IN RE: PETITION FOR SPECIAL HEARING
W/S of Delrey Avenue, 330 ft. NE
centerline of Edmondson Avenue
1st Election District
1st Councilmanic District
(108 Delrey Avenue)

Martha Melnick

Petitioner

BEFORE THE

\* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* CASE NO. 04-080-SPH

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

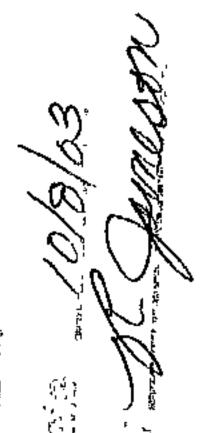
This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owner of the subject property, Martha Melnick. The property has since been purchased by James Beahn. The Petitioner is requesting special hearing relief for property she owns at 108 Delrey Avenue in the Catonsville area of Baltimore County. The special hearing request is to approve confirmation of existing non-conforming use for two dwellings with two apartments each — establishment of use division line in compliance with Section 102.2 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The property was posted with Notice of Hearing on September 17, 2003, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on September 16, 2003 to notify any interested persons of the scheduled hearing date.

#### Applicable Law

Section 500.7 of the B.C.Z.R. Special Hearings

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.



## **Zoning Advisory Committee Comments**

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: None.

### **Interested Persons**

Appearing at the hearing on behalf of the requested special hearing and variance relief was Martha Melnick, owner of the property, and Fred Lauer, Esquire, Petitioner's attorney. There were no Protestants or others at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

### Testimony and Evidence

Notice is taken that the property, which is the subject of this special hearing request, is zoned D.R.5.5. Testimony and evidence proffered by Mr. Lauer indicated that the property, which is the subject of this special hearing request, was the location of the Overlea School which research indicates was in existence at this location between 1860 and 1891. The property was improved by a main house and carriage house, each of which contained two separate apartment units. Both of these apartment units have existed within this dwelling since prior to 1955, which is the effective date prior to which the Petitioner must prove their existence. These apartments have existed within this building openly, continuously, and uninterruptedly since the 1940's until the present date. Corroborating this evidence was an affidavit of Allen Mills, a former owner who has resided in this property since 1968, and based on his own personal knowledge, and that of former owner Juanita Bossi, that the two apartments existed within each dwelling since the time that she moved onto her property.

After considering the testimony and evidence in support of this special hearing request and the lack of opposition thereto, I find that the subject property does in fact enjoy a non-

conforming use for two separate apartments within the main and carriage house buildings.

Accordingly, the special hearing shall be granted.

Finally the Petitioner has submitted a zoning use division line indicating the areas on use by each dwelling as shown on Petitioner's Exhibit No. 1. Proffered testimony was that the proposed zoning use division line would, if required, separate the dwellings in such a way as to meet all County area requirements for properties in the D.R.5.5 zone.

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

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this \_\_\_\_\_ day of October, 2003, that the Special Hearing to approve confirmation of existing non-conforming use for two dwellings, the main house and carriage house, with two apartments each and the establishment of use division line in compliance with Section 102.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby GRANTED.

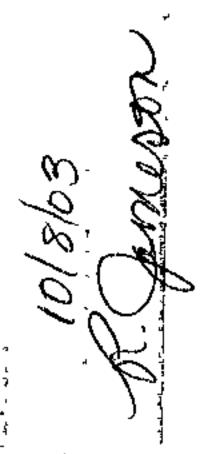
IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:raj



# Zoning Commissioner

Suite 405, County Courts Building 401 Bosley Avenue Towson, Maryland 21204 Tel: 410-887-3868 • Fax: 410-887-3468



# **Baltimore County**

James T. Smith, Jr., County Executive Lawrence E. Schmidt, Zoning Commissioner

October 7, 2003

Fred Lauer, Esquire 120 E. Baltimore Street Baltimore, Maryland 21201

> Re: Petition for Special Hearing Case No. 04-080-SPH Property: 108 Delrey Avenue

Dear Mr. Lauer:

Enclosed please find the decision rendered in the above-captioned case. The petition for special hearing has 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,

John V. Murphy

Deputy Zoning Commissioner

John Murghey

JVM:raj Enclosure

c: Martha Melnick 108 Delrey Avenue Catonsville, MD 21228 8

James & Rebecca McPherson P. O. Box 6726 Largo, MD 20792



Visit the County's Website at www.baltimorecountyonline.info



# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 108 Delvey Avenue which is presently zoned DR 5-5

This Petition shall be filed with the Department of Permits a owner(s) of the property situate in Baltimore County and which is made a part hereof, hereby petition for a Special Hearing und County, to determine whether or not the Zoning Commissioner s	s described in the description and plat attached hereto and
County, to determine whether or not the Zoning Commissioner's  Con Firmation of existing r  two dwellings with two apart ments a  division line in complunce with	con-conforming use for each - establishament of use
division line in compinnee will	
Property is to be posted and advertised as prescribed by the zor I, or we, agree to pay expenses of above Special Hearing, advertising, zoning regulations and restrictions of Baltimore County adopted pursua	posting, etc. and further agree to and are to be bounded by the
	I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser/Lessee:	Legal Owner(s):
JAMES + Rebbect McPherson	Martha Melnick
Name - Type or Print	Name - Type or Print
Games MERRORD (Walle O. 11/9hush-	Signature Melnuch
Po Box 6726	Olgnature
Address Telephone No.	Name - Type or Print
Chn.GO         MI)         20792           City         State         Zip Code	Signature
Attorney For Petitioner:	108 Delven Ave. 4107479093
7-101110110110110110110110110110110110110	Address Telephone No.
Name - Type or Print	$\frac{C_{\Lambda} + o_{N} + o_$
tred how	Representative to be Contacted:
Signature	<u> </u>
Company - Aurer	Name LAUEV
12a E BAltimore St 410547.8356	120 E BAltimore St 410 547-835
Address Telephone No.	Address  BALTIMUSE  MD 2/202
City State Zip Code	City State Zip Code
	OFFICE USE ONLY
	ESTIMATED LENGTH OF HEARING
	ESTIMATED LENGTH OF HEARING
Case No. 04-080-50H	UNAVAILABLE FOR HEARING
Review	red By 22/2 Date 8-19-03

### **ZONING DESCRIPTION**

BEGINNING for the same at a point on the westerly side of Delrey Avenue 60 feet wide, said point of beginning being 330 ft. north easterly from the intersection of the west side of Delrey Avenue with the centerline of Edmondson Avenue, said point of beginning being also the southeasternmost corner of Lot No. 8, as shown on the plat of the resubdivision part of "Delrey" which plat is recorded among the Land Records of Baltimore County in Liber G.L.B. No. 18, folio 39, running thence curving to the left with a radius of 330.00 feet for distance of 79.45 feet, thence south 71 degrees 36 minutes 00 seconds west 130.00 feet, thence curving to the left with a radius of 460.00 feet and an arc distance of 5.00 feet, thence south 18 degrees 24 minutes 00 seconds east 88.56 feet, thence south 60 degrees 40 minutes 00 seconds west 134.97 feet, thence south 60 degrees 40 minutes 00 seconds west 50.99 feet thence north 17 degrees 06 minutes 00 seconds west 327.25 feet, thence north 74 degrees 11 minutes 00 seconds east 1.76 feet, thence north 77 degrees 08 minutes 00 seconds east 208.47 feet, thence curving to the left with a radius of 460.00 feet and a distance of 59.48 feet, thence south 86 degrees 15 minutes 45 seconds west 130.00 feet to the place of beginning.



#080

BALTIMORE COUNTY, MARYLAND	
MISCELLANEOUS RECEIPT  04-086-5P14	PAID RECEIPT HISTORISS ACTUAL TURE INSU
DATE 8-19-03 ACCOUNT R-001-006-6150	B/20/2003 8/19/2003 14:26:43  MIG #506 WALKIN KNCH KXM  ECEIPT # 186443 8/19/2003 OFLN  DEPT 5 528 ZONING VERIFICATION
RECEIVED Mag Martha Melnick	CR NO. 027472  Recet Tot \$150.00  150.00 CR
FOR:	Collisore County, Haryland
al 108 Delvaj Ave. (2 dwellings coch	
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER CK 7 399	CASHIER'S VALIDATION
	and the street of the street o

Petitioner/Developer:  MARTHA MEZHICK  Deta SIT - 100/- 1-1	<del></del>
	,
Date of Hearing/Closing: 10/z/v3	<u> </u>
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Attention: Ms. Becky Hart	
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	
The sign(s) were posted on 9/17/03  (Month, Day, Year)	•
CASE # 04-080-SPI  Sincerely,  A Mile Manual Control  Out of the C	<u>3</u>

108 DEZ REY AVE.
POSTED 9/17/03
Shell 3/17/03

# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

# **ZONING REVIEW**

# ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (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 04-080 SPH	<b>-</b>
Petitioner: Martha Melnick	<del> </del>
Address or Location. 108 Delray Ave.	
PLEASE FORWARD ADVERTISING BILL TO  Name: Fred Laver	
Address: 120 E, Baltimore St.	
Balto, Md, 21202	······································
Telephone Number: 410-547-8356	~ <del>~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~</del>

# Department of Permits and Development Management

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



# Baltimore County

James T Smith, Jr., County Executive Timothy M. Kotroco, Director

September 2, 2003

### **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: 04-080-SPH

108 Delrey Avenue

W/side of Delrey Avenue, 330 feet N/east centerline of Edmondson Avenue

1<sup>st</sup> Election District – 1<sup>st</sup> Councilmanic District

Legal Owner: Martha Melnick

Contract Purchaser: James & Rebecca McPherson

Special Hearing to approve confirmation of existing non-conforming use for two dwellings with two apartments each.

Hearings:

Thursday, October 2, 2003, at 9:00 a.m. in Room 407, County Courts

Building, 401 Bosley Avenue

Timothy Kotroco

Director

TK:klm

C: Fred Lauer, 120 E. Baltimore Street, Baltimore 21202 Martha Melnick, 108 Delrey Avenue, Catonsville 21228 James and Rebbeca McPherson, P.O. Box 6726, Largo 20792

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, SEPTEMBER 17, 2003.

- (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.



TO: PATUXENT PUBLISHING COMPANY

Tuesday, September 16, 2003 Issue - Jeffersonian

Please forward billing to:

Fred Lauer 120 E. Baltimore Street Baltimore, MD 21202 410-547-8356

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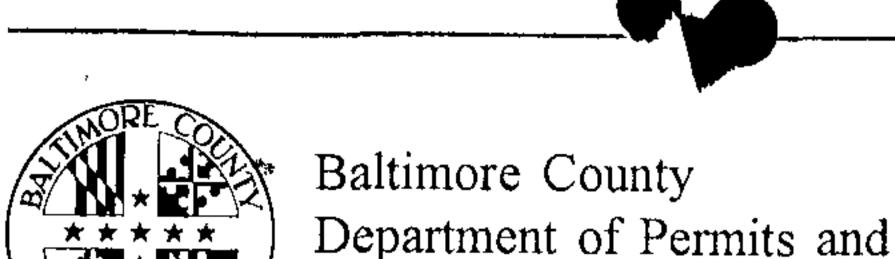
Building, 401 Bosley Avenue

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

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(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.





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

September 26, 2003

Fred Lauer 120 E. Baltimore Street Baltimore, MD 21202

Dear Mr. Lauer:

RE: Case Number: 04-080-SPH, 108 Delrey Avenue

Development Management

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 19, 2003.

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. Supervisor, Zoning Review

u. Callibal)

WCR:klm

Enclosures

c: People's Counsel Martha Melnick, 108 Delrey Avenue, Catonsville 21228 James & Rebecca McPherson, P.O. Box 6726, Largo 20792



Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor

Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

MARYLAND DEPORTMENT OF TRANSPORTAL ON

Date: 8.26.63

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

RE:

Baltimore County

Item No. 080

**266** 

Dear. Ms. Hart:

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,

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

July

# BALTIMORE COUNTY, MARYLAND

# INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

**SUBJECT:** 

Zoning Advisory Petition(s): Case 04-080

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by:

Section Chief: \_\_

AFK/LL:MAC

RECEIVED

**DATE:** September 3, 2003

SEP - 4 2003

ZONING COMMISSIONER

# BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

**DATE:** September 25, 2003

 $\boldsymbol{v}^{(+)}$ 

TO:

Timothy M. Kotroco, Director

Department of Permits & Development Management

Robert W. Bowling, Supervisor
Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For September 2, 2003

Item Nos 669, 070, 071, 072, 073, 074, 075, 077, 080, 081, 082, 085, and 086

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

RWB:CEN:jrb

ce: File

BEFORE THE PETITION FOR SPECIAL HEARING RE: 108 Delrey Avenue; W/side Delrey Avenue, ZONING COMMISSIONER 330' NE c/line Edmonson 1<sup>st</sup> Election & 1<sup>st</sup> Councilmanic Districts FOR Legal Owner(s): Martha Melnick Contract Purchaser(s): James & Rebbeca **BALTIMORE COUNTY** \* McPherson Petitioner(s) 04-080-SPH \*

## ENTRY OF APPEARANCE

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

People's Counsel for Baltimore County

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

# **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this day of August, 2003, a copy of the foregoing Entry of Appearance was mailed to Fred Lauer, 120 E Baltimore Street, Baltimore, MD 21202, Attorney for Petitioner(s).

RECEIVED ACS 2 9 2003

PETER MAX ZIMMERMAN

People's Counsel for Baltimor

People's Counsel for Baltimore County

NO.535

Ø 002

**D11** 

H. Allen Mills
1920 Lismore Lane, Catonsville, MD 21228

July 17, 2003

Terry Melnick 108 Delrey Ave Catonsville, Maryland 21228

Apartments at 108 Delrey Ave

Dear Mr. Melnick:

1. Allen Mills

Per our conversation, I purchased the house at 108 Delrey ave, Catonsville in 1968. At that time there were two apartments in the rear house. It is my understanding from the previous owner, Juanita Bossi, that the apartments have existed as such prior to the early 1940's. Also, it is my understanding that since the mid 1800's the house had served as living quarters for the servants who worked at the main house then known as Overlea College. The basement of the main house was also living quarters for the servants at the school.

Stneerely,

(EXHIBITI)

# **AFFIDAVIT**

The undersigned hereby affirms under the permits and Development Management (PDM),	enalties of perjury to the Director of Department of as follows:
That the information herein given is within the competent to testify thereto in the event that a thereto.	personal knowledge of the Affiant and the Affiant is public hearing is scheduled in the future with regard
AFFIANT (Handwritten Signature)	<u>H. H. L. E. M. M. L. L.S.</u> AFFIANT (Printed Name)
1920 GISMORE GANE ADDRESS (Printed) CATONSVILLE, MID	<u>4/0-747-4092</u> TELEPHONE NUMBER
BASED UPON YOUR PERSONAL KNOWLEDG	GE, PLEASE ANSWER THE FOLLOWING:
108 DELREY HUE, CHTONSU (address) dwelling since <u>EARLY 1940s</u> ,	y in court, if necessary, that the home located at  2 DW ELLINGS  LLLE has been occupied as a 2 apartment \$ (2, etc.)  (year)  (year)
2. Can you also verify and testify, if necessary renters every year since <u>EMRLY 19</u>	y, that said apartments have been occupied by ' \( \frac{1}{\omega_0}, \frac{1}{\sqrt{ganswer}} \) \( \frac{1}{\sqrt{ganswer}} \)
3. Will you realize any gain from the sale of th	is property?*  (answer) *If the answer is <u>yes</u> , this form cannot be approved.
STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit	·
I HEREBY CERTIFY this, Hong day of All And Maryland, in and for the County aforesaid, personally appeared to me as serein, personally known or satisfactorily identified to me as	eared the Affiant
AS WITNESS my hand and Notarial Seal.	
Mildred E. Zignowny, Notery Public Anna Arandel County State of Managed	Mildred & Zamortines NOTARY PUBLIC

My Commission Expires \_\_\_\_\_

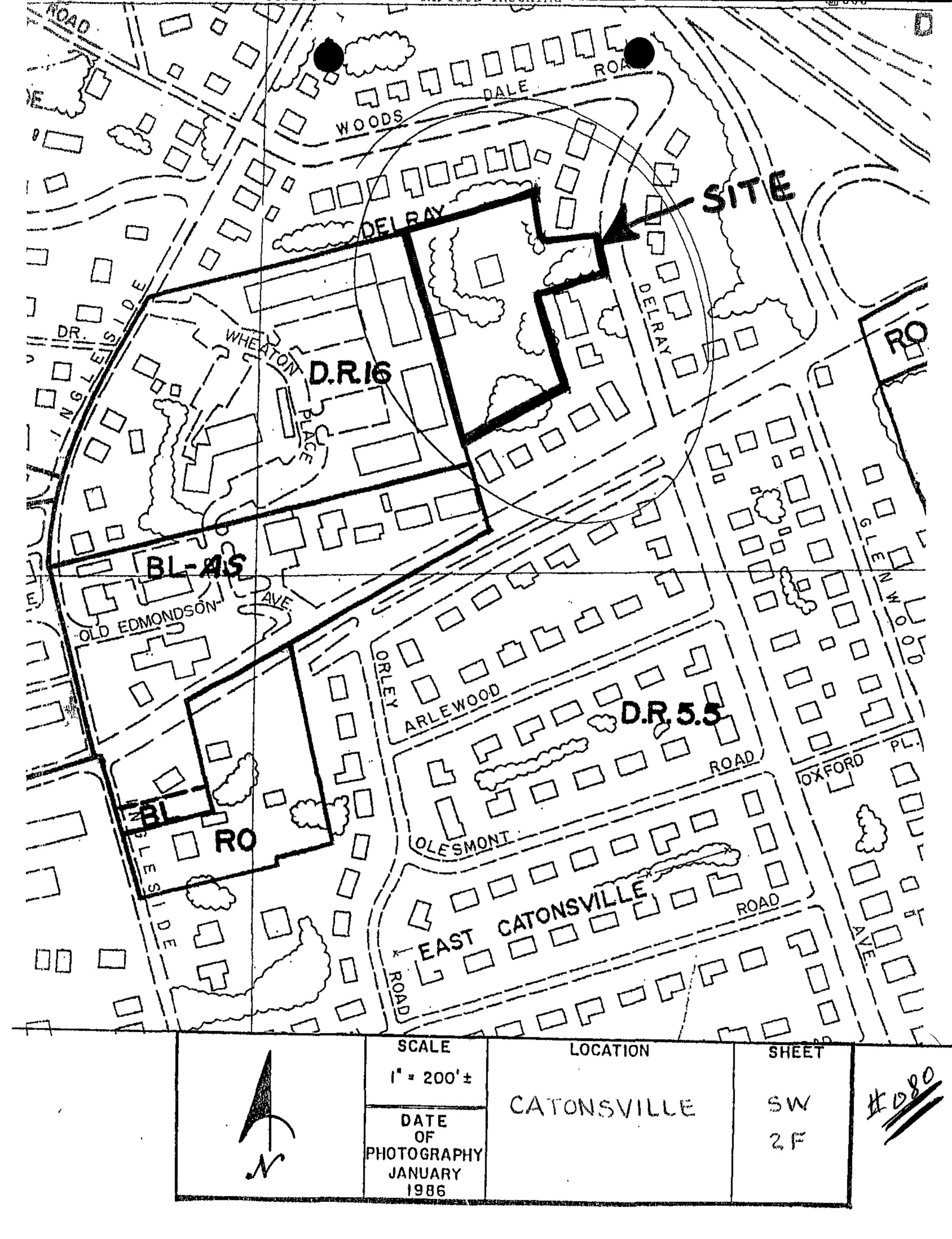
Revised 6/1/00

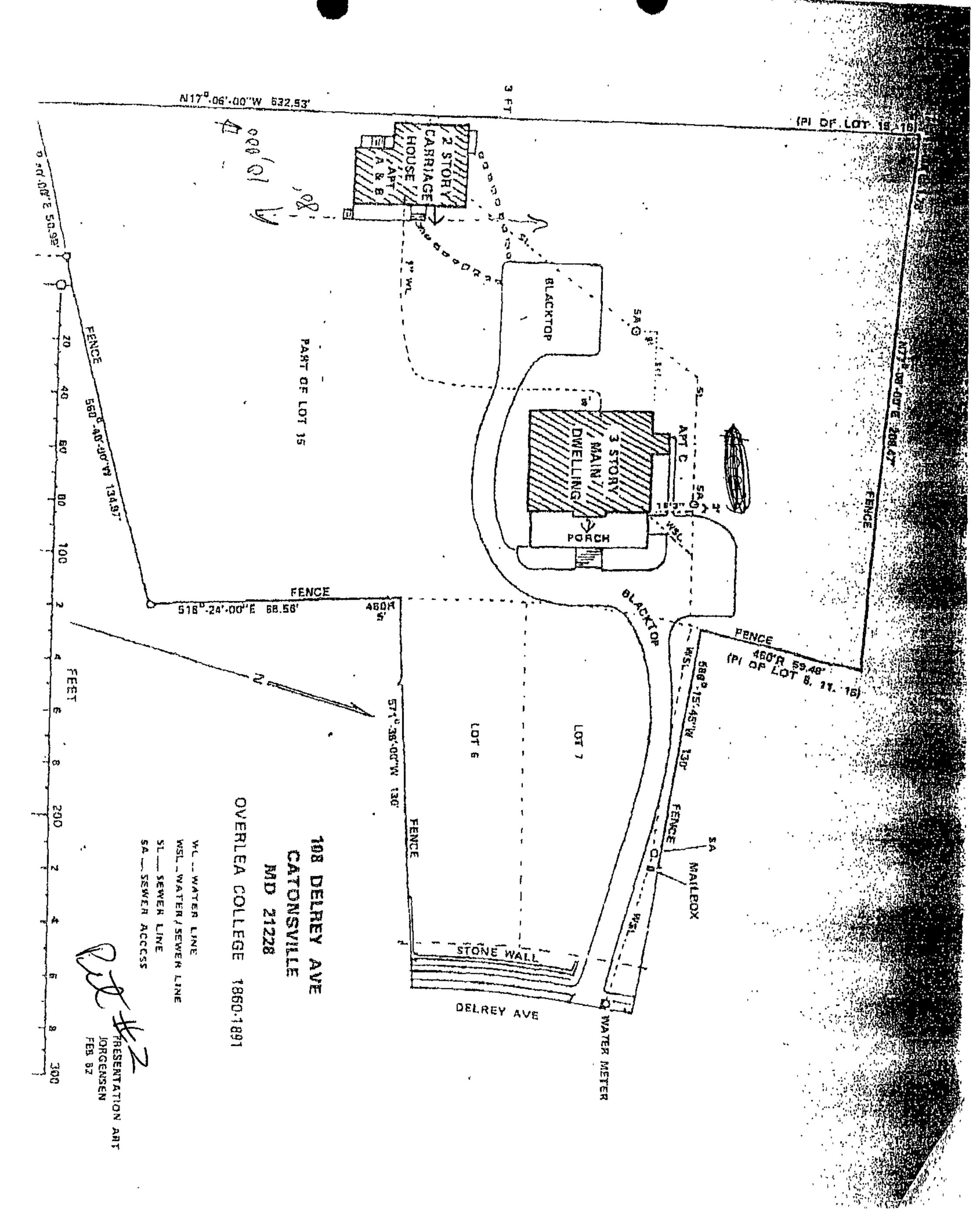
Mildred E. Zhanominy, Notery Public
Anima Ananchi County
State of Marytand
My Commission Expires July 1, 1999 2007


CASE NAME 108 Deliver Aue CASE NUMBER 04-0805717 DATE 10/2/03

# PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Martha Melmi	195 Quality Jerrac	e Martinelung W125401	
James P. Beahn	1625 Union Ane	Balt. Md 21211	
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	RE: Case No.: <u>04-080-</u>
	Petitioner/Developer:
	MARTHA MEZHICK
	Date of Hearing/Closing: 10/z/2
Baltimore County Department of	
Permits and Development Management County Office Building, Room 111	
111 West Chesapeake Avenue	
Towson, MD 21204	
Attention: Ms. Becky Hart	
Ladies and Gentlemen:	
This letter is to certify under the penalties of	perjury that the necessary sign(s) required by la
were posted conspicuously on the property lo	
1080	ELREY AVE.
	3
The sign(s) were posted on	9/17/03
•	(Month, Day, Year)
CASE # 04-080-SP1'	
	Sincerely,
	Sincerely,
	11110-200 i
	Suchel Malin
	Signature of Sign Poster and Date)
	Signature of Sign Poster and Date)  RICHARD E. HOFFMAN
	Signature of Sign Poster and Date)  RICHARD E. HOFFMAN  (Printed Name)
	Signature of Sign Poster and Date)  RICHARD E. HOFFMAN  (Printed Name)  904 DELLWood DR.
	(Signature of Sign Poster and Date)  RICHARD E. HOFFMAN  (Printed Name)  904 DELLWood DR.  (Address)
	(Signature of Sign Poster and Date)  RICHARD E. HOFFMAN  (Printed Name)  904 DELLWOOD DR.  (Address)  FALLS TON, MO 210
	(Signature of Sign Poster and Date)  RICHARD E. HOFFMAN  (Printed Name)  904 DELLWOOD DR.  (Address)  FALLS TON, MO 210  (City, State, Zip Code)
	(Signature of Sign Poster and Date)  RICHARD E. HOFFMAN  (Printed Name)  904 DELLWOOD DR.  (Address)  FALLS TON, MO 210
	(Signature of Sign Poster and Date)  RICHARD E. HOFFMAN  (Printed Name)  904 DELLWOOD DR.  (Address)  FALLS TON, MO 210.  (City, State, Zip Code)  (410) 879-3127
	(Signature of Sign Poster and Date)  RICHARD E. HOFFMAN  (Printed Name)  904 DELLWOOD DR.  (Address)  FALLS TON, MO 210.  (City, State, Zip Code)  (410) 879-3127