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OPINIONS COMMENTS

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(1)

IN THE MATTER OF
THE APPLICATION OF
BONNER-JOPPA, LLC — PETITIONER
FOR SPECIAL HEARING ON PROPERTY LOCATED
ON THE SW/CORNER OF "C" STREET AND
AVONDALE ROAD (3015 E JOPPA ROAD)

11TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT * BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. 04-127-SPH

OPINION

This case comes to the County Board of Appeals as an appeal filed by the Office of People's Counsel from a decision of the Deputy Zoning Commissioner's decision issued on December 3, 2003, granting the special hearing request to approve an amendment to the Order in Case No. 02-066-SPHA, Restriction No. 9, to permit one tow truck to be stored on-site for the purpose of providing emergency towing services under contract from Baltimore County from the subject property at 3015 East Joppa Road.

The Petitioner, Mr. Timothy Bonner, of Bonner-Joppa, LLC, was represented by F. Vernon Boozer, Esquire. Peter M. Zimmerman, People's Counsel for Baltimore County, appeared on behalf of that office. The Board conducted a public hearing on September 22, 2004, and a public deliberation on November 4, 2004.

In his opening statement, Mr. Zimmerman described the zoning history of the subject site, which dates back to 1975. The lot is zoned for commercial use (B.L.-A.S.) but is surrounded by a residential neighborhood (D.R. 5.5). The most recent zoning decision is dated September 28, 2001. Mr. Zimmerman noted that a compromise agreement was reached at that time with the neighborhood which set 10 restrictions on the granting of the special exception. The instant case (Case No. 04-127-SPH) involves Restriction No. 9, which prohibited tow trucks from operating on the property.

The main issue in this case, according to Mr. Zimmerman, was whether an agreement that

Case No. 04-127-SPH / Bonner-Joppa, LLC - Petitioner

was reached only a few years ago could be changed unless the situation had changed dramatically. He argued that residents needed to have confidence when entering into an agreement to a special exception that it is going to hold; otherwise, they will be disinclined to enter into such agreements.

Mr. Zimmerman also argued that the Deputy Zoning Commissioner should not have based his decision on the "emergency need" by the County for an additional tow truck operator, but on the special exception requirements set for in § 502.1 of the *Baltimore County Zoning Regulations* (BCZR).

In his opening statement, Mr. Boozer submitted Petitioner's Exhibit 1, a copy of the decision in Case No. 02-066-SPHA dated September 28, 2001, which granted the Petitioner's request to amend a previously approved special exception granted in Case No. 95-423-SPH (decision dated August 2, 1995), and a request for variance, subject to ten restrictions.

Testimony

The first witness called by the Petitioner was Mike Walkley, a Civil Engineer who prepared the site plan for the tow truck operation at the subject location. He testified that the tow truck would be stored on the west side of the building (known as Tim's Auto), and that a fence would screen the truck. The truck would also be screened from Avondale Avenue by the building itself. Two parking spaces would be eliminated as a result. Petitioner's Exhibit 2 was accepted into evidence showing a plan of the site.

Testimony was then given by Officer Ruark, of Baltimore County Traffic Management.

Mr. Ruark had prepared a report for permitting a tow truck operation at 3015 Joppa Road, which was submitted as Petitioner's Exhibit 3. Officer Ruark testified that the report recommended that

another towing operation was needed in the Harford Road corridor. However, Officer Ruark noted that the Police Department took a position of "neutrality" on whether Bonner-Joppa should be granted a towing license, stating that the report did not reach a conclusion as to whether this particular site filled the Department's needs.

Mr. Timothy Bonner next testified regarding the subject property. He bought the property in September 2001, at which time it was an "old rundown garage" with two service bays.

Because the building was dilapidated, he tore it down and went through the zoning process to rebuild. Petitioner's Exhibits 4A-H were introduced to show the new building, the location of parked cars, the fence, and where the tow truck operation would be run.

Mr. Bonner was asked why he now wanted tow trucks on the site, when the original special exception included a condition prohibiting them. Mr. Bonner replied that he had originally intended to run the tow trucks from his first location in Baltimore City, but as his business on Joppa Road has grown, he needs the tow trucks to further expand. He further testified that he wanted the Police Department towing license and needed to be able to operate tow trucks from the subject site. Mr. Bonner stated that the agreement entered into 2 years ago is now limiting his business.

Mr. Bonner further testified that he owns a house in the nearby residential neighborhood on 6th Avenue, which he owns with his brother.

Upon cross-examination, Mr. Bonner admitted that he currently has a tow truck operation in Perry Hall. Mr. Zimmerman offered People's Counsel Exhibits 2A-P, which Mr. Bonner identified. Exhibits 2A-C are photos showing Tim's Auto on the subject site. Exhibit 2D shows vans from Tim's Auto parked on Avondale Avenue, around the corner from the shop. Exhibit

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2H and 2I show vehicles on C Street. Exhibit 2K shows a van on Avondale. Exhibit 2L show's Mr. Bonner's house and garage on Avondale.

When asked by Mr. Zimmerman how often the tow trucks would operate, Mr. Bonner testified that it would be a 24-hour operation, because towing could occur at all hours whenever a customer breaks down. Mr. Zimmerman pointed out that this would be contrary to Condition 7 of the original request for variance, which limits hours of operation to from 7 a.m. to 6 p.m. Monday through Friday and 8 a.m. to 3 p.m. on Saturdays. Mr. Bonner stated that he understood this restriction to mean those were the hours he could be open for business, but that this did not preclude him from towing a vehicle to his business.

Upon questioning by Panel Chairman Don Mohler, Mr. Bonner admitted that the towing operation would enable him to serve more customers, not just the Police Department.

Mr. Zimmerman introduced People's Counsel Exhibit 3, an aerial photo of the site and surrounding neighborhood, and People's Counsel Exhibit 4, a zoning map of the area, with the location of the site marked in yellow. People's Counsel Exhibit 5 is a copy of the decision granting a special exception to operate a service garage granted on June 4, 1975 to the original owner of the site (Case No. 75-262-X), and People's Counsel Exhibit 6 is a copy of the decision granting a Special Hearing in August 1995 to amend the 1975 Special Exception to remove Condition 2 (Case No. 95-423-SPH). Finally, Mr. Zimmerman introduced People's Counsel Exhibit 7, a letter from the Carney Improvement Association to Mr. Timothy Kotroco, the Deputy Zoning Commissioner for Baltimore County, dated September 21, 2001, in which the community association expressed support for Mr. Bonner's Petition for a Special Hearing on condition that certain restrictions be placed on the business.

The first witness called by People's Counsel, Marilyn Ryan, of 3414 Sixth Avenue in Carney, testified regarding her concern for the proposed towing operation. Her concern centered on the continued expansion of the business. She stated she was concerned that tow trucks would be running all night. She also testified that she was concerned about what would be done with cars towed to the site from accidents, since Tim's Towing was not allowed to do body work - one of the original conditions. She further testified that vehicles from the auto shop have been parked illegally on nearby vacant property and at the house that Bonner owns on 6th Avenue.

The second witness called by Mr. Zimmerman was Ruth Baisden, representing the Greater Parkville Council (People's Counsel Exhibit 10). She testified that, while the neighborhood wanted to see the property improved, it was initially concerned about the size and scope of the business, which was why the restrictions were originally placed on it in 2001. Ms. Baisden pointed out that the nearby area is all residential, and the community must constantly police Bonner's actions to enforce the current restrictions.

Other witnesses testified to seeing the commercial vans that Bonner's shop repairs parked on Avondale, where they are not allowed, and at Bonner's house on 6th Avenue (People's Counsel Exhibits 13A-E).

In his closing argument, Mr. Boozer pointed out that Mr. Bonner had eight tow trucks at his Perry Hall location and only wanted one at this location, and that he wanted the one at the subject location for his convenience and his customers. He argued that Mr. Bonner had complied with the original restrictions during the last two years, but because his business had grown, he now needs the restrictions amended to allow a tow truck on the site.

In his closing, Mr. Zimmerman argued that, although the Bonner property is zoned B.L.-

A.S., the surrounding area is residential zoning, D.R. 5.5. In order for his special exception request to be granted, Mr. Bonner had to meet the conditions placed on it to accommodate the residential neighborhood's concerns. Since the decision in 2001, Mr. Zimmerman argued, there had been no "substantial change in conditions" as to the facts or the law, as required by *Whittle v. Board of Zoning Appeals*, 211 Md. 36 (1956), for the Board to now modify the conditions placed on the subject property. Mr. Zimmerman pointed out that the only change has been that Bonner's business has grown, but that the original intent of the 2001 restrictions was to moderate the business. Mr. Zimmerman further argued that the special exception requirements of BCZR 502.1 require that the impact on the neighborhood be considered.

Mr. Boozer then argued that this was not a 502.1 case, because the special exception for a service garage had been made in 1975. The request now was for an amendment to the conditions made in 2001.

Decision

The history of this case dates back to 1952, when the special exception for a two-bay service station was first granted (Case No. 22435A). In 1975, a second Petition for Special Exception was filed. In his opinion in that case (Case No. 75-262-X), the Deputy Zoning Commissioner for Baltimore County, James Dyer, noted that "[t]estimony by several area residents established that the subject property has, in the past, been a blight on the neighborhood due to maintenance, junk, etc." (Peoples Counsel Exhibit 5, p. 1). Because the residents thought the new owner "was providing a service to the community," the Deputy Zoning Commissioner found that the use met the requisites of § 502.1 and granted the special exception with certain restrictions. Among the four restrictions were Restriction 2, which prohibited body or fender

work; and Restriction 3, which required that overnight storage of vehicles take place only behind a stockade fence.

Twenty years later, in 1995, the same owner, Antoni Horodowizc, petitioned for special hearing to amend the 1975 special exception to remove Restriction 2 and allow body and fender work to be performed on the site (Case No. 95-423-SPH). Area resident testimony again cited problems with the maintenance of the property. Although one witness for the neighborhood did not oppose the removal of the restriction, he did request that the "property be cleaned up and kept that way." (Peoples Counsel Exhibit 6, p. 2). The Deputy Zoning Commissioner, Timothy Kotroco, granted the amendment, but again set four restrictions. Among those restrictions were Number 2, which requires that all wrecked or damaged vehicles be stored within the fenced/screened area on site; and Number 3, which required improvement and maintenance of the property, in accordance with the dictates of the Office of Planning and Zoning.

We then come to the first Petition for Special Hearing and Variance of September 2001 (Case No. 02-066-SPHA), requested by the current owner of the subject property, Bonner Joppa LLC/Tim's Automotive, in conjunction with the original owner Antoni Horodowicz (Petitioner's Exhibit 1). This petition requested permission to allow the construction of a new building on the subject property and grant a variance from § 409.8.4 of the BCZR to allow existing parking spaces to continue with a 0-foot setback from the street right-of-way in lieu of the required 10 feet. In his opinion in this case, Mr. Timothy Kotroco states, "In order to proceed with the redevelopment of this property, the special hearing request, as well as the variance request, are necessary." (Petitioner's Exhibit 1, p. 2) In granting the request, Mr. Kotroco goes on to state, "I believe it is necessary to place appropriate conditions and restrictions upon this Petitioner, in

Case No. 04-127-SPH / Bonner-Joppa, LLC - Petitioner

order to protect the interests of the surrounding residential community." (Petitioner's Exhibit 1, p. 3)

A total of ten restrictions were placed upon the business as a condition for granting the special hearing and variance request. Among these restrictions are Number 5, which specifies that damaged vehicles should be stored on Petitioner's property and that automobiles waiting for repair should be in designated spaces on the property; Number 7, which limits the hours of operation; and Number 9, which prohibits a towing operation and the storing of a tow truck, but does allow tow trucks to bring automobiles to the site for repair.

The petition before us now seeks to amend the Special Hearing and Variance of September 2001 by removing Restriction Number 9 and allowing a single tow truck to operate from the site.

The neighborhood thus has a 50-year history with the operation of a service station/garage on this site, and most of that history appears to have been negative from the neighborhood's viewpoint.

Counsel for Petitioner argues that, because Mr. Bonner's business has increased since 2001, conditions have changed as to allow the amendment of the restrictions placed upon the site.

People's Counsel argues that the standard of *res judicata* applies. Mr. Zimmerman cites Whittle v. Board of Zoning Appeals, which states:

The general rule, where the question has arisen, seems to be that after the lapse of such time as may be specified by the ordinance, a zoning appeals board may consider and act upon a new application for a special permit previously denied, but that it *may properly grant such a permit only if there has been a substantial change in conditions* [emphasis added]. . . .

Case No. 04-127-SPH / Bonner-Joppa, LLC - Petitioner

This rule seems to rest not strictly on the doctrine of res judicata, but upon the proposition that it would be arbitrary for the board to arrive at opposite conclusions on substantially the same state of facts and the same law.It is our view that where the facts are subject to changes which might reasonably lead to an opposite result from that arrived at in an earlier case, and if there have been substantial changes in fact and circumstances between the first case and the second, the doctrine of res judicata would not prevent the granting of the special permit sought by the appellees [emphasis added].

The Board finds that the Petitioner has not shown substantial change in fact and circumstances that would lead to approval of removing the restriction on a towing operation. The restrictions were originally placed on the service garage with the express purpose of protecting the neighborhood, which has suffered for at least 30, and possibly 50, years from poorly maintained service garages on this site. The argument that the business has grown and therefore needs to operate a tow truck from the premises, if anything, supports the community concerns that led to the initial restrictions. As Mr. Zimmerman pointed out in his closing arguments, the restrictions were intended to moderate the business, so it would not have a harmful impact on the surrounding residential community. In this respect, the changing circumstances of Mr. Bonner's business do not lead to an opposite result, but to the same result: the restrictions remain necessary to protect the surrounding community.

Testimony by Mr. Bonner and witnesses for People's Counsel seems to support the argument by the People's Counsel that removing Restriction 9 would, in effect, also remove Restriction 7 (regulating the hours of business), because the towing operation would potentially operate 24 hours.

In granting the special exception in 1975, and in amending and modifying that special exception subsequently, the zoning commissioners placed certain restrictions on the property in order to address the requirements of BCZR 502.1. Without these conditions, particularly the ten

placed on the property in 2001, the special exception and subsequent amendments might not have been granted. The relevant portions of BCZR 502.1 state:

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.

Based upon the testimony, which indicated that there was already congestion caused by vehicles awaiting repair parked on the public streets -- contrary to Restriction #5 -- and since a towing operation would potentially only increase the vehicles brought to the site, the Board finds that the proposed use would be detrimental to the health, safety or general welfare of the locality and would tend to create congestion in the roads, streets, or alleys therein. The Board voted unanimously against amending the restrictions.

Further, this Board is concerned with the precedent that would be set if an agreement between a community and a business were set aside within only 2 years of being reached. The community acted in good faith in not opposing Mr. Bonner's original petition in 2001 because he agreed to the ten conditions they requested. The community should not have to fight the same battle every 2 years.

Although the Deputy Zoning Commissioner, in his December 2003 decision, cited the Baltimore County Police Department's need for a towing operation in the Harford Road area, that is not one of the criteria for granting a special exception – and, therefore, in this matter, it is not a criteria for amending the special exception.

Therefore, this Board will deny the special hearing request and will so order.

ORDER

THEREFORE, IT IS THIS 27 th day of January, 2005 by th County Board of Appeals of Baltimore County

ORDERED that the Petitioner's special hearing request to approve an amendment to the Order in Case No. 02-066-SPHA, Restriction No. 9, to permit one tow truck to be stored on-site be and the same is hereby **DENIED**.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY¹

Margaret Brassil, Ph.D.

Edward W. Crizer, Jr.

While the third member of this panel, Donald I. Mohler III, publicly deliberated and participated in reaching the above unanimous decision of the Board, Mr. Mohler resigned from the Board prior to signature of this Opinion and Order. Therefore, this written decision has been signed by the two remaining panel members.



County Board of Appeals of Baltimore County

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

January 27, 2005

Peter Max Zimmerman People's Counsel for **Baltimore County** Room 47, Old Courthouse 400 Washington Avenue Towson, MD 21204

> RE: In the Matter of: Bonner-Joppa, LLC - Legal Owner/ Petitioner / Case No. 04-127-SPH

Dear Mr. Zimmerman:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

yours, C. Binico/trs

Administrator

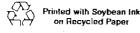
Enclosure

c: F. Vernon Boozer, Esquire Bonner-Joppa, LLC /Tim Bonner Gene Bonner Mike Walkley Dennis Buchanan, Sr. Ruth Baisden Alice Baker Meg O'Hare Marianne Rush Thomas Bosley Marilyn K. Ryan

Pat Keller, Planning Director

William J. Wiseman III, Zoning Commissioner

Timothy M. Kotroco, Director /PDM



CALING 12/3/03

IN RE: PETITION FOR SPECIAL HEARING SW/Corner of "C" Street

and Avondale Road
11th Election District
6th Councilmanic District
(3015 E. Joppa Road)

Bonner-Joppa, LLC - Petitioner

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

* CASE NO. 04-127-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, Bonner-Joppa, LLC. The Petitioner is requesting special hearing relief for property he owns at 3015 E. Joppa Road in the Parkville area of Baltimore County. The special hearing request is to approve an amendment to the Order in Case No. 02-066-SPHA to permit tow truck operations from the subject property and remove Restriction No. 9 from said Order pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The property was posted with Notice of Hearing on October 11, 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 October 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: A ZAC comment was received from the Bureau of Development Plans Review dated September 30, 2003 proposing that access off of Avondale Road closest to Joppa Road shall be eliminated. A copy of this comment is attached hereto and made a part hereof. A ZAC comment form the Office of Planning dated October 31, 2003 was also received and states that Planning supports the Petition. A copy of this comment is also attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were Timothy Bonner and Gene Bonner, family members of the owner of the property, Mike Wakley, Civil Engineer who prepared the plan, Dennis Buchannan Sr. and Lawrence F. Haislip, Esquire, Petitioner's attorney. Protestants included Ruth Baisden, President of the Greater Parkville Community Council, Meg O'Hare and Alice Baker, nearby property owners. 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 BL-AS. Testimony and evidence proffered by Mr. Haislip indicated that the property was the subject of a Petition for Special Hearing and Variance, in Case No. 02-066 SPHA that requested to modify an existing special exception and parking variance. In his September 28, 2001 Order, Deputy Zoning Commissioner Kotroco, granted the special hearing and variance but imposed Restriction No. 9, which forbade tow truck operations from the property. This opinion recognized the fact that the Petitioner operated a tow truck service in addition to the auto repair business on the site and that tow trucks would be bringing non-operational vehicles to the site for

repair. However, no tow trucks were to be parked on the site nor was the site to become a location from which tow trucks would be dispatched or stored.

Mr. Haislip indicated that the Petitioner, who does operate a towing service from a Perry Hall location, was approached by the Baltimore County Police Department requesting that the Petitioner begin operating from this location due to its easy access to the Baltimore Beltway and growth in the surrounding area. The idea was that although several tow truck services were operating in the area more service was needed as a public service. This service is different from general contract towing. In the proposed service, the Police Department would radio for a tow truck for a disabled vehicle (perhaps on the Beltway) and a tower licensed by Baltimore County would respond.

Amended Petition

The original petition sought to simply eliminate all restrictions on operating a towing service from the site. However, as the testimony progressed, the Petitioners amended their petition and sought only to store one tow truck on the site for the purpose of participating in the Police Department towing program. This amendment was accepted and became the basis for the contested case described below. In addition, the Petitioners' engineer modified the plan to accompany the Petition (Petitioner's Exhibit No. 1) to show the location of the proposed tow truck operation behind the fenced area of the site and to modify the parking spaces provided from 21 to 19. The plan indicates 17 spaces are needed.

The Petitioners' testimony and evidence thereafter indicated that that the single tow truck would be stored in an existing fenced area on the site and would be nearly invisible to the passing public. See photo Petitioner's Exhibit Nos. 2A and 2F. The Petitioner also pointed out that they had removed a derelict service station at this location some years ago greatly improving the neighborhood. In addition, Mr. Bonner testified that he had complied with all the conditions

of the 2001 Order and submitted photographs of the plantings (see Petitioner's Exhibit Nos. 2C, 2D and 2G) which beautified the site. He further stated that he had been approved by the County Police Department and simply needed this zoning restriction lifted to begin this public service.

The Protestants attacked Mr. Bonner's credibility in pointing out that the plantings which supposedly showed compliance with the 2001 Order were in fact planted only days before the hearing on this petition. In addition, the Protestants provided newspaper accounts of the Petitioners' suspension of contract towing privileges with Baltimore City. Finally, the Protestants submitted photographs of the overflow parking being utilized by the Petitioners on the public street immediately in front of the Petitioners' business. The Protestants complained that vans, small buses and vehicles of all descriptions were queued on C Street and Avondale Road, which indicated the overreaching and over utilization of the property by the Petitioner. See Protestant's Exhibit Nos. 2A through 2V and 3A through 3D.

After the hearing was concluded, a series of ex parte communications ensued which, because of the seriousness of their nature and content, were considered by the undersigned. First, one of the Protestants, Ms. O'Hare, charged in a letter that the County Police had not only not requested that the Petitioners apply for a contract to tow for the County, but in fact disfavored this potential contractor. Notice of the accusation was sent to Mr. Haislip with a request that he investigate the matter. Mr. Haislip responded on November 13, 2003 indicating that Ms. O'Hare's characterization of the Police Department's position was not accurate. Finally, Officer Ruark of the Baltimore County Police Department called me to explain the Police Department's towing procedures. He also wanted to express the Police Department's official neutrality to all applicants, to inform me that the issue of the need for more towing services would in fact be decided administratively by the Department of Permits & Development

Management ("PDM"), and that having the proper zoning was a first step in the applicant's review by PDM. In other words, unless Restriction No. 9 of the 2001 Order were modified the Petitioner would not be considered for a contract. Officer Ruark did opine that the County has had the same number of towers under contract for many years but that the area had grown in population. Presumably, this meant that there was a good chance the Petitioner could show a need to PDM in the upcoming inquiry. My letter summarizing the conversation with Officer Ruark was sent to all parties and all correspondence is made a part of this record.

At the hearing both Petitioners and Protestants requested that I visit the site prior to making a decision on the matter. I, therefore, visited the site on November 25, 2003 and observed that the site is approximately 0.6 miles from the Baltimore Beltway. On the day of my visit, the site appeared very similar to the scenes shown in the photographs presented by both the Petitioners and Protestants. There were 18 vehicles parked on-site, (3 vehicles parked within the fenced area, 22 vehicles parked on C Street and 5 vehicles parked on Avondale Road). There was one vehicle with no tags, which had been posted with a notice from the Police Department that the vehicle may be towed. Many of the vehicles were large passenger vans that could transport perhaps 20 persons. I did not inquire as to the reason for each vehicle being parked at the location. I noted that the plantings situated at the site were as shown in the photograph exhibits submitted by both parties.

Findings of Fact and Conclusions of Law

On my visit to the site, I saw the extent of the off-site queuing of vehicles waiting for service at the Petitioners' business. The Protestants charged at the hearing that these vehicles belonged to the Petitioners' customers. The Petitioner did not deny this charge, but rather noted, somewhat indignantly, his constitutional right to have his customers park on the public streets. This is in sharp contrast to the off-street parking required by the B.C.Z.R. It seems that Section

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409 is woefully inadequate in specifying the number of on-site parking spaces required for this kind of business. Nevertheless, the vehicles were parked on streets that did not violate the 2001 Order of this office.

I find that Mr. Bonner's credibility was seriously damaged in testifying that he had already been approved for the contract with Baltimore County when in fact he had just begun the process. I am disappointed that he would actually accomplish the plantings on-site just a few days before the subject hearing and then present himself as having complied with every aspect of the 2001 Order. Similarly, I am very concerned that his business overflows onto the public street to the extent that it clearly does. Finally, I am disturbed that the Petitioner would originally ask for revocation of Restriction No. 9 with the implication that he wants to operate a full fledged, general tow service from the site. It was only when faced with opposition at the hearing that he amended his petition to allow a single tow truck stored on-site for emergency contract work with Baltimore County.

On the other hand, there is a very good likelihood that the Petitioner will be granted a contract as a County tower. This is a public service and obviously, if PDM so finds, a needed service for the community. The price is two parking spaces, which undoubtedly will mean two more vehicles parked on C Street and Avondale Road. While I recognize how important the B.C.Z.R. concept that all customers and employees park on-site, C Street and the portion of Avondale Road allowed for parking by the 2001 Order are not residential streets, but exclusively serve the businesses located on that corner of Joppa and Harford Roads. The question is then, would having one additional emergency towing service available to the general public be worth putting two more vehicles on these streets? Under the circumstances, I cannot imagine that Mr. Bonner will voluntarily restrict the volume of business to ensure that two fewer customers will

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be served. Finally, I have the strong endorsement of the Planning Office who supports the Petitioners' request.

With great reluctance, I conclude that the potential public need for emergency towing is worth the price of these two more vehicles being parked on the public streets. I conclude this knowing that Mr. Bonner would really like to operate a general towing service from the site. I shall granted the amended petition with the restriction that towing services from the site are restricted to one tow truck stored on-site that shall be use for contract towing should DPM find a need for such and the Petitioners qualify to provide that need.

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

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this day of December, 2003, that the Amended Special Hearing request, to approve an amendment to the Order in Case No. 02-066-SPHA, Restriction No. 9, to permit one tow truck to be stored on-site within the fenced area shown on Petitioner's Exhibit No. 1 for the purpose of providing emergency towing services under contract from Baltimore County from the subject property pursuant to Section 500.7 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.

IOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

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

December 3, 2003

Lawrence F. Haislip, Esquire Miles & Stockbridge, P.C. 600 Washington Avenue, Suite 300 Towson, Maryland 21204

> Re: Petition for Special Hearing Case No. 04-127-SPH

> > Property: 3015 East Joppa Road

Dear Mr. Haislip:

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 menghy

JVM:raj Enclosure



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

Copies to:

Tim Bonner Bonner-Joppa, LLC 3015 East Joppa Road Baltimore, MD 21234

Mike Walkley 2000 Clipper Park Road, Suite 200 Baltimore, MD 21211

Gene Bonner 9720 Hickoryhurst Drive Baltimore, MD 21236

Dennis Buchanan, Sr. 6 Compass Road Baltimore, MD 21220

Ruth Baisden 7706 Oak Avenue Baltimore, MD 21234

Alice Baker 2307 Ellen Avenue Baltimore, MD 21234

Meg O'Hare 3012 Summit Avenue Baltimore, MD 21234

Copies to:

Tim Bonner Bonner-Joppa, LLC 3015 East Joppa Road Baltimore, MD 21234

Mike Walkley 2000 Clipper Park Road, Suite 200 Baltimore, MD 21211

Gene Bonner 9720 Hickoryhurst Drive Baltimore, MD 21236

Dennis Buchanan, Sr. 6 Compass Road Baltimore, MD 21220

Ruth Baisden 7706 Oak Avenue Baltimore, MD 21234

Alice Baker 2307 Ellen Avenue Baltimore, MD 21234

Meg O'Hare 3012 Summit Avenue Baltimore, MD 21234

APPEAL SIGN POSTING REQUEST

CASE NO.: 04-127-SPH

BONNER-JOPPA LLC

3015 E. JOPPA ROAD, BALTIMORE 21234

11TH ELECTION DISTRICT

APPEALED: 12/22/03

ATTACHMENT – (Plan to accompany 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

CASE NO.: 04-127-SPH

Petitioner/Developer:

BONNER-JOPPA, LLC

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

3015 E. JOPPA ROAD, BALTIMORE 21234

The sign was posted on 2/11	, 2004
By: My (Signature of Sign Poster)	
GARY FREUND	. *
(Printed Name)	,



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

66.9

40 of productions

May 10, 2004

NOTICE OF ASSIGNMENT

CASE #: 04-127-SPH

IN THE MATTER OF: Bonner-Joppa, LLC - Petitioner /Legal Owner 3015 E. Joppa Road 11th Election District; 6th Councilmanic District

12/03/03 - Order of D.Z.C. in which requested special hearing relief was GRANTED.

ASSIGNED FOR:

TUESDAX, JULY 20, 2004 at 10:00 a.m.

NOTICE:

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

advisability of retaining an attorneys

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:

Appellant

: Office of People's Counsel

Counsel for Petitioners

: Lawrence F. Haislip, Esquire

Petitioners

: Bonner-Joppa, LLC/Tim Bonner

Gene Bonner

Mike Walkley Dennis Buchanan, Sr.

Ruth Baisden

Alice Baker Meg O'Hare

Pat Keller, Planning Director Lawrence E. Schmidt, Zoning Commissioner Timothy M. Kotroco, Director /PDM







Meg O'Hare, President Romi Shah, Vice-President Marilyn Ryan, Secretary John Ryan, Treasurer Joanne Krause, Recording Secretary Pat Rooney, Sergeant-At-Arms

P.O. Box 28282 Carney, Maryland 21234-8282 William Trageser III, Director Mary Sue Rooney, Director Shirley Briggeman, Director Ruth Baisden, Director Joyce Trageser, Director Joseph Boteler, Director

June 23, 2004

County Board of Appeals Old Court House, Room 49 400 Washington Avenue Towson, Maryland 21204 JUN 2 4 2004

BALTIMORE COUNTY
BOARD OF APPEALS

Dear Sir:

On behalf of the Carney Improvement Association and the Greater Parkville Community Council, I would like to request a postponement of the hearing for:

Case #04-127-SPH

IN THE MATTER OF: Bonner-Joppa LLC-Petitioner/Legal Owner 3015 E. Joppa Road 11th Election District; 6th Councilmanic District

I have included a copy of the Notice of Assignment.

The reason that we are asking for this postponement is because both Ruth Baisden, President of the Greater Parkville Community Council, and me, President of the Carney Improvement Association, will be away on long scheduled vacations.

This case is extremely important to my community and both Ruth and I were the community representatives at the original hearing and we are the ones who filed the appeal.

We appreciate your consideration of this request.

Thank You.

Sincerely,

Meg O'Hare President

9-22-04



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

June 30, 2004

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 04-127-SPH

IN THE MATTER OF: Bonner-Joppa, LLC - Petitioner /Legal Owner 3015 E. Joppa Road 11th Election District; 6th Councilmanic District

12/03/03 - Order of D.Z.C. in which requested special hearing relief was GRANTED.

which had been assigned for hearing on 7/20/04 has been **POSTPONED** at the request of Ms. Baisden and Ms. O'Hare due to previously scheduled vacation conflicts; and, with confirmation of availability of parties, has been

REASSIGNED FOR:

WEDNESDAY, SEPTEMBER 22, 2004 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:

Appellant

: Office of People's Counsel

Counsel for Petitioners

Petitioners

: Lawrence F. Haislip, Esquire

: Bonner-Joppa, LLC /Tim Bonner

Gene Bonner

Mike Walkley Dennis Buchanan, Sr.

Counsel for Joppa, LLC entered appearance 8/13/04:

F. Vernon Boozer, Esquire

Ruth Baisden Alice Baker Meg O'Hare

Pat Keller, Planning Director

Lawrence E. Schmidt, Zoning Commissioner

Timothy M. Kotroco, Director /PDM



County Board of Appeals of Baltimore County

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

September 24, 2004

NOTICE OF DELIBERATION

IN THE MATTER OF:

BONNER-JOPPA LLC. – Petitioner Case No. 04-127-SPH

Having heard this matter on 9/22/04, public deliberation has been scheduled for the following date /time:

DATE AND TIME

THURSDAY, NOVEMBER 4, 2004 at 9:00 a.m.

LOCATION

Hearing Room 48, Basement, Old Courthouse

ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED.

A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco Administrator

c:

Appellant

: Office of People's Counsel

Counsel for Petitioners

Petitioners

: F. Vernon Boozer, Esquire

: Bonner-Joppa, LLC /Tim Bonner

Gene Bonner

Mike Walkley

Dennis Buchanan, Sr.

Ruth Baisden

Marianne Rush

Alice Baker

Thomas Bosley

Meg O'Hare

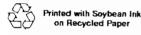
Marilyn K. Ryan

Pat Keller, Planning Director

Lawrence E. Schmidt, Zoning Commissioner

Timothy M. Kotroco, Director /PDM

FYI: 1-5-7





baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

> 410-887-2188 Fax: 410-823-4236

PETER MAX ZIMMERMAN People's Counsel

December 22, 2003

CAROLE S. DEMILIO Deputy People's Counsel

Timothy Kotroco, Director Department of Permits and Development Management 111 W. Chesapeake Avenue Towson, MD 21204

Hand-delivered

Re:

PETITION FOR SPECIAL HEARING SW/corner of "C" Street and Avondale Road (3015 E. Joppa Road) 11th Election District; 6th Council District Bonner-Joppa, LLC - Petitioner(s) Case No.: 04-127-SPH

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated December 3, 2003 by the Baltimore County Deputy Zoning Commissioner in the above-entitled case

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

Very truly yours.

Peter Max Zimmerman

People's Counsel for Baltimore County

PMZ/ mw

Lawrence F. Haislip, Esquire cc:

RECEIVED

DEC 2 2 2003

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

January 30, 2004

Lawrence Haislip Miles & Stockbridge P.C. 600 Washington Ave., Ste. 300 Towson, MD 21204

Dear Mr. Haislip:

RE: Case: 04-127-SPH, 3015 E. Joppa Road

Please be advised that an appeal of the above-referenced case was filed in this office on December 22, 2004 by Peter Zimmerman with People's Counsel. 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

Timothy Kotroco Director

TK:klm

c: Lawrence E. Schmidt, Zoning Commissioner Timothy Kotroco, Director of PDM People's Counsel

APPEAL

Petition for Special Hearing 3015 E. Joppa Road SW/corner of "C" Street and Avondale Road 11th Election District – 6th Councilmanic District Bonner-Joppa, LLC - Petitioners

Case No.: 04-127-SPH

1	RECEIVED	
V Petition for Special Hearing (September 11, 2003)	FEB 0 % 2004	
√ Zoning Description of Property	BALTIMORE COUNTY	
Notice of Zoning Hearing (September 25, 2003)	BOARD OF APPEALS	
Certification of Publication (The Jeffersonian issue October 16, 2003)		
Certificate of Posting (October 11, 2003) by SSG Robert Black		
Entry of Appearance by People's Counsel (September 26, 2003)	
Petitioner(s) Sign-In Sheet One Sheet		
Protestant(s) Sign-In Sheet None	rceived .	
Citizen(s) Sign-In Sheet One Sheet BA	JAN 3 7 2004 LTIMORE COUNTY	
Zoning Advisory Committee Comments (10-24-03) BO	AND OF APPEALS	
Petitioners' Exhibit 1. Plat to accompany petitions for Special Hearing 2a – f. Photos		
Protestants' Exhibits: 1. Newspaper article 2a-v. Photos 3a-d. Photos 4. Not available 5. Newspaper article		
Miscellaneous (Not Marked as Exhibit) Letter dated November 4, 2003 from John Murph Letter dated November 10, 2003 from Lawrence Letter dated November 12, 2003 from John Murp Letter dated November 17, 2003 from Meg O'Har	Haislip hy	
Deputy Zoning Commissioner's Order (GRANTED – December 3, 2003)		
Notice of Appeal received on December 22, 2003 from Peter Zimmerman, People's Counsel		
c: People's Counsel of Baltimore County, MS #2010 Zoning Commissioner/Deputy Zoning Commissioner Timothy Kotroco, Director of PDM Lawrence Haislip, Miles & Stockbridge, 600 Washington	Ave., Ste 300, Towson 21204	

date sent February 2, 2004, klm

anded 9-22-04

MARILYN K RYAN 3014 SIXTH AVENUE BALTIMORE MD 21234

410-665-4450

LAWRENCE HAISLIP ESQUIRE MILES & STOCKBRIDGE PC 600 WASHINGTON AVE SUITE 300 TOWSON MD 21204

Tim Bonner Bonner-Joppa, LLC 3015 East Joppa Road Baltimore, MD 21234

Mike Walkley 2000 Clipper Park Road, Suite 200 Baltimore, MD 21211

Gene Bonner 9720 Hickoryhurst Drive Baltimore, MD 21236

Dennis Buchanan, Sr. 6 Compass Road Baltimore, MD 21220

Ruth Baisden 7706 Oak Avenue Baltimore, MD 21234

Alice Baker 2307 Ellen Avenue Baltimore, MD 21234

Meg O'Hare 3012 Summit Avenue Baltimore, MD 21234 Counsel for Joppa, LLC entered appearance 8/13/04

F. VERNON BOOZER, ESQUIRE COVAHEY & BOOZER, P.A. 614 BOSLEY AVENUE TOWSON, MD 21204

Ms. Ensor FRIENDLY FINANCE CORPORATION 6340 SECURITY BOULEVARD SUITE 200 BALTIMORE, MD 21207

bleid lopy onlyto not fest

Added to file 8/06/04

Ms. Marianne Rush 6 Timber Park Court Timonium, MD 21093

FYI copy to: MR THOMAS BOSLEY 9238 THROGMORTON ROAD BALTIMORE MD 21234 Case No. 04-127-SPH

In the matter of: Bonner-Joppa, LLC - Legal Owner /Petitioner

SPH – To approve amendment to 02-066-SPHA to permit tow truck operations from subject property and to amend Restriction 9 to permit one tow truck stored on-site within fenced area for emergency towing services under contract from BCo.

12/03/03 -D.Z.C.'s decision in which requested special hearing relief was GRANTED.

5/10/04 - Notice of Assignment sent to following; case assigned for Tuesday, July 20, 2004 at 10:00 a.m.

Office of People's Counsel
Lawrence F. Haislip, Esquire
Bonner-Joppa, LLC /Tim Bonner
Gene Bonner
Mike Walkley
Dennis Buchanan, Sr.
Ruth Baisden
Alice Baker
Meg O'Hare
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

- 6/24/04 Letter from Meg O'Hare requesting postponement of 7/20/04 hearing both she and Ruth Baisden will be away on long-scheduled vacations; were representatives of the community associations at the original hearing.
 - -- Letter from House of Delegates -- Boteler and Cluster -- with regard to above PP request.
- 6/25/04 T/C to Ms. Baisden and Ms. O'Hare; Ms. O'Hare indicates in her above letter that "we are the ones who filed the appeal"; however, only one appeal is noted in the case file from PDM that of People's Counsel. Left messages with family members to confirm that only one appeal was filed in this matter; also to confirm available September date.
 - -- T/C to Larry Haislip regarding this request and to confirm September date for reassignment; away until 6/29/04; left voice mail message for his secretary regarding this request.
 - Return call from Tammy for Mr. Haislip she will confirm his calendar for 9/30/04 and call back this afternoon; Monday at the latest.
 - Telephone conversation with Mr. O'Hare they will be in Colorado the last week of September; therefore 9/30/04 will not work for them. Will reassign to 9/22/04 after confirmation with Mr. Haislip.
- 6/30/04 Having received confirmation from L. Haislip as to availability on 9/22/04, Notice of PP and Reassignment sent to parties; case reassigned to Wednesday, September 22, 2004 at 10:00 a.m.
- 8/13/04 Entry of Appearance filed by F. Vernon Boozer, Esquire, on behalf of Joppa, LLC. File noted. Copy of notice sent to Mr. Boozer.
- 9/22/04 Board convened for hearing (Mohler, Crizer, Brassil); concluded hearing this date; no memos to be filed in this matter; public deliberation assigned for Thursday, November 4, 2004 at 9 a.m.; notice to be sent. Added to file: Marilyn K. Ryan 3014 Sixth Avenue 21234 410-665-4450.
- 9/24/04 Notice of deliberation sent to parties; assigned for Thursday, November 4, 2004 at 9:00 a.m. FYI copy to 1-5-7.
- 11/04/04 Board convened for public deliberation; unanimous decision of the Board Petition for Special Hearing to remove restriction #9 is DENIED. Written Opinion/Order to be issued; appellate period to run from date of written Order.

BOARD OF APPEALS OF BALTIMORE COUNTY MINUTES OF DELIBERATION

IN THE MATTER OF:

:

Bonner-Joppa, LLC - Petitioner

Case No. 04-127-SPH

DATE

Thursday, November 4, 2004

BOARD / PANEL

Donald Mohler III

(DM)

Margaret Brassil

(MB)

Edward W. Crizer, Jr.

(EWC)

RECORDED BY

Kathleen C Bianco / Administrator

PURPOSE: To deliberate Case No. 04-127-SPH / Petition for Special Hearing to amend Case No. 02-066-SPHA to permit tow truck and to amend restriction #9 of said Order.

Deliberation:

Discussion of issues:

• Petition for Special Hearing – to remove a condition to special exception granted in September 2001

EWC: To go in and pick out things only 3 years into the special exception – something that was agreed between original owner and neighbors; especially concerned for the actual community association in the neighborhood as opposed to Ms. Baisden's group. The community relied upon the agreement reached in the original decision.

DM: Compelling argument – integrity of original agreement and community trust in making that agreement and agreeing to certain conditions. To come in later and say, I changed my mind – and after only 3 years – problem with that.

EWC: Things can change over time and maybe at some point, would work with the community association to make changes – but not at this point in time.

MB : Conditions were agreed to and would have a problem with removing some of the conditions – effect on the special exception granted and 502.1.

◆ DISCUSSION

§ 502.1 – BCZR

 \checkmark A – health, safety and general welfare of locale

Removal of restriction – does it become detrimental to the health, safety, and general welfare?

Could potentially – from testimony – congestion of vehicles is potentially already demonstrated and if that increases – could make it worse

- ✓ B Congestion is streets, roads and alleys
 Believe this is main issue using public streets for parking; both sides testified
- ✓ C Fire, panic and other dangers

 Remove control from previous ruling possibly creating hazard?

Consideration given to this, but there was no evidence that emergency vehicles could not get through

Believe that "B" is the problem

Further Discussion

- Basically it's a trust issue and looking ahead; putting what might be undue burden on the community to regulate the situation
- Discussed requirements for landscaping which took place much later explanations given but this was the reality
- If limited to one tow truck, who will make sure that's what happens
- Additional issue hours of operation
 - The hours of operation were limited; number of conditions could conceivably now be eliminated that were agreed to 3 years ago
 - Would be a 24-hour operation "need" was argued
 - Need is not one of the requirements for a special exception under 502.1; is not on the list
 - The Deputy Zoning Commissioner reluctantly granted it, citing "need"
 - He thought "need" outweighed everything else; but it's not criteria for special exception

FINAL DECISION

DM – Original Order, including restrictions, issued on September 28, 2001 should stand as issued; restriction #9 should stand

EWC - Agreed - special hearing should denied

MB – Would deny request for special hearing

• Summary – After review and discussion of evidence and testimony provided at the hearing before the Board, Petition for Special Hearing is **DENIED**.

Written Order to be issued by the Board; appellate period to run from date of written Order.

NOTE: These minutes, which will become part of the case file, are intended only to indicate for the record that a public deliberation took place this date regarding this zoning case. 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

Kathleen C. Bianco, Administrator

County Board of Appeals

RB:

IN THE MATTER OF:

BONNER-JOPPA, LLC, PETITIONER

3015 E. JOPPA ROAD 11TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT

- BEFORE T
- COUNTY BOARD OF APPEALS
- OF
- BALTIMORE COUNTY
- CASE NO.: 04-127-SPH

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

TO:

OFFICER RON RUARK #2708
TRAFFIC MANAGEMENT UNIT
BALTIMORE COUNTY POLICE DEPARTMENT
700 EAST JOPPA ROAD
TOWSON, MD 21286

YOU ARE HERESY COMMANDED TO: () Personally appear, () Produce documents and or objects only; (/) Personally appear and produce documents and/or objects; at

ROOM 48, BASEMENT, OLD COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON, MD 21204 on WEDNESDAY, SEPT. 22, 2004 at 10:00 a.m/p.m.

YOU ARE COMMENDED TO produce the following documents and/or objects (for general purpose as stated): TRAFFIC REPORT - NEED FOR + OWING LICENSE.



BALTIMORE COUNTY BOARD OF APPEALS

SUBPOENA REQUESTED BY:

F. VERNON BOOZER, ESQUIRE

(Name of Party/Attorney)

614 BOSLEY AVE., TOWSON, MD 21204

(Address)

410-828-9441

(Telephone Number)

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (____) Private Process Server, issue the summons set forth herein.

THERESA R. SHELTON

COUNTY BOARD OF APPEALS OF

BALTIMORE COUNTY

February 27, 2004

Mr. Thomas Bosley 9238 Throgmorton Road Baltimore, MD 21234

RE: In the Matter of: Bonner-Joppa, LLC Case No. 04-127-SPH

Dear Mr. Bosley:

Per our telephone conversation on February 26, enclosed is a copy of the Deputy Zoning Commissioner's decision in the subject matter.

Please let me know if you wish to be included in the subject file for receipt of notice of hearing when a date has been scheduled before the Board of Appeals.

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

Very truly yours,

Kathleen C. Bianco Administrator

Enclosure



County Board of Appeals of Baltimore County

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

August 6, 2004

Ms. Marianne Rush 6 Timber Park Court Timonium, MD 21093

> RE: In the Matter of: Bonner-Joppa LLC Case No. 04-127-SPH

Dear Ms. Rush:

In response to your request, enclosed is a copy of the Zoning Commissioner's Order issued in the subject case and also a copy of the Notice of Assignment from this office for the September 22nd hearing before the Board of Appeals.

Your name has been added to the file so that, should there be a change in the date of hearing, you will receive a revised notice indicating the new date.

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

Very truly yours,

Kathleen C. Bianco

Administrator

Enclosures (2)



COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 410
828-9441

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
THOMAS P. DORE
MICHAEL T. PATE
STACIE D. TRAGESER

* ALSO ADMITTED TO D. C. BAR

FAX 410-823-7530

ANNEX OFFICE SUITE 302 606 BALTIMORE AVE. TOWSON, MD 21204

August 12, 2004

Ms. Kathleen Bianco
Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

RE:

In the Matter of Bonner-Joppa,LLC

3015 E. Joppa Road Case No. 04-127-SPH Hearing - 9/22/04, 10:00 am RECEIVED)
AUG 1 3 2004

BALTIMORE COUNTY BOARD OF APPEALS

Dear Ms. Bianco:

Please be advised that this office has been retained to represent Joppa,LLC in connection with the above captioned matter.

Thank you for your attention and cooperation in this matter. If you have any questions, do not hesitate to contact my office.

Very truly yours,

F. VERNON BOOZER

CC:

Lawrence F. Haislip, Esq. Michael J. Walkley, P.A.

Joppa,LLC

0812gab05

. JOSEPH C. BOTELER III DELEGATE 8th Legislative District Baltimore County

Health and Government Operations Committee

E-Mail oseph_Boteler@house.state.md.us



JOHN W. E. CLUSTER, JR. DELEGATE 8th Legislative District

Baltimore County

Environmental Matters Committee

E-Mail John_Cluster@house.state.md.us

The Maryland House of Delegates

Annapolis, Maryland 21401-1991

June 22, 2004

Board of Appeals Kathleen C. Bianco, Administrator Old Court House, Room 49 400 Washington Avenue Towson, MD 21204

Dear Ms. Bianco:

We are contacting you on behalf of two of our Community Associations in the 8th Legislative District of Baltimore County who received notice of an appeals hearing, case # 04-127-SPH to be held on July 20th at 10:00 am. We would like to request a postponement on behalf of the Greater Parkville Community Association and the Carney Improvement Association and the officers who have been involved with this issue from the beginning Mrs. Ruth Baisden and Mrs. Megan O'Hare, both of whom will be out of town on that date.

We strongly believe the communities should have the best possible representation at this hearing and the Associations need to be represented by individuals who are extremely knowledgeable about the issues as well as the process.

We greatly appreciate your consideration of this request. If we can assist in any way please feel free to contact us directly.

Sincerely:

Jbe Boteler, III

Delegate

JCB/JWEC: rcw GOOD GAT STAR

Cc: Ruth Baisden

Megan O'Hare

John Cluster, Jr. Delegate

BALTIMORE COUNTY BOARD OF APPEALS

District Office

5024-R Campbell Boulevard · White Marsh, MD 21236 Phone 410-933-3480 · Fax 410-931-8108

☐ Annapolis Office 307 Lowe House Office Building · Annapolis, MD 21401-1991 Phone 410-841-3365 · Fax 410-841-3034

Date: 11/17/2003 Time: 4:09:06 PM

FACSIMILE COVER PAGE

Mr. John Murphy

From:

Mrs. Meg O'Hare

Pages:

1 (including Cover)

Sent :

To:

11/17/2003 at 4:09:04 PM

Subject: Tim's Autor

Tim's Automotive Case No. 04-127-SPH

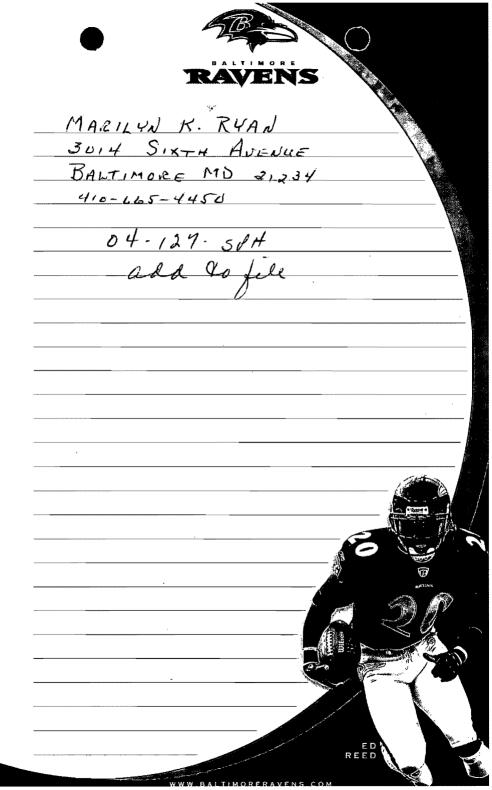
Dear Deputy Zoning Commissioner Murphy,

I received you letter date November 12th on Monday, November 17th. Thank you on behalf of the Carney Improvement Association for keeping me informed.

I would like to take clarify one statement in your letter: "Officer Ruark simply said that the same three tow truck operators have existed in the Parkville/Perry Hall area for several decades, but obviously that area has experienced an increased population which may be an important factor for DPDM to consider."

The area we are discussing is Carney not Parkville or Perry Hall. While it may be true to say that Perry Hall has experienced a great increase in population, this is not true for Carney nor Parkville for that matter. While there has been some development in Carney, there is no way that this compares to the growth in the Perry Hall area. Perhaps Tim's Towing should expand its Perry Hall location since this is definitely the area of significant growth.

At the time the Tim's Automotive came to the Carney Improvement Association meeting to talk of their plans, they agreed that they would abide by the zoning it initially received and that prohibited towing. We think that Tim's Automotive should honor its original promise and that no tow trucks should be operating from the Carney location. The community feels very strongly about this.



Clare T. Simms 8710 Avondale Road Baltimore, Maryland 21234

Office of People's Counsel. PPE Coons 49, Old Courthouse PPEALS 400 Washington ave. Towars, Md. 21204



Case No. 04-127-5PH

RECEIVED POST - APPEAL

Deer Chairman Wescott:

I am affreshing my opinion on the above mentioned care because I am play sially excepte to attend the hearing.

The above mentioned potetion for a special hearing is not est all appropriate for this adoltions

use. Tresently the business is much too large for the location. Vehicles waiting for sepains are parked selover "C" street and down twoodel bed Cars, large wass, pick-up truch and mini huses are there collday. Even after business is closed and his parking space is full the spill-over is still on "C" street and avoidale bed. I fa tow truck is allowed to park there that means more tare wasts be on " a" street and Roundale ad. There would also parailly be excelled cars there for days wenting for parts and this would be an says son at the entrance of a very well maintained rexceletias area, That effences for nearly one much down avondak ad. RECEIVED POST – APPEAL

add 9-22-04

MARILYN K RYAN 3014 SIXTH AVENUE BALTIMORE MD 21234

410-665-4450

LAWRENCE HAISLIP ESQUIRE MILES & STOCKBRIDGE PC 600 WASHINGTON AVE SUITE 300 TOWSON MD 21204

Tim Bonner Bonner-Joppa, LLC 3015 East Joppa Road Baltimore, MD 21234

Mike Walkley 2000 Clipper Park Road, Suite 200 Baltimore, MD 21211

Gene Bonner 9720 Hickoryhurst Drive Baltimore, MD 21236

Dennis Buchanan, Sr. 6 Compass Road Baltimore, MD 21220

Ruth Baisden 7706 Oak Avenue Baltimore, MD 21234

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blind lopy onlyto not fist

Added to file 8/06/04

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FYI copy to: MR THOMAS BOSLEY 9238 THROGMORTON ROAD BALTIMORE MD 21234

COUNSELUR'S NOTES

20040127) Supplemental

S



Delevion Bul 04-127-514 ogenet shope EC - Sent who good sper exertion shouldn't chery such the growt Dm - problingter - integrity - El dont apel MB- in limity hour of open for -24 hors 04-127-5PH BONNER 150pp LLC pet. V- 100ge 1. healong to this core 211 property good commercial 3 read neyborhood along 6 m the - unlady elem school

(Core - 2 - 66, Sort 28, 2001 5 At Drot to time change on Jamesly - opec ex. for servel goroge - come supported spec condition aymed by Temothy Kotroco condition If 9 - no for tunk perstron - not tou tuly stored - trucks can bry outos to + from site - he now works to semond Condition 649 on latest ruling the Murghy allowed one tow trule no lunging of tow truly is a deferent your 6. somed used is chargen terms of geon ago - sople and to how ampleance in agreements - try must know They are gory to tuch - present integrity These agreement 7. negdos come alout agent ujodis

8. Come about behomen of one 9. bout + switch (0) am if operation conformed sefectly we'd still on we had an agreement in conditions 11. m murph's openion, ester emer med u aen - need is no Culor V. Boyer not al of people on se lest al sendents - 3 or tony coming pt K1 - rotroes puns Pas #1 Michael J. WAlkley 1. Inte plan for 2015 Issouth 3 elimate 2 polis places - leoni 19: - only 17 regued 4. tour trut will be on fenced ores -Hoseing tow trul bihal blog not mable to read and Det X2 - ste plan Pet w#2 OFFICE RODALD RUARK BCPS Treffe monagement Town admissents 1. 1 rept Jan 5: 2003

Des Pet & 3 - Real Report 2. Conclusion - addy compay we help public sufety 4. Hofod Rb comedon - BW- worth Choss K 1. not states gris openion
2 newtolds

2 no position on Tim's Town. let w# 3 Tim BONNER 1. purhoset old suntrum gruge -15 juh cos - 2 server logo represed old volhswogers applied - develop pores - hunded old bldy dun showed pep of ory, pring + pp 2. Pest #9 in 2001 - remove restriction - we agreed to not hand four trucks - and from 13 at - A definit cone about restruction become & had annetice foult on Bel air Rom city.

I ned it semped become s wont for police det tow hiers business has then off. - De 4. Old surjusted of commerce no residences abut This project Plantys in 2001 - reg - A dadu do it signt awy - the control didnt do The got the next wing not a developer ? Dwork with to Bom + Gyox to sell can of the street of night - I heppy place clem - & clear streets diring snow stor 8 Dow 3100 6th ful - a port per vehicles Trul - not used for business 15 minutes tops - hep 2 orlique cos in gorge PCX2-A-P-pulme molbe tule stored -3 24 how opention Will debatt one #7 in ong in how of mention 5. 2001 - my in Comey day Arsoc great not to grave but get I to condition - no one opperately mut order 6: Soft 2003 - decided to reg. sent

Zumin Follow up DI succes bornes - jes -DI I don't hope of Del stoy Truck aspect 3) 2001 order + polis - Acondale - algocant. To prop - 36E Substation POTX # 5 - ZAC PCX3 - aerol photo of sets + surroubijo-PCX5 - Clyfath - ory, alvere groge cose

De y 6 - 8/2/1995 - spec paris PCX7 - Comy by Acres to Kot ma 9/21/2001 PCX8 - topress DCX9 - a highway nook map

on 6th Aul sure 1957 2 split level homes - 50 years old - Thornwood Pork 3. Concern that business will exame more - two porling spores well make a affect selvels as on C street for 2-3 dops at a trul - bunes wors - nogout of busines is was tru + lune - me Bom Mestownt now hos to pole or throughout neighborhood beaud that can al so hed on you 4. W'el hear a 24 hour town you 5. one of combition of earlier dicers mo boty work 6. as soon as St tom left - he sold selected the - he tokes advantage of the community DE XZL shows goinge of home in 67 Au CROSS X you have is next to State for Googs 2 the is noise for Hoford Pel 3 you leve about a block and - impossible to see or lot of screened 4. men almosphe of read commno hamleypy an occuts I ferri storge men is outdoor - it's on disjond from your Francis is slott you can see trul about fe wouldn't for truck lead or fryza? ruy don't - iny go up 6th hur

6th fue - 3-4 xes a wall 1C W4 2 Ruth BA, spen 1. Rule 8 popers - Great Comma Comil 2. 2001 Case - conditions - at Comy Any Agosc - felt usues mel addressed - sent lester to young comms - I went book to S. P. C.C. + Cooked at our polices -De tour to some come over reducing -I all while were to be ported on sett according to be some - we would tong was disused at 2001 Herry he agreed to foring restriction - m Bour said he'd pak while on sett hosn't wet gent of organd ruly -3. and suggest four - none + occess plus additional lighting 4. 2003 Herry bofre Mughy - request was for intented towing - one tow truck is still problemative - jus up porhis opers CROSS K 1. I soch at 2001 order - soch puntted or on C stut + To available + afforent \$ BGE - does he pork in front of senderes - we didn't agree with Frot condition - couldn't offered to appeal - Do you had protes of violation Jata ustruku # 6

nouse from ben truly ? how shout Wendy's - commenced zol - 34 -Horford / Jospa / c stut / anondall - ent at natural for trype or moral on concer is spellower into resid. To the tor truly had to come though Cont try or Hoford to C to available - sal arondale & readerhal? Jon Com py 6 - anondole. I don't apre DC X 11 A - F pix of neghborhood MANY MANSARET O'HARE Pres, Chiner Emp Assoo 1. Me 8 0700 -PEX 62 - Rile 8 3. photographs IPC X 13 A-E by she cited Runk's either - & trucks + loge loveche 6. Police dedn't go to telm

Choss N 1. Joyn , anondale i C Street - C Street is one way - troppe light at Dorga Pd is it ears to ext from a note left on 2. Born week's took figures St. form Clearly Dortors office - and on a street -1. Comey - BUL N to Northing - Old Harfpc w# 4 Alie BAKER 19 actue in comm Assoc 2 hed her 45 girs 3 les tron mile from Tin's 4 1 A use library - 3x's a week - aborg me vins solved on Aundele Ad. 5-11 seen vous up to 6th ful 6 1 yee a pur testerry 711 her soluble (comes a pleaset plane 2 CROSS P I but los than mule from Tim's 2 when long bby - s come out at tiget is. I sent a butto - opec exception-- 502.1 BCZK A-I advere effert in dea or opposed to morter location? 5. It is not ilent to gue exextron -Born a good job - doesn't nive stond. buden of the get pet to made 6. 2001 cost - gymonal with summer condition - influention is that without true conditions he might not home gotten gree ef. 7. I what is should for changing a decemen 1840s - No Tudienta - et conte be judicated again - whitte c. In of Jung appeals -11 Substantial change of conditions " Tyl () This cool applies here 8. Envlowe in case tody - no changes in conditions - it may be better for his customers - it's not buller for neighborhood hunt of 2007 was that it should be a moderate operation - spent of restrictions - uncluding from of 10- use hos pushed emelogel

1. zero evedence to ohow on change in a meder cool offer Ruoth

was neutral - mo o'store pointed out

refuest for 8 too trucks - page

Mr Bonner puts a spin or information 12. The was no attempt to adoke 5021 13. what actual proof did pet interfere? 14. They didn't meet builen of production not a seintella of anderel 15. One other cose - Futuryan V. Balturae main pt restorated that burden is on applicant syrort on start com is light booren 1. weighing to south of prop is gold BL 2. sheeten to bis in regularity 3. please both at Ruoch's conclusion 9:11 502.1 - it's not a 5021 core-The spie of any ground year off - me give ef wo in 1975

Case # 04-127-58H Bonner - Joppa, lu Venner Boozen Peter Max Zimberman letes Opener - Zoninghistry starts ja 1976 Tim Bonner, gurchased this land for Timp Actomotive Jim Kiotnoco wrote order with epudition # 9 That, says no Tow Trucks Business will be here #9 was an agreement entered into by both parties + needs to be protected. Mr. Bonner did fix up the Vernon Boren M. Ke Walklau Sard they would more 2 garting places to place
Tow Truck + wald not be seen by nieghons
Boozer Ronald Robark head of absendon cars 10, cation had nothing to do with Pet. Ex 3 There was a need for a Tow Truck in that over Boorer Tin Bonner Bought a run down old 2, car garage, put up new building (steel) no residence on a street.

Bb & sub-station behind property

no residents bonder property The businesses has an agreement to Keep cars off of Acc. C. - Corrently has Towing operation people drop cars off all the time

Case# 04-127-58A Bonner Toppa UC There is a restriction on hours of operations

The said he Thought that the lights need

to be off.

White Truck in photo would not be There

but the flat bed would be Thine Marilyn Kyous When the tow truck comes in 2 spaces will go + force more on the street. a lot of his business is buses + vars school buses have to cross like to Town the Born has parking spilling into the nieghborhood because Tim's has cars on the street. Oviet working class neighbour book.

Things, were slowly changed from each condition they discussed to be broken. stored at this house worried about gatety issues
ruining the feel of the neighborhood
by running trucks through streets "C" free is a a one way afferded a preeting when Mp. Bonnor talked to Comm.

- all cars would be parked on site

Case # 04-127-58/ Bonner-Joppa, (CC Zimmerum Ruth Baisden over 20 cars on the street,

i does not think large steel building is

attractive the should have renovated old ho Tow, truck at all because he is always pushing the envelope Avandale is the sateway to a residence t is slated for street scape Bozer 0,015 Mary O'Hare 2 James. Large vehicles partied on Avondale Al 500200 CV055 president of Assoc, Carney Inprov. Arsoc. Alice balier member of Both ABOC.

1:25 less than a nile

goes to library 3 times a week t

has trouble goin through Alphagle has

seen then all the way down to 6th for

the light at anondale is a truble spot

Closing statements Boosen Harford & Joffa is a ceny bisy
intersection, C Acc is a Commercial
street. Original onder lets him put
commencial cars on the street. Just
wants the right to Meep one tow
truck in the rayed, There is only necli
work, done no body work, No matter
what hoppens they will still be
the same amont of work done Has

8 tow trucks in Perry Hall. Only counts
the pick up his clients line about the Wos never done since the beginning

Blease 160K a Pluppy 5 Docision Zimmeron Times is at the southern end of the BLASS Toning next to 5.5 DR.

Toning next to 5.5 DR.

Shultz VS. Pritts 502. 1 of Zoning Regs.

A Good business, + so ad costoners does not

say he sets a special exception

Petitions burden to prove his case

Tres-judicada see information Exhibit

just heave it is good for his customers it is not good for him. - there was no evidence on Testimon,
- hus not wade prof of Bridgetion Boner 1975 special exception

Case04-127-SPH Benner-Jappalla Bocza - far. Owner Zinneina - PC: Zimnerman - OS. Zoning hist Iside, back de 1925 Cornerat CSt ad Avadala Zared commercial but rearby is res, neighborhood Mostrecet Z. dec. (2-66) daled 9/28/01 Bonner puchased property and appled en Sp. ex les service garage. Corpranise agreement reached molided conditions. One condition
#9 was "no toutrick"-DZC-Muphy's decisia à amenteaseallowed caddie to be removed Compremise not agreed to allowed 1 ten Frick: Not licensed yet by county - sep yould be 24 hy spenadie nou (an call for police) Man issue - change agrænad at all afen yrs aga. People need de have cande et tot a agrænet de asp. Ex is gay to hald, attomis e why ender who them? Shald not change inless situation Chages dramatically for some

Cancerns of neighbors regarding aperatie suice 2001_ esp vehicles parked ala Avadale and C. - esp bises tricks vons. Nes property across steet used by Barnon to park vehicles Implies "Bast and suiteh" has 2) In DCZ Muphy's opinia, granted I tou trick based on "energeret read" - Shald not be criteria 502. I Impact a neighborhood Baczer Enters 2001 op interecció
Pants at text 3 of 7 an list
are not residents but touring cas. Testmany Mike Walkley -apleyed-Presot Civil eng.

Carsult-grim

Pleg Civil Eng.: mD. 25 yr practice

Has testified before Board before Proposed Site Planter Side Toutrick the steed on Words of bldg. Fence will somen trick Elimentes 2 parties places. Plan not yet anended - this is just in Plan

Case OH-127-SPH Bonner-Joppa LLC Jan track shielded from Avandate Officer Ruark -BC Police Traffic Magnit Prepared report on 3015 Jappa. Rec'd application four Pents -Nepart shows # of towers, # of calls De Report Officers Conclisia -"We don't conclude just de report Lastpan - Anotan der trick /cc. Votspecifie Lethis business Need is in area Harford Rd Corridor Office repeats that this is not a rec of this Pein & license uculd decide whether Restie of neutrality on this case Noccoclisco as Luhetta this site filfills need. Is need = area

Bonner, Tim Principle à Barna Jappa LLC. Bught prof in 9/01. dete of prop - Old rundan gange 2 Service bays

75 yr old ma and repared old

Vws Netired.

Bld delepidated Knocked deen.

West the Zang process dev.

But ren Bldg.

Matalab i Oct upt frem com + 4 A Propasoris, existed Justy B. Carden at lat and Ferred area L. 15 indusection of C \$ Avada Nend of Bldg share C# Arado Bldg Faces & CStreet. D Shows where cans are stered beh rick & cars will be behild Leve coop de V Ade & liquor store Mae Fere

Bonner-Jappalla Orgail Zang Hear ad #9 Why here to allow ten truck? Care Fran Ball. City reighborheed was chang !!

Worked de more de Balt. Conty

On Bolain we had and thou, Dean Didn't thik & siving if then the truck would marken kept then a Belain. At two, uaded new bldg. pot induded teleave_TTS=aty

Now lucut DO PD tou license Need is in Came.

As bus grows we need more.

Bus has fake off.

What lagreed & 2 yrs ago links bus

Rose This has welcome a head blad sland blad Slmill invested changes CSt. casatan Avadate Acress st. 15 Wandy's & Crab House Next den is Ligien Stere. Notes on C. Street Behind Bys on Arandale is BaE Sbstatia. Beters bldg from No res. next to prop. ? Was part of order that you plant? Did not do unediately. Catracte did not finish job.

Not my job" & do plantiss. When gette

license realized it, the west cut and Bear theo I year Agranets with reghbering bus.

Works with not tecroud.

3 bus. wak tegetta to Kapclean. Keeps it clear. I clean CS+ from 6th Avadelight There for houghborhood" House in neighborhood On 6th Ava owns w/ brother Vanks pars vahicles not bus ver Vot used for bus Maybe temp.

park bit not perm.

Ours 2 andrque cous personal Linner man Crass Tour charact PC2A-P Phales Am- Cst sile A Carnen Photes show tricks pouled on CSteet Bonside Q Truck as: 20 Tours school from 6th & Avada le

h. Mae Tricks a. CSt. L. Persul hase / gange across Avandale M. S. on Avadale - Shows? P. Shows type of tong truck Objects to Photos of PH location Heavy duty truck want use at Description Comey Side 20 Flat & bed - will be used 2N - Not used on Caneysite - teabig A. IS approved 24 HR operations.

La take calls Franklice ataccidents Can use ten tricks toten vahicles ten Canerside. Just dant Keep ten trick. Can be all HRS depending annhe custimen breaks down: Condiè ? limbs his at appratie

? Am de b pm - M-F / Does not allow
? - ? - an Sat. toward of

Vehicles at all

house? type time I could not be ope for bus
but not that I could not true to bus Atty explaned I me. wherever. 21 Mtgs with Carrier Ing Assoc = 200 You agreed to the conditions?

A yes

2 How soon did you not to remove

1 9107 ~ Pts of clanficada - Said cald not have ferson bes granth - radicials for tentral why nec removal of TT? A More cust I have breakdan. In Isn't it separate? F police need me to ten more cist. Rely on me & pick of & fix list lice I can pick p my cist. Give cist. beller service de brig Puelased upbretter Roden Does not live in. Oris agreement allowed bus to paux cans along Avendale & Cstreet [ref. Petes pix] 2 - Will you continue to function | TT A Not nec Did you expect to be successful i 2001? Not sure. Sm. bus before. Was Rationale is you were more successe Cul Régadless of cotone youll martie PH.

2001 orden lt parker a streets On Avadale Unided & grap & BGE Substant Bocren Potet Iran Zaniz Adv. Comi corresp. restrict Vet Ex Note Fran Ajay Ligiars Zimmennon's Case Aeul photo of sile & surround Properties are marked byourne Bornon - Joppa is slightly lower then center of photo. Zoning Map - locate of site marked. PC4 Hist of 2001 order -6/4/75 - Sp. Ex for Sauce garage under cruz ouran 95-423- Anendret 8/2/95 Crisal Sp. Ex. Corresp. 9/21/01-from Canon Imp. Assoc related 2001 agreement [PC8] Tax Records & (Tax map) (PC9) Huy read map - seal area Witness - Testumeny Marilyn Ryan
3414 Lith Are - Conney

Indicades house on annel photo-· S. of State Fam Blds. 4th to Wat Avendale Nside of 6th Since 1957 - lived at res. Splot level haves - Thornwood Park Commity Assoc. - M.C. stable Themuced goes dant 2nd We selded Avandale spirts slightly most on wot Avadala Most people have lived there since horesbuilt. Sue 2001 no sis change is res'hood Lencens @ proposal? That it will expand more the now. Can see parky area from here vehicles now. Would so a steet on a steet overnight for 2-3 days May vehicles In initial disc its anded like repairs on cars. Bot may of bus is not cans but vons etc Evente legal, parked, raspace Son School buses ofc Did not envisia whencers agreenent

Before it was autos Empl parks was supposed to be a prop. I Not case.

Londscoping not done the agreed de. The Bain Tavern - Their Cars have nowhere to park sospillover to head. 2 Bonner says revehilles Avadale A Correct. He-does nt. 2 Cencer in 24 hu tai A. Ican see I hear. Noise as It backs p. worried about all night Bissest concerts it Kepserponding beyond abilit. Not allowed to do body work (condition accidets Secty of Carmy Imp Assoc Disapported that we were teld this Very day State Farm left, Banner began Parky vans ont. Has to Call State Farm each tre he does it States at State Fam? A. Up for sale Backs on my prop My prop 13 2 and res. Obs. at vehicles parked at Baners Will see pl 4 vehicles afront pad

and 0-4 in back Names of Co ours on vehicles unks at school so passes by Shows cans on grass and Buren Coss Is your prof next & Stade Form?

Yes. Has a sprey capt. to DRJ.5

Locks at map (Zaning)
parties of prop is DRS.5

Dist. of parks lat & your hoese

15-20ft. 15-2081 State Fam damage duchieles in garage - prop. CSt is bisy comm street? Notres? Lots of raise from C'St. The he add de t Handese Le his bldg? blackay? Vos. (Not ablack lecky diagonally when locking theund his one in I- H then locking toward his prop you look though BOE prop? And hearnerse? I say I have horse from his bus. cardents from Banner? Radirect ence storage area for T, cutdon? Yes. On diagnal frammy hase Bat is chai like Bonner's is slaked Consee tricks.

Boosen- When TT comes in, wait pass by prop. A what Barner Eld us but not what they do Sees TTs come down 6th Ave both white & black. TTs Diff: le make L. & 2 lights se easie Locae dan 6th Ave 3-4x per week Roth Bais den Testinary 1.7706 Oak Ave. 21234 Activate Pres et Get Pankville Caneil City he de Carkleight 9 comm graps) untrella grapt 486 menters.) und menters. B-I in center of area covered. Auth to speak for Council -Padapaled = 2001 cases truty pria 2. Why Tong restricties & other condit A CIA thought issues were addressed un note Trep'd Represent Parkille -On caren was, This was a vaccincy, unded de improve area bit notationy cast. Cancer was fitue use of side. I heard all vehicles hald be an side. Issues of test driving exte. We unded restriction antoning - Thought not appropriate atmits: What was started did not hopen

We indensteed can's \$2000 not vans
an side (langeservice)
We abjected to temp; it was discussed 20 placed terring restrictie 2 Other cercens regardy crown.

Not is spirit at conditions.

Sere commerced but many res Aestetie beauty is a concer.
Propis eyesone - Hige bldg alumning unt dozens of cans.
Community Cons. anea - Notgrouth area, Only in fill now. Most be capatible 2003 Hearing Und naz Bonnes regrest. Unlimited tentricks, not just 1 Noulmut to 1, does that satisfy A. No. will mean more cans, lesspace Has already spilled over, not set mase Buden back on community to police his actions constatly to enferce Noise? A Concern- Policie, for news desnoise is a tactor. Already nasy area, ulat det A while lots at traffic, not a noisy Comercial area 2 E. Jappa Rd. Com. Plan Adapted by Conty Concil made part

Bonner - Jappa ct row zoning plan Conexproposal not consisted a/pla (Spirit & Indent) (Bocon Cross) B. Order of 2001- # 6 Condition "Parker penulled ac St & Avadale etc. An enderce that Barner arap! are parky any other place? We were not - agreement atallowing Cstreet. (Box. parky bit b/c we thought actes not ven's weded not Candest. B. Noise in reglanhood? Whatabut beentricks? A une carte bite mane noise tranea. B Area is all connected? Dut they generale traffie / noise? A Impacts spille nte res a commity. B. IT don't have to care the res area Ca come dan Avadale uhiel is res BI ZC cpine = case - says (St. & Andale Comer are Comercial Datagree Allot Avadale is resequent le Direct - Zinnerma 2 Photes? at area Shows res area behind business 6th Ave. Avadale Sof Joppa @ Imile L Pitt

Simut Ave On Bahalf of Caney Imp. Assoc PC 127 Atheriz a Papers

- Dec. of Caney 1A (CIA) on 9/15

(not today) 2 Do you have some concerns Yes. PC 13 Take Buks ago
A-E Photos. Bonnois
A CLS room Mas prop is across B. House across from Times arte. Showing comercial vehicles en Sinday D. Vehicles en Avedale (hencur van is

an right side Luad CSteet) Others are vans. Beyond nose of trick is No Parky Sign. Once sign care down ad Cous parked all alos.

2 Street is used heavily teavoid

The Cond Light. Japa Hanterd Light. Oris Agreement says automobiles 12D. Dit height of Gange allows large vehicles On Avadale near Chidas Xing. 2 In ref & Banner testinay
about 1 th what concerns?

A Rukes Report - pan. 3 Pol.

Ca has 8 trucks listed = application

Bonner said no lange weeklen lept at site but 2nd to last page Measure for need of TT - in de Conclisio (p.5) - relies on 8 tricks E heavy wrecker. Too close to E.S. Basically does not trust Bonner Teck Beczer author techject de Specy lest Boren Coss B @ Abut Jappa & Avadale indersecte Comes in about there. traffic an C - I way touand A. 2 Lanes de tun L'arts Hanford Yes. Bit light is long. Seperple Still want to by passand will go dan to 6th to tun onto Hantend ReDirect - Pede Coursey - Buy Noto Northind W tould Heiterd Rd Ete Poure 150 menbers estimany Alice Baker 2307 E Hillen Ave Member CIA 2cff Board art Pakulle 10 years active 45 years res less than I mile from Bonner. Uses Library often. On Avandade Conneraid vans parked, Ha Stery in lane,

2 Harfan dawn anevers? A Has sænall trenay + 6th. Agrees uch Baisden et al. Allen is I black Sof Jappa near Am Les. Han da you leave library?
Right LA tun Lan Tappa
Then tun light Los lights, aces cut sano may End at PC Memos totos stadents
Closing Stadents Ordenfrem 2001-Barner captied with all restrictions. Does not park beyond sign. Has PH Tang unt 7-8 vehicles Wants I of those stored at Engineer anerded plan for Ivehicle on request et Bonne Hot businesses rely on Bernerd

15 Cistemen reeds Tower - shald gate Berner. Convenience fe Bonne & cisteners. Same traffic whather he gets HT or not. By appres-Rouse By apposing Bernar uand chase Does not used by tricks at PH.

Does not used to sell PH location
why Rule's Report refers to 8

Vehicles 1 2C - noted CS+ #Avadale mene (corneral not res Cheit has capted with ong infl order - 10 restrictions Non because of nature of bus he needs to be have towns. 7000 - 0000 arent request fail vehicle Zimenman Clase Highlight of FACTS 1) Zaning - White Barner Zaned nelid Thomas, Canay ES etc Resales LTL Are. 2) 2001 Op. par 9 tour rest.
also note Par 4,5,6,7,8 condities

Uny does he need Sp. Ex in this location? I need to read acclop and older. Shiltzv. Pritz -Sp. Ex case relades to Seet 502.1ct ZR A-I Standards Board should focus an hetheradresse effect is area Problem is that prop is right next to res area—why Sp. Ex needed Ocal Dus notreasen For Sp. Ex. Turner v. Hamand 270 mp p. 55 - Those 2001 Decisia affects this case Capromise reached for him & have Meany of decisic: Prop must & meet

those conditions deget Sp. Ex.

Might have been deried entirely

ufact conditions Standard for Changing Prior Docisiono
"Resjudicada" - cant go back

Some Clexim 2. cases

Callot . Whitle V. B. of 2 Appeals - P. 6 \$?

por relevant sections. Some principle
Better of p. 6 - Coint says:
1956 General Rule
"Substantial Change in candition" BCZR 500.12 - vensper canot be retried for 18 mcs. Case applies ble 2001 mas had de

Zimenna Clase (carl.) Machine relative to Zaning.

Only change is Banon has due
betten bus, now wants to expand

Agreenest gave Bannen his bus.

2001 was to made and bus/

restout bus. May liderally capty with #6 bit

Darely.

#5-nadamage vehicles allowed's

Sient Moderate operation expected by Fear that modify is I condition will result in others being requested down road. Vor evide et chose in Conditions per Unittle Acques weak case. 50 201 - Impact a neighborhood SORT What proof did port introduce for antig a Sp. Ex? Pert did not produce encyl evidence to have Sp. Ex. graded Most are roles for is overting 200 Opinie? Organie Urapip Urapip Urapip Must protect Ascement

CASE: Fitoryan V. Baltimerie Service statia / repair near res. Board denied Sp. Ex. Neulended Buden an applicant to persuade B. of need for Sp. Ex." Bad Precedent after my 2 years Leallow change in Sp. Ex. Boczen - Final Disagrees en Zening Resjidica

graded ut condities nota.

Perensal Coments of Plans Office support case Mota 5020 case

Sp Ex granded years ago

Were as ky fer anedret to

Candities Notasp. Ex Case - granded back = 1975. Factors = 502.1 not relevant

reconsidered, and we do not understand the appellants' contention as going so far as to assert such a doctrine. They seem to concede that a change in circumstances might warrant reconsideration and a different result in an application for a special permit in such a case as the present, but they Page 44 deny that a showing of any substantial change in facts or circumstances has been made. The correctness of this contention

Before going further, we may take note of several points. First, the fact that the decision on the 1949 petition was that of a Circuit Court does not prevent the operation of the rule of res judicata. Baltimore v. Linthicum, Bensel v. Baltimore, both cited above. Second, the doctrine of res judicata has been held not to be applicable where the earlier decision was made not by a court of record, but by a board of zoning appeals, an administrative agency. Knox v. Mayor & City Council of Baltimore, 180 Md. 88, 23 A.2d 15. Third, provisions of a zoning ordinance such as the Baltimore County ordinance, under which, until after the lapse of a period of six months [now eighteen months in Baltimore County] a board of zoning appeals may not consider and act upon a new application for a special permit previously denied does not dispense with the rule of res judicata. Baltimore v. Linthicum, supra. As was said in that case in speaking of a similar provision in the Baltimore City ordinance (170 Md. at page 249, 183 A. at page 533):

"For the decision of this case we need not determine exactly what was within the contemplation of the clause in its reference to subsequent submission of substantially the same application to the board of zoning appeals. We do not interpret it to dispense with the rule, so as to provide that, after an owner has submitted to the courts on appeal the questions of the character and classification of his use, and the correctness of its exclusion, and has obtained a decision that it is a business use, rightly excluded from the particular neighborhood, he can continue asking every six months for judicial decisions on exactly the same questions. If that were the meaning, this court, under the Act of 1935, as well as the trial cour', would be required to examine and decide the case as often as the owner might wish to bring it up, allowing six months' intervals in his activities. The

Page 45

is the key to the case.

words seem to us to require no such interpretation, and we think it would be unreasonable to attribute that purpose to the Legislature."

The general rule, where the question has arisen, seems to be that after the lapse of such time as may be specified by the ordinance, a zoning appeals board may consider and act upon a new application for a special permit previously denied, but that it may properly grant such a permit only if there has been a substantial change in conditions. See Bassett on Zoning (2nd Ed., 1940), pp. 119-120; Yokley on Zoning Law and Practice (1953 Ed.), \$ 128; 168 A.L.R. 124; St. Patrick's Church Corporation v. Daniels, 113 Conn. 132, 154 A. 343; Burr v. Rago, 120 Conn. 287, 180 A. 444; Rommell v. Walsh, 127 Conn. 272, 16 A. 2d 483; Rutland Parkway, Inc. v. Murdock, 241 App. Div. 762, 270 N.Y.S. 971. This rule seems to rest not strictly on the doctrine of res judicata, but upon the proposition that it would be arbitrary for the board to arrive at opposite conclusions on substantially the same state of facts and the same

[150 Md.App. 138 (2003).]

JUDGMENT AFFIRMED IN PART, AND VACATED IN PART.

CASE REMANDED TO THE CIRCUIT COURT FOR BALTIMORE CITY WITH INSTRUCTIONS TO REMAND TO THE MARYLAND STATE BOARD OF PHARMACY FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY APPELLANT.

the final administrative decision of an agency in a contested case. Md.Code (1984, 1999 Repl.Vol.), §§ 10-205(a), 10-205(b) of the State Government Article.

We recognize that "under the APA, the delegation of matters to the OAH is not a mandatory function but a function within the discretion of the administrative agency." In light of the facts of this particular case, however, it would not be appropriate to remand the case to the same tribunal that heard the case originally. The Court of Appeals addressed the purpose for the creation of the OAH and noted:

One of the main objectives of the legislature in establishing the OAH was to provide an impartial hearing officer in contested cases. A hearing officer employed by and under the control of the agency where the contested case or other disputed action arises, often results in the appearance of an inherent unfairness or bias against the aggrieved.

Anderson v. Department of Public Safety, 330 Md. 187, 213, 623 A.2d 198 (1993). In this case, we have held that the actions of the Board members created an appearance of impropriety and unfairness, and for that reason, the case must be retried before a different tribunal.

FIITORYAN v. BALTIMORE [150 Md.App. 157 (2003).]

819 A.2d 1074 Lev FUTORYAN

MAYOR AND CITY COUNCIL OF BALTIMORE.

No. 1371, Sept. Term, 2001.

Court of Special Appeals of Maryland.

March 26, 2003.

Property owner sought judicial review of city board of municipal and zoning appeals' denial of application for conditional use permit for operation of automobile repair business. The Circuit Court, Baltimore City, Carol E. Smith, J., affirmed. Owner appealed. The Court of Special Appeals. Charles E. Moylan, Jr., J., retired, specially assigned, held that: (1) total elimination of what had been primary use of property as gas station constituted change in use for which conditional use permit was required, and (2) substantial evidence supported denial of conditional use permit.

Affirmed.

1. Zoning and Planning \$\iii 394

Total elimination of what had theretofore been primary use of property as gas station, with automobile repair merely as distinctly auxiliary or secondary function, so that property was thereafter used only for automobile repair. constituted a change in use for which a conditional use permit from city was required.

2. Zoning and Planning \$\infty\$606

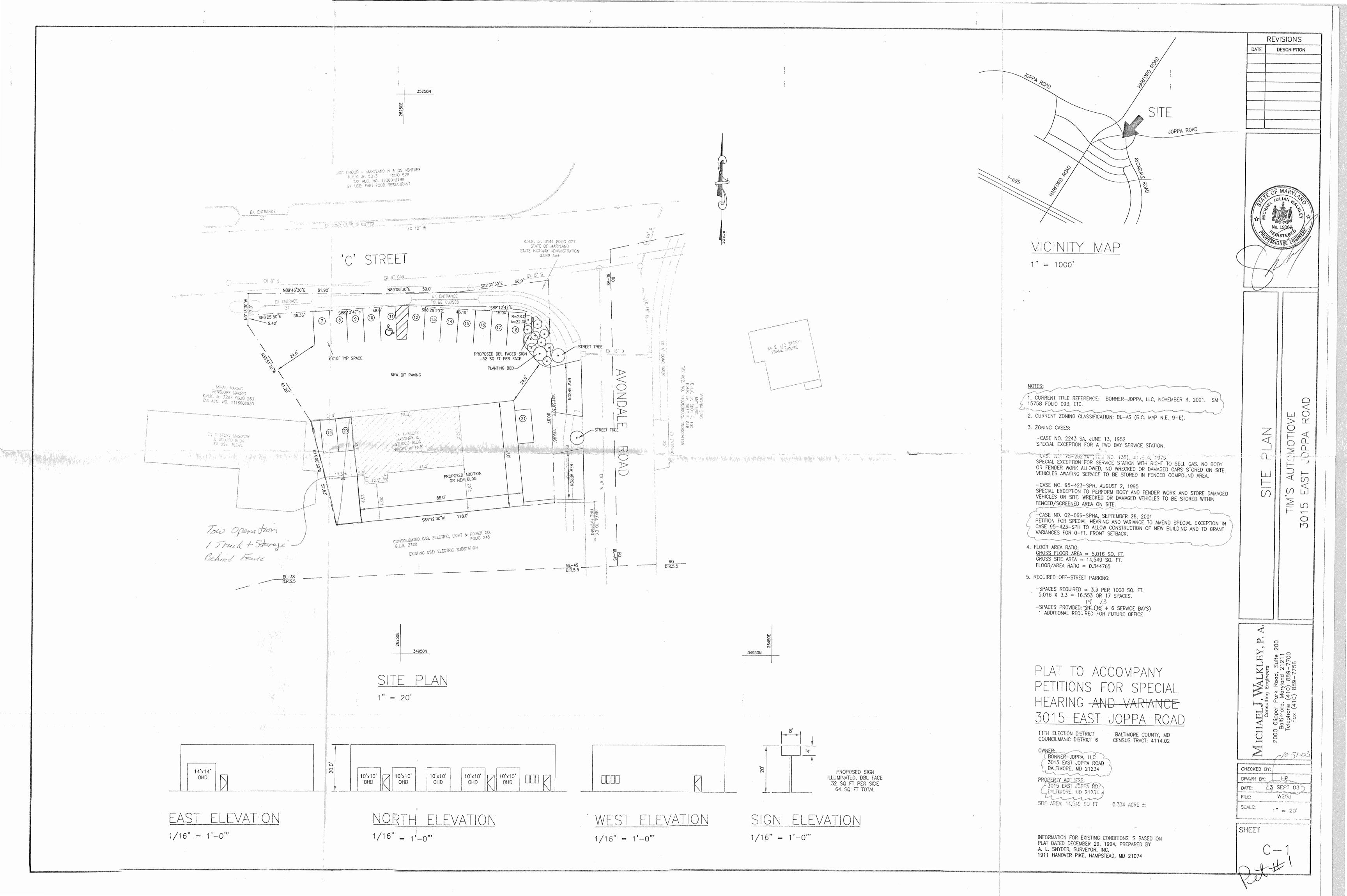
Determination by city board of municipal and zoning appeals, that change in use had occurred at property, so that conditional use permit from city was required, was a decision within the board's expertise, to which the reviewing court would give deference.

PETITION & PROTESTANT EXHIBITS

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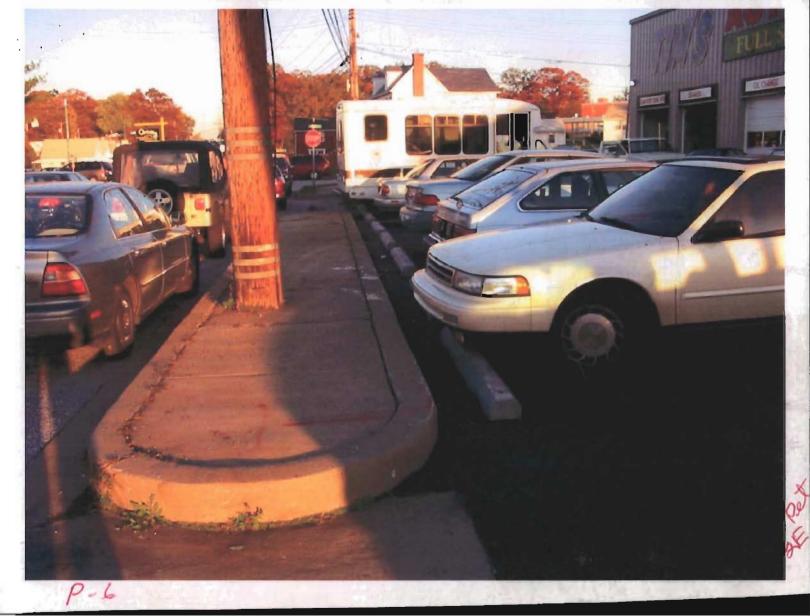
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Den 1/9/03

Two tow truck firms face suspension from Baltimore program

Doubling up of vehicles, unmanned lots, padding of bills to city are alleged

By WALTER F. ROCHE JR. SUNSTAFF

Two Baltimore tow truck firms, accused of violating terms of their agreements with the city, are facing possible suspensions that the owner of one company said would cost his business tens of thousands of dollars and force the layoff of employees.

The companies, Berman's Automotive and Frankford Towing, are two of about 10 firms that are issued medallions by the city Police Department to tow vehicles from crime and accident scenes. The firms are required to maintain garages at officially designated sites so that trucks can be dispatched quickly for public safety purposes. Motorists must pay towing fees of \$80 to \$89 plus storage charges to retrieve their vehicles.

Speaking before a Police Department hearing officer yesterday, investigators said Berman's and Frankford had failed to maintain the required manned sites and diverted phone calls from those sites to other locations. Investigators also alleged other violations, ranging from "padded bills" submitted by Frankford to putting two cars on a single tow truck.

A decision on the suspensions is expected next week.

Tim's Towing, a third firm that police said violated rules of the program and could have also faced a hearing, decided to drop out of the city program and has moved to Baltimore County, according to the owner.

"The rules haven't been updated in years," said Richard Berman of Berman's Automotive, adding that the proposed two-week suspension would cost \$35,000 to \$40,000 and force the layoff of 11 workers.

Calling the proposed penalty "totally unfair," Berman said modern technology rendered the dispatching system required by the regulations obsolete.

Police Lt. Paul B. Sheppard said no one was on duty at a Berman's site on Washington Boulevard on two days in November. A Frankford location on Quad Avenue also was unmanned with the gates padlocked, and similar findings were recorded from visits to four other Berman and Frankford locations, he said.

Tow company owners argue that the requirements are antiquated. "It is no longer necessary for a dispatcher to be sitting at each site," Berman said, adding that his firm's centralized computer system pinpoints the location of every truck.

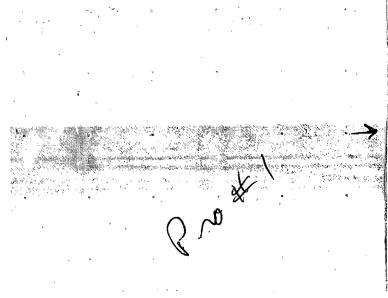
"To us, to have a dispatcher sitting there is ludicrous. It just doesn't make sense," Berman said, adding that his firm responded to city calls within 12 minutes, far below the 20-minute limit.

William Bonnett and Paula Protani of Frankford said their firm had acted immediately to correct the violations. Protani noted police reports that rated Frankford's performance in the program as "excellent."

She acknowledged that the company had added fees to some of the bills recently submitted to the city, saying she was trying to "send a message" to city officials about the extensive time spent by tow truck drivers waiting to be processed at the city impound lot on Pulaski Highway.

The extra fees, which police officials said was for winching services that were never provided, were \$80 to \$120. City officials spotted the added charges and deducted them from the payments.

"It was another avenue for me to go. I needed to have the situation corrected," Protani said of the charges. "I wasn't doing anything to deceive anybody."















































3 towing firms cited for violations

Hearings set tomorrow on 'ghost' garage charges

By WALTER F. ROCHE JR. SUNSTAFF

A Baltimore Police Department investigation has turned up new evidence of "ghost" garages in city towing operations and, as a result, three towing firms have been cited for violating the rules of the lucrative pro-

Facing hearings tomorrow for violations of the city towing program regulations are Berman's Automotive, Frankford Towing and Tim's Towing. All three were cited last month for failing to meet minimum city requirements for maintaining official towing sites.

"Ghost" garages are garages that exist on paper, but do not meet the minimum requirements of the city program, which includes a manned telephone, parking spaces and an

on-duty tow truck and operator.

The two-week suspensions were scheduled to take effect on a staggered basis beginning Dec. 22 but were put on hold when all three firms requested a hearing to dispute the charges.

Maj. Marcus Brown sald that the citations were part of an effort to improve the administration of the program. The action against the three companies comes as the department is completing new regulations.

The three firms cited are among 10 designated by the city to tow vehicles from accident or crime scenes. Under the system, tow trucks are dispatched based on their proximity to the accident or crime scene.

Police officials say that maintaining the sites designated by the city is critical to ensure that tow trucks can respond rapidly to calls and remove disabled vehicles from traffic quickly.

Motorists must pay an \$81 towing fee plus storage charges to retrieve their cars. Hundreds

are towed to the city impound lot on Pulaski Highway every

An investigation by The Sun four years ago showed that two of the towing firms, Berman's and Frankford, had collected about \$1.5 million in fees over a two-year period.

The Sun investigation found that there were no tow trucks on duty at many of the officially designated sites. One was an east-side liquor store, another was the parking lot for an auto parts store and a third was a used-car lot.

As a result of the recent police investigation of ghost garages, the three firms were cited for failing to meet minimum site requirements at various locations. Frankford was cited at three locations: 6700 Quad Ave., 4519 Harford Road and 2101 Fleet St.: Berman's, 934 Washington Blvd. and 2230 Reisterstown Road; Tim's Towing, 5500 Belair Road.

Officials of Frankford and Berman's did not respond to a

request for comment on the violation notices. Tim Bonner, owner of Tim's Towing, said he. planned to appear at tomorrow's hearing to contest the city citation. Bonner also criticized. management of the towing operations by city officials.

He said mismanagement of the city impound lot on Pulaski Highway leads to cars being damaged and vandalized. Tow truck operators say they are often blamed for damage that occurs after they drop off cars at the city facility.

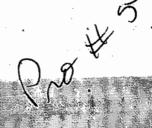
The proposed new rules would require that all cars towed under the city program be photographed before they are towed and again after they ar-

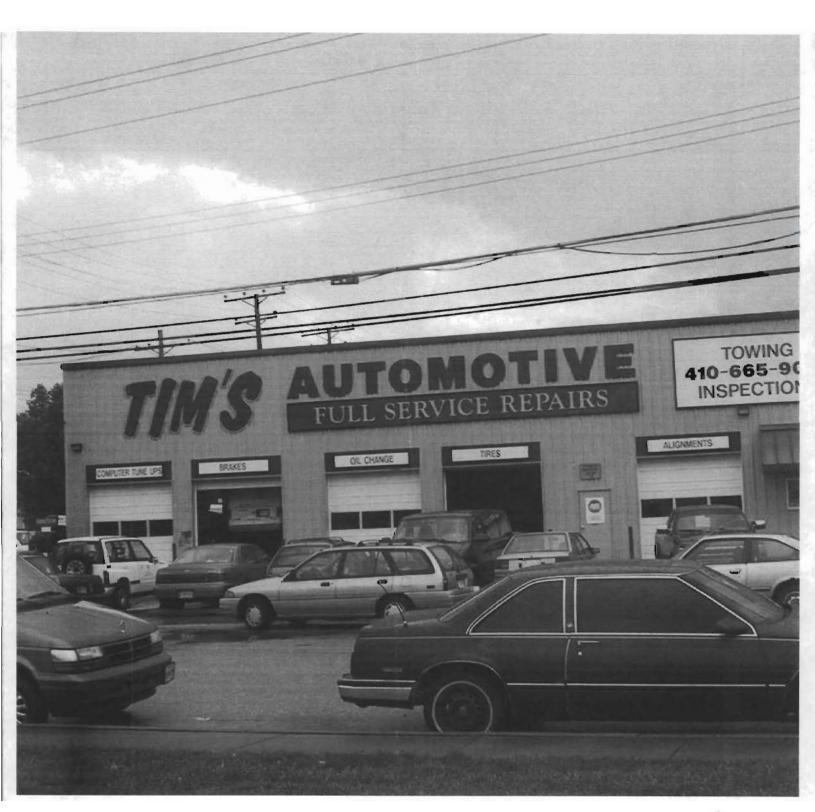
rive at the impound lot.

Brown said the biggest change under the new rules would be to set tighter standards for towing garage sites.

Police officials acknowledge there have been problems in the past in the program with the ghost garages.

"We want to make sure that it is an actual legitimate site and not ... a liquor store or something else," Brown said. ""We're putting out the word that there's a new sheriff in town."





PM # 7 A



no 10/22/2003



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PETITIONER'S EXHIBITS



(20040)27) Supplementul

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Verefeed 9-23-04 04-127-5PH Petitioners Exhibits Bonner-Toppa 9-22-04 1. Order, from Deputy Zoning Comm, Kotroco 12. Plat Plan
13. Letter to Capt. Rocke from Office. Ruark
14. a. Pictures of old building
b, Picture of Front d. Southern end of building

d. south end of building next to liquor

C. picture of fence force of building
gicture down Joppa, Rd.
K. finished building
B. Letter to Mr. Haislip from Mr. Richards 16. letter from Ajax Liguors

Pet.1

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IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE W/S Avondale Road, 134' S of "C" Street

11th Election District
6th Councilmanic District
(3015 E. Joppa Road)

Antoni Horodowicz, Legal Owner and Bonner Joppa LLC/Tim's Automotive, Contract Purchaser Petitioners

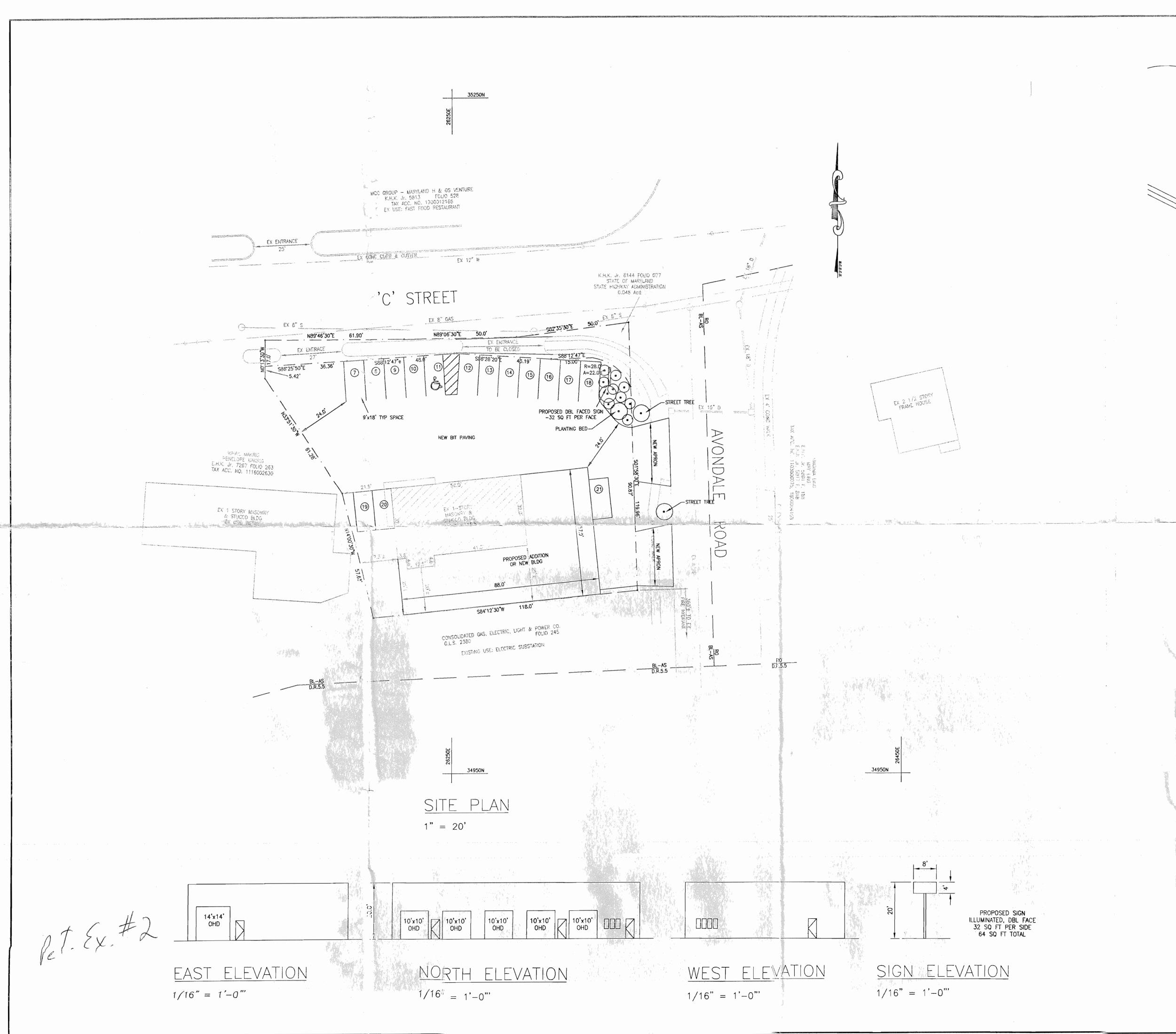
- BEFORE THE
- DEPUTY ZONING COMMISSIONER
- OF BALTIMORE COUNTY
- * CASE NO. 02-066-SPHA

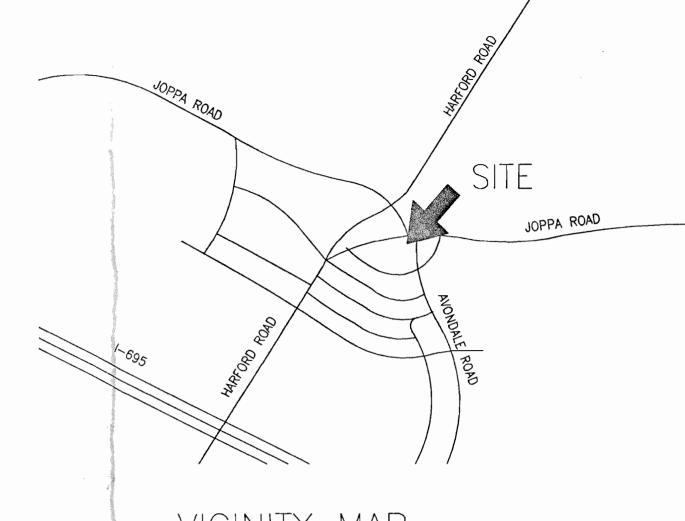
FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance filed by the legal owner of the subject property, Antoni Horodowicz and the contract purchaser, Bonner Joppa LLC. The special hearing request is from Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to amend the previously approved special exception granted in Case No. 95-423-SPH, to allow the construction of a new building on the subject property. In addition, the Petitioners are requesting a variance from Section 409.8.A.4 of the B.C.Z.R., to allow existing parking spaces to continue with a 0 ft. setback from the street right-of-way line in lieu of the required 10 ft.

Appearing at the hearing on behalf of the special hearing and variance requests were Antoni Horodowicz, owner of the property, Michael Walkley, the professional engineer who prepared the site plan of the property and Tim Bonner, owner and operator of Tim's Automotive, the contract purchaser of the property. The Petitioner was represented by Lawrence Haislip, attorney at law. Appearing as an interested citizen was Ruth Baisden, representing the Greater Parkville Community Council.

Testimony and evidence indicated that the property, which is the subject of this request, consists of 0.34 acres, more or less, zoned BL-AS. The subject property is located on the





VICINITY MAP

1" = 1000'

NO

1. CURRENT TITLE REFERENCE: BONNER-JOPPA, LLC, NOVEMBER 4, 2001. SM 15758 FOLIO 093, ETC.

2. CURRENT ZONING CLASSIFICATION: BL-AS (B.C. MAP N.E. 9-E).

3. ZONING CASES:

-CASE NO. 2243 SA, JUNE 13, 1952 SPECIAL EXCEPTION FOR A TWO BAY SERVICE STATION.

-CASE NO. 75-262-X (ITEM NO. 135), JUNE 4, 1975
SPECIAL EXCEPTION FOR SERVICE STATION WITH RIGHT TO SELL GAS. NO BODY
OR FENDER WORK ALLOWED, NO WRECKED OR DAMAGED CARS STORED ON SITE.
VEHICLES AWAITING SERVICE TO BE STORED IN FENCED COMPOUND AREA.

-CASE NO. 95-423-SPH, AUGUST 2, 1995 SPECIAL EXCEPTION TO PERFORM BODY AND FENDER WORK AND STORE DAMAGED VEHICLES ON SITE. WRECKED OR DAMAGED VEHICLES TO BE STORED WITHIN FENCED/SCREENED AREA ON SITE.

-CASE NO. 02-066-SPHA, SEPTEMBER 28, 2001
PETITION FOR SPECIAL HEARING AND VARIANCE TO AMEND SPECIAL EXCEPTION IN CASE 95-423-SPH TO ALLOW CONSTRUCTION OF NEW BUILDING AND TO GRANT VARIANCES FOR 0-FT. FRONT SETBACK.

4. FLOOR AREA RATIO:

GROSS FLOOR AREA = 5,016 SQ. FT.

GROSS SITE AREA = 14,549 SQ. FT.

FLOOR/AREA RATIO = 0.344765

5. REQUIRED OFF-STREET PARKING:

-SPACES REQUIRED = 3.3 PER 1000 SQ. FT. 5.016 X 3.3 = 16.553 OR 17 SPACES.

-SPACES PROVIDED: 21 (15 + 6 SERVICE BAYS)
1 ADDITIONAL REQUIRED FOR FUTURE OFFICE

PLAT TO ACCOMPANY
PETITIONS FOR SPECIAL
HEARING AND VARIANCE
3015 EAST JOPPA ROAD

11TH ELECTION DISTRICT BALTIMORE COUNTY, MD COUNCILMANIC DISTRICT 6 CENSUS TRACT: 4114.02

OWNER:
BONNER-JOPPA, LLC
3015 EAST JOPPA ROAD
BALTIMORE, MD 21234

PROPERTY ADDRESS: 3015 EAST JOPPA RD. BALTIMORE, MD 21234

SITE AREA: 14,549 SQ FT 0.334 ACRE ±

INFORMATION FOR EXISTING CONDITIONS IS BASED ON PLAT DATED DECEMBER 29, 1994, PREPARED BY A. L. SNYDER, SURVEYOR, INC.
1911 HANOVER PIKE, HAMPSTEAD, MD 21074

MICHAEL WALKLEY, P. A

Consulting Engineers

TIM'S AU 3015 EAST

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REVISIONS

DESCRIPTION

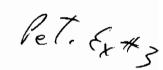
SHEET

FILE:

SCALE:

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1" = 20'





BALTIMORE COUNTY POLICE DEPARTMENT . INTRA-DEPARTMENT CORRESPONDENCE

TO:

Captain Drake Roche

DATE: January 5, 2003

FROM:

Officer Ron Ruark

SUBJECT:

Application for Towing License – Tim's Towing

License Application # 03-A49. TRM # 03-20

The undersigned conducted the following investigation in reference to an application filed by the above company for a new tower's license and area. The investigation was to verify whether a current need exists and if so does this tower meet the criteria set forth by county code and regulations from this department and Permits and Development Management.

The company is located at 3015 East Joppa Rd Baltimore, MD 21234. They have an enclosed storage area within view of the office. The lot is an all weather surface. The fencing is properly screened for the storage of inoperative or wrecked vehicles. The applicant has obtained the proper zoning for the storage facility.

The company has 8 trucks listed in its application. The trucks were inspected and found to be in excellent condition and properly equipped. A record check on all drivers and the owner of the company revealed no driver's license suspensions or felony convictions.

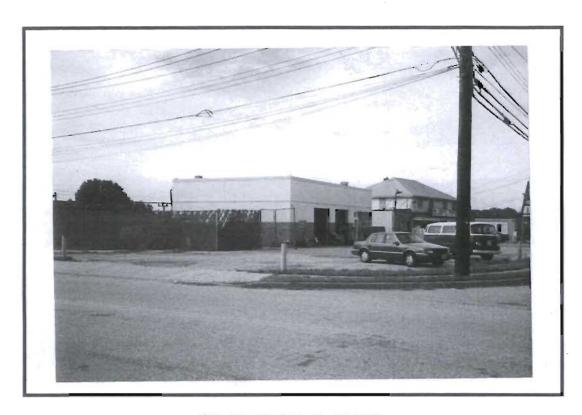
NEED CRITERIA

The Baltimore County Code, Section 24-229 states that new applications for licensed towers will be based on the <u>NEED</u> for additional tow companies to service an area. The following are responses to the need criteria.

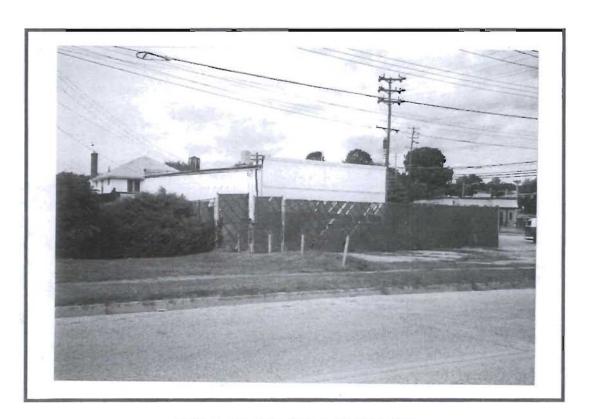
Geographic Location

The lot is located in the Parkville area of Baltimore County. The location gives applicant excellent access to 1695, Harford Rd, and Joppa Rd. The proposed area of service is on the dividing line of two existing towing companies. Pikeway Towing and Carney Towing currently service the area encompassing Carney and Perry Hall. The area is comprised of residential dwellings, apartments, commercial properties and several large assisted living

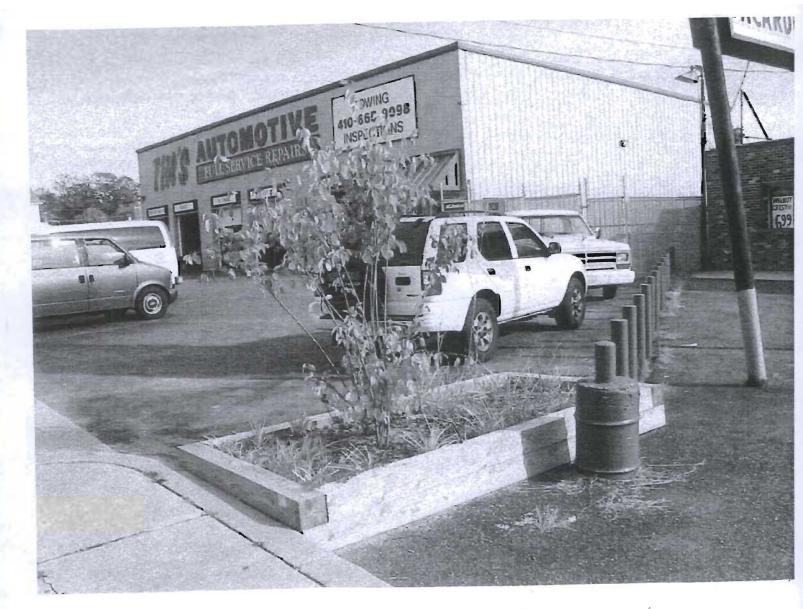
Pet. Ex 4a



FRONT OF SUBJECT PROPERTY

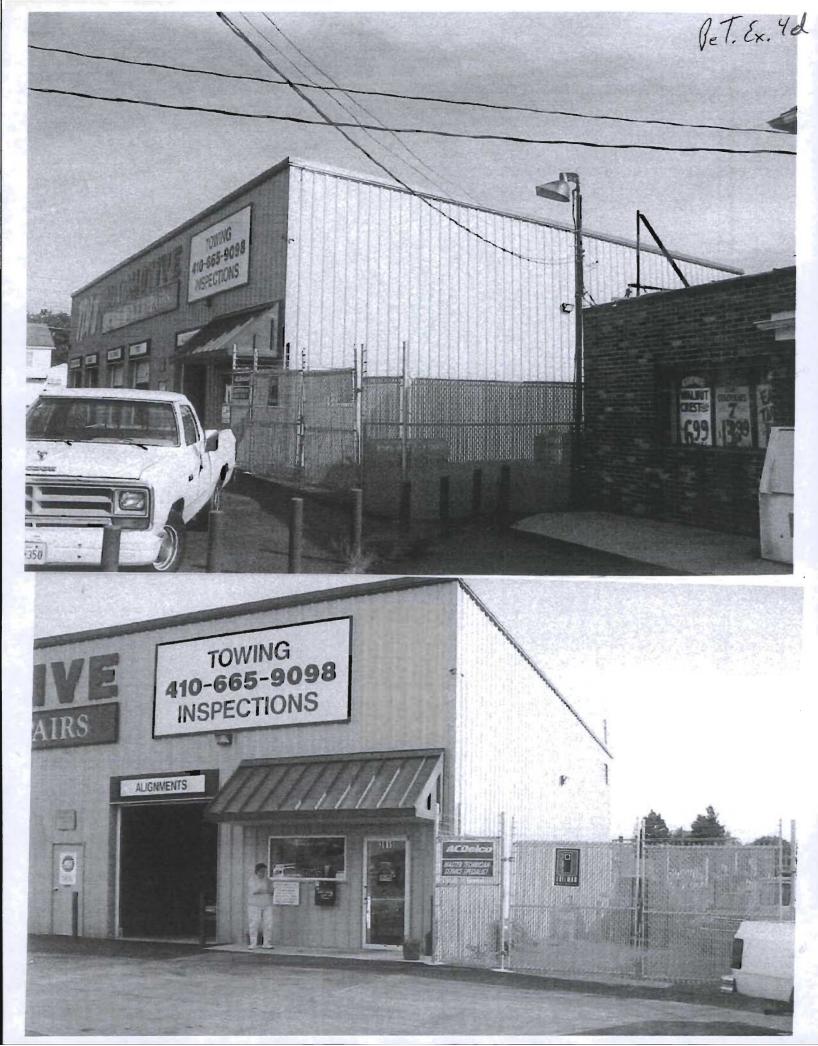


REAR OF SUBJECT PROPERTY



let. Ex. 46

Pet. Ex 40 COMPUTER TUNE UPS 68375 ZONING APPEAL PUBLIC HEARING 410-887-3180









Pet. Ex. 4 h



Department of Permits a... Development Management

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



Baltimore County

Pet. Ex. #5

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

October 24, 2003

Lawrence Haislip Miles & Stockbridge 600 Washington Avenue, Ste. 300 Towson, MD 21204

Dear Mr. Haislip:

RE: 'Case Number: 04-127-SPH, 3015 East Joppa Road

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

Carl Richal

WCR:klm

Enclosures

People's Counsel C:

Bonner-Joppa, LLC, 3015 East Joppa Road, Baltimore 21234

Pet. Ex.#6

To: Whom it may concern:

9/21/2004

Tim's Automotive has been a great neighbor for 3 years And operates a professional business. The property is always Clean and neat.

We highly recommend Tim's Automotive for the zoning Hearing.

Ajax Liquora 3011 E. Joppa Rd. Baltimore, MD 21234

Ajax Liquors

Battla Manager



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

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

September 24, 2003

ATTENTION: Rebecca Hart

Distribution Meeting of: September 22, 2003

Item No.: 113, 123, 125, 127

Dear Ms. Hart:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code, (2000 edition of NFPA 1 & 101), prior to occupancy or beginning of operation.

> LIEUTENANT JIM MEZICK Fire Marshal's Office PHONE 887-4881 MS-1102F

cc: File



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

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

Date:

9.23.03

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

RE:

Baltimore County

Item No. 127

JCM

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,

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

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PEOPLE'S COUNCIL EXHIBITS

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26 (C) Bonner-Joppa People's Counsel Exhibits 9-230) 04-127-5PH X1. Sigh in sheet 13. Ariel Photo GIS H. Zoning Mas 15. Pet. Lor Special Exception
16. Pet. for Special Heurin
17. Carney Improvement Assoc. Inc letter 8. Tax + Assessments 10. Resolution for hoth Bairden 11. photos a-f 12. Resolution for Mary O'Hare 13. pictures from Mary O'Hare A-

DATE: 9/22/04

P.C. #1

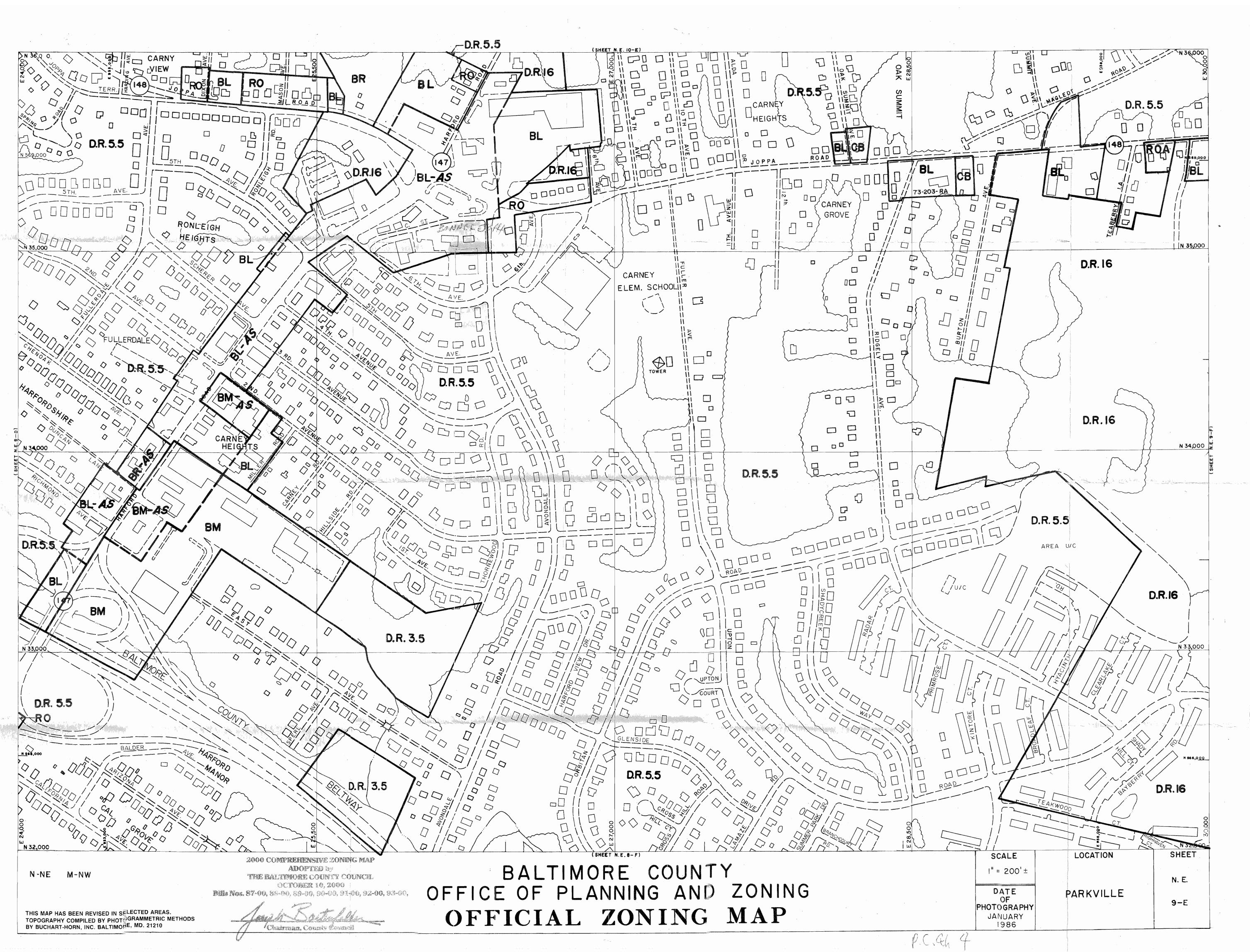
PEOPLE'S COUNSEL'S SIGN-IN SHEET

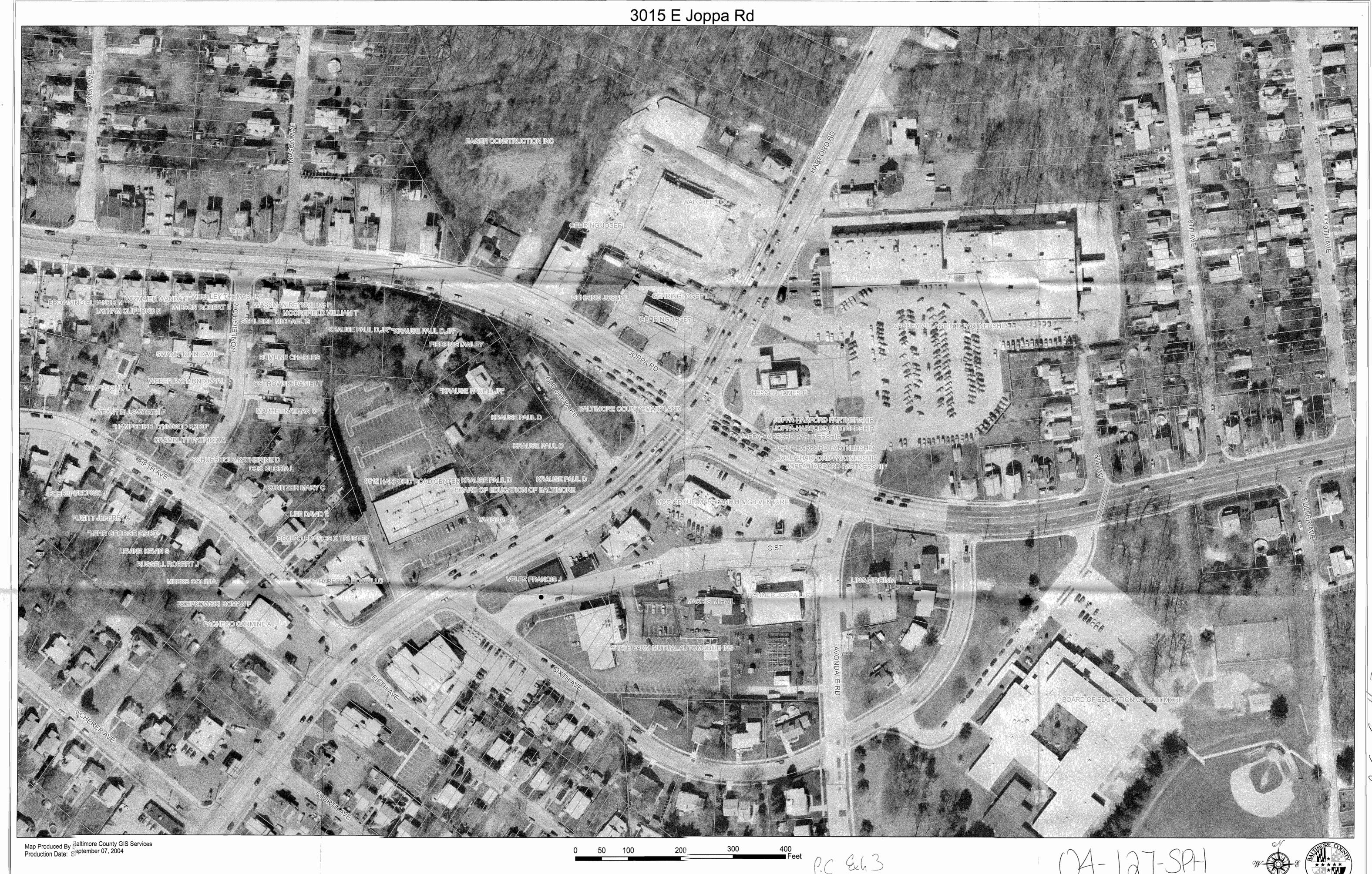
CASE NAME: BOTTER-JOPPO, LLC

CASE NO.: 04-127-5PH

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	Name / Address	Community Group You Represent /
wish to testify	Phone Number RITH BAISDEN 7706 DAK ANS	Basis of Your Concerns Falule Community Council
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<u> </u>		1234 Carney Improvement Assi
	Marilyn Ryan 665-4450 J 3014 Stath Ave. Batt. 21234	Carney Improvement Association
	JANET MYERS / CARNEY TOWNE	410/256-1797 CAPACY TOURS
-	THUMAS H. FURNKAS	FLAENTY TOWING FLAENTON ACTO PARTS/TOWING
	11715 Pilaski Huy 21162	410-335-3221
	ALICE M. BAKER 410-668-4496 2307 ELLEN AV. 21234	GREATER PARKVILLE C.C.
	William Amuss Ir. 8400 Belau Fo Bouto. MO 21236	PLUTY HELL GARAGE INC. 410. 256. 5763
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RE: PETITION FOR SPECIAL EXCEPTION:
SW/corner of Joppa Road & Avandale
Road - Ith Election District:
Antoni Horodowics - Petitioner
NO. 75-262-X (Itam No. 155)

BEFORE THE
DEPUTY ZONING
COMMISSIONER

QF

BALTIMORE COUNTY

*** *** ***

111 111 111

This Potition represents a request for a Special Exception to operate a service garage at the southeast corner of Joppa and Avondale Roads in the Eleventh Election District of Baltimore County.

The property in question contains 282 acreases and, more or less, and is improved with an existing two bay service station which had been granted a Special Exception for that use on June 13, 1952 (Case No. 2243 SA).

Testimony by several area residents established that the subject property has, in the past, been a blight on the neighborhood due to maintenance,
junk, etc. However, they now feel that the present owner is performing a
service that it is needed to the community and to maintaining the area in such a
manner that it is a credit to the area. Other testimony and evidence presented
during the course of the hearing established that the use, as presently exists,
meets requisites of Section 502.1, and the Special Exception can, with certain

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 4" day of June, 1975, that the herein requestional Exception should be and the same is hereby GRANTED. Said granting in subject to the following conditions:

1. The Special Exception granted herein for the use of a service garage shall include the right to continue to sell gas until and unless the service garage use demonstrates that the site is not large enough to accommodate both the service garage and the sale of gas. Said tale of gas shall be terminated only after a Special Hearing or Violation Hearing, either of which may be brought about by citizens' complaint or at the requeste; the Zoning Commissioner.

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ds Approximate site paner the Office of 1"

75-262-X

BATIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

S, Eric DiNenno, Zoning Commissioner

May 2, 1975

William D. Framm, Director of Planning

Petition F 75-252-X Southwest corner of Joppa and Avandale Roods SUBJECT Petition for Special Exception for Garage, Service, Petition 1 - (Autori Herosovice and Fize and Haradowice)

File Gerier

CHAMBLE COLUMN TO SERVICE HER PAR

P.C. Ex. #1

OABER REGENE

-423-SPH

PETITION FOR SPECIAL HEARING ™/S Joppe Roed and 131'S of C Street

(3015 E. Joppe Rood) 11th Election District 6th Councilmanic District

Antoni Borndowicz, et um

PRPUTY ZORING CONDITISIONER

. OF BALTIMORE COUNTY

" Cose No. 95-173-5PH

FINDINGS OF FACT AND CONTLUSIONS CT LAW . --

The rest resistant cames persons the Deputy, Contro Commissioner Polition for Special Hearing for that property known, as 3015 Rost Juppe Road, located in the vicinity of Harford Road in Parkville. The Petition was filed by the owners of the property. Antoni and Bozenna Morodowicz. The Putitioners seek approval of an assendment to the previously approved opecial exception in Case No. 75-262-X to permit the removal of Condition No. 2 thoronf which excluded the performance of body antiford fonder works and the storage of demaged or disabled vehicles on the mibject property. The property and relief sought are more particularly described on the altu plan submitted which was accepted into evidence as Petitioner's Exhibit 1. .

erry owner, Albert L. Snyder, Registered Property Line Surveyor, who propared the site plan for this property, and Martha E. Brune, Esquire and Protestant in the matter was Lawrence W. Eiring, a nearby resident of the

Testiminy and evidence offered revealed that the subject property consists of 0.304 acres, more or less, zoned 8.1.-C.S.S. and to improved with a one-every mazonry and crucco building. The property was the subject of prior time two 75-262-X in which the Petitioners were grouted a

subject to co dun be first p Ar. Burndesten able arest o

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@9K35/2001 13:15 .

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CARNEYIMPROLEMENT

PAGE 82 9 26



The Carney Improvement Association, Inc.

P.O. Box 28352 Carriery, Maryland 21234-8282

P.C. Ex. # 7

Mr. Timothy M. Kotroco
Deputy Zoning Commissioner For Baltimore County
401 Bosley Aveaus, Rosse 405
Towson, Maryland 21204
Re: Case Number: 02-066-SPHA

September 21, 2001

Dear Mr. Kotroco:

On September 20, 2001 during the general membership meeting of the Carney Improvement Association, it was decided by the membership to endorse Mr. Tim Bonner's plan to demolish, enlarge and reconstruct the existing building located at 3015 E. Joppa Road in Carney (aka: Tim's Automotive).

The endorsement of Mr. Bonner's plan is contingent pending the inclusion of several community concerns and requests to this amendment to the Special Exception which was granted on August 2, 1995. Pursuant to the following requests by the community being fulfilled, then and only then should this amendment the Special Exception be granted:

Extensive landscape screening be provided on the Avondale side of the building, as well as the S.W. corner and side of the building facing Sixth Avenue.

Suitable and attractive landscaping be provided for the C Street and Avondale Road Corner.

All exterior security lighting be of a non-invasive type and downward facing.

All advertising signage be of a permanent, fixed type and if lighted, be non-lihuminated between the hours of 2200 until 0600.

All automotive repair work to be performed between the hours of 2000 and 0700 (if any) shall be done with bay doors closed.

All storage of automobiles must be accomplished within the interior of the building (no lot storage).

 Any vehicle test driving must be done on either Joppa Road or Harford Road (without travel through the surrounding neighborhoods).

No employee or customer vehicles shall be allowed parking on Avondale Road or surrounding community streets.

No automotive body work or painting shall be permitted.

These are the conditions requested by the communities surrounding this facility and the Carney Improvement

410-663-2641 Phone/Fax

www.carmeyeanryined.org

Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation **BALTIMORE COUNTY** Real Property Data Search

Go Back View Map New Search **Ground Rent**

Account Identifier:

District - 11 Account Number - 1113056200

Owner Information

Owner Name:

BONNER JOPPA LLC

COMMERCIAL

3015 E JOPPA RD

Principal Residence:

Malling Address:

BALTIMORE MD 21234-3218

Deed Reference:

1) /15758/ 93 2)

Location & Structure Information

Premises Address

3015 JOPPA RD

Legal Description

.334 AC SS JOPPA RD SW COR AVONDALE RD

Grid Parcel 1381 Sub District Subdivision Plat No: Plat Ref: Map Section Block Lot Group 15

Special Tax Areas

Town Ad Valorem

Tax Class

Enclosed Area Primary Structure Built 5,016 SF

Property Land Area 14,549.00 SF

County Use

Stories

Basement

Туре

Exterior

Value Information

Value Phase-in Assessments As Of 07/01/2004 Value As Of 01/01/2004 245,400 138,100 251,000

496,400

As Of 07/01/2005

Land: Improvements: Total: 370,200 Preferential Land:

412,266

454,332

Transfer Information

Seller: HORODOWICZ ANTONI Date: 11/15/2001 Price: \$400,000 /15758/ 93 Deed 2: Type: IMPROVED ARMS-LENGTH Deed1 10/25/1973 / 5404/ 236 MITCHERLING WEBSTER E Date: Price: \$75,000 Seller: Type: IMPROVED ARMS-LENGTH Deed1 Deed2:

Seller:

Type:

Date: Deed1:

Deed 2:

Price:

Exemption Information

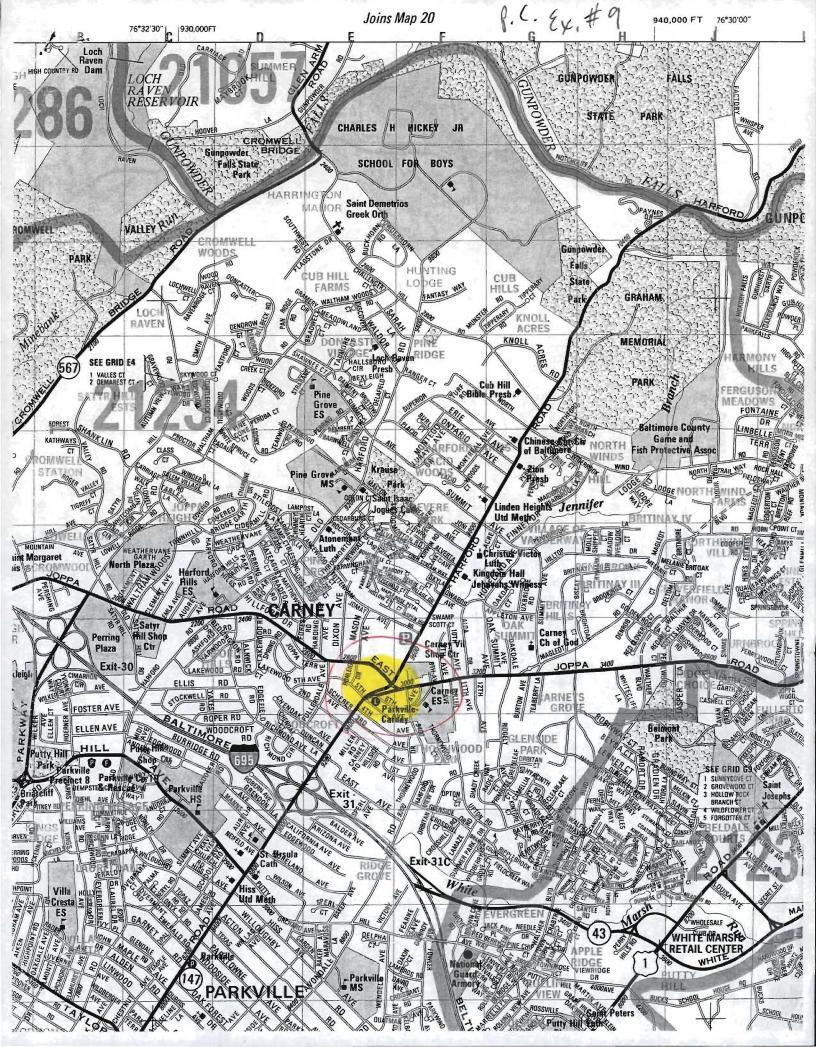
	Exchiption Alternation		
	· ·		
Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	. 0	0
•		<u></u>	

Tax Exempt: Exempt Class: NO

Special Tax Recapture:

* NONE *

P.C. Ex. #8



GREATER PARKVILLE COMMUNITY COUNCIL P.C. Ex. #10

Resolution

Resolved: That at the general meeting of the Greater Parkville Community Council (GPCC) held on June 10, 2004, it was decided by the Council membership that responsibility for review and action on all zoning and development related matters be the responsibility of the Board of Directors consisting of the following members:

> Ruth Baisden, President Joyce Trageser, Vice President Robert Carpenter, Secretary Phil Lee, Treasurer Ernest Baisden, Director Colleen Kelly, Director Ron Pawlowski, Director Charles Rehm, Director Evelyn Wyszalek, Director Tony Depitrio, Director Ed Messier, Director Chip Trageser, Director Alice Baker, Director

As witness this day of June 10, 2004

ATTEST:

Greater Parkville Community Council

Board Witness

P.C. Ex.#12

THE CARNEY IMPROVEMENT ASSOCIATION

Resolution

RESOLVED: That at the general meeting of The Carney Improvement Association (CIA) held on March 17, 2004, it was decided by the Association that the responsibility for review and action on all zoning and development related matters be the responsibility of the Board of Directors consisting of the following members:

Meg O'Hare

President

Romi Shah

Vice President

John Ryan

Treasurer

Marilyn Ryan

Corresponding Secretary

Joanne Krause

Recording Secretary

Pat Rooney

Sergeant-at-Arms

Mary Sue Rooney

Newsletter Editor

Shirley Briggeman

Director

Joyce Trageser

Director

Chip Trageser

Director

Ruth Baisden

Director

As witness this 17th day of March 2004.

ATTEST:

The Carney Improvement Association

Recording Secretary

President

Roard Witness

Bonner- Joppa LLC

PC # 2a-p (16 photos) # 13a-e (5 photos) # 11a-+ (6 photos)



corner of sopph and Avondale

2 a



Times Bonner Toppa Automative From Sixth Amar CST.

Jeps Road



Tim-s Lutomotive



From Across Avondale Avenue northwest to site

2 d



Tim's Automotive From Avondale Ave



Corner of 6th and Luondale

2 4



Bonner-Joppa - Strawence
Joppa Poud

2 9



Bonner-Joppa- Company Fopper Road

2 h



Tim's Automotive Inspections

Lonner-Joppe Grane

CST. Japanologo



Interior Times Automative



South on Avondale





Across Aver Dale Ave

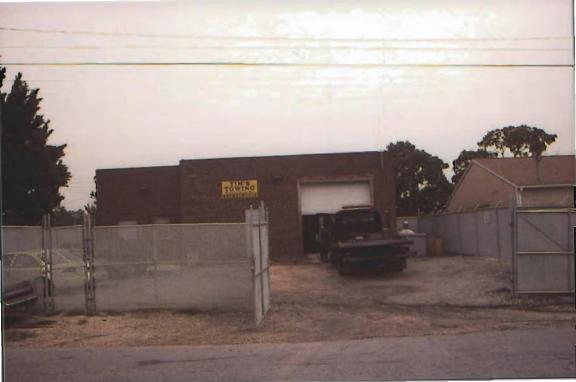


south on AvonDale Ave

2 m



Perry Hall -lot across
Cliffuele Road



Firm's Towns



Persy Hall



Photo shows nearly School LA. 672 Ave.



Photo Shows houses on St.

Printo shows varis portes behis house on Avontale



PHOTO SHOWS SUPPOUNDING #A

PESIDENTIAL COMMUNITY

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PHOTO SHOWS SURROUNDING 3A.
PRISIDENTIAL COMMUNITY
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PHOTO SHOWS SURPOUNDING RESIDBURIAL COMMUNITY. GTI AVE

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Profimitig of Corney Elementary to Mil Bonner of residential property



13 B

Louise From Jim's automotive owner by Mr. Bonner Commercial Don porked here



Jupes of whiches parked in C Sheet



13 1

Type Vehicles Porked on avordale Rood



Commercial Van parked on residenteal property owned by



Case No. 04-127 SPH

XZV 9115198

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

I/We do solemnly declare and affirm, under the penalties of

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By Sylvan Date 9.11.03

is the subject of this Petition.

perjury, that I/we are the legal owner(s) of the property which

for the property located at	- 3015 Ea	st Joppa	Road	21230
which is	s presently	y zonedI	BLEMS A	S

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

Amendment to Order in 02-066 SPHA to permit tow truck operations from the subject property, AND REMOVE RESTRICTION NO. 9 From SAID ORDER.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Special Hearing, 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.

Contract Purchaser/Less	<u>ee:</u>		Legal Owner(s):		
Nome - Dull	·		Bonner-Joppa LL	С	
Name - Type or Print			Name - Type or Print	2	
Signature			Signature		
A			Lawrence F. Hais	slip, Attorney	
Address		Telephone No.	Name - Type or Print		
City	State	Zip Code	Signature		443 -
Attorney For Petitioner:			3015 East Joppa	Road	463-
A			Address	· · · · · · · · · · · · · · · · · · ·	Telephone No.
Lawrence F. Haislip			Baltimore	MD	21234
Vame - Type or Print			City	State	Zip Code
Signature	-}		Representative to	<u>be Contacted:</u>	
Miles & Stockbridge P.	/		Lawrence F. Hais	slip	
Company			Name Miles & Sto	ckbridge P.C.	
600 Washington Avenue,	Suite 3	00 410-823-8234	600 Washington A	Avenue, Suite 300	410-823-823
Address		Telephone No.	Address		Telephone No.
Towson	MD	21204	Towson	MD	21204
ity	State	Zip Code	City	State	Zip Code
			OFET	CE USE ONLY	-
			7117	CE COE CIVEY	

BEGINNING for the same on the South 6 degrees 05 minutes west 274.17 feet line as conveyed by a deed dated January 24, 1952 from Gertrude B. Goldbach, et. al. Trustee to John E. Schneider, Jr., and wife recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2072, folio 267 at the distance of north 6 degrees 05 minutes east 154.81 feet from a concrete marker heretofore planted at the end of said line, thence running for a line of division the four following courses and distances, viz: north 87 degrees 44 minutes west 118.00 feet, north 5 degrees 57 minutes west 57.63 feet, north 25 degrees 48 minutes west 61.28 feet and north 7 degrees 50 minutes east 17 feet to the southeast side of Joppa Road and at the beginning of the south 82 degrees 10 minutes east 61.90 feet line in the deed above referred to, thence binding on Joppa Road as conveyed by a deed dated August 1, 1933 from Henry A. Brehms to State Roads Commission, recorded among the aforesaid Land Records in Liber L.McL.M. No. 914 Folio 94, etc. the three following courses and distances viz: south 82 degrees 10 minutes east 61.90 feet, south 82 degrees 50 minutes east 50 feet and South 89 degrees 21 minutes east 50 feet to the beginning of the south 6 degrees 05 minutes west 274.17 feet line in the deed referred to and thence south 6 degrees 05 minutes west binding thereon 119.36 feet to the place of beginning. Containing 0.382 of an acre of land, more or less.

BEING the same lot of ground which by Deed dated October 12, 1973, and recorded among the Land Records of Baltimore County in Liber EHK, JR. No. 5404, Folio 236 et. seq. was granted and conveyed by Webster H. Mitcherling and Elizabeth Mitcherling, wife to Antoni Horodowicz and Bozenna Horodowicz, wife, having since died leaving Antoni Horodowicz as sole surviving tenant-by-the-entireties.

BEING the same lot of ground which by Deed dated November 14, 2001, and recorded among the Land Records of Baltimore County in Liber SM No. 15757, Folio 093 et. seq. was granted and conveyed by Antoni Horodowicz as sole surviving tenant-by-the-entireties, to Bonner-Joppa, LLC.4



. .

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: #04-127-SPH
3015 East Joppa Road
S/west corner of "C" Street
and Avondale Road
11th Election District
6th Councilmanic District
Legal Owner(s):
Bonner-Joppa, LLC
Special Hearing: to permit
tow truck operations from
the subject property: and
remove restriction No. 8
from said order.
Hearing: Friday, October
31, 2003 at 9:00 a.m. in
Room 105, County Office
Building, 111 W. Chesapeake Avenue.

Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for

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 Handing Contact the Zoning

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391

10/210 Oct. 16 C63184

CERTIFICATE OF PUBLICATION

1016,2003
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 10/16/ ,20 <u>03.</u>
The Jeffersonian Arbutus Times Catonsville Times Towson Times Owings Mills Times NE Booster/Reporter North County News
D/1/01/10

LEGAL ADVERTISING

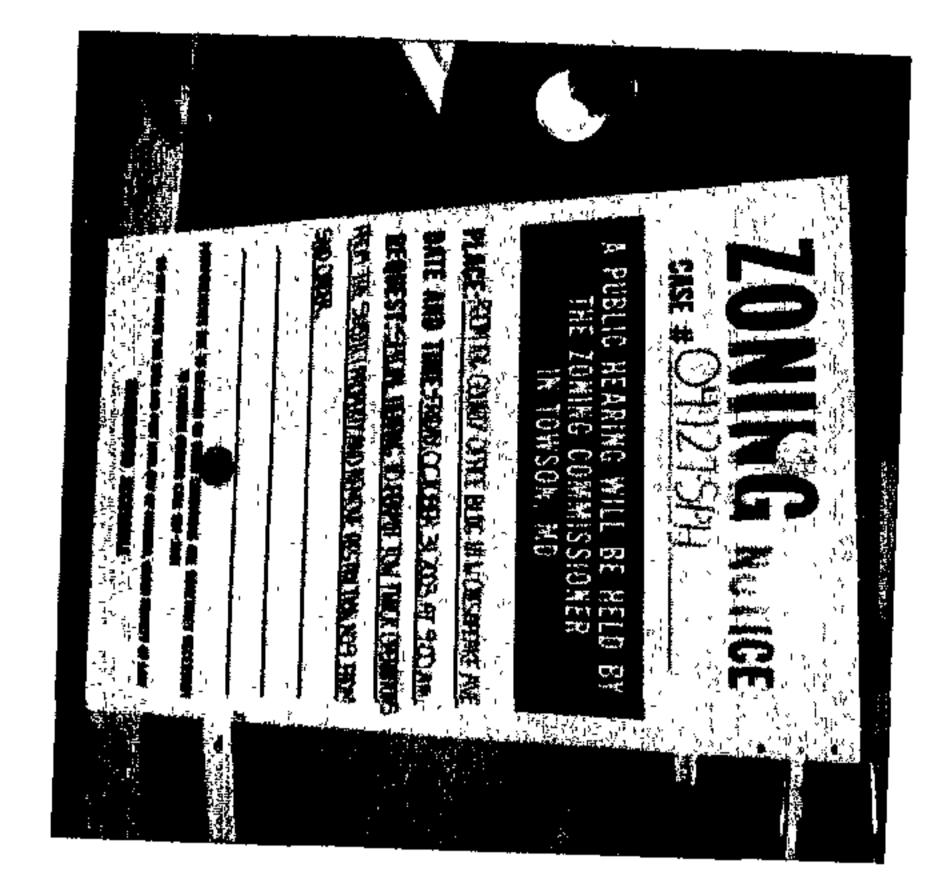
FROM: FOR: DATE DISTRIBUTION RECEIVED BALTIMORE MISCEL OFFICE OF CASHIER ANEOUS **BUDGET & FINANCE** COUNTY, RECEIPT AGENCY MARY AMOUNT ACCOUNT YELLOW - CUSTOMER 47 C 200 SIMBAR E WEST hillimic Canty, Arrian 65.18.28 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10.53 10. WINDER WINE TO THE PROPERTY OF THE PROPERTY WINDER CASHIER'S VALIDATION production of the second of th

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E OF POSTING

RE: Case No.: 04-127-SPH

Petitioner/Developer: BONNETZ
JOPPA, LLC

Date of Hearing/Closing: 10/31/03

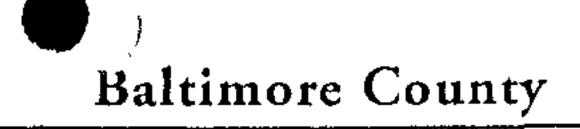
ATTN: Becky Hart {(410) 887-3394}

Ladies and Gentlemen: This letter is to certify unde	r the penaltie	s of periu	: rv that ti	he necessa	rv sign(s) regu	ired by law were
posted conspicuously on the	property local	ated at:				
**************************************		-// \>/	<u> </u>	<i>L177</i>		
The sign(s) were posted on		/	0/11			
		(IV	lonth, D	ay, Year)		
		Str	ncerely,		:	
						10/11/00
•				(Signatur	e of Sign Poster) (Date)
<i>j</i>				SS	G Robert Blac	k
					(Print Name)	
•				14	508 Leslie Road	
					(Address)	
		•		Dund	alk, Maryland	21222
•				(Ci	ty, State, Zip S	ode)
					(410) 282-7940	
5- P				(T	elephone Numb	er)

Department of Permits and Development Management

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





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

September 25, 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: 04-127-SPH

3015 East Joppa Road S/west corner of "C" street and Avondale Road 11th Election District – 6th Councilmanic District Legal Owner: Bonner-Joppa, LLC

Special Hearing to permit tow truck operations from the subject property, and remove restriction No. 9 from said order.

Hearings:

Friday, October 31, 2003, at 9:00 a.m. in Room 106, County Office

Building, 111 W. Chesapeake Avenue

Timothy Kotroco

Director

TK:klm

C: Lawrence Haislip, Miles & Stockbridge, 600 Washington Avenue, Ste. 300, Towson 21204 Bonner-Joppa, LLC, 3015 East Joppa Road, Baltimore 21234

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, OCTOBER 16, 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

Thursday, October 16, 2003 Issue - Jeffersonian

Please forward billing to:

Bonner-Joppa LLC 3015 East Joppa Road Baltimore, MD 21234 443-463-1110

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:

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Special Hearing to permit tow truck operations from the subject property, and remove restriction No. 9 from said order.

Hearings: Friday, October 31, 2003, at 9:00 a.m. in Room 106, County Office

Building, 111 W. Chesapeake Avenue

AND THE RESERVE THE PARTY OF TH

LAWRENCE E. SCHMIDT 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.

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.

Item Number or Case		
Petitioner:	BONNER-JOPA-LLC	
	3015 EAST JOPPA Pd. Balto Md. 2123	4
DI EASE EORWARD	ADVERTISING BILL TO:	
Name:	, (o) = (() () () () () () () () (
	SAN -	

Department of Permits and Development Management

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



Baltimore County

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

October 24, 2003

Lawrence Haislip Miles & Stockbridge 600 Washington Avenue, Ste. 300 Towson, MD 21204

Dear Mr. Haislip:

RE: Case Number: 04-127-SPH, 3015 East Joppa Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 11, 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 Bonner-Joppa, LLC, 3015 East Joppa Road, Baltimore 21234



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

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

September 24, 2003

ATTENTION: Rebecca Hart

Distribution Meeting of: September 22, 2003

Item No.:

113, 123, 125, 127

Dear Ms. Hart:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code, (2000 edition of NFPA 1 & 101), prior to occupancy or beginning of operation.

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

cc: File

State Driven to Excel

Administration

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

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

划。 化2000 General Telephone Telephone 1000 F

Date: 9.23.03

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

RE:

Baltimore County

Item No. 127

JCM

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,

1

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

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor

Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For September 29, 2003

Item No. 127

The Bureau of Development Plans Review has reviewed the subject-zoning item.

DATE: September 30, 2003

The proposed access off Avondale Road closest to Joppa Road shall be

eliminated.

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:

Tim Kotroco

FROM:

R. Bruce Seeley 235 MT

DATE:

October 22, 2003

Zoning Petitions

Zoning Advisory Committee Meeting of September 22, 2003

SUBJECT: NO COMMENTS FOR THE FOLLOWING ZONING ITEMS:

04-113,114,118,119,120,121,122,123, (27) 28,129,130,136

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: October 31, 2003

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

3015 E. Joppa Road

INFORMATION:

Item Number:

04-127

Petitioner:

Bonner Joppa LLC

Zoning:

BL-AS

Requested Action:

Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the subject special hearing request to eliminate condition 9 of zoning case number 02-066.

Section Chief:

AFK:LL

RE: PETITION FOR SPECIAL HEARING
3015 E Joppa Road; SW corner of "C"
Street and Avondale Road
11th Election & 6th Councilmanic Districts
Legal Owner(s): Booner-Joppa LLC,
Lawrence F Haislip, Attorney

* BEFORE THE

ZONING COMMISSIONER

* FOR

Petitioner(s)

BALTIMORE COUNTY

* 04-127-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 September, 2003, a copy of the foregoing Entry of Appearance was mailed to Lawrence F. Haislip, Esquire, Miles & Stockbridge, P.C., 600 Washington Avenue, Suite 300, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

SEP 2 6 2003

PETER MAX/ZIMMERMAN

People's Counsel for Baltimore County

Per.....

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

January 30, 2004

Lawrence Haislip Miles & Stockbridge P.C. 600 Washington Ave., Ste. 300 Towson, MD 21204

Dear Mr. Haislip:

RE: Case :04-127-SPH, 3015 E. Joppa Road

Please be advised that an appeal of the above-referenced case was filed in this office on December 22, 2004 by Peter Zimmerman with People's Counsel. 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

Timothy Kotroco Director

TK:klm

c: Lawrence E. Schmidt, Zoning Commissioner Timothy Kotroco, Director of PDM People's Counsel

APPEAL

Petition for Special Hearing
3015 E. Joppa Road
SW/corner of "C" Street and Avondale Road
11th Election District — 6th Councilmanic District
Bonner-Joppa, LLC - Petitioners

Case No.: 04-127-SPH

Petition for Special Hearing (September 11, 2003)

Zoning Description of Property

Notice of Zoning Hearing (September 25, 2003)

Certification of Publication (The Jeffersonian issue October 16, 2003)

Certificate of Posting (October 11, 2003) by SSG Robert Black

Entry of Appearance by People's Counsel (September 26, 2003)

Petitioner(s) Sign-In Sheet
One Sheet

Protestant(s) Sign-In Sheet None

Citizen(s) Sign-In Sheet
One Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit

1. Plat to accompany petitions for Special Hearing 2a – f. Photos

Protestants' Exhibits:

Newspaper article

2a-v. Photos 3a-d. Photos

4. Not available

Newspaper article

Miscellaneous (Not Marked as Exhibit)

- 1. Letter dated November 4, 2003 from John Murphy, Deputy Zoning Commissioner
- 2. Letter dated November 10, 2003 from Lawrence Haislip
- 3. Letter dated November 12, 2003 from John Murphy
- 4. Letter dated November 17, 2003 from Meg O'Hare

Deputy Zoning Commissioner's Order (GRANTED – December 3, 2003)

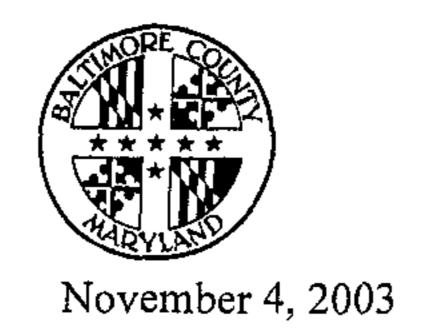
Notice of Appeal received on December 22, 2003 from Peter Zimmerman, People's Counsel

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Lawrence Haislip, Miles & Stockbridge, 600 Washington Ave., Ste 300, Towson 21204

date sent February 2, 2004, klm

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

Lawrence F. Haislip, Esquire Miles & Stockbridge, P.C. 600 Washington Avenue, Suite 300 Towson, Maryland 21204

Re: Petition for Special Hearing

Case No. 04-127-SPH

Property: 3015 East Joppa Road

Dear Mr. Haislip:

Please find attached a facsimile cover page from Ms. O'Hare dated October 30, 2003 which likely was sent October 31, 2003. I certainly received it after the hearing and, of course, this meant you had no opportunity to respond to it.

I am sure that you would properly object to my considering this information at all since it is an ex parte communication received after the close of evidence. However, this is an administrative process which often (probably too often) has loose ends which do not fit the formal rules of the circuit court very well. The issue of whether or not the Police Department has asked Tim's Towing to have emergency towing service available at this location is vital and central to any decision I would make on this matter.

I also am aware that any appeal from my decision is *de novo* at the Board of Appeals and so this "evidence" will undoubtedly be presented at the next level with considerable additional expense and time expended by your client, as well as to the community spokespersons. Finally, I would like to resolve this issue at this lowest level, if possible. I know you would not want to present in any forum, even this administrative hearing, central proposition that may be false.

Considering all of the above, I would ask you to investigate this matter and respond in writing regarding these allegations. Once I have received your response, I will be happy to make a decision on the record, or to reconvene our hearing with perhaps a representative of the Police Department attending.

Please let me hearing from you by November 21, 2003.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

John Murphy

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

November 12, 2003

Lawrence F. Haislip, Esquire Miles & Stockbridge, P.C. 600 Washington Avenue, Suite 300 Towson, Maryland 21204

Meg O'Hare 3012 Summit Avenue Baltimore, MD 21234

Re:

Petition for Special Hearing

Case No. 04-127-SPH

Property: 3015 East Joppa Road

Dear Mr. Haislip & Ms. O'Hare:

I wanted to let you both know that I received a telephone call from Officer Ronald Ruark, Baltimore County Police Department, regarding the application of Tim's Towing to become a County tower. As I understand the situation, the decision on the need for an additional tower in the Parkville/Perry Hall area will be decided administratively by the Department of Permits & Development Management (Rick Wisnom). At this point, the Police Department is neutral—neither supporting nor opposing any applicant. Officer Ruark simply said that the same three tow truck operators have existed in the Parkville/Perry Hall area for several decades, but obviously that area has experienced an increased population which may be an important factor for DPDM to consider. I also understand that the Police Department will not let Tim's Towing's application be presented to DPDM for a determination of need unless the applicant has the proper zoning authority. Consequently, deciding the zoning issue is simply an important preliminary step towards getting the County to agree.

However, if one tow truck is allowed to be stationed at the subject site, that tow truck could be used privately even if the County (DPDM) decides there is no need for more towing operators for police work.

Hopefully this clarifies this issue. I will be making my decision shortly.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

JVM:raj



FAX COVER SHEET

For You, For Baltimore County	Date: 12/4/03
- Census 2000	Number of Pages including cover sheet:
Could Yourself in Maryland's Future!	
To: Laurence Privily	From: Comm.
	- Office
Phone:	
ax# 410-823-8123	Phone: 40-887-388
Willarks: Urgent For your review	Reply ASAP Please comment
Me: 04-197- 3015 E. Bouner	Daniel Col
Brunes	
	· · · · · · · · · · · · · · · · · · ·

MILES & STOCKBRIDGE P.C.

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DEC 4 2003

ZONING COMMISSIONER

Lawrence F. Haislip 410.823.8234 lhaislip@milesstockbridge.com

December 3, 2003

John V. Murphy
Deputy Zoning Commissioner
Office of the Zoning Commissioner for
Baltimore County
Suite 405
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: 3015 East Joppa Road; Case No. 04-127-SPH

Dear Deputy Commissioner Murphy:

Following our telephone conference in mid-November I was under the impression that your decision in the above-referenced matter would be rendered shortly. I have not received it and was wondering whether I had missed it. I want to be sure that you are not awaiting any further response from me. If you are, would you please let me know?

Sincerely,

Lawrence F. Haislip

LFH

Cc: Mr. Timothy Bonner

Marilla Marill

Date: 10/30/2003 Time: 4:17:36 PM

Page 1 of 1

FACSIMILE COVER PAGE

To:

Dpty Zoning Commissioner Murphy

From:

Mrs. Meg O'Hare

Sent:

10/30/2003 at 4:17:36 PM

Pages:

1 (including Cover)

Subject:

Additional Information on 3015 E. Joppa Road-Tim's Automotive

Dear Mr. Murphy:

Thank you for helping me through the Hearing this morning. I am still learning about the zoning process. Having my baby granddaugher Ava probably did not help matters. Friday is my daycare day. My son, her Dad, is a Baltimore County High School teacher and his wife works only part time so I try to help out to save them some money.

When I came home, I got information from Baltimore County Police Towing, specifically from Ron Ruark. Officer Ruark said that he did not agree with the testimony that it was Baltimore County Police expressed a need for additional police tow contractors in the 21234. Oakleigh Towing and Carney Towing are currently operating.

also discovered that for the last 5 years, Tim's Towing has applied to become a police towing contractor and has been turned down.

Finally, Tim's Towing is licensed to tow only the customers for whom they are doing automotive work.

I suspect that this is why the attorney had nothing on Baltimore County Police or Fire Department stationary to support his argument. I thought that was odd.

I am sure that if you contact Officer Ruark that he can better explain the procedure for being designated a Baltimore County Police Towing contractor. It seems as if they are not in favor of Tim's Towing becoming a Baltimore County Police Towing Contractor.

Sincerely,

Mrs. Meg O'Hare Carney Improvement Association President

MILES & STOCKBRIDGE P.C.

Lawrence F. Haislip 410.823.8234 lhaislip@milesstockbridge.com

November 10, 2003

John V. Murphy, Esquire Deputy Zoning Commissioner For Baltimore County County Courts Building, Suite 405 Baltimore, Maryland 21204

Re: 3015 East Joppa Road; Case No. 04-127-SPH

Dear Deputy Commissioner Murphy:

I am in receipt of your letter of November 4, 2003, and the rather unusual communication from Ms. O'Hare. I can certainly appreciate your position under the circumstances, and share your view that, under the circumstances, it would be best simply to provide a substantive response. Before I was able to do so, however, I understand that Officer Ronald Ruark has taken the liberty of contacting you directly. He informs me that he completely explained the Department's position directly to you, and that you now understand that the facts are in accord with the information given to you at the hearing by Mr. Bonner, and that Ms. O'Hare's reportage of Officer Ruark's comments, and the Department's views, was not accurate.

RECEIVED

NOV 1 3 2003

ZONING COMMISSIONER

Please let me know if you wish me to provide any additional independent materials supplementing this issue.

Sincerely,

Lawrence F. Haising

LFH

cc: Mr. Timothy Bonner

Inch 9/26/01

IN RE: PETITIONS FOR SPECIAL HEARING
AND VARIANCE
W/S Avondale Road, 134' S of "C" Street
11th Election District
6th Councilmanic District
(3015 E. Joppa Road)

Antoni Horodowicz, Legal Owner and Bonner Joppa LLC/Tim's Automotive, Contract Purchaser Petitioners

- * BEFORE THE
- * DEPUTY ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
- * CASE NO. 02-066-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance filed by the legal owner of the subject property, Antoni Horodowicz and the contract purchaser, Bonner Joppa LLC. The special hearing request is from Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to amend the previously approved special exception granted in Case No. 95-423-SPH, to allow the construction of a new building on the subject property. In addition, the Petitioners are requesting a variance from Section 409.8.A.4 of the B.C.Z.R., to allow existing parking spaces to continue with a 0 ft. setback from the street right-of-way line in lieu of the required 10 ft.

Appearing at the hearing on behalf of the special hearing and variance requests were Antoni Horodowicz, owner of the property, Michael Walkley, the professional engineer who prepared the site plan of the property and Tim Bonner, owner and operator of Tim's Automotive, the contract purchaser of the property. The Petitioner was represented by Lawrence Haislip, attorney at law. Appearing as an interested citizen was Ruth Baisden, representing the Greater Parkville Community Council.

Testimony and evidence indicated that the property, which is the subject of this request, consists of 0.34 acres, more or less, zoned BL-AS. The subject property is located on the

southwest corner of the intersection of Avondale Road and "C" Street in the Parkville area of Baltimore County. The subject property is currently improved with an existing 1-story masonry and stucco building, wherein the current owner operates a service garage.

Mr. Bonner, who operates a business in Baltimore City at the intersection of Frankford Avenue and Belair Road, is desirous of purchasing the subject property from Mr. Horodowicz. Mr. Bonner intends to tear down the old dilapidated masonry building out of which Mr. Horodowicz has operated his service garage for the past 30 years. The building is beyond renovation and needs to be torn down. Furthermore, the remainder of the property is in desperate need of a clean-up. Mr. Bonner proposes to tear down the old building and clean the entire property. He further proposes to repave the entire site with macadam. The macadam in its current state is busted up and in many places reduced to gravel. The addition of Mr. Bonner and his business to this area of Parkville and the renovation and rehabilitation of this particular piece of property will be a tremendous windfall to this community.

Mr. Bonner proposes to construct a new 6-bay service garage facility in accordance with the representations made on the site plan submitted into evidence. In order to proceed with the redevelopment of this property, the special hearing request, as well as the variance request, are necessary.

As stated previously, Ms. Ruth Baisden appeared on behalf of the Greater Parkville Community Council. In addition, a letter of support was submitted by the Carney Improvement Association. The letter from the Carney Improvement Association requests that certain conditions and restrictions be imposed upon Mr. Bonner, in the event the special hearing and variance are granted. Ms. Baisden agreed with the position of the Carney Improvement

Association. The conditions and limitations, as stated in the letter from the Carney Improvement Association were discussed in detail with the Petitioner.

After considering the testimony and evidence offered at the hearing, I find that the Petitioner's special hearing request to amend the previously approved special exception in Case No. 95-423-SPH should be granted. However, I believe it is necessary to place appropriate conditions and restrictions upon this Petitioner, in order to protect the interests of the surrounding residential community. Those conditions and restrictions shall be listed at the end of this Order.

As to the variance request, the Petitioner is requesting permission to continue to utilize parking spaces that are situated 0 ft. from the street right-of-way in lieu of the required 10 ft. These parking spaces relate to the public road known as "C" Street. Many of the businesses located along "C" Street have parking immediately adjacent to that right-of-way. Mr. Bonner wishes to continue to utilize parking in that fashion which has existed on this property for the past 30 years. He does propose to repave the entire parking lot and install new curb and gutter.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the special hearing were not granted. The relief requested will not be detrimental to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R. In addition, the variance request to permit parking spaces with a 0 ft. setback from the right-of-way line of a public street in lieu of the required 10 ft. shall also be granted.

Pursuant to the advertisement, posting of the property and public hearing held on the Petition and for the reasons given above, I believe that the special hearing and variance requests should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this Aday of September, 2001, that the Petitioner's Request for Special Hearing to amend the previously approved special exception granted in Case No. 95-423-SPH, to allow the construction of a new building on the subject property, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the Petitioner's Request for Variance to allow existing parking spaces to continue with a 0 ft. setback from the street right-of-way line in lieu of the required 10 ft., be and is hereby GRANTED, subject, however, to the following restrictions:

- 1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2. The Petitioner shall be required to submit to Mr. Avery Harden, Landscape Architect for Baltimore County, a landscape and lighting plan for his full review and approval.
- 3. The Petitioner shall be permitted to install an illuminated identification sign in the area depicted on the site plan. However, the illumination of the sign in question shall be placed on a timer so as not to be illuminated between the hours of 2:00 a.m. and 6:00 a.m. on any given day.
- 4. The operation of a service garage from this property shall not include the painting of automobiles or major body and fender work. The Petitioner shall be permitted to do minor paint touch-up work, shall be permitted to replace mirrors, tail lights, windshields, bumper guards and other light body work, along with all major and minor mechanical repair.
- 5. At no time shall any damaged vehicles be stored outside on the Petitioner's property. All automobiles awaiting repair by the Petitioner shall be parked in the designated parking spaces as shown on the site plan submitted into evidence. Automobiles awaiting repair shall not be permitted to be parked in a haphazard fashion on the property or stacked behind one another.
- 6. Parking associated with the Petitioner's business shall be permitted on the public road known as "C" Street, as well as along Avondale Road, adjacent to the Petitioner's property and adjacent to the BGE substation. However, no parking shall be permitted by the Petitioner's employees or customers along any public street in front of any residential dwelling.

- 7. The hours of operation of the Petitioner's business shall be from 7:00 a.m. to 6:00 p.m., Monday through Friday, and Saturday, 8:00 a.m. to 3:00 p.m. The Petitioner shall be permitted to operate his business outside of these hours on certain occasions where he has to finish a customer's vehicle for delivery. However, these shall be the main hours of operation for the Petitioner's business.
- 8. The Petitioner shall be prohibited from test driving customer's automobiles along Avondale Road, south of the BGE substation, which would involve the adjacent residential community. These residential streets shall not be utilized by the Petitioner for the purpose of test driving vehicles. The Petitioner shall utilize Joppa Road, "C" Street, Harford Road and/or other major commercial arteries for the purpose of test driving vehicles.
- 9. There shall be no tow truck operation permitted to occur from this property and no tow trucks shall be stored on the subject property. However, it shall be permitted for tow trucks to bring automobiles in need of repair to and from the subject site.
- 10. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

TIMOTHY M. KOTROCO

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

TMK:raj

CASE NAME 30 CASE NUMBER S DATE 10/3/6

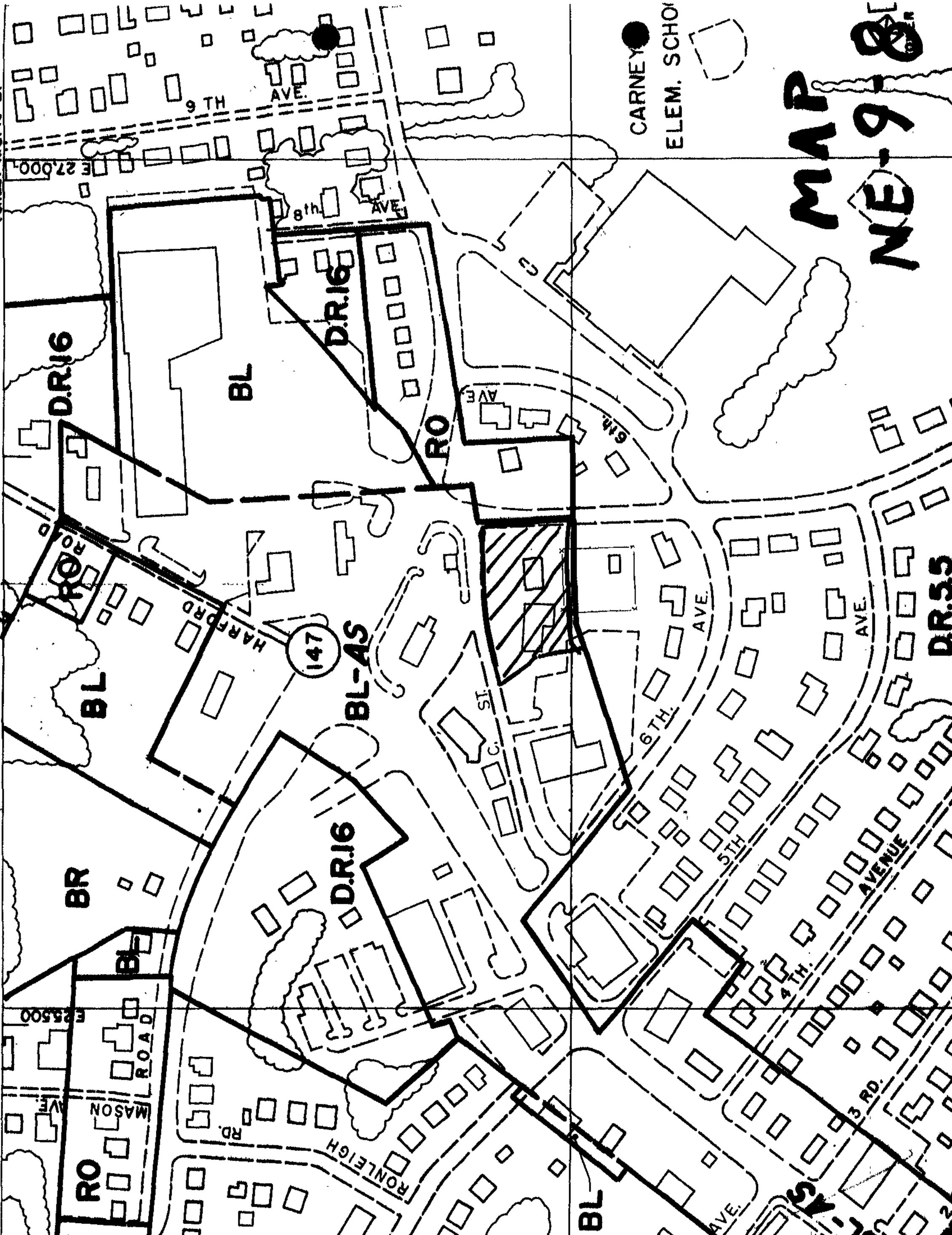
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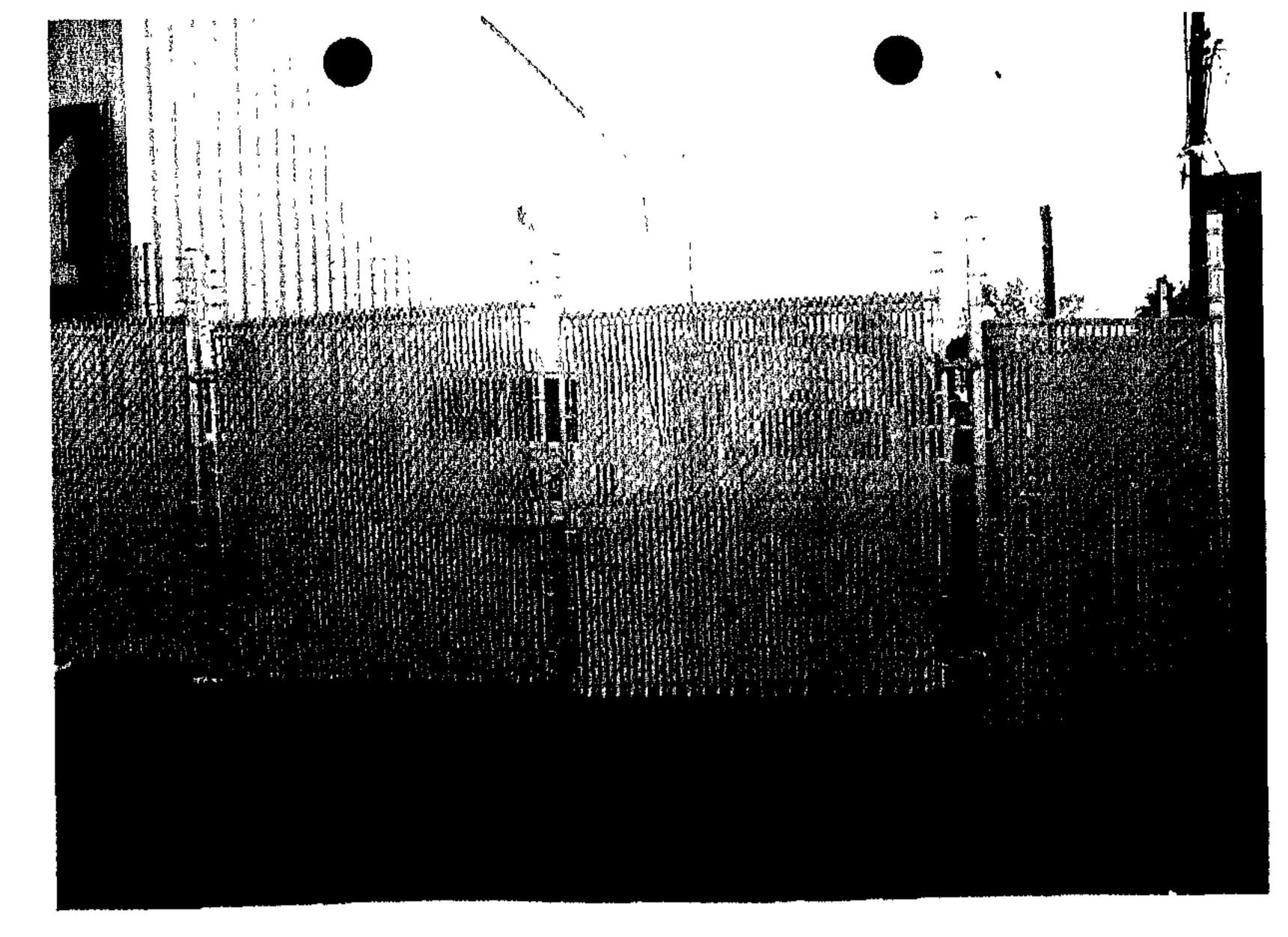
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CASE NAME 30/5 2 JOPA CASE NUMBER 04-127-5041 DATE 10/3/03

CITIZEN'S SIGN-IN SHEET

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						ADDRESS 7706 DAK AVE 2301 Ellan Out. 3012 Summer ave
						Conney MD 21234 Conney MD 21234 MD 21234
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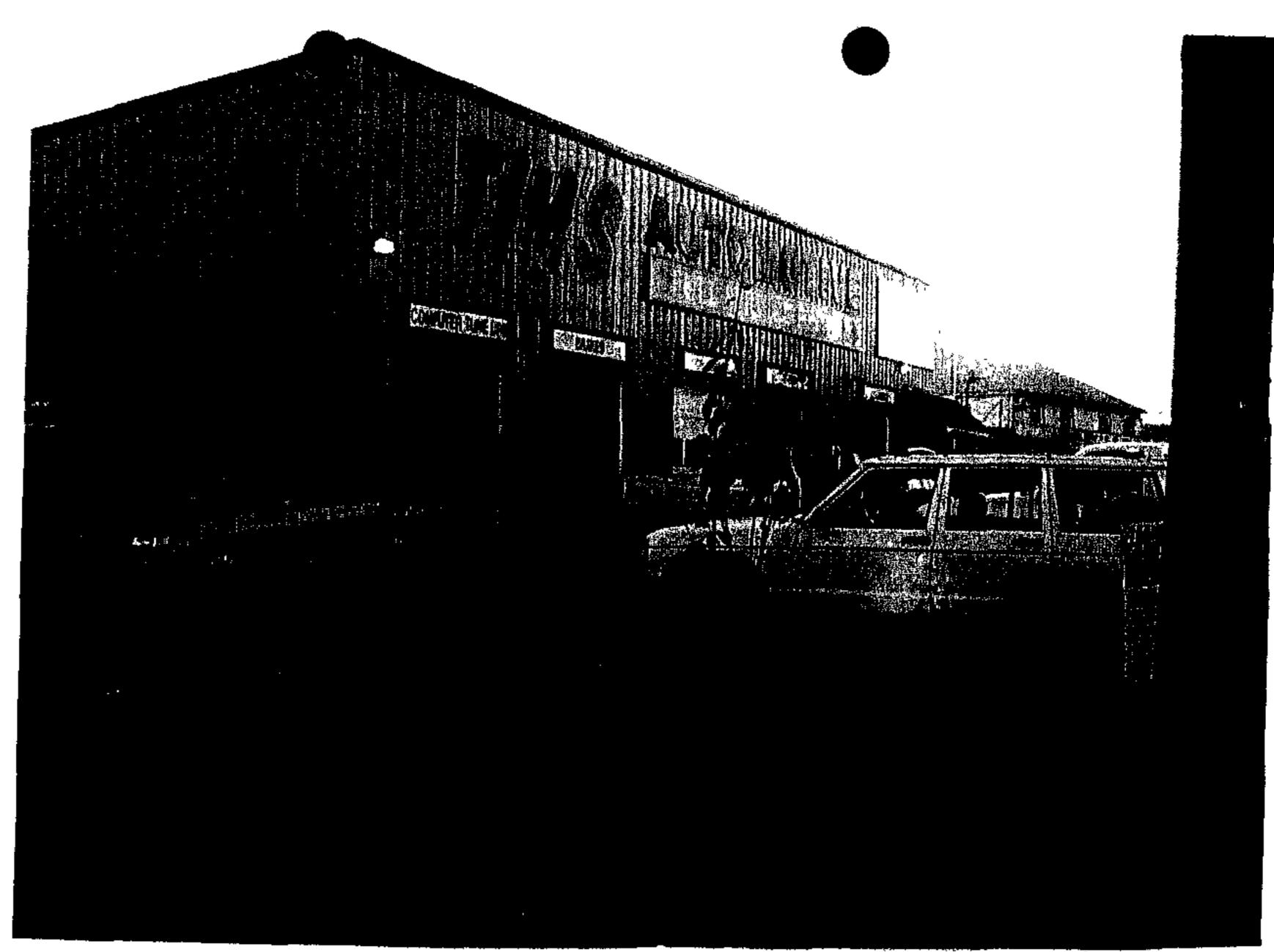


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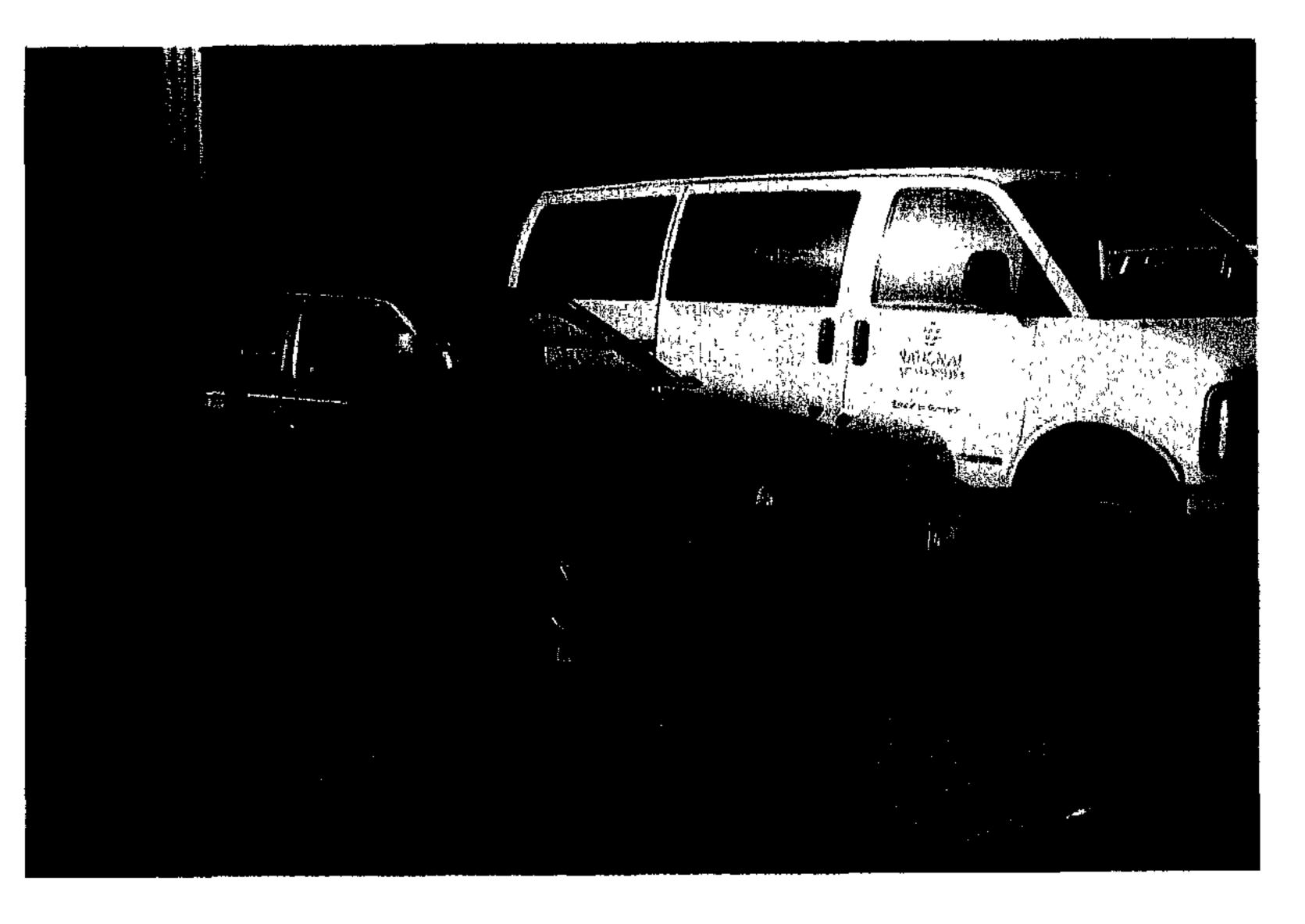
P.6



MITTING TO THE TO







3 towing firms cited for violations

Hearings set tomorrow on 'ghost' garage charges

By WALTER F. ROCHE JR. IUN STAFF

A Baltimore Police Departnent investigation has turned ip new evidence of "ghost" gaages in city towing operations nd, as a result, three towing rms have been cited for violatig the rules of the lucrative proram.

Facing hearings tomorrow for olations of the city towing procam regulations are Berman's utomotive, Frankford Towing ad Tim's Towing. All three ere cited last month for falling meet minimum city requireents for maintaining official wing sites.

"Ghost" garages are garages at exist on paper, but do not eet the minimum requireents of the city program, ich includes a manned teleone, parking spaces and an

on-duty tow truck and operator.

The two-week suspensions were scheduled to take effect on a staggered basis beginning Dec. 22 but were put on hold when all three firms requested a hearing to dispute the charges.

Maj. Marcus Brown said that the citations were part of an effort to improve the administration of the program. The action against the three companies comes as the department is completing new regulations.

The three firms cited are among 10 designated by the city to tow vehicles from accident or crime scenes. Under the system, tow trucks are dispatched based on their proximity to the accident or crime scene.

Police officials say that mainthe city is critical to ensure that tow trucks can respond rapidly to calls and remove disabled vehicles from traffic quickly.

Motorists must pay an \$81 towing fee plus storage charges to retrieve their cars. Hundreds are towed to the city impound lot on Pulaski Highway every month.

An investigation by The Sun four years ago showed that two of the towing firms, Berman's and Frankford, had collected about \$1.5 million in fees over a two-year period.

The Sun investigation found that there were no tow trucks on duty at many of the officially designated sites. One was an east-side liquor store, another was the parking lot for an auto parts store and a third was a used-car lot.

As a result of the recent police investigation of ghost garages, the three firms were cited for failing to meet minimum site requirements at various locations. taining the sites designated by Frankford was cited at three locations: 6700 Quad Ave., 4519 Harford Road and 2101 Fleet St.; Berman's, 934 Washington Blvd. and 2230 Reisterstown Road; Tim's Towing, 5500 Belair Road.

Officials of Frankford and Berman's did not respond to a

request for comment on the violation notices. Tim Bonner, owner of Tim's Towing, said lie planned to appear at tonion row's hearing to contest the try citation. Bonner also criticized management of the towing operations by city officials.

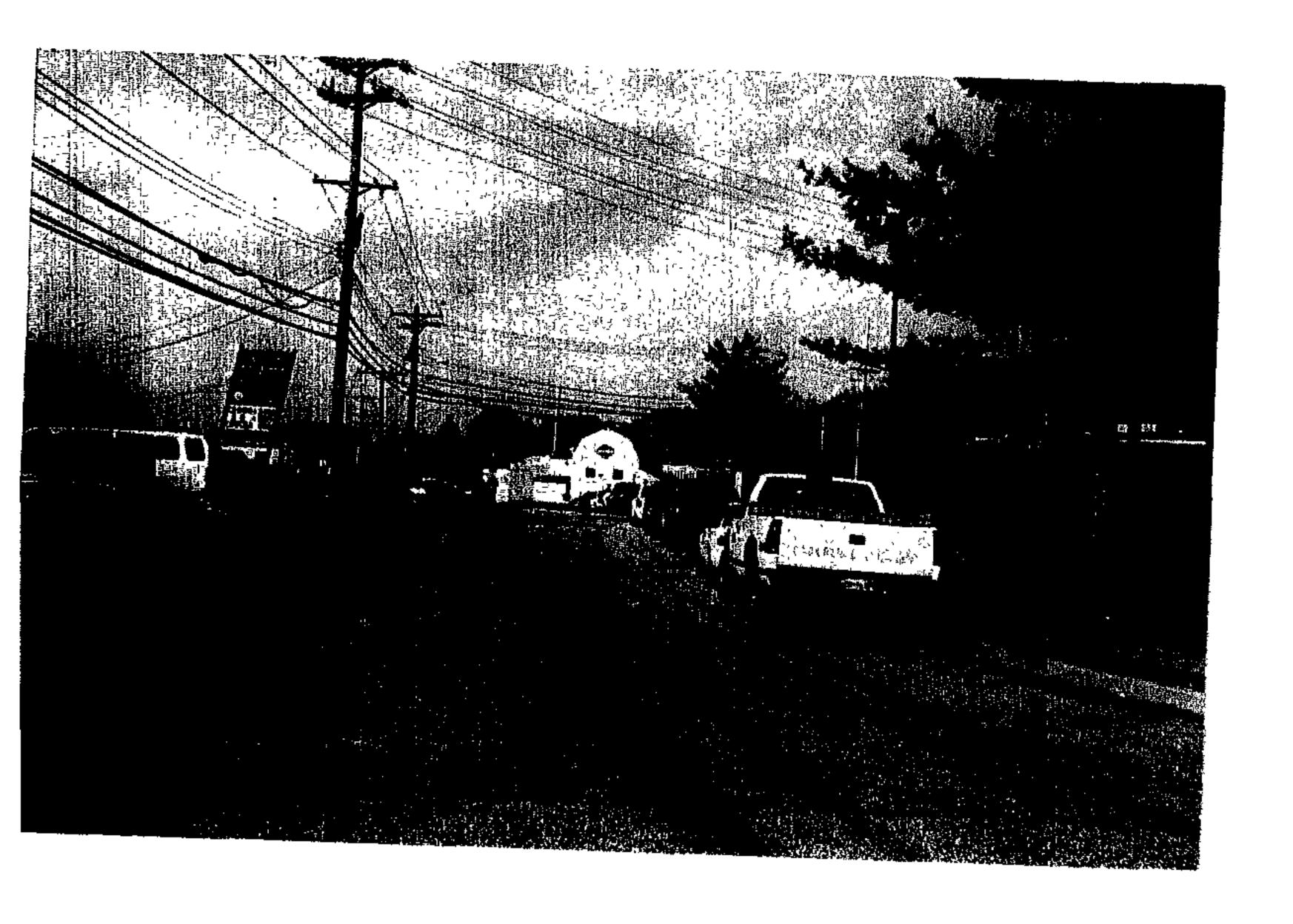
He said mismanagement of the city impound lot on Pulant Highway leads to cars being damaged and vandalized. Tow truck operators say they are often blamed for damage that occurs after they drop off cars at the city facility.

The proposed new rules would require that all cars towed under the city program be photographed before they are towed and again after they are rive at the impound lot.

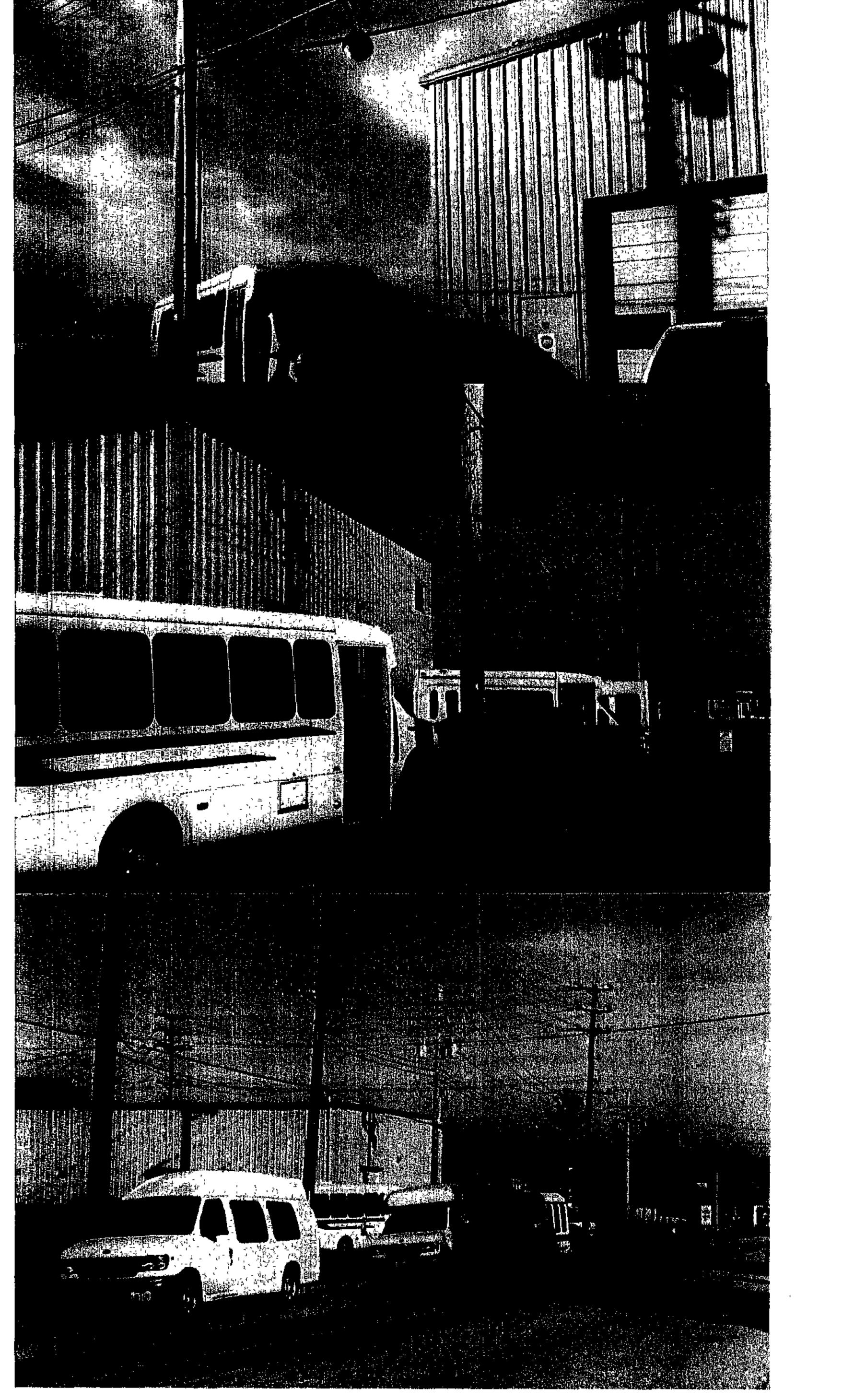
Brown said the biggest change under the new rules . would be to set tighter standards for towing garage sites.

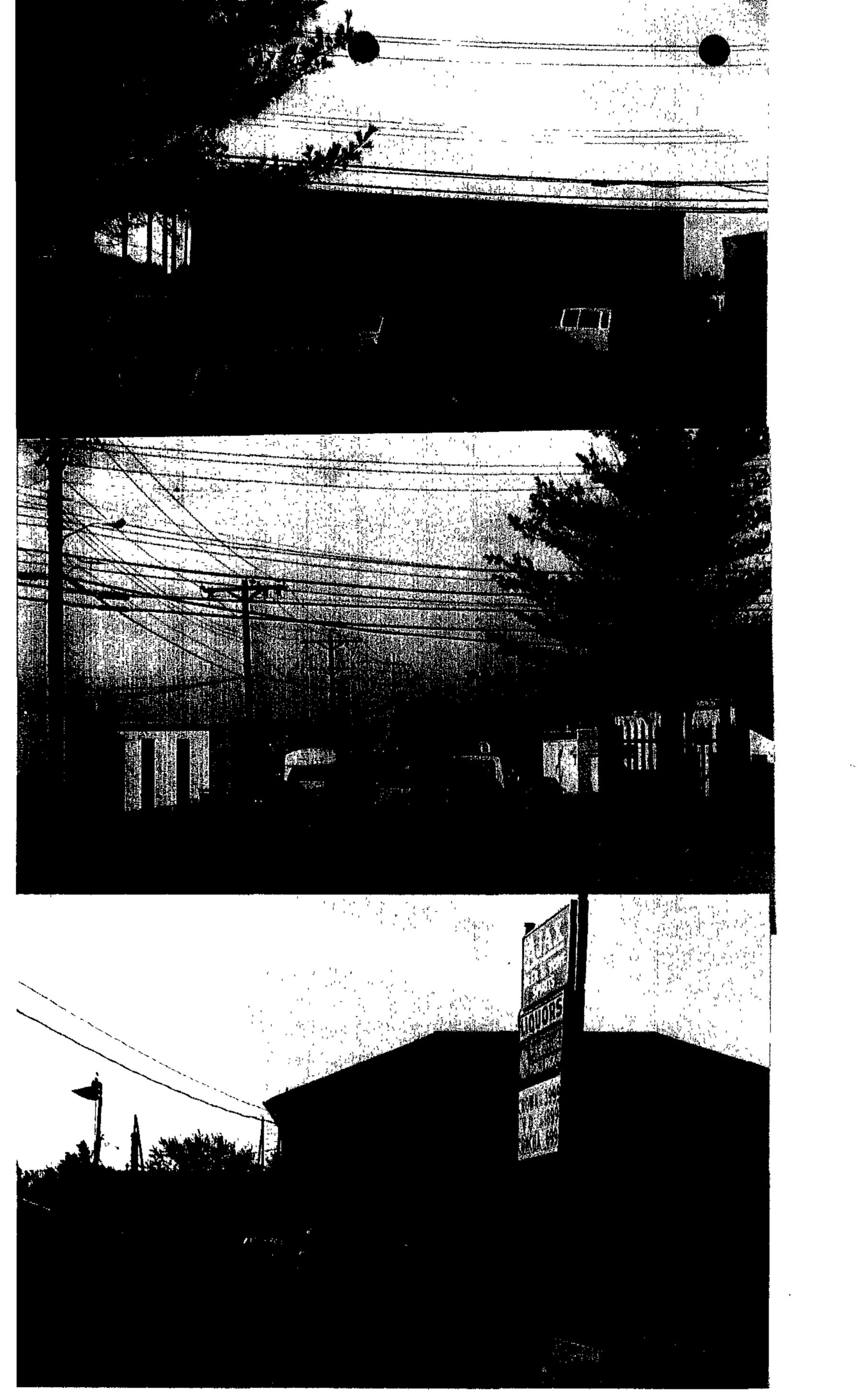
Police officials acknowledge there have been problems in the past in the program with the ghost garages.

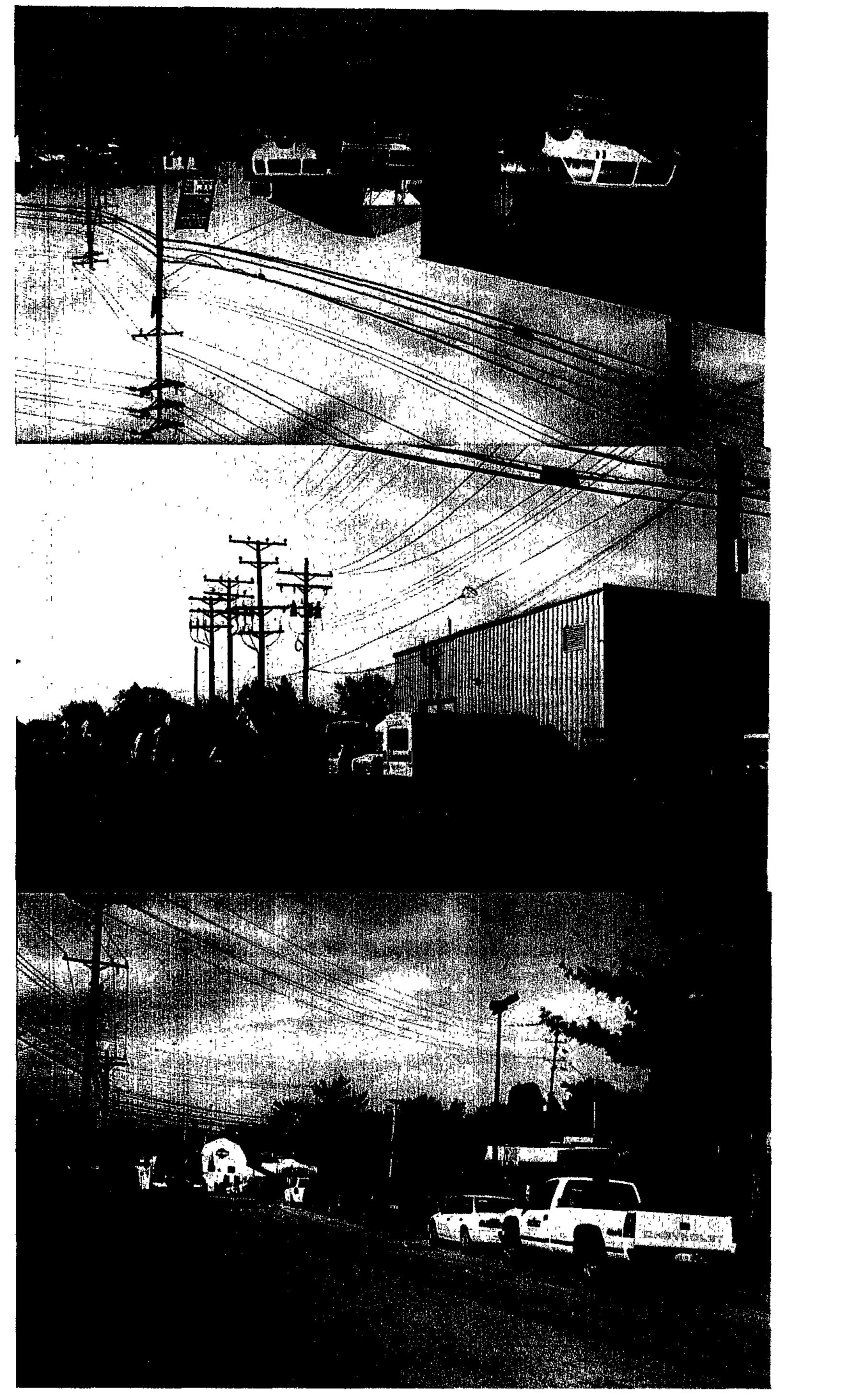
"We want to make sure that it , is an actual legitimate site and not ... a liquor store or something else," Brown said. ""We're putting out the word that there's a new sheriff in town." .

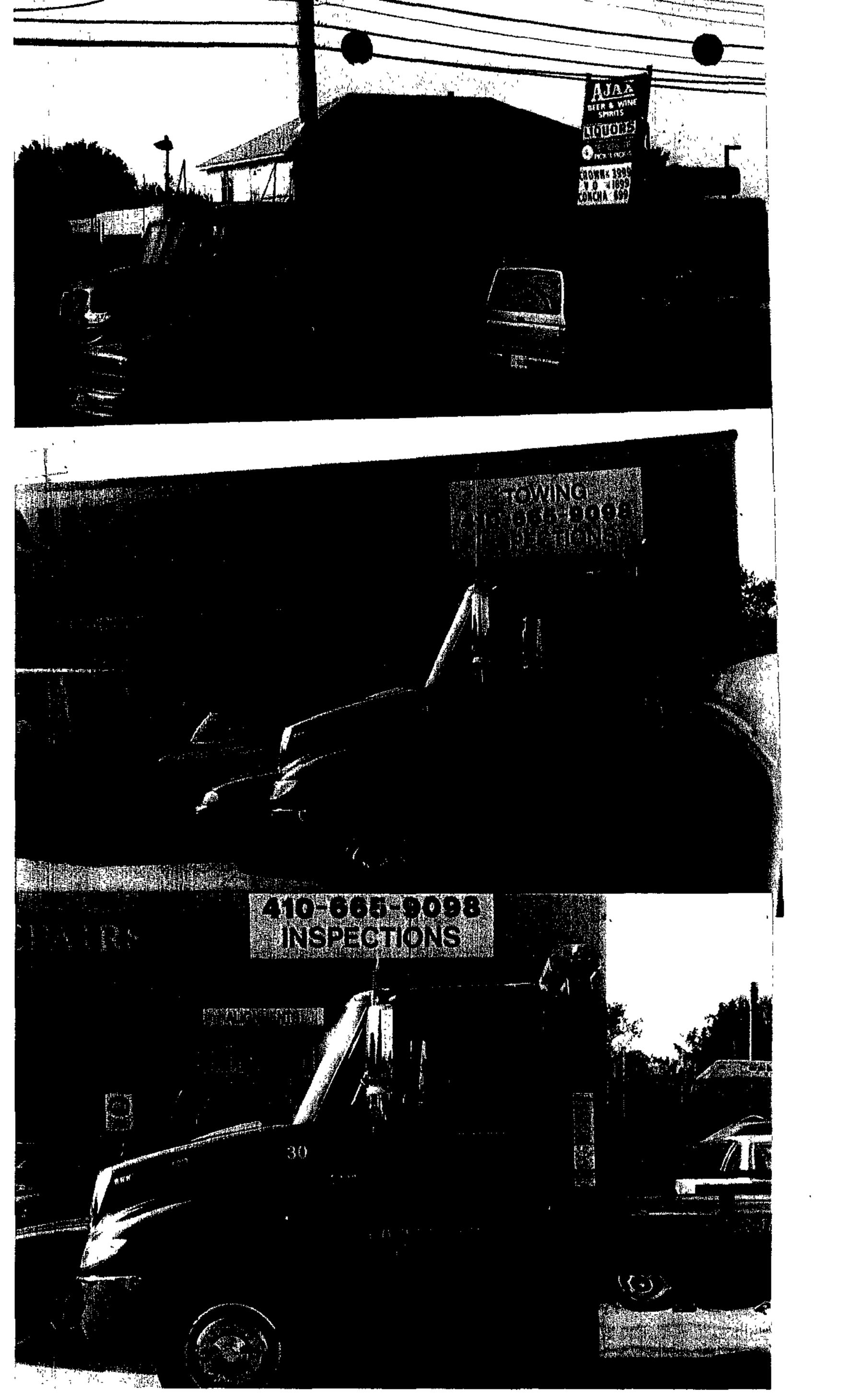


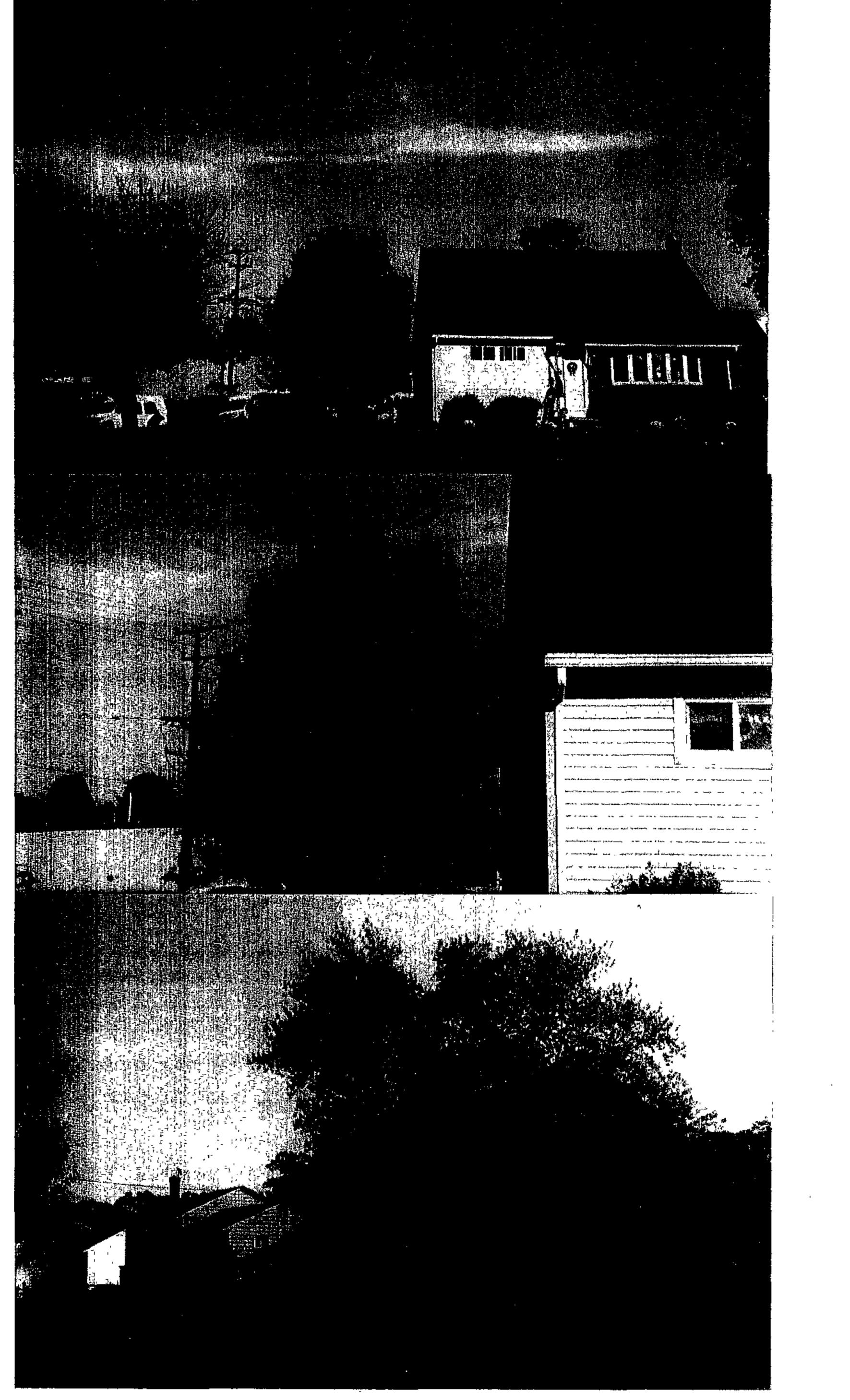


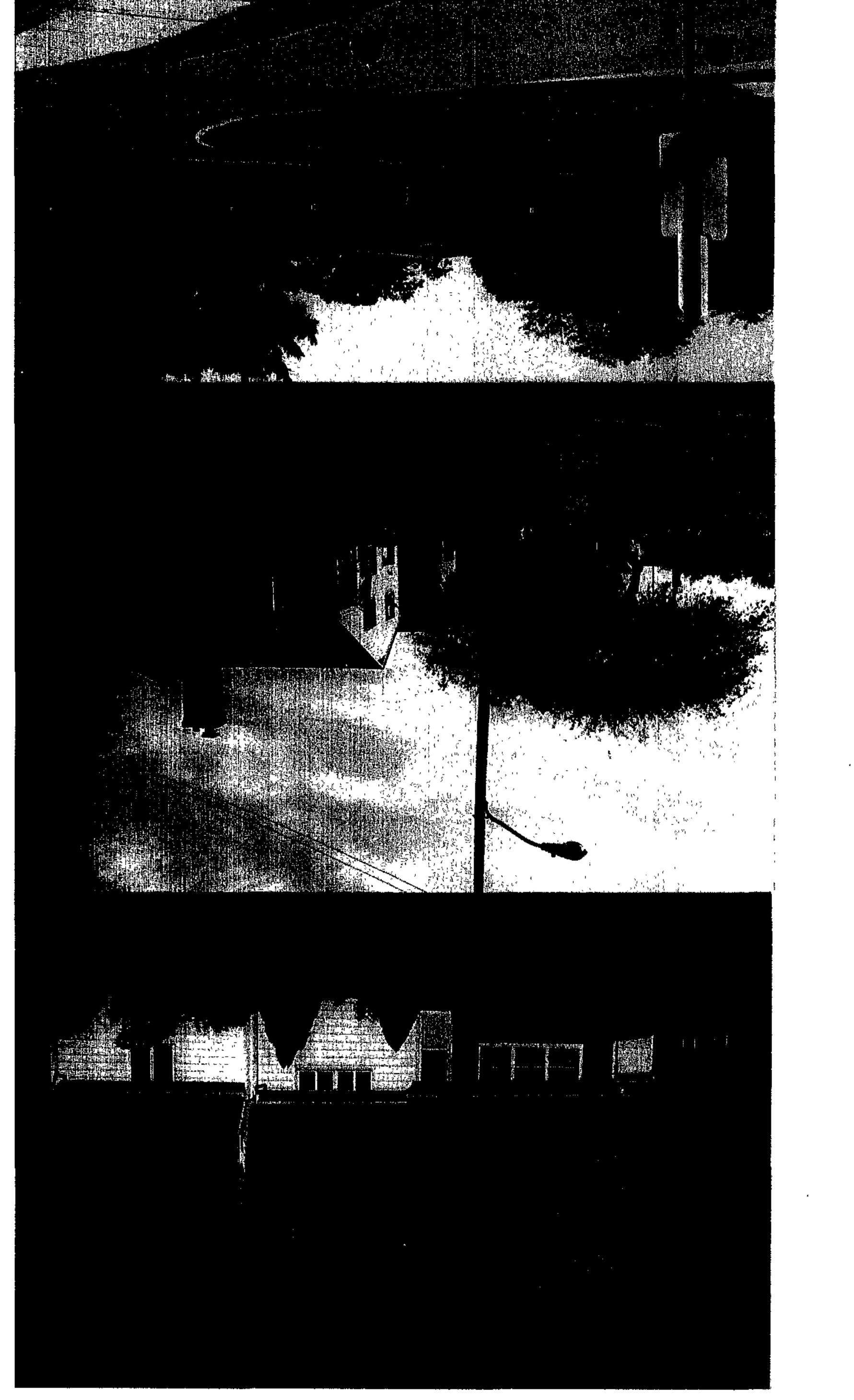














PM 47 10/22/2003



m 10/22/2003



nc 10/22/2003



3) 10/22/2003

