

IN RE: PETITION FOR VARIANCE
S/S of McCann Avenue, 255 ft. W
centerline of York Road
8th Election District
3rd Councilmanic District
(9 McCann Avenue – 05-180-A)
(11 McCann Avenue – 05-181-A)
(13 McCann Avenue – 05-182-A)

McCann F & S LLC

By: Frederick L. Matusky, Managing Member *

Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NOS. 05-180-A, 05-181-A
* & 05-182-A
*

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

WHEREAS, these matters originally came before this Deputy Zoning Commissioner as Petitions for Variance filed by McCann F & S, LLC, by Frederick L. Matusky, Managing Member, for property they own at 9, 11 and 13 McCann Avenue in the Cockeysville area of Baltimore County. The variances requested were approved by the Zoning Commissioner's office on December 7, 2005.

WHEREAS, a letter dated December 29, 2004 was received from the Office of People's Counsel requesting that their letter be accepted as a Motion for Reconsideration in this matter as to the following items:

1. That the Office of Planning ZAC comment dated November 19, 2004 be incorporated into the Order as an additional condition (Condition No. 3) for the approval of the variances requested.
2. Correct a typographical error on Page 8, Condition 2, by changing the date November 17, 2003 to November 17, 2004.

THEREFORE, IT IS THIS 7 day of January, 2005, by the Deputy Zoning Commissioner for Baltimore County,

ORDERED, that the Motion for Reconsideration be and is hereby GRANTED and my previous Order dated December 7, 2004, be amended as set forth below:

ORDER RECEIVED FOR FILING

Date 1/7/05

Ray

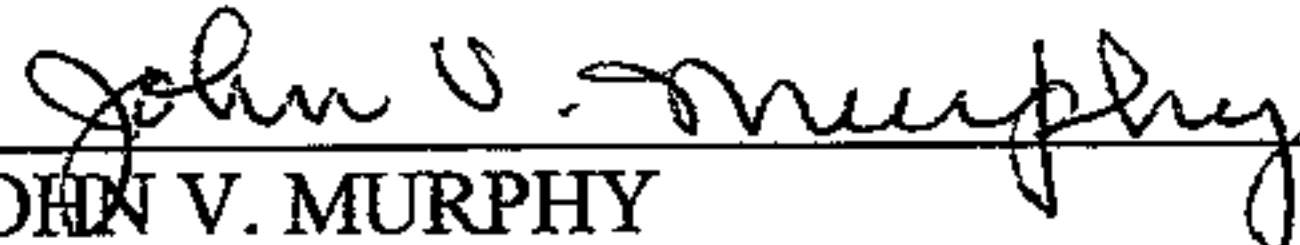
That the Office of Planning ZAC comment dated November 19, 2004 be incorporated into the Order as an additional condition for the approval of the variances requested as follows:

3. **The Petitioner must comply with the ZAC comments received from the Office of Planning dated November 19, 2004, a copy of which is attached hereto and made a part hereof;**

IT IS FURTHER ORDERED, that the typographical error on Page 8, Condition 2, shall be corrected by changing the date November 17, 2003 to November 17, 2004.

IT IS FURTHER ORDERED, that all other findings made in my previous order shall remain in full force and effect.

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



JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

ORDER RECEIVED FOR FILING

Date 1/17/05
By raj

Zoning Commissioner

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



Baltimore County

James T. Smith, Jr., County Executive
William J. Wiseman III, Zoning Commissioner

7
January 6, 2004

Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
Room 47, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Order on Motion for Reconsideration
Case Nos. 05-180-A, 05-181-A, 05-182-A
Property: 9, 11 & 13 McCann Avenue

Dear Mr. Zimmerman & Ms. Demilio:

Enclosed please find my Order regarding the Motion for Reconsideration filed in connection with the above-captioned cases.

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,

A handwritten signature in cursive script that reads "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

c: Edward C. Covahey, Jr., Esquire, Covahey & Boozer, P.A., 614 Bosley Avenue
Towson, MD 21204
Frederick L. Matusky, McCann F & S, LLC, 10604 Beaver Dam Road,
Hunt Valley, MD 21030
Douglas Kennedy, 3105 Lord Baltimore Drive, Baltimore, MD 21244

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



IN RE: PETITION FOR VARIANCE
S/S of McCann Avenue, 255 ft. W
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8th Election District
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McCann F & S LLC

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* BEFORE THE
* DEPUTY ZONING COMMISSIONER
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* & 05-182-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before this Deputy Zoning Commissioner as three Petitions for Variance filed by the legal owner of the subject property, McCann F & S, LLC, by Frederick L. Matusky, Managing Member. The Petitioner is requesting variance relief for properties located at 9, 11 and 13 McCann Avenue in the Hunt Valley area of Baltimore County. The variances are requested from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows:

CASE NO. 05-180-A

1. from Sections 255.1 and 238, to allow a front yard setback from centerline of road of 45 ft. in lieu of the minimum required 50 ft., a side yard setback of 4.0 ft. and 7.5 ft. in lieu of the minimum required 30 ft. and a rear yard setback of 21 ft. in lieu of the minimum required 30 ft.;
2. from Section 409.4.A, to allow a driveway width for two-way movement of 16 ft. in lieu of the minimum required 20 ft.; and
3. from Section 409.8A.4, to allow parking spaces closer than 10 ft. to right-of-way line.

CASE NO. 05-181-A

1. from Sections 255.1 and 238, to allow a front yard setback from centerline of road of 45 ft. in lieu of the minimum required 50 ft., a side yard setback of 3.0 ft. and 8.5 ft. in lieu of the minimum required 30 ft. and a rear yard setback of 21 ft. in lieu of the minimum required 30 ft.;
2. from Section 409.4.A, to allow a driveway width for two-way movement of 16 ft. in lieu of the minimum required 20 ft.; and

ORDER RECEIVED FOR FILING

Date

By

12/17/05
Ray

3. from Section 409.8A.4, to allow parking spaces closer than 10 ft. to right-of-way line.

CASE NO. 05-182-A

1. from Sections 255.1 and 238, to allow a front yard setback from centerline of road of 45 ft. in lieu of the minimum required 50 ft., a side yard setback of 2.0 ft. and 23.0 ft. in lieu of the minimum required 30 ft. and a rear yard setback of 5 ft. in lieu of the minimum required 30 ft.;
2. from Section 409.8A.4 to allow parking spaces closer than 10 ft. to right-of-way line.

Each property was posted with Notice of Hearing on November 8, 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 for each case was published in "The Jeffersonian" newspaper on November 9, 2004 to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Department of

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Date 12/7/04
By [Signature]

Environmental Protection & Resource Management (DEPRM) dated November 17, 2004, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the variance request were Frederick Matusky on behalf of the Petitioner and Douglas Kennedy, civil engineer, who prepared the Plat to Accompany for each case. The Petitioner was represented by Edward C. Covahey, Jr., Esquire. No protestants or citizens appeared at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

By agreement, all testimony and evidence presented in Case No. 05-180-A applies to all three cases except where each is specifically distinguished. Testimony and evidence indicated that the property, which is the subject of this variance request, consists of three adjacent lots on McCann Road which lie in the center of the older section of Cockeysville between York Road and Penn Central Railroad Line. These lots are zoned ML-IM and each is improved by existing residential cottages. Mr. Covahey proffered that the present dwellings are nonconforming and having been built prior to WWII are in poor condition. The lots vary in width from 49 ft. (lot 3), 50 ft. (lot 11) and 60 ft. (lot 13). See Petitioner's Exhibit 1.

The Petitioner owns all three of the subject lots and three companion lots to the south (lots 9, 10 and 3A) where he maintains a contractor's storage yard. Mr. Covahey proffered that all of the uses in the immediate area are light industrial or contractor offices except the rental dwelling adjacent to the subject properties at # 7 McCann Avenue. Each lot is served by public water and sewer.

Mr. Matusky testified that he purchased the properties 18 months ago to locate his contractor storage yard. He operates a HVAC/plumbing business that serves local homes and

businesses. He noted that in the Cockeysville area there are little or no properties, which are available for the small contractor to locate their office due to the high price for industrial land in the area. His hope is to raze the existing cottages and replace each with a small office building, which would be sold to small contractors like himself. The new offices buildings would adjoin his remaining three lots to the to the south where he operates a contractor storage yard.

Mr. Kennedy, the Petitioner's civil engineer, noted that the request for variances first arises because the County is requiring the Petitioner to give up 10 ft. of land to increase the width of McCann Avenue as an exaction for approval of this plan. He noted that the road dead ends at the railroad tracks and so will never serve any appreciable traffic volume. Nevertheless, the County wants 10 ft. of additional right-of-way. The new office buildings would be located essentially on the footprint of the existing cottages. Parking would be immediately off McCann Avenue and meet the required number of spaces. Consequently, the new parking spaces would not meet the 10 ft. setback required from the new right-of-way. The Petitioner proposes parking spaces 0 ft. form the new right-of- way. In addition, the buildings should be setback from the centerline of the road 50 ft., but building on the old footprint means the distance from the building to the centerline of the road will be 45 ft. Mr. Kennedy indicated that it would be important to keep the front of the new buildings in line with the existing buildings along the road and that constructing the buildings on the old footprint would accomplish this. He also noted that the new buildings will meet the front yard setback.

Again because the Petitioner would like to build on nearly the same foot print, the new buildings would not meet the side yard setbacks. Mr. Kennedy noted that the lots are 49, 50 and 60 ft. wide and so by definition can not meet 30 ft. side yard setbacks. Of course, the existing cottages can not meet these requirements either.

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Date 12/7/04
By [Signature]

Finally he noted that in order to have a reasonable size office, the new buildings can not meet the rear yard setback of 30 ft. The Petitioner is proposing 21 ft. for lots 3A and 11 and 5 ft. for lot 13. However, he pointed out that the rear setbacks are against lots 9, 10 and 3A, all of which the Petitioner owns. Obviously, any purchaser will see the Petitioner's contractor's storage yard now occupying these lots and the distance to the rear property line prior to purchase.

Finally, Mr. Kennedy pointed out that in order to connect the rear yards of lots 3A and 11 with the street, the Petitioner proposes to have a 16 ft. wide driveway on boundary of these two lots. The regulations require 20 ft. but because of the small lots size there is not enough room to erect the buildings and provide the full width driveway. However, Mr. Kennedy pointed out that there would be very little traffic from the rear yards to the street and that two-way traffic would be very rare.

Mr. Covahey proffered the three lots were unique from a zoning standpoint as they were very small lots in an industrially zoned area. The industrial zoning was imposed long after the lots were laid out and cottages built. Consequently, they can not meet the present regulations. He also indicated that it would be a hardship for the Petitioner to meet the regulations and erect new buildings on the three lots. He also noted that there would be no adverse impact on the community, which is industrial except for one rental dwelling next door. In regard to the adjacent dwelling, the Petitioner indicated that he would provide landscape screening along the east edge of lot 3A to separate the residence from the new uses.

In discussion, the Petitioner admitted that he could avoid the setback variances by building one long thin building on a lot in which the three lots are combined into one. However, he noted that this would once again shut out the small contractor from having an office in the area where land and leases have become so expensive. He also pointed out that the Planning Office had signed off on this request.

Date 12/2/04
By [Signature]

Findings of Fact and Conclusions of Law

The question in this case is whether the requested variances could be avoided by simply combining the three lots into one. If so, the side yard setback problems clearly disappear and most likely the other requests as well. However, as the Petitioner pointed out that would result in a large building, which not only is out of character with the existing structures but would eliminate the small contractor or business from purchasing the properties. I accept the Petitioner's observation that small businesses are priced out of the market in the Cockeysville area. This is due to the high cost of industrial zoning in the area. The hardship then is not on the owner, who presumably could make a good return on investment with a large building, but on the area small business owners who need to find a reasonably priced building for their operations. I also note, as Mr. Covahey pointed out, that the Planning Office has agreed to this request. I would normally see a comment in a case like this recommending denial by the Planning Office. All the Planning Office requests in this case is that the new buildings conform to the Hunt Valley/Timonium Guidelines.

I have no problem finding that special circumstances or conditions exist that are peculiar to the land or structure, which is the subject of the variance request. The lots are very small in the scheme of industrial lots and were laid out much before the industrial zoning was imposed. Originally these were small residential cottages along McCann Avenue. As such, I find that the later imposed regulations impact these lots in a way different from lots laid out in accord with the regulations.

I also find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. There is nothing in Section 307, which limits the hardship to the Petitioner only. In this case, the Petitioner could easily combine the lots and meet the regulations. But I am persuaded that the hardship on small contractors and

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Date 12/7/04
By [Signature]

business is real in finding a reasonably priced location in the area to serve local businesses and residents.

I further find that these variances can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. The new buildings will be compatible with the existing cottages that have been transformed into offices and light industrial uses along McCann Avenue. This is an area zoned industrial and the proposed uses would improve the community not degrade it.

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 requests should be granted.

THEREFORE, IT IS ORDERED, this 7 day of December, 2004, by this Deputy Zoning Commissioner, that the Petitioner's request for variance from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows:

CASE NO. 05-180-A

1. from Sections 255.1 and 238, to allow a front yard setback from centerline of road of 45 ft. in lieu of the minimum required 50 ft., a side yard setback of 4.0 ft. and 7.5 ft. in lieu of the minimum required 30 ft. and a rear yard setback of 21 ft. in lieu of the minimum required 30 ft.;
2. from Section 409.4.A, to allow a driveway width for two-way movement of 16 ft. in lieu of the minimum required 20 ft.; and
3. from Section 409.8A.4, to allow parking spaces closer than 10 ft. to right-of-way line.

CASE NO. 05-181-A

1. from Sections 255.1 and 238, to allow a front yard setback from centerline of road of 45 ft. in lieu of the minimum required 50 ft., a side yard setback of 3.0 ft. and 8.5 ft. in lieu of the minimum required 30 ft. and a rear yard setback of 21 ft. in lieu of the minimum required 30 ft.;
2. from Section 409.4.A, to allow a driveway width for two-way movement of 16 ft. in lieu of the minimum required 20 ft.; and

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Date 12/2/04
By [Signature]

3. from Section 409.8A.4, to allow parking spaces closer than 10 ft. to right-of-way line.

CASE NO. 05182-A

1. from Sections 255.1 and 238, to allow a front yard setback from centerline of road of 45 ft. in lieu of the minimum required 50 ft., a side yard setback of 2.0 ft. and 23.0 ft. in lieu of the minimum required 30 ft. and a rear yard setback of 5 ft. in lieu of the minimum required 30 ft.;
2. from Section 409.8A.4 to allow parking spaces closer than 10 ft. to right-of-way line

be and they are hereby GRANTED, subject, however, to the following restrictions, which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition;
2. The Petitioner must comply with the ZAC comments received from DEPRM dated November 17, 2003, a copy of which is attached hereto and made a part hereof;
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.

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


JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

RECEIVED FOR FILING
Date 12/17/04
By Raj

Zoning Commissioner

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



Baltimore County

James T. Smith, Jr., County Executive
William J. Wiseman III, Zoning Commissioner

December ⁷/₆, 2004

Edward C. Covahey, Jr., Esquire
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204

Re: Petitions for Variance
Case Nos. 05-180-A, 05-181-A, 05-182-A
Property: 9, 11 & 13 McCann Avenue

Dear Mr. Covahey:

Enclosed please find the decision rendered in the above-captioned cases. The petitions for variance have been granted in accordance with the enclosed Order.

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

Very truly yours,

A handwritten signature in black ink that reads "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

c: Frederick L. Matusky, McCann F & S, LLC, 10604 Beaver Dam Road,
Hunt Valley, MD 21030
Douglas Kennedy, 3105 Lord Baltimore Drive, Baltimore, MD 21244

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





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 11 McCann Ave., Hunt Valley, MD
which is presently zoned ML-IM 21030

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

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF

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

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF

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:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Edward C. Covahey, Jr.

Name - Type or Print

Signature

Covahey & Boozer, P.A.

Company

614 Bosley Avenue

410-828-9441

Address

Telephone No.

Towson,

MD

21204

City

State

Zip Code

Legal Owner(s):

McCann F&S, LLC

Name - Type or Print

By: Frederick L. Matusky

Signature Frederick L. Matusky,
Managing Member

Name - Type or Print

Signature

10604 Beaver Dam Road

410-527-0060

Address

Telephone No.

Hunt Valley,

MD

21030

City

State

Zip Code

Representative to be Contacted:

Frederick L. Matusky

Name

10604 Beaver Dam Road

410-527-0060

Address

Telephone No.

Hunt Valley,

MD

21030

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By BN Date 10/7/04

Case No. 05-181-A

REV 9/15/98

ORDER RECEIVED FOR FILING
12/7/04
7/17/04

EXHIBIT A

For the property located at 11 McCann Avenue

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petitions for a Variance from Sections 255.1 and 238 of the Baltimore County Zoning Regulations to allow Front Yard setback from centerline of road of 45 ft. in lieu of the minimum required 50 ft.

Side Yard setback of 3.0 ft. and 8.5 ft. in lieu of the minimum required 30 ft.

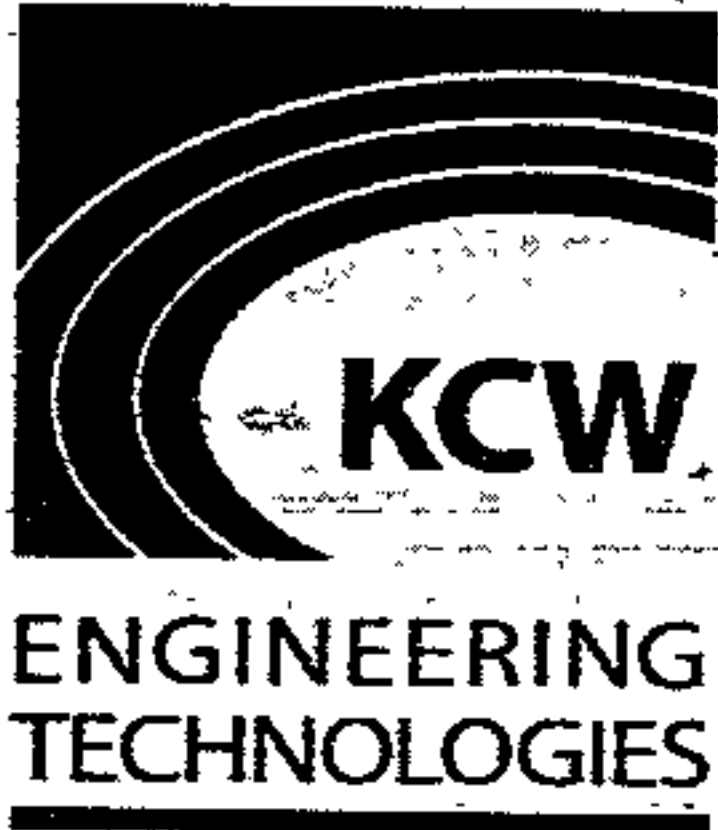
Rear Yard setback of 21 ft. in lieu of the minimum required 30 ft.

Variance from Section 409.4.A. of the Baltimore County Zoning Regulations to allow Driveway width for two-way movement of 16 ft. in lieu of the minimum required 20 ft.

Variance from Section 409.8A.4. of the Baltimore County Zoning Regulations to allow Parking spaces closer than 10 ft. to Right-of-Way line.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:

1. The subject property is unique in that the present zoning designation of ML-IM was created and imposed on the property after the erection of the existing improvements, which zoning created violations which are now non-conforming.
2. Practical difficulty and unreasonable hardship exist because of the fact that the property cannot be developed for industrial commercial use within the context of the ML-IM zoning without the granting of the requested variance.
3. The granting of the requested variance would be in accordance with Section 307 of the Baltimore County Zoning Regulations in that it would be in harmony with the spirit and intent of the Regulations, would not be detrimental to the public safety and general welfare of the community, and in fact would promote the health, safety and general welfare of the community in that utilizing same for commercial purposes would serve the intent of the existing zoning as opposed to allowing the improvements to continue to be used as private residences.



KCW Engineering Technologies, Inc.
3106 Lord Baltimore Drive, Suite 110
Baltimore, MD 21244

(410) 281-0030
Fax (410) 298-0604
www.KCW-ET.com

William K. Woody
President and CEO

Douglas L. Kennedy
Senior Vice President

J. Peter McDonnell
Vice President

Ronald J. Lind
Associate Vice President

Edwin S. Howe, III
Associate Vice President

Joseph P. Wood
Associate

Reginald C. Roberts
Associate

ZONNING DESCRIPTION
PROPERTY OF McCANN F&S, LLC
#11 McCANN AVENUE
8th ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

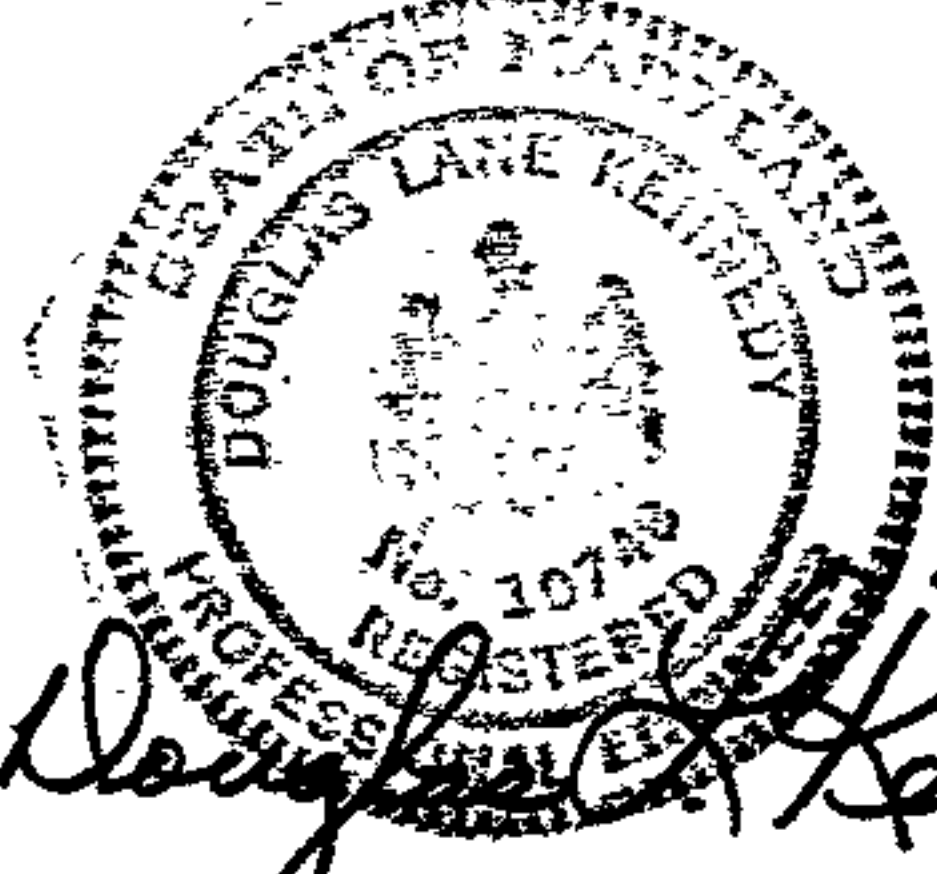
Beginning for the same at a point on the Southernmost Right-of-Way line of McCann Avenue, 20 feet wide, said point being distant 305 feet., more or less, from the centerline of York Road, thence leaving said Right-of-Way line of McCann Avenue the following four courses and distances:

1. South 03 degrees 00 minutes West 100 feet to a point; thence
2. North 87 degrees 42 minutes West 50 feet to a point; thence
3. North 03 degrees 00 minutes East 100 feet to a point; thence
4. North 87 degrees 42 minutes West 50 feet to the Point of Beginning.

Containing 5,000 square feet or 0.11 acres of land more or less.

As recorded in Deed Liber 10939, folio 357.

Also known as #11 McCann Avenue and located in the 8th Election District of Baltimore County, MD.

A circular professional seal for Douglas Lane Kennedy, a Professional Engineer in the State of Maryland. The seal includes the text 'STATE OF MARYLAND', 'DOUGLAS LANE KENNEDY', 'No. 10749', and 'REGISTERED PROFESSIONAL ENGINEER'. The date '10-7-2004' is handwritten next to the seal, and the signature 'Douglas L. Kennedy' is written across it.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 40319

DATE

12/2/04

ACCOUNT

14001-0006-6150

AMOUNT

\$ 325.00

RECEIVED FROM:

MCCALL'S

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FOR:

200 mg

Variable

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

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4/07

PAID RECEIPT

DATE

12/2/04

AMOUNT

\$ 325.00

RECEIVED

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14001-0006-6150

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14001-0006-6150

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: #05-181-A

11 McCann Avenue

8/5 side of McCann Avenue, 305 feet west of centerline of York Road

8th Election District — 3rd Councilmanic District

Legal Owner(s): McCann F & S, LLC

Variance: to allow front yard setback from centerline of road of 45 feet in lieu of the minimum required 50 feet. Side yard setback of 3.0 feet and 8.5 feet in lieu of the minimum required 30 feet. To allow driveway width for two-way movement of 16 feet in lieu of the minimum required 20 feet. To allow parking spaces closer than 10 feet to right-of-way.

Hearing: Wednesday, November 24, 2004 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM WISEMAN

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 11/655 Nov. 9 29087

CERTIFICATE OF PUBLICATION

11/11/2004

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 11/9/2004.

☒ The Jeffersonian

☐ Arbutus Times

☐ Catonsville Times

☐ Towson Times

☐ Owings Mills Times

☐ NE Booster/Reporter

☐ North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No. **05-181-A**
Petitioner/Developer:
McCann F&S, LLC
Hearing Date: **Nov. 24, 2004**

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

Attention: Ms. Kristen Matthews:

Ladies and Gentlemen:

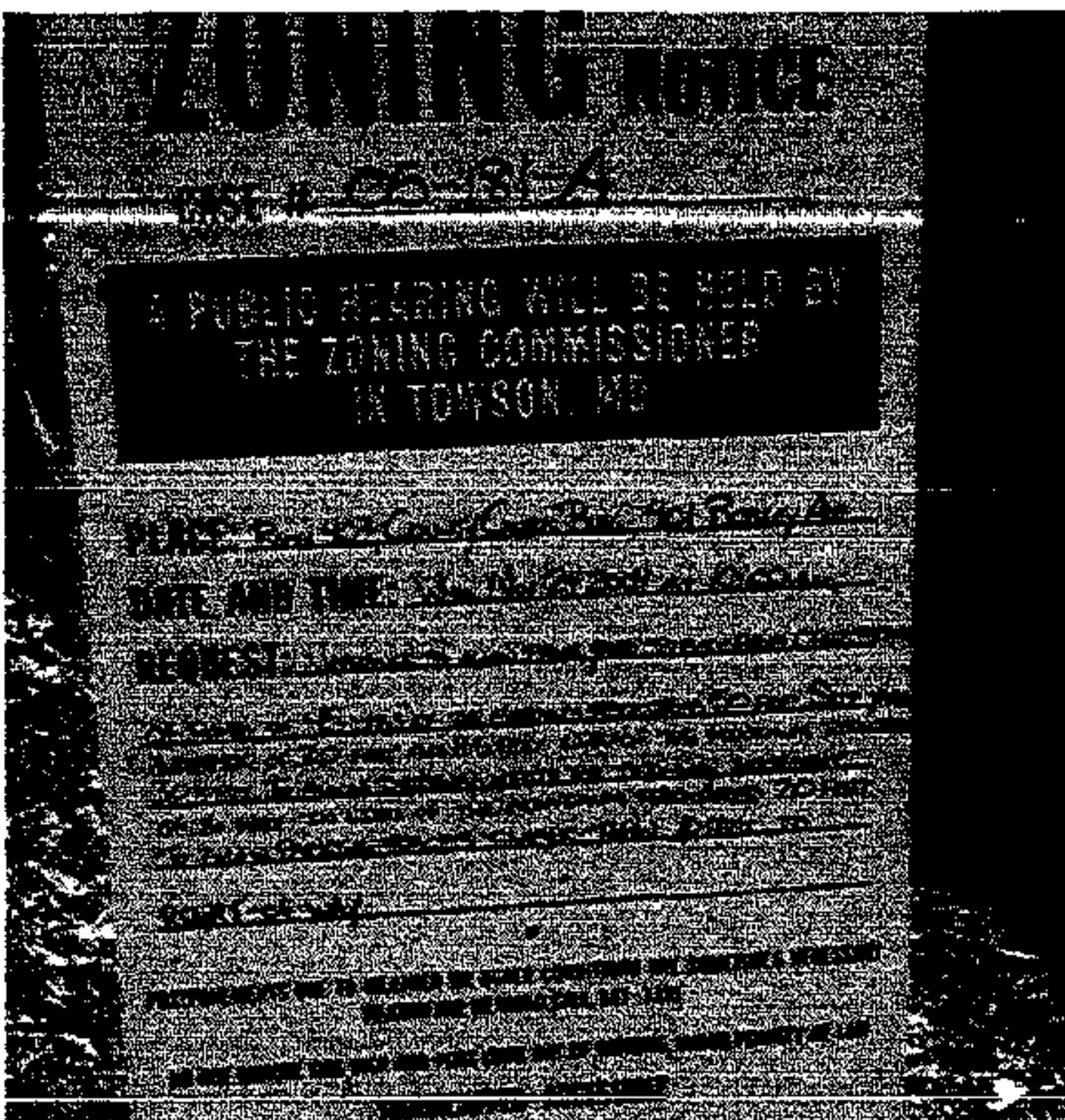
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located **11 McCann Ave.**

The sign(s) were posted on **11/9/04.**

Sincerely,



Diana Sugiuchi
Thomas J. Hoff, Inc.
406 West Pennsylvania Avenue
Towson, MD. 21204
410-296-3668





October 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: 05-181-A

11 McCann Avenue

S/side of McCann Avenue, 305 feet west of centerline of York Road

8th Election District – 3rd Councilmanic District

Legal Owner: McCann F & S, LLC

Variance to allow front yard setback from centerline of road of 45 feet in lieu of the minimum required 50 feet. Side yard setback of 3.0 feet and 8.5 feet in lieu of the minimum required 30 feet. To allow driveway width for two-way movement of 16 feet in lieu of the minimum required 20 feet. To allow parking spaces closer than 10 feet to right-of-way.

Hearing: Wednesday, November 24, 2004 at 10:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

A handwritten signature in black ink, reading "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Edward Covahey, Jr., 614 Bosley Avenue, Towson 21204
Frederick Matusky, 10604 Beaver Dam Road, Hunt Valley 21030

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, NOVEMBER 9, 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, November 9, 2004 Issue - Jeffersonian

Please forward billing to:

Fred Matusky
McCann F&S, LLC
10604 Beaver Dam Road
Hunt Valley, MD 21030

410-527-0060

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: 05-181-A

11 McCann Avenue

S/side of McCann Avenue, 305 feet west of centerline of York Road

8th Election District – 3rd Councilmanic District

Legal Owner: McCann F & S, LLC

Variance to allow front yard setback from centerline of road of 45 feet in lieu of the minimum required 50 feet. Side yard setback of 3.0 feet and 8.5 feet in lieu of the minimum required 30 feet. To allow driveway width for two-way movement of 16 feet in lieu of the minimum required 20 feet. To allow parking spaces closer than 10 feet to right-of-way.

Hearing: Wednesday, November 24, 2004 at 10:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204



WILLIAM WISEMAN
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 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 05-181-A

Petitioner Mc CANN F&S, LLC

Address or Location: # // Mc CANN AVENUE

PLEASE FORWARD ADVERTISING BILL TO

Name Mc CANN F&S, LLC

Address 10604 BEAVER DAM ROAD

HUNT VALLEY, MD 21030

ATTN: FRED MATUSKY

Telephone Number: TELE: 410-527-0060

**Department of Permits and
Development Management**

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



Baltimore County

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

November 17, 2004

Edward C. Covahey, Jr.
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204

Dear Mr. Covahey:

RE: Case Number: 05-181-A, 11 McCann Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 7, 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
McCann F&S, Inc. Frederick L. Matusky 10604 Beaver Dam Road Hunt Valley 21036

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



Fire Department

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



Baltimore County

James T. Smith, Jr., County Executive
John J. Hohman, Chief

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

October 19, 2004

ATTENTION: Zoning Review planners

Distribution Meeting of: October 18, 2004

Item No.: 170, 171, 173, 175, 176, 178, 180-182

181

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

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

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



BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: November 3, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For October 25, 2004
Item Nos. 170, 171, 173, 175, 176,
178, 179, 180, 181 and 182

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

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco
FROM: John D. Oltman, Jr *JDO*
DATE: November 16, 2004
SUBJECT: Zoning Items # See List Below

NOV 16 2004

RECEIVED

Zoning Advisory Committee Meeting of October 18, 2004.

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

05-171
~~05~~-173
~~04~~-176
~~04~~-178
~~04~~-179
~~04~~-180
~~04~~-181
~~04~~-182

Reviewers: Sue Farinetti, Dave Lykens

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: William Wiseman
Zoning Commissioner

FROM: R. Bruce Seeley *RBS*
Natural Resource Manager

DATE: November 17, 2004

SUBJECT: Zoning Items # 05-180
05-181
05-182
Addresses 9, 11 and 13 McCann Avenue

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

Prior to issuance of any building permits, Stormwater Management must be addressed for all three (3) properties. This would include providing verification of a suitable outfall. Furthermore, we recommend these comments be incorporated as a condition in any order issued approving the Zoning Variances requested.

Reviewer: R. Al Wirth

Date: November 17, 2004

11/24

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: November 19, 2004

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

SUBJECT: 9, 11, and 13 McCann Avenue

INFORMATION:

Item Number: 5-180, 5-181, and 5-182

Petitioner: McCann F&S, LLC.

Zoning: ML-IL

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request provided elevations (all sides) of the proposed structures are submitted to this office for review and approval. The elevations shall conform to the Hunt Valley Timonium guidelines attached.

Prepared by: Maeb A Cunningham

Division Chief: [Signature]

AFK/LL:MAC:

RECEIVED
NOV 22 2004
ZONING COMMISSIONER



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

Driven to Excel
State Highway
Administration

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

Maryland Department of Transportation

Date: 11.9.04

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

RE: Baltimore County
Item No. 181 BPR

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, Chief
Engineering Access Permits Division

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech. 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410 545.0300 • www.marylandroads.com

RE: PETITION FOR VARIANCE * BEFORE THE
11 McCann Avenue; S/side McCann Avenue, *
305' W c/line York Road * ZONING COMMISSIONER
8th Election & 3rd Councilmanic Districts *
Legal Owner(s): McCann F & S LLC, * FOR
Frederick L. Matusky, Managing Member *
Petitioner(s) * BALTIMORE COUNTY
* 05-181-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



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

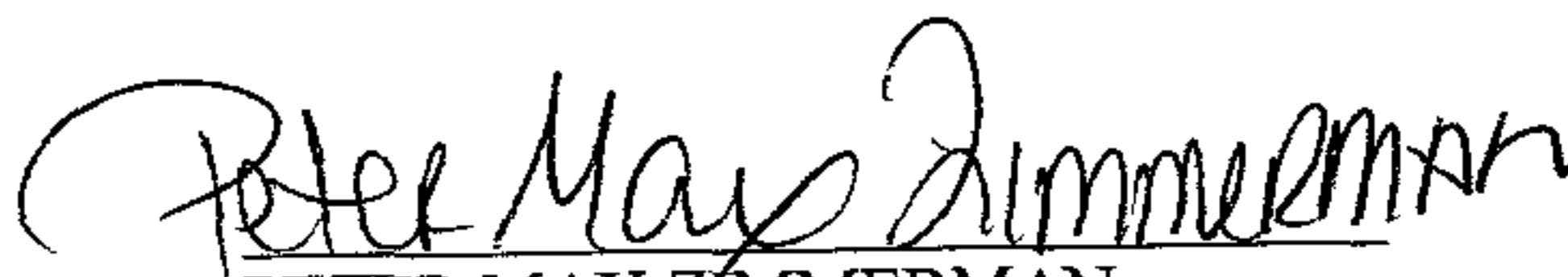
RECEIVED

OCT 22 2004

Per .....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of October, 2004, a copy of the foregoing Entry of Appearance was mailed to, Frederick Matusky, 10604 Beaver Dam Road, Hunt Valley, MD 21030 and to Edward C. Covahey, Jr, Esquire, Covahey & Boozer, P.A., 614 Bosley Avenue, Towson, MD 21204, Attorney for Petitioner(s).



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

December 29, 2004

RECEIVED

DEC 29 2004

ZONING COMMISSIONER

CAROLE S. DEMILIO
Deputy People's Counsel

PETER MAX ZIMMERMAN
People's Counsel

John V. Murphy, Deputy Zoning Commissioner
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

Re: McCann F & S LLC by Frederick L. Matusky, Managing Member - Petitioner
Case Nos: 05-180-A, 05-181-A, & 05-182-A

Dear Mr. Murphy:

Please accept this letter as a Motion for Reconsideration of the Order dated December 7, 2004. We ask that the planning comment dated November 19, 2004 be incorporated as an additional condition of the order. The Opinion mentions on Page 6 the Planning Office's request "that the new building conform to the Hunt Valley/Timonium Guidelines." However, the condition was not included in the Order.

Separately, please note on Page 8, condition number 2, the inadvertent misprint listing the DEPRM comment as being dated 11/17/03 when it is actually dated 11/17/04.

Thank you for your consideration.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

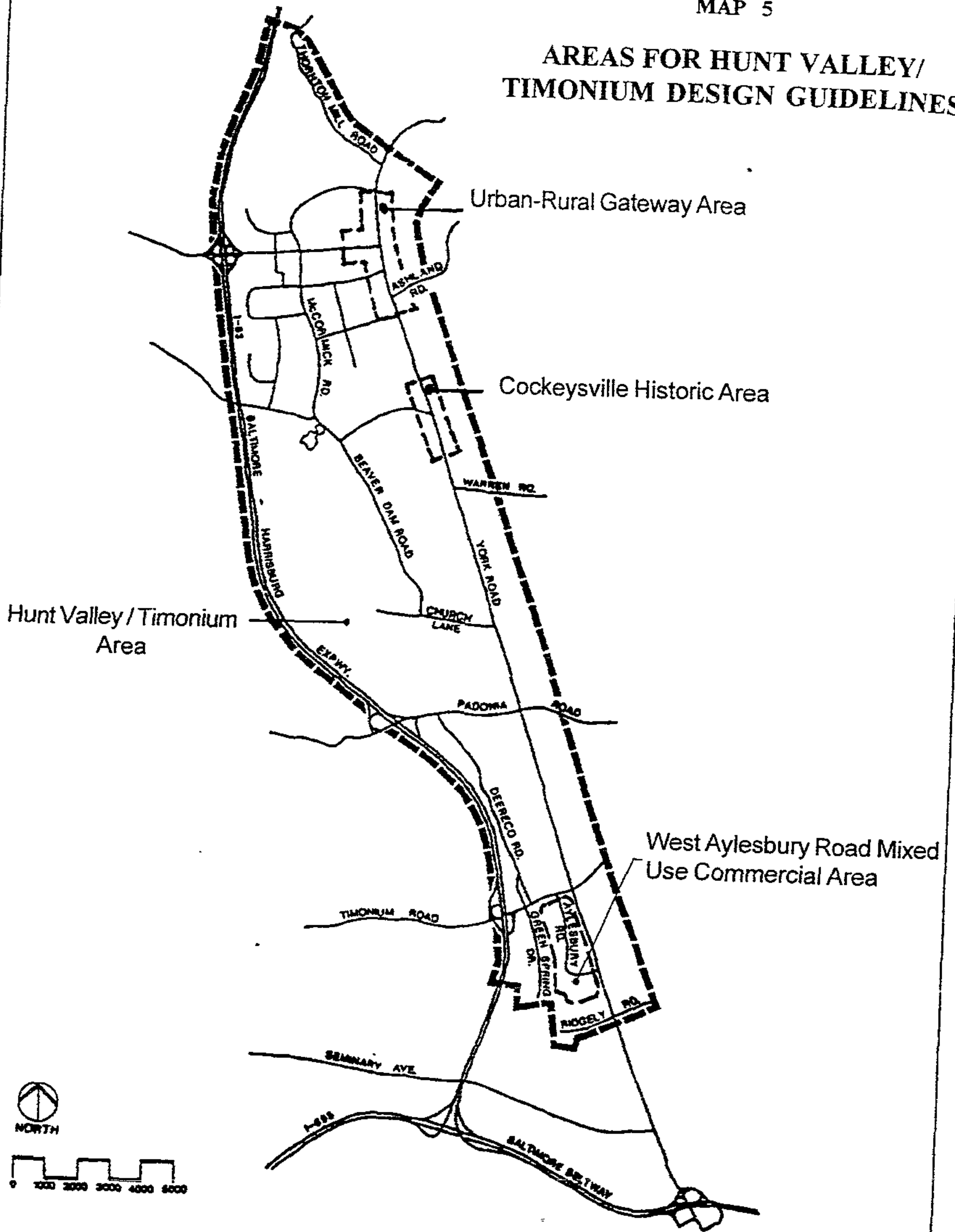
Carole S. Demilio
Deputy People's Counsel for Baltimore County

PMZ/CSD/rmw

cc: Edward C. Covahey, Jr., Esquire

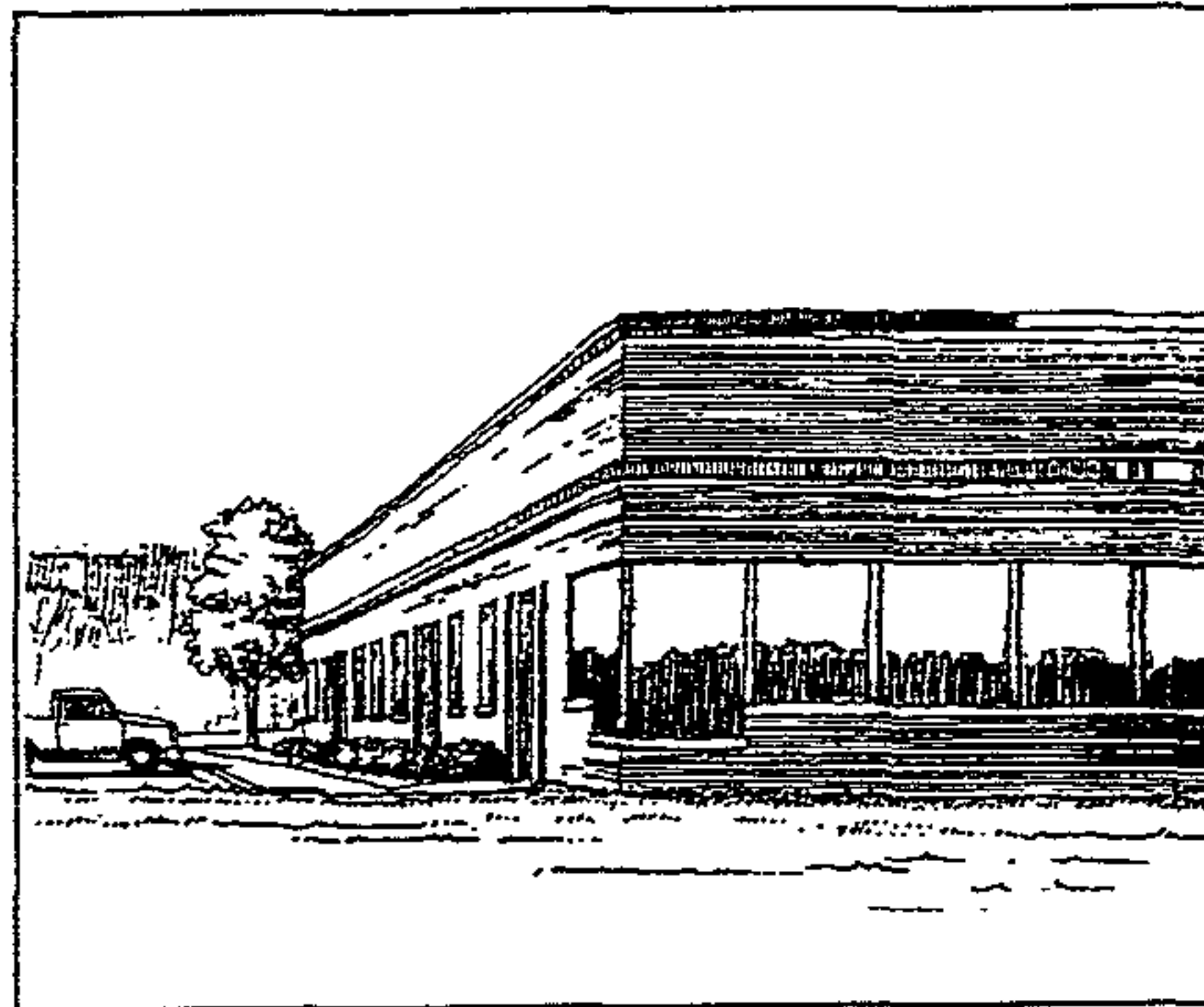
MAP 5

AREAS FOR HUNT VALLEY/
TIMONIUM DESIGN GUIDELINES

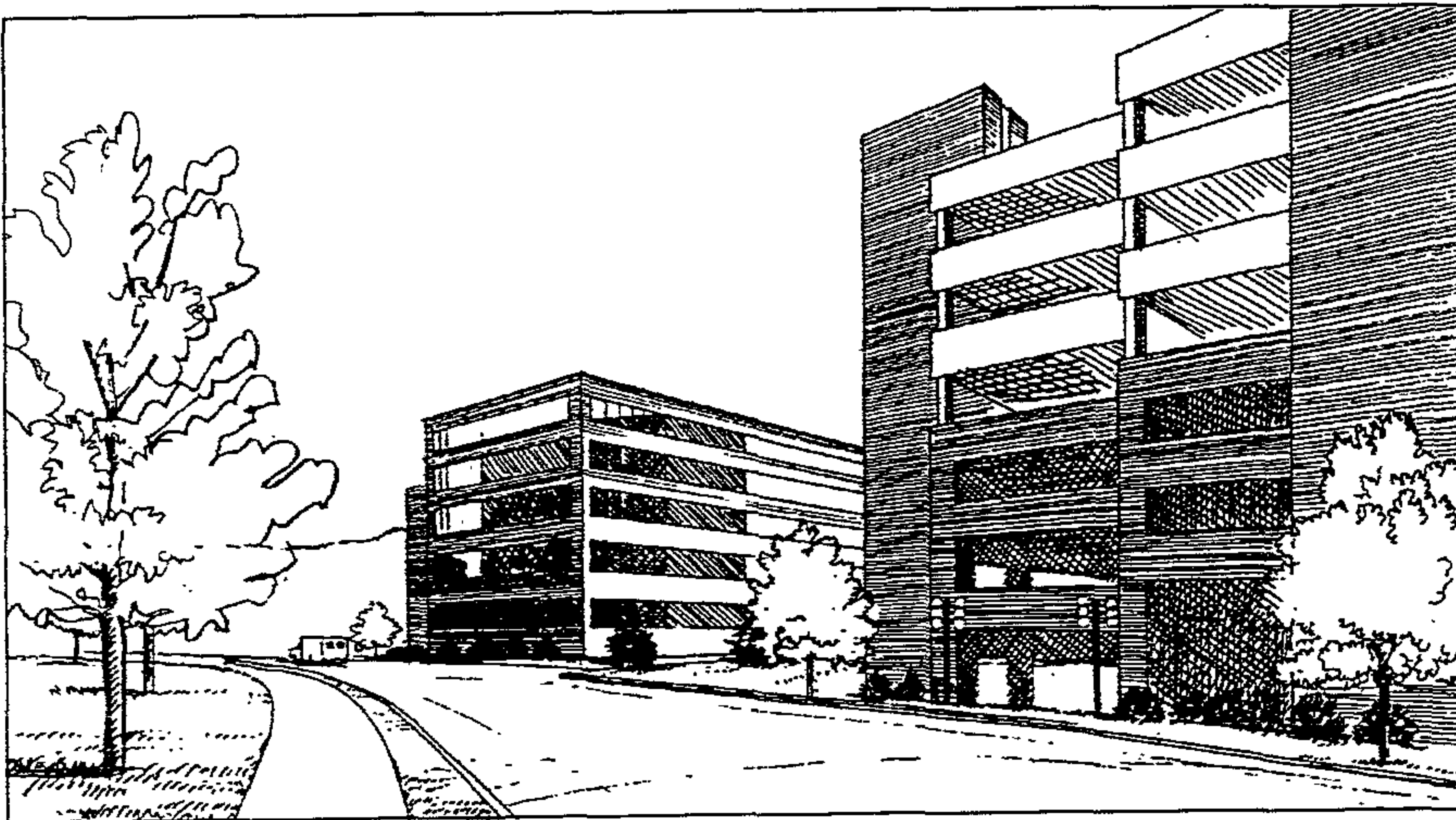


BUILDINGS

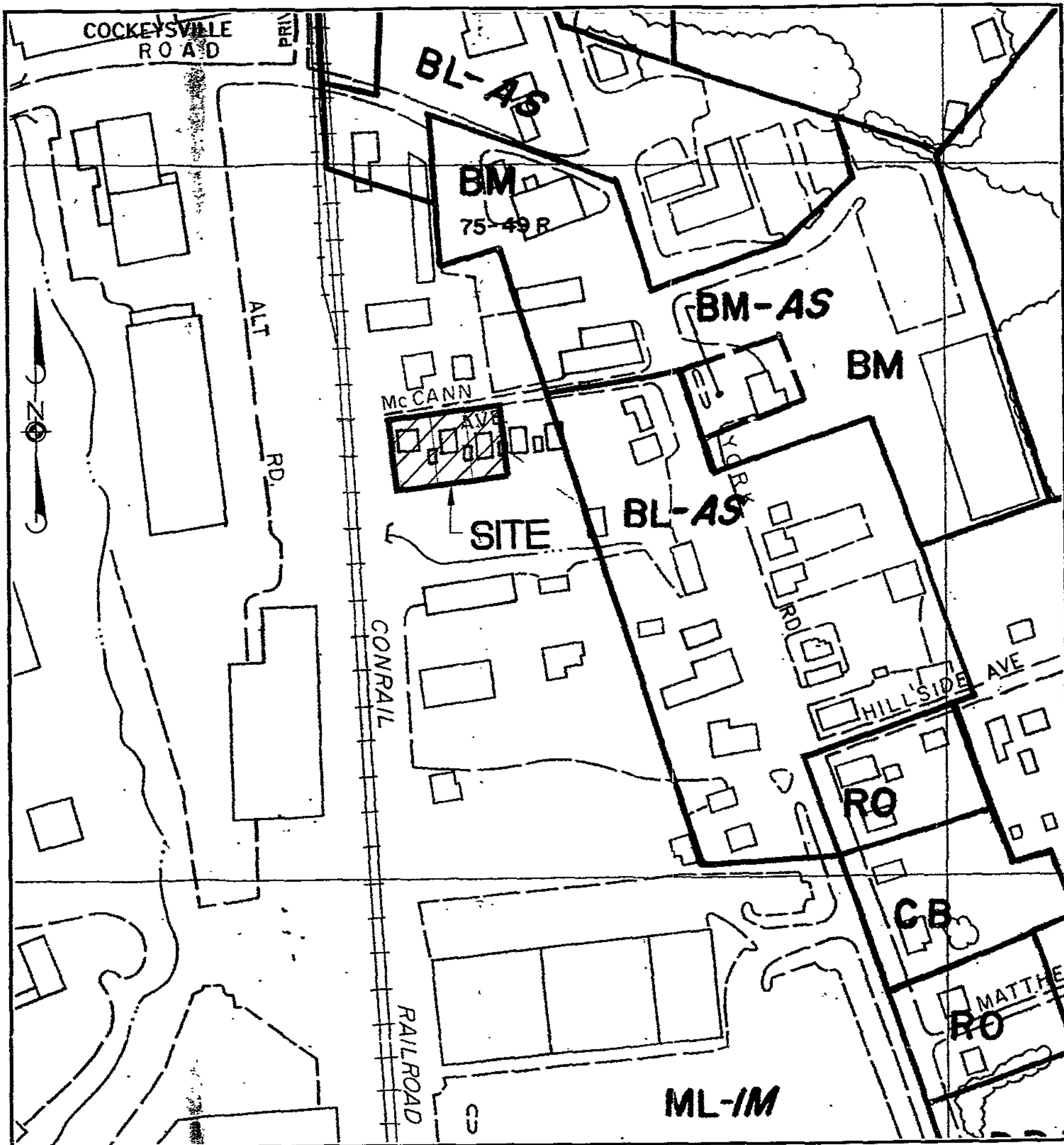
- Vary and articulate building elements to visually and dimensionally interrupt the bulk of the building. Highlighting entranceways and establishing focal points are among the ways to achieve this guideline.
- Use a consistent architectural design and finish on all facades which are visible from public rights-of-way.
- Finish the sides of buildings which are visible from public rights-of-way with a high quality material such as brick or decorative concrete block.
- Treat above-ground parking structures with a quality architectural finish such as decorative concrete block or brick, visually compatible with the buildings they support.
- The height and scale of buildings should be compatible with the surrounding area.



Consistent architectural detailing and finishes create more attractive buildings.



Use of compatible materials and detailing on parking structures creates a unified visual image.



BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP N.W. 17-B (COPY)



KCW Engineering Technologies, Inc.
 3106 Lord Baltimore Drive, Suite 110
 Baltimore, Maryland 21244
 Tele (410) 281-0033
 Fax (410) 281-1065
 www.KCW-ET.com

PLAT TO ACCOMPANY PETITION
for ZONING VARIANCES

PROPERTY OF McCANN F and S
9, 11 and 13 McCANN AVENUE

BALTIMORE CO., MARYLAND ELECTION DISTRICT - 08
 SCALE: 1" = 200' COUNCILMANIC DISTRICT - C3

#181