SPOET RECEIVED FOR FILINGS

IN RE: PETITION FOR VARIANCE

W/S Cargill Avenue, 100' S of the c/l

Baltimore National Pike (Md. Route 40)

(10 Cargill Avenue)

1<sup>st</sup> Election District
1<sup>st</sup> Council District

Walter Becker

Petitioner

\* BEFORE THE

\* ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* Case No. 05-029-A

\*

\* \* \* \* \* \* \* \* \*

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Walter Becker. The Petitioner requests variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) (Page S-14, Policy Manual) to permit a side yard setback of 12 feet for a corner lot in lieu of the required 25 feet, and a rear yard setback of 26 feet in lieu of the minimum required 30 feet for a proposed dwelling. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing on behalf of the Petitioner was Vincent Moskunas, with Site Rite Surveying, Inc., the consultants who prepared the site plan for this property. Appearing in opposition to the request were Colonel James H. Pennington, Frank L. Fleming, Sr., and Amos E. Simms, Jr., who owns property immediately adjacent to the subject property. Lenwood Johnson also appeared from Baltimore County's Office of Planning.

Testimony and evidence offered revealed that the subject property is a triangular shaped unimproved parcel located on the southwest corner of Cargill Avenue and Baltimore National Pike (Maryland Route 40) in Catonsville. The property is actually comprised of four separate lots, identified as Lots 25, 26, 27 and 39 of the subdivision known as Catonsville Pine. This community was originally laid out and platted in the Land Records of Baltimore County in 1939, well prior to the adoption of any zoning regulations in Baltimore County. As is frequently the case with older

subdivisions, the individual lots do not comply with current area and width requirements. The Petitioner is desirous of developing the property with a single-family dwelling; however, due to the irregular shape of the property, the requested relief is necessary in order to proceed.

As shown on the site plan submitted, Lots 25 and 26 are rectangular shaped lots, 20 feet wide and 110 feet deep. Lot 27 is located at the end of the subdivision, and is a triangular shaped parcel, approximately 39 feet wide along Cargill Avenue; however, tapers to a narrow width of less than 5 feet at the rear property line and has a depth of approximately 89.63 feet. Lot 39 is located to the rear of Lots 25, 26 and 27, and due to the fact that it too is located at the end of the subdivision, Lot 39 is also triangular in shape and is similar in character to Lot 27. Lot 39 has minimal distance along its frontage at Lincoln Avenue (the next street over), however, widens to approximately 39 feet along its rear property line, which abuts Lots 25, 26 and 27.

Testimony and evidence was presented that these lots have been altered since they were originally recorded as part of the Catonsville Pine subdivision in 1939. In approximately 1958, the Maryland State Highway Administration (SHA) acquired through condemnation proceedings, a portion of Lots 26, 27, and 39. As more particularly shown on the plan, these lots abut the right-of-way for Maryland Route 40 (Baltimore National Pike). In the late 1950s, the SHA apparently condemned a portion of these lots in order to obtain a larger right-of-way for the road in the event of future highway widening and road improvements. As a result of this condemnation, the lots were made smaller. As more particularly shown on the plan, Lot 27 was reduced in size by more than half of its original configuration and is now only approximately 30 feet wide at its frontage along Cargill Avenue and quickly tapers to the rear. Additionally, the rear-corner of Lot 26 has been lost as a result of the State's taking, as has a significant portion of Lot 39. Presently, the four lots when totaled as one parcel contain approximately 6,916 sq.ft. in area, or .158 acres, zoned D.R.5.5.

Mr. Becker has apparently owned the property since 1969 (see Deed, marked as Petitioner's Exhibit 2) and now proposes the construction of a single-family dwelling thereon. The proposed dwelling will be 18' wide and 34' deep and will be setback a similar distance from

Cargill Avenue as the other homes on that street. There are two variances that are necessary in order to proceed. The first is to allow a 12-foot side yard setback in lieu of the required 25 feet for a corner lot. This variance is unusual in that although the front of the lot abuts Cargill Avenue and the side abuts the right-of-way for Baltimore National Pike, Cargill Avenue does not intersect with Route 40. Rather, Cargill Avenue dead-ends in front of the subject lot. There are no planned improvements to create an intersection by extending Cargill Avenue to Maryland Route 40. Indeed, this is not possible in that an access ramp to the Baltimore Beltway (I-695) begins immediately where the intersection of Cargill Avenue and Maryland Route 40 would be located.

These unusual circumstances raise an interesting issue. Is the subject property actually a corner lot, in that this lot only has access to one road (Cargill Avenue)? If a corner lot is determined to be a lot that has frontage on two public roads, then this is a corner lot; however, if access must actually be available to both streets, then the subject property is not a corner lot.

Upon due consideration of the issue presented, I believe that the subject property is a corner lot for the purposes of implementing the B.C.Z.R. Although no access can be gained to Maryland Route 40 from the subject property, the lot's location adjacent to the right-of-way for that road means that the lot immediately abuts the rights-of-way for two public streets. Thus, I find that this is a corner lot and thus, variance relief is required. Interestingly, if this were not a corner lot, than the 12-foot setback shown would be sufficient for side yard setback purposes.

The second variance is required from the rear yard setback requirements due to the taper of the lots, which was brought about by the SHA condemnation. As more particularly shown on the plan, there is a distance of 26 feet when measured in a direct line from the rear corner of the proposed dwelling to the rear property line. The rear yard actually extends a significant distance further; however, this setback is necessary due to the unusual configuration of these lots.

The Protestants who appeared raised a variety of concerns that are reflected in the record. They allege that the property is too small to be developed. They also note that Cargill Avenue is a dead-end road and is overcrowded in terms of traffic. Finally, they opined that

The second test is whether a denial of the variance would cause a practical difficulty on the Petitioner. In this case, it would. A denial of the variance would render this lot unbuildable and of no real use. The Petitioner should not be denied his right to develop a lot under the circumstances. As noted above, the lot is large enough from an area standpoint. I find that this Petitioner would be denied reasonable use of his property if variance relief were denied.

Finally, I find that a grant of the variance would not result in adverse impact on adjacent properties. As noted above, the access issue for emergency vehicles and trash trucks can be resolved by requiring that the Petitioner provide an easement on his property for a turn-around area, if determined necessary by the Department of Public Works. Additionally, an examination of the site plan and other exhibits shows that the subject property and proposed improvements are reasonably similar to other houses in the area. That is, the proposed lot is not markedly smaller than developed lots in this area. For all of these reasons, I shall grant the variance and impose the restrictions as described above.

Pursuant to the posting, advertising of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 31 day of September 2004 that the Petition for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) (Page S-14, Policy Manual) to permit a side yard setback of 12 feet for a corner lot in lieu of the required 25 feet, and a rear yard setback of 26 feet in lieu of the minimum required 30 feet for a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The Petitioner shall be required to provide to Baltimore County at no cost, an easement area to sufficient to allow maneuvering and turn-around by emergency vehicles and trash trucks. Whether this easement area shall be

provided to the County shall be at the discretion of Baltimore County's Department of Public Works.

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

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

OFFICER RECEIVED FOR FILTING 1900 CO. The Line Co. 1900 Co. 190

029

### 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

September 30, 2004

Mr. Vincent Moskunas Site Rite Surveying, Inc. 200 E. Joppa Road Towson, Maryland 21286

RE: PETITION FOR VARIANCE

W/S Cargill Avenue, 100' S of the c/l Baltimore National Pike (Maryland Route 40)

(10 Cargill Avenue)

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

Walter Becker - Petitioner

Case No. 05-029-A

Dear Mr. Moskunas:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted, in accordance with the attached Order.

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

Very truly yours,

LAWRENCE E. SCHMIDT

Zoning Commissioner

for Baltimore County

LES:bis

cc:

Mr. Walter Becker, 17 Old Court Road, Baltimore, Md. 21208

Col. James H. Pennington, 5915 Old Frederick Road, Baltimore, Md. 21228

Mr. Frank L. Fleming, Sr., 5917 Old Frederick Road, Baltimore, Md. 21228

Mr. Amos E. Simms, Jr., 8 Cargill Avenue, Baltimore, Md. 21228 People's Counsel; Case File



# Betition for Wariance

to the Zoning Commissioner of Baltimore County
for the property located at Cargill Avenue #10
which is presently zoned D.R. 5.5 This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal

owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1B02321 (5-14 Policy Manual).

To allow a side yord setback of 12 ft. on a connent of & a rear yourd

Setback of 26 ft. for a proposed dwelling in lieu of the minimum

required 25 ft & 30 ft. vespectively.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) (1) Property has been held intact under the same ownership since 1969. Lots involved are on a recorded plat dated 1939. (2) Due to the configuration of the lots and the taking of a portion of the lots for Route 40, the irregular shape restricts the ability to meet current B.C.Z.R. (3) Strict compliance with B.C.Z.R. would unreasonably prevent the permitted use of said property at a residentially developed site.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

### Contract Purchaser/Lessee:

### Legal Owner(s):

			Walter Becker		
Name - Type or Print		Nan	re - Type or Print	2	
Signature			Signature		
Address	······································	Telephone No.	Name - Type or Print		<u> </u>
City	State	Zip Code	Signature	90 Jam	a Strauss
Attorney For Petitio	ner:		17 Old Court Road	410	559-0000
			Address Baltimore, MD 2120	8	Telephone No.
Name - Type or Print		City	<del></del>	State	Zip Code
			Representative to be	Contacted	l <u>:</u>
Signature			Site Rite Surveying		- <b>-</b>
Company	, <u> </u>	, , , , , , , , , , , , , , , , , , ,	Name 200 E. Joppa Road,	Room 101	410-828-9060
Address	· · · · · · · · · · · · · · · · · · ·	Telephone No.	Address		Telephone No.
		<u> </u>	Towson, MD 21286		
.City	State	Zip Code	City	State	Zip Code
			OFFICE U	<u>se only</u>	/***S-
Case No. 05 -0			ESTIMATED LENGTH OF HEA	RING	he'
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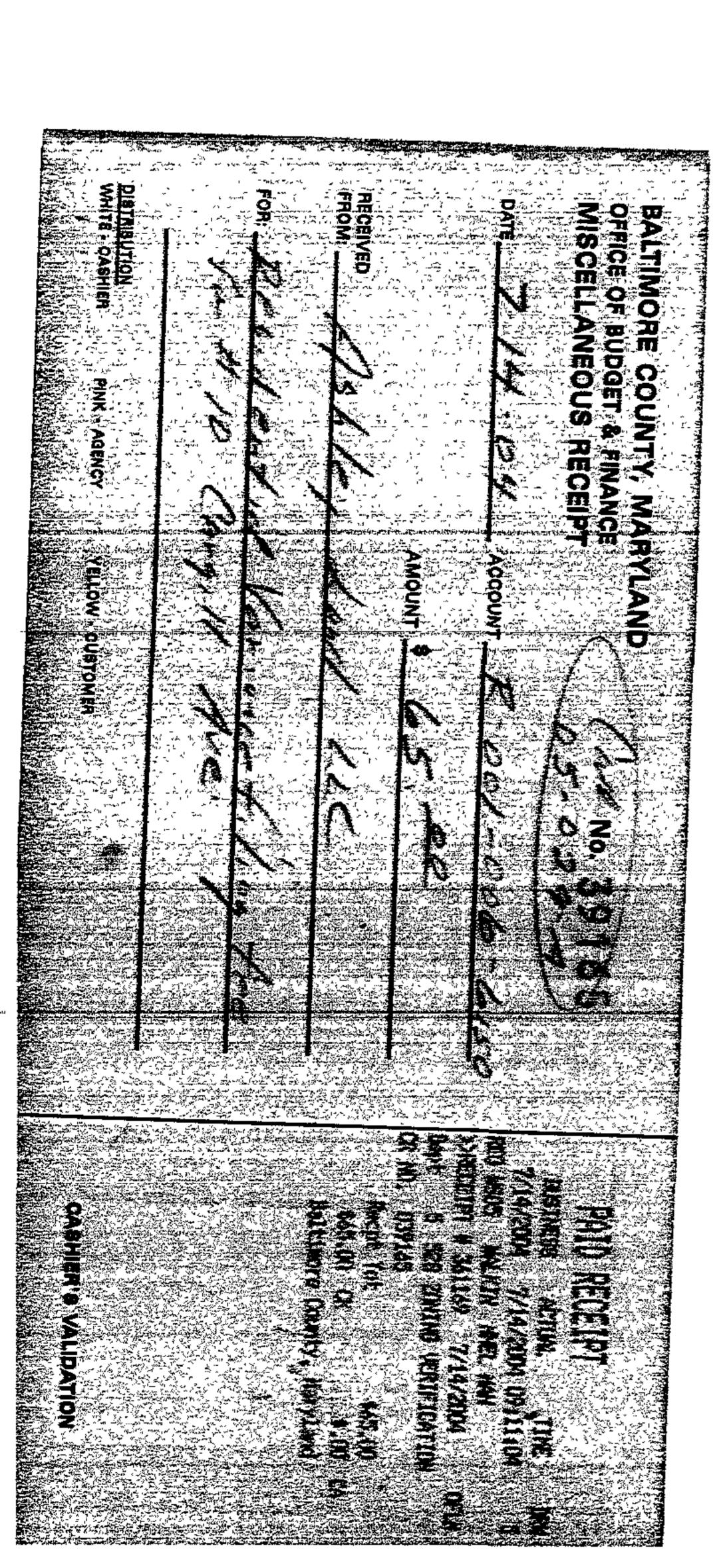
### **ZONING DESCRIPTION FOR #10 CARGILL AVENUE**

BEGINNING at a point on the west side of Cargill Avenue which is 40 feet wide at the distance of 100 feet south of the centerline of Route No. 40 (Baltimore National Pike) which is 150 feet wide. Being all of Lot No. 25 and part of Lot Nos. 26, 27 and 39, Section B in the subdivision of Catonsville Pines as recorded in Baltimore County Plat Book No. 12, folio No. 40, containing 6,916 s.f.. Also known as #10 Cargill Avenue and located in the 1<sup>st</sup> Election District, 1<sup>st</sup> Councilmanic District.

Michael V. Moskunas Reg. No. 21175

Site Rite Surveying, Inc. 200 E. Joppa Road Suite 101 Towson, MD 21286 (410)828-9060 and the second s

29



### **NOTICE OF ZONING HEARING**

The Zening 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: #05-029-A

10 Cargill Avenue

W/side of Cargill Avenue, 100 ft s/of centerline of Baltimore National Pike (Rt. 40).

1st Election District - 1st Councilmanic District

Legal Owner(s): Wafter Becker

Variance: to allow a side yard setback of 12 feet on a corner lot and a rear yard setback of 26 feet for a proposed dwelling in lieu of the minimum required 25 feet and 30 feet respectively.

Hearing: Thursday, September 16, 2004 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley

Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

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

17/8/814 Aug. 31

### CERTIFICATE OF PUBLICATION

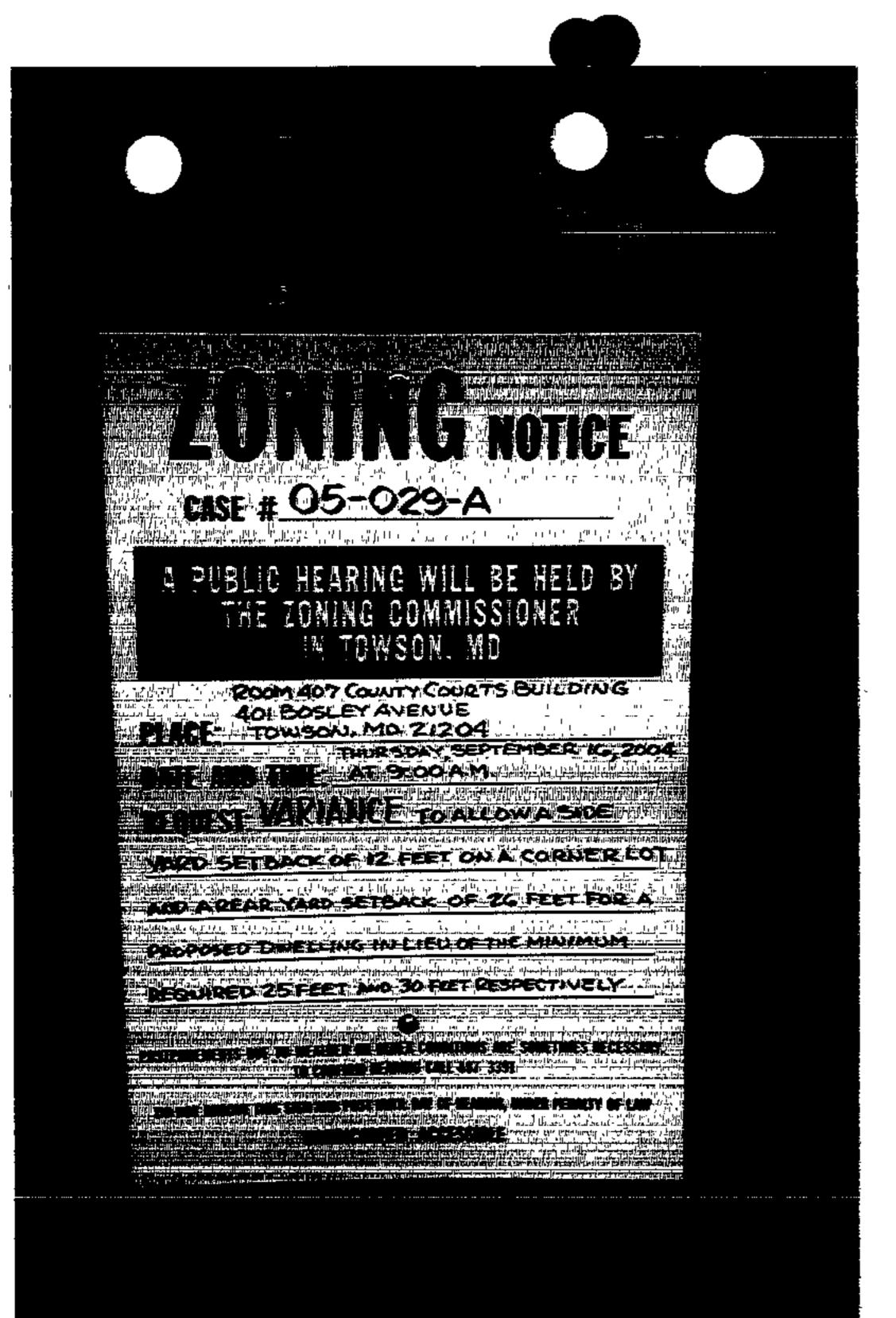
9/2,2004
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on <u>8/31</u> ,20 <u>04</u>
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News
S. Wilkings

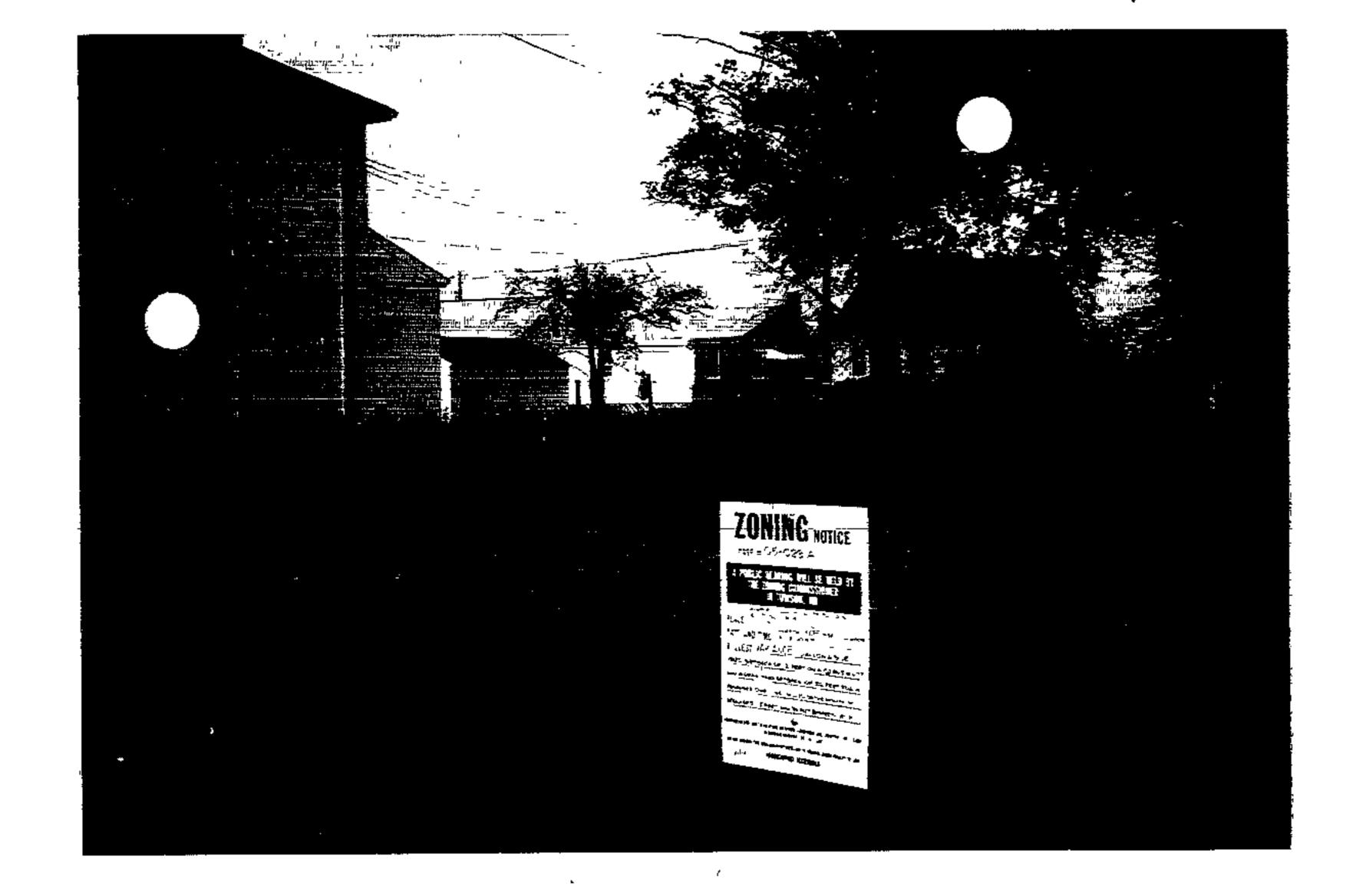
LEGAL ADVERTISING

•	Date of Hearing/Closing: SEPT, 16, 2004
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Attention: Becky Hart	
Ladies and Gentlemen: This letter is to certi	ify under the penalties of perjury that the necessary sign(s) required by
law were posted conspicuously on the prope	erty located at #10 CARGILL AVE.
The sign(s) were posted onAUG.	(Month, Day, Year)  Sincerely,  Sincerely,  One  (Signature of Sign Poster and Date)  GARLAND E. Moore  (Printed Name)  3225 RYERSON CIRCLE
	(Address)  PAUTINIARE, MD. 21227  (City, State, Zip Code)  (410) 242-4263  (Telephone Number)

RE: Case No.: 05-029-A

Petitioner/Developer: ASHLEY CUSTOM HOMES





- <del></del>	RE: Case No.:
	Petitioner/Developer:
	G-ABELL-
	Date of Hearing/Closing: 8/9/05
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Attention: KRISTEN MATTHEWS	
Ladies and Gentlemen:	•
This letter is to certify under the penalties of	perjury that the necessary sign(s) required by law
were posted conspicuously on the property le	ocated at
16300	OLD YORK RD
The sign(s) were posted on	7/25/04 (Month, Day, Year)
CASE # 05-029-A	( month, Day, 1ear)
	· Sincerely,
	Signature of Sign Poster and Date)  RICHARD E. HOFFMAN
	(Printed Name)  904 DELLWood DR.  (Address)
	(City, State, Zip Code)
	(410) 879-31ZZ

(Telephone Number)

# 05-029-A

16306 OLD YORK RD POSTED 7/25/04 That 57/25/04

# 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

July 22, 2004

### **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: 05-029-A** 

10 Cargill Avenue

W/side of Cargill Avenue, 100 ft. s/of centerline of Baltimore National Pike (Rt. 40).

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

Legal Owner: Walter Becker

Left 11

Variance to allow a side yard setback of 12 feet on a corner lot and a rear yard setback of 26 feet for a proposed dwelling in lieu of the minimum required 25 feet and 30 feet respectively.

Hearing: Thursday, September 16, 2004 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Timothy Kotroco Director

TK:klm

C: Walter Becker, 17 Old Court Road, Baltimore 21208
Site Rite Surveying, Inc., 200 E. Joppa Rd., Rm. 101, Towson 21286

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, SEPTEMBER 1, 2004.

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

TO: PATUXENT PUBLISHING COMPANY

Tuesday, August 31, 2004 Issue - Jeffersonian

Please forward billing to:

Ashley Custom Homes, c/o Janice Strauss 31 Walker Avenue

Baltimore, MD 21208

410-559-0000

### **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: 05-029-A

10 Cargill Avenue

W/side of Cargill Avenue, 100 ft. s/of centerline of Baltimore National Pike (Rt. 40).

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

Legal Owner: Walter Becker

Variance to allow a side yard setback of 12 feet on a corner lot and a rear yard setback of 26 feet for a proposed dwelling in lieu of the minimum required 25 feet and 30 feet respectively.

Hearing: Thursday, September 16, 2004 at 9:00 a.m. in Room 407, County Courts Building,

401 Bosley Avenue

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL 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.

20titioner: ASIA LUA CUSTOM HOMAS	
retitioner. / tortwol bustore fibritos	<u></u>
Petitioner: AShlun Cystom Homes Address or Location: #10 Cargil Avenue	
PLEASE FORWARD ADVERTISING BILL TO:	
vame: Ashley Custom Homes 90 Jamice Strauss	
	<del></del>
Address: 31 Walker Avenue	···
Baltimore, MD 21208	
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## Department of Permits de de Development Management

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





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

September 7, 2004

Walter Becker 17 Old Court Road Baltimore, Maryland 21208

Dear Mr. Becker:

RE: Case Number: 05-029-A, #10 Cargill Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 14, 2004.

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,
U. Callilall

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

**Enciosures** 

c: People's Counsel
Site Rite Surveying, Inc. 200 E. Joppa Road Room 101 Towson 21286



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



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

July 22, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of July 26, 2004

Item No.:

017 - 035

Dear Ms. Mathews:

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.

6. The Fire Marshal's Office has no comments at this time.

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

Maryland Department of Transportation

Date:

7.23.04

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

RE:

**Baltimore County** 

Item No. O29

115

Dear. Ms. Matthews:

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,

Steven D. Foster, Acting Chief
Engineering Access Permits Division

La/16

### BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and

Development Management

**DATE:** September 2, 2004

RECEIVED

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SEP - 3 2004

ZONING COMUSSIONER

SUBJECT: Zoning Advisory Petition(s): Case(s) 5-029

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

Prepared By:

Division Chief: \

MAC/LL

Iff Mayhen

Zoning

### BALTIMORE COUNTY, MARYLAND

### INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** August 4, 2004

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor Bureau of Development Plans Review

**SUBJECT:** 

Zoning Advisory Committee Meeting

For August 2, 2004

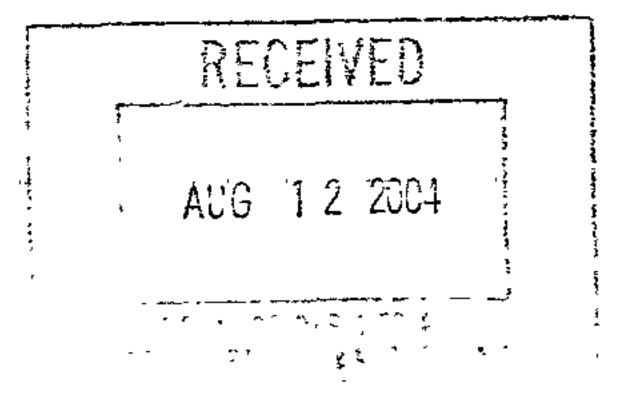
Item Nos. 017, 020, 022, 024, 025, 026, 027, 028, 029, 030, 033, 034,

and 035

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

RWB:CEN:jrb

cc: File



RE: PETITION FOR VARIANCE

10 Cargill Avenue; W/side of Cargill Avenue,

100' S c/line Baltimore National Pike

1<sup>st</sup> Election & 1<sup>st</sup> Councilmanic Districts

Legal Owner(s): Walter Becker

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

**BALTIMORE COUNTY** 

\* 05-29**-**A

### 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

RECEIVED

JUL 3 0 2004

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 30<sup>th</sup> day of July, 2004, a copy of the foregoing Entry of Appearance was mailed to, Site Rite Surveying, Inc, 200 E Joppa Road, Suite 101, Towson, MD 21286, Representative for Petitioner(s).

PETER MAX ZIMMERMAN

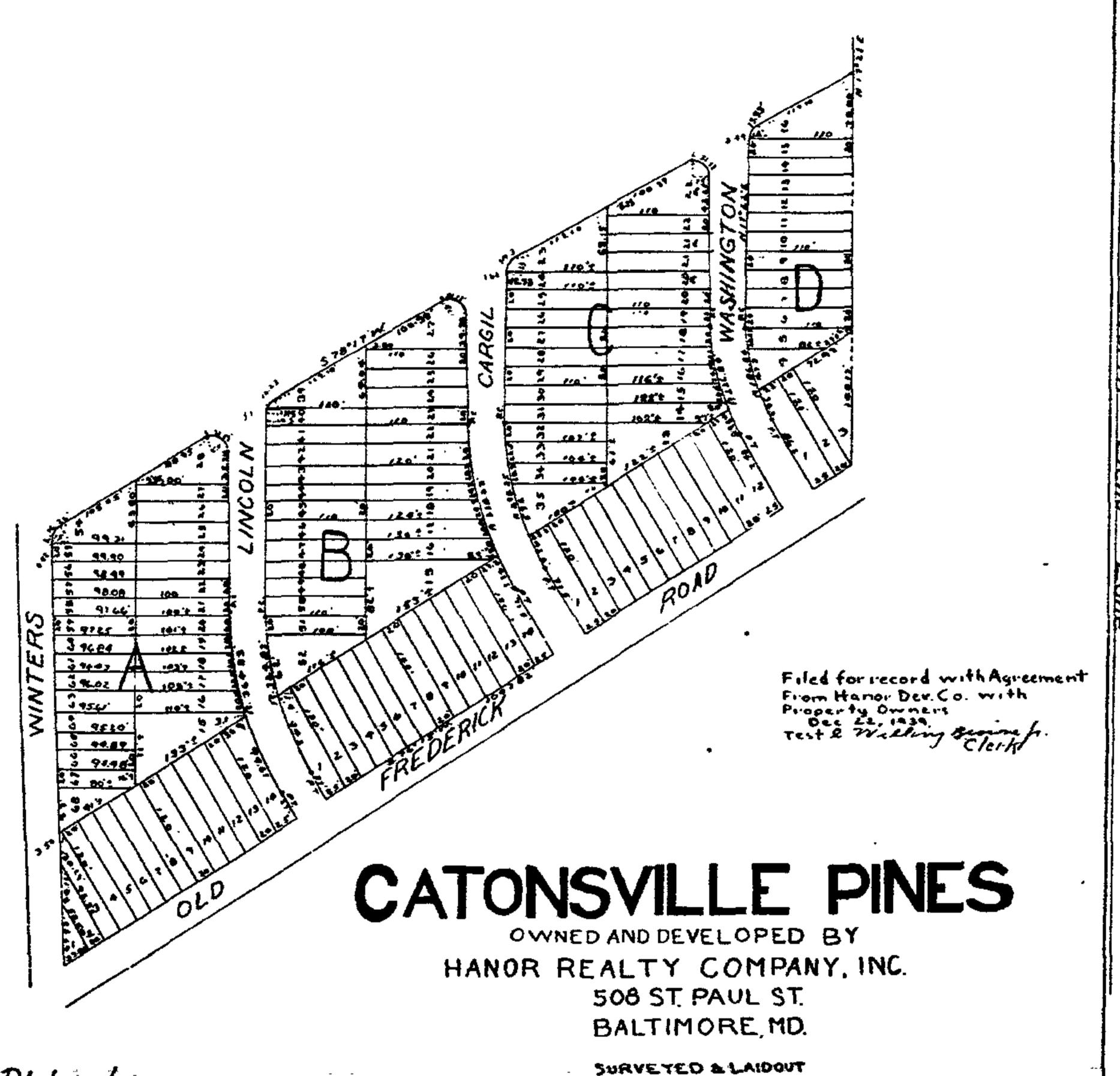
People's Counsel for Baltimore County

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DNING



J. SPENCE HOWARD

FILE BALTO.CO. DIST I'Z BOOK 2.53

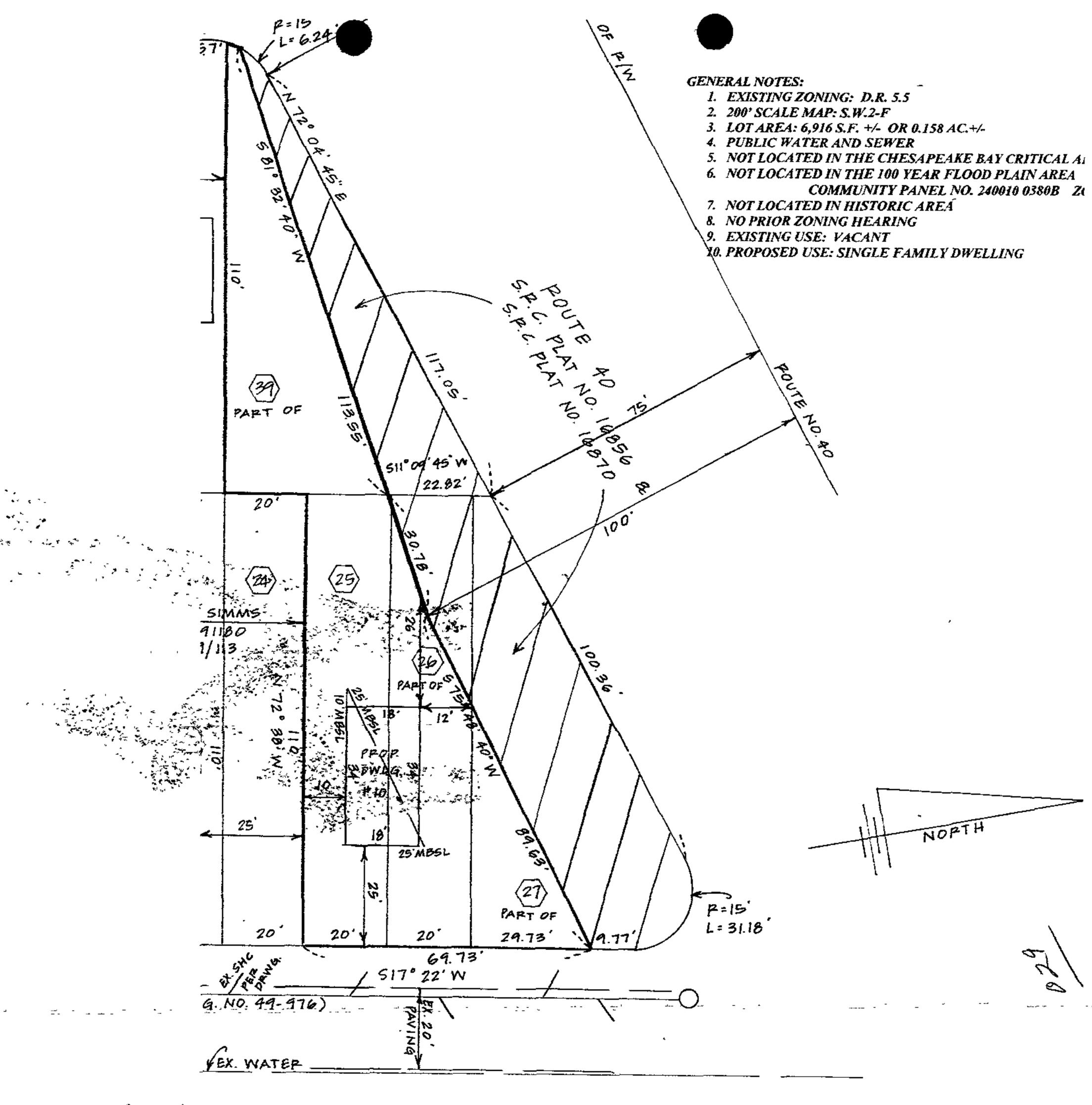
SCALE:1"100"

BALTO-MQ

MAR.1939

Revised Plat as to Blocks A-B-C-D REVISED COPY 3/10/39

# 029



144-3060

OWNER: WALTER BECKER

17 OLD COURT ROAD

BALTIMORE, MD 21208

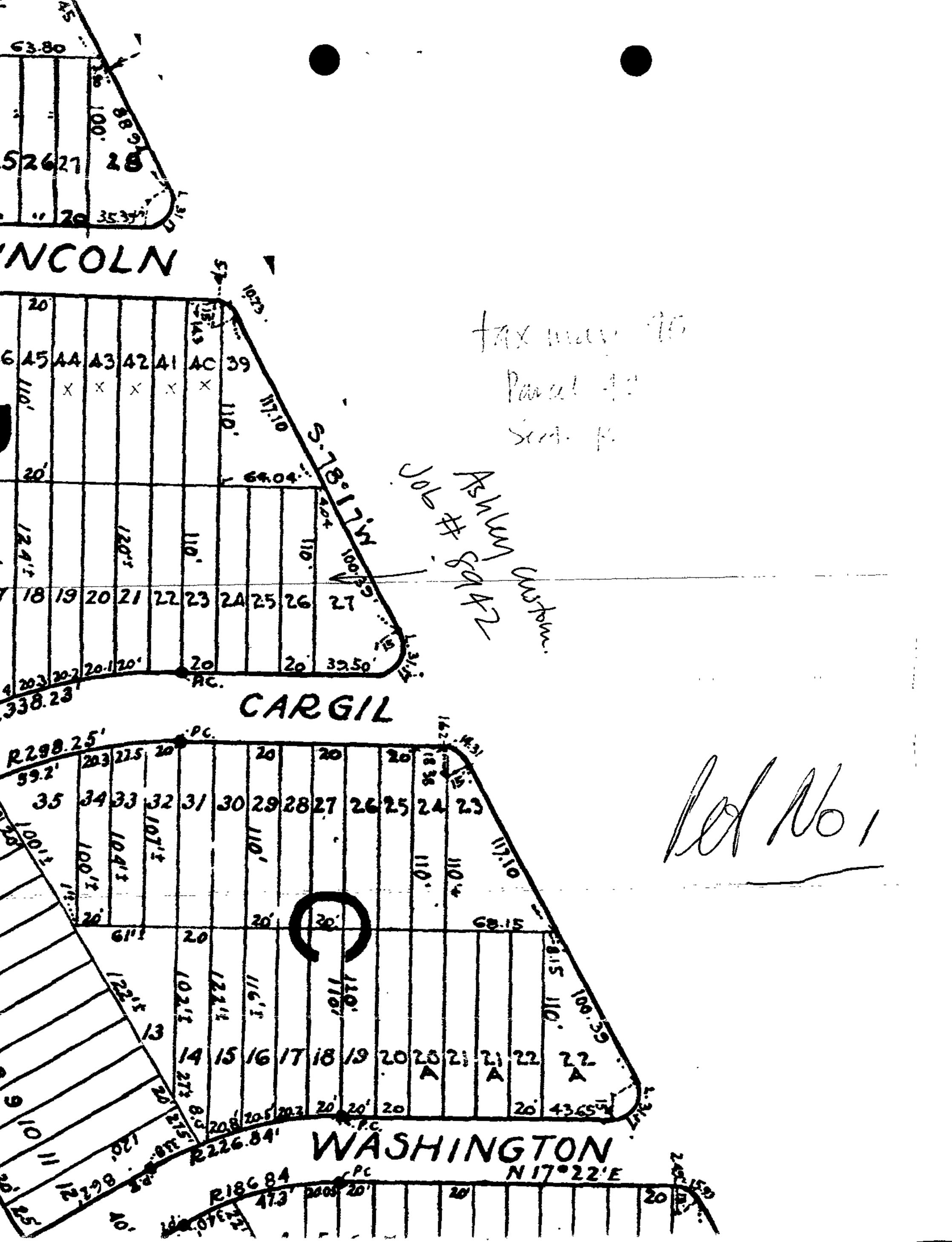
TAX ACCT. NOS. 0102203831 (LOT 25/PART OF LOT 26)

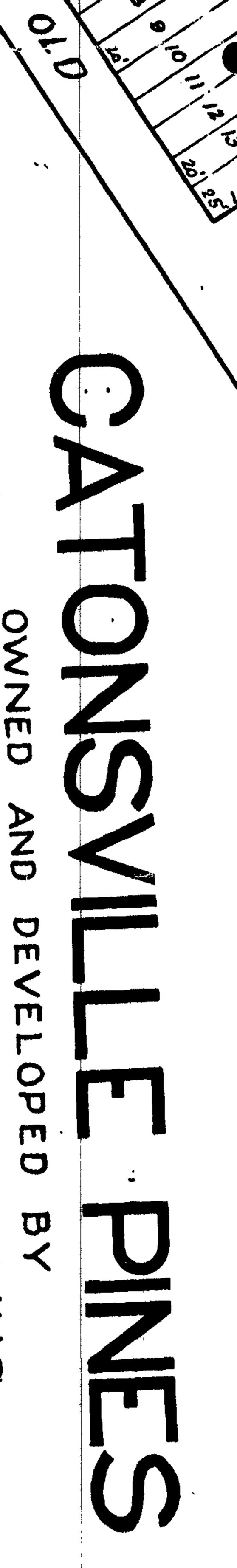
0102203830 (PART OF LOT 27)

0102203832 (PART OF LOT 39)

DEED REF.: 5006/67
TAX MAP: 95 GRID: 19 PARCEL: 42

PLAN TO ACCOMPANY PETITION
FOR VARIANCE.
#10 CARGILL AVENUE
ALL OF LOT 25 AND PART OF LOTS 26, 27 AND 39
"CATONSVILLE PINE" 12/40
ELECTION DISTRICT NO. 1
COUNCILMANIC DISTRICT NO. 1
BALTIMORE COUNTY, MD
SCALE: 1" = 20'
JULY 14,2004
8942





151

16 17 18 19 20

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*5*2

R. 324.83'

Q

19

6

240010 039.0B Zone "C".

BALTIMORE, MD.

人人の兄

SPENCE HOWARD

SCALE: 1"-100'
FILE BALTO.CO. DISTI-2 BOOK 253

ENGR.

This Deed, Made this

20th

day of June,

in the year one thousand nine hundred and sixty-nine, by and between Samuel D. Porpona, Divorced,

the County of Baltimore, State of Maryland,

, of the first part, and

Walter Becker,

of the second part.

Witnesseth, that in consideration of the sum of Five (\$5.00) Dollars and other good and valuable considerations, the receipt of which is hereby acknowledged,

the said

Samuel D. Porpora, Divorced,

does hereby grant and convey unto the said Walter Becker, his wi-

heirs and assigns,

in fee simple, all

those

lot(s) of ground, situate, lying and being in

Baltimore County

, State of Maryland, and described as follows, that is to say:—

Doganning format

Being known and designated as Lots No. 25, 26, 27, and 39, Block B, as shown on the Revised Plat of Catonsville Pines, which plat is duly recorded among the Land Records of Baltimore County in Plat Book No. 12, folio 40.

Being the same lots of ground which by Deed dated November 10, 1962, and recorded among the Land Records of Baltimore County in Liber RRG No. 4087, folio 631, was granted and conveyed by The Rolling Woods Center, Inc., a body corporate, to Samuel D. Porpora, Divorced.

Less that portion of the aforegoing lots which were subject to a Judgment in Condemnation in favor of the State Roads Commission of Maryland, a copy of said judgment and inquisition dated October 21, 1958, being recorded among the Land Records as aforesaid in Liber GLB 3437, folio 57.







EACO 5 8 5 9 JUN 24

15.00 MSC

12/162

ROBERT O. BONNELL, Chairman, EDGAR T. BENNETT and JOHN M. McMULLEN, Constituting the STATE ROADS COMMISSION OF MARYLAND, Acting for and on behalf of the STATE OF MARYLAND

•

VS

BALTIMORE COUNTY

THE

FOR

CIRCUIT COURT

THE ROLLINGWOOD CENTER, also known as THE ROLLING WOODS CENTER, INC., a body corporate of the State of Maryland

#560 3/147. #564 3/151.

0000000

### INQUISITION

INQUISITION made and taken at Bar in the Circuit Court for Baltimore County, in the matter of the Petition of Robert O. Bonnell, Chairman, Edgar T. Bennett and John J. McMullen, constituting the State Roads Commission of Maryland vs. The Rollingwood Center, also known as The Rolling Woods Center, Inc., a body corporate, for the condemnation of the property hereinafter mentioned, Witnesseth:

THAT, we, the Jurors, whose names are hereunto subscribed and whose scals are hereunto affixed, being duly empanelled, sworn and charged to ascertain and determine whether or not it will be necessary for the Petitioners to acquire the land and property described in the petition, and to inquire into, ascertain and justly and impartially value the damages which the Defendants will sustain by the taking, use and occupation of said property, consisting of the land as shown on Plat Nos. 16856 and 16870, which is being taken in fee simple, and more particularly described in said petition for the purposes set out therein.

TOGETHER with the buildings and improvements thereon and the rights, alleys, ways, waters, roads, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

TOGETHER with any right, title and interest of the Defendants in and to the existing bed of Cargill Avenue, lying between the lines marked "Right of Way Line" as shown on Plat Nos. 16856 and 16870.

TOGETHER with any right, title and interest of the Defendants in and to the existing bed of National Pike, U. S. 40, lying between the lines marked "Right of Way Line" as shown on the aforesaid plat.

FLED OCT 21 1958

7

4. VEHICLES – FAMILY CARS, MAINTENANCE AND EMERGENCY TYPE MUST BACK OUT OF THIS "DEAD-END STREET" OR RISK AN ACCIDENT OR PROPERTY DAMAGE TO TURN AROUND TO EXIT CARGILL AVENUE ONCE ENTERED.

5. MARYLAND STATE HIGHWAY ADMINISTRATION IS PROPOSING IMPROVEMENTS TO US #40 AND 695 AT THE END OF CARGILL ROAD WHICH WILL IMPACT THIS PROPERTY.

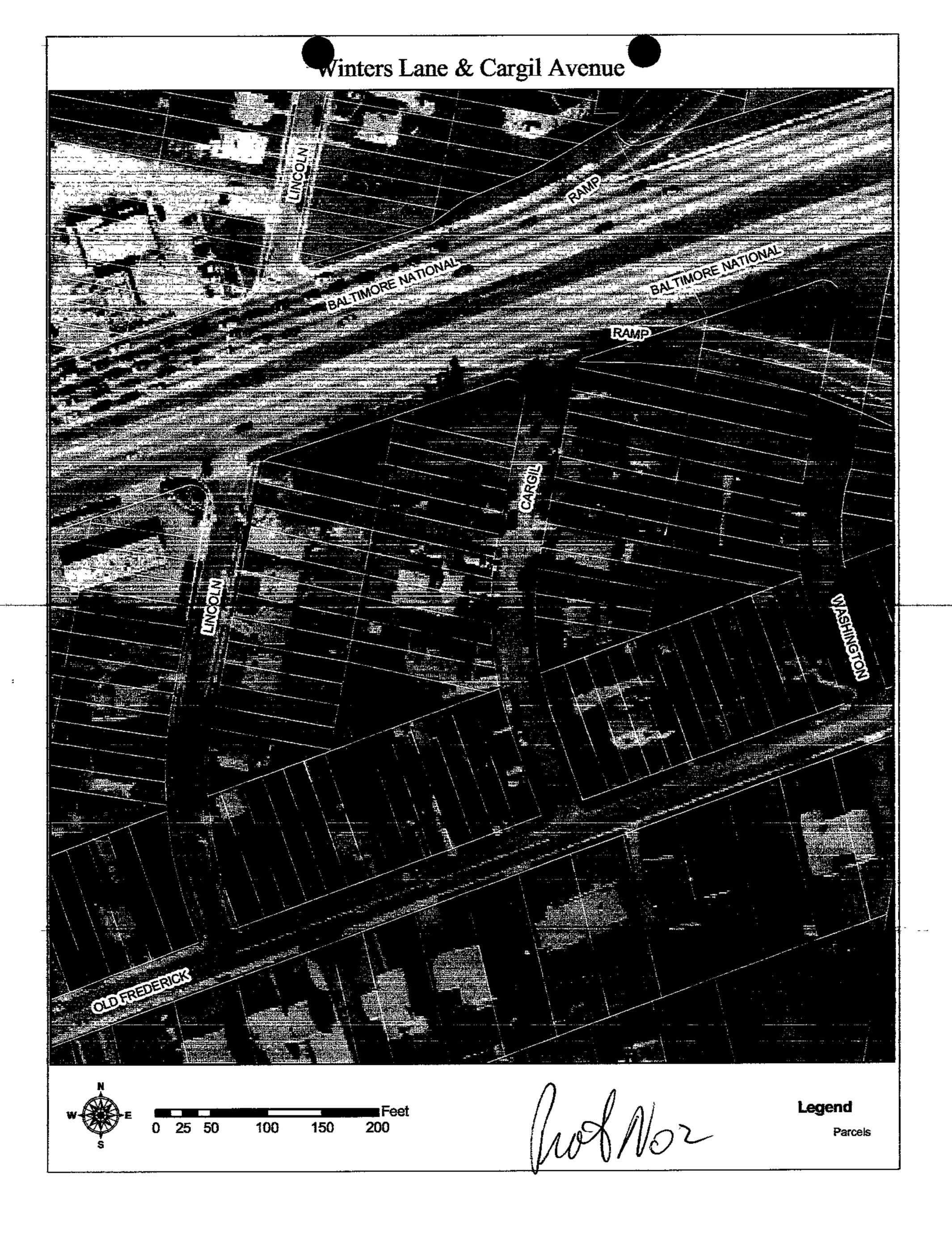
THIS COMMUNITY IS PROPERLY POPULATED WITHOUT BALTIMORE COUNTY GRANTING A VARIANCE FOR ANOTHER PIECE OF "UNDER-SIZED PROPERTY" WE THE UNDER-SIGNED CITIZENS REQUEST THAT THE CARGILL AVENUE OWNERS' REQUEST NOT BE GRANTED A VARIANCE FOR PROPERTY LESS THAN A 55 FOOT FRONTAGE IN THIS NEIGHBORHOOD.

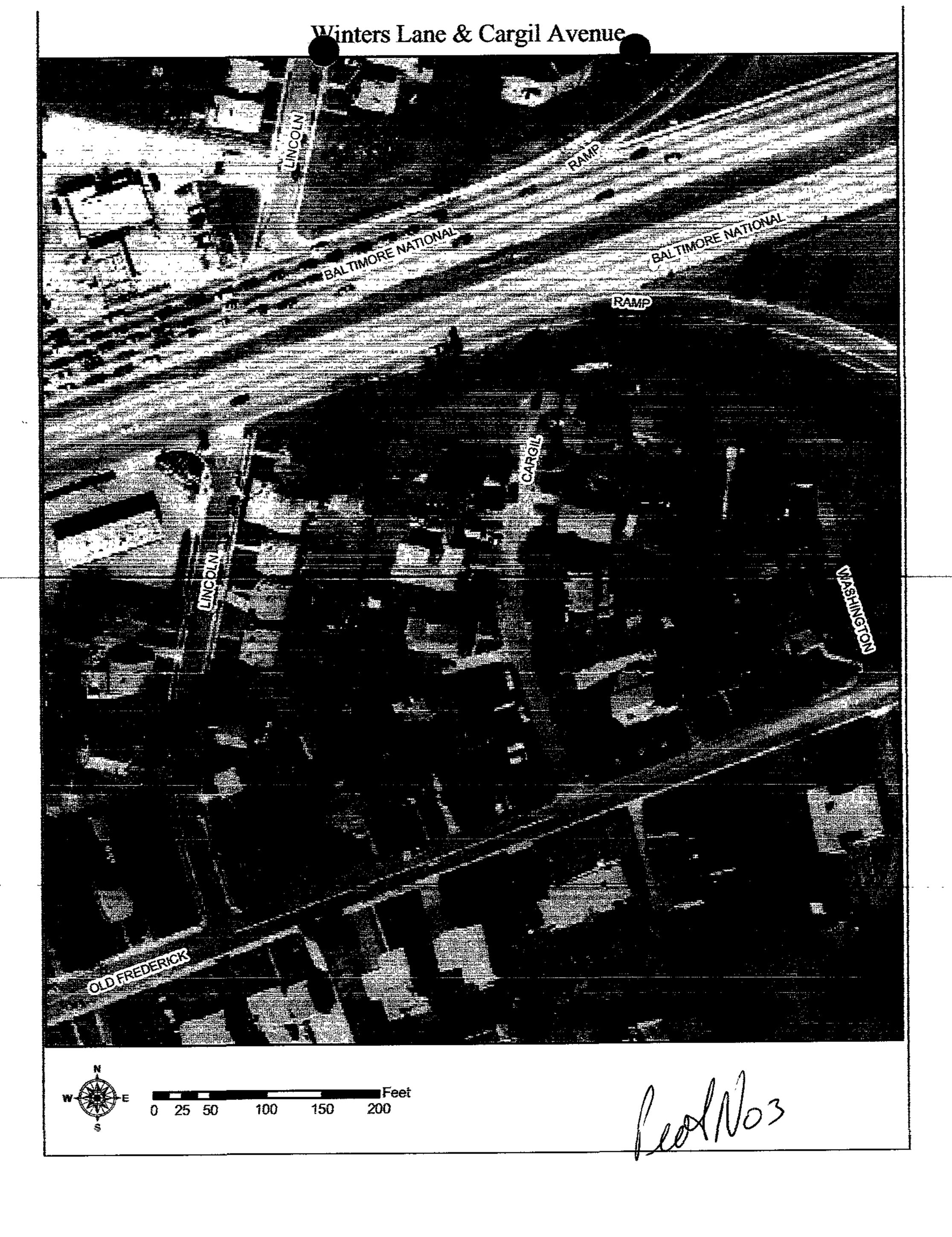
NAME

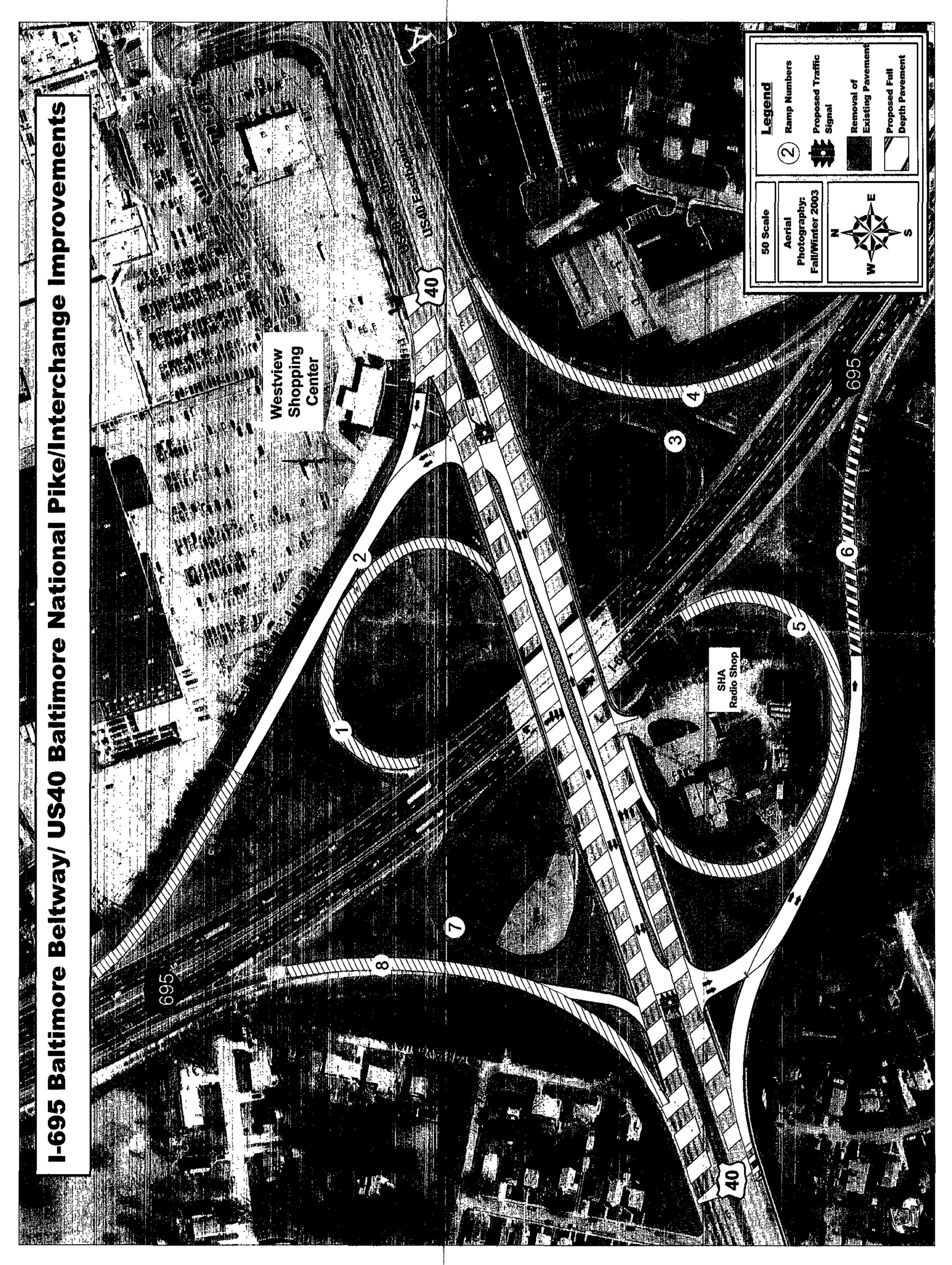
**ADDRESS** 


Amos Limos Is
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France Cassell
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
3-Carque ave diaas
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1 Cargil Ave 21228 2 Cargil 21228
5910 OLD FRED
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5917 OLD Frederick Rd
5917 OLD FREDERICK RD
5926 Old Frederick Kd.
5928 Old Fredux KM.
5932 OK Freder KAD
3930 OLD FREDERIURD 2228
5932 Old Frederick Rel.














Vicinity Map

HOEF RECEIVED FURTHER.

emergency vehicles would have difficulty reaching the house and that the proposed improvements are inappropriate for this area.

Turning to the first contention, the property is indeed not too small under the zoning regulations. The area requirements in the B.C.Z.R. for a D.R.5.5 lot require a minimum lot area of 6,000 sq.ft. The subject property is in excess of that requirement by 916 sq.ft. Thus, it is not a question of the lot being too small; rather, it is that the lot is of an unusual configuration that drives the need for variance relief. As to the Protestants' second contention, I simply do not agree. Admittedly, Cargill Avenue is a relatively narrow road, an approximately 20-foott wide paving on a 40-foot right-of-way. However, there are only four houses on Cargill Avenue (this would be the fifth) from the intersection of Old Frederick Road. That is, there is a house located at the corner of Old Frederick Road and Cargill Avenue which faces Old Frederick Road. To the rear of that dwelling, there are three additional houses, including Mr. Amos' house, which face Cargill Avenue. In my judgment, this is not a case of a lengthy, narrow street that one must traverse in order to reach the subject lot. The property is simply at the end of Cargill Avenue and is not an unreasonably far distance from Old Frederick Road.

As to the Protestants' concerns about emergency vehicles, Mr. Moskunas indicated that the Petitioner would be willing to provide an easement on his property for a turn-around for trash trucks and emergency vehicles to serve the residents on that street. As the Zoning Commissioner has the authority to impose reasonable conditions or restrictions upon the grant of any variance, this appears to be an appropriate resolution. At the present, there is no such dedicated easement or turn-around area. Providing such an easement will actually improve the situation.

In considering the testimony and evidence offered, it is clear that the undersigned must apply the requirements of Section 307 of the B.C.Z.R. to determine whether variance relief is warranted. In order for a variance to be granted, the Petitioner must establish that the subject property is unique. This property is surely unique in view of its unusual configuration brought about by the original layout and subsequent taking of a portion of the property by the SHA. The subject property is unique in terms of configuration and shape.

# PETIONER'S SIGN-IN SHEET

									Culti	NAME
									ZOOE. JOPPA KO.	ADDRESS
									700500, MD. 21286	CITY, STATE, ZIP
									VIMMUMC AOC. Com	E-MAIL

CASE NAME 10 CARCINA AVE CASE NUMBER 05-029-A DATE 7-16/04

# CITIZEN'S SIGN-IN SHEET

								Hos & Simms)	200	<b>T</b>	NAME
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# CERTIFICATE OF POSTING

ATT	CA)TI	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	YRISTEN!	MATTHEWS
	E/V 11	$UN \cdot 1$	KID IOU	

Date: <u>August</u>, 23, 2004

RE: Case Number 05-04/-5PHA

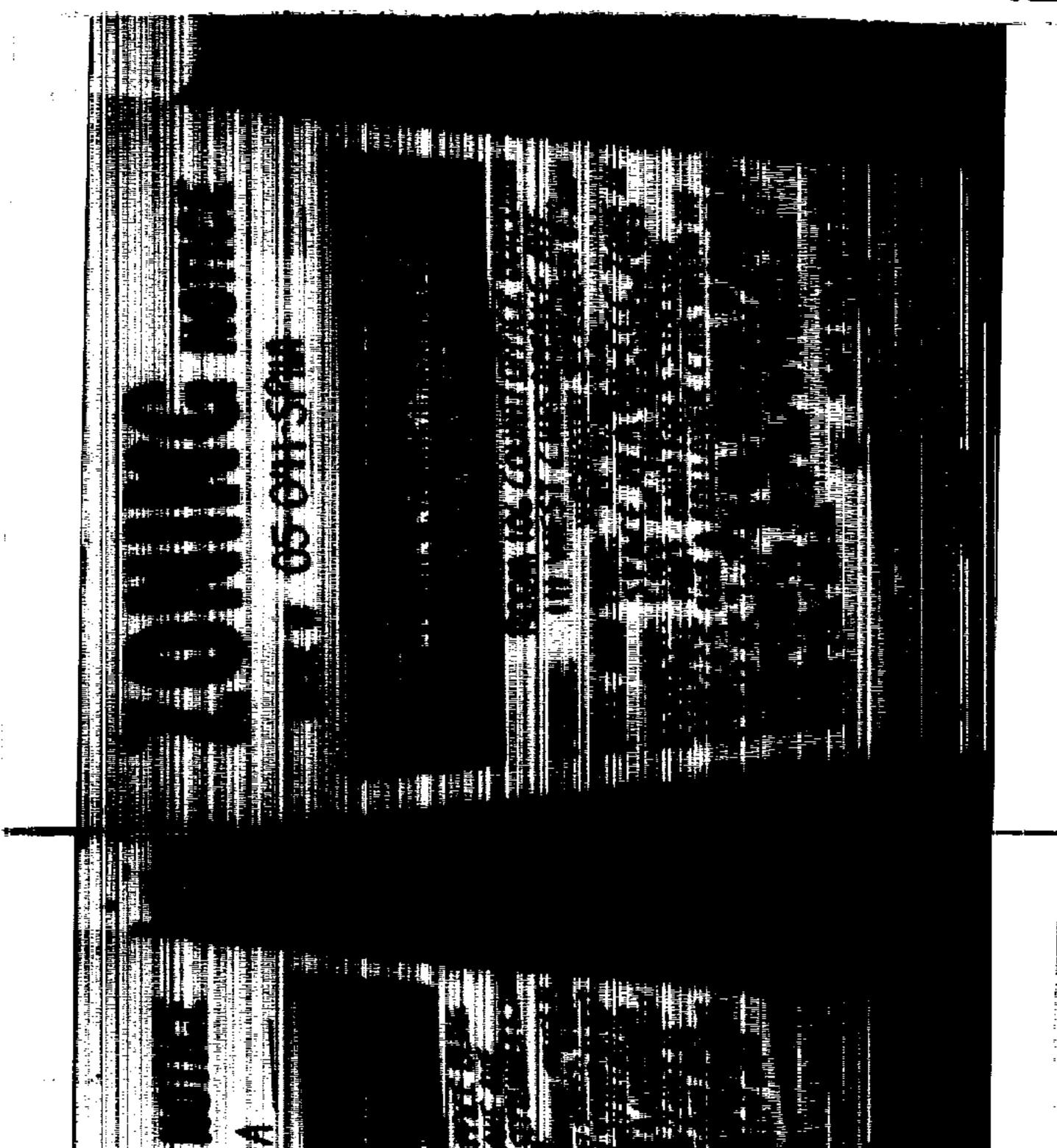
Pelitioner/Developer: S. ROBERT BOARDMAN/COLBERT MATZ + ROSENFELT

Date of Hearing/Closing: SEPTEMBER 8, 2004

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at  $\frac{5604}{7000}$ 

The sign(s) were posted on

Month, Day Year)



Signature of Sign Poster)

Printed Name of Sign Poster)

523 PENNY LANE
(Street Address of Sign Foster)

HUNT VALLEY mp 21030
(City, State, Zip Code of Sign =oster)

(Telephone Number of Sign Poster)

Revised 3/1/01 - SCJ