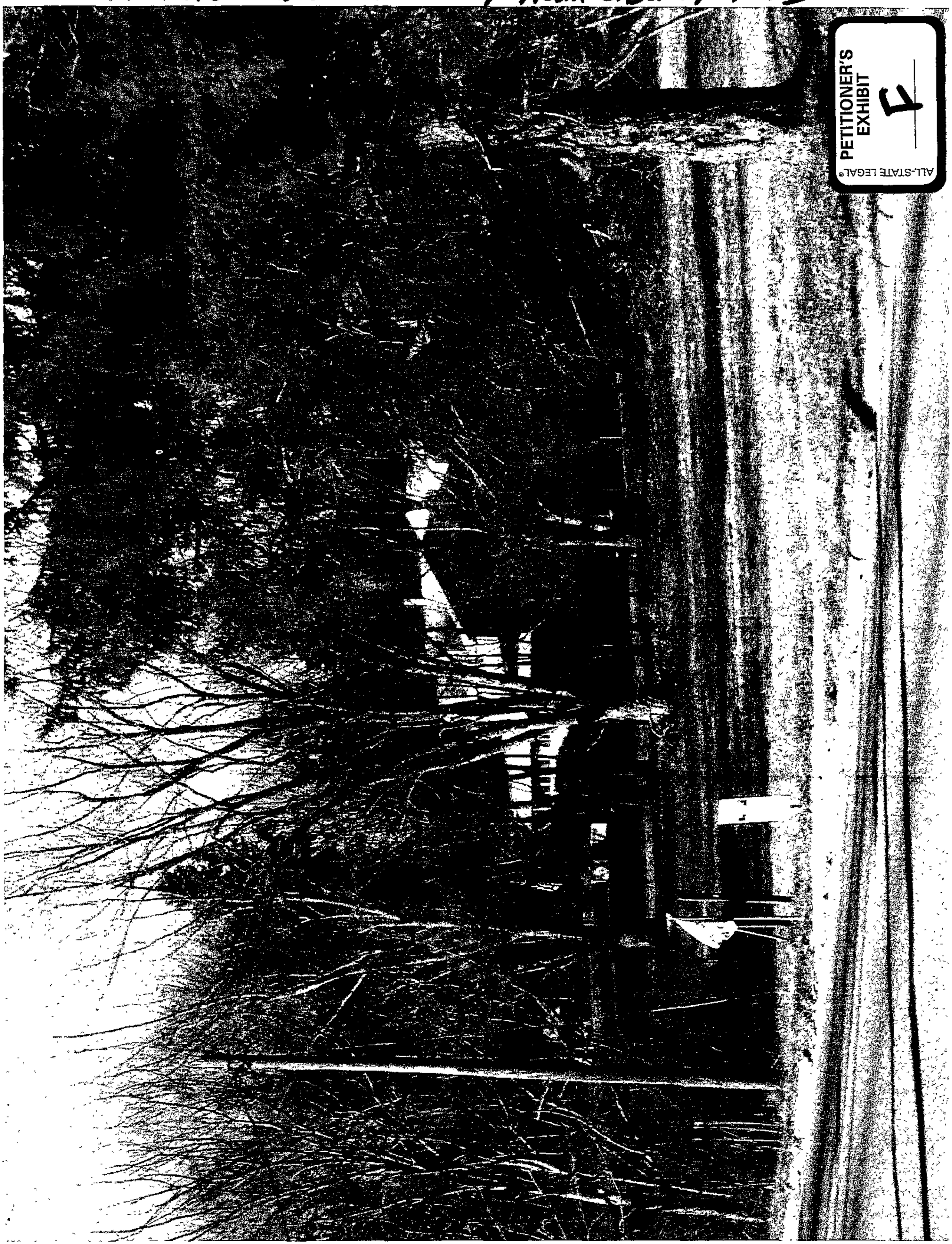
EAST-SOUTHEAST IN FRONT OF SUBJ PROPERTY (LIBERTY ROAD)



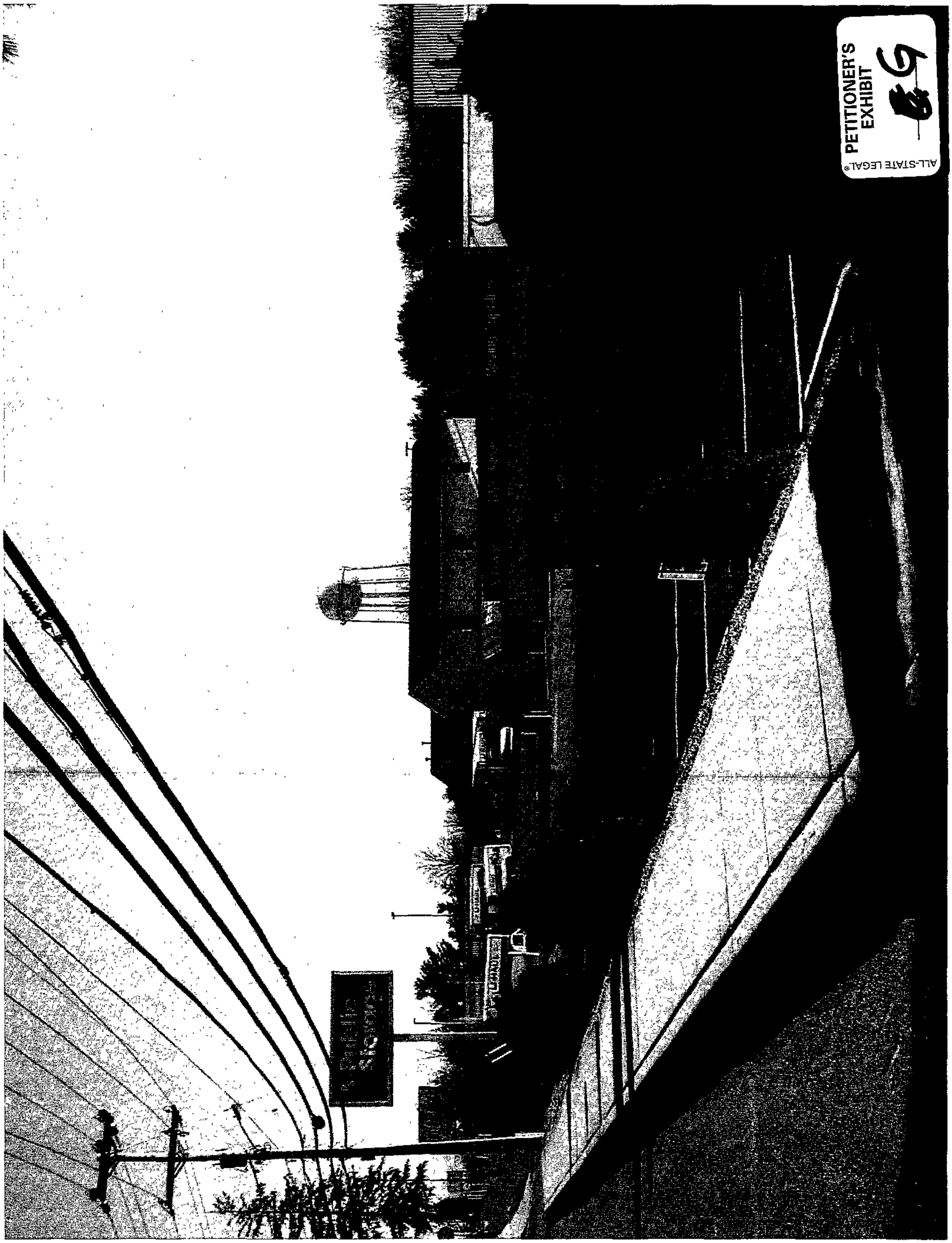
PETITIONER'S EXHIBIT 3

ALL-STATE LEGAL®

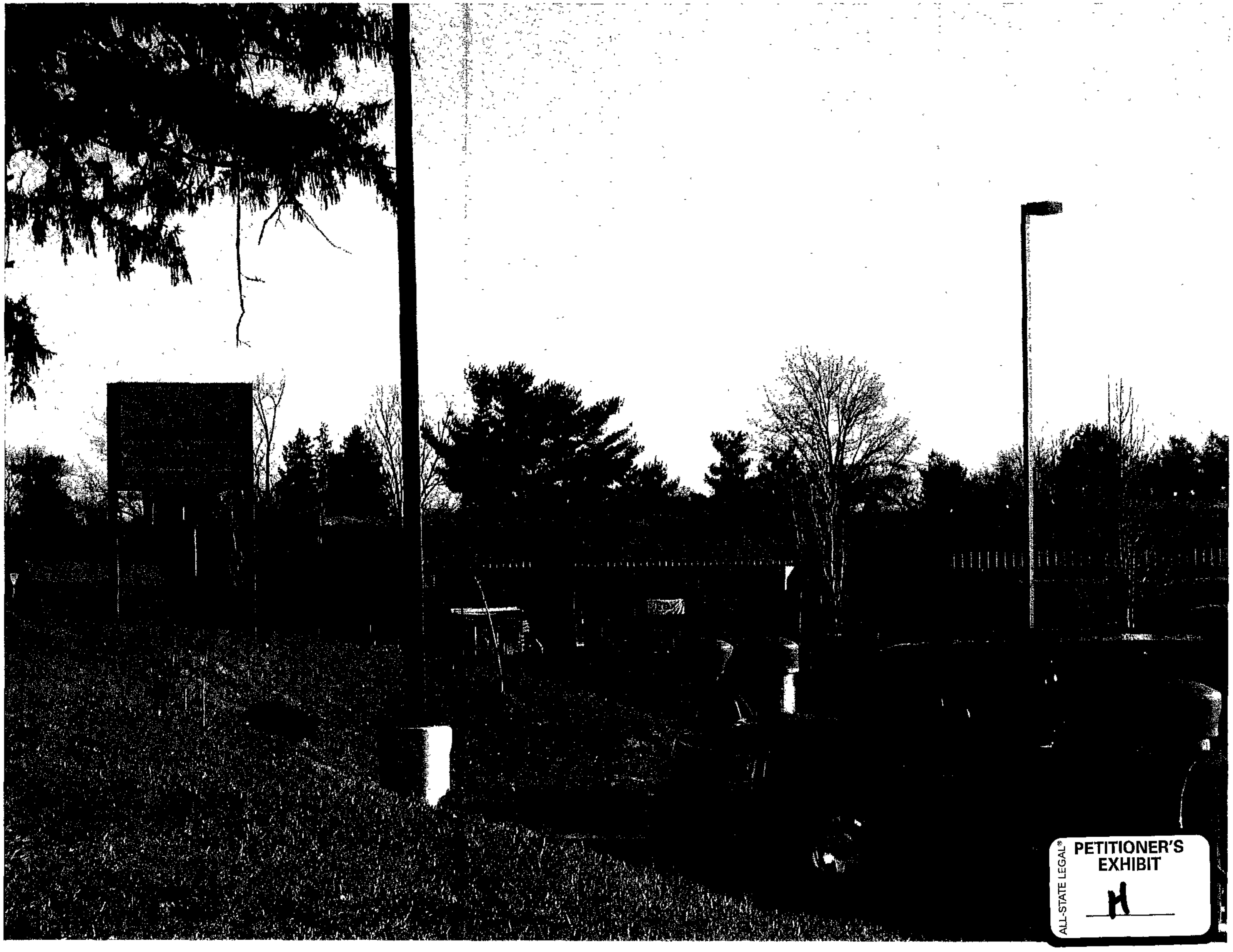
NORTH INTO SUBJECT PROPERTY FROM LIBERTY ROAD



SOUTH SIDE LIBERTY ROAD ACROSS FROM SUBJECT PROPERTY



SOUTHEAST OF PUBLIC STORAGE - SOUTH SIDE LIBERTY AVE



ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
H

ACROSS FROM SUBJECT PROPERTY - SOUTH SIDE LIBERTY ROAD

LIBERTY ROAD BUSINESS ASSOCIATION

9968 Liberty Road ♦ Randallstown, Maryland 21133
Tel: 410.655.7766 ♦ Fax: 410.655.8065

December 21, 2001

Timothy Kotroco
Deputy Zoning Commissioner
Zoning Commissioner's Office
401 Bosley Ave., Room 405
Towson, MD 21204

Re: Case #02-174-XA
Wylie Funeral Home

Dear Mr. Kotroco:

The Board of Directors of the Liberty Road Business Association has voted to support the above-referenced petitioner's request for a Special Exception and a Variance for his property at 9142 and 9204 Liberty Road, Randallstown, MD 21133.

While the Board approves of the business, the Association wishes to be on record, as suggesting that the hours of operation be between 8:00 a.m and 9:00 p.m., Monday through Sunday and that this be part of the approval for the Special Exception. In addition, the Board also requests that the Association be made part of the "process" in terms of landscape and design, this refers to property buffering and seeing to the fact that the building is compatible with the rest of the community, design-wise.

Thanking you in advance for your continued cooperation in enhancing the Liberty Road business community's renaissance.

Sincerely,

Richard W. Montalto, RHU
President

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
5

LIBERTY ROAD BUSINESS ASSOCIATION

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Tel: 410.655.7766 ♦ Fax: 410.655.8065

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Sincerely,

Richard W. Montalto, RHU
President

Wylie
Funeral Home P.A.
638-634 North Gilmor Street
Baltimore, Maryland 21217
(410) 462-4070 • fax (410) 383-6072
E-mail: wylie@all-systems.com

William D. Darling
9140 Liberty Road
Randallstown, MD 21133

December 6, 2001

Dear Mr.Darling:

I am the owner of the property known as 9142 & 9204 Liberty Road. I am interested in developing these lots. I have applied for zoning and there will be a hearing soon.

I wanted to formally introduce myself and make you aware of my intent to develop this land. I welcome any questions or concerns and I look forward to meeting you in person.

Yours truly,

Albert P. Wylie

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
6 A

Wylie

Funeral Home P.A.

638-634 North Gilmor Street
Baltimore, Maryland 21217
(410) 462-4070 • fax (410) 383-6072
E-mail: wylie@all-systems.com

Gilbert J. Meerdteer
9206 Liberty Road
Randallstown, MD 21133

December 6, 2001

Dear Mr.Darling:

I am the owner of the property known as 9142 & 9204 Liberty Road. I am interested in developing these lots. I have applied for zoning and there will be a hearing soon.

I wanted to formally introduce myself and make you aware of my intent to develop this land. I welcome any questions or concerns and I look forward to meeting you in person.

Yours truly,

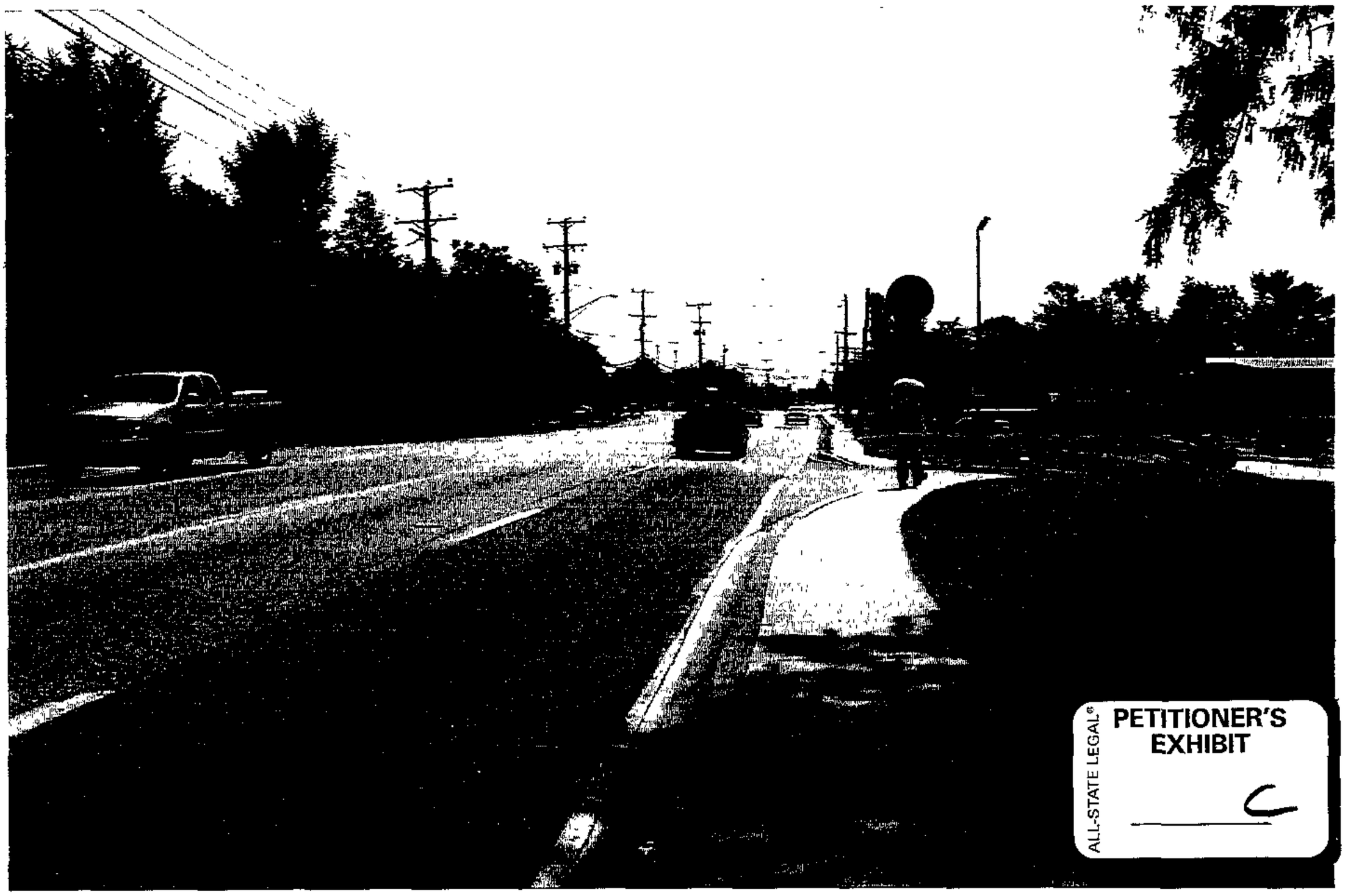
Albert P. Wylie

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
6B

9100 Block of Liberty Road
Between the hours of 12:00-1:00pm
July 9, 2002

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
10A

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
B



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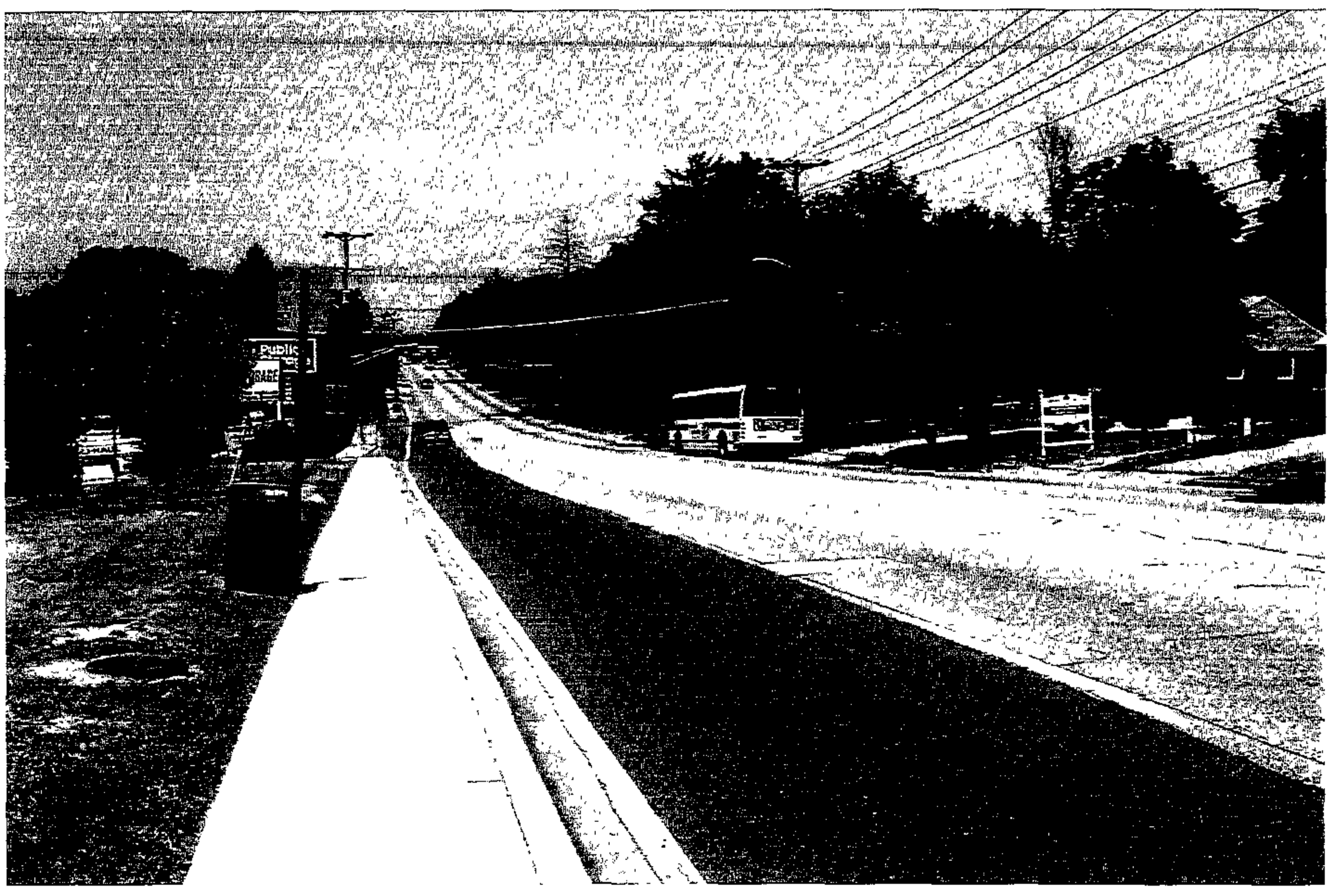
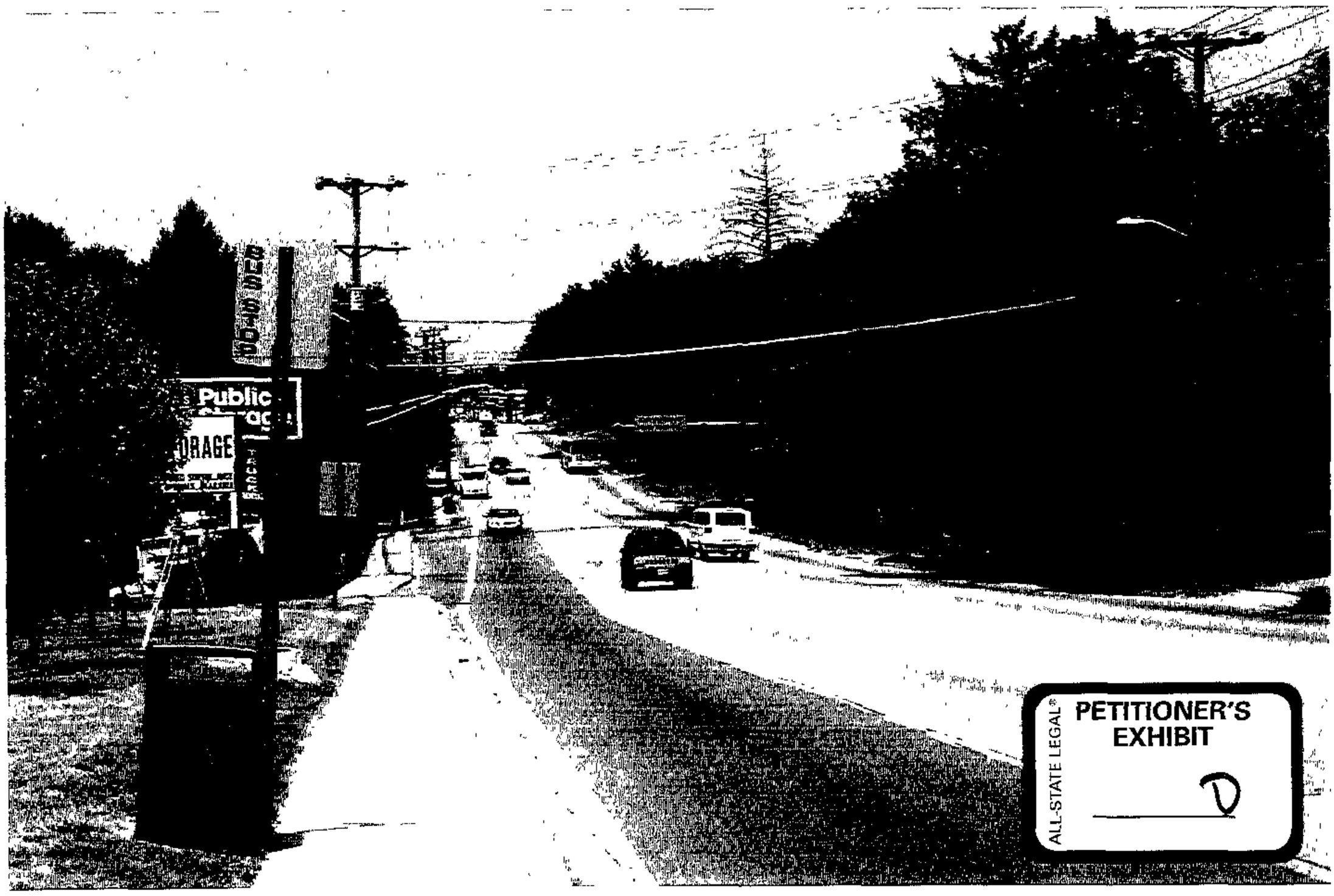
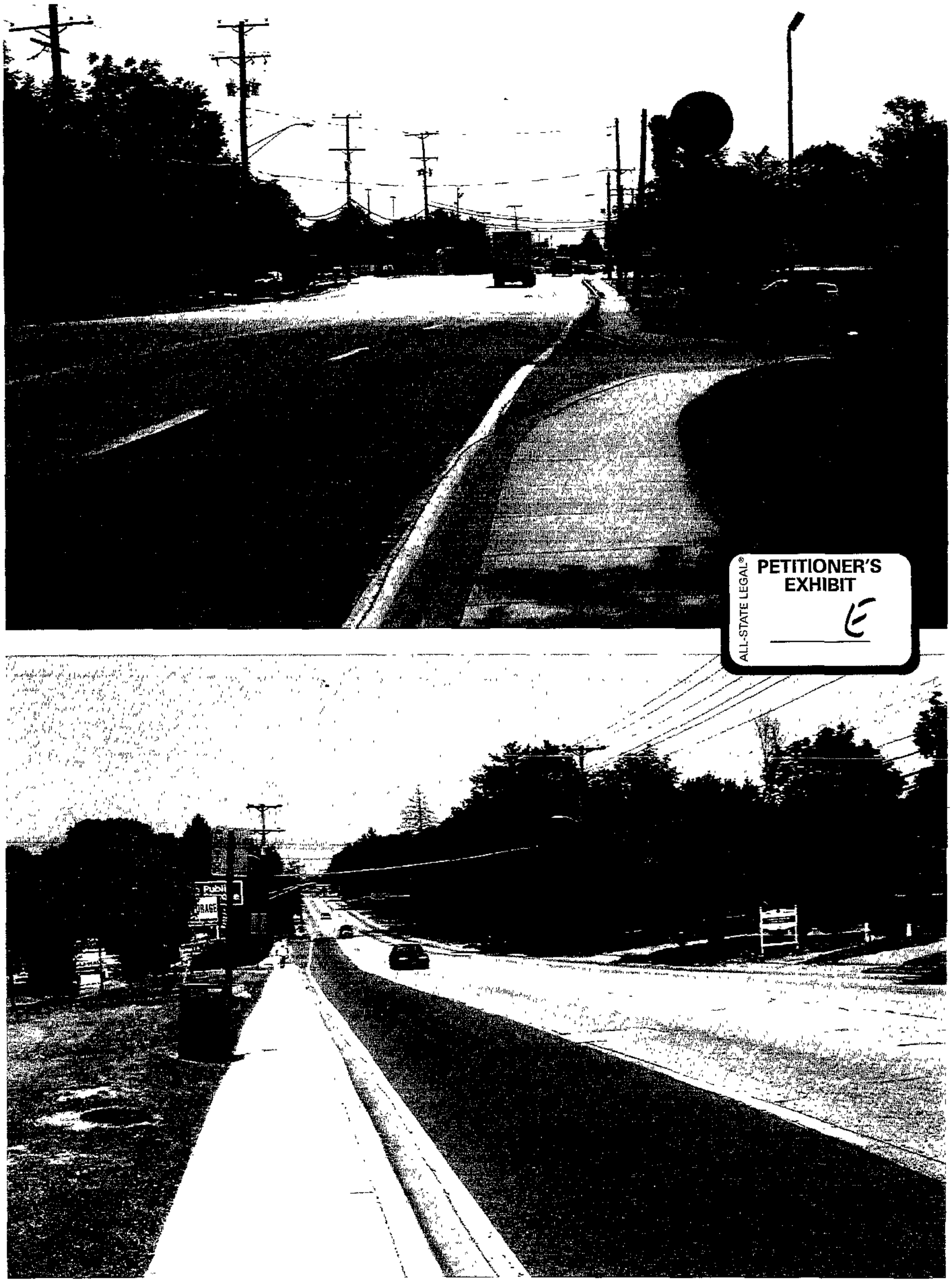
PETITIONER'S EXHIBIT

C





ALL-STATE LEGAL®
PETITIONER'S
EXHIBIT
D



ALL-STATE LEGAL®

PETITIONER'S EXHIBIT

E

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
F

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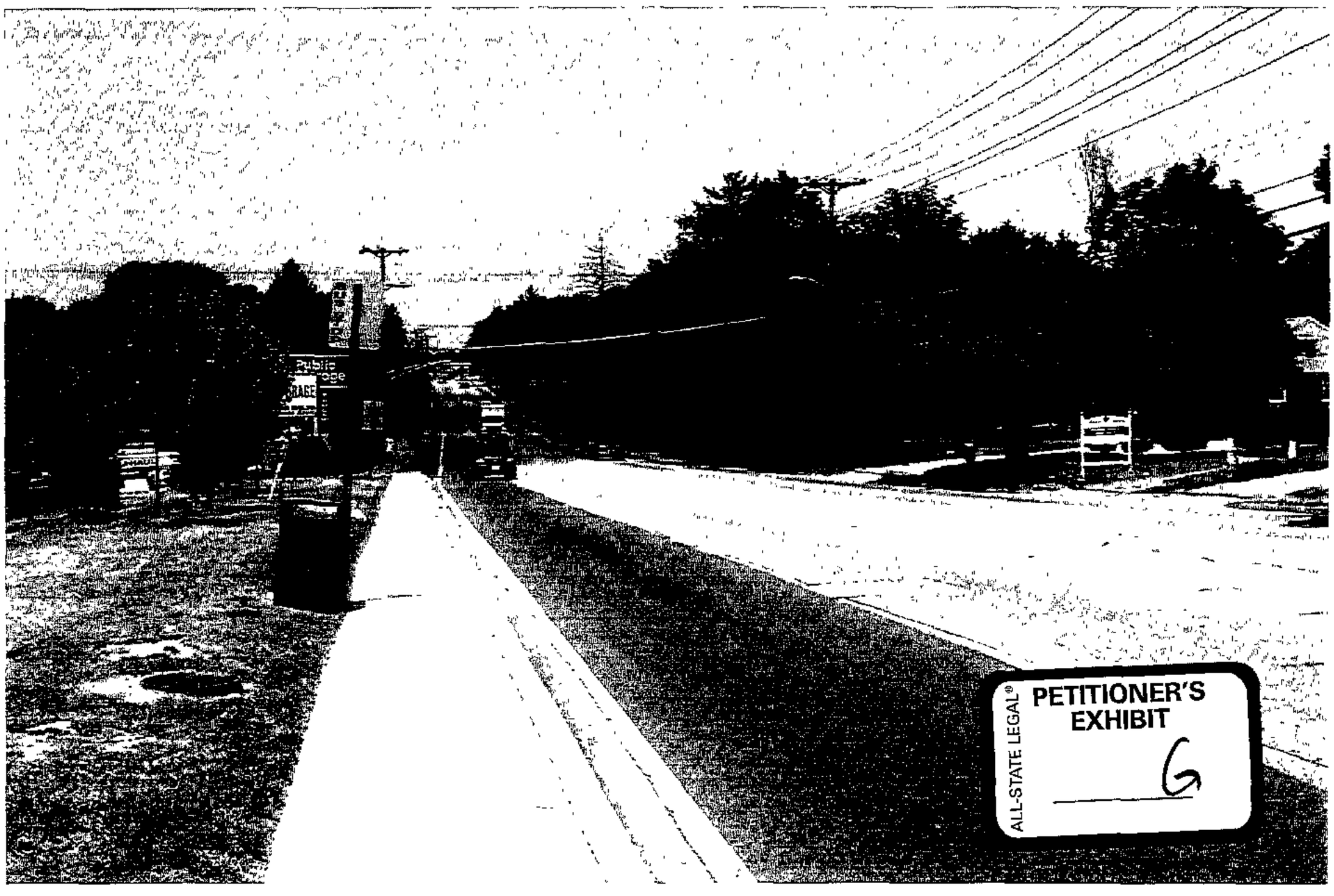
TRUCK
RENTAL


Public
Storage
ALL-STATE LEGAL®
PETITIONER'S
EXHIBIT
6

Tax ID # 02-06-820000 & 02-20-800020
Property Address: **9142 & 9204 LIBERTY ROAD, BALTIMORE, MD. 21207**

THIS DEED, made this 29th day of August, 2001, by and between **EDWARD HOFFMAN by David S. Goldberg, his Attorney-in-Fact****, party of the first part, Grantor; and **FAS, LLC, A MARYLAND LIMITED LIABILITY**, party of the second part, Grantee.

- Witnesseth -

That in consideration of the sum of **ONE HUNDRED FIFTY NINE THOUSAND NINE HUNDRED DOLLARS and 00/100 ($159,900.00)**, and other good and valuable considerations, the receipt of which is hereby acknowledged, the said Party of the First Part does grant and convey to the said Party of the Second Part, its successors and assigns, in fee simple, all that lot of ground situate in BALTIMORE COUNTY, MARYLAND, Maryland and described as follows, that is to say:

SEE ATTACHED FOR LEGAL DESCRIPTION

****SEE POWER OF ATTORNEY** dated August 2, 2001 and intended to be recorded simultaneously herewith and *immediately prior hereto, wherein the said* Edward G. Hoffman appointed David S. Goldberg his/her lawful Attorney-in-Fact.

Together with the buildings and improvements thereupon; and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said described lot(s) of ground and premises, unto and to the use of the said, Party of the Second Part, its successors and assigns, in fee simple.

And the said party of the first part hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant specially the property hereby granted; and that he will execute such further assurances of the same as may be requisite.

REVIEWED SDAT
LCP 9/20/01
BY DATE

PET # 11

FROM THE OFFICE OF

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CONSULTING ENGINEERS • LAND PLANNERS • LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD • TOWSON, MARYLAND 21286-3396

DESCRIPTION OF A PARCEL OF LAND
CONTAINING 3.6239 ACRES OF LAND MORE OR LESS
9142 & 9204 LIBERTY ROAD

AUGUST 28, 2001

Beginning for the same at a point on the northeast side of Liberty Road (MD. RTE 26), sixty-six foot wide at the end of the third or South 40 degree 51 minute West 527.50 foot line of that parcel of land described in a Deed dated December 27, 1999 between David S. Goldberg, Trustee and Edward Hoffman and recorded among the Land Records of Baltimore County, Maryland in Liber S.M. 14239 folio 605, running thence leaving said point of beginning and leaving said northeast side of Liberty Road, binding reversely on said third line in said Deed (14239/605), as now surveyed:

1) North 30°32'57" East 528.99 feet to a point being situate South 30°32'57" West 0.45 feet from a 1" pipe found, running thence, for part of the distance binding reversely on the second line in said Deed (14239/605) and for part of the distance binding reversely on the second or North 51°50' West 150.00 foot line of that parcel of land described in a Deed dated December 27, 1999 between David S. Goldberg, Trustee and Edward Hoffman and recorded among the land Records of Baltimore County, Maryland in Liber S.M. 14239 folio 602, in all, as now surveyed:

2) South 59°23'41" East 299.53 feet, running thence binding reversely on the first line of said second herein mentioned Deed (14239/602), passing over an angle iron found at a distance of 0.15 feet and passing over an angle iron found at a distance of 525.44 feet from the beginning of the line now being described, in all, as now surveyed:

3) South 30°35'02" West 525.63 feet to intersect the northeast side of said Liberty Road (MD. RTE 26), sixty-six foot wide, running thence binding on the northeast side of said Liberty Road, for part of the distance binding reversely on the fourth line of said second mentioned Deed (14239/602) and for part of the distance binding reversely on the fourth line of said first mentioned Deed (14239/605) in all, as now surveyed:

4) North 60°02'18" West 299.22 feet to the point of beginning.

Containing 3.6239 acres of land more or less.

Being all of the land described in a Deed dated December 27, 1999 between David S. Goldberg, Trustee and Edward Hoffman and recorded among the land Records of Baltimore County, Maryland in Liber S.M. 14239 folio 605 and all of the land described in a Deed dated December 27, 1999 between David S. Goldberg, Trustee and Edward Hoffman and recorded among the land Records of Baltimore County, Maryland in Liber S.M. 14239 folio 602.

STATE OF MARYLAND
ROBERT P. HENRY
No. 10856
REGISTERED
PROFESSIONAL LAND SURVEYOR

410-825-8120 • FAX 410-583-0288
gwstowson@erols.com

TSS240-00049

For Title See:

Deeds dated June 23, 1999 and recorded or intended to be recorded among the Land Records of Baltimore County immediately prior hereto whereby David S. Goldberg, was appointed Substitute Trustee.

Confirmatory Deeds dated August 29, 2001and recorded or intended to be recorded among the Land Records of Baltimore County immediately prior hereto which were by and between David S. Goldberg, Substitute Trustee unto the party of the first part herein.

As Witness the hand and seal of said Grantor:

WITNESS:

James FX Cosgrove

Edward Hoffman by
David S. Goldberg his Atty In Fact

EDWARD HOFFMAN BY
DAVID S. GOLDBERG, HIS
ATTORNEY IN FACT

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this 29th day of August, 2001, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared EDWARD HOFFMAN* the Grantor herein, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be his act, and in my presence signed and sealed the same.

*by David S. Goldberg, his Attorney-in-Fact

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

JAMES F. X. COSGROVE NOTARY PUBLIC BALTIMORE COUNTY, MD.

James FX Cosgrove
Notary Public
My commission expires: 4/1/04

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

James FX Cosgrove
JAMES F. X. COSGROVE, Attorney

AFTER RECORDING, PLEASE RETURN TO:

FAS, LLC, A MARYLAND LIMITED LIABILITY
C/O HOWARD L. ALDERMAN, JR
502 WASHINGTON AVE - 8TH FLR
TOWSON, Md. 21204

TSS240-00049

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this the 29th day of August, 2001, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared David S. Goldberg as Attorney-in-Fact for Edward G. Hoffman and acknowledged that he/she executed the same in pursuance of the power and authority set forth in the Power of Attorney previously referred to, as the act of his principal(s) for the purposes therein contained, and further made oath in due form of law that at the time of the execution of the within instrument, he/she did not have actual or constructive knowledge of the revocation or termination of the above-mentioned Power of Attorney by reason of death, disability or incompetence of the said Edward G. Hoffman.

IN WITNESS WHEREOF, I hereunto set my hand and official Seal.

JAMES F. X. COSGROVE NOTARY PUBLIC BALTIMORE COUNTY, MD.

James F X Cosgrove
Notary Public

My commission expires: 4/1/04

[illegible] 00049

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☑ County: BALTIMORE

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

1 Type(s) of Instruments (☐ Check Box if Addendum Intake Form is Attached.)

2 Deed	☐ Mortgage	1 Other POWER OF ATTNY	3 Other IDOT
☐ Deed of Trust	☐ Lease		

2 Conveyance Type Check Box

☐ Improved Sale Arms-Length [1]	☑ Unimproved Sale Arms-Length [2]	☐ Multiple Accounts Arms-Length [3]	☐ Not an Arms-Length Sale [9]

3 Tax Exemptions (if Applicable) State or Explain Authority

Recordation	
State Transfer	
County Transfer	

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only — Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 159,900.00	Transfer Tax Consideration	$ 159,900.00
Any New Mortgage	$ 127,920.00	X ( ) % =	$ 2398.50
Balance of Existing Mortgage	$	Less Exemption Amount –	$
Other:	$	Total Transfer Tax Doc 2 =	$ 2398.50
Other:	$	Recordation Tax Consideration	$
		X (Doc 2) per $500 =	$ 800.00
Full Cash Value	$	TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$ 20.00
Surcharge	$ 2.00 20	$ 5.00
State Recordation Tax	$	$
State Transfer Tax	$	$
County Transfer Tax	$ 199.50	$
Other	$	$
Other	$	$

Agent: Tax Bill: 7/23 C.B. Credit: — Ag. Tax/Other: N-

Red SDAT

6 Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
02	02-06-820000 *				☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage (4)

Location/Address of Property Being Conveyed (2): 9142 AND 9204 LIBERTY ROAD

Other Property Identifiers (if applicable): * 02-20-600020 | Water Meter Account No.:

Residential ☐ or Non-Residential ☑ | Fee Simple ☑ or Ground Rent ☐ | Amount:

Partial Conveyance? ☐ Yes ☑ No | Description/Amt. of SqFt/Acreage Transferred: 3.6239 ACRES

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From

Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
EDWARD HOFFMAN	EDWARD HOFFMAN BY DAVID S. GOLDBERG
Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 - Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)
DAVID S. GOLDBERG	FAS, LLC

New Owner's (Grantee) Mailing Address: 638-634 NORTH GILMOR ST; BALT, MD. 21217

9 Other Names to Be Indexed

Doc. 1 - Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: JAMES F X COSGROVE

Firm: SENTINEL TITLE

Address: 1104 KENILWORTH STE 401

TOWSON MD 21204 Phone: (410) 321-0800

☑ Return to Contact Person ☐ Hold for Pickup ☐ Return Address Provided

11 IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

☐ Yes ☑ No Will the property being conveyed be the grantee's principal residence?

☐ Yes ☑ No Does transfer include personal property? If yes, identify:

☑ Yes ☐ No Was property surveyed? If yes, attach copy of survey (if recorded no copy required).

Assessment Use Only - Do Not Write Below This Line

☐ Intrafamilial Verification ☐ Agricultural Verification ☐ Whole ☐ Part ☐ Trans. Process Verification

Transfer Number: Date Received: Deed Reference: Assigned Property No.

	19	19		
Year			Geo.	Map
Land			Zoning	Grid
Impr.			Use	Parcel
Total			Town Cd.	Ex. St.

REMARKS

White - Clerk's Office
Canary - SDAT
Pink - Office of Finance
Goldenrod - Preparer
AOC-CC-300 (6/95)

PAID RECEIPT
PAYMENT ACTUAL TIME
9/24/2001 9/21/2001 16:03:35
REG WS04 CASHIER DDOL DWD DRAWER 2
DEFLN
ACCOUNT NO 02080820000 RECORDATION TAXES 800.00
Baltimore County, Maryland

Addendum
State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☑ County: BALTIMORE

The addendum form should be used when one transaction involves more than two instruments. Each instrument should be itemized in accordance with Section No. 1 of the Intake Sheet.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

5 (Continued) Fees	Amount of Fees	Doc. 3	Doc. 4	Doc. 5	Doc. 6
	Recording Charge	$ 20.00	$	$	$
	Surcharge	$ 5.00	$	$	$
	State Recordation Tax	$	$	$	$
	State Transfer Tax	$	$	$	$
	County Transfer Tax	$	$	$	$
	Other	$	$	$	$
	Other	$	$	$	$

7 (Continued) Transferred From	Doc. 3 - Grantor(s) Name(s)	Doc. 4 - Grantor(s) Name(s)
	FAS, LLC	
	Doc. 5 - Grantor(s) Name(s)	Doc. 6 - Grantor(s) Name(s)
	Doc. 3 - Owner(s) of Record, if Different from Grantor(s)	Doc. 4 - Owner(s) of Record, if Different from Grantor(s)
	Doc. 5 - Owner(s) of Record, if Different from Grantor(s)	Doc. 6 - Owner(s) of Record, if Different from Grantor(s)

8 (Continued) Transferred To	Doc. 3 - Grantee(s) Name(s)	Doc. 4 - Grantee(s) Name(s)
	TRSTE, INC. TRUSTEE	
	Doc. 5 - Grantee(s) Name(s)	Doc. 6 - Grantee(s) Name(s)

9 (Continued) Other Names to be Indexed	Doc. 3 - Additional Names to be Indexed (Optional)	Doc. 4 - Additional Names to be Indexed (Optional)
	Doc. 5 - Additional Names to be Indexed (Optional)	Doc. 6 - Additional Names to be Indexed (Optional)

Special Instructions	Special Recording Instructions (if any)

02-06-820000

TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY, MARYLAND
Doc 3

☐ COUNTY TRANSFER TAX
Per _____ Sec 33-139

☑ RECORDATION TAX
Per Trans Exempt T.P. ART 12-103

Date 9/21/01

Distribution: *White - Clerk's Office*
Canary - SDAT
Pink - Office of Finance
Goldenrod - Preparer
AOC-CC-301(6/95)

LIBERTY ROAD BUSINESS ASSOCIATION

9337 Liberty Road ♦ Randallstown, Maryland 21133
Tel: 410.655.7766 ♦ Fax: 410.655.8065

July 8, 2002

Mr. Charles Marks, Chairman
Zoning Board Of Appeals
Baltimore County
Old Court House, Room 49
400 Washington Avenue
Towson, Md 21204

Re: Case # 02-174-XA
Wylie Funeral Home

Dear Mr. Marks:

The Board of Directors of the Liberty Road Business Association continues to support the establishment of the Wylie Funeral Home at 9142 and 9204 Liberty Road Randallstown, MD 21133. The Board originally voted this way on September 10, 2001; subsequently the Association wrote a letter of support to Deputy Zoning Commissioner Kotroco, dated December 21, 2001, as well; and now this communication. Further, LRBA does feel that the hours of operation of this establishment need to be "clearly defined".

In addition, the Board of Directors of the Liberty Road Business Association, which consists of 17 members, elected by the general membership of 130 businesses, authorizes Mrs. Emily Wolfson to speak for it, on the above captioned matter. The Association was chartered in 1979 and is a 501C3 non-profit business membership organization.

Thank you for your consideration in this matter.

Sincerely,

Richard W. Montalto
RHU

Richard W. Montalto, RHU
President

7/10/02
PET #12

Eco-Science Professionals, Inc.

CONSULTING ECOLOGISTS

Henry Leskinen

Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Education: Graduated with honors from St. Marys College of Maryland in December 1983 with a degree in Biological Sciences

Professional Certifications: U.S. Army Corps of Engineers Certified Wetland Delineator - Baltimore District.

MD Dept. of Natural Resources Forest Conservation Qualified Professional

MD Dept. of Natural Resources Qualified Observer (for forest interior breeding bird surveys)

Other Affiliations: Head of Tree Commission for Town of Manchester, MD
Member - Town of Manchester, MD Planning and Zoning Commission
Member - MD Ornithological Society

Current Duties: President and senior ecologist for company. Provide natural resources assessments and inventories, including wetland delineation, forest conservation act services, floral and faunal surveys, rare, threatened, and endangered species surveys, wetland permitting and mitigation design. Services provided to both public and private sector clients. Clients include the MD Department of Natural Resources, MD State Highway Administration, The Nature Conservancy, the U.S. Department of Defense, Allegheny Energy, and numerous engineering and surveying firms in Maryland. Duties require familiarity w/Baltimore County environmental regulations.

Professional Experience: Have worked as a natural resources consultant for 16 years, the last 10 for Eco-Science Professionals, Inc. During that time, have worked on approximately 900 projects. In a typical year, work on roughly 50-70 projects in Baltimore County.

Testified approximately a dozen times (Zoning Commissioner, Board of Zoning Appeals, State Board of Public Works, Public Service Commission)

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
13

NOTICE OF PUBLIC INFORMATIONAL HEARING

RE: Nontidal Wetlands and Waters Division
Permit Application Number: 02-NT-0083/200262424
Project: Wylie Funeral Home, Inc.

Dear Property Owner, Public Official, Interested Person, or Applicant:

A public informational hearing has been scheduled for the referenced project on Tuesday, July 16, 2002 AT 7:00 p.m. The hearing will be held at Soldiers Delight Visitor's Center, 5100 Deer Park Road, Owings Mills, MD. The public informational hearing allows the applicant and interested person(s) the opportunity to present facts and make statements for or against the granting of a Nontidal Wetlands and Waterways Permit.

Written comments may be submitted by persons attending the hearing or by interested person(s) unable to attend. Any written comments must be received by July 12, 2002.

If you have any questions or need any additional information, please do not hesitate to contact me at 410-631-410-631-8098.

Sincerely,

R. Aaron Brown/R

R. Aaron Brown
Project Manager
Nontidal Wetlands and Waterways Division

C: Gary Setzer, MDE
Elder Ghigiarelli, MDE
Amanda Sigillito
Ali Mir, MDE
U S Army Corps of Engineers
Ray Dintaman, TID PPER
Neal Fitzpatrick, ANS
Bob Zepp, USFWS
Project Reviewer, MDE
Applicant
Property Owner(s)
Public Official(s)
Interested Person(s)

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
14

MDE

MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101

Parris N. Glendening
Governor

Kathleen Kennedy Townsend
Lt. Governor

Richard F. Pecora
Secretary

Merrylin Zaw-Mon
Deputy Secretary

ALL-STATE LEGAL® PETITIONER'S EXHIBIT 15 3 PAGES

10/22/02

September 17, 2002

Mr. Henry Leskinen
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, Maryland 21057

Application Tracking Number: 200262424/02-NT-0083\
Project: Wylie Funeral Home/Infrastructure
Contact Person: R. Aaron Brown/Phone: (410) 631-8098/Fax: (410) 631-8098

Dear Mr. Leskinen,

The Nontidal Wetlands and Waterways Division of the Water Management Administration (WMA) has received sufficient information to make final decision on the Joint Federal/State Application for the project listed above. A favorable decision has been made to issue a Nontidal Wetlands and Waterways Permit (Permit) and Water Quality Certification (WQC) for the proposed activity. Prior to issuance of the Permit and WQC this office will need the following item addressed:

1. Submit two complete copies of the final construction plans for the project. The plans must include the limits of any nontidal wetlands, the nontidal wetland buffer, and waters of the State (including the 100-year floodplain), limits of disturbance, "Best Management Practices for Working in Nontidal Wetlands" (attached), a sequence of construction, and approved erosion and sediment control plans. The copies of the plans will be reviewed and, once approved, distributed to the Compliance Program of the WMA and to the applicant as an enclosure with the Permit and WQC.

Once the information is received and determined sufficient, the Permit and WQC will be issued. These will authorize the applicant to conduct the activity specified if conditions and best management practices, which will be a part of the authorization and certification, are met.

"Together We Can Clean Up"

If you have any question, please contact me at (410) 537-4179.

Sincerely,

Robert A. Brown

R. Aaron Brown, Project Manager
WMA, Nontidal Wetlands and Waterways Division

cc: Tracy Keffer-U.S. Army Corps of Engineers-Section Northern

BEST MANAGEMENT PRACTICES FOR WORKING IN NONTIDAL WETLANDS, WETLAND BUFFERS, WATERWAYS, AND 100-YEAR FLOODPLAINS

1) No excess fill, construction material, or debris shall be stockpiled or stored in nontidal wetlands, nontidal wetland buffers, waterways, or the 100-year floodplain.
2) Place materials in a location and manner which does not adversely impact surface or subsurface water flow into or out of nontidal wetlands, nontidal wetland buffers, waterways, or the 100-year floodplain.
3) Do not use the excavated material as backfill if it contains waste metal products, unsightly debris, toxic material, or any other deleterious substance. If additional backfill is required, use clean material free of waste metal products, unsightly debris, toxic material, or any other deleterious substance.
4) Place heavy equipment on mats or suitably operate the equipment to prevent damage to nontidal wetlands, nontidal wetland buffers, waterways, or the 100-year floodplain.
5) Repair and maintain any serviceable structure or fill so there is no permanent loss of nontidal wetlands, nontidal wetland buffers, or waterways, or permanent modification of the 100-year floodplain in excess of that lost under the originally authorized structure or fill.
6) Rectify any nontidal wetlands, wetland buffers, waterways, or 100-year floodplain temporarily impacted by any construction.
7) All stabilization in the nontidal wetland and nontidal wetland buffer shall consist of the following species: Annual Ryegrass (Lolium multiflorum), Millet (Setaria italica), Barley (Hordeum sp.), Oats (Uniola sp.), and/or Rye (Secale cereale). These species will allow for the stabilization of the site while also allowing for the voluntary revegetation of natural wetland species. Other non-persistent vegetation may be acceptable, but must be approved by the Nontidal Wetlands and Waterways Division. **Kentucky 31 fescue shall not be utilized in wetland or buffer areas.** The area should be seeded and mulched to reduce erosion after construction activities have been completed.
8) After installation has been completed, make post-construction grades and elevations the same as the original grades and elevations in temporarily impacted areas.
9) To protect aquatic species, in-stream work is prohibited as determined by the classification of the stream:

   Use I waters: In-stream work shall not be conducted during the period March 1 through June 15, inclusive, during any year.
   Use III waters: In-stream work shall not be conducted during the period October 1 through April 30, inclusive, during any year.
   Use IV waters: In-stream work shall not be conducted during the period March 1 through May 31, inclusive, during any year.

10) Stormwater runoff from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.
11) Culverts shall be constructed and any riprap placed so as not to obstruct the movement of aquatic species, unless the purpose of the activity is to impound water.

WES GUCKERT
President

Wes Guckert is a recognized and well respected expert in the field of traffic engineering and transportation planning. Serving as a technical advisor in the areas of traffic impact analysis, traffic signal design, traffic circulation, access studies and transportation planning, Mr. Guckert has played a major role in over 3,000 projects spanning both urban and suburban areas primarily in the Mid-Atlantic area. Mr. Guckert has also provided consultation on projects throughout the United States, as well as internationally. Early in his career, Mr. Guckert served for five years with the Maryland State Highway Administration Traffic Division. Prior to founding The Traffic Group, Inc., Mr. Guckert served as a traffic engineering consultant for eight years.

Since founding The Traffic Group, Inc., Mr. Guckert has been responsible for providing a variety of traffic engineering services to both the public and private sector. He has directed the design and implementation of traffic access systems for numerous regional projects such as the National Business Park, Cole Field House at UMCP, Largo Town Center, Wheaton Plaza, Salisbury Centre, Bowie New Town Center, Maple Lawn Farms, Montgomery Mall, Annapolis Mall, National Harbor, Greenbelt Metro Park, Traville, Fallsgrove, and King Farm. Mr. Guckert has undertaken Traffic and Transportation Studies for "Big Box" Stores including, Wal-Mart, Sam's Club, Target, Lowe's, Best Buy, Costco, and Home Depot, as well as numerous studies of Value-Oriented Centers and Regional Malls throughout the United States.

In addition to Mr. Guckert's technical expertise, as a renowned expert in the field, he is often asked to serve as an expert witness, testifying before County and Municipal Boards, District Courts, and Planning Commissions on traffic engineering and transportation planning issues.

Job History

1985 - Present
President, The Traffic Group, Inc.

1977-1985
Traffic and Transportation Planning Consultant

1972-1977
Assistant Regional Traffic Engineer
Maryland State Highway Administration-Traffic Division

Educational Background

- *Bachelor of Science*
  University of the State of New York
- *Civil Engineering Preparation*
  Johns Hopkins University
  Towson State University
  Essex Community College
- *Traffic Engineering Courses*
  Northwestern University Traffic Institute
  University of Tennessee Transportation Center
  University of Maryland

Affiliations

- American Planning Association (A.P A.)
- Essex Community College Foundation
  Board of Directors
- Horsehead Wetlands Center – Board of Trustees
  (Grasonville, MD)
- Institute of Transportation Engineers (I T.E) - Fellow
- International Council of Shopping Centers (ICSC)
- Subcommittee on Planning of the Smart Growth Commission
  appointed by Governor Parris N. Glendening
- The M.U S E Foundation – Board Member
- Transportation Research Board (T.R.B.)
- Urban Land Institute (U.L I.)

I.T.E. Professional Committees

- Committee No. 5P-5 - Capacities of Multiple
  Left-Turn Lanes
- Committee No 5P-07 - Traffic Counting Practices
- Committee No 5S-1 - Capacities of Triple
  Left-Turn Lanes
- Internal Transportation Systems for Majority
  Activity Centers
- Parking Facilities for Industrial Plants
- Traffic Considerations for Special Events

Publications

- *The Evolution of Adequate Public Facilities and Their Effectiveness as Growth Management Tools in Maryland* (Co-Author) - I T.E Annual Meeting

PBI #16

10/22/02

Publications (Cont'd.)

- *Trip Generation Comparisons of Club Warehouse Stores* – I.T.E.
- *Value-Oriented Retail Centers - A Follow-Up Report* – I.T.E.

Examples of places where Mr. Guckert has testified as an expert witness

CALIFORNIA
City of Milpitas - City Council

MARYLAND
Allegany County - Planning Board, Board of Appeals
Anne Arundel County - Board of Appeals, Circuit Court, Zoning Hearing Examiner
City of Annapolis - City Council, Planning Commission, Board of Appeals
Baltimore City - Board of Zoning Appeals, City Council, Federal District Court, Planning Commission
Baltimore County - Board of Appeals, Circuit Court, County Council, Planning Board, Zoning Commissioner
Town of Bel Air - Board of Appeals, Planning Board, Town Commissioners
Calvert County - Board of Appeals
Carroll County - Board of Appeals, County Commissioners, Planning Board
Charles County Town of Indian Head - Mayor and City Council
Charles County - Board of Appeals, County Commissioners, Planning Board
City of Frederick - Board of Appeals, City Council, Planning Commission
Frederick County - Board of Appeals, County Commissioners, Planning Board
Harford County - Planning Commission, Zoning Hearing Examiner
Howard County - Board of Appeals Planning Board, Zoning Board
Montgomery County - Board of Appeals, County Council, Zoning Hearing Examiner, M-NCPPC (Planning Board)
Ocean City - Planning Commission, Board of Appeals
Prince George's County - Council, Zoning Hearing Examiner, M-NCPPC (Planning Board)
St. Mary's County - Planning Board
Washington County - Board of Appeals
Wicomico County - Planning Commission, Board of Appeals
Worcester County - Planning Commission, County Commissioners

MINNESOTA
City of Brooklyn Center - Planning Commission

NEW JERSEY
Holmdel Township - Planning Board

PENNSYLVANIA
City of Scranton - Board of Appeals, Planning Board
West Whiteland Township-Planning Board, Town Council

VIRGINIA
Arlington County - Board of Supervisors
Loudoun County - Planning Board
Prince William County - Planning Board and Board of Supervisors

Mr. Guckert's Representative List of Projects

RETAIL AND MIXED-USE PROJECTS
Annapolis Mall – Anne Arundel County, Maryland
Avenue at White Marsh – Baltimore County, Maryland
Bowie New Town Center – Prince George's County, Maryland
Briarcliffe Mall – Myrtle Beach, South Carolina
Center at Charlestown – South Carolina
Centre @ Hagerstown – Washington County, Maryland
Center at Lynchburg – Virginia
Centre Pointe – Charleston, South Carolina
Fallsgrove – Montgomery County, Maryland
Festival at Waldorf – Charles County, Maryland
Great Mall of Arizona – Tempe, Arizona
Great Mall of the Bay Area – Milpitas, California
Greenbelt Metro Park – Prince George's County, Maryland
Home Depot Stores – Various Locations
King Farm – Montgomery County, Maryland
Largo Town Center – Prince George's County, Maryland
Lebanon Valley Mall – Lebanon, Pennsylvania
Mall at Steamtown – Scranton, Pennsylvania
Maple Lawn Farms – Howard County, Maryland
Menlyn Park Shopping Center – South Africa
Montgomery Mall – Montgomery County, Maryland
Pantai Kapuknaga – Indonesia
Potomac Mills – Prince William County, Virginia
Waccamaw Factory Shoppes – South Carolina
Wal-Mart Stores – Various Locations
Wheaton Plaza – Montgomery County, Maryland
Zonk 'Izizwe – South Africa

Protex # 4

STATEMENT

There are many reasons I strongly feel that the Petition for Special Exception and Variance for 91~~24~~42 and 9204 Liberty Road should be denied. All are equally important and they are:

The majority of this section of Liberty Road is residential. They are a combination of older and single residents, married couples and families with young children.

Changing the zoning would affect the make up of this section of Liberty Road, creating a domino effect for the residents whether a homeowner or tenant.

The properties in question are located next to each other at the bottom of two steep inclines.

The layout of this section of Liberty Road creates limited and poor visibility, blind spots for residents and travelers along this stretch.

Whether you are traveling East or West, you encounter a steep incline with limited visibility as to the upcoming road / traffic conditions. Then continuing you precede up the next incline, again with limited visibility as to the upcoming road / traffic conditions. Inclement weather only worsens the visibility and creates slick road conditions.

Those of us who live in the area are aware of this dangerous section. Many times taking side roads to avoid being caught in the oncoming traffics blind spot. No matter how far in advance we use our turn signals, the traffic behind us will at times come right up to our bumpers, beeping their horns to try and get us to turn faster. Turning onto Liberty Road from Chapman can take anywhere from 3 to 15 minutes, depending on which way you want to go.

One of the reasons Randallstown Post Office moved was due to the dangers of this road.

Those who don't live in this area are unaware of the dangers and have unfortunately been involved in hundreds of accidents over the years. While many are fender benders, there have been personal injury accidents even fatalities along this stretch of Liberty Road. The most recent fatality being in September 2001, where a young man traveling East at a high rate of speed, lost control of the car, went across the oncoming lanes and crashed into a tree at the corner of 9204. Hitting the tree, his car split in half, one half stayed at the tree, the other went across the road and landed in the front yard of 9205.

Liberty Road is heavily traveled, highly congested and the speed limit of 40 mph is not adhered to. As residents of this area, we try not to travel in the early morning and early evening hours. Even during regular daytime hours and later evening hours vehicles race by

us going 50 plus mph. We are honked at and have headlights flashed at us to either move faster or to get out of their way.

While I have great respect for the nature of a funeral home, I am realistic that in this stretch of Liberty Road, changing the zoning to allow a funeral home would only create additional problems on an outdated, exhausted and abused section of Liberty Road.

With all due respect, no business should be allowed to tie up traffic for any length of time, on a regular basis.

With funeral homes there will be funeral possessions. Which will create a tie up and imped the flow of traffic. Whether there is one or two a day or a several during the week and weekend. Who and how will traffic be stopped to allow the procession out? Someone will be risking their life to try and stop traffic to allow the procession out. If the procession is traveling West there are two lanes of oncoming traffic to address. If the procession is traveling East that means crossing four lanes of traffic. Unfortunately people no longer respect funeral processions and will whiz by or cut into, just to get where they're going.

The answer is not putting up signs with flashing lights. We already have one for a bus turn around and that is ignored. A few years ago a bus was also involved in an accident.

Nor is the answer having Police to stop traffic. I strongly feel our tax dollars should not be paying for this. Also the congestion and tie up is still there. Even when there is an accident people try to ignore the officers directions, putting them in danger.

Nor is the answer hiring off duty officers. Again, their lives are at risk as is the safety of those in the procession and the oncoming vehicles.

Unless the processions can be taken out behind the property and diverted to a main side road with a light, such as Offut Road, there is only one answer.

And that is to deny the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA). Thus preventing the change to our neighborhood and the potential for extreme traffic hazards and accidents.

Also I feel that the reasons for denial meet the Special Exceptions principles and conditions listed in 502.1, letters A, B and C.

I am not the only one who feels this way, 50 residents signed a petition against this request for a zoning change. Which I would ask that it too be accepted into this testimony.

Respectfully submitted: Anna G. Klohr 1/4/02

Burrier-Queen
Funeral Directors, P.A.

1212 West Old Liberty Road
Winfield, Maryland 21784-9327
(410) 795-0300 • (888) 267-0975 • Fax (410) 549-1029
email:bqfd@burrier-queen.com • www.burrier-queen.com

02 JUN 27 PM 12:52

June 24, 2002

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Ave.
Towson, MD 21204

Attention: Chairman of Board of Appeals

RE: Case #02-174-XA

I served the Randallstown area as a funeral director from, June 1967 until October 1996 when I sold the Loring Byers Funeral Directors, Inc. to Service Corporation International. During my 29 years and 4 months, I saw many changes in the area. I was asked to state my opinion concerning a limited access funeral home on Liberty Road and the hazards that it may present.

In 1967 our only entrance and exit was on Liberty Road and at that time it didn't cause any problems at all. We could have one employee stop traffic on Liberty Road while a funeral procession left the property. As years went by the traffic became more hazardous, despite a flat sight and substantial sight distance and visibility, not only for our employee stopping traffic but also for those in the procession. After a few years Brenbrook Road was opened and a traffic light was installed at Liberty and Brenbrook Roads. We cut an access road through our property to Brenbrook Road so we could make use of the traffic light. Due to the hazards posed by Liberty Road, all processions have continued to use the traffic light since it was installed.

It is my opinion that a funeral home in the middle of the 9100-9200 block of Liberty Road could be a hazard. The entrance and exit would only be about 600 feet from the intersection of Liberty Road and Offutt Road. Due to the limited sight distance resulting from the valley in which the proposed funeral home is to be built, the traffic traveling along Liberty Road will potentially have an inadequate amount of time to see and react to a funeral procession entering Liberty Road.

The Baltimore County Police cannot really be depended upon for routine funeral traffic, because they are very busy with their own duties. The responsibility would fall upon the funeral directors and their employees and that is not always effective.

I hope that my opinion is helpful.

Sincerely,

Arthur T. Queen

Arthur T. Queen, President
Burrier-Queen Funeral Directors, P.A.

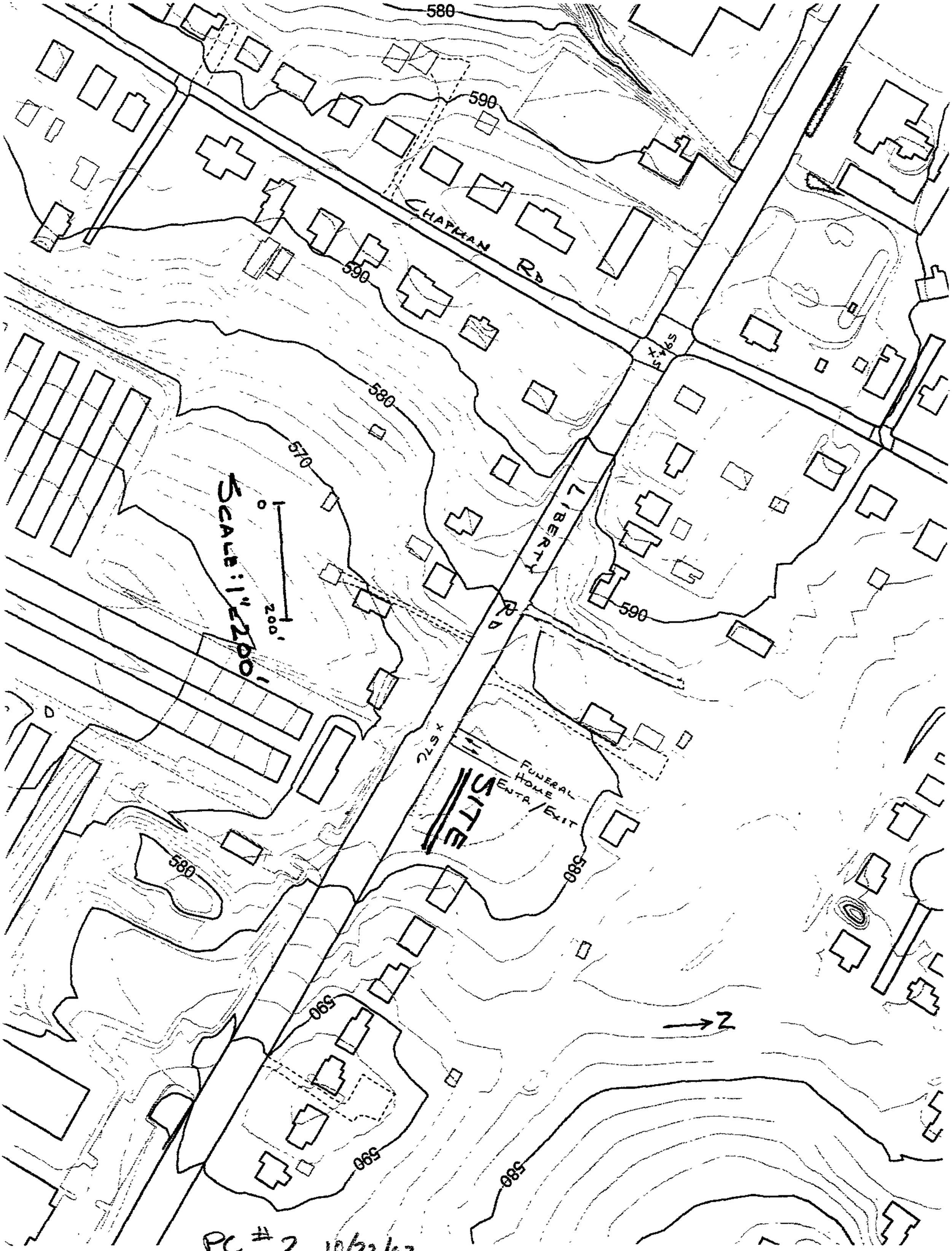
JAMES B. COVEY
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires January 1, 2005

James B Covey
6/24/02

SELECTED Independent FUNERAL HOMES Member by Invitation

ID ONLY 7/10/02
PC #1

for copy to PC


580
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SCALE: 1" = 200'
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LIBERTY RD
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FUNERAL HOME ENTR/EXIT
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PC # 2 10/22/02

Prot Ex #1

Re:

Request for Zoning Special Exception at 9142-9204 Liberty Rd. Randallstown, MD
Case 02-174-XA

OBJECTIONS TO THE SPECIAL EXCEPTION (PROPERTY CURRENTLY ZONED DR5.5/RO) TO BUILD FUNERAL HOME AT ABOVE RANDALLSTOWN ADDRESS, SUBMITTED BY JACK WENNERSTROM AND DONNA SHOEMAKER, RESIDENTS WHOSE PROPERTY ABUTS TO THE REAR:

Exception would contradict the expressed purpose of your own plans for the region, which state, in part: "Zoning should also be used to protect the viability of the residential communities and the competitive position of the Revitalization Area. Proposed commercial developments in proximity to Liberty Road with the intent and/or potential to detract from either the existing residential or commercial areas should be discouraged."

Not only would you not discourage this if a special exception was granted, you would actively encourage it, for the following reasons:

1. This special exception would de-value adjacent residential property and have the same negative impact on re-sale values as a general zoning change to "commercial".

2. This special exception would set a precedent for further commercial exceptions and variances along the entire north side of Liberty Road's dwindling residential buffer. What good are zoning laws if they are sidestepped so routinely?

3. Because it is located at the bottom of a swale, the property, if granted a special exception, would establish dangerous access and egress from and to Liberty Road.

4. Special exception would tamper with a wetland. A springhead exists, at the front of the property, whose flow forms a tributary of Brice Run, which is a tributary of the Patapsco River.

5. Special exception would introduce a salient of light and noise pollution into a quiet, fragile residential oasis with a country feel.

6. Special exception would increase traffic congestion and traffic tie-ups on an already over-crowded highway.

7. Special exception would provide auto access to the rear of nearby homes for potential burglars, vandals, and delinquents operating from Liberty Road.

For these and other reasons we strongly oppose the granting of this special exception.

JACK WENNERSTROM Jack Wennerstrom 1-4-02
DONNA SHOEMAKER Donna Shoemaker Jan. 4, 2002
9207 Samoset Rd.
Randallstown, MD 21133

PC #3 10/22/02

Prot Ex # 4

STATEMENT

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us going 50 plus mph. We are honked at and have headlights flashed at us to either move faster or to get out of their way.

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Nor is the answer having Police to stop traffic. I strongly feel our tax dollars should not be paying for this. Also the congestion and tie up is still there. Even when there is an accident people try to ignore the officers directions, putting them in danger.

Nor is the answer hiring off duty officers. Again, their lives are at risk as is the safety of those in the procession and the oncoming vehicles.

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And that is to deny the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA). Thus preventing the change to our neighborhood and the potential for extreme traffic hazards and accidents.

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I am not the only one who feels this way, 50 residents signed a petition against this request for a zoning change. Which I would ask that it too be accepted into this testimony.

Respectfully submitted: Anna J. Klohr 1/4/02

As concerned residents of Randallstown, we hereby request the Zoning Commissioner to vote AGAINST the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA), considering especially the close proximity to a residential area and extreme traffic hazards such a change would create.

We respectfully ask that this petition be accepted as testimony at the Zoning Hearing, Jan. 4, 2002 at 11 am.

	Date	Printed Name	Signed Name	Street Address	Town	Zip Code
1	1/3/02	Christopher C. Woodin	[illegible]	9215 Liberty Road	Randallstown	21133
2	1/3/02	Geraldine Whittaker	G. L. Whittaker	9213 Liberty Rd	Randallstown	21133
3	1/3/02	Dennis Whittaker	Dennis Whittaker	9213 Liberty Rd	Randallstown	21133
4	1/3/02	RUTH MEERDTER	Ruth Meerdter	9206 LIBERTY	RANDALLSTOWN	21133
5	1/3/02	GIL MEERDTER	Gil Meerdter	9206 LIBERTY RD	RANDALLSTOWN	21133
6	1/3/02	NAOMI A. LEAP	Naomi A Leap	3607 Chapman Rd	Randallstown MD	21133
7	1/3/02	Yvonne Hanson	Yvonne Hanson	3609 Chapman Rd	Randallstown MD	21133
8	1/3/02	Elaine Hanson	Elaine Hanson	3609 Chapman	Randallstown	21133
9	1/3/02	Cathy Bonner	CATHY BONNER	9211 Samoset Rd	Randallstown	2113[illegible]
10	1/3/02	JAMES BONNER	James Bonner	9211 SAMOSET RD	RANDALLSTOWN	21133

Prot Ex #2

As concerned residents of Randallstown, we hereby request the Zoning Commissioner to vote AGAINST the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA), considering especially the close proximity to a residential area and extreme traffic hazards such a change would create.

We respectfully ask that this petition be accepted as testimony at the Zoning Hearing, Jan. 4, 2002 at 11 am.

	Date	Printed Name	Signed Name	Street Address	Town	Zip Code
11	1-3-02	Arna Y. Klohr	Arna Y. Klohr	3509 Chapman	Randallstown	21133
12	1-3-02	BOB BRILL	Bob Brill	3505 CHAPMAN RD	RANDALLSTOWN	21133
13	1-3-02	Lisa Brill	Lisa Brill	3505 Chapman Rd.	Randallstown	21133
14	1-3-02	Lisa Carvell	Lisa Carvell	3504 Chapman Rd	Randallstown	21133
15	1-3-02	Kendall J. Fraser	Kendall J. Fraser	3526 Chapman Rd	Randallstown	21133
16	1-3-02	Brian J. Fraser	Brian Fraser	3526 Chapman Rd	Randallstown	21133
17	1-3-02	William D Cosden	William D Cosden	3433 Chapman Rd.	Randallstown	21133
18	1-3-02	JOANNE COSDEN	Joanne H Cosden	3433 Chapman Rd.	Randallstown	21133
19	1-3-02	Hilda Greenwalt	Hilda Greenwalt	3431 Chapman Rd.	Randallstown	21133
20	1-3-02	Charles Greenwalt	Charles Greenwalt	3431 Chapman Rd	Randallstown	21133

As concerned residents of Randallstown, we hereby request the Zoning Commissioner to vote AGAINST the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA), considering especially the close proximity to a residential area and extreme traffic hazards such a change would create.

We respectfully ask that this petition be accepted as testimony at the Zoning Hearing, Jan. 4, 2002 at 11 am.

	Date	Printed Name	Signed Name	Street Address	Town	Zip Code
21	1-3-02	Margaret Green	Margaret Green	3431 Chapman Rd.	Randallstown	21133
22	1-3-02	Denzil Allen	Denzil Allen	3428 Chapman	Randallstown	21133
23	1-3-02	Carlene Allen	Carlene Allen	3413 Chapman	Randallstown	21133
24	1-3-02	Robert Troutman	Robert Troutman	3409 Chapman	Randallstown	21133
25	1-3-02	Debbie Benadere	Debbie Benadere	3409 Chapman	Randallstown	21133
26	1-3-02	CHARLES W. BOWERS	Charles W. Bowers	3409 CHAPMAN RD	RANDALLSTOWN	21133
27	1-3-02	Janet Welsh	Janet Welsh	3407 Chapman Rd	Randallstown MD	21
28	1-3-02	FREDERICK PAFF SR	Frederick Paff Sr	3416 CHAPMAN RD	RANDALLSTOWN	2113
29	1-3-02	JONATHAN D. JOHNSON	[illegible]	3424 Chapman Rd	Randallstown MD	2
30	1-3-02	Stacie Yunasz	[illegible]	3428 Chapman Rd	Randallstown	21133

As concerned residents of Randallstown, we hereby request the Zoning Commissioner to vote AGAINST the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA), considering especially the close proximity to a residential area and extreme traffic hazards such a change would create.

We respectfully ask that this petition be accepted as testimony at the Zoning Hearing, Jan. 4, 2002 at 11 am.

	Date	Printed Name	Signed Name	Street Address	Town	Zip Code
31	1-3-02	S. GRILLO	[illegible]	3428 CHAPMAN RD	RANDALLSTOWN MD	21133
32	1-3-02	D. Donaldson	[illegible]	3501 Chapman	Randallstown Md	21133
33	1-3-02	L. Donaldson	Lisa Donaldson	3501 Chapman Rd.	Randallstown Md.	21133
34	1-3	Ethel STANG	Ethel M Stang	3507 Chapman	Randallstown Md	21133
35	1-3-2	Robert Letschin	Robert Letschin	3508 CHAPMAN RD	RANDALLSTOWN	21133
36	1-3-2	Naomi Letschin	Naomi Letschin	3508 Chapman Rd	Randallstown	21133
37	1-3-2	Stephen Letschin	Stephen Letschin	3508 CHAPMAN ROAD	RANDALLSTOWN	21133
38	1-3-2	Kimberlie Letschin	Kimberlie Letschin	3508 Chapman Rd	Randallstown	21133
39	1-3-2	MICHAEL LETSCHIN	Michael Letschin	3508 CHAPMAN RD	RANDALLSTOWN	21133
40	1-3-02	ROBERT J KLIMA SR	[illegible]	3509 CHAPMAN RD.	RANDALLSTOWN	21133

As concerned residents of Randallstown, we hereby request the Zoning Commissioner to vote AGAINST the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA), considering especially the close proximity to a residential area and extreme traffic hazards such a change would create.

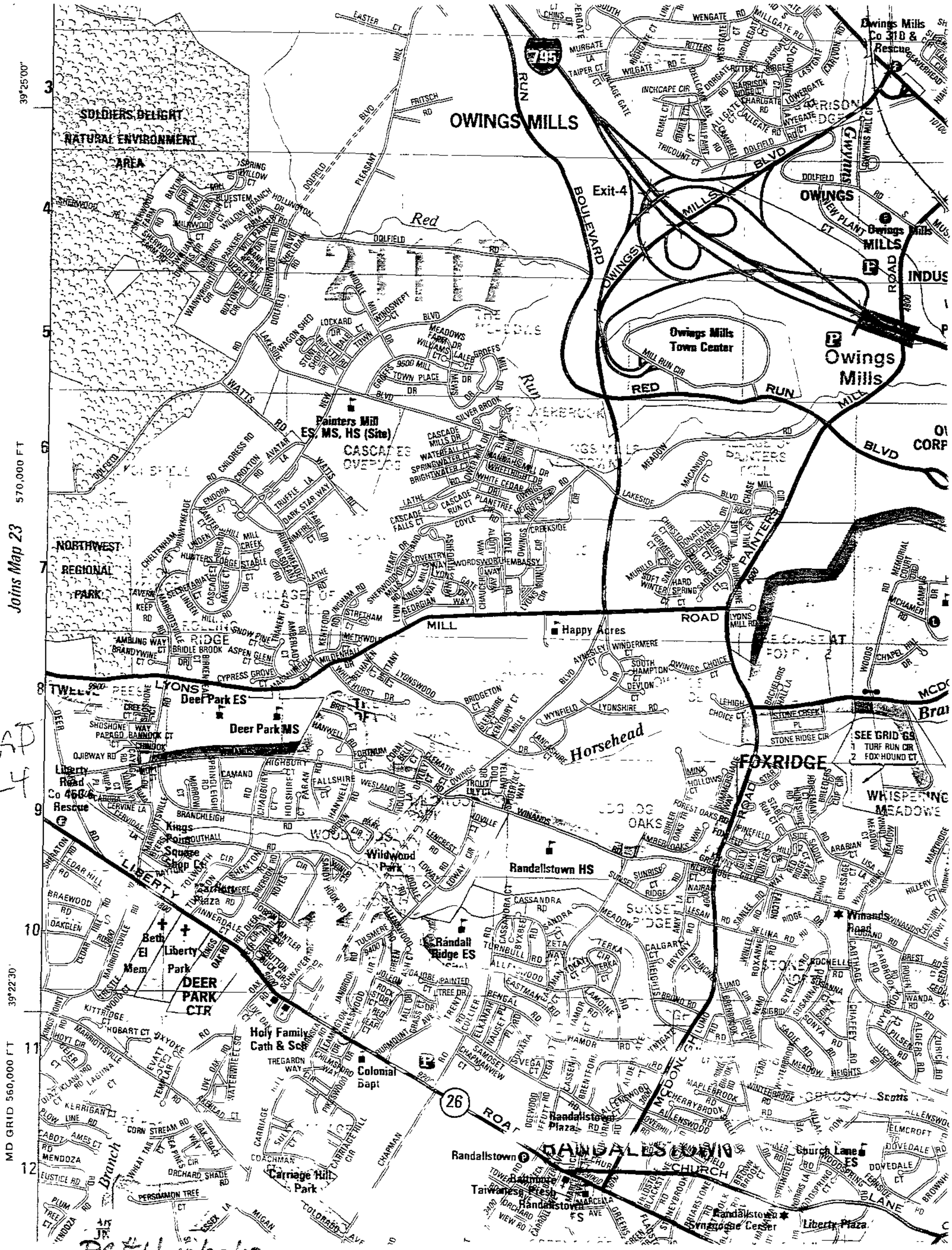
We respectfully ask that this petition be accepted as testimony at the Zoning Hearing, Jan. 4, 2002 at 11 am.

	Date	Printed Name	Signed Name	Street Address	Town	Zip Code
41	1/3/02	REGINALD CREWS		3311 Chapman Rd.	RANDALLSTOWN	21133
42	1/3/02	ALFRED BURNHAM	Alfred Burnham	3403 Chapman Rd	RANDALLSTOWN	21133
43	1/3/02	Richard Lynner		3308 Chapman Rd.	Randallstown	21133
44	1/3/02	YOLANDA LYNNER	Yolanda Lynner	3308 CHAPMAN RD RANDALLSTOWN	RANDALLSTOWN	21133
45	1/3/02	BARBARA UY	Barbara Uy	3309 Chapman Rd. Randallstown	Randallstown	21133
46	1/3/02	GRACE E. LANDIS	Grace E. Landis	9210 Colorado Ave	Randallstown	21133
47	1/3/02	ELMER E LANDIS	Elmer E Landis	9210 Colorado Ave	Randallstown	21133
48	1-3-02	DIANE M ROBINSON	Diane M. Robinson	9211 Colorado Ave	Randallstown	21133
49	1/3/02	MARGARET CREWS	Margaret Crews	3311 Chapman Rd.	RANDALLSTOWN	21133

As concerned residents of Randallstown, we hereby request the Zoning Commissioner to vote AGAINST the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA), considering especially the close proximity to a residential area and extreme traffic hazards such a change would create.

We respectfully ask that this petition be accepted as testimony at the Zoning Hearing, Jan. 4, 2002 at 11 am.

	Date	Printed Name	Signed Name	Street Address	Town	Zip Code
50	1/04/02	Richard L Russell	Richard L Russell	9212 Liberty Rd	Randallstown	21133
51	1/04/02	MARY ANNE RUSSELL	Mary Anne Russell	9212 LIBERTY RD	RANDALLSTOWN	21133
52	1/04/02	DORIS RUNK	Doris E. Runk	9214 Liberty Rd	Randallstown	21133


OWINGS MILLS
SOLDIERS DELIGHT
NATURAL ENVIRONMENT
AREA
Owings Mills Town Center
Owings Mills
Owings Mills Co 310 & Rescue
Exit-4
BOULEVARD
Red Run
Painters Mill ES, MS, HS (Site)
CASCADES OVERPASS
NORTHWEST REGIONAL PARK
Joins Map 23
570,000 FT
Happy Acres
Deer Park ES
Deer Park MS
Horsehead
FOXRIDGE
SEE GRID 69
TURF RUN CIR
FOXHOUND CT
WHISPERING MEADOWS
Liberty Road Co 460 & Rescue
Kings Point Square Shop Ctr
Wildwood Park
Randallstown HS
Winands Road
Beth El Mem Park
Liberty Park
DEER PARK CTR
Randall Ridge ES
Holy Family Cath & Sch
Colonial Bapt
Carriage Hill Park
Randallstown Plaza
Randallstown
Baltimore Taiwanese Presb
Randallstown Synagogue Center
Liberty Plaza
Church Lane ES
MD GRID 560,000 FT
39°22'30"
39°25'00"
MAP 24
PC #4 10/22/02

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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* * DELETED 11/01/2001 * *

Account Identifier: **District** - 02 **Account Number** - 0206820000

Owner Information

Owner Name:	HOFFMAN EDWARD	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	4010 NORTH POINT BLVD BALTIMORE MD 21222-3641	**Deed Reference:**	1) /15602/ 98 2)

Location & Structure Information

Premises Address	Zoning	Legal Description
9142 LIBERTY RD	BR-RO	1.8 AC NS LIBERTY RD 9142 LIBERTY RD 1150 N OFFUTT RD

Map	Grid	Parcel	Subdivision	Section	Block	Lot	Group	Plat No:
77	7	57					80	Plat Ref:

Special Tax Areas	Town Ad Valorem Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		1.80 AC	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2001	Phase-in Assessments As Of 07/01/2001	As Of 07/01/2002
Land:	87,140	87,100		
Improvements:	0	0		
Total:	87,140	87,100	87,100	87,100
Preferential Land:	0	0	0	0

Transfer Information

Seller:	9142 LIBERTY ROAD	**Date:**	01/03/2000	**Price:**	$20,000
Type:	UNIMPROVED ARMS-LENGTH	**Deed1:**	/15602/ 98	**Deed2:**	
Seller:	DAY JOHN C	**Date:**	07/29/1988	**Price:**	$110,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 7929/ 322	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

PC #5 10/22/02

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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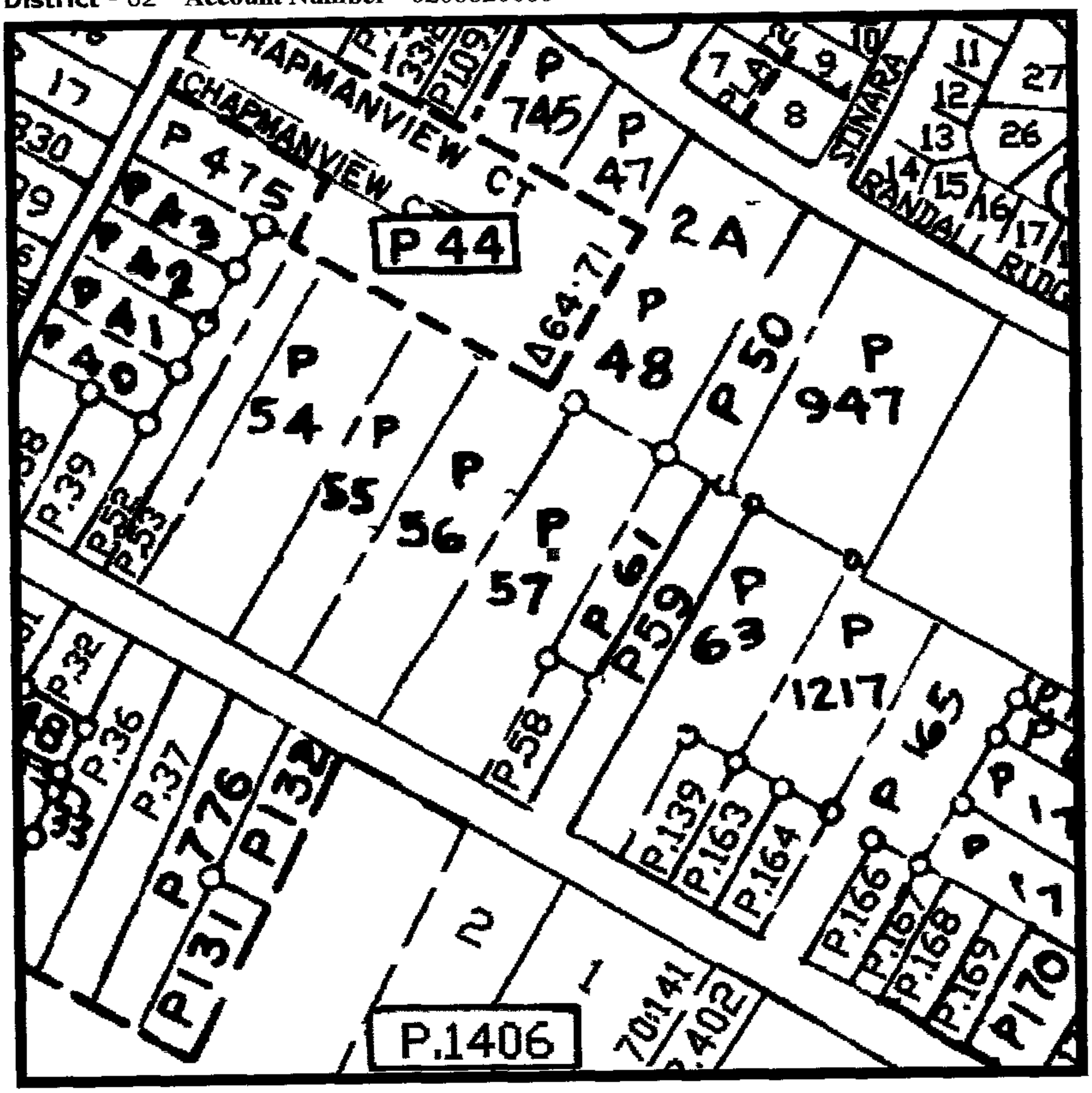
District - 02 **Account Number** - 0206820000



Property maps provided courtesy of the Maryland Department of Planning ©2001.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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View Map
New Search

*** * DELETED 11/01/2001 * ***

Account Identifier: **District** - 02 **Account Number** - 0220800020

Owner Information

Owner Name:	HOFFMAN EDWARD	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	4010 NORTH POINT BLVD BALTIMORE MD 21222-3641	**Deed Reference:**	1) /15602/ 94 2)

Location & Structure Information

Premises Address	Zoning	Legal Description
9204 LIBERTY RD	RO	1.8 AC NES LIBERTY R 9204 LIBERTY RD 523 E CHESAPEAKE RD

Map	Grid	Parcel	Subdivision	Section	Block	Lot	Group	Plat No:
77	7	56					80	Plat Ref:

Special Tax Areas	Town Ad Valorem Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		78,900.00 SF	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2001	Phase-in Assessments As Of 07/01/2001	As Of 07/01/2002
Land:	87,190	87,100		
Improvements:	0	0		
Total:	87,190	87,100	87,100	87,100
Preferential Land:	0	0	0	0

Transfer Information

Seller:	9204 LIBERTY ROAD	**Date:**	01/03/2000	**Price:**	$20,000
Type:	UNIMPROVED ARMS-LENGTH	**Deed1:**	/15602/ 94	**Deed2:**	
Seller:	ALAG REGGIE S	**Date:**	06/30/1987	**Price:**	$85,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 7594/ 182	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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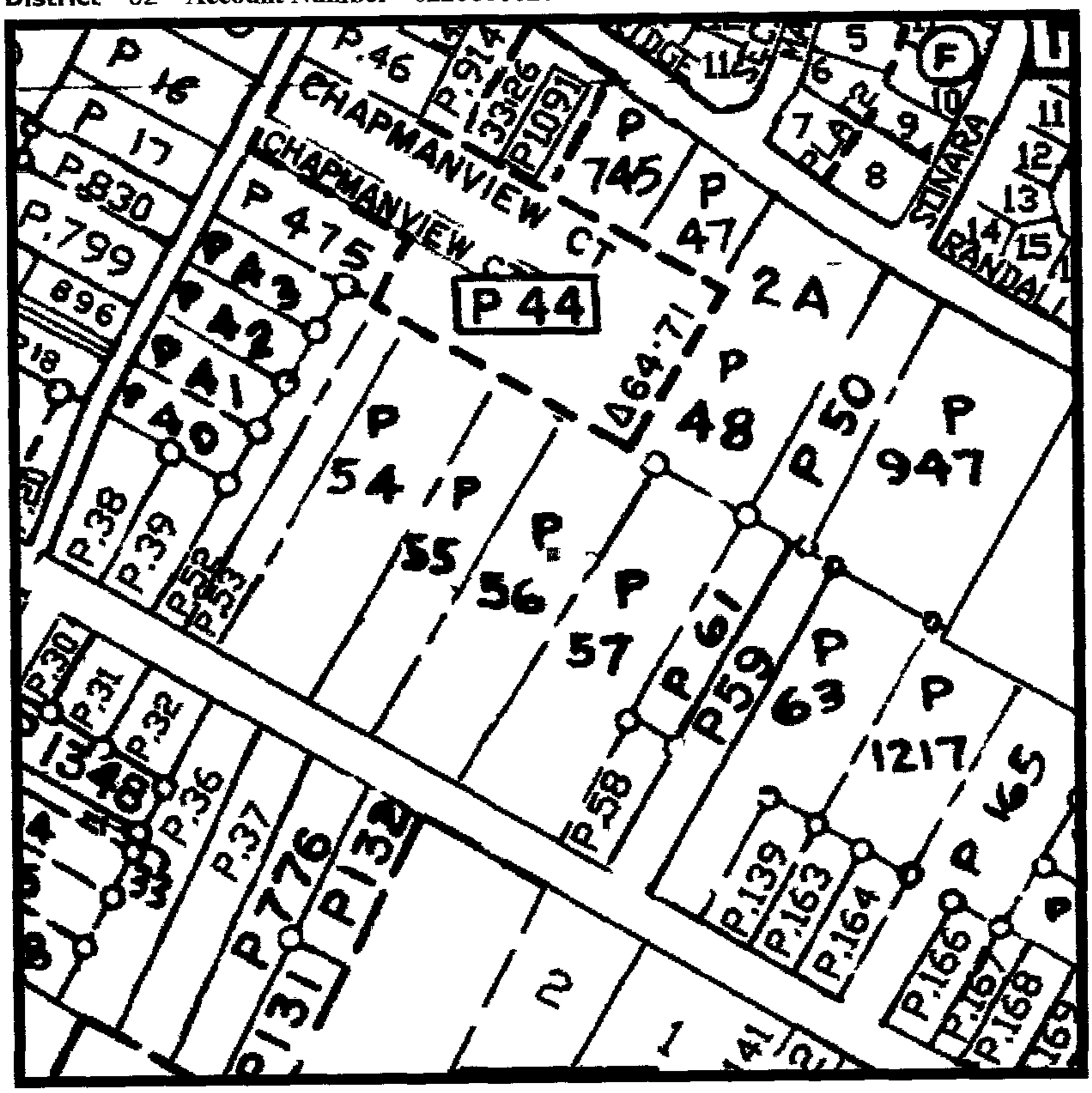
New Search

District - 02 **Account Number** - 0220800020



Property maps provided courtesy of the Maryland Department of Planning ©2001.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us

(SHEET N.W. 8-I)
N 28,000
W 54,000
E 855,000
N 561,000
W 52,500
W 51,000
D.R. 5.5
D.R. 5.
CHAPMAN RD.
NAUSET PL.
SONARA RD.
VEGA CT.
VEGA RD.
SAMOSET RD.
POOL
CASSEN RD.
BRENTFORD RD.
BR-AS
BR
RO
D.R. 5.5
N 27,000
CHAPMAN RD.
D.R. 3.5
BR
CB
RO
26
OR-1
OFFUTT RD.
BL-AS
BRICE RUN RD.
D.R. 16
McCHURCH CT.
D.R. 3.5
BR
72-73R
BR-AS
LIBERTY
BR-AS
BL
BR-AS
N 25,000
RC 5
D.R. 3.5
D.R. 16
(SHEET N.W. 7-J)

Brice Run Neighborhood ASSOCIATION

RESOLVED: That at the Emergency meeting of the Brice Run Neighborhood Association held on May 8, 2002 [DATE], it was decided by the Association that responsibility for review and action on all zoning matters for the period Feb. 21, 2002 - Feb. 26, 2003 be placed in the (Board of Directors) (Zoning Committee) consisting of the following members, each of whom is hereby authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

Mrs. Arna Y. Klohr
Mr. Christopher C. Woodin
Mr. Carl LeDuff
Mr. Robert J. Klohr, Sr.
Mrs. Ruth Meerdter

AS WITNESS OUR HANDS AND SEAL THIS 21 day of October, 2002

ATTEST:

Brice Run Neighborhood Association

Ruth A Meerdter
Secretary

Arna Y. Klohr
President

PC #9 10/22/02

Brice Run Neighborhood ASSOCIATION

RESOLVED: That the position of the Brice Run Neighborhood Association as adopted by the (Board of Directors) (Zoning Committee) on the zoning matter known as:

Case # 02-174-XA
Wylie Funeral Home

is that: The Zoning Officals deny the Special Exception and Variance for establishment of a funeral home business at 9142 and 9204 Liberty Road.

AS WITNESS OUR HANDS AND SEAL THIS 21 day of October, 2002.

ATTEST:

Brice Run Neighborhood Association

Secretary

President

Resolution of

BRICE RUN NEIGHBORHOOD ASSOCIATION

WHEREAS, Wylie Funeral Home is seeking zoning approval to establish a funeral business at the site located at 9142 and 9204 Liberty Road;

WHEREAS, the unique topography of the immediate area surrounding the site of the proposed funeral business, which is located at the bottom of a narrow depression suffering from imminent inclines, results in poor visibility and dangerous road conditions that are not conducive to the operational requirements of a funeral home, such as the right-of-way of funeral processions;

WHEREAS, there is already an inordinate number of minor to deadly traffic accidents in the immediate area surrounding the site of the proposed funeral business;

WHEREAS, the proposed building for the funeral home does not reflect nor compliment the homes on the adjacent properties surrounding the site nor the other residences in its immediate proximity;

WHEREAS, the hours of operation will include after-hours deliveries which will create light and noise pollution for the surrounding residences;

WHEREAS, the presence of an open parking lot and associated lighting will present an opportunity for potential loitering, mischief and criminal activity and adversely affect the quality of life for the surrounding homes;

WHEREAS, there are concerns regarding the environmental impact resulting from the destruction of wetlands located on the site that feed one extension of Brice Run, the local spring system;

WHEREAS, we wish to reaffirm a formal vote held on February 21, 2002 to oppose the special exception and variance for establishment of a funeral home at 9142 and 9204 Liberty Road;

NOW THEREFORE, in recognition of our Association's mission to preserve the residential quality and tranquility of our neighborhood and our wish to voice our opinion, we authorize our President, Arna Y. Klohr, First Vice President, Christopher C. Woodin, or any member so designated by either of the foregoing officers if they are unable to fulfill their duties, to represent us before the appropriate officials of Baltimore County before whom the zoning request hearing is to be held for the Wylie Funeral Home matter.

The designated representative(s) of Brice Run Neighborhood Association will convey our position that while we reasonably recognize the needs of businesses around our neighborhood, we must balance those needs with the existing homes in the immediate vicinity. Our organization's mission is to preserve the existing residential character of our neighborhood; consequently, we request that the zoning official(s) deny the special exception and variance for establishment of a funeral home business at 9142 and 9204 Liberty Road due to, among other things, the adverse impact on the environment and quality of life in the neighborhood, as well as the serious traffic problems it poses for Liberty Road.

This Resolution is hereby adopted by a quorum of the members of Brice Run Neighborhood Association at the emergency meeting duly called by its officers this 8th day of May, 2002.

Brice Run Neighborhood Association

Arna Y. Klohr

Arna Y. Klohr, President

Ruth Meerdter

Ruth Meerdter, Secretary

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

I, Arna Y. Klohr, do hereby swear upon penalty of perjury, that I am currently the duly elected President of Brice Run Neighborhood Association.

I, Christopher C. Woodin, do hereby swear upon penalty of perjury, that I am currently the duly elected First Vice President of Brice Run Neighborhood Association.

ATTEST:

Brice Run Neighborhood Association

Ruth Meerdter
Secretary

Arna Y. Klohr
President

Ruth Meerdter
Secretary

Christopher C. Woodin
First Vice President

DATE: 7/10/02

1998 ACCIDENT CALLS ON LIBERTY ROAD BETWEEN OFFUTT RD. AND PIKESWOOD DR.

CALL TYPE	COUNT
Auto Accident - Departmental	1
Auto Accident - Personal Injury	16
Auto Accident - Property Damage	57
Hit & Run Accident - Property Damage	12
TOTAL	86

PC #11 10/22/02

1999 ACCIDENT CALLS ON LIBERTY ROAD BETWEEN OFFUTT RD. AND PIKESWOOD DR.

CALL TYPE	COUNT
Auto Accident - Departmental	1
Auto Accident - Departmental, P.I.	1
Auto Accident - Fatal	1
Auto Accident - Personal Injury	23
Auto Accident - Property Damage	58
Hit & Run Accident - Property Damage	32
TOTAL	116

2000 ACCIDENT CALLS FOR SERVICE ON LIBERTY ROAD BETWEEN OFFUTT RD. AND PIKESWOOD DR.

CALL TYPE	COUNT
Auto Accident - Departmental	1
Auto Accident - Personal Injury	24
Auto Accident - Property Damage	47
Hit & Run Accident - Personal Injury	1
Hit & Run Accident - Property Damage	16
TOTAL	89

2001 ACCIDENT CALLS FOR SERVICE ON LIBERTY ROAD BETWEEN OFFUTT RD. AND PIKESWOOD DR.

CALL TYPE	COUNT
Auto Accident - Departmental	1
Auto Accident - Fatal	1
Auto Accident - Personal Injury	20
Auto Accident - Property Damage	78
Hit & Run Accident - Fatal	1
Hit & Run Accident - Personal Injury	2
Hit & Run Accident - Property Damage	21
TOTAL	124

2002 YTD ACCIDENT CALLS FOR SERVICE ON LIBERTY ROAD
BETWEEN OFFUTT RD. AND PIKESWOOD DR.

CALL TYPE	COUNT
Auto Accident - Fatal	1
Auto Accident - Personal Injury	9
Auto Accident - Property Damage	44
Hit & Run Accident - Property Damage	13
TOTAL	67

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

February 14, 2002

Ms. Arna Y. Klohr
3509 Chapman Road
Randallstown, MD 21133-3501

RE: Accident Data
MD 26 from Offutt Road to Chapman Road
Baltimore County

Dear Ms. Klohr:

Mr. Shah has asked me to thank you for your recent letter requesting accident data for the above referenced location and to respond to you directly. Listed below by year and severity are the accident frequencies for this section of Liberty Road. This information is for the years 1996 through 2000. Accident data for the year 2001 has not been finalized as of yet.

Severity	1996	1997	1998	1999	2000	Total
Fatal Accidents	0	0	0	0	0	0
Injury Accidents	6	4	12	13	15	50
Property Damage Only	5	6	9	9	7	36
Total Accidents	11	10	21	22	22	86

I respectfully request that you contact Mr. Randall Scott, Assistant District Engineer - Traffic concerning the relative hazard of this location and for any safety studies that you wish to have initiated. Mr. Scott can be reached at 410-321-2781.

I hope that this information is of some use to you. If you have any questions concerning this data or require any additional information, kindly contact me at 410-787-5831.

Sincerely,

Robert B. Cunningham
Section Chief – Studies & Analysis Section
Traffic Safety Analysis Division

cc: Mr. Dave Malkowski
Mr. Randall Scott

PC #12
16/12/02

My direct telephone number is _____
Toll Free Telephone Number: 1-888-963-0307
Fax: _(410)787-4082, _(410)553-6399, _(410)582-9469, _(410)787-5823, _(410)787-2863, _(410)787-3798
Maryland Relay Service for Impaired Hearing or Speech: 1-800-735-2258 Statewide Toll Free

Mailing Address: Office of Traffic & Safety - 7491 Connelley Drive • Hanover, MD 21076-1702

9204 Bottom Lawn (5)

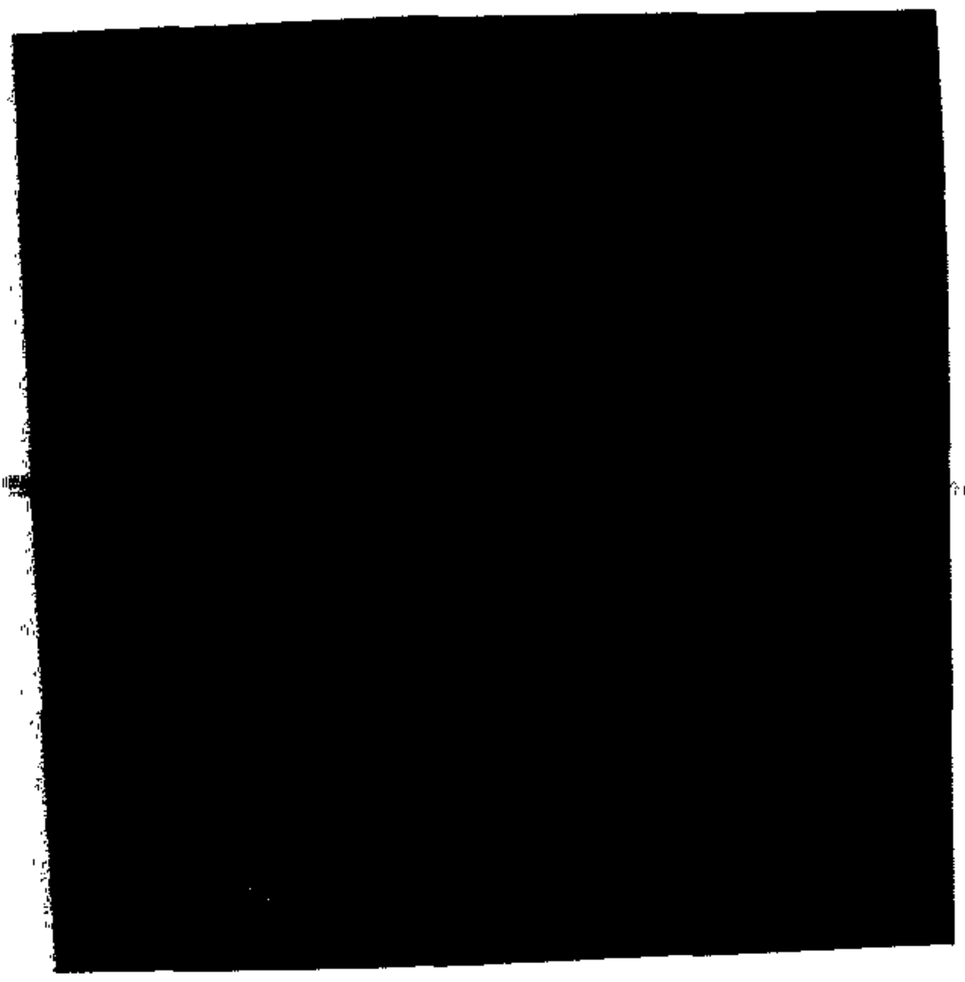
9204 Side Lawn (1)

9204 Bottom Lawn (wetlands grasses?) 6↑

PC #14 10/22/02

9204 Along Driveway (2)

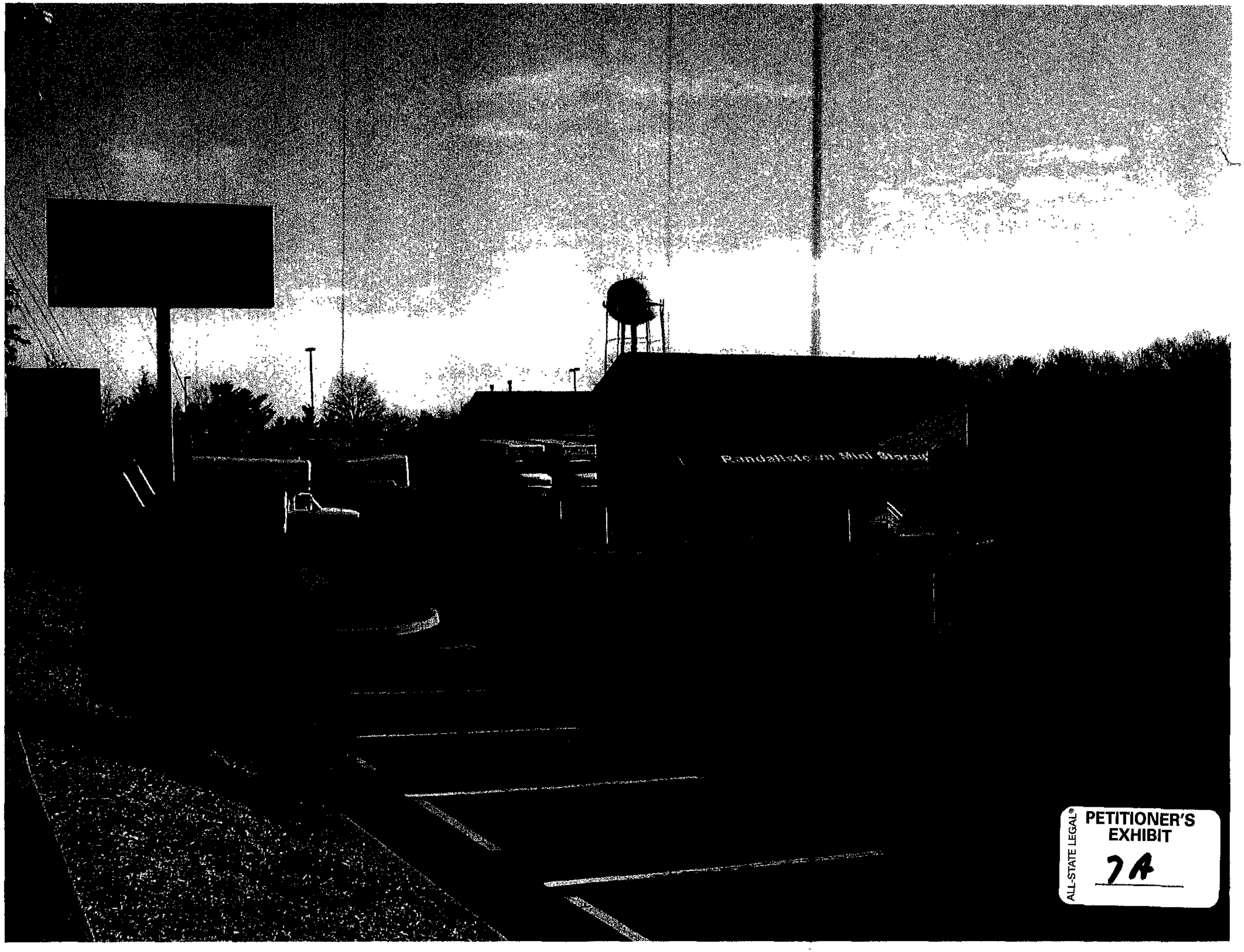
9206 Driveway (4)



9204 Front Lawn

ALL-STATE LEGAL®
PETITIONER'S
EXHIBIT
8B

ALL-STATE LEGAL®
PETITIONER'S
EXHIBIT
8A



ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
7A

ALL-STATE LEGAL®

PETITIONER'S EXHIBIT

7B

Prot Ex #1

Re:

Request for Zoning Special Exception at 9142-9204 Liberty Rd. Randallstown, MD
Case 02-174-XA

OBJECTIONS TO THE SPECIAL EXCEPTION (PROPERTY CURRENTLY ZONED DR5.5/RO) TO BUILD FUNERAL HOME AT ABOVE RANDALLSTOWN ADDRESS, SUBMITTED BY JACK WENNERSTROM AND DONNA SHOEMAKER, RESIDENTS WHOSE PROPERTY ABUTS TO THE REAR:

Exception would contradict the expressed purpose of your own plans for the region, which state, in part: "Zoning should also be used to protect the viability of the residential communities and the competitive position of the Revitalization Area. Proposed commercial developments in proximity to Liberty Road with the intent and/or potential to detract from either the existing residential or commercial areas should be discouraged."

Not only would you not discourage this if a special exception was granted, you would actively encourage it, for the following reasons:

1. This special exception would de-value adjacent residential property and have the same negative impact on re-sale values as a general zoning change to "commercial".

2. This special exception would set a precedent for further commercial exceptions and variances along the entire north side of Liberty Road's dwindling residential buffer. What good are zoning laws if they are sidestepped so routinely?

3. Because it is located at the bottom of a swale, the property, if granted a special exception, would establish dangerous access and egress from and to Liberty Road.

4. Special exception would tamper with a wetland. A springhead exists, at the front of the property, whose flow forms a tributary of Brice Run, which is a tributary of the Patapsco River.

5. Special exception would introduce a salient of light and noise pollution into a quiet, fragile residential oasis with a country feel.

6. Special exception would increase traffic congestion and traffic tie-ups on an already over-crowded highway.

7. Special exception would provide auto access to the rear of nearby homes for potential burglars, vandals, and delinquents operating from Liberty Road.

For these and other reasons we strongly oppose the granting of this special exception.

JACK WENNERSTROM Jack Wennerstrom 1-4-02
DONNA SHOEMAKER Donna Shoemaker Jan. 4, 2002
9207 Samoset Rd.
Randallstown, MD 21133

As concerned residents of Randallstown, we hereby request the Zoning Commissioner to vote AGAINST the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA), considering especially the close proximity to a residential area and extreme traffic hazards such a change would create.

We respectfully ask that this petition be accepted as testimony at the Zoning Hearing, Jan. 4, 2002 at 11 am.

	Date	Printed Name	Signed Name	Street Address	Town	Zip Code
1	1/3/02	Christopher C. Woodin	[illegible]	9215 Liberty Road	Randallstown	21133
2	1/3/02	Geraldine Whittaker	G. Whittaker	9213 Liberty Rd	Randallstown	21133
3	1/3/02	Dennis Whittaker	Dennis Whittaker	9213 Liberty Rd	Randallstown	21133
4	1/3/02	RUTH MEERDTER	Ruth Meerdter	9206 LIBERTY	RANDALLSTOWN	21133
5	1/3/02	GIL MEERDTER	Gil Meerdter	9206 LIBERTY RD	RANDALLSTOWN	21133
6	1/3/02	NAOMI A. LEMP	Naomi A. Lemp	3607 Chapman Rd	Randallstown md	21133
7	1/3/02	Yvonne Hanson	Yvonne Hanson	3609 Chapman Rd	Randallstown md	21133
8	1/3/02	Elaine Hanson	Elaine Hanson	3609 Chapman	Randallstown	21133
9	1/3/02	Cally Bonner	CALLY BONNER	9211 Samoset Rd	Randallstown	2113[illegible]
10	1/3/02	JAMES BONNER	James Bonner	9211 SAMOSET RD	RANDALLSTOWN	21133

Prot Ex #2

As concerned residents of Randallstown, we hereby request the Zoning Commissioner to vote AGAINST the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA), considering especially the close proximity to a residential area and extreme traffic hazards such a change would create.

We respectfully ask that this petition be accepted as testimony at the Zoning Hearing, Jan. 4, 2002 at 11 am.

	Date	Printed Name	Signed Name	Street Address	Town	Zip Code
11	1-3-02	Arna Y. Klohr	Arna Y. Klohr	3509 Chapman	Randallstown	21133
12	1-3-02	BOB BRILL	Bob Brill	3505 CHAPMAN RD	RANDALLSTOWN	21133
13	1-3-02	Lisa Brill	Lisa Brill	3505 Chapman Rd.	Randallstown	21133
14	1-3-02	Lisa Carvell	Lisa Carvell	3504 Chapman Rd	Randallstown	21133
15	1-3-02	Kendall J. Fleser	Kda C Jefferson	3506 Chapman Rd	Randallstown	21133
16	1-3-02	Brian J. Fleser	Brian Jefferson	3506 Chapman Rd	Randallstown	21133
17	1-3-02	William D. Cosden	William Cosden	3433 Chapman Rd.	Randallstown	21133
18	1-3-02	JOANNE COSDEN	Joanne H. Cosden	3433 Chapman Rd.	Randallstown	21133
19	1-3-02	Hilda Greenwalt	Hilda Greenwalt	3431 Chapman Rd.	Randallstown	21133
20	1-3-02	Charles Greenwalt	Charles Greenwalt	3431 Chapman Rd	Randallstown	21133

As concerned residents of Randallstown, we hereby request the Zoning Commissioner to vote AGAINST the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA), considering especially the close proximity to a residential area and extreme traffic hazards such a change would create.

We respectfully ask that this petition be accepted as testimony at the Zoning Hearing, Jan. 4, 2002 at 11 am.

	Date	Printed Name	Signed Name	Street Address	Town	Zip Code
21	1-3-02	Margaret Green	Margaret Green	3431 Chapman Rd	Randallstown	21133
22	1-3-02	Denzil Allen	Denzil Allen	3423 Chapman	Randallstown	21133
23	1-3-02	Carlene Allen	Carlene Allen	3413 Chapman	Randallstown	21133
24	1-3-02	Robert Troutman	Robert Troutman	3409 Chapman	Randallstown	21133
25	1-3-02	Debbie Benadere	Debbie Benadere	3409 Chapman	Randallstown	21133
26	1-3-02	CHARLES W. BOWERS	Charles W. Bowers	3409 CHAPMAN RD	RANDALLSTOWN	21133
27	1-3-02	Janet Welsh	Janet Welsh	3407 Chapman Rd	Randallstown	MD 21133
28	1-3-02	FREDERICK PAFF SR	Frederick J Paff Sr	3416 CHAPMAN RD	RANDALLSTOWN	21133
29	1-3-02	JONATHAN D. JOHNSON	[illegible]	3424 Chapman Rd	Randallstown	MD 21133
30	1-3-02	Stacie Yunasz	[illegible]	3428 Chapman Rd	Randallstown	21133

As concerned residents of Randallstown, we hereby request the Zoning Commissioner to vote AGAINST the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA), considering especially the close proximity to a residential area and extreme traffic hazards such a change would create.

We respectfully ask that this petition be accepted as testimony at the Zoning Hearing, Jan. 4, 2002 at 11 am.

	Date	Printed Name	Signed Name	Street Address	Town	Zip Code
31	1-3-02	S. GRILLO	[illegible]	3428 CHAPMAN RD	RANDALLSTOWN MD	21133
32	1-3-02	D. Donaldson	[illegible]	3501 Chapman	Randallstown Md	21133
33	1-3-02	L. Donaldson	Lisa Donaldson	3501 Chapman Rd.	Randallstown Md.	21133
34	1-3	Ethel STANG	Ethel H Stang	3507 Chapman	Randallstown Md	21133
35	1-3-2	Robert Letschin	Robert Letschin	3508 CHAPMAN RD	RANDALLSTOWN	21133
36	1-3-2	Naomi Letschin	Naomi Letschin	3508 Chapman Rd	Randallstown	21133
37	1-3-2	Stephen Letschin	Stephen Letschin	3508 CHAPMAN ROAD	RANDALLSTOWN	21133
38	1-3-2	Kimberly Letschin	Kimberly Letschin	3508 Chapman Rd	Randallstown	21133
39	1-3-2	MICHAEL LETSCHIN	Michael Letschin	3508 CHAPMAN RD	RANDALLSTOWN	21133
40	1-3-02	ROBERT J KLOHR SR	Robert J Klohr Sr	3509 CHAPMAN RD.	RANDALLSTOWN	21133

As concerned residents of Randallstown, we hereby request the Zoning Commissioner to vote AGAINST the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA), considering especially the close proximity to a residential area and extreme traffic hazards such a change would create.

We respectfully ask that this petition be accepted as testimony at the Zoning Hearing, Jan. 4, 2002 at 11 am.

	Date	Printed Name	Signed Name	Street Address	Town	Zip Code
41	1/3/02	REGINALD CREWS		3311 Chapman Rd.	RANDALLSTOWN	21133
42	1/3/02	ALFRED BURNHAM	Alfred Burnham	3403 CHAPMAN RD	RANDALLSTOWN	21133
43	1/3/02	Richard Lynner	Richard Lynner	3308 Chapman Rd.	Randallstown	21133
44	1/3/02	YOLANDA LYNNER	Yolanda Lynner	3308 CHAPMAN RD RANDALLSTOWN	RANDALLSTOWN	21133
45	1/3/02	BARBARA UY	Barbara Uy	3309 Chapman Rd. Randallstown	Randallstown	21133
46	1/3/02	GRACE E. LANDIS ~~Grace E. Landis~~	Grace E. Landis	9210 Colorado Ave	Randallstown	21133
47	1/3/02	ELMER E LANDIS	Elmer E Landis	9210 Colorado Ave	Randallstown	21133
48	1-3-02	DIANE M ROBINSON	Diane M. Robinson	9211 Colorado Ave	Randallstown	21133
49	1/3/02	MARGARET CREWS	Margaret Crews	3311 Chapman Rd.	RANDALLSTOWN	21133

As concerned residents of Randallstown, we hereby request the Zoning Commissioner to vote AGAINST the Petition For Special Exception and Variance for 9142 & 9204 Liberty Road (Case # 02-174-XA), considering especially the close proximity to a residential area and extreme traffic hazards such a change would create.

We respectfully ask that this petition be accepted as testimony at the Zoning Hearing, Jan. 4, 2002 at 11 am.

	Date	Printed Name	Signed Name	Street Address	Town	Zip Code
50	1/04/02	Richard L Russell	Richard L Russell	9212 Liberty Rd	Randallstown	21133
51	1/04/02	MARY ANNE RUSSELL	Mary Anne Russell	9212 LIBERTY RD	RANDALLSTOWN	21133
52	1/04/02	DORIS RUNK	Doris E. Runk	9214 Liberty Rd	RANDALLSTOWN	21133

(3 Loring Byers pictures)

Randallstown Plaza

Bank of America 9060

OFFUTT Road

7 - 11 Store a B

Walgreens 9110

residence 9122 a

residence 9124 B

Pro Comp Realtors 9126 c

lot 9128

residence 9130 D

residence 9132 E

residence 9134 F

residence 9136 G

Christian Ministries 9138 H

residence 9140 I

Properties Bought for Funeral Home	lot	9142	A B C D H E F G
	lot	9204	

residence 9206 J

(back off road) residence 9208

residence 9210 K

residence 9212 L

residence 9214 M

NLT Contrs. Co. & Victory is Jesus Baptist Church 9216 N

residence 9218 O

C H A P M A N Road

Center For Social Change 9300

East ↑

L I B E R T Y RD.

West ↓

F - K-mart G - Furniture Connection/ Value Food

E - former CVS, currently empty

D - **OFFUTT Road**

C former house converted to business, currently empty

B former house converted to business, currently empty

9109 Genesis Nursing Home (sits back off road)

A 9113 former location of Randallstown Post Office

9115 84 Lumber

9131 Randallstown Car Wash

9145 Public Storage

P overview

9205 residence

9207 residence

Q 9209 residence

9211 residence

R 9213 residence

9215 residence

9217 lot

C

C H A P M A N Road

9301 Automasters

A 9122 Liberty

B 9124 Liberty

C 9126 Liberty (Business)

9128 Liberty (Lot — No Photo)

D 9130 Liberty

E 9132 Liberty

F 9134 Liberty

G 9136 Liberty

H 9138 Liberty (Business)

I 9140 Liberty

9142 and 9204 Liberty, the site of the proposed funeral home, is located between these two homes.

J 9206 Liberty

9208 Liberty (House — No Photo)

K 9210 Liberty

L 9212 Liberty

M
9214
Liberty

N
9216

O
9218

P

Overview - South side of Liberty Road showing homes along 9200 Block (odd number addresses).

Q

9209 and 9211 Liberty Road.

R

9213 and 9215 Liberty Road.

OBJ → The next six pictures are of the wetlands on the site of the proposed funeral home.

A Winter 2002

B Winter 2002

C Winter 2002

D Summer 2002

E Winter 2002

F Summer 2002

Storm Drains

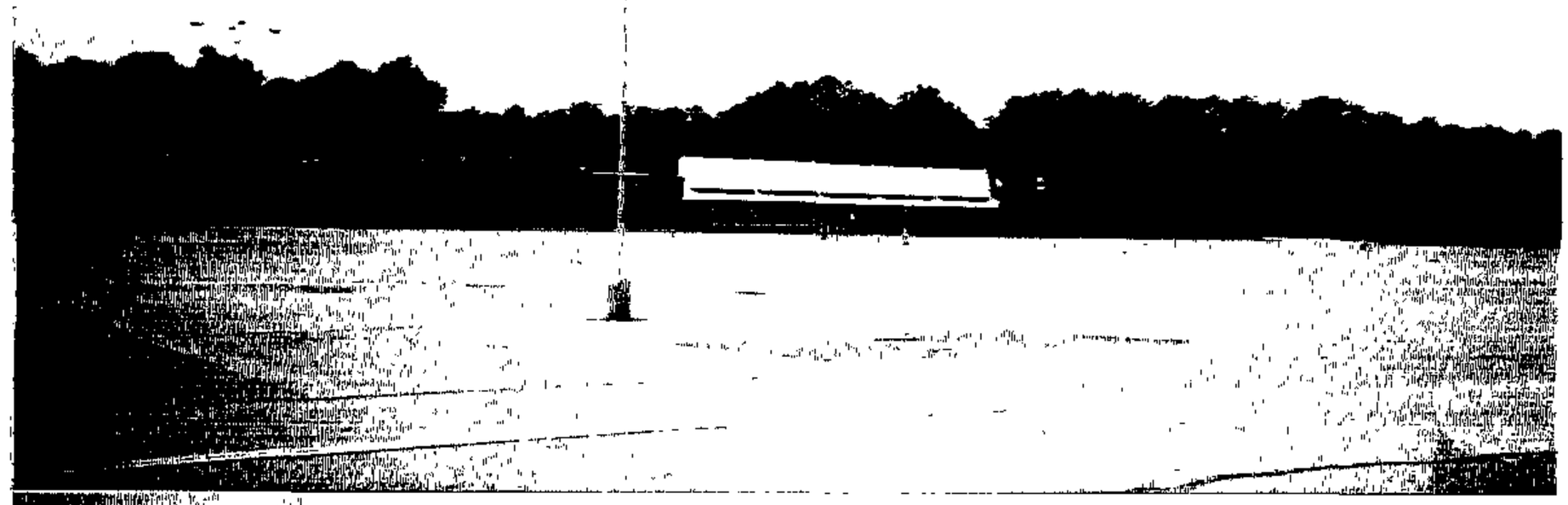
G at property

H across the street
Note: Damage to Road

The next seven pictures are of vacant properties located within a tenth of a mile to one mile.

pharmacy

CVS/pharmacy



FURNITURE CONNECTION

Lorina [redacted] Byers Funeral Home

Front

[redacted]

Side Exit for Funeral Pro-cessions onto Bren-brook Road

Bren-brook Road Traffic Light at Liberty from Side Exit

[redacted]

View of westbound traffic on Liberty Road at top of hill before descending toward proposed site of funeral home.

A

B

C

Traffic Considerations - Poor Visibility.
View of Eastbound vehicular approach toward Subject Lot along Liberty Road.

RANDALLSTOWN

Boots and Shoes.

GUSTAVUS A. KRAUS,
Boot and Shoemaker.

Blacksmith and Wheelwright.

JOHN G. BAYER,
Blacksmith and Wheelwright.

Carpenters.

WM. W. FRAZIER,
Carpenter and Builder.

JOS. F. FRAZIER,
Carpenter and Builder.

JOS. A. FRYFOGLE,
Carpenter and Builder.

Carriage Manufacturers.

HENRY SPEALMAN,
Coach and Carriage Manufacturer.

HENRY TRIESCHMANN,
Coach and Carriage Manufacturer and Undertaker.

General Merchants.

WM. F. GARDNER,
Dealer in Dry Goods, Groceries, Crockery, Boots, Shoes, Agricultural Implements, Seeds, Hardware, Clothing, Queensware, and all Goods usually kept in a first-class country store.

AARON HOLT,
General Merchant.

Hotels and Restaurants.

STEPHEN GRIFFIN,

L. M. SLADE,
Hotel Keeper.

Painter.

ED. McLEAN,

Physician.

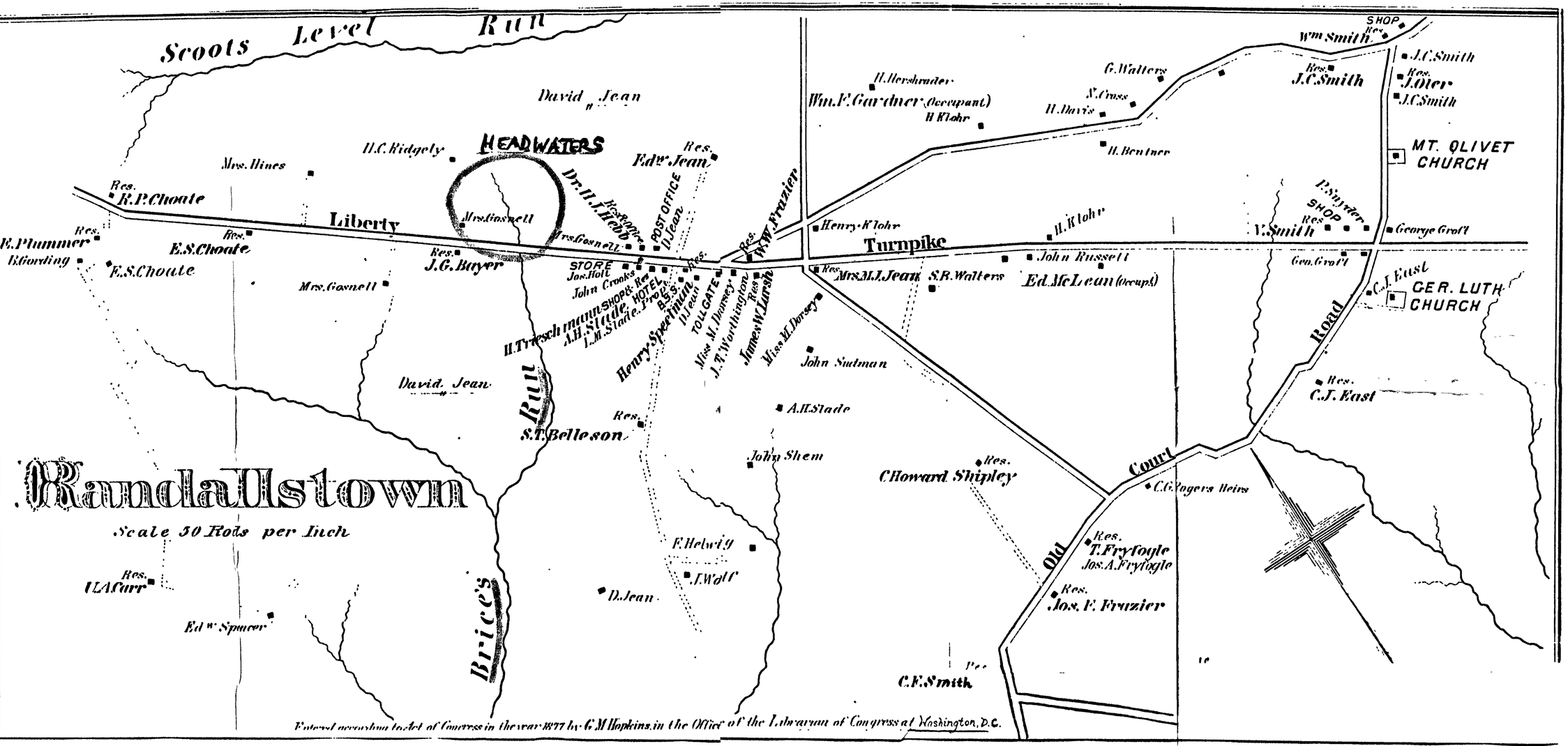
H. HEBB, M. D.

Stone Mason.

WM. NEWMAN,
Stone Mason.

Stage and Express Co.

WM. LOCKARD,
Stage Proprietor.



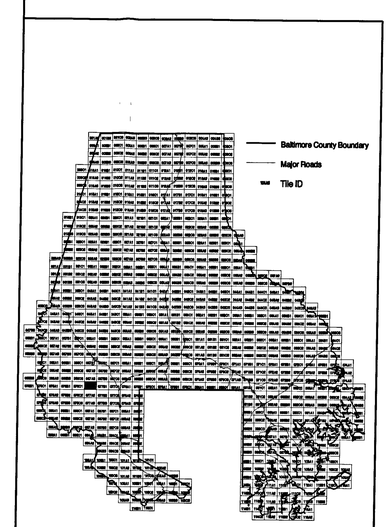
Entered according to Act of Congress in the year 1877 by G.M. Hopkins, in the Office of the Librarian of Congress at Washington, D.C.

PC*8

PLANIMETRICS WITH ORTHOPHOTO PLOT

Legend

- Mapsheet Index
- Residential Buildings
- Commercial Buildings
- Institutional Buildings
- Garages and Other Structures
- Buildings Under Construction
- Toll Booths and Rail Stations
- Water Towers and Storage Tanks
- Curbs
- Paved Roads
- Unpaved Roads
- Paved Alleys
- Unnamed Roads
- Hidden Roads, Roads Under Construction
- Road Intersections
- Paved Parking Lots, Driveways, Runways, Taxiways
- Bridges and Overpasses
- Tunnel Portal
- Rail Line
- Hidden Rail Line
- Abandoned Rail
- Metro Rail
- Light Rail
- Transmission Line
- Pipeline
- Junkyards, Landfills, Quarries, Gravel and Sand Pits
- Areas Under Construction, Power Stations
- Race Tracks, Cemeteries
- Wooded Areas, Orchards/Nurseries
- Tree Rows
- Wetlands/Swamps
- State Plane Grid Lines
- Street Centerlines
- Alley Centerlines
- Ramp Centerlines
- Recreational Areas, Golf Courses
- Commercial Pools
- Bike/Hike Areas
- Athletic Fields, Tennis Courts, Playgrounds
- Natural Hydrography
  Reservoirs
  SW Retention Ponds
- Bay Area
- Boat Ramps, Piers, Dams, and Bulkheads
- Drainage Connector
- Culverts
- Headwall/Floodwall
- Hidden Hydrography
- Index Contour
- Intermediate Contour
- Index Depression Contour
- Intermediate Depression Contour
- Obscured Index Contour
- Obscured Intermediate Contour
- Obscured Index Depression Contour
- Obscured Intermediate Depression Contour
- Hidden Contour
- Neatline
- Radio Towers
- Transmission Towers
- Microwave Transmitters
- Spot Elevations
- Water Elevations
- Bridge Elevations
- Rooftop Elevations



1:2400

0ft 1000ft

0m 100m 200m 300m

N

Baltimore County - OIT GIS Services Unit

Layers:
INDEX, BLDG, ROADS, CLINE, TRANS
CULT, VEG, REC, HYDROL, HYDROP
COMM, SPOT, TOPO, ORTHO

Coordinate System:
Maryland State Plane: NAD83/91 Horiz. Datum
Elevations in Feet: NAVD88 Vertical Datum

Date of Data Capture: March 1995

Tile ID: 077a1

PC#7 10/22/02

Wylie Funeral Home

Proposed Road Improvements
MD 26 (Liberty Road)

Sight Distance Study - June, 2002

The Traffic Group

The Traffic Group, Inc.
Suite H
8602 Frankin Square Drive
Baltimore, Maryland 21236
410-931-8800
1.800.638.8411
Fax 410-931-8801

NO.	REVISION DESCRIPTION	BY	DATE

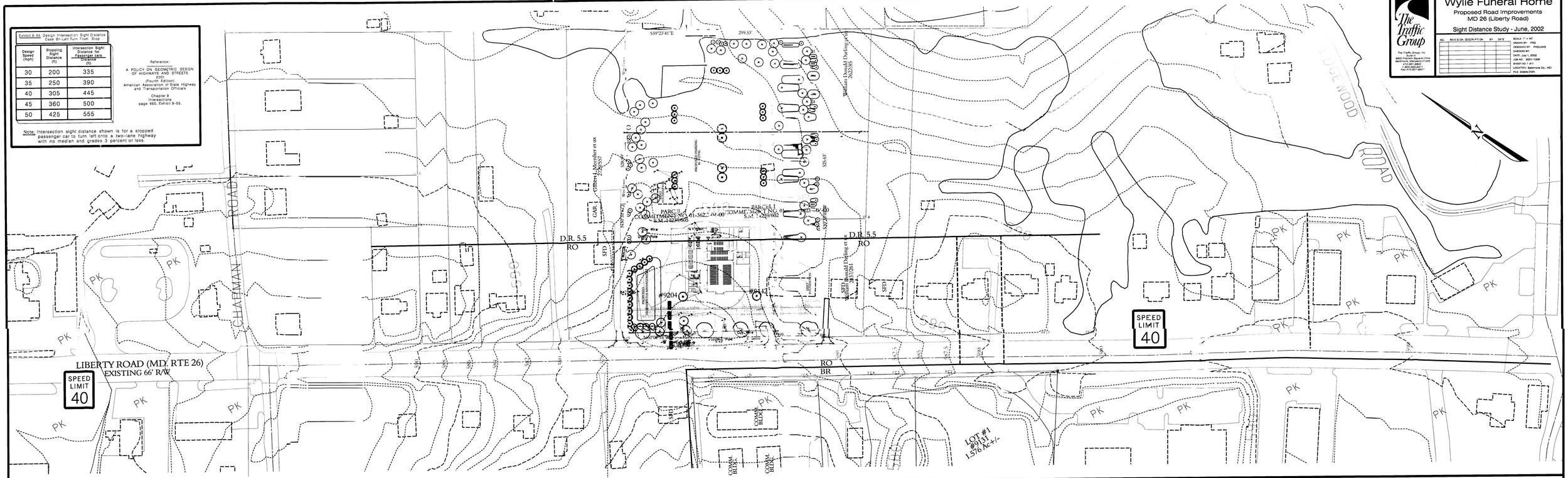
SCALE: 1" = 40'
DRAWN BY: PRD
DESIGNED BY: PRD/JWG
CHECKED BY:
DATE: July 1, 2002
JOB NO: 2001-1308
SHEET NO: 1 of 1
LOCATION: Baltimore Co., MD
FILE: 3WMA.DWG

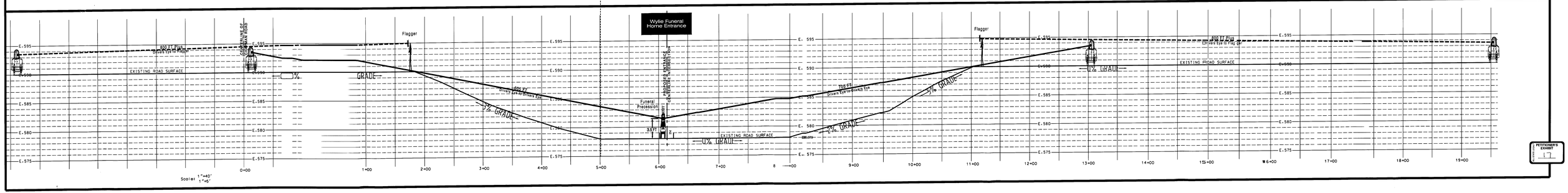
Exhibit 9-55. Design Intersection Sight Distance: Case B1-Left Turn From Stop

Design Speed (mph)	Stopping Sight Distance (ft)	Intersection Sight Distance for Passenger cars Distance (ft)
30	200	335
35	250	390
40	305	445
45	360	500
50	425	555

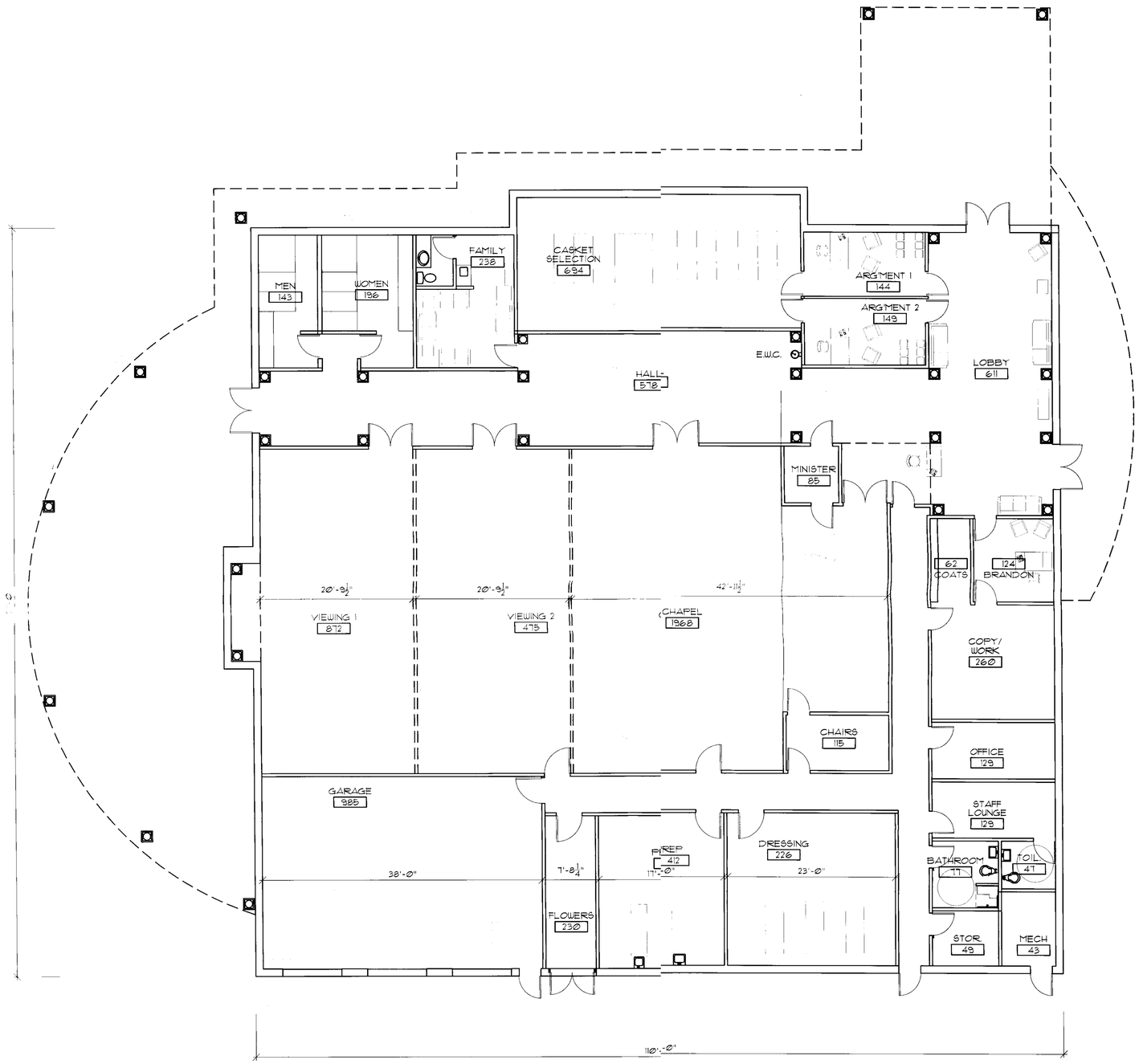
Reference:
A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS AND STREETS
2001
(Fourth Edition)
American Association of State Highway and Transportation Officials
Chapter 9
Intersections
page 665, Exhibit 9-55.

Note: Intersection sight distance shown is for a stopped passenger car to turn left onto a two-lane highway with no median and grades 3 percent or less.





PETITIONER'S EXHIBIT 17



AREA TABULATION

PUBLIC AREA : 7337 S.F.

SERVICE AREA : 4037 S.F.

GROSS AREA : 11374 S.F.

PETITIONER'S EXHIBIT 4B
02-174-XA
ALL-STATE LEGAL

RUBELING
& ASSOCIATES, INC.
ARCHITECTURE
INTERIOR DESIGN
3862 BOSTON AVENUE 3
TOWSON, MARYLAND 21206
410-668-8898
FAX: 410-668-8894

WYLIE FUNERAL HOME

LIBERTY ROAD
RANDALLSTOWN, MARYLAND

REVISIONS:

NO.	DESCRIPTION	DATE

LAST REV.:

PROJECT NO.: 01-066

DATE: 1/4/02

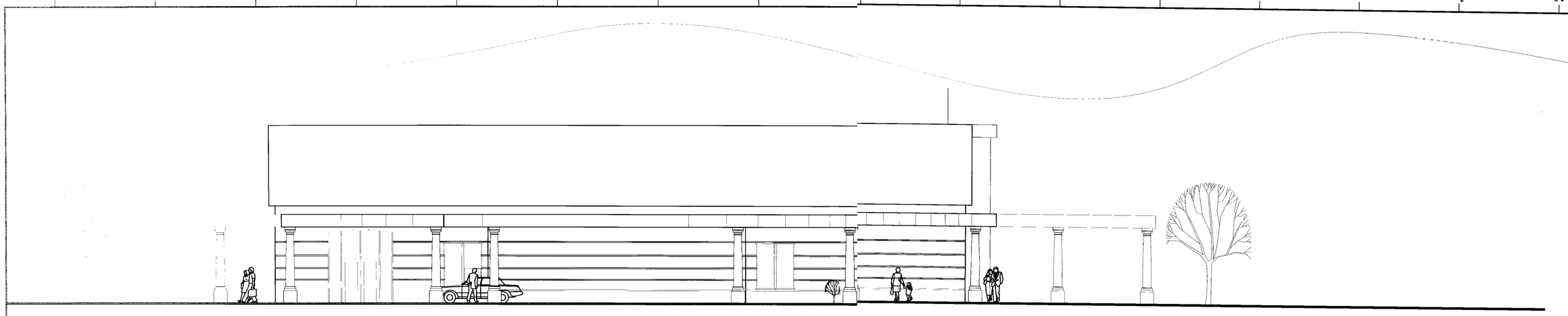
SCALE: 1/8" = 1'-0"

TITLE: SCHEMATIC FLOOR PLAN

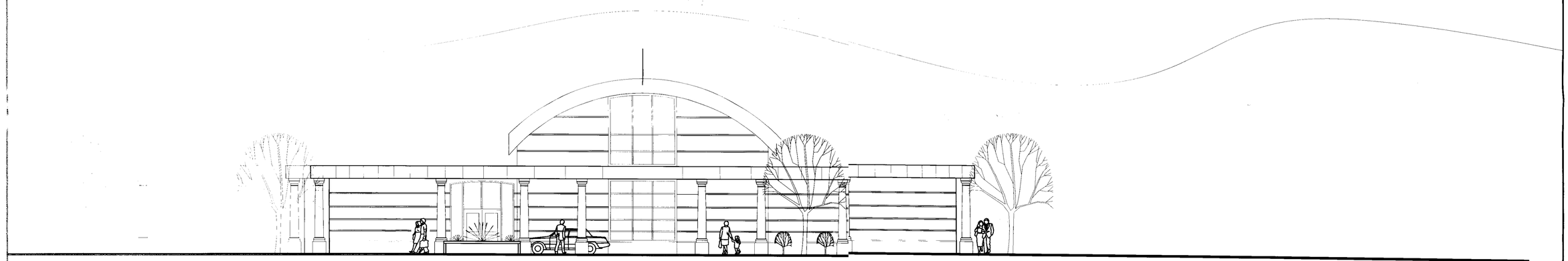
SHEET: A 101

© RUBELING & ASSOCIATES 2001

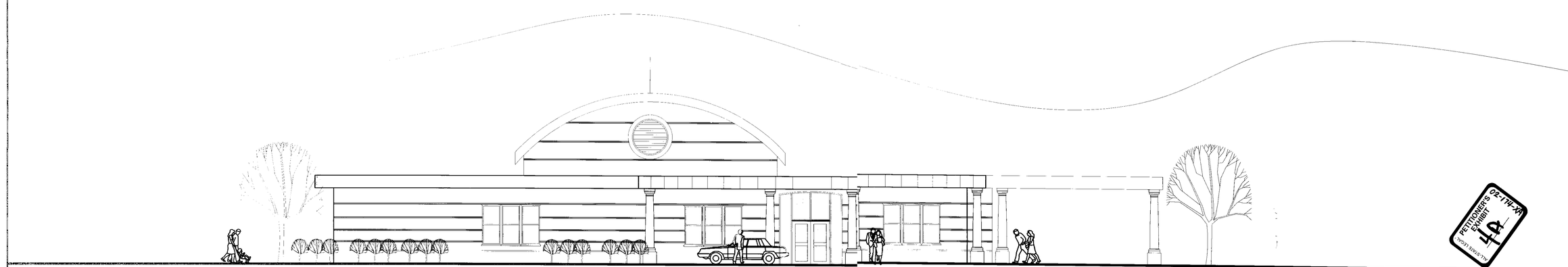
N:\Projects\2001\01-066\acadwgs\066-A101.DWG Fri Jan 04 09:19:27 2002



1 SIDE ELEVATION
1/8"=1'-0"



2 FRONT ELEVATION
1/8"=1'-0"



3 REAR ELEVATION
1/8"=1'-0"

RUBELING
& ASSOCIATES, INC.
ARCHITECTURE
INTERIOR DESIGN
3840 [illegible] AVENUE S
TOWSON, BALTIMORE, MARYLAND 21206
410-366-3696
FAX: 410-366-3664

WYLIE FUNERAL HOME

LIBERTY ROAD
RANDALLSTOWN, MARYLAND

REVISIONS:

NO.	DESCRIPTION	DATE

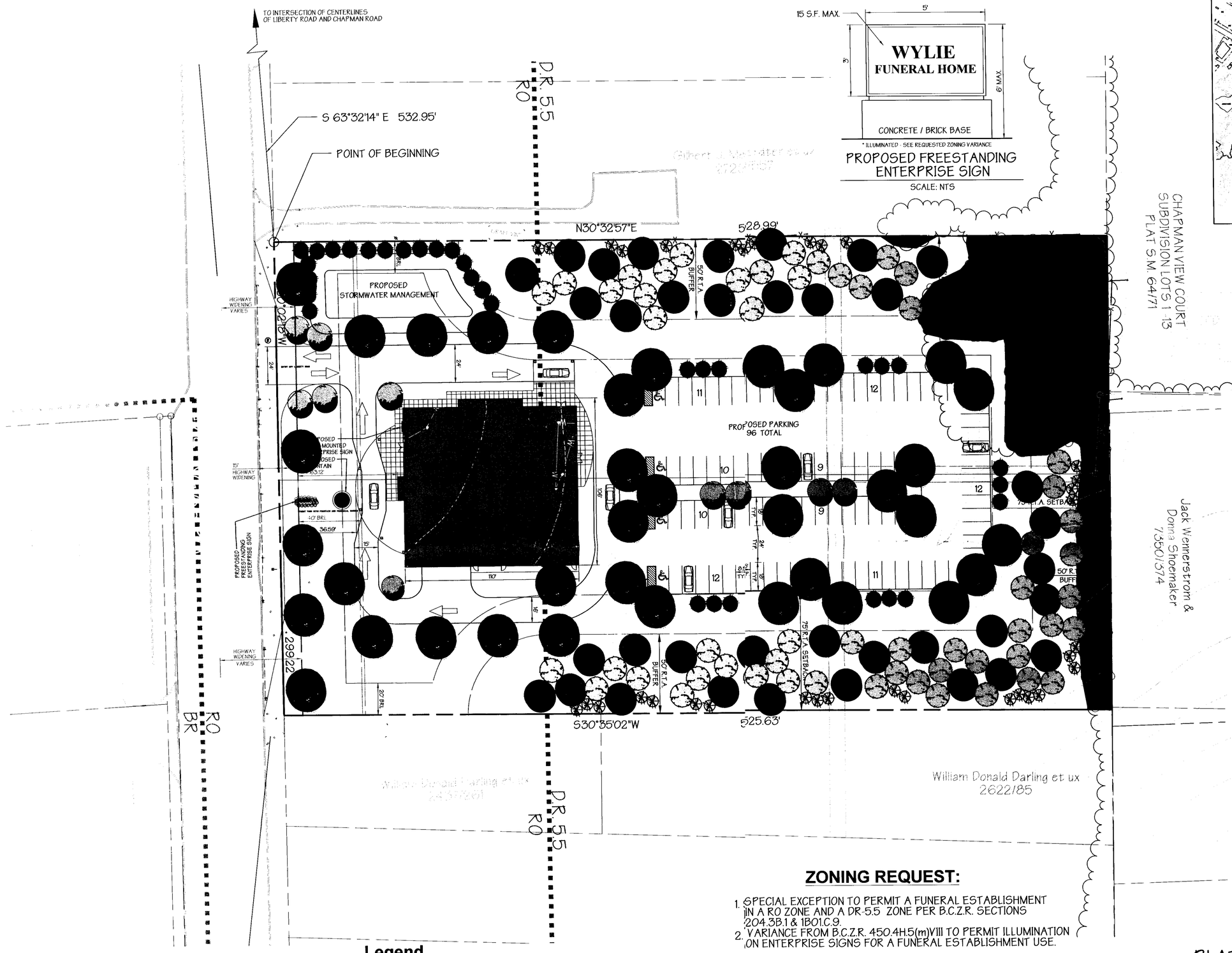
LAST REV.:
PROJECT NO.: 01-066
DATE: 7/7/01
SCALE: 1/8" = 1'-0"
TITLE: CONCEPTUAL ELEVATIONS

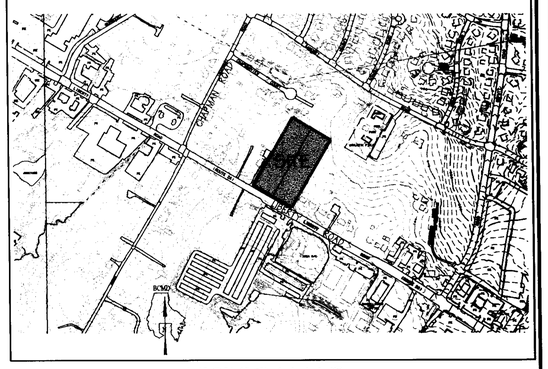
PETITIONER'S EXHIBIT 4A
02-174-X

SHEET: A

201

© RUBELING & ASSOCIATES 2001



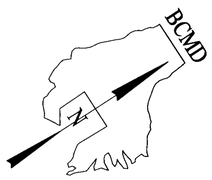


VICINITY MAP

SCALE: 1" = 500'

PROPOSED FREESTANDING ENTERPRISE SIGN

SCALE: NTS



General Notes

1. APPLICANT: WYLIE FUNERAL HOME P. A.
   638-634 NORTH GILMOR STREET
   BALTIMORE, MARYLAND 21217
   TEL. 410-462-4070
2. THERE ARE NO SIGNIFICANT GEOLOGICAL FORMATIONS, CRITICAL AREAS, ARCHEOLOGICAL SITES OR ENDANGERED SPECIES HABITATS KNOWN TO EXIST ON THIS SITE.
3. THERE ARE NO HISTORICAL BUILDINGS, PROPERTIES, OR SITES KNOWN TO EXIST WITHIN OR CONTIGUOUS TO THE PROPOSED DEVELOPMENT.
4. THERE ARE NO STREAMS, SEEPS, PONDS OR 100 YEAR FLOODPLAINS KNOWN TO EXIST ON THIS SITE.
5. THERE ARE NO WELLS, SEPTIC SYSTEMS OR UNDERGROUND STORAGE TANKS KNOWN TO EXIST ON THIS SITE.
6. THE PROPOSED DEVELOPMENT CONFORMS TO THE BALTIMORE COUNTY MASTER PLAN.
7. ALL SIGNAGE SHALL BE IN CONFORMANCE WITH SECTION 450, B.C.Z.R. EXCEPT FOR THE REQUESTED ENTERPRISE SIGN VARIANCE.
8. LIGHTING NOTE: ANY FIXTURE USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT THE LIGHT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS. SEE LIGHTING PLAN. ALL LIGHTING SHALL MEET MINIMUM STANDARDS OF ILLUMINATION ENGINEERING SOCIETY. IN THE R.T.A. THE LIGHT HEIGHT IS LIMITED TO 16'.
9. HANDICAPPED PARKING SPACES SHALL BE PROVIDED IN ACCORDANCE WITH THE MARYLAND BUILDING CODE FOR THE HANDICAPPED, CONTAINED IN THE CODE OF MARYLAND REGULATIONS 05.01.07.

Site Data

1. SITE AREA 157,859.01 SQ. FT. OR 3.634 AC.
2. EXISTING ZONING - RO - 1.145 AC.+/-
   - DR-5.5 - 2.489 AC.+/-
3. EXISTING USE - VACANT
4. PROPOSED USE - FUNERAL HOME
5. TAX ACCOUNT NO. - 9204 LIBERTY ROAD: 02-06-820000
   - 9142 LIBERTY ROAD: 02-20-800020
6. DEED REFERENCE : 9204 & 9142 LIBERTY ROAD - 15602 / 104
7. ELECTION DISTRICT 2
8. COUNCILMANIC DISTRICT 2
9. CENSUS TRACT NO. 4025.01
10. WATER SHED NO. 27
11. SUBSEWERSHED NO. 64
12. BUILDING HEIGHT
    MAXIMUM ALLOWED - 50' HEIGHT, 35' WITHIN R.T.A.
    MAXIMUM HEIGHT PROPOSED - 35'
13. PARKING REQUIRED
    10 SPACES PER 1,000 SQ. FT. OF PUBLIC ACCESS FLOOR AREA
    1 SPACE PER 2 EMPLOYEES
    1 PER BUSINESS VEHICLE
    - 7,380 SQ. FT. TOTAL / 1000 X 10 = 80 P.S.
    - 8 EMPLOYEES / 2 = 4 P.S.
    - 6 BUSINESS VEHICLES = 6 P.S.
    TOTAL = 90 P.S.
    PARKING PROVIDED = 99 SPACES PROVIDED
    INCLUDING 8 HANDICAP AND 3 GARAGE
14. PREVIOUS COMMERCIAL BUILDING PERMIT: NONE
15. THIS PROPERTY HAS NO ZONING HISTORY
16. FLOOR AREA RATIO - ALLOWED- 0.20,
    - PROPOSED- 0.07 (BLDG. AREA- 11,374.29 S.F. / SITE AREA- 157,859.01

PETITIONER'S EXHIBIT 2A

ZONING REQUEST:

1. SPECIAL EXCEPTION TO PERMIT A FUNERAL ESTABLISHMENT IN A RO ZONE AND A DR-5.5 ZONE PER B.C.Z.R. SECTIONS 204.3B.1 & 1B01.C.9.
2. VARIANCE FROM B.C.Z.R. 450.4H.5(m)VIII TO PERMIT ILLUMINATION ON ENTERPRISE SIGNS FOR A FUNERAL ESTABLISHMENT USE.

Legend

R/W & PROP. LINE	EXISTING SANITARY	PROPOSED MAJOR DECIDUOUS TREE
EX. CURB & GUTTER	PROP. SANITARY	PROPOSED MINOR DECIDUOUS TREE
PROP. CURB & GUTTER	EXISTING GAS LINE	PROPOSED EVERGREEN TREE
EXISTING WATER LINE	EXISTING FENCE LINE	R.T.A. BUFFER PLANTINGS
PROP. WATER	PROP. FENCE	
EXISTING STORM DRAIN	WETLAND LIMIT LINE	
EXISTING TREELINES	ZONING LINE	
PROPOSED TREELINES	EXISTING 10' CONTOUR	
WETLANDS TO BE FILLED	EXISTING 2' CONTOUR	

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
10210 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286-3396
(410) 825-8120

OWNER
FAS, LLC
638-634 NORTH GILMOR STREET
BALTIMORE, MARYLAND 21217

DEVELOPER
WYLIE FUNERAL HOME P.A.
638-634 NORTH GILMOR STREET
BALTIMORE, MARYLAND 21217
TEL. - 410-462-4070

PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION AND VARIANCE

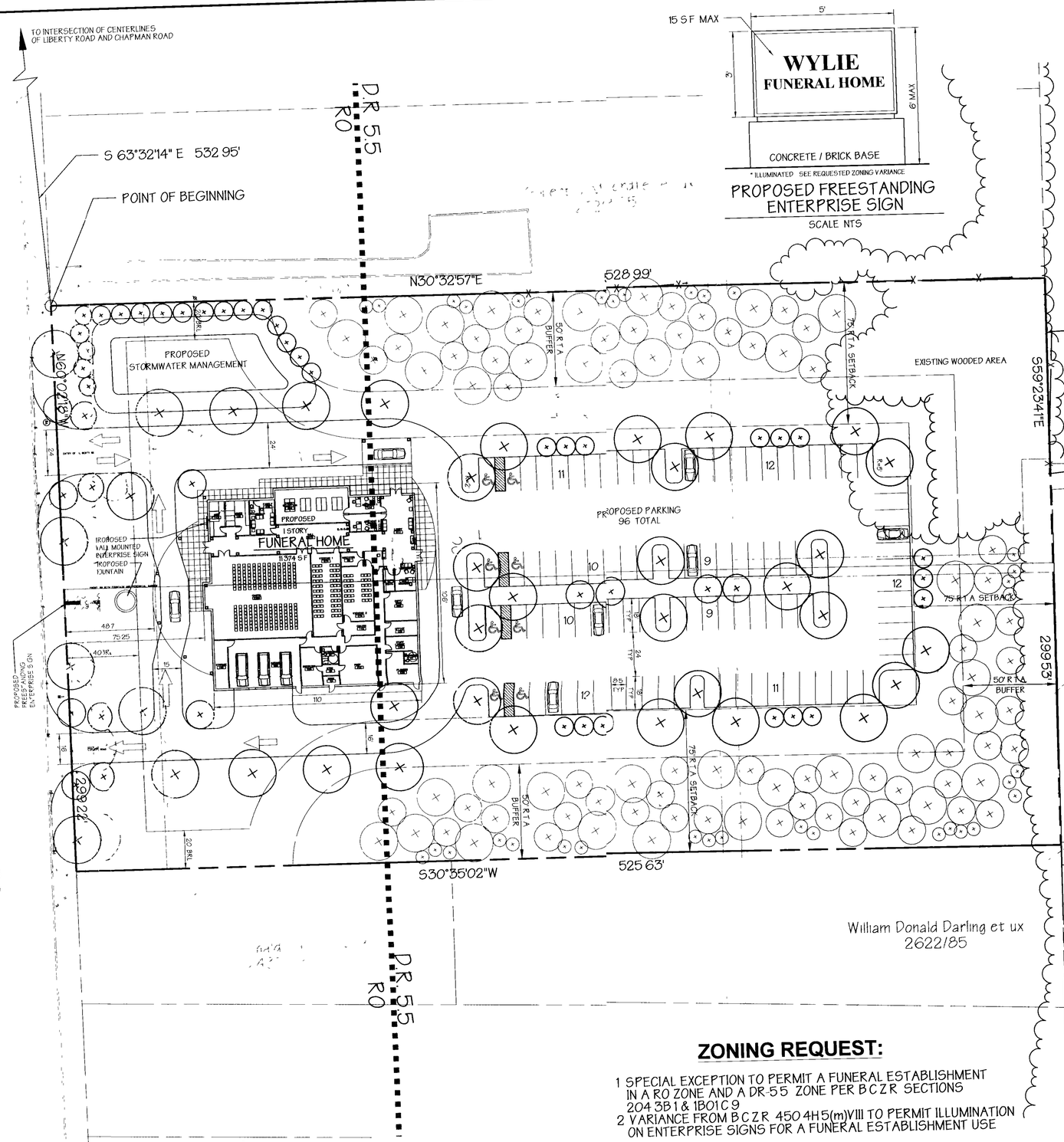
WYLIE FUNERAL HOME

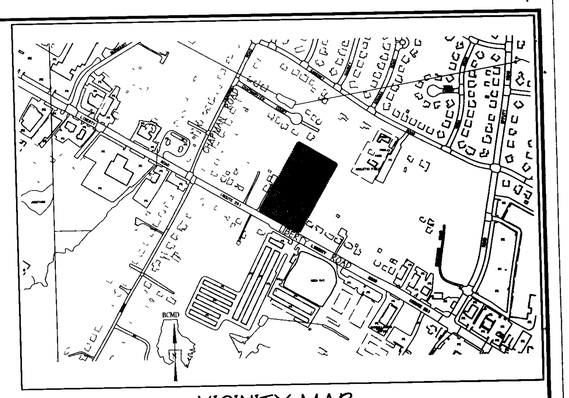
9142 & 9204 LIBERTY ROAD, BALTIMORE COUNTY

SCALE: 1" = 30' DATE: OCTOBER 30, 2001
REVISED: JANUARY 4, 2002

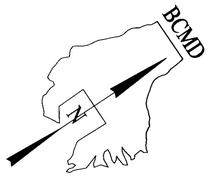
FILENAME:

P.N.





VICINITY MAP
SCALE 1" = 500'



General Notes

1 APPLICANT WYLIE FUNERAL HOME P A
638-634 NORTH GILMOR STREET
BALTIMORE MARYLAND 21217
TEL 410 462 4070
2 THERE ARE NO SIGNIFICANT GEOLOGICAL FORMATIONS CRITICAL AREAS ARCHEOLOGICAL SITES OR ENDANGERED SPECIES HABITATS KNOWN TO EXIST ON THIS SITE
3 THERE ARE NO HISTORICAL BUILDINGS PROPERTIES OR SITES KNOWN TO EXIST WITHIN OR CONTIGUOUS TO THE PROPOSED DEVELOPMENT
4 THERE ARE NO STREAMS SEEPS PONDS OR 100 YEAR FLOODPLAINS KNOWN TO EXIST ON THIS SITE
5 THERE ARE NO WELLS SEPTIC SYSTEMS OR UNDERGROUND STORAGE TANKS KNOWN TO EXIST ON THIS SITE
6 THE PROPOSED DEVELOPMENT CONFORMS TO THE BALTIMORE COUNTY MASTER PLAN
7 ALL SIGNAGE SHALL BE IN CONFORMANCE WITH SECTION 450 B C Z R EXCEPT FOR THE REQUESTED ENTERPRISE SIGN VARIANCE
8 LIGHTING NOTE ANY FIXTURE USED TO ILLUMINATE AN OFF STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT THE LIGHT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS SEE LIGHTING PLAN ALL LIGHTING SHALL MEET MINIMUM STANDARDS OF ILLUMINATION ENGINEERING SOCIETY IN THE R T A THE LIGHT HEIGHT IS LIMITED TO 16'
9 HANDICAPPED PARKING SPACES SHALL BE PROVIDED IN ACCORDANCE WITH THE MARYLAND BUILDING CODE FOR THE HANDICAPPED CONTAINED IN THE CODE OF MARYLAND REGULATIONS 05 01 07

Site Data

1 SITE AREA 157 859 01 SQ FT OR 3 634 AC
2 EXISTING ZONING - RO - 1.145 AC +/-
- DR 5.5 - 2.489 AC +/-
3 EXISTING USE - VACANT
4 PROPOSED USE - FUNERAL HOME
5 TAX ACCOUNT NO - 9204 LIBERTY ROAD 02-06-820000
- 9142 LIBERTY ROAD 02-20-800020
6 DEED REFERENCE 9204 & 9142 LIBERTY ROAD - 15602 / 104
7 ELECTION DISTRICT 2
8 COUNCILMANIC DISTRICT 2
9 CENSUS TRACT NO 4025 01
10 WATER SHED NO 27
11 SUBSEWERSHED NO 64
12 BUILDING HEIGHT
MAXIMUM ALLOWED - 50' HEIGHT, 35' WITHIN R T A
MAXIMUM HEIGHT PROPOSED - 35'
13 PARKING REQUIRED
10 SPACES PER 1,000 SQ FT OF PUBLIC ACCESS FLOOR AREA
1 SPACE PER 2 EMPLOYEES
1 PER BUSINESS VEHICLE
- 7 380 SQ FT TOTAL / 1000 X 10 = 80 P S
- 8 EMPLOYEES / 2 = 4 P S
- 6 BUSINESS VEHICLES = 6 P S
TOTAL = 90 P S
PARKING PROVIDED = 99 SPACES PROVIDED
INCLUDING 8 HANDICAP AND 3 GARAGE
14 PREVIOUS COMMERCIAL BUILDING PERMIT NONE
15 THIS PROPERTY HAS NO ZONING HISTORY
16 FLOOR AREA RATIO - ALLOWED- 0.20
- PROPOSED- 0.07 (BLDG AREA- 11 374 29 S F / SITE AREA; 157,859 01

PETITIONER'S EXHIBIT 2

ZONING REQUEST:

1 SPECIAL EXCEPTION TO PERMIT A FUNERAL ESTABLISHMENT IN A RO ZONE AND A DR-5.5 ZONE PER B C Z R SECTIONS 204 3B1 & 1B01 C 9
2 VARIANCE FROM B C Z R 450 4H 5(m)VIII TO PERMIT ILLUMINATION ON ENTERPRISE SIGNS FOR A FUNERAL ESTABLISHMENT USE

Legend

R/W & PROP LINE
EX CURB & GUTTER
PROP CURB & GUTTER
EXISTING WATER LINE
PROP WATER
EXISTING STORM DRAIN
EXISTING TREELINES
PROPOSED TREELINES
WETLANDS TO BE FILLED
EXISTING SANITARY
PROP SANITARY
EXISTING GAS LINE
EXISTING FENCE LINE
PROP FENCE
WETLAND LIMIT LINE
ZONING LINE
EXISTING 10' CONTOUR
EXISTING 2' CONTOUR
PROPOSED MAJOR DECIDUOUS TREE
PROPOSED MINOR DECIDUOUS TREE
PROPOSED EVERGREEN TREE
R T A BUFFER PLANTINGS

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10 70 CROMWELL BRIDGE ROAD
TOWSON MARYLAND 21286- 3396
(410) 825-8120

PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION AND VARIANCE

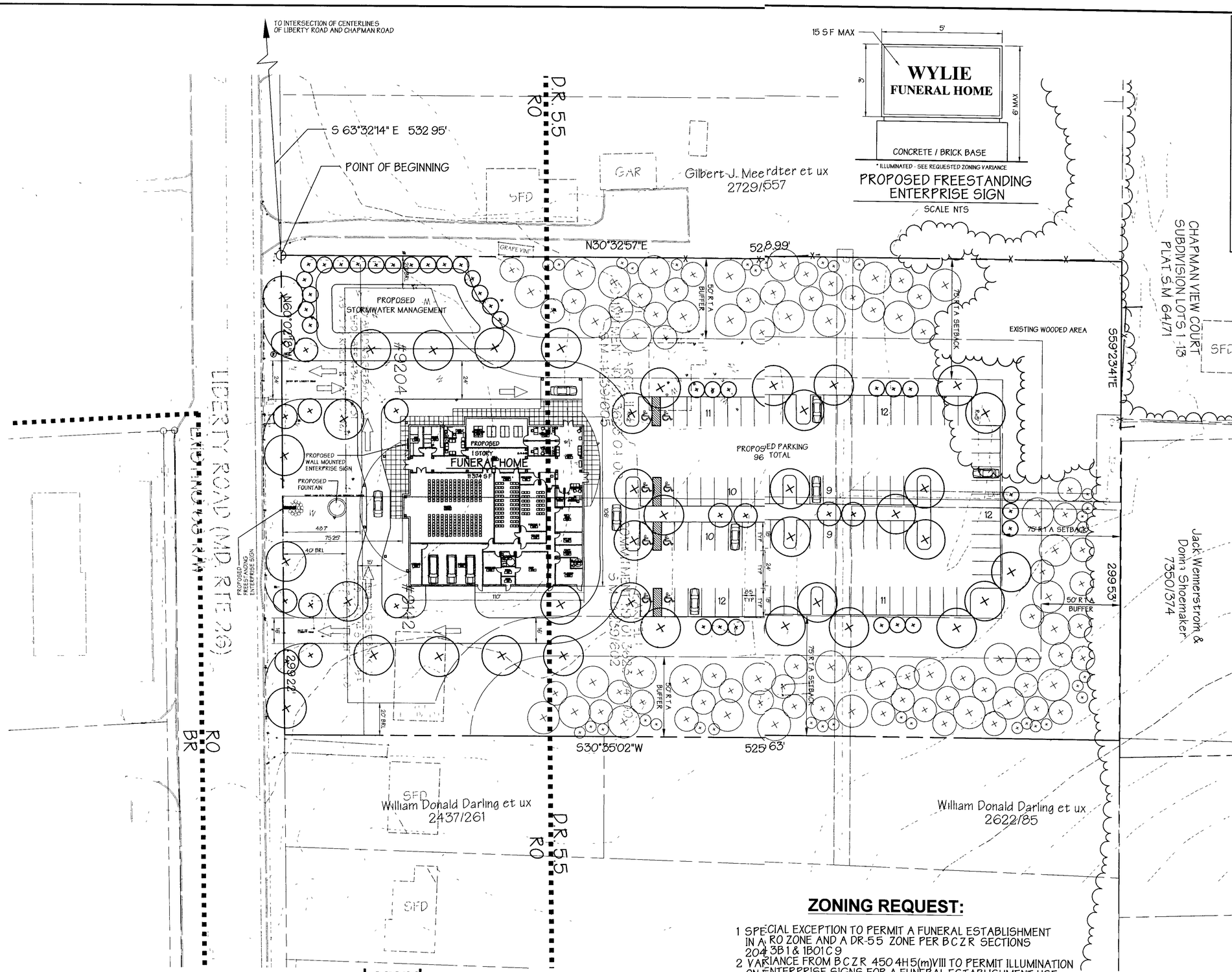
WYLIE FUNERAL HOME

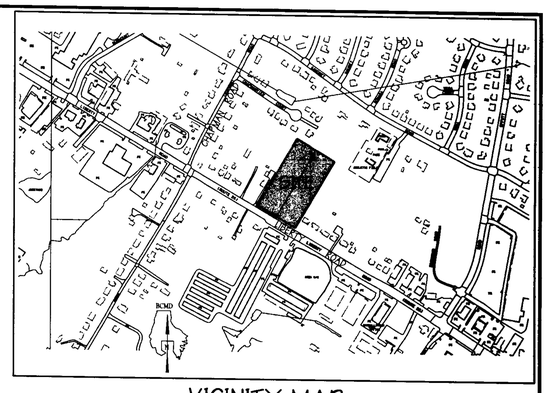
9142 & 9204 LIBERTY ROAD, BALTIMORE COUNTY

SCALE: 1" = 30'
DATE: OCTOBER 30, 2001
REVISED: JANUARY 4, 2002

PN

FILENAME





VICINITY MAP
SCALE: 1" = 500'

PROPOSED FREESTANDING ENTERPRISE SIGN
SCALE NTS

General Notes

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BALTIMORE MARYLAND 21217
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Site Data

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- PROPOSED- 0.07 (BLDG AREA- 11,374.29 S.F. / SITE AREA- 157,859.01

Pet Ex #1

174

ZONING REQUEST:

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BRIAN C. CHRISTIAN, P.E. 1095 REGISTERED PROFESSIONAL ENGINEER STATE OF MARYLAND

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