IN RE: PETITION FOR SPECIAL HEARING S/S of Colgate Avenue, 150 ft. E centerline of Central Avenue 12th Election District 7th Councilmanic District **(261 Colgate Avenue)** Donna M. & Graham C. McCann *Petitioners*	* * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 05-049-SPH

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Special Hearing for the property located at 261 Colgate Avenue in the eastern area of Baltimore County. The Petition was filed by Donna M. and Graham C. McCann, the Petitioners and legal owners of the property. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to affirm a nonconforming use for three dwelling units.

The property was posted with Notice of Hearing on August 16, 2004, 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 August 17, 2004, 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.

ORDER RECEIVED FOR FILING
Date 9/24/04
By Rec

Section 104, Nonconforming Uses [BCZR 1955]

Definition: Nonconforming Use -- A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [Bill No. 18-1976]

Section 104.1 A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [Bill Nos. 18-1976; 124-1991]

Section 104.3 No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307. [Bill No. 124-1991]

Section 104.4 Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. [Bill Nos. 167-1980; 124-1991]

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: ZAC comments were submitted by the Bureau of Development Plans Review dated August 27, 2004, a copy of which is attached hereto and made a part hereto.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were Graham and Donna McCann, Petitioners, Anna & Palmer Clemons and Kenneth Wells. Deborah C. Dopkin., Esquire represented the Petitioners. Appearing as Protestants and interested citizens in the matter were Susan McGuire, Mary Spidell and E. Hornack. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

ORDER RECEIVED FOR FILING
Date 9/24/04
By

Testimony and Evidence

Ms. Dopkin proffered that the subject property is the west side of a semi-detached dwelling on Colgate Avenue in the "St. Helena" section of southeast Baltimore County. See Petitioners' Exhibit No. 7 and photograph 1A. The subject property is on the right side of the building. Ms. Dopkin proffered that the building was erected in 1909. The issue for this hearing is whether or not the third apartment located in the basement is a nonconforming use. The Petitioner submitted a conditional use permit dated June 24, 2003 indicating that two apartments on the first and second floors of the building had been approved by Baltimore County. See Petitioner's Exhibit No. 3.

Ms. Dopkin presented photographs of the exterior of the building which show the entrance to the basement in Exhibit 1B and three electrical meters serving the building in Exhibit 1D. Also see the interior of the basement apartment. See Petitioner's Exhibits 4A through 4F. In addition, she presented evidence that the Petitioner purchased the building in July 2003.

As to the zoning history of the property, Ms. Dopkin proffered that the property was zoned residential "D" in the 1945 zoning map which permitted all residential uses including apartments. Ken Wells, a licensed surveyor testified that the property is presently zoned DR 5.5 and that confirming the nonconforming third apartment would have no detrimental affect on the neighborhood.

Mrs. Clemons, who has lived directly behind the subject property since 1950, testified that she was aware of three apartments in the building since 1946 when the basement apartment was rented by soldiers from Fort Holabird. She indicated that the basement apartment was used as a dwelling continuously and without interruption since that time. She was also supportive of the efforts the Petitioner was making to improve other properties he owns in the area which have

ORDER RECEIVED FOR FILING
Date 9/24/04
By

been in bad physical shape prior to his purchase. She also testified that the last occupant of the basement apartment was Tommy Hamilton, the manager who lived in the apartment until August 2003. The Petitioner also presented an affidavit from a neighbor Gladys Cimaglia, which indicated that three apartments were in use in the property since July 1943.

The Petitioner testified that he bought the property in July 2003 and wanted to begin renovating the three apartments. He indicated that he ousted the occupant of the basement apartment in the fall of 2003 to begin the renovation. He also indicated that the basement apartment's electricity was measured by the third meter shown in Exhibit No. 1D and that the prior occupant had removed the meter at one time. In addition, he noted that Tommy Hamilton was responsible for the maintenance of the property and had lived there rent free in exchange for his maintenance work.

The Protestants presented letters and petitions in opposition to the request from the community association and neighbors. See Protestant's Exhibit Nos. 2 and 3. They also presented an affidavit signed by Thomas Hamilton, which indicated that he last occupied the basement apartment in July 2003, that he was not a tenant and that the apartment was in poor condition. Finally the Protestants presented extensive photographs of the building and area which they showed as having extensive maintenance problems such as high grass, debris, etc. Ms. Spidell testified that the third unit was not rented and that it had been vacant for more than a year since Mr. Hamilton left, but she did not dispute that someone lived in the apartment.

Ms. Hornack, who participated in the hearing as a Protestant, testified that she was familiar with the property since 1940 and that a third apartment was in the basement at that time. She gave an extensive history of the building and noted that Tommy Hamilton left the premises in the spring or summer of 2003.

ORDER RECEIVED FOR FILING
Date 9/24/04
By

Findings of Fact and Conclusions of Law

I find as a matter of law that the date zoning was first applicable to this property is January 1945. At that time the property was zoned residential "D" in which apartments were allowed. I am persuaded, particularly by the testimony of Ms. Hornack, that the third apartment was occupied since 1940 which clearly precedes the imposition of any zoning on this property.

The Protestants raise the issue of abandonment of more than one year on the basis of the occupant of the third apartment (Mr. Hamilton) leaving the premises and it not being occupied since. However, by the weight of the evidence presented, I am persuaded that the last occupant left the premises in the late summer of 2003. Mr. McCann did not own the building until July 25, 2003 and I find it unlikely that the occupant would have any reason to move prior to that time. The petition was accepted by the Zoning Office for filing the next day, and I find as a matter of law that the filing of the petition tolls the time of abandonment. Otherwise, the Petitioner would have to have someone occupy the third unit in violation of the use permit dated July 24, 2003 issued by the County for two apartments only.

Consequently, from the testimony and evidence, I find that the Petitioners' third apartment in the basement constitutes a legal nonconforming use, which does not conform to a use regulation for the DR 5.5 zone in which it is located. I further find that this nonconforming use has not changed from its nonconforming use to any other use, nor has the third apartment been abandoned or discontinued for a period of one year or more.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioner's variance request should be granted.

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Date 9/24/04
By

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 24 day of September, 2004, that the Petitioners' request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to affirm a nonconforming use for three dwelling units, be and is hereby GRANTED.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

John V. Murphy
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

ORDER RECEIVED FOR FILING
Date 9/24/04
By Ray

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 24, 2004

Deborah C. Dopkin, Esquire
409 Washington Avenue, Suite 1000
Towson, Maryland 21204

Re: Petition for Special Hearing
Case No. 05-049-A
Property: 261 Colgate Avenue

Dear Ms. Dopkin:

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

JVM:raj
Enclosure

c: Mr. & Mrs. Graham McCann, 3016 Cedarcrest Ave., Baltimore, MD 21219
Mr. & Mrs. Palmer Clemons, 276 St. Helena Ave., Baltimore, MD 21222
Kenneth Wells, KJ Wells, Inc., 7403 New Cut Rd., Kingsville, MD 21087
Susan McGuire & Mary Spidell, 269 Colgate Ave., Baltimore, MD 21222
E. J Hornack, 262 Colgate Ave., Baltimore, MD 21222

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 261 Colgate Ave

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

affirm a non-conforming use for three dwelling units.

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.

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:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Legal Owner(s):

Donna Marie McCann
Name - Type or Print

Donna Marie McCann
Signature

Graham C. McCann
Name - Type or Print

Graham C. McCann
Signature

3016 Cedarcrest Ave 410-477-2422
Address Telephone No.

Baltimore, MD 21219
City State Zip Code

Attorney For Petitioner:

Deborah C. Dopkin, Esquire
Name - Type or Print

Deborah C. Dopkin
Signature

Deborah C. Dopkin, P.A.
Company

409 Washington Avenue, #1000 410-821-0200
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Representative to be Contacted:

Deborah C. Dopkin, Esquire
Name

409 Washington Avenue, #1000 410-821-0200
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

ORDER RECEIVED FOR FILING
Date 9/24/04
By

Case No. 05-049-SPH

Rev 9/15/98

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By D.THOMPSON Date 7/26/04

kjWellsInc

Trading for Kenneth J. Wells, Inc.
Land Surveying and Site Planning

Telephone: (410) 592-8800
Fax: (410) 817-4055
email: kjWellsInc@msn.com

7403 New Cut Road
Kingsville, Md. 21087-1132

July 16, 2004

Zoning Description
for
261 Colgate Avenue

Baltimore County
Maryland
12th Election District
7th Councilmanic District

Beginning at a point on the South side of Colgate Avenue which is 40 feet in width at a distance of approximately 150 feet East from the centerline of nearest improved intersecting street known as Central Avenue which is 40 feet in width. Being all of Lot 93 and a portion of Lot 94 as recorded in Plat Book 4 folio 22, containing 4,688 square feet or 0.1076 acres.

STATE OF MARYLAND
KENNETH JAMES WELLS
No. 236
REGISTERED
PROPERTY LINE SURVEYOR

05-049-SPH

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: #05-049-SPH
261 Colgate Avenue
S/side of Colgate Avenue, 150 feet east of centerline of Central Avenue
12th Election District
7th Councilmanic District
Legal Owner(s): Graham & Donna McCann
Special Hearing: to affirm a non-conforming use for three dwelling units.
Hearing: Thursday, September 2, 2004 at 2:00 p.m. in Room 106, County Office Building, 111 W. Chesapeake 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.

JT 8/713 Aug17. 17509

CERTIFICATE OF PUBLICATION

8/19/, 2004

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 8/17/, 2004.

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

S. Wilkinson

LEGAL ADVERTISING

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

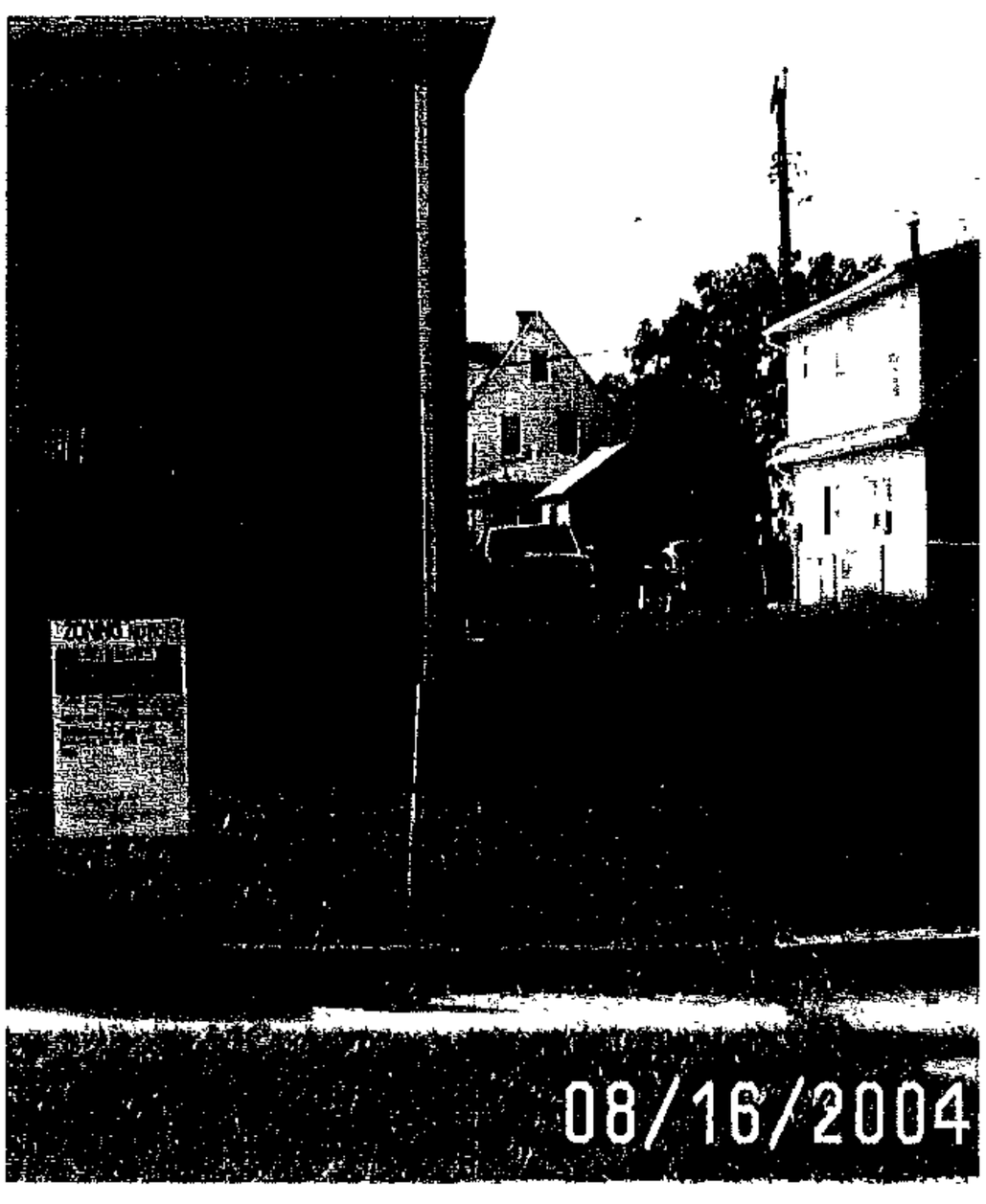
RE: CASE NO. 05-049-SPH
PETITIONER/DEVELOPER:
Graham McCann
DATE OF HEARING:
September 2, 2004

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 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 LOCATED AT



POSTED ON: August 16, 2004

LOCATION:
261 Colgate Avenue
Baltimore, Maryland 21222

SIGNATURE OF SIGN POSTER

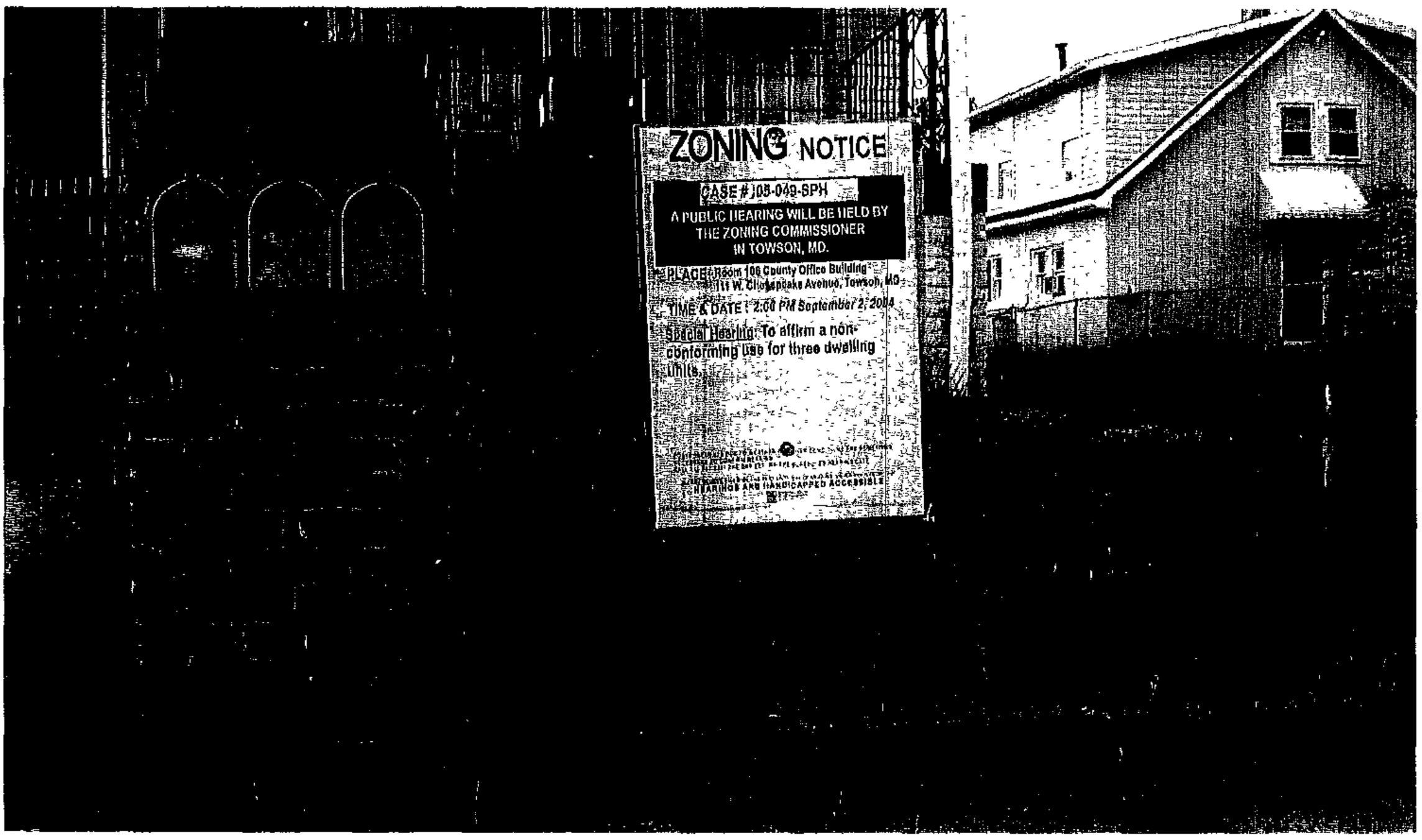
BRUCE DOAK

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

#1 8/20/04

ZONING Notice

#2


ZONING NOTICE
CASE # 05-049-SPH
A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.
PLACE: Room 106 County Office Building
111 W. Chesapeake Avenue, Towson, MD
TIME & DATE: 2:00 PM September 2, 2004
Special Hearing: To affirm a non-
conforming use for three dwelling
units.
HEARINGS ARE HANDICAPPED ACCESSIBLE

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 39357

DATE 7/26/04 ACCOUNT 001006150

AMOUNT $ 325.00

RECEIVED FROM: DONNA Y GRAHAM McCANN

FOR: ITEM #049 05-049-SPH

2261 COLGATE AVE. BY D. THOMPSON

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
7/27/2004	7/26/2004	12:23:37	1

REG WS01 WALKIN JRIC JHR
>>RECEIPT # 177138 7/26/2004 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 039357
Rcpt Tot $325.00
$325.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

TO: PATUXENT PUBLISHING COMPANY
Tuesday, August 17, 2004 Issue - Jeffersonian

Please forward billing to:
Mr. & Mrs. Graham McCann
3016 Cedarcrest Avenue
Baltimore, MD 21219

410-477-2422

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: 05-049-SPH
261 Colgate Avenue
S/side of Colgate Avenue, 150 feet east of centerline of Central Avenue
12th Election District – 7th Councilmanic District
Legal Owners: Graham & Donna McCann

Special Hearing to affirm a non-conforming use for three dwelling units.

Hearing: Thursday, September 2, 2004, at 2:00 p.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue

Lawrence E. Schmidt

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

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 30, 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: 05-049-SPH
261 Colgate Avenue
S/side of Colgate Avenue, 150 feet east of centerline of Central Avenue
12th Election District – 7th Councilmanic District
Legal Owners: Graham C. & Donna Marie McCann

Special Hearing to affirm a non-conforming use for three dwelling units.

Hearing: Thursday, September 2, 2004, at 2:00 p.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue

Timothy Kotroco
Director

TK:klm

C: Deborah Dopkin, 409 Washington Avenue, #1000, Towson 21204
Donna & Graham McCann, 3016 Cedarcrest Avenue, Baltimore 21219

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, AUGUST 18, 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.

Printed on Recycled Paper

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

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

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

For Newspaper Advertising:

Item Number or Case Number: 05-049-SPH

Petitioner: McCann

Address or Location: 261 COLGATE AVE.

PLEASE FORWARD ADVERTISING BILL TO:

Name: MR. + MRS. GRAHAM C. McCANN

Address: 3016 CEDARCREST AVE.
BALTO. MD 21219

Telephone Number: 410-477-2422

Revised 2/20/98 - SCJ

Department of Permits
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

August 25, 2004

Deborah C. Dopkin
409 Washington Avenue, # 1000
Towson, Maryland 21204

Dear Ms. Dopkin:

RE: Case Number: 05-049-SPH, 261 Colgate Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 26, 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,

W. Carl Richards, Jr.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Donna and Graham McCann 3016 Cedarcrest Avenue Baltimore 21219

Baltimore County
Fire Department

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

August 2, 2004

ATTENTION: Zoning Review planners
Distribution Meeting of: August 2, 2004
Item No.: 002, 036-049, 051

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

RECEIVED
AUG - 3 2004

Come visit the County's Website at **www.co.ba.md.us**

Printed with Soybean Ink
on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: August 27, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For August 9, 2004
Item No. 049

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

The issue of adequate on-site parking should be addressed.

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco

FROM: John D. Oltman, Jr JDO

DATE: August 25, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of August 2, 2004

__X__ The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

05-002
04-037
04-038
04-039
04-040
04-041
04-044
04-045
04-047
04-048
04-049
04-051

Reviewers: Sue Farinetti, Dave Lykens

file

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Tim Kotroco, Director
Permits and Development Management

DATE: March 14, 2006

SUBJECT: Green Property, Minor Subdivision
05-049 M

The RC-6 zone was created to allow density to be calculated on only that portion of the tract to be developed that was not environmentally constrained. The land determines what density can be supported on the net buildable acreage of the tract to be developed. In determining density of a tract to be developed the first step is to identify environmentally sensitive land and then eliminate that portion of land from the density calculation. Upon determination of the primary conservancy area, the secondary conservancy can then be created.

The Office of Planning and the Department of Environmental Protection and Resource Management have determined that there is no primary conservancy area or any secondary conservancy area on this site. The County may therefore determine density based upon the entire tract to be developed.

The project may therefore proceed and the minor subdivision may be approved.

Pat Keller

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

David Carroll, Director
Department of Environmental Protection
and Resource Management

C: Carl Richards - PDM – Zoning
Glen Shaffer – DEPRM
Wally Lippencott – DEPRM
Lynn Lanham – Office of Planning

AFK:LL:kma

W:\DEVREV\MINOR\05049 Memo.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: September 1, 2004

RECEIVED

SEP - 2 2004

ZONING COMMISSIONER

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 5-049**

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: Mark A Cunningham

Division Chief: Jeff Perlman

MAC/LL

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

SHA
Driven to Excel
State Highway Administration
Maryland Department of Transportation

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

Date: 8.2.04

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

RE: Baltimore County
Item No. 049
Case# 5-49-SPH

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,

S. D. Foster

Steven D. Foster, Acting Chief
Engineering Access Permits Division

RE: PETITION FOR SPECIAL HEARING 261 Colgate Avenue; S/side Colgate Avenue, 150' E c/line Central Avenue 12th Election & 7th Councilmanic Districts Legal Owner(s): Donna & Graham McCann Petitioner(s)	* * * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 05-049-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 and documentation filed in the case.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of August, 2004, a copy of the foregoing Entry of Appearance was mailed to Deborah C. Dopkin, Esquire, 409 Washington Avenue, St 1000, Towson, MD, 21204, Attorney for Petitioner(s).

RECEIVED
AUG 0 9 2004
Per.....

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

DEBORAH C. DOPKIN, P.A.
ATTORNEY AT LAW
409 WASHINGTON AVENUE, SUITE 1000
TOWSON, MARYLAND 21204

TELEPHONE 410-821-0200
FACSIMILE 410-823-8509
e-mail ddopkin@dopkinlaw.com

DEBORAH C. DOPKIN

RECEIVED
SEP 17 2004
ZONING COMMISSIONER

September 16, 2004

VIA FACSIMILE TRANSMISSION
AND FIRST CLASS MAIL
John Murphy, Esquire
Deputy Zoning Commissioner
for Baltimore County
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

RE: Case No. 05-049-SPH
261 Colgate Avenue

Dear Mr. Murphy:

I am writing to you with regard to the hearing on September 2, 2004 regarding the above captioned property. I believe that the record remains open pending follow-up information on the zoning history.

I have researched the applicable 1945 zoning map and regulations that pertained to the property at the time. Please find enclosed a copy of the 1945 zoning map together with the key to that map. You can confirm the information on these items at the Zoning Office where the original colored linen of the map is stored. The property in question on Colgate Avenue was zoned Residential "D" in 1945. The "D" Residential Zone under the then applicable Zoning Regulations permitted all the uses from the Residential A, B and C zones. Specifically, the "C" Residential Zone permitted apartment buildings. Therefore, it is my assertion that the three apartment use was permitted at the time it was created and was never discontinued in the interim.

I hope this information is helpful to you in reaching a decision on this matter. If you should have any questions, please contact me.

Very truly yours,

Deborah C. Dopkin/kmc

Deborah C. Dopkin

DCD/kmc
Enclosure
cc: Mr. and Mrs. Graham McCann
Mr. Ken Wells
LETTER DICTATED, BUT NOT READ
C:\docs\KMC\DCD\LETTERS 2004\murphy john.wpd

PLEASE PRINT CLEARLY

CASE NAME 261 Colgate Ave
CASE NUMBER 05-049-SPH
DATE 9/2/04

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
P GRAHAM McCANN	3016 CEDARCREST AVE	BALTIMORE, MD. 21219	
P Donna McCann	3016 Cedarcrest Ave	Baltimore MD 21219	
ANNA CLEMONS	276 ST HELENA AVE	BALTIMORE MD 21222	
PALMER R. Clemons	276 ST. Helena AVE	BALTIMORE MD. 21222	
Deborah Dopkin	409 WASHINGTON AVE ST 1000	Baltimore MD 21204	DDopkin@Dopkin[redacted].com
KENNETH WELLS	7403 NEW CUTROAD	KINGSVILLE, MD 21087	KJWELLSINC@MSN.COM

PLEASE PRINT CLEARLY

CASE NAME 261 Colgate Ave
CASE NUMBER 05-049-SPH
DATE 9/2/04

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Susan McGuire	269 Colgate Ave	Baltimore, MD 21222	smmc269@comcast.net
Mary Spidell	269 Colgate Ave	Balto. MD 21222	mspidell@comcast.net
EJ Hornack	262 Colgate Ave	Balto Md 21222	

SECTION III -- "A" RESIDENCE ZONE

A. Use Regulations: In any "A" Residence Zone, except as hereinafter expressly provided, no building or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

1. Church, parochial school, convent or monastery.
2. Dwelling, single family.
3. Dwelling, two-family.
4. Farming and buildings incidental thereto.
5. Home Occupations, provided that no sign or signs shall be displayed on the lot so used exceeding a total of two square feet in area, not projecting more than one foot beyond the building, and not illuminated.
6. Professional office when situated in the building used by practitioner as his or her private dwelling, provided that no name plate shall be displayed exceeding two square feet in area.
7. Public park or playground.
8. Public building.
9. Public water works or reservoir.
10. Trailer, one unoccupied, for storage only.
11. Tourist home.
12. Truck garden.
13. Accessory building and uses incident to any of the above uses when located on the same lot and in the rear yard and not involving the conduct of a retail business, and which may include:

    (a) Any accessory building when located not less than 60 feet from front lot line and in case of a corner lot where real lot line abuts on side line of lot adjoining on rear, no accessory building shall be less than 25 feet from the side street line except when built as a part of the main building, provided, however, that any accessory building which is erected within 60 feet of any side street line shall not be less than 10 feet from the rear lot line. In case of a corner lot where rear line of lot abuts on rear line

of lot adjoining on rear, no accessory building shall be less than 15 feet from the side street line and in no case shall an accessory building be located within two feet of any lot line.

(b) Poultry house, provided use is of a private nature only and no poultry or eggs are sold, provided, however, that any poultry yard, run or enclosure, shall be, in its entirety, within the rear yard of such lot.

14. Telephone and telegraph lines, electric light and power lines on public highways or carrying less than 5,000 volts on poles, underground conduits, cables and gas, sewer and water mains and pipes, provided that no building or structure except such poles shall be erected, altered, repaired or used in connection therewith without the issuance of a special permit as provided in Section XIII -- Sub-section I.

B. Height Regulations: No building shall exceed a height of forty feet or three stories.

C. Area Regulations: The minimum dimensions of yards, and the minimum lot area, except as provided in Section IX, shall be as follows:

1. Lot Area: Each dwelling hereafter erected shall be located on a lot having an area of not less than five thousand square feet and a width of not less than fifty feet at the front building line. No yard space or minimum area required for a building or use by these regulations shall be considered as any part of the yard space or minimum area for another building or use.

2. Front Yard: The building line shall set back from the front lot line to provide for a front yard not less than twenty-five feet in depth, provided that when the majority of residential buildings on one side of a street between two intersecting streets, have been lawfully built with different front yard depths than the aforesaid twenty-five feet, then no building hereafter erected or altered shall have a less front yard than the average depth of said actual front yards of buildings immediately to either side of said building; and, provided, further that no building shall be required by the regulations to set back more than fifty feet in any case, and provided further that these regulations shall not be construed as to reduce to less than 22 feet the buildable width of a corner lot.

3. Side Yard: There shall be a side yard not less than seven feet in width along each side lot line, except in case of a corner lot the side yard along the side street shall not be less than fifteen feet.

4. Rear Yard: There shall be a rear yard, having a minimum average depth of twenty feet but in no case less than fifteen feet in depth at any one point.

5. No portion of an alley shall be considered as any part of any side or rear yard.

6. No dwelling shall be built on a lot which does not abut upon and front directly on a public street, or adequate rural right-of-way.

SECTION IV -- "B" RESIDENCE ZONE

A. Use Regulations: Except as hereinbefore expressly provided, no building or structure or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

1. Any use permitted in an "A" Residence Zone, any such use to be subject to the same conditions and limitations set forth as to such use in section III-A of these regulations:
2. Children's Home.
3. Dwelling -- semi-detached.
4. Fraternity or Sorority House.
5. Orphanage.
6. Tea Room, when operated as a home occupation.

B. Height Regulations: Same as in an "A" Residence Zone, as set forth in Section III-B.

C. Area Regulations: Same as in an "A" Residence Zone, as set forth in Section III-C, provided, however, that any semi-detached house erected under this Section shall be considered as one building.

SECTION V -- "C" RESIDENCE ZONE

A. Use Regulations: Except as hereinafter expressly provided, no building or structure or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

1. Any use permitted in the "B" Residence Zone; any such use to be subject to the same conditions and limitations as provided in Section IV-A.
2. Apartment house.
3. Public storage garage where no repair facilities are maintained and when located not less than sixty feet from the front lot line and, in the case of a corner lot, thirty feet from the side street line except when contained within the main building and provided further that any accessory building and any detached garage which is erected on a corner lot within sixty feet of any side street line, shall be distant not less than ten feet from the party lot line intersecting such side street line.

B. Height Regulations: Building height unlimited.

C. Area Regulations: The minimum dimension of yards and the minimum lot area per family, except as provided in Section X, shall be as follows:

1. Lot Area Per Dwelling Unit. Same as in "B" Residence Zone, Section IV, except in the case of apartments the minimum gross lot area per dwelling unit shall be six hundred twenty-five square feet.

2. Front Yard. Minimum front yards for single-family or semi-detached dwellings shall be the same as hereinbefore specified in "A" Residence Zone and "B" Residence Zone respectively, except apartment buildings shall set back to provide for a front yard of not less than 55 feet in depth, measured from the center of the front street, in no case less than 25 feet from the front lot line, and when the building is more than 40 feet in height such front yard depth shall be increased 4 inches for each additional foot of height.

3. Side Yard: Same as in "B" Residence Zone as set forth in Section IV, except in case of apartments, width of side yards shall be increased above 7 feet minimum by four inches for each foot of building height over forty feet.

4. Rear Yard: There shall be a rear yard having a minimum depth of twenty feet measured from the rear lot line, such depth to be increased by four inches for each foot of building height over forty feet.

5. Courts: Apartment building courts shall have a minimum width of fourteen feet plus four inches for each foot of building height over forty feet.

6. Automobile garage or parking space shall be provided adjacent to all apartment buildings sufficient in area to accommodate one car for each housekeeping unit; not more than 50% of the rear yard to be counted as any part of said parking space.

SECTION VI -- "D" RESIDENCE ZONE

A. Use Regulations: Except as hereinafter expressly provided, no building or structure or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

1. Any use permitted in the "C" Residence Zone; any such use to be subject to the same conditions and limitations as provided in Section V.

2. Group houses.

B. Height Regulations: Same as "B" Residence Zone.

C. Area Regulations: The minimum dimensions of yards and minimum lot area per dwelling

unit, except as provided in Section IX, shall be as follows:

1. Lot Area: The minimum width of dwelling units shall be sixteen feet between centers of partition walls, and the minimum lot area per dwelling unit shall be fourteen hundred and forty square feet.

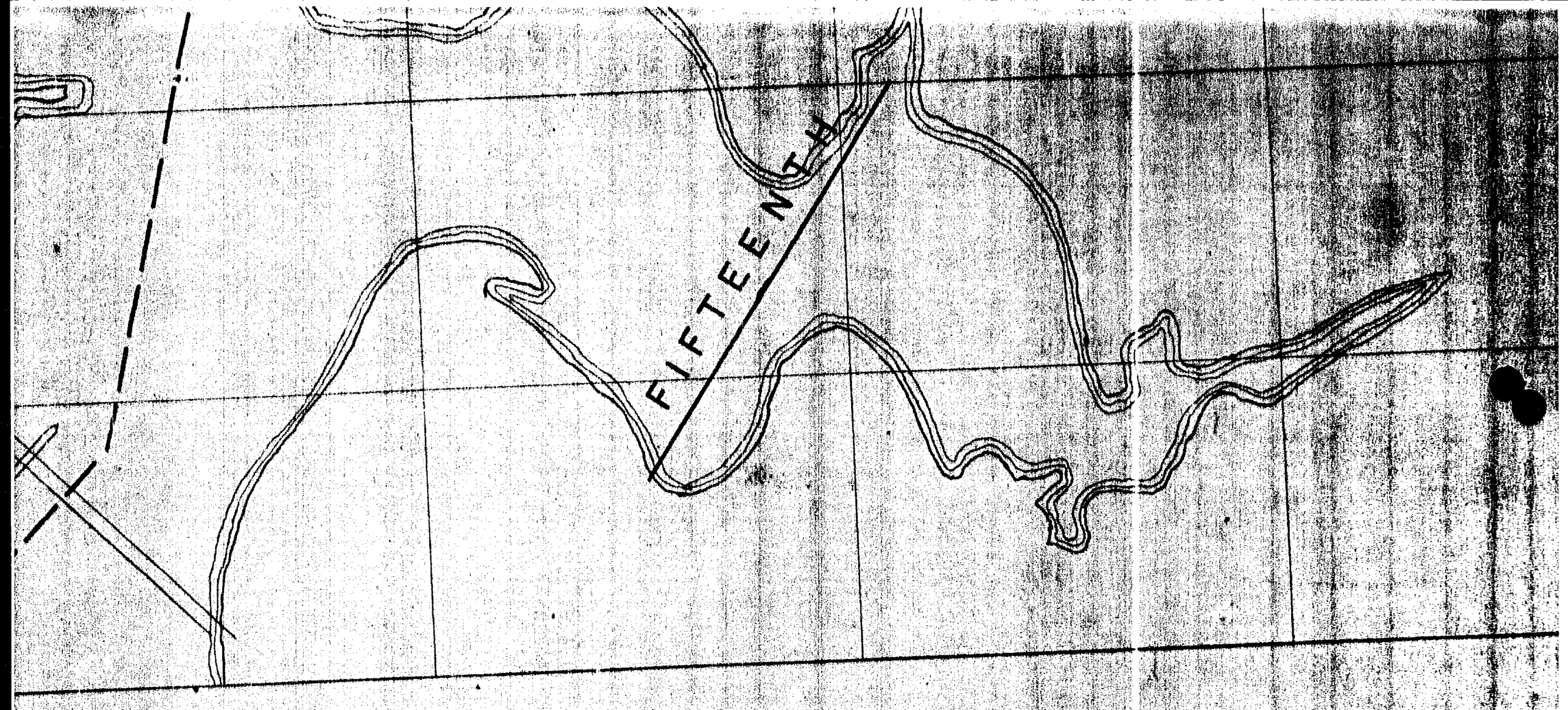
2. Front Yard: Minimum front yard shall be as hereinbefore specified in "B" Residence Zone.

3. Side Yard: There shall be a side yard of not less than ten feet along each side of each group of dwelling units.

4. Rear Yard: There shall be a rear yard having a minimum depth of twenty-five feet.

5. Accessory Buildings: Accessory buildings shall be permitted without restrictions as to setback from division line of dwelling units or rear property lines.

6. No group house shall contain more than seven single or two-family dwellings.



ZONING DISTRICT NO. 12

ZONING DEPARTMENT + BALTIMORE COUNTY

USE DISTRICT MAP

TWELFTH ELECTION DISTRICT OF BALTIMORE COUNTY

1945

SCALE

0 500 1000 1500 2000

500 FEET TO ONE INCH

- LEGEND -

"A" RESIDENTIAL ZONE - R.G

"B" RESIDENTIAL ZONE - R.G

"C" RESIDENTIAL ZONE - R.A.

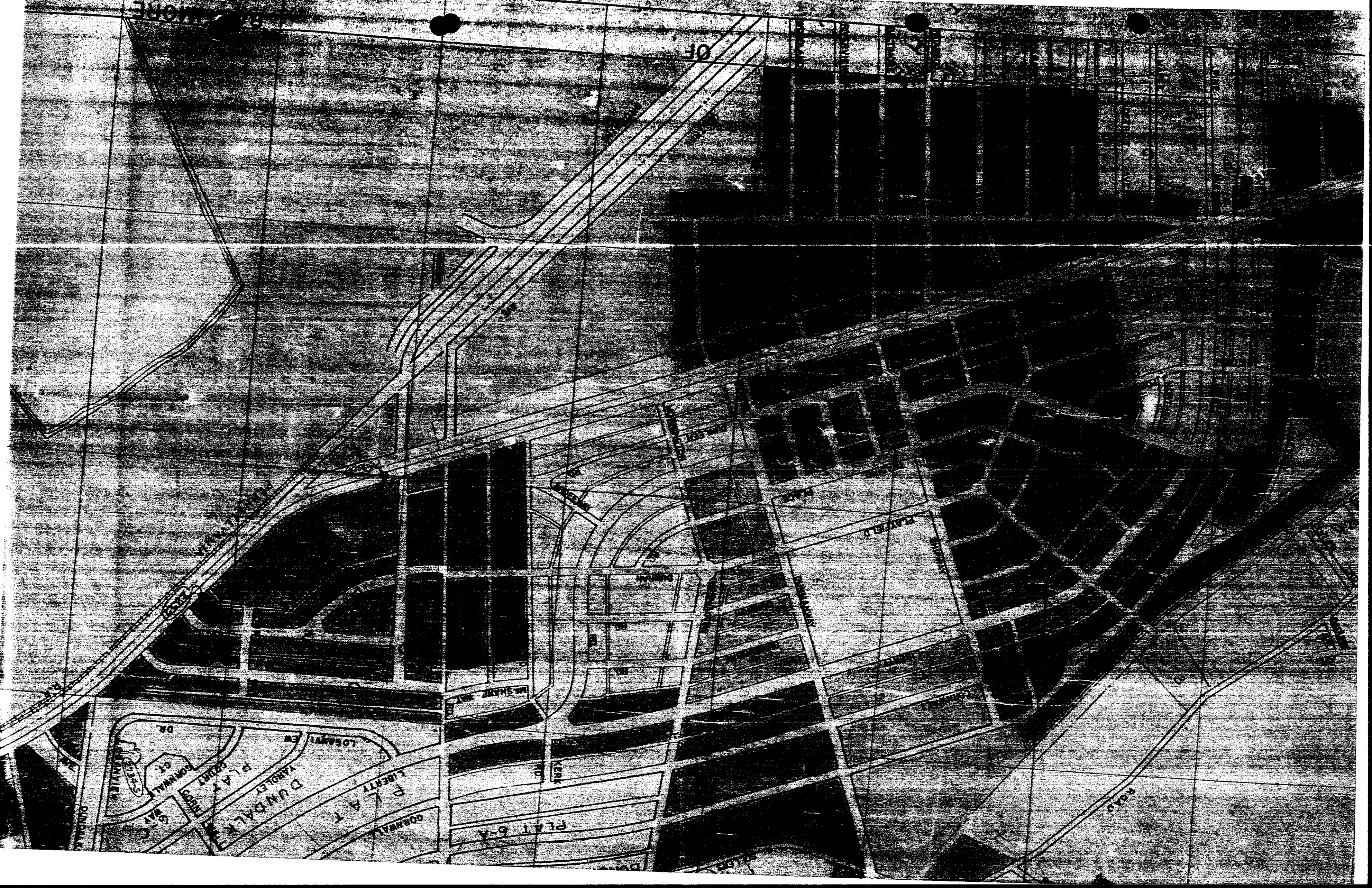
"D" RESIDENTIAL ZONE - R.G.

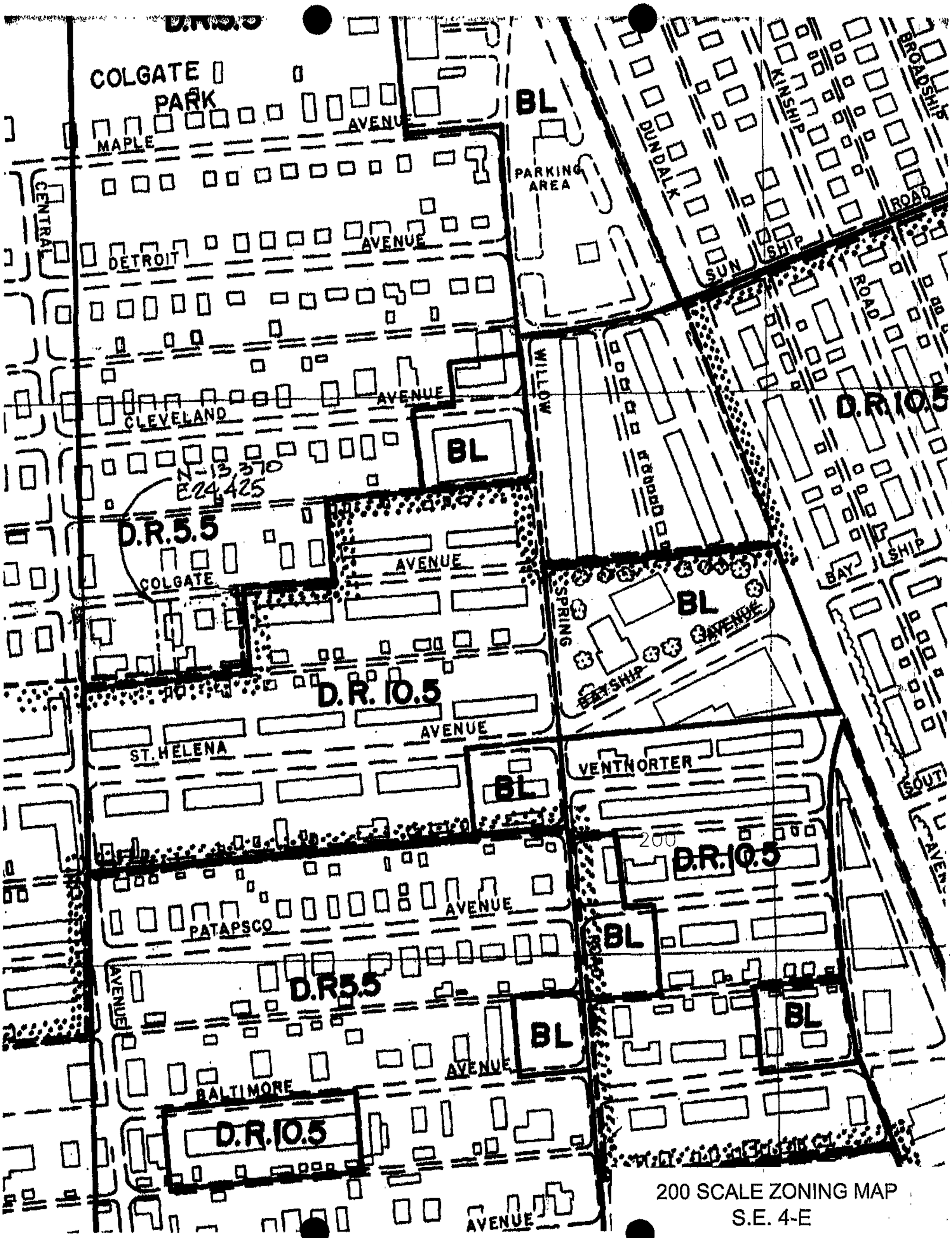
"E" COMMERCIAL ZONE - B.L.

"F" INDUSTRIAL ZONE - M.L.

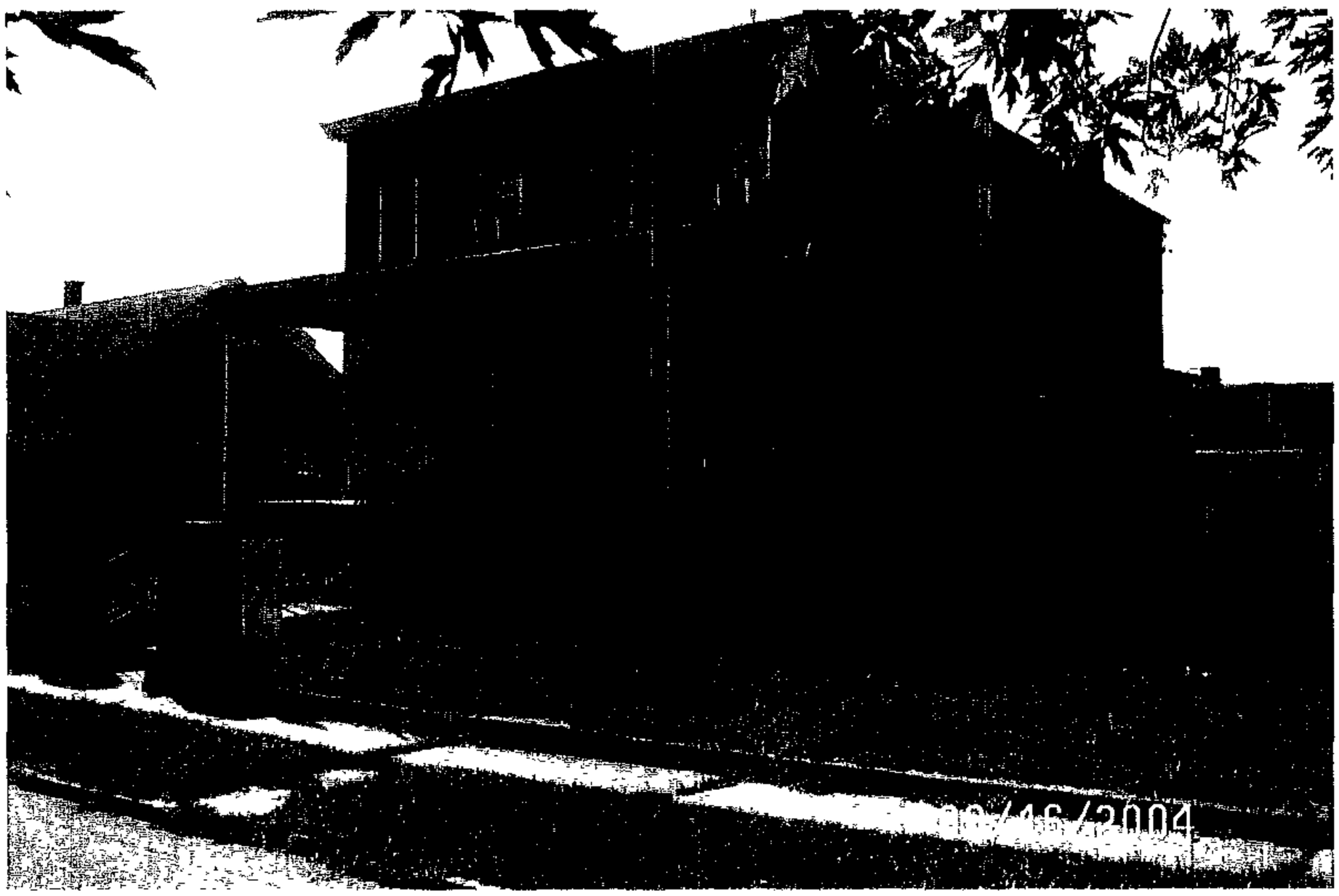
"G" " " - M.H.

SPECIAL


DUNDALK
VARDLEY
PLAT
LIBERTY
PLAT 6-A
CORNWALL
KERK
MC SHANE
LORNWALL
CORNWALL
PLAYFIELD
DUNDALK
BALTIMORE
OF


COLGATE PARK
MAPLE AVENUE
CENTRAL
DETROIT AVENUE
CLEVELAND AVENUE
N-13,370
E24,425
D.R.5.5
COLGATE AVENUE
BL
PARKING AREA
DUNDALK
KINSHIP
BROADSHIP
ROAD
SUN SHIP
MOTTLIN
D.R.10.5
BAY SHIP
SPRING
BAYSHIP AVENUE
ST. HELENA AVENUE
VENTNORTER
PATAPSCO AVENUE
AVENUE
BALTIMORE AVENUE
200
200 SCALE ZONING MAP
S.E. 4-E

05-049-SPH

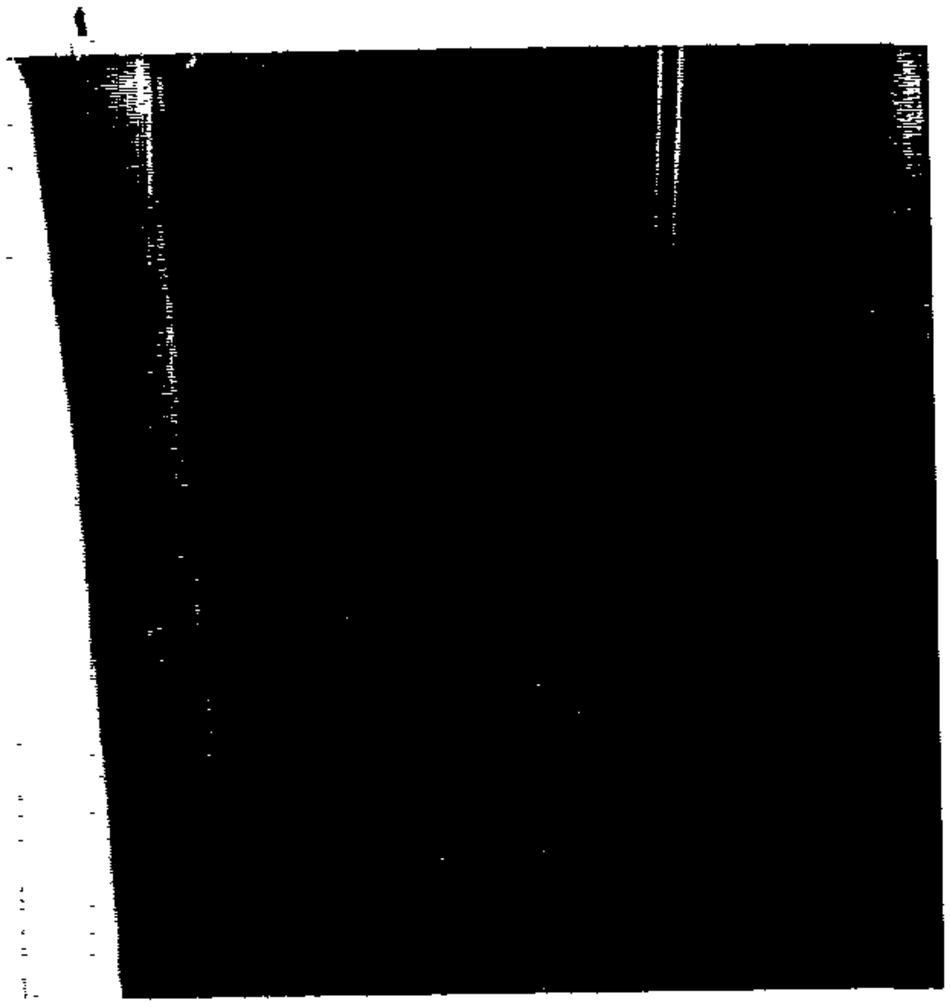


Ret 1 A

Baltimore County Zoning Commissioner
Office of Planning
Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204

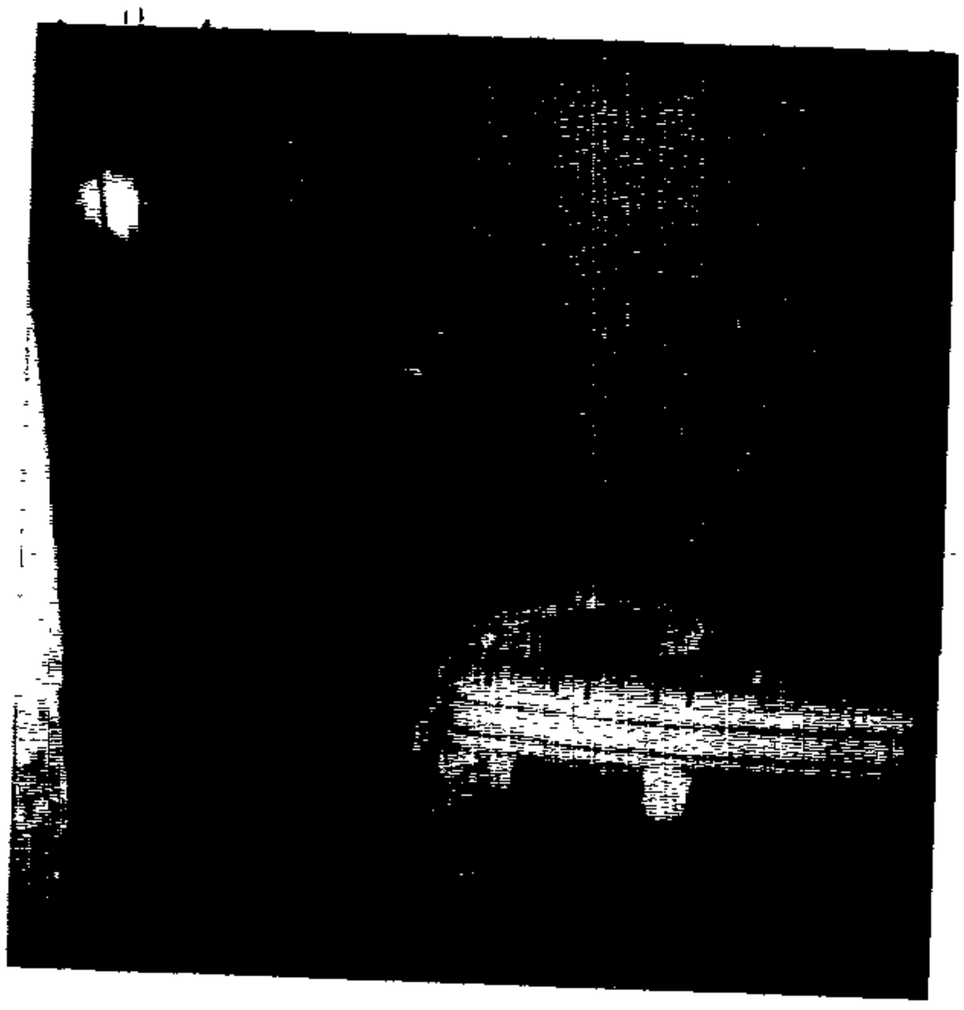
Photographs

Exs #5A-5D
Exs # 1B-1E
Exs #4D-4G



Pet# 4D

Pet# 4E



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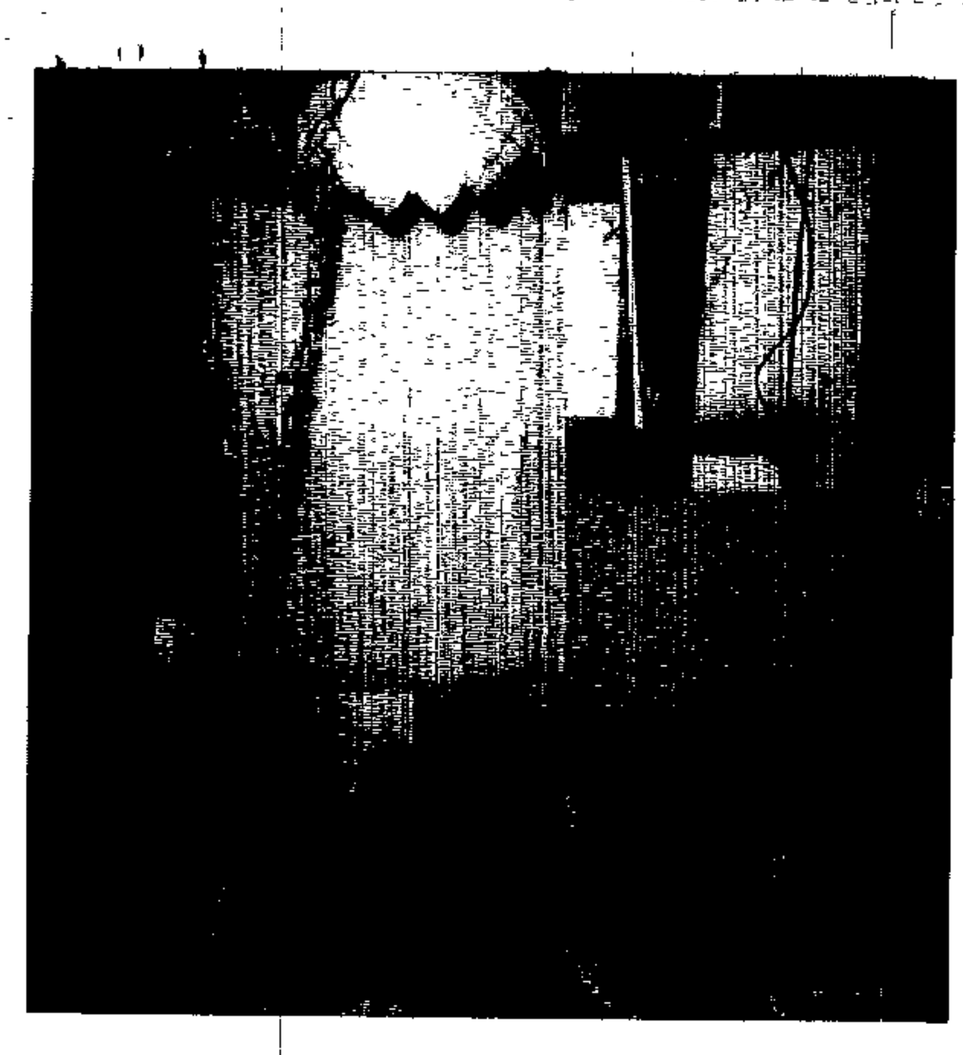
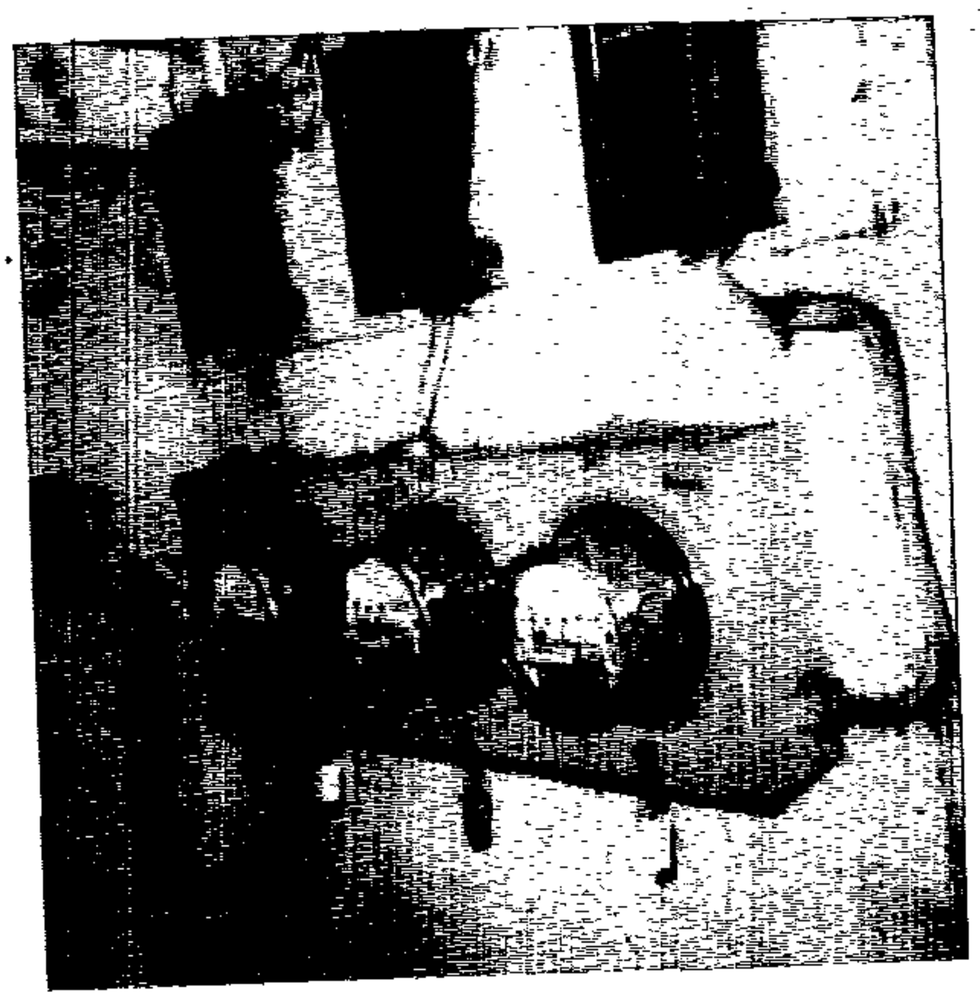


Pet# 4G

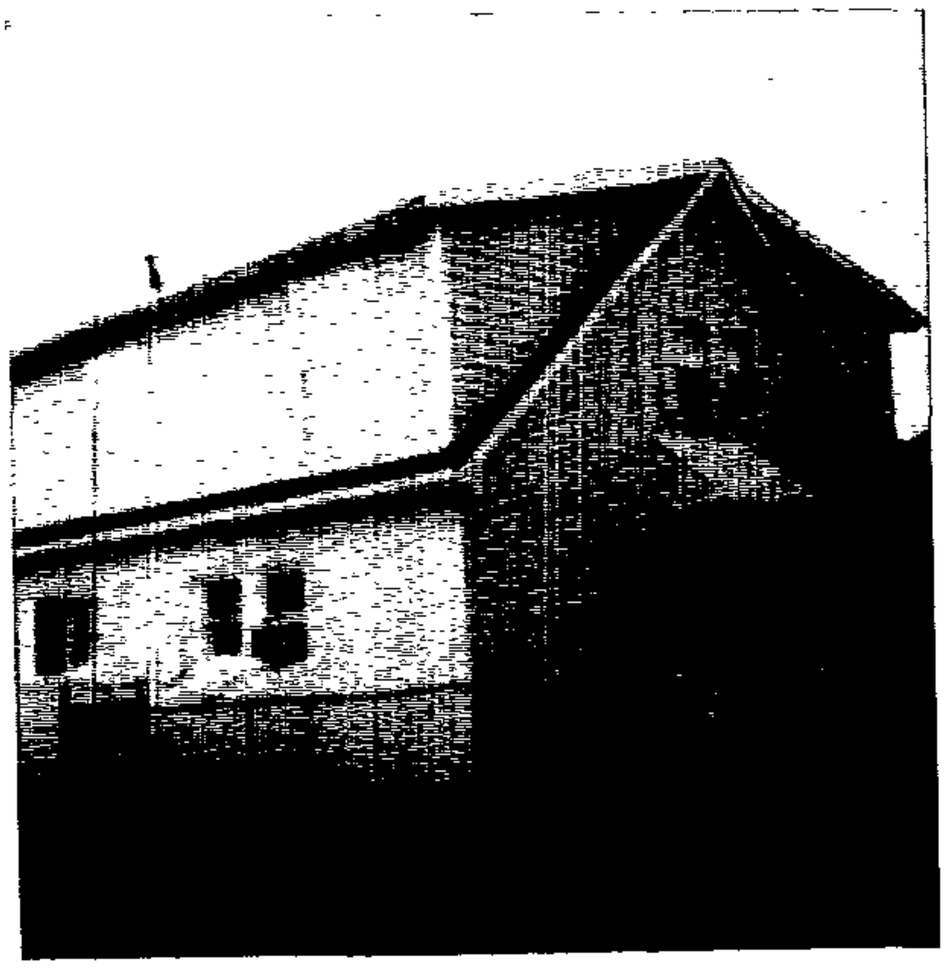
261 Colgate Ave - Basement Apt entrance
Pict. 1 B

261 Colgate Ave
3 mailboxes
Pict 1 C

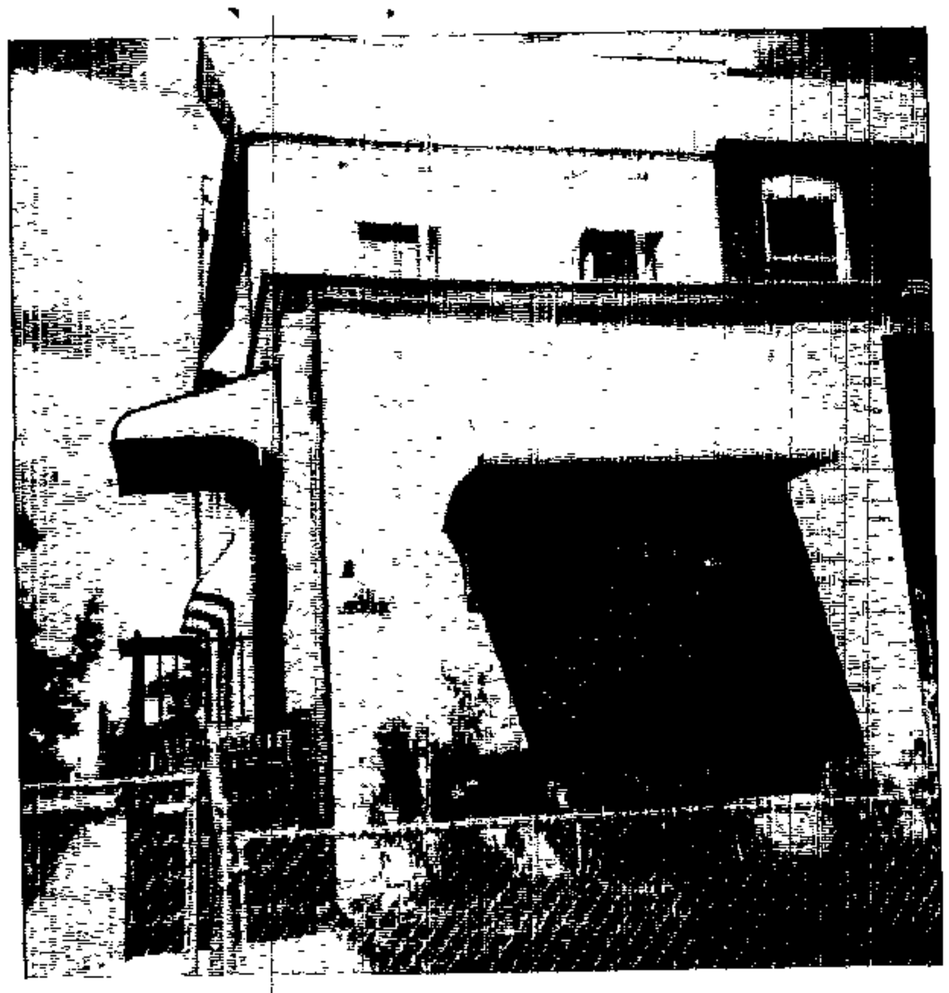


261 Colgate Ave
3 meters
Pict 1 D

261 Colgate Ave rear view
Pict 1 E

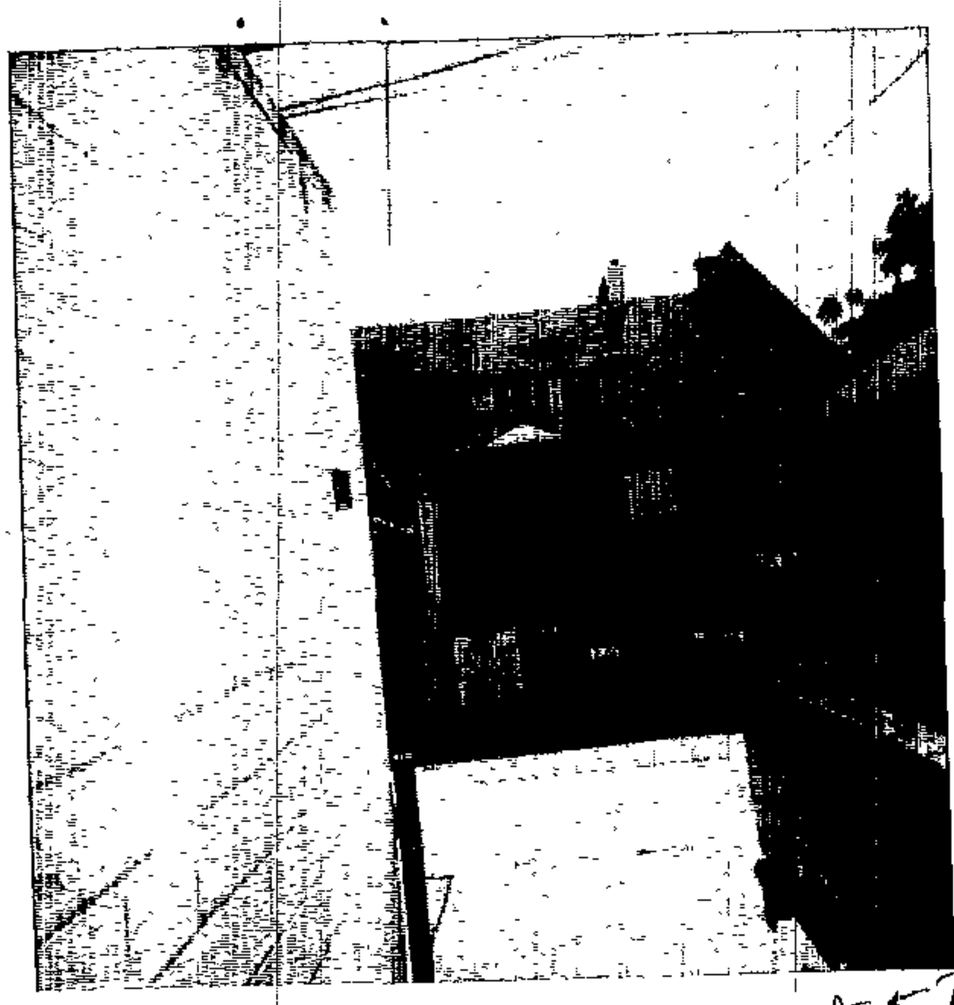


267 Colgate Ave
house next doors to 261 Colgate
Pet 5A



House directly across from 261 Colgate
Pet 5B

Colgate Ave
house next door
Pet 5C



Mr. + mrs. Clemons
(directly behind 261 Colgate Ave
Pet 5D

CONDITIONAL USE PERMIT

FOR

TWO APARTMENTS

This Use Permit for two apartments at 261 COLGATE AVENUE 21222
(address)
is issued entirely upon the basis of the herein affidavit, including the dates of original use and continuous use sworn to therein. The responsibility for the accuracy of said dates and uses is entirely that of the legal owner and/or agent thereof. In the event that the accuracy is challenged our approval is automatically withdrawn; the use permit will be reinstated only after public hearing and submission of testimony that alleviates the allegations contained in the challenge and otherwise provides the proofs necessary to establish a legal non-conforming use for the number of apartments claimed. Knowingly falsifying the affidavit information on the reverse side of this permit is subject to the penalties of perjury.

DATE: 6/24/03 APPROVED BY: * CTR Timothy Kotroco
DIRECTOR, ZONING ADMINISTRATION
AND DEVELOPMENT MANAGEMENT

* APPROVED FOR TWO APARTMENT ONLY

USE.APT (TXTSOPH)
REV: 10/22/93

Pet #3

CERTIFIED TRUE
ASHORE TITLE CO INC

Tax No. 12-19033890

This Deed,

Made this 25th day of July, in the year two thousand three, by and between MILTON A. KARCZEWSKI, party of the first part, and

GRAHAM MCCANN, JR., party of the second part.

Witnesseth, That in consideration of the sum of FIFTY THOUSAND DOLLARS ($50,000.00) and other good and valuable consideration, the receipt of which is hereby acknowledged,

the said party of the first part,

does grant and convey unto the said party of the second part, his personal representatives, heirs and assigns,

in fee simple

all that lot of ground, situate, lying and being in Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING for the same on the south side of Colgate Avenue at the distance of 130 feet easterly from the corner formed by the intersection of the south side of Colgate Avenue and the east side of Central Avenue and running thence easterly binding on the south side of Colgate Avenue 37 feet 6 inches to a point in line with the center of the partition wall between the house on the lot now being described and the house on the lot immediately adjacent thereto on the east, thence southerly parallel with Central Avenue to and through the center of said partition wall and continuing the same course in all 125 feet to the north side of an alley 10 feet wide there laid out, thence westerly binding on said alley with the use thereof in common 37 feet 6 inches to intersect a line drawn south from the place of beginning parallel with Central Avenue, thence reversing the line so drawn and binding thereon 125 feet to the place of beginning. Being all of Lot No. 93 and the westernmost one-half of Lot No. 94 on the Plat of Colgate Park, recorded among the Land Records of Baltimore County in Plat Book WPC No. 4, folio 22. The improvements thereon being known as No. 261 Colgate Avenue.

BEING one of the same lots of ground described in a Deed dated July 25, 1974, and recorded among the Land Records of Baltimore County in Liber EHK, JR., 5466 at folio 376, from Harry M. Shealey and Helen K. Shealey, his wife, unto Milton A. Karczewski.

Pet #6

07178

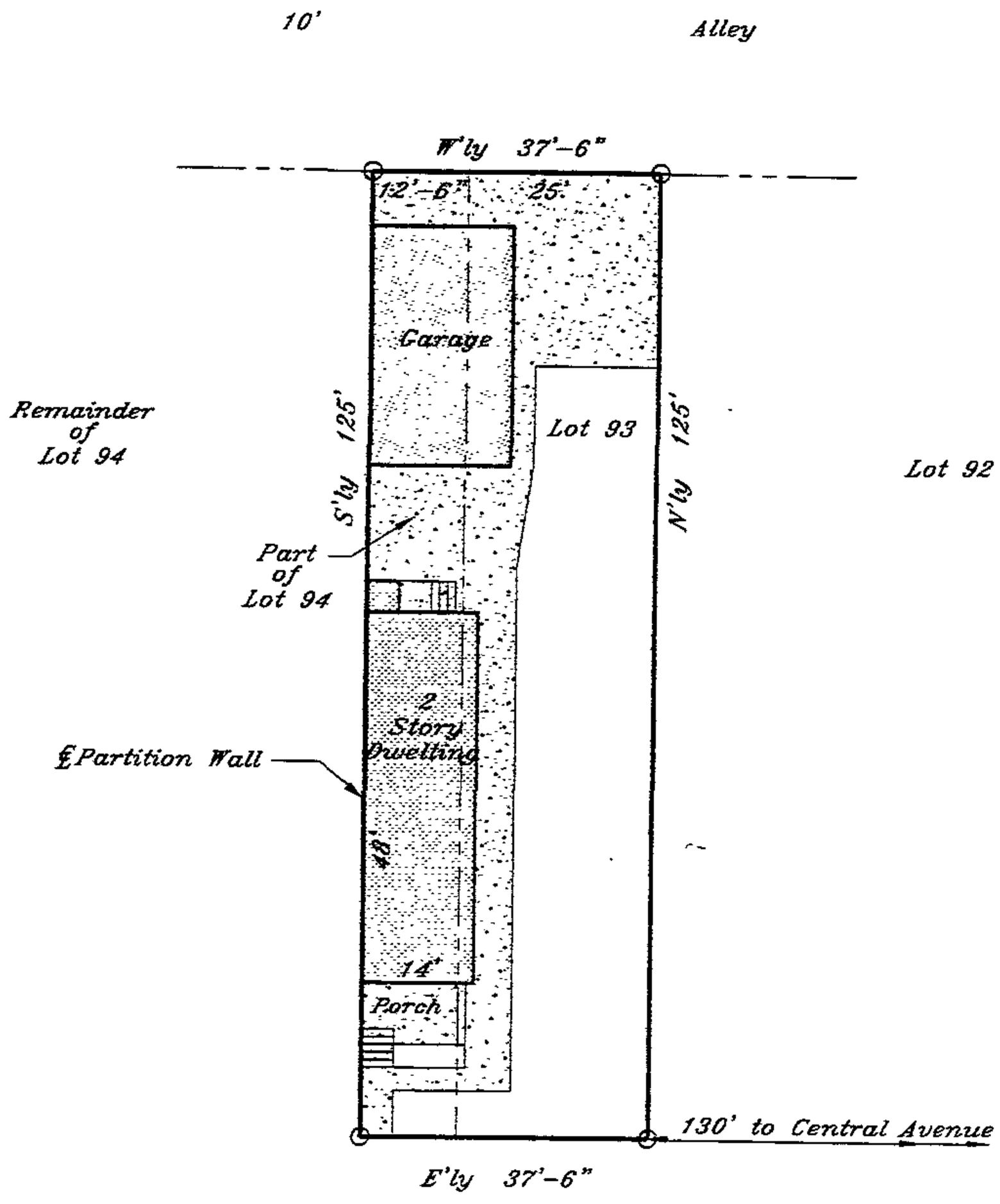
Lot Number: 93 and Part of 94
Block/Section: –
Plat Reference: Book: 4 Page: 22
Title of Plat: Colgate Park

N

STATE OF MARYLAND
WILLIAM T. MATTHEWS
NO. 134
REGISTERED
PROPERTY LINE SURVEYOR

Location Drawing

Scale: 1" = 25'



This plat is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or refinancing. This plat is not to be relied upon for the establishment or location of fences, garages, buildings, dwellings or other existing or future improvements nor does this plat purport to reflect setbacks or other distances with any specific level of accuracy. This plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing. The approximate location of the dwelling is shown in relation to the apparent property lines for the property known as

261 Colgate Avenue
Baltimore County, Maryland

William T. Matthews 6/25/03

Ruxton Design Corporation
8422 Bellona Lane
Suite 300
Towson, Maryland 21204
410-823-5000
410-823-0115fax
rdc@ruxtondesign.com www.ruxtondesign.com

03106

Dwelling lies in Flood Zone C

A F F I D A V I T

The undersigned hereby affirms under the penalties of perjury to the Director of Zoning Administration and De elopment Management (ZADM), as follows:

That the information herein given is within the personal knowledge of the Affiant and Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

Gladys L. Cimaglia
AFFIANT (Handwritten Signature)

Gladys L. Cimaglia
AFFIANT (Printed Name)

6554 St. Helena Ave
ADDRESS (Printed)

410-633-2459
TELEPHONE NUMBER

BASED UPON YOUR PERSONAL KNOWLEDGE, PLEASE ANSWER THE FOLLOWING QUESTIONS.

1. Can you verify by this affidavit and/or testify in court, if necessary, that the home located at 261 Colgate Ave has been occupied as a Three (two, etc.) apartment dwelling since 1943 (month), July (year)? YES (answer)

2. Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since July (month), 1943 (year)? YES (answer)

3. Will you realize any gain from the sale of this property? no (answer)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY this 18th day of June, 2003, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Gladys L. Cimaglia the Affiant herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts herein above set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.

GERALD M. PHILLIPS
MY COMMISSION EXPIRES SEPT 1 2005
BALTIMORE CO., MD.
NOTARY PUBLIC

Gerald M. Phillips
NOTARY PUBLIC Gerald M. Phillips

Pet #8

TOGETHER with the buildings thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said party of the second part, as Sole Owner his personal representatives, heirs and assigns, in fee simple.

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

Witness the hand and seal of said grantor.

Witness:

_____ _____ (SEAL)
MILTON A. KARCZEWSKI

STATE OF MARYLAND,COUNTY OF BALTIMORE , to wit:

I HEREBY CERTIFY, that on this 25th day of July , in the year two thousand three, be fore me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Milton A. Karczewski, the above grantor and he acknowledged the foregoing Deed to be his act.

As Witness my hand and Notorial Seal.

_____
Gerald M. Phillips, Notary Public

GERALD M. PHILLIPS ★ MY COMMISSION EXPIRES SEPT 1 2005 ★ BALTIMORE CO., MD. NOTARY PUBLIC

My Commission Expires: September 1, 2005

THIS is to certify that the within instrument was prepared by or on behalf of the undersigned Maryland Attorney.

_____
Ralph K. Rothwell, Jr.

St. Helena Neighborhood Association Inc.

210 St. Helena Ave.
Dundalk, Md. 21222
Phone: 410-284-3183
Fax: 410-288-4161

September 1, 2004

To Whom It May Concern:

This letter is to verify that Susan McGuire member of our The St. Helena Neighborhood Association, Inc. is duly authorized to speak for the St. Helena Neighborhood Association and its members, pertaining 261 Colgate Avenue being turned into a three dwelling unit. The best of our knowledge it has never been anymore than a single family dwelling.

This is not what we want in this neighborhood. We have enough 2 family dwellings and boarding house already in this neighborhood.

There is not enough storage space for trash and parking now.

Sincerely,

George B. Wischhusen Sr.

George B. Wischhusen Sr.
President

Pro #2

RECEIVED

SEP - 1 2004

ZONING COMMISSIONER

PETITION

Date: August 27, 2004
Case Number: 05-049-SPH

Address of Special Hearing
Zoning Request:
261 Colgate Ave.
Baltimore, MD 21222

To: Baltimore County Zoning Commissioner

We, the undersigned owners of property affected by the Special Hearing Zoning Request, described in the case number, do hereby protest against the affirming of a nonconforming use for three dwelling units. To our knowledge, there has been a one-year lapse in use as three dwelling units.

Signature	Printed Name	Address
Susan McGuire	SUSAN McGUIRE	269 Colgate Ave.
Michael McGuire	Michael McGuire	269 Colgate Ave.
Marshall Matney	MARSHALL MATNEY	258 COLGATE AVE
Harvey M Pace	HARVEY M PACE	257 COLGATE AVE
Regina Pace	REGINA PACE	257 COLGATE AVE
Barbara Edmonds	BARBARA EDMONDS	274 COLGATE AVE.
Roy Edmonds	ROY EDMONDS	274 Colgate Ave
Mary Stargerwald	mary Stargerwald	268 ST. HELENA AVE
Mary C. Hall	MARY C. HALL	270 ST. Helena Ave.
Ronald W. Wisenfeld	RONALD W WISE JR	271 ST. HELENA AVE
James Wisenfeld	James Wisenfeld	270 ST Helena ave
Mary Spidell	Mary Spidell	269 Colgate Ave.

Pro #3

Petition 261 Colgate Ave. Case # 05-049-SPH

Signature	Printed Name	Address
Pat Pasek	232 Colgate ave	
Pat Pasek		
Lynne Olet	LYNNE OLETT	230 Colgate Ave
Brian T. Schlueter	Brian T. Schlueter	234 Colgate ave.
[illegible]	Fred Hughes	229 Colgate Ave
Katarzyn mekinski	KATARYN MEKINSKI	226 COLGATE AVE
Mary Reinhold	MARY REINHOLD	224 Colgate
Gary Reinhold	GARY REINHOLD	222 COLGATE AVE
Marie E. Madison	MARIE E MADISON	218 COLGATE AVE
Christina Hughes	CHRISTINA HUGHES	229 COLGATE AVE
Kristine Davis	Kristine Davis	236 Colgate Ave.
Michael Goetz		238 Colgate Ave
Michael Goetz		
Emily J Hornack	Emily J Hornack	262 COLGATE AVE
KATHLEEN M. HORNACK	Kathleen M. Hornack	262 Colgate Ave.
Richard & Debra Sharnas	Debra & Richard Sharnas	260 Colgate ave.

August 30, 2004

To Whom It May Concern:

I, Thomas Hamilton, certify that I have not resided at 261 Colgate Ave. since approximately July 2003. It has been more than one year. Furthermore, although staying there previous to the sale in August 2003, the basement was not a rental unit. It was unfit to use as a rental unit. It did not have any heat, gas or electric, finished walls or ceilings. I did not pay any rent money. A landlord, tenant relationship did not exist between the present owners and myself.

Thomas R Hamilton
Signature

Thomas R. Hamilton
Print Name

6852 Dunbar Rd
Address
Dundalk, Md. 21222

Subscribed and sworn to before me:

This 8 **day of** 31 (year) 04

Notary Public signature

James M Shiflett

Notary Public printed name

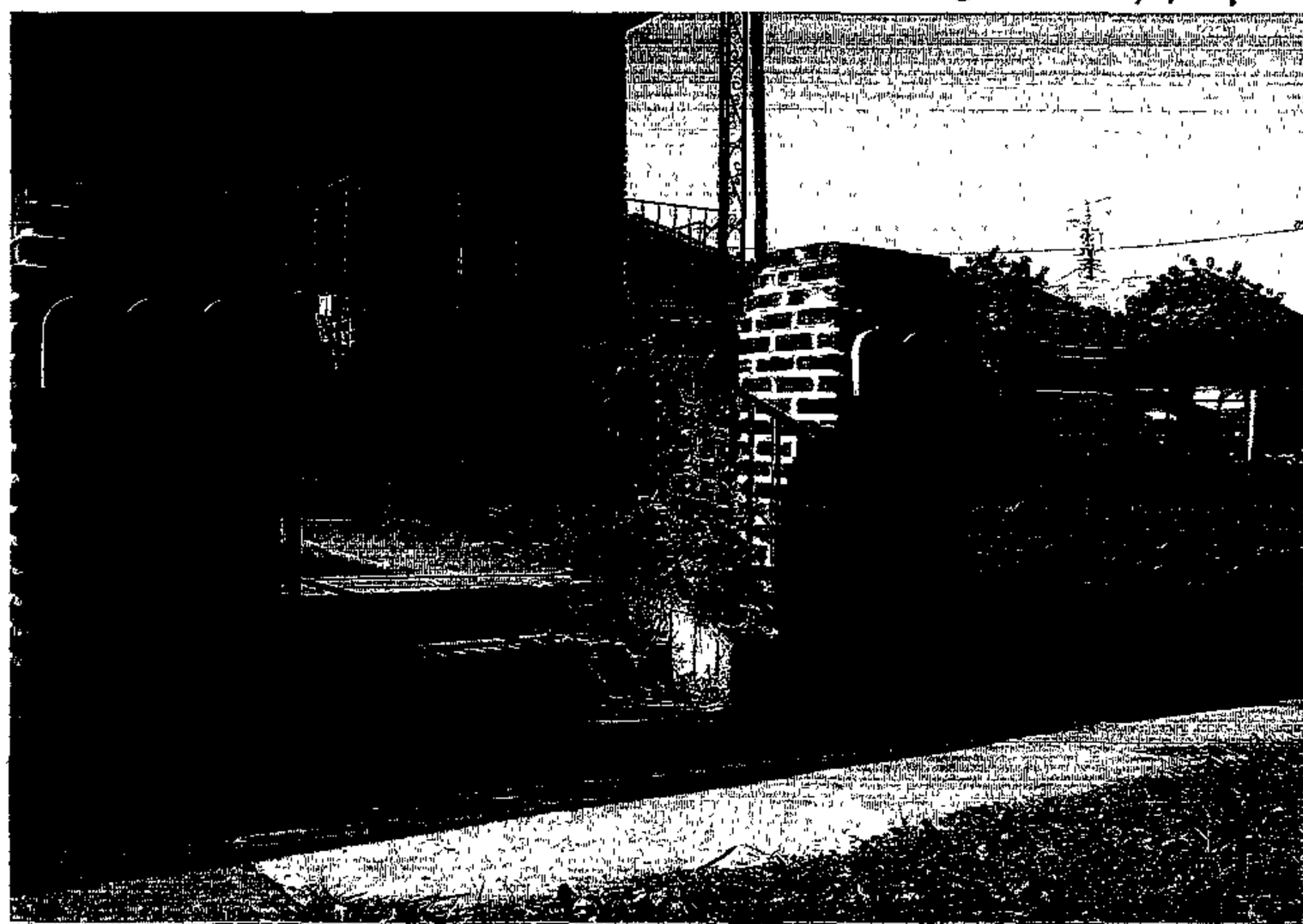
James M. Shiflett

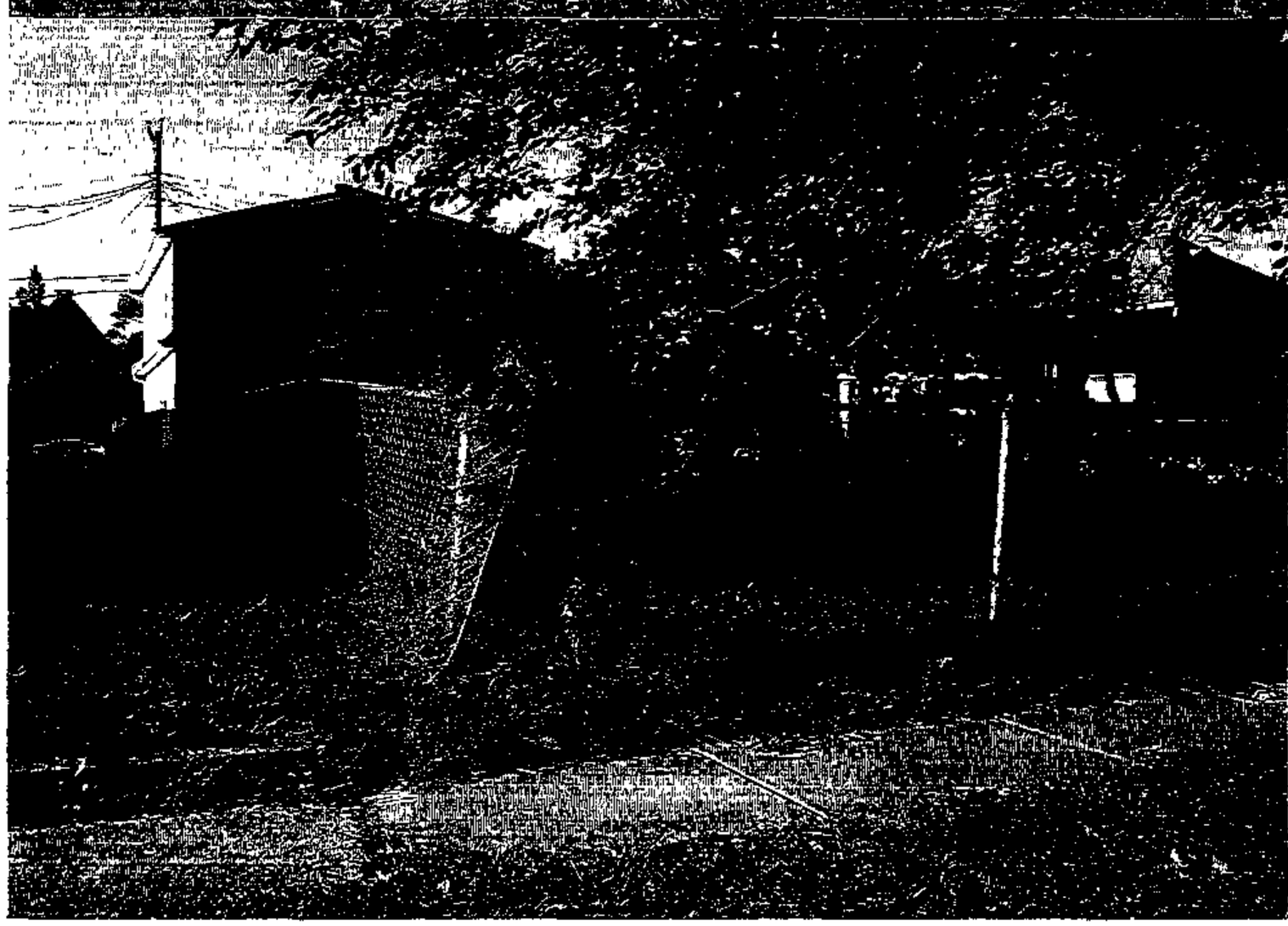
My Commission Expires 5/1/07

Place Seal Here

Pro #4

9/1/04 #1 8:30 AM #2





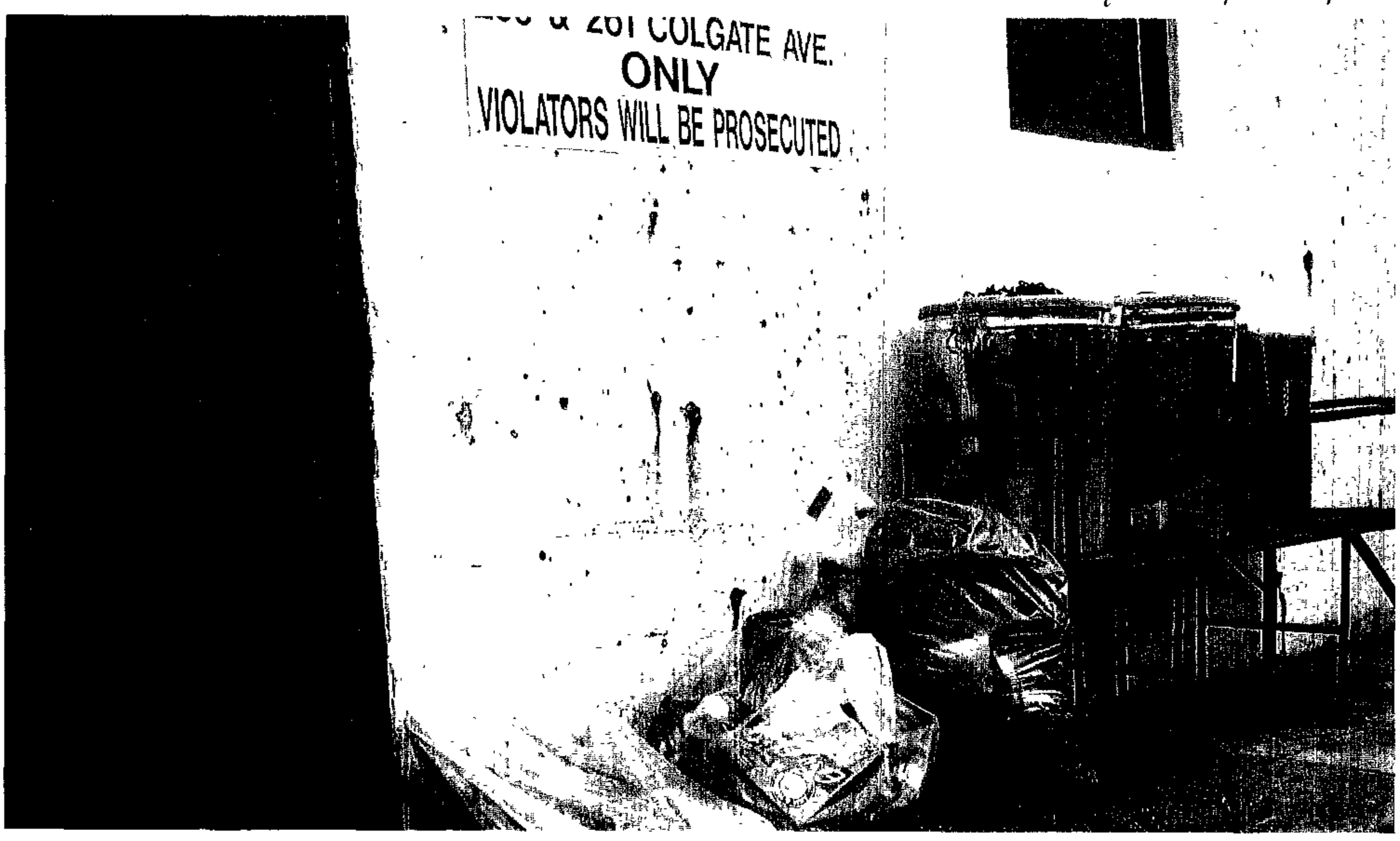
#3

#4

Pro #1 thru 4

#3 8/20/04

#4 8/20/04



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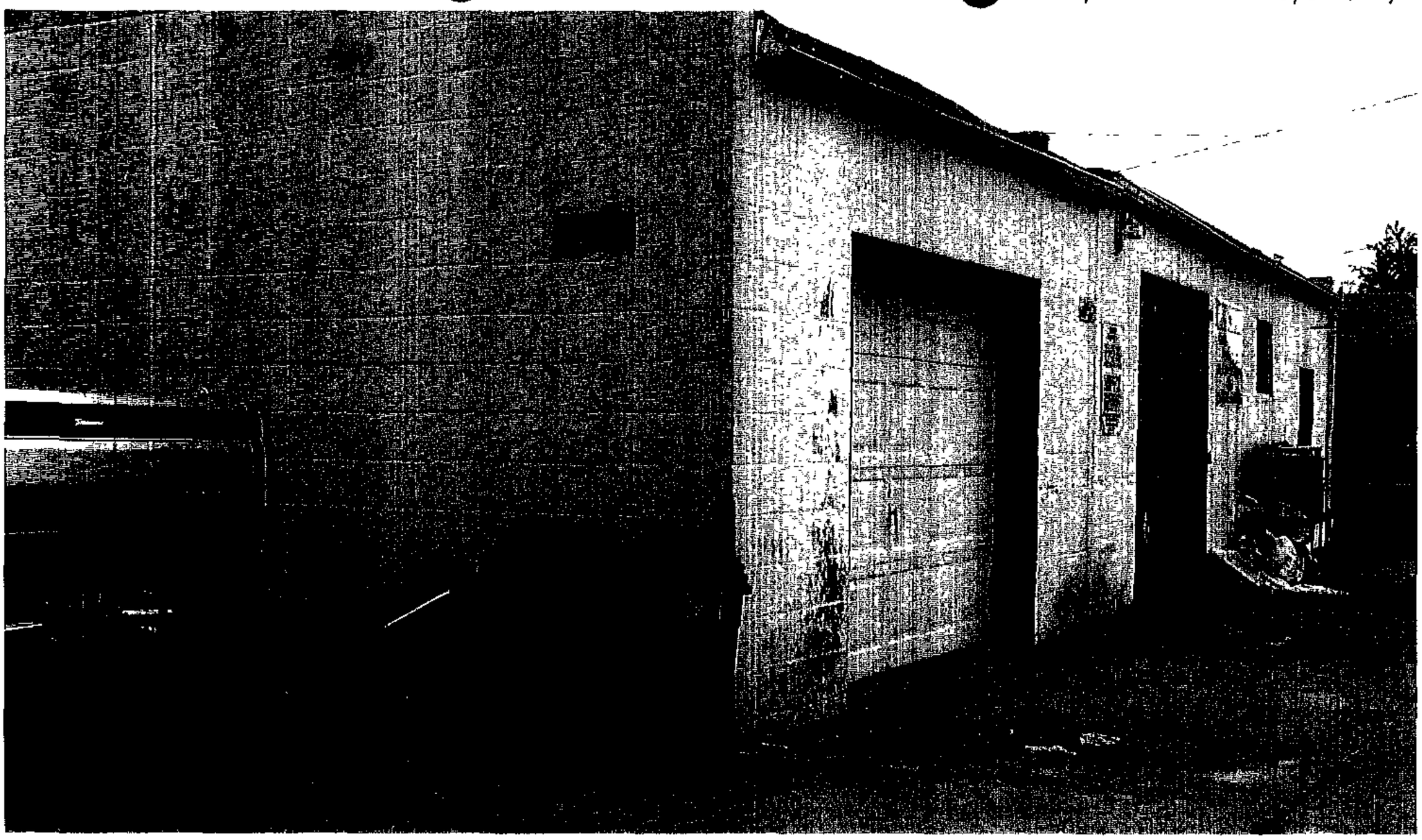

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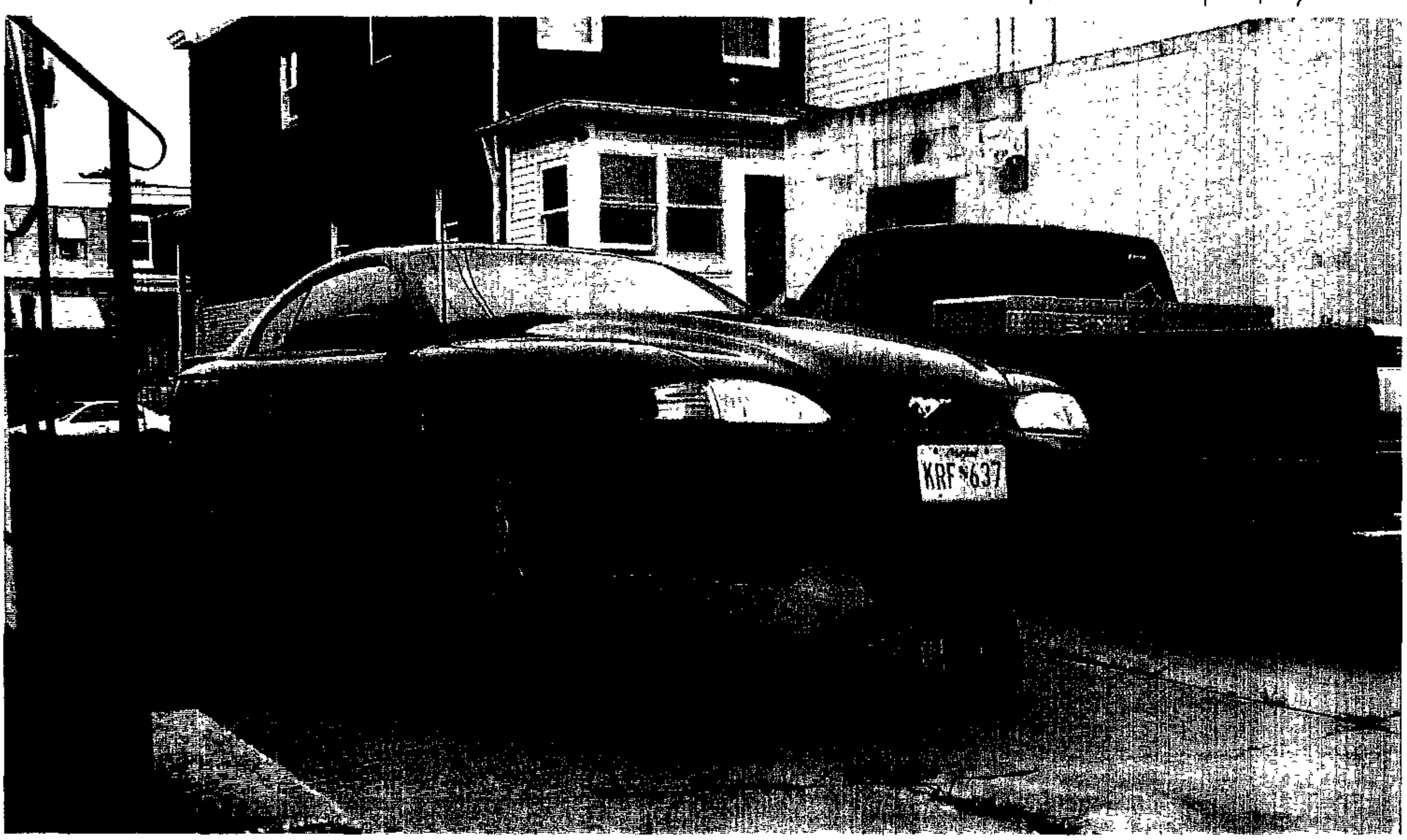
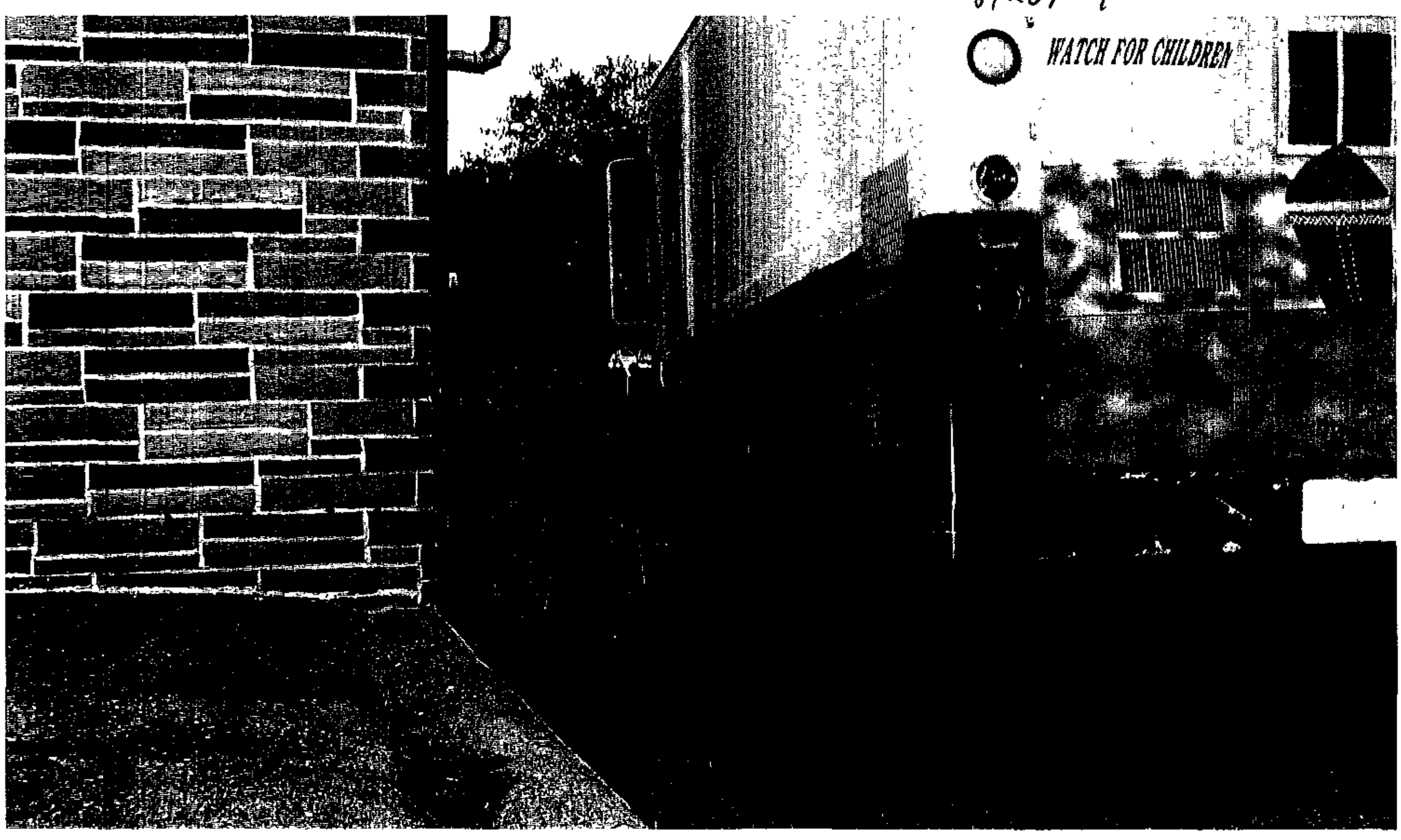
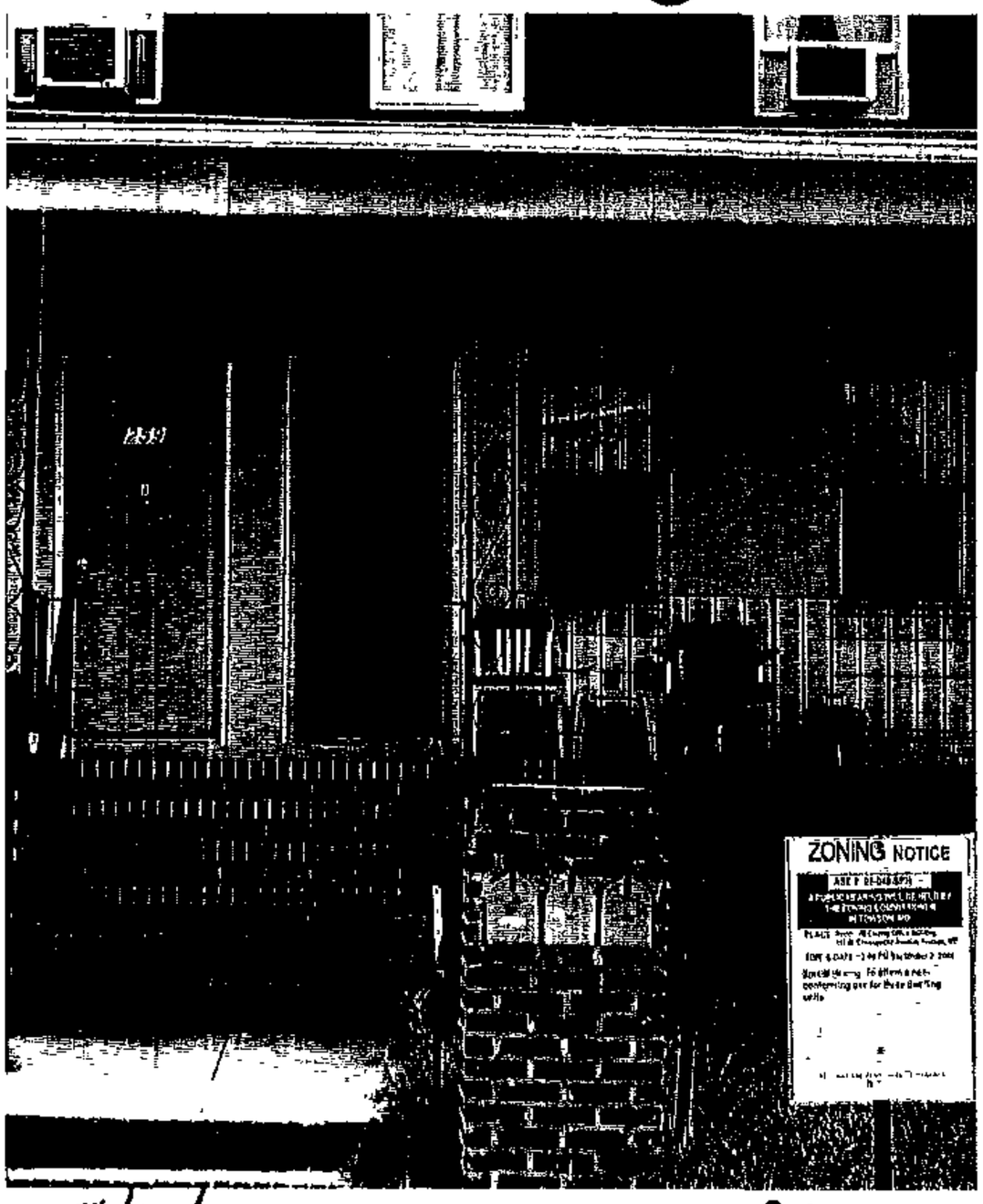


8/20/04 #7

8/20/04 #8





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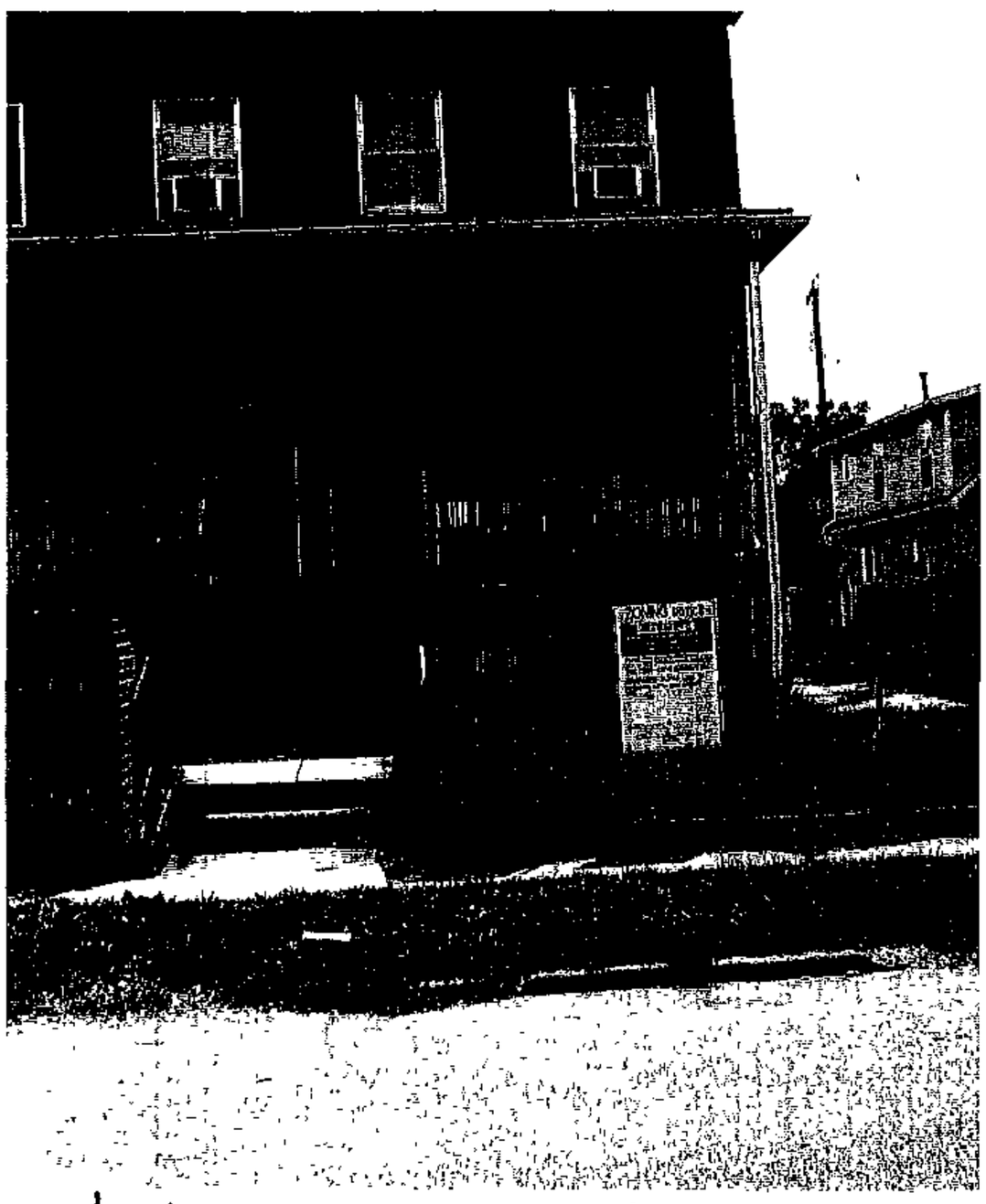
8/16/04 2:00 PM 2



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8/16/04 2:00 PM 4

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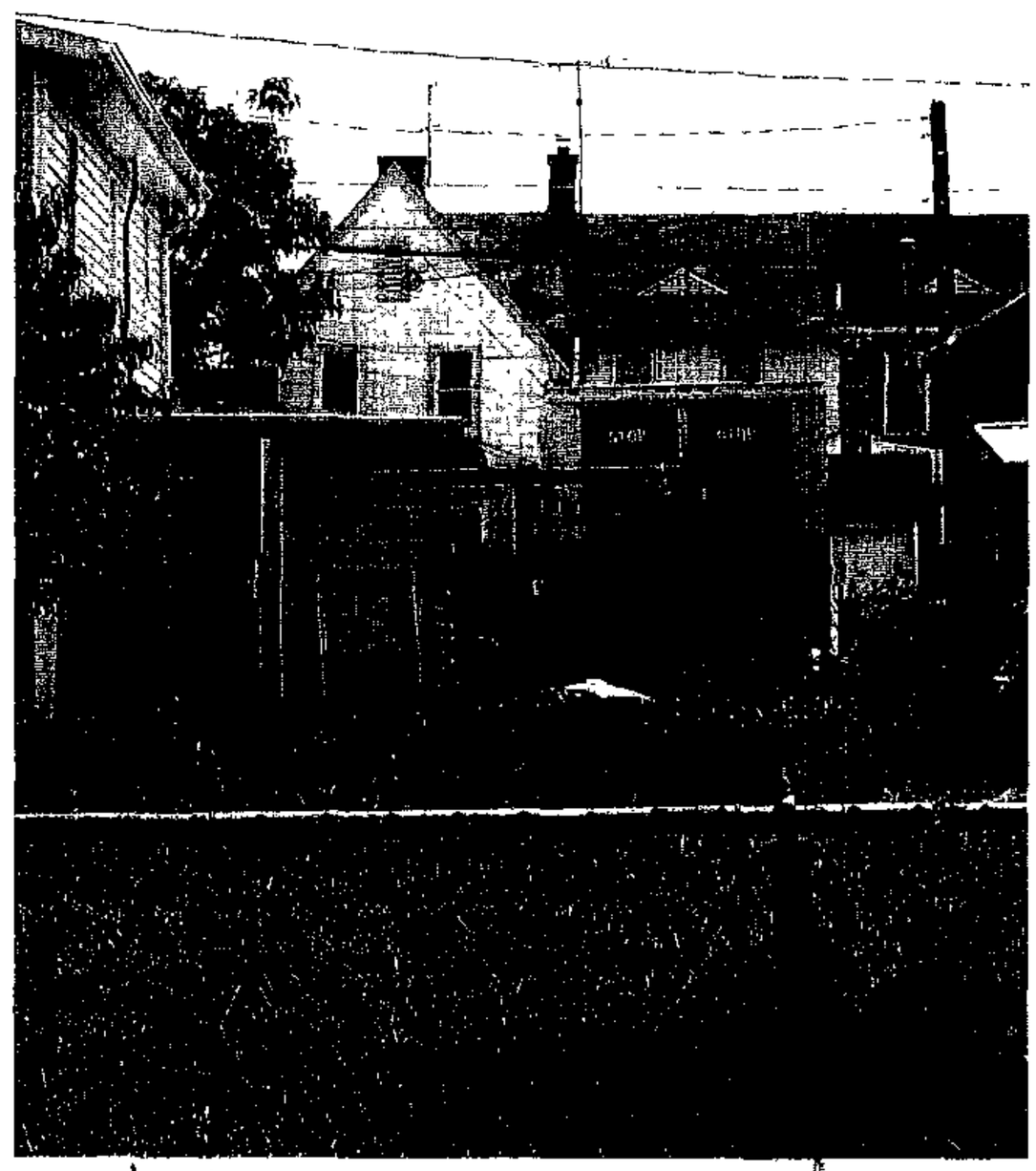

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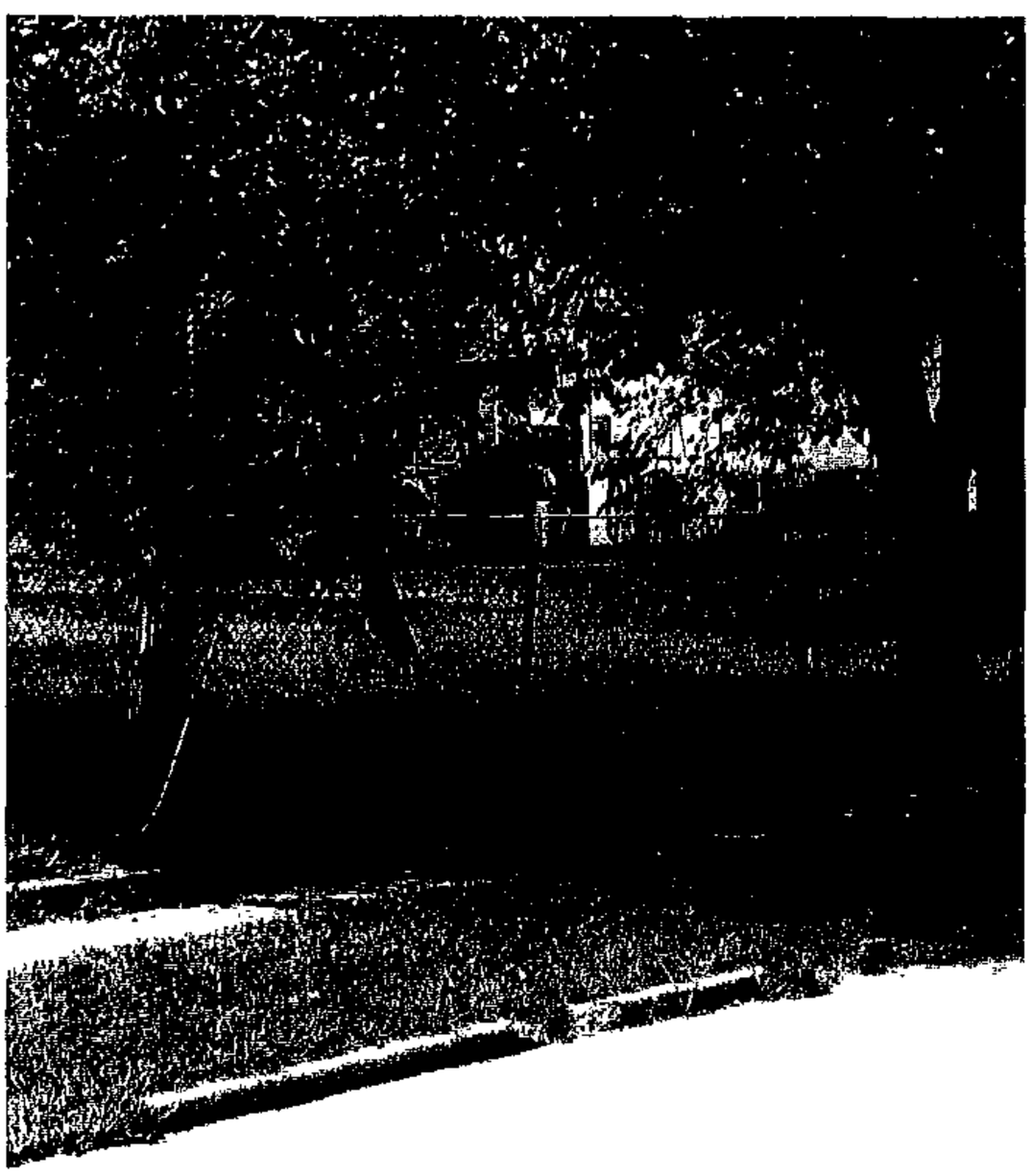

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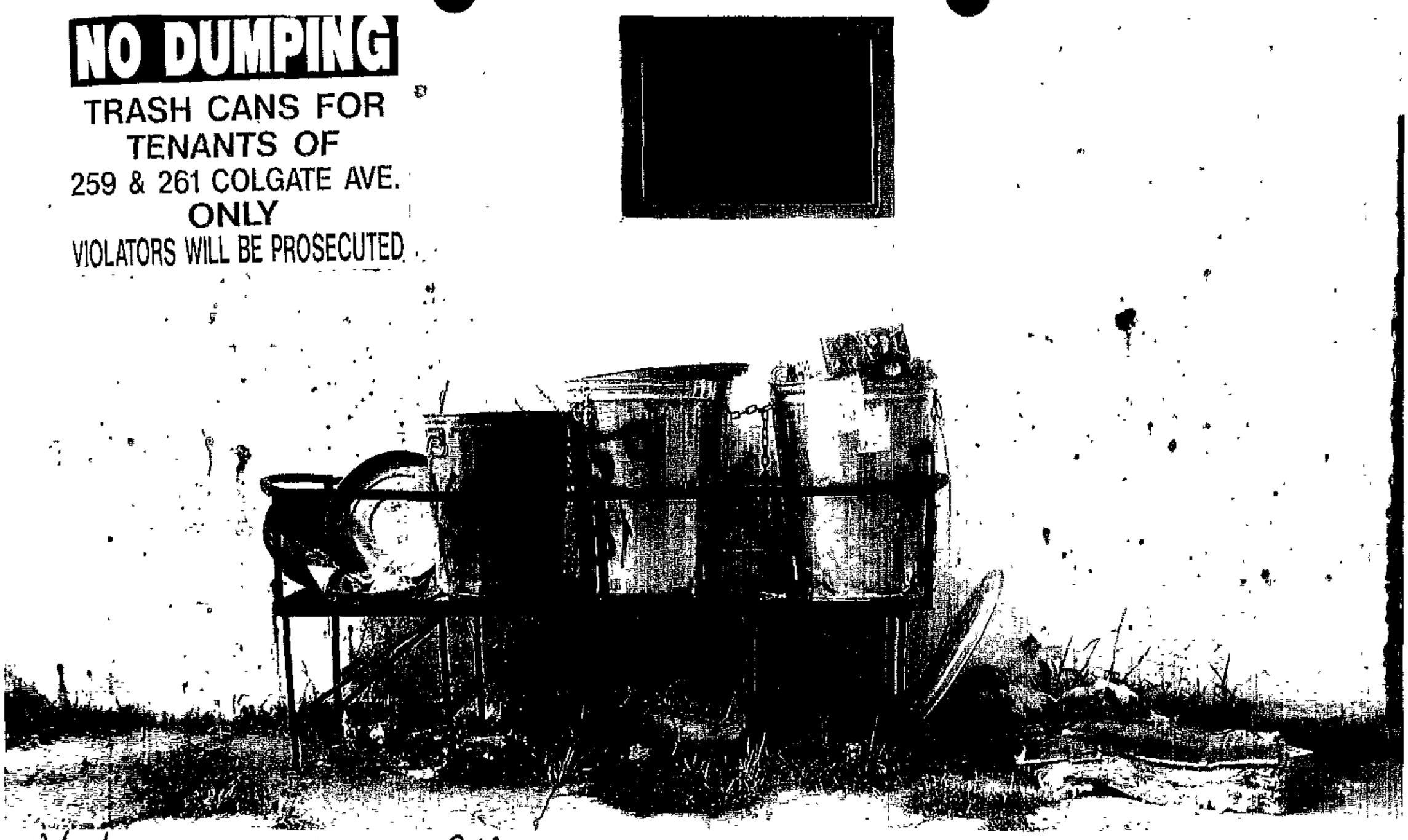

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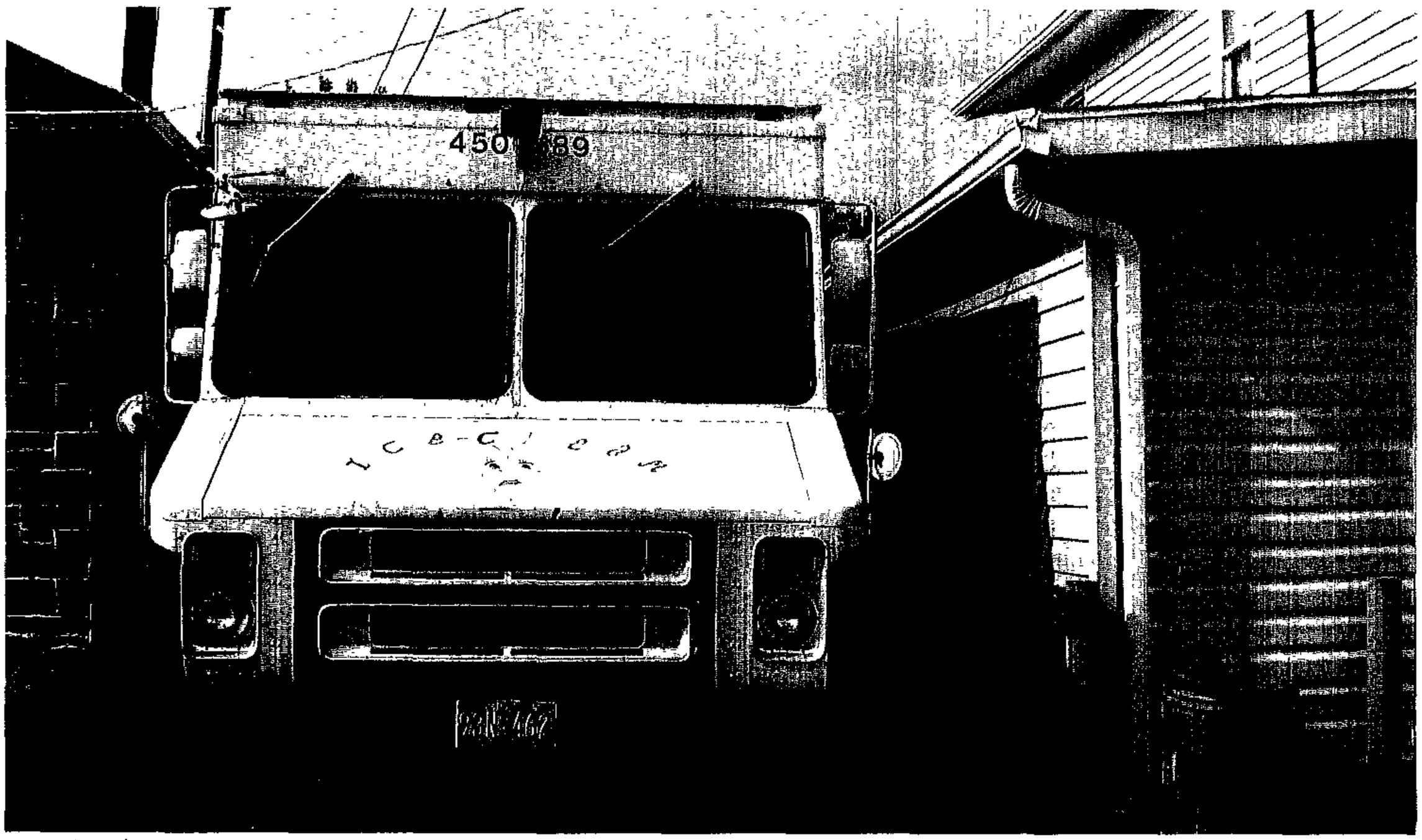

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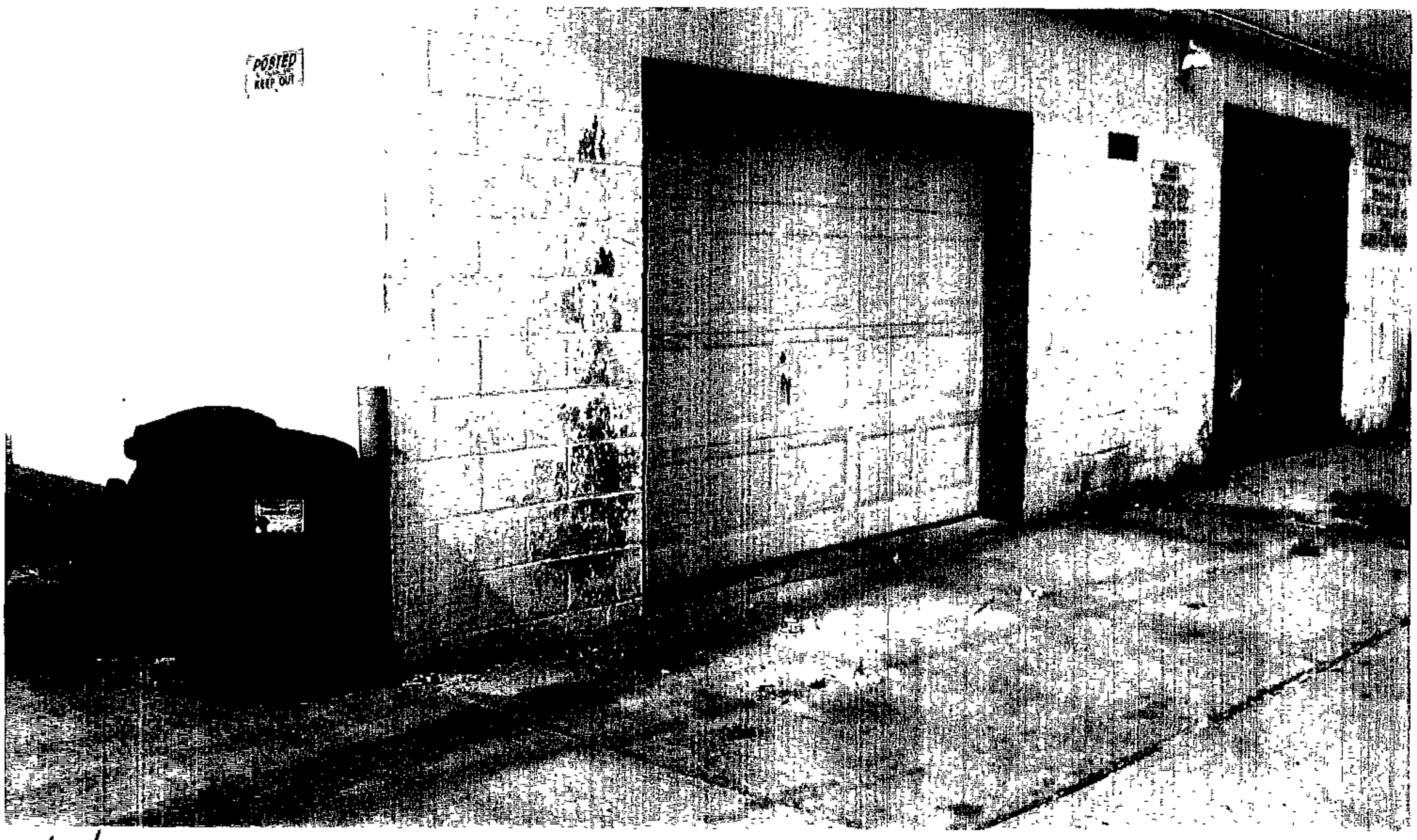
9

8/16/04 5:00 PM 10



8/16/04 5:00PM 11

8/16/04 5:00 PM

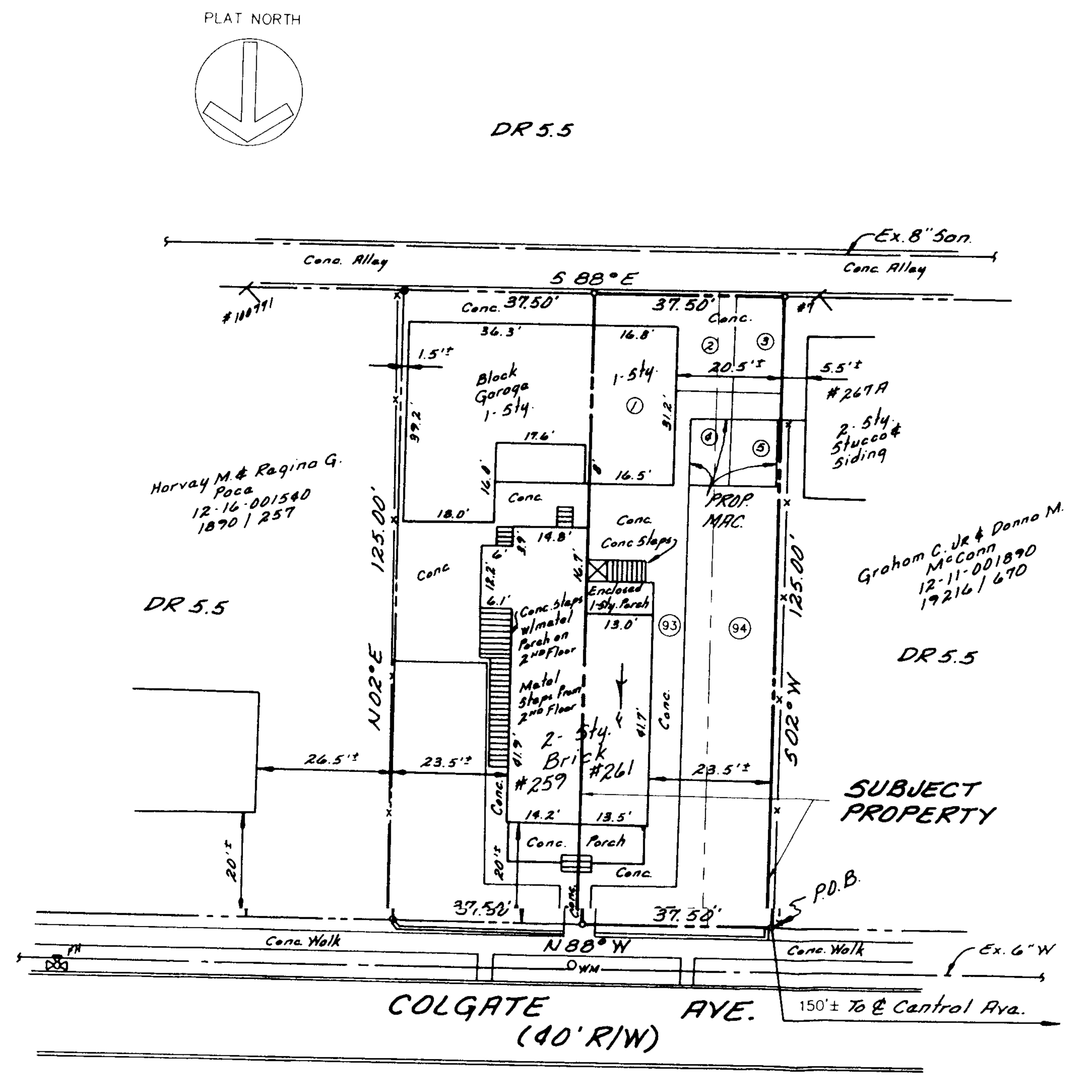
12

8/16/04 5:00 PM

13

SITE DATA

1. Owners: Graham C. McConn Jr.
   Donna M. McConn
2. Owners Address: 3014 Cedarcrest Ave
   Baltimore Md. 21219
3. Tax Account No.: 12-19-033890
4. Deed Reference: 19216-670
5. Tax Map: 103, Grid: 15, Parcel: 442
6. Zoning: DR 5.5
7. Plat Reference: 4/22
8. Previous Zoning Hearings: None
9. Zoning Map - SE 4E
10. Area: 0.108 Ac.±
11. Existing Use: Residential
12. Required A.O.S.: None
13. F.A.R.: N/A
14. Off Street Parking:
    Required - 6 Spaces
    Proposed - 5 Spaces (Garage + 1 Space)
15. Signs: None
16. Screening & Landscaping: None
17. Not in C.B.C.A.
18. Not in 100 Year Flood Plain
19. No Historic Building on Site



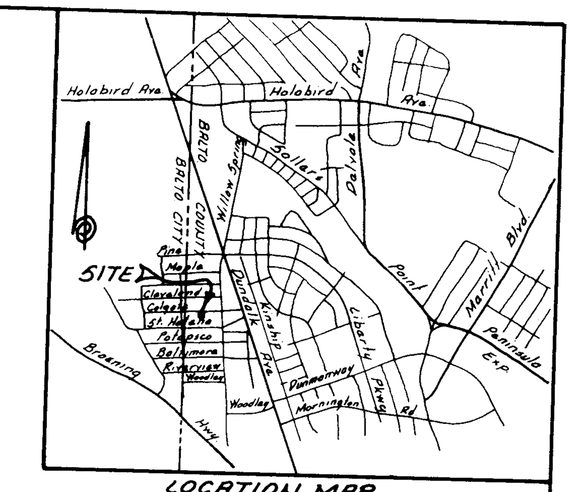
DR 5.5

SITE PLAN

SCALE: 1" = 20'

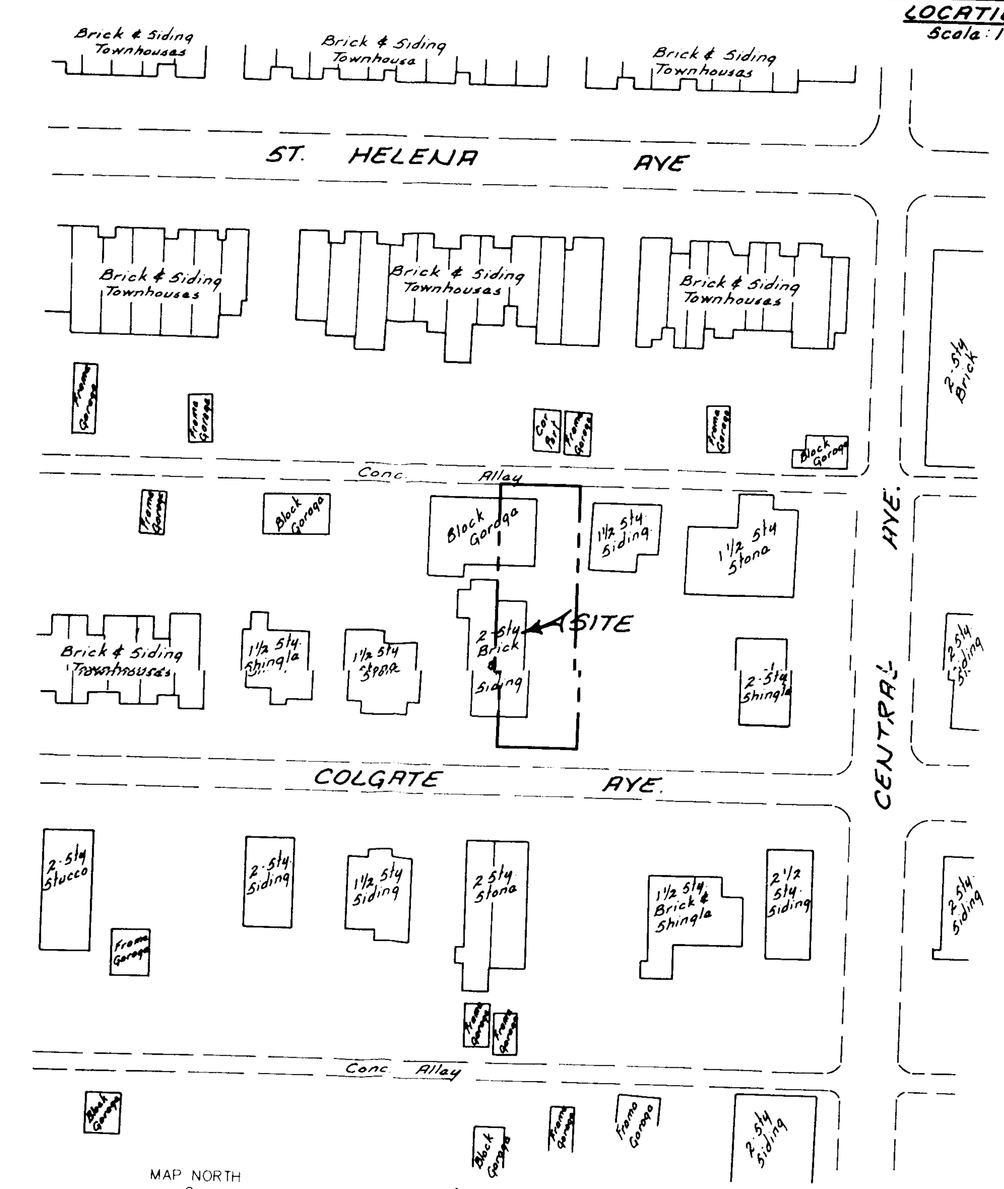
NOTE:

1) THE SITE PLAN AND USE & STRUCTURE MAP SHOWN HEREON WAS PREPARED BY LEN BUERHAUS (PROPERTY LINE SURVEYOR OF THE STATE OF MD).
2) THE ADJOINING PROPERTY LOCATED AT # 259 AS SHOWN HEREON IS ALSO OWNED BY THE PETITIONERS.



LOCATION MAP

Scale: 1" = 2000'



USE & STRUCTURE MAP

50' 25' 0 50'

Scale: 1" = 50'

LEGEND

- Overhead Utility Lines
- OWM Water Meter
- Gas Valve
- Sanitary Sewer Manhole
- Storm Drain Manhole
- Utility Pole
- Fire Hydrant
- Proposed Parking Spaces

REQUESTS:

PETITION FOR SPECIAL HEARING UNDER SECTION 500.7 OF THE BCZR FOR APPROVAL OF:

1) SPECIAL HEARING TO AFFIRM A NON-CONFORMING USE FOR THREE DWELLING UNITS.
2) ~~A~~ VARIANCE FROM SECTION 409.4 TO PERMIT PARKING SPACES WITHOUT ~~DIRECT~~ ACCESS TO A DRIVE ISLE.
3) A VARIANCE ~~FROM~~ SECTION 409.6 TO PERMIT 5 PARKING ~~SPACES~~ IN-LIEU-OF 6 PARKING SPACES ~~AS REQUIRED~~.
4) TO PERMIT EXISTING SCREENING ~~AND~~ LANDSCAPING IN-LIEU-OF THAT REQUIRED BY THE LANDSCAPE MANUAL.
5) ~~TO~~ APPROVE A MODIFIED PARKING PLAN PURSUANT ~~TO~~ SECTION 409.12.

KJW

PLAN TO ACCOMPANY A REQUEST
FOR A SPECIAL HEARING ~~AND ZONING VARIANCE~~ KJW
McCANN PROPERTY

BALTIMORE COUNTY, MARYLAND
12th ELECTION DISTRICT 7th COUNCILMANIC DISTRICT
DATE: 7/14/2004

STATE OF MARYLAND
KENNETH JAMES WELLS
REGISTERED PROPERTY LINE SURVEYOR

kjWellsInc
LAND SURVEYORS AND SITE PLANNERS
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND
(410) 592-8800

Pet #7

05-049-SPH