IN RE: PETITIONS FOR SPECIAL HEARING, & SPECIAL EXCEPTION	*	BEFORE THE
S/S of Music Fair Road, 2,266 ft. +/- from centerline of Painters Mill Road	*	DEPUTY ZONING COMMISSIONER
3rd Election District	*	FOR
2nd Councilmanic District		
(11 Music Fair Road)	*	BALTIMORE COUNTY
Nicholas B. Mangione & Louis Mangione *Legal Owners*	*	CASE NO. 05-352-SPHX
and	*	
R & H Motor Cars, Ltd., *Lessee* *Petitioners*	*	

* * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Hearing and Special Exception filed by the legal owners of the property, Nicholas B. Mangione and Louis Mangione and R & H Motor Cars, Ltd., lessee. The property, which is the subject of this request, is located at 11 Music Fair Road in Baltimore County. The Petitioners are requesting a special exception to allow a service garage use pursuant to Section 253.2.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R). In addition, the Petitioners are requesting special hearing relief for a waiver pursuant to Section 500.6 of the B.C.Z.R.; from Section 517.2 (510.2) of the Building Code; and from Sections 32-4-414, 32-8-303 and 32-4-107 of the Baltimore County Code, to grade and construct a paved parking area, access driveway, and stormwater management facility in a riverine floodplain.

The property was posted with Notice of Hearing on February 19, 2005, 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 February 17, 2005, to notify any interested persons of the scheduled hearing date.

ORDER RECEIVED FOR FILING
Date 3/16/05
By

Applicable Law

Section 502.1 of the B.C.Z.R. - *Special Exceptions*

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

A. Be detrimental to the health, safety or general welfare of the locality involved;
B. Tend to create congestion in roads, streets or alleys therein;
C. Create a potential hazard from fire, panic or other danger;
D. Tend to overcrowd land and cause undue concentration of population;
E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
F. Interfere with adequate light and air; [Bill No. 45-1982]
G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the sprit and intent of these Zoning Regulations; [Bill No. 45-1982]
H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]
I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 zone. [Bill No. 74-2000]

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

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

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights. A ZAC comment was submitted by the Office of Planning dated February 8, 2005, a copy of which is attached hereto and made a part hereof, which comment noted that the service garage must serve the industrial purposes of the surrounding industrial area. In addition, the Office of Planning issued a revised comment dated

ORDER RECEIVED FOR FILING
Date 3/16/05
By

March 4, 2005. a copy of which is attached hereto and made a part hereof, which comment indicates that the Office defers to the comments of the Office of Economic Development.

Interested Persons

Appearing at the hearing on behalf of the special hearing and special exception requests were David Russel, Edwin Howe, PE, from KCW Engineering Technologies, Aaron Margolis, Nick Mangione and Lou Mangione. Robert Hoffman, Esquire, David H. Karceski, Esquire, Leslie Pittler, Esquire and Joseph LaVerghetta, Esquire represented the Petitioners. There were no citizens or protestants at the hearing. People's Counsel entered their appearance in the case.

Testimony and Evidence

Mr. Hoffman proffered that R&H Motor Cars Ltd. would like to move its showroom and service center for Mercedes and Toyota automobiles to the subject property from its present location on Reisterstown Road. To do this R&H will submit a commercial PUD plan for the subject property to the County using the new PUD process. However, prior to submitting this plan, they would like to know that the service portion of the project will be allowed. Thus this request.

Mr. Hoffman noted that the subject property is comprised of three parcels which combined have approximately 35.6 acres zoned ML-IM. The first request is for a special exception for a service garage under Section 253.2.B.3 of the B.C.Z.R., which specifies:

> "auxiliary service uses may be approved by special exception provided that any such use shall be located in a planned industrial park at least 25 acres in net area or in an I.M. District; provided, further, that it is shown that any such use will serve primarily the industrial uses and related activities in the surrounding industrial area".

Mr. Hoffman noted that the Office of Planning no longer contends that the proposed service garage would not serve the surrounding industrial area. He indicated that the term "industrial uses" should be interpreted as being broader than simply manufacturing facilities.

ORDER RECEIVED FOR FILING
Date 3/16/05
By

He pointed out that the ML zone allows offices by right, as one example, of which there are many such office buildings in the Owings Mills growth area. Consequently, if the service garage will repair vehicles used by the many office workers in the area, then it should be considered serving the "industrial uses" in the area. In support of his contention that the service garage would handle the repair needs of Mercedes and Toyota vehicles in the area, he presented many photographs of such vehicles from the area as shown on Petitioners' Exhibit 4.

In regard to the request for special exception, Mr. Hoffman proffered that Mr. Howe of KCW Engineering Technologies prepared the Plan to Accompany and would testify that the plan met each and every criteria of Section 502.1 of the B.C.Z.R. and would not have any adverse impact on the surrounding community. He noted that the subject property is located in the industrially zoned and used corridor between Reisterstown Road and the Northwest Expressway (I-795). See Petitioners' Exhibit 2, an aerial photograph of the site and area, as well as Petitioners' Exhibit 3, the area zoning map. Note that there are now five radio towers south of the site as shown on Petitioners' Exhibit 1, rather than the four towers shown on the aerial map. The immediate uses to the south are the five radio towers and BJ's Wholesale Club. To the east there are various industrial uses, the subway tracts, and Sweetheart Cup manufacturing plant. To the north there is a large industrial complex. Finally, to the east there is I-795 and the parking lots for the subway. Mr. Howe indicated that the nearest residential community was approximately ½ mile straight-line distance. Although the Petitioners plan no bodywork at this time on the subject property, they requested any special exception not be limited in hours of operation or service garage uses.

In regard to the waiver to allow the Petitioners to grade and construct a paved parking area, access driveway, and stormwater management facility in a riverine floodplain, Mr.

PLEASE RETURN TO FILING
Date 3/16/05
By

Hoffman proffered that the Petitioners proposed to fill the gray shaded area on the parking lot of the new building as shown on Petitioners' Exhibit 1. This will raise this area above the 100-year flood level which incidentally Mr. Hoffman noted was caused by the State erecting the flood dike around BJ's Wholesale Club. Apparently the States construction of I-795 dammed the floodwaters in a 100-year storm to the extent that the State had to erect the dike to protect BJ's

Returning to the present issue, in order to compensate for filling the gray area of the parking lot, the Petitioners propose to excavate two areas shown on Petitioners' Exhibit 1 as "Cut #1 and Cut #2. The intention would be that these excavations would hold as much or more water in a 100-year flood as the gray area of the parking lot, thus not increasing flooding in the area.

Although it seems illogical to have a storm water facility in the floodplain, as shown on Petitioners' Exhibit 1, to handle ordinary storm water generated by the building and parking lot, Mr. Howe indicated that he conducted many studies of the floodplain and concluded that this was an appropriate place to locate this facility in this peculiar circumstance. He indicated that there will be a considerable delay of perhaps 13 hours between the time the storm water in the facility will peak and the stream flood backing up to the property. This allows the storm water facility to operate properly both as to quantity and quality since this facility will discharge its contents much before the stream flood hits the property.

Mr. Hoffman noted that the Department of Public Works reviewed and approved Mr. Howe's report, which contains the basis of his calculations and conclusions. The Department comment of January 31, 2005 indicates the Department found there would be no adverse impact on the floodplain with this design and recommended that the waiver be approved.

ORDER RECEIVED FOR FILING
Date 3/16/05
By

At that point in the hearing, a general discussion of the merits of requiring notice to subsequent owners of the property regarding the flood plain issues via the land records was held. The Petitioners contend such notice was not necessary given the fact that the parking lot will no longer be in the floodplain once filled. The somewhat famous case of *Blaze Starr v Baltimore County* was recalled wherein Ms. Starr sued the County for damage to her home in a floodplain on the basis that the County granted a waiver requested by Ms. Starr or her predecessor for such a waiver.

Findings of Fact and Conclusions of Law

Special Hearing

In regard to the issue of notice to future owners of property about floodplain waivers, I mentioned at the hearing that whether or not the parking lot will in fact be subject to flooding in a 100-year storm, is based upon Mr. Howe's modeling and conclusions. By raising this question, I do not mean to doubt his calculations or conclusion. My concern is that Baltimore County not be the subject of a suit as apparently the State was in the BJ's Club situation for allowing construction in a floodplain. The Petitioners should take that risk, not the County, since this conclusion is based on the Petitioners' engineer's work. I do not want to repeat the unfortunate experience the County and citizens experienced in earlier situations in which citizens whose properties were damaged in prior floods force the Count to purchase their properties.

Having said that, I will grant the special hearing relief for a waiver pursuant to Section 500.6 of the B.C.Z.R.; from Section 517.2 (510.2) of the Building Code; and from Sections 32-4-414, 32-8-303 and 32-4-107 of the Baltimore County Code, to grade and construct a paved parking area, access driveway, and stormwater management facility in a riverine floodplain. Because of the excavation, the filling will not increase the existing flood levels. Presumably, the

ORDER RECEIVED FOR FILING
Date 3/16/05
By

excavation will also compensate for the additional bulk of the storm water management facility in the floodplain. The County Code allows drainage facilities (storm water management pond) within riverine floodplains where the encroachment in the floodway will not cause and increase existing flood elevation. I note that the Department of Public Works, the responsible County agency, reviewed and approved the Petitioners' proposal to excavate and fill on the subject property. Consequently, I find that granting the requested waiver will not increase flood heights, impact public safety, incur extraordinary public expense, create nuisances, etc. noted in Section 32-8-303 of the BCC.

Special Exception

Having granted the requested waivers, I will also grant the requested special exception for a service garage since the Petitioners have demonstrated that the proposed garage serves the industrial purposes of the surrounding industrial area. I find that in the broader sense, the vehicle repair functions will support and serve the area which, although has some manufacturing uses, also is home to large office complexes. I also find that the proposal meets the criteria given in Section 502.1 of the B.C.Z.R. and will not adversely affect the surrounding community. Testimony indicated that the nearest residential community was approximately ½ mile away so that any noise, dust, or the like coming from the service garage will not adversely affect the closest residential community.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and for the reasons given above, the requested relief shall be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 16 day of March, 2005, that the Petitioners' request for special hearing relief for a waiver pursuant to Section 500.6 of the B.C.Z.R.; from Section 517.2 (510.2) of the Building

ORDER RECEIVED FOR FILING
Date 3/16/05
By

Code; and from Sections 32-4-414, 32-8-303 and 32-4-107 of the Baltimore County Code, to grade and construct a paved parking area, access driveway, and stormwater management facility in a riverine floodplain, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the Petitioners' request for special exception to allow a service garage use pursuant to Section 253.2.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R), be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for any necessary permits and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded;

2. Compliance with the ZAC comments submitted by the Office of Planning dated February 8, 2005, 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

ORDER RECEIVED FOR FILING
Date 3/16/05
By

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

March 16, 2005

Robert A. Hoffman, Esquire
David Karceski, Esquire
Venable, Baetjer & Howard, LLP
210 Allegheny Avenue
Towson, Maryland 21204

Joseph LaVerghetta, Esquire
1205 York Road
Lutherville, Maryland 21093

Re: Petitions for Special Hearing & Special Exception
Case No. 05-352-SPHX
Property: 11 Music Fair Road

Dear Messrs. Hoffman, Karceski & LaVerghetta:

Enclosed please find the decision rendered in the above-captioned case. The petitions for special hearing and special exception 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,

John V. Murphy

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

c: Nick Mangione & Lou Mangione, 1205 York Road, Lutherville, Md 21093
Leslie M. Pittler, Esq., 25 Wandsworth Bridge Way, Lutherville, MD 21093
David Russell, 9729 Reisterstown Road, Owings Mills, MD 21117
Edwin S. Howe, 3106 Lord Baltimore Drive, Suite 110, Baltimore, MD 21244
Aaron Margolis, 405 E. Joppa Road, Towson, MD 21286

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 11 Music Fair Road

which is presently zoned ML-IM

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 Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

Special exception for service garage use, pursuant to Section 253.2.B.3 of the Baltimore County Zoning Regulations.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Exception, advertising, posting, etc. and further agree to and are to be bounded by 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:

R & H Motor Cars Ltd.
Name - Type or Print By: Robert C. Russel, President
Signature
9727 Reisterstown Road 410-363-3900
Address Telephone No.
Owings Mills, Maryland 21117
City State Zip Code

Legal Owner(s):

SEE ATTACHED
Name - Type or Print
Signature
Name - Type or Print
Signature
Address Telephone No.
City State Zip Code

Attorney For Petitioner:

Robert A. Hoffman/ David H. Karceski
Name - Type or Print
Signature
Venable LLP
Company
210 Allegheny Avenue 410-494-6200
Address Telephone No.
Towson, Maryland 21204
City State Zip Code

Representative to be Contacted:

Robert A. Hoffman
Name
210 Allegheny Avenue 410-494-6200
Address Telephone No.
Towson, Maryland 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____
UNAVAILABLE FOR HEARING _____

Reviewed By _____ Date _____

Case No. 05-352-SPHX

REV 09/15/98

3/16/05

PETITION FOR SPECIAL EXCEPTON
SIGNATURE PAGE

LEGAL OWNERS:

Nicholas B. Mangione

Music Fair Road, LP

By: Mangione Family General, Inc.,
General Partner

By: Louis Mangione, President

1205 York Road
Lutherville, Maryland 21093
410-825-8400

KCW
ENGINEERING
TECHNOLOGIES

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

ZONING DESCRIPTION
1,369,408 SQUARE FEET OR 31.4373 ACRES OF LAND

Beginning at a point on the South side of Music Fair Road, 60 feet wide, at the distance of 226.6 feet South 12 degrees 30 minutes 52 seconds East of the centerline of Painters Mill Road, 100 feet wide, and Music Fair Road, 60 feet wide, thence the following courses and distances,

1. South 53 degrees 08 minutes 02 seconds East 10.17 feet; thence
2. South 70 degrees 31 minutes 42 seconds East 50.38 feet; thence
3. North 69 degrees 17 minutes 38 seconds East 44.67 feet; thence
4. South 53 degrees 08 minutes 02 seconds East 1,199.34 feet; thence
5. South 07 degrees 25 minutes 42 seconds East 867.42 feet; thence
6. South 88 degrees 44 minutes 17 seconds East 414.30 feet; thence
7. North 53 degrees 08 minutes 02 seconds West 1,428.71 feet; thence
8. North 03 degrees 46 minutes 33 seconds West 91.14 feet; thence
9. North 01 degrees 31 minutes 20 seconds East 96.81 feet; thence
10. North 03 degrees 18 minutes 40 seconds East 34.96 feet; thence
11. North 36 degrees 51 minutes 58 seconds East 622.76 feet to the point of beginning

as recorded in Deed Liber 11058, folio 187 and in Deed Liber 13637, folio 634.

STATE OF MARYLAND
EDWIN STANISLAUS HOWE III
No. 20239
REGISTERED
PROFESSIONAL ENGINEER

11/11/05

BALTIMORE COUNTY, MARYLAND 357 No. 44 1302
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

DATE 1-12-05 ACCOUNT R001-006-6150

AMOUNT $ 705.00

RECEIVED FROM: Ulzumble II Music Fair Ltd.

FOR: SDHC, X

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
BUSINESS CODE TIME BAT
1/13/2005 1/13/2005 11:33:03 1
REF NUM WALKIN 3616 #8
RECEIPT # 219625 1/13/2005 OFLN
Dept 3 526 OTHER MISCELLANEOUS
Ref No. 441302
Receipt Tot. $705.00
$705.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

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: #05-352-SPHX
11 Music Fair Road
S/side of Music Fair Road, 2,266 feet +/- from centerline of Painters Mill Road
3rd Election District - 2nd Councilmanic District
Legal Owner(s): Nicholas B. and Louis Mangione
Contract Purchaser: R & H Motor Cars, Ltd.

Special Hearing: for a waiver to grade and construct a paved parking area, access driveway, and storm water management facility in a riverine floodplain. **Special Exception:** to allow a service garage.

Hearing: Monday, March 7, 2005 at 9:00 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.

2/207 Feb. 17 39522

CERTIFICATE OF PUBLICATION

2/17/, 2005

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 2/17/, 2005.

- [X] 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.: 05-352-SPHX

Petitioner/Developer: R + H MOTOR CARS

Date of Hearing/Closing: MARCH 7, 2005

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

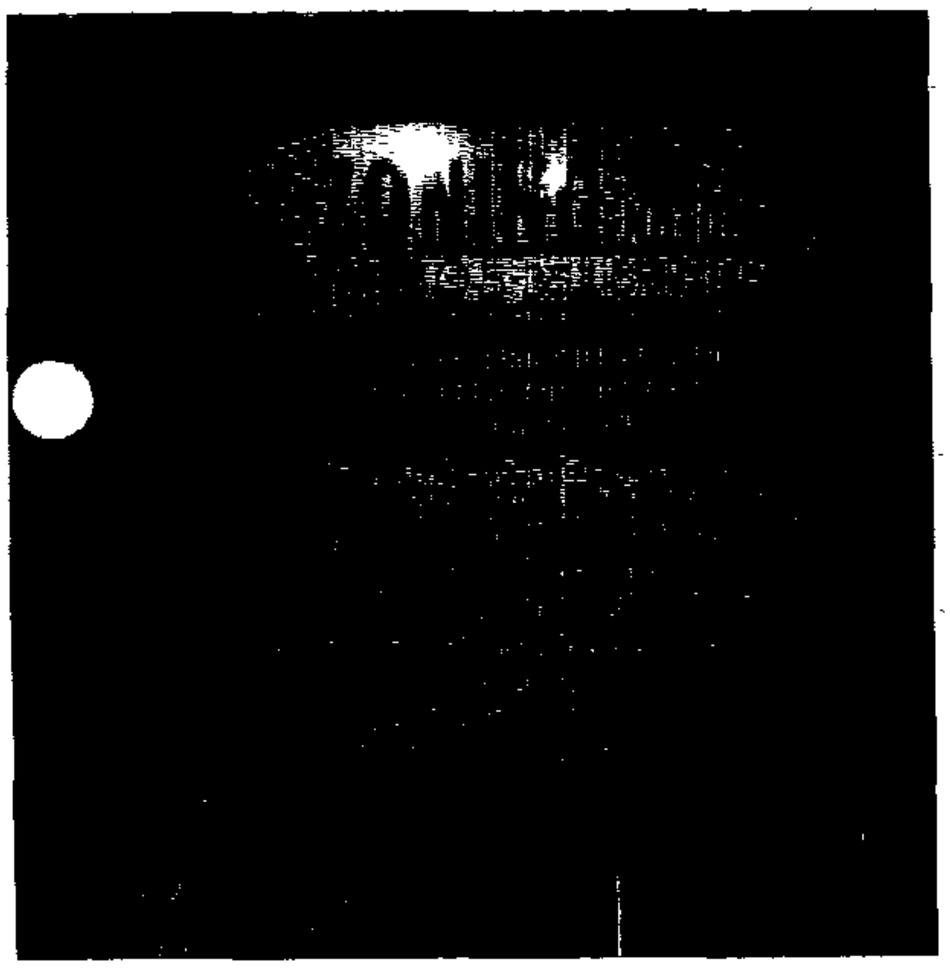
ATTN: Kristen Matthews {(410) 887-3394}

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: 11 MUSIC FAIR RD

The sign(s) were posted on 2/19/05
(Month, Day, Year)

Sincerely,



Robert Black 2/21/05
(Signature of Sign Poster) (Date)

SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

(410) 282-7940
(Telephone Number)

RECEIVED
FEB 24 2005
DEPT. OF FISHERIES &
DEVELOPMENT BOARD

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: 05-352-SPHX

Petitioner: Music Fair Road, LP

Address or Location: 11 Music Fair Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Amy Donfell, Venable LLP

Address: 210 Allegheny Avenue
Towson Maryland 21204

Telephone Number: (410) 494 6244

Revised 2/20/98 - SCJ

Department of Permits and Development Management

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

Baltimore County

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

January 25, 2005

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: 05-352-SPHX
11 Music Fair Road
S/side of Music Fair Road, 2,266 feet +/- from centerline of Painters Mill Road
3rd Election District – 2nd Councilmanic District
Legal Owners: Nicholas B. and Louis Mangione
Contract Purchaser: R & H Motor Cars, Ltd.

Special Hearing for a waiver to grade and construct a paved parking area, access driveway, and storm water management facility in a riverine floodplain. Special Exception to allow a service garage.

Hearing: Monday, March 7, 2005 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Joseph Laverghetta, 1205 York Road, Lutherville 21093
Nicholas & Louis Mangione, 1205 York Road, Lutherville 21093
R & H Motor Cars, Ltd., 9727 Reisterstown Rd., Owings Mills 21117
Robert Hoffman, Venable, 210 Allegheny Ave., Towson 21204

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, FEBRUARY 19, 2005.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, February 17, 2005 Issue - Jeffersonian

Please forward billing to:
Amy Dontell
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

410-434-6244

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: 05-352-SPHX
11 Music Fair Road
S/side of Music Fair Road, 2,266 feet +/- from centerline of Painters Mill Road
3rd Election District – 2nd Councilmanic District
Legal Owners: Nicholas B. and Louis Mangione
Contract Purchaser: R & H Motor Cars, Ltd.

Special Hearing for a waiver to grade and construct a paved parking area, access driveway, and storm water management facility in a riverine floodplain. Special Exception to allow a service garage.

Hearing: Monday, March 7, 2005 at 9:00 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

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

Baltimore County

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

March 2, 2005

Mr. Robert A. Hoffman
Mr. David H. Karceski
210 Allegheny Avenue
Towson, Maryland 21204

Re: Case Number 05-352-SPHX, 11 Music Fair Road

Dear Mr. Hoffman:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 12, 2005.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:rjc

Enclosures

c: People's Counsel
Joseph C. Laverthetta 1205 York Road, Lutherville, MD 21093
Nicholas B. Mangione, President 1205 York Road, Lutherville MD 21093
R. & H. Motor Cars Ltd., Robert C. Russell, President 9727 Reisterstown Road
Owings Mills MD 21117

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

January 25, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: January 31, 2005

Item No.: 352

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 site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

Lieutenant Franklin J. Cook
Fire Marshal's Office
(O)410-887-4881 (C)443-829-2946
MS-1102F

cc: File

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

SHA
State Highway Administration
Driven to Excel
Maryland Department of Transportation

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

Date: 1·21·05

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

RE: Baltimore County
Item No. 352 JCM

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, Chief
Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 8, 2005

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

SUBJECT: 11 Music Fair Road

INFORMATION:

Item Number: 5-352

Petitioner: R & H Motor Cars Ltd.

Zoning: ML-IM

Requested Action: Special Exception/Special Hearing

SUMMARY OF RECOMMENDATIONS:

The property in question is located within the Owings Mills Growth area in the northern employment corridor designated in Master Plan 2010 (Map24). The master plan promotes employment intensive land uses within the ML zone. It states that the county should resist zoning changes and development that would reduce the limited inventory of land available for employment intensive manufacturing and office uses.

The Office of Planning reviewed the petitioner's request and is of the opinion that the proposed 127,370 square foot service garage and business office must meet the requirements of Section 253.2.B that states: "...any such use will serve primarily the industrial uses and related activities in the surrounding industrial area." Since the service garage is for R&H Motor Cars located at 9727 Reisterstown Road, it does not appear that this test can be met.

In the event that the Special Exception and Special Hearing is granted the following conditions shall apply:

1. Submit architectural elevations (all sides) and a landscape plan to this office for review and approval prior to the issuance of any building permit. The two buildings must be sufficiently articulated to break up the mass.

ORDER RECEIVED FOR FILING
Date 3/16/05
By Rec

2. The paving for the parking lot in the riverine floodplain shall be a porous paving to reduce stormwater run-off.

For further information concerning the matters stated herein, please contact Diana Itter at 410-887-3480.

Prepared by: _____

Division Chief: _____

AFK/LL:MAC:

ORDER RECEIVED FOR FILING
Date 3/16/05
By _____

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 4, 2005

RECEIVED
MAR - 7 2005
ZONING COMMISSIONER

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

SUBJECT: 11 Music Fair Road – **REVISED COMMENT**

INFORMATION:

Item Number: 5-352

Petitioner: R & H Motor Cars Ltd.

Zoning: ML-IM

Requested Action: Special Exception/Special Hearing

SUMMARY OF RECOMMENDATIONS:
The property in question is located within the Owings Mills Growth area in the northern employment corridor designated in Master Plan 2010 (Map24). The master plan promotes employment intensive land uses within the ML zone. It states that the county should resist zoning changes and development that would reduce the limited inventory of land available for employment intensive manufacturing and office uses.

The Office of Planning defers to any comments offered by the Department of Economic Development associated with this issue.

Prepared by: Mark A Cunningham

Division Chief: Jeff Mayhew

AFK/LL:MAC:

ORDER RECEIVED FOR FILING
Date 3/16/05
By

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: February 9, 2005

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

SUBJECT: Zoning Advisory Committee Meeting
For January 31, 2005
Item Nos. 348, 349, 350, 351, 352, 355,
357, 358 and 359

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

RWB:CEN:cp

cc: File

ZAC-01312005-NO COMMENT ITEM NOS 348-359-02092005.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

To: Timothy Kotroco, Director
Department of Permits and Development Management

Attn.: Kristen Matthews

From: Edward C. Adams, Jr., Director
Department of Public Works

Date: January 31, 2005

Subject: Case No. 5-352-SPHX
11 Music Fair Road
Floodplain Waiver

The subject waiver is to grade and construct a paved parking area, access driveway and storm water management facility in a riverine floodplain. The drawing entitled "Plan to Accompany Petition for Zoning Special Hearing and Special Exception" dated January 12, 2005 agrees with the grading and floodplain delineation shown on the drawing "100-Year Flood Study Plan" dated November 29, 2004 that accompanied the floodplain study submitted to our office for review in preparation for this waiver request.

The flood study drawings and calculations have been reviewed and accepted as correct by this department. Based on the material submitted, I find there should be no adverse impact on the floodplain should the subject waiver be granted. I therefore recommend approval of the waiver request.

If there are questions, please contact Dave Thomas of my office at ext. 3984.

ECA/DLT/s

CC: John Joyce, Steve Walsh, Terry Curtis, Ned Howe

RECEIVED
FEB - 1 2005
05-144

RE: PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE
11 Music Fair Road; S/side Music Fair Road, 2,266' from c/line Painters Mill Road	*	ZONING COMMISSIONER
3rd Election & 2nd Councilmanic Districts	*	FOR
Legal Owner(s): Nicholas & Louis Mangione Petitioner(s)	*	BALTIMORE COUNTY
	*	05-352-SPHX

* * * * * * * * * * * * *

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
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

RECEIVED

Per C.L.B.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of January, 2005, a copy of the foregoing Entry of Appearance was mailed to Joseph C. Laverghetta, 1205 York Road, Lutherville, MD 21093 and to Robert A Hoffman, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s).

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

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

December 18, 2007

Leslie M. Pittler
Leslie M. Pittler, PA
Attorney at Law
25 Wandsworth Bridge Way
Lutherville, MD 21093

RE: Spirit and Intent Letter
Zoning Case # 05-352-SPHX
3rd Election District

Dear Mr. Pittler:

Your recent letter to Carl Richards, Zoning Supervisor, has been referred to me for reply. After a meeting held with Mr. Kotroco and Mr. Wiseman to review your letter and as per previous letter dated August 13, 2007 response written by Carl Richards, the following applies.

1) It has been determined that the proposed changes outlined in your letter and shown on your accompanied red lined site plan is approved as being within the Spirit and Intent of the plan and order in zoning case #05-352-SPHX (see red-lined site plan signed and approved by Bill Wiseman, Zoning Commissioner for Baltimore County).
2) A verbatim copy of this response must also be affixed to your building permit site plan prior to building permit application.
3) This approval is for zoning only, and you will be required to comply with all other County and State regulations relative to this property.

The foregoing is merely an informal opinion. It is not an expert or legal opinion, it is not intended to be relied on as expert or legal advice, and it is not legally or factually binding on Baltimore County or any of its officials, agents, or employees. Baltimore County expressly disclaims any and all liability arising out of, or in any way connected with the information provided in this document, or any interpretation thereof.

We trust that the information set forth in this letter is sufficiently detailed and responsive to your request. If you need further information or have any questions, we can be reached at 410-887-3391.

Sincerely,

Jun Fernando

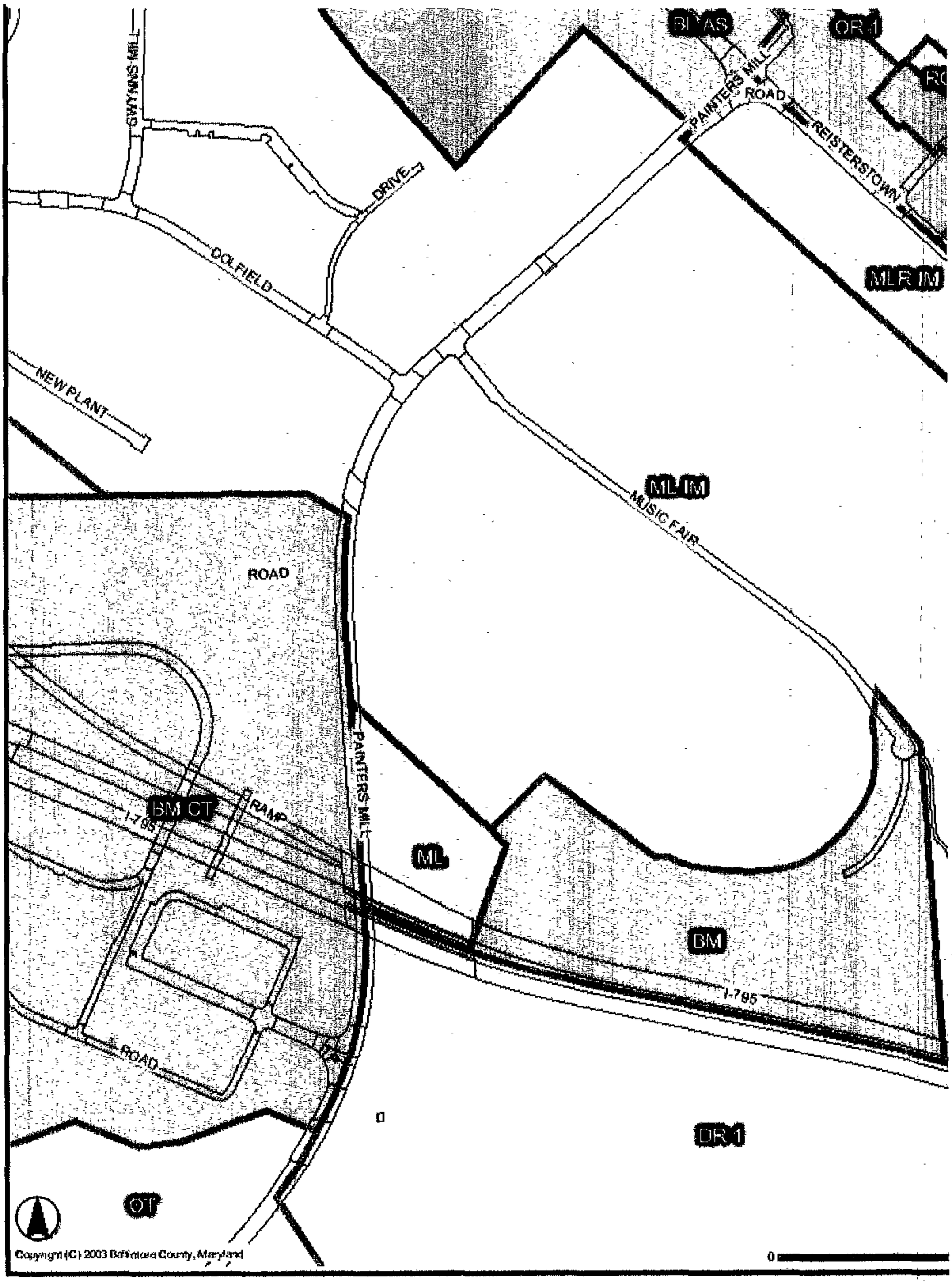
Jun Fernando
Planner II
Zoning Review

PLEASE PRINT CLEARLY

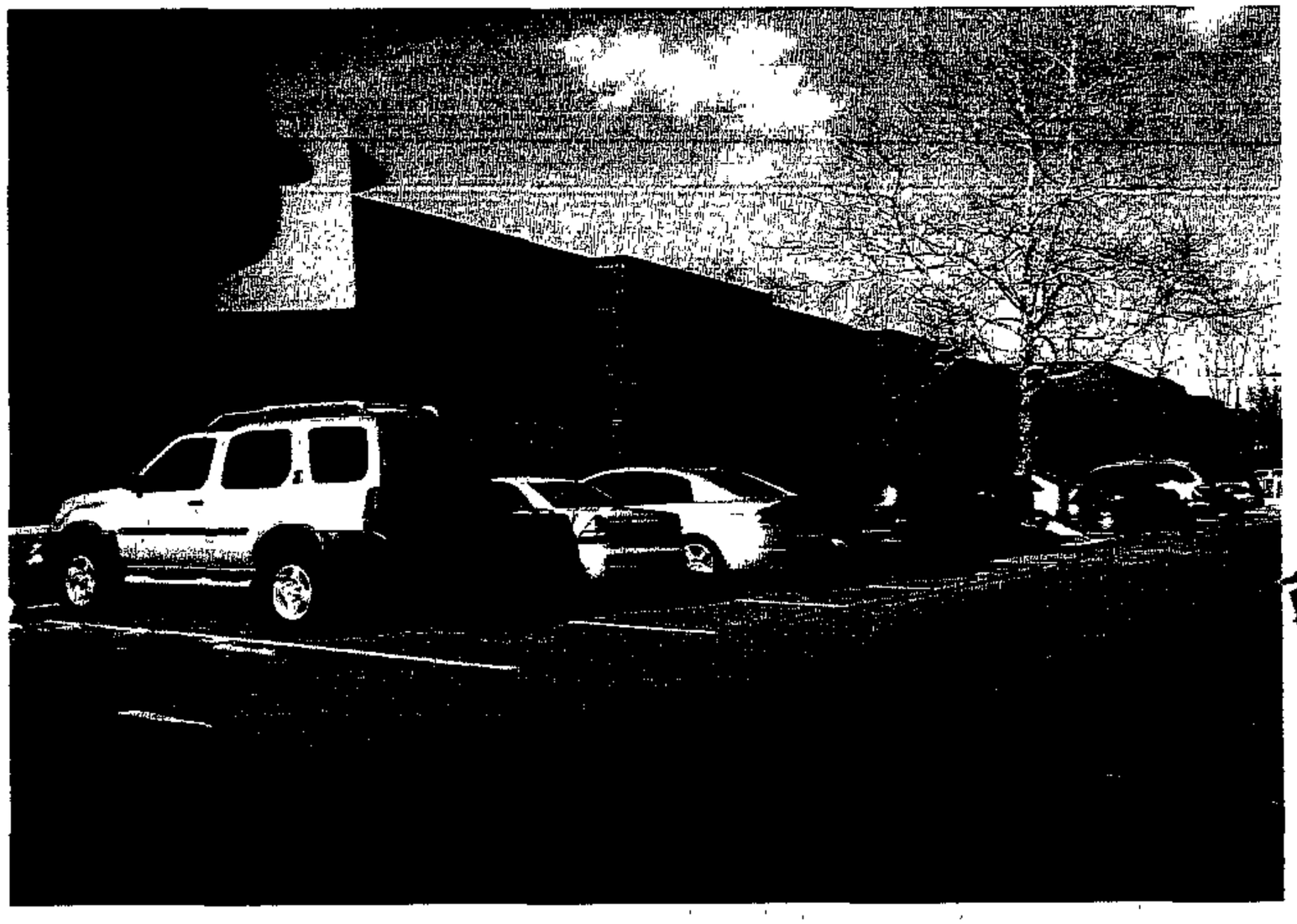
CASE NAME Mangione / Music Fair Rd, LLC
CASE NUMBER 05-352-SPHX
DATE 3/7/05

PETITIONER'S SIGN-IN SHEET

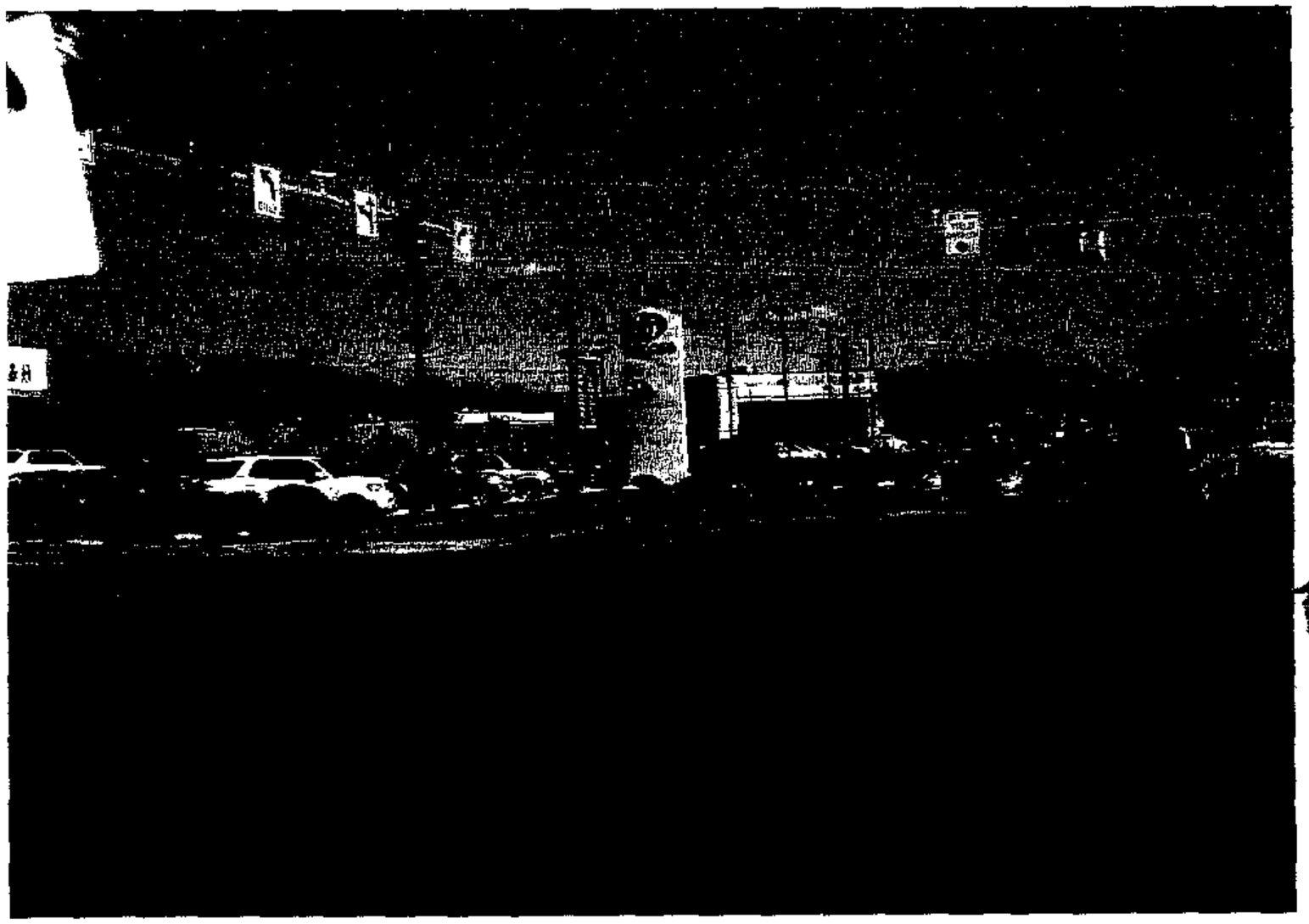
NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Rob Hoffman DAVID KAUFMAN	210 Allegheny Ave	Towson Md 21204	RHoffman@Venable.com
DAVID RUSSER	9727 REISTERSTOWN RD	OWINGS MILLS, MD 21117	DAVIDRUSSER@AOL.com
Leslie M. Pittler	25 Wandsworth Bridge Way	Lutherville, Md. 21093	Les_law@comcast.net
Joe LaVergnetta	1205 York Rd	Lutherville MD 21093	joel@mfe.bz
EDWIN S. HOWE	3106 KOLD BALTIMORE DR SUITE 110	BALT., MD 21244	NHOWE@KCW-ET.com
AARON MARGOLIS	405 E. TOPPA Rd 21286	Towson MD	MARGOLISPRITZKER SEPSTEIN PA
NICK MANGIONE	1726 REISTERSTOWN RD.	BALTO. MD. 21234	
LOU MANGIONE	1205 York Rd	Lutherville, Md 21093	LouisM@mfe.bz


BL AS
OR 1
PAINTERS MILL
ROAD
REISTERSTOWN
GWYNNS MILL
DRIVE
DOLFIELD
MLR IM
NEW PLANT
ML IM
MUSIC FAIR
ROAD
PAINTERS MILL
BM CT
RAMP
I-795
ML
BM
I-795
ROAD
OR 1
OT
Copyright (C) 2003 Baltimore County, Maryland

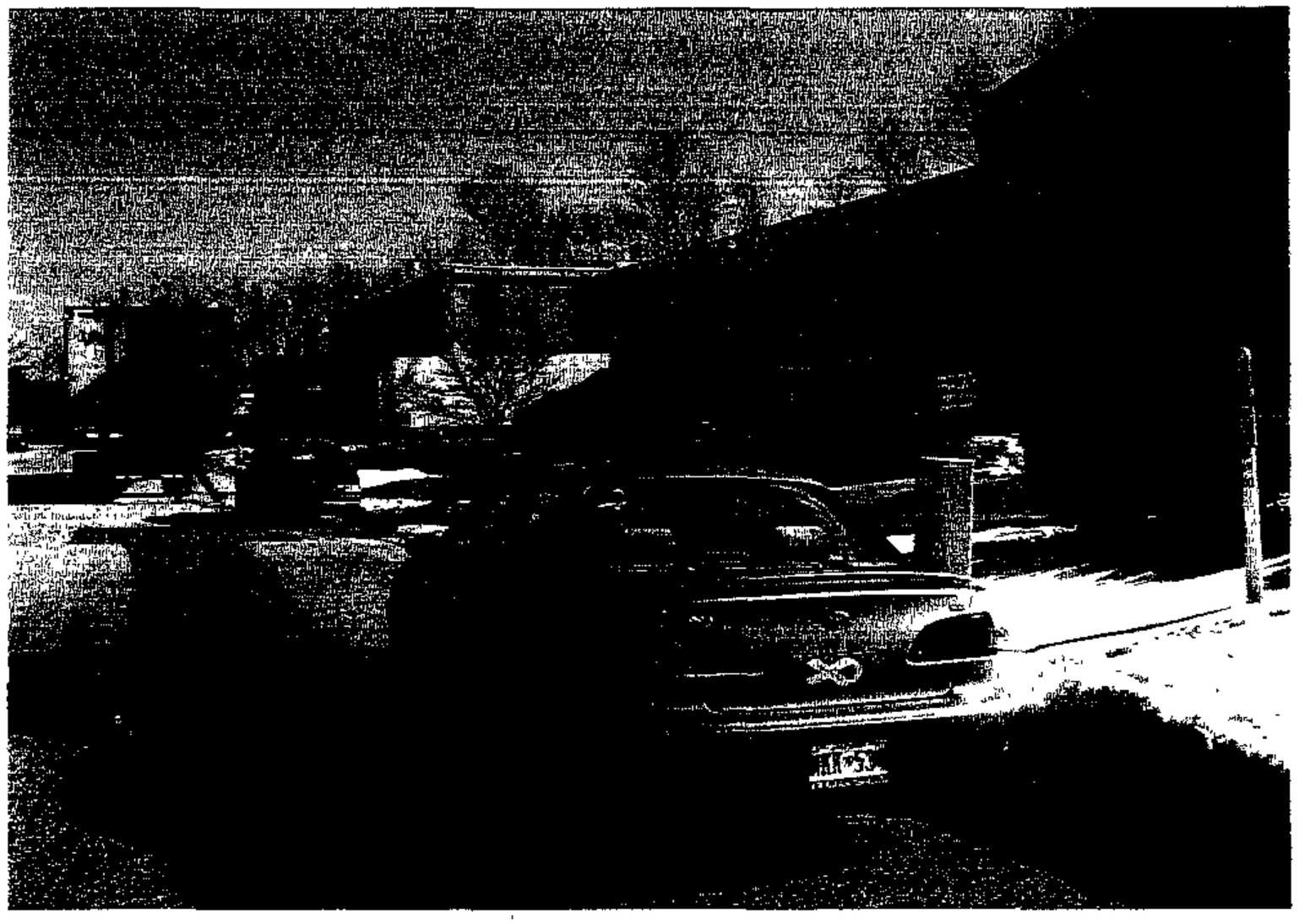
#4A

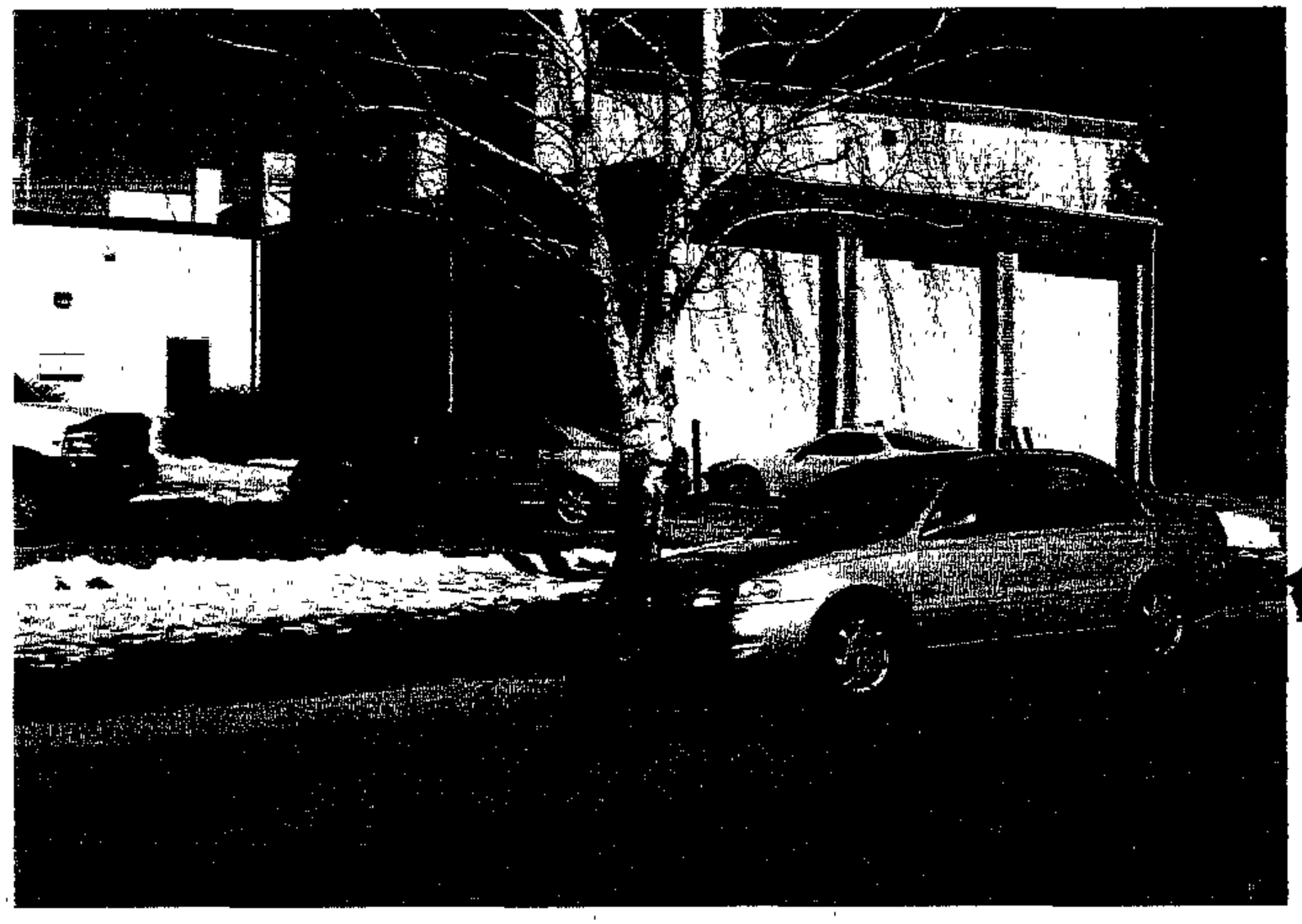


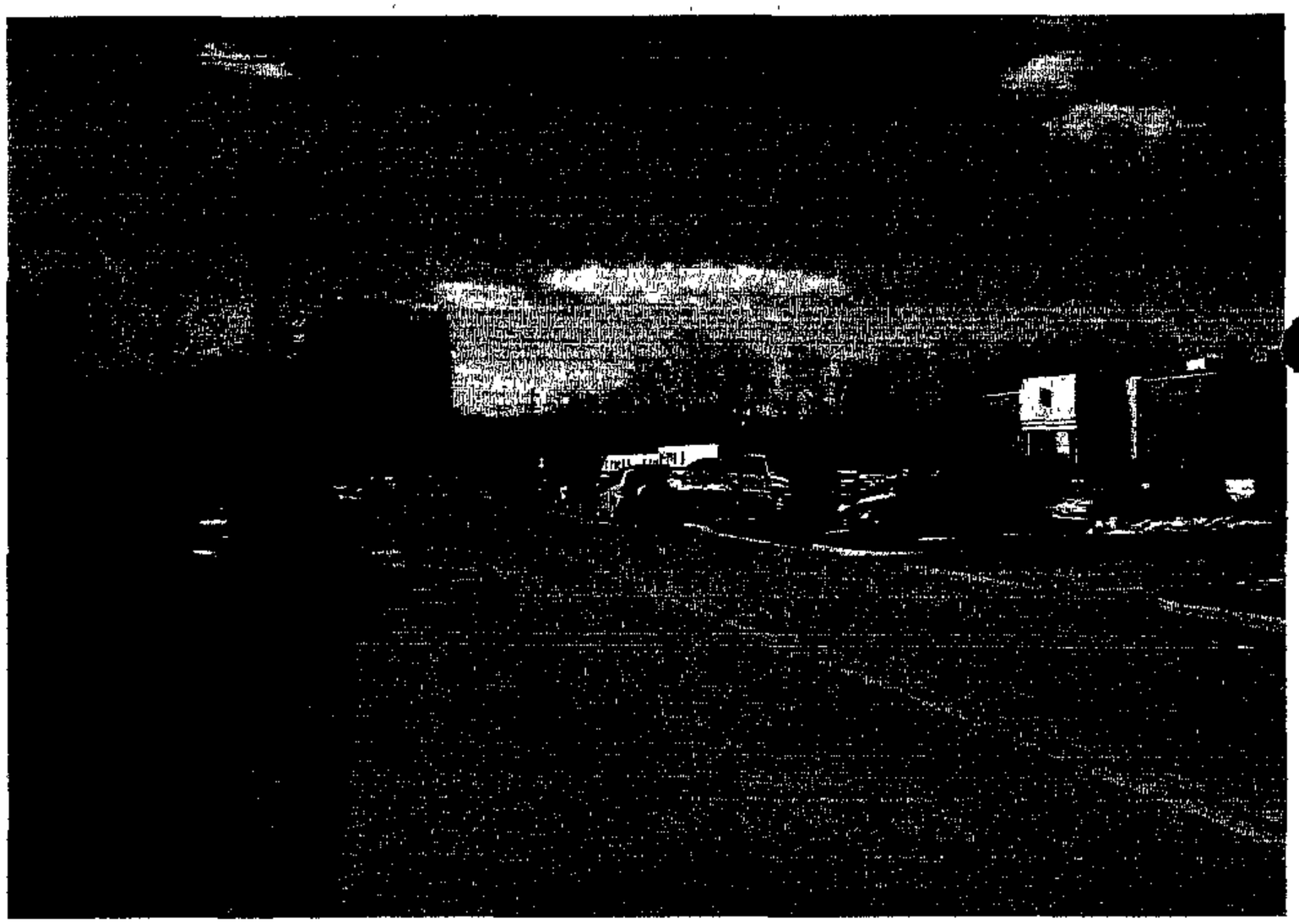
#4B



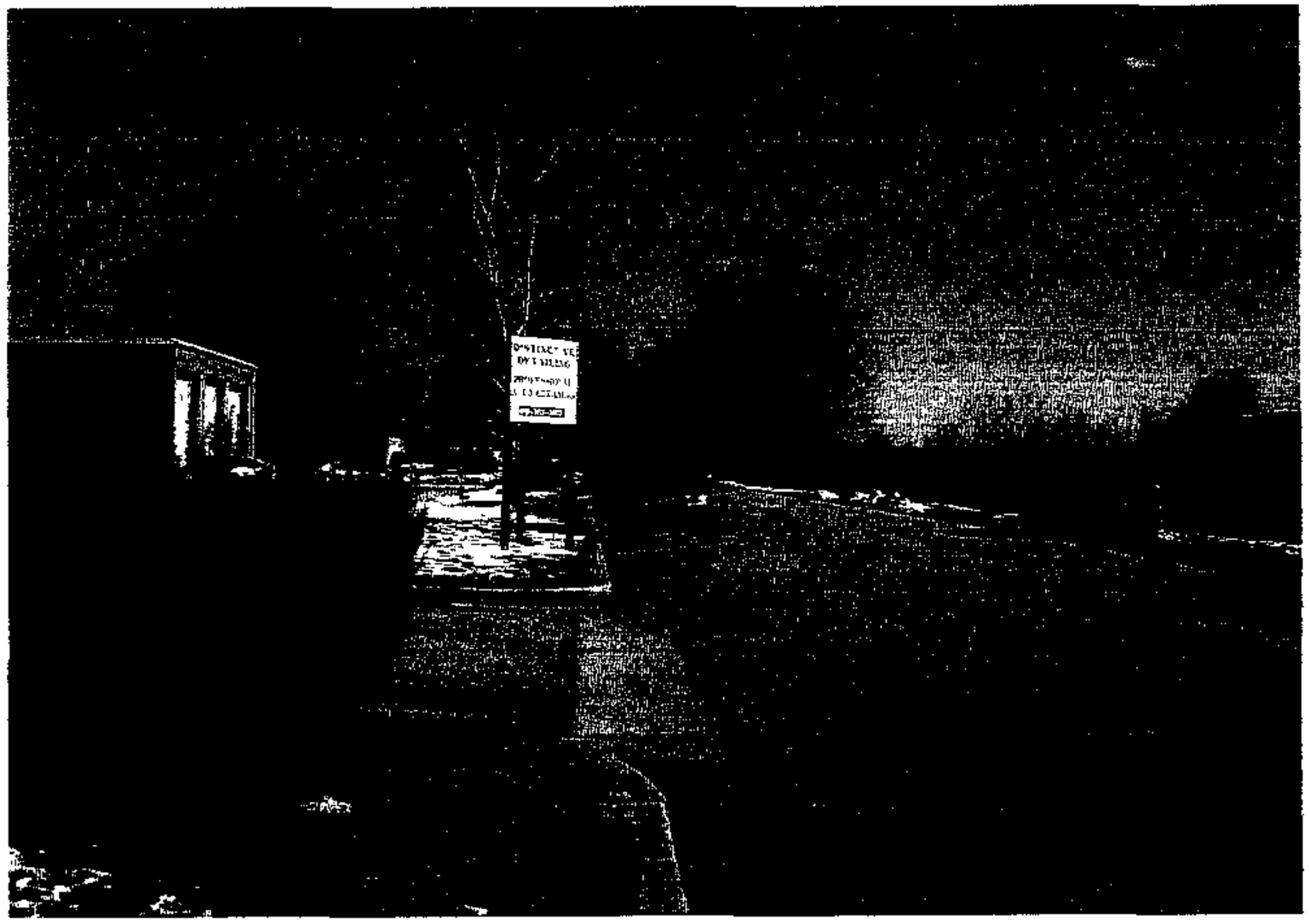
#1C

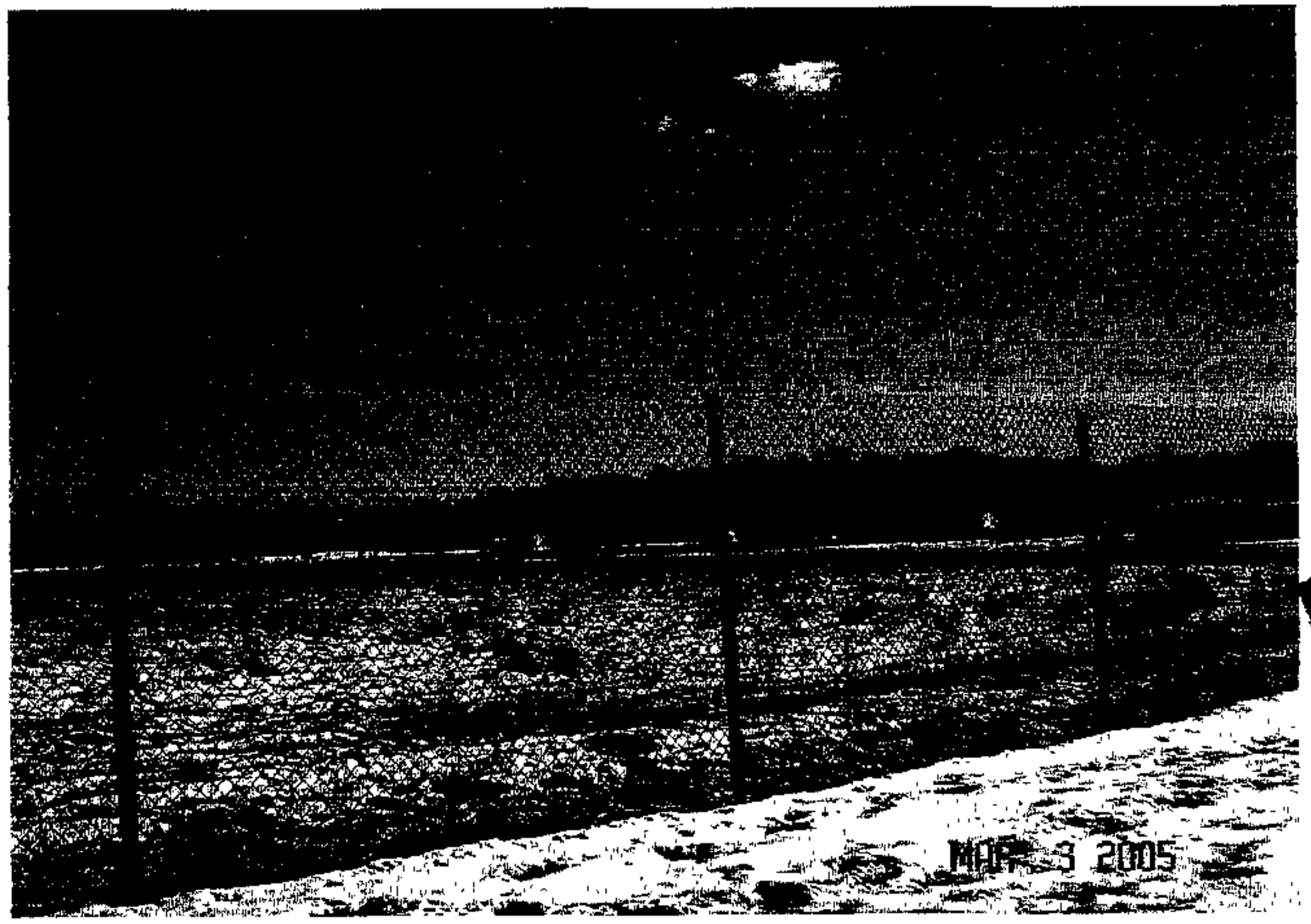




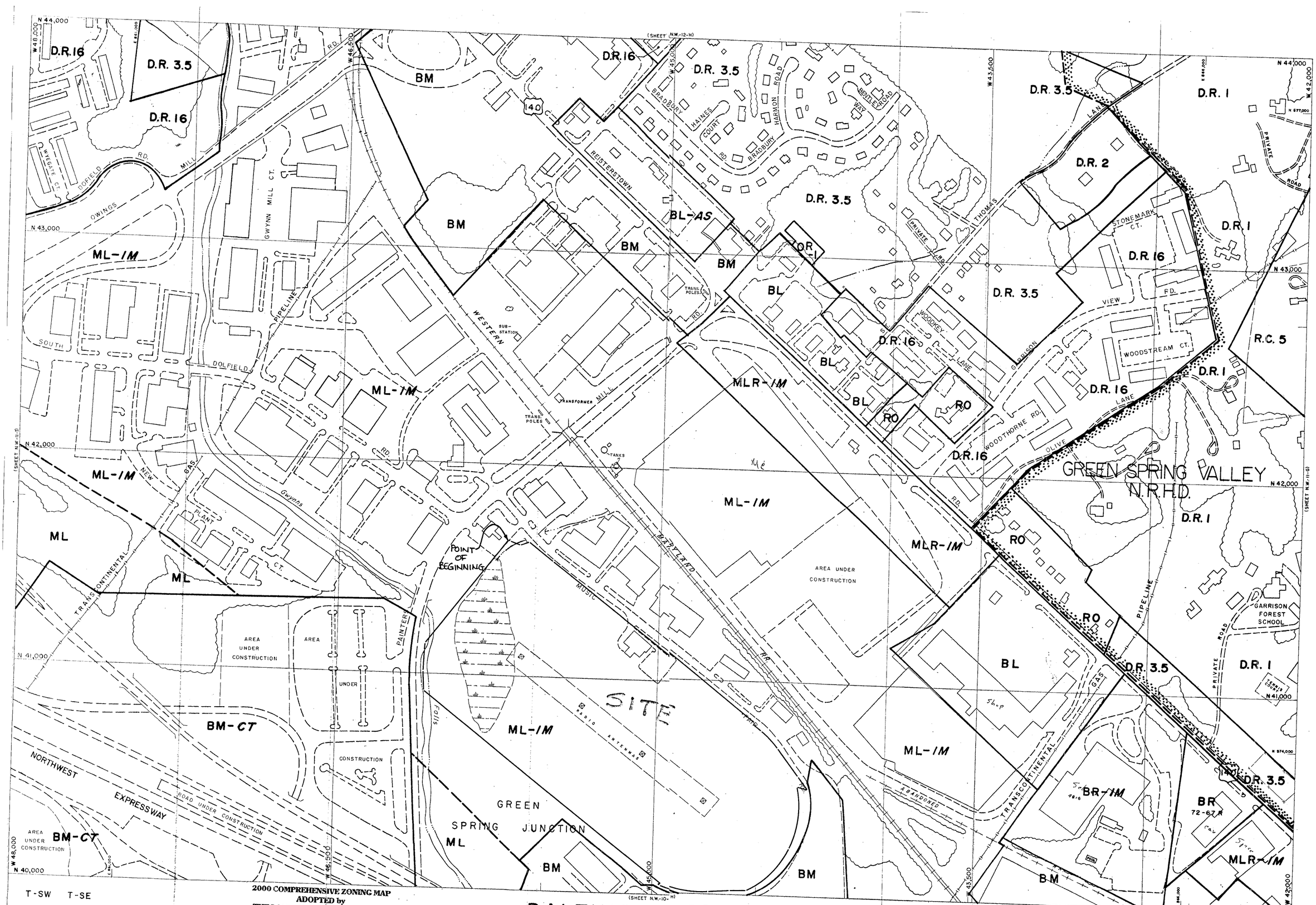


#4D





34



2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

Joseph Bartenfelder
Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

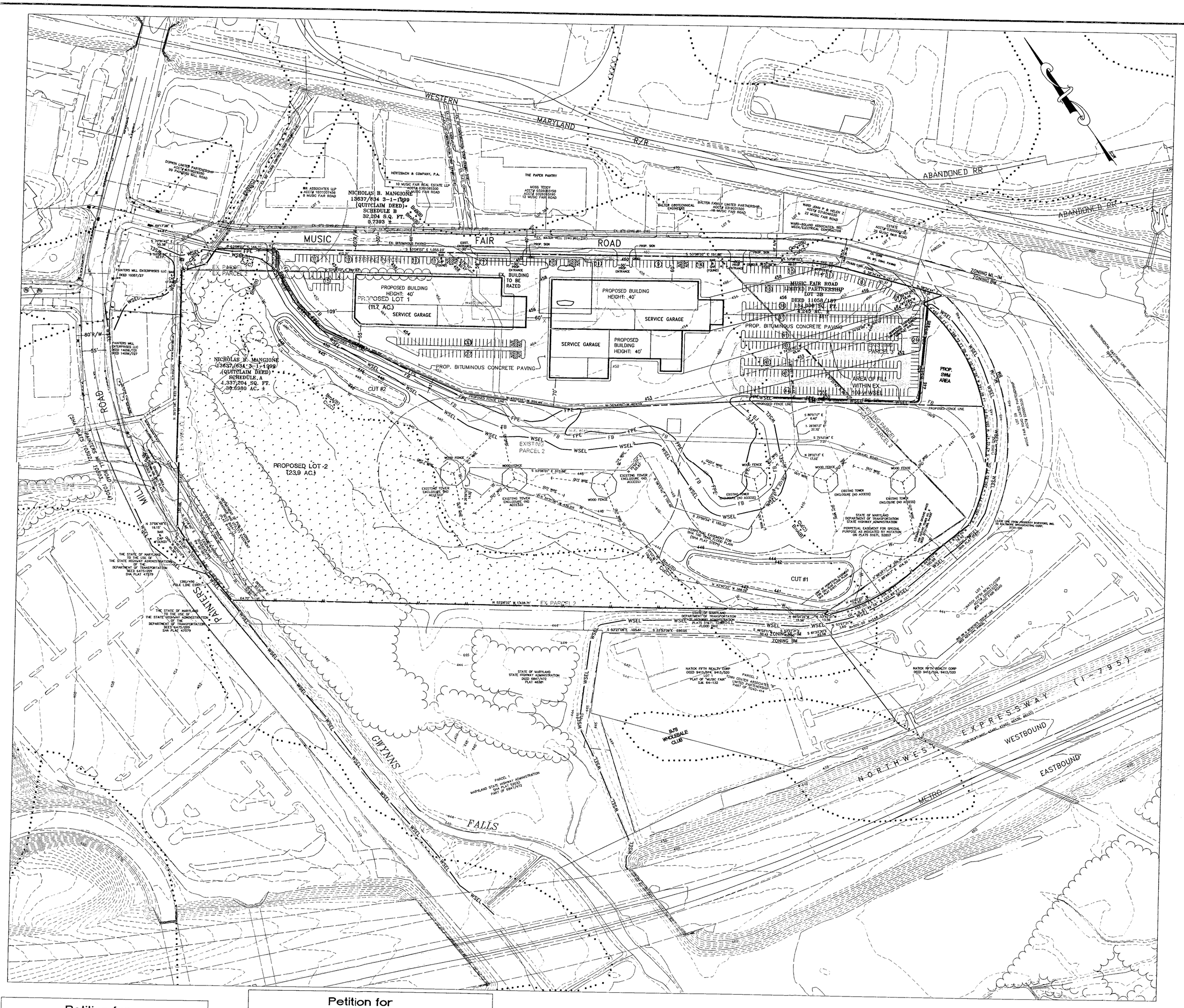
SCALE	LOCATION	SHEET
1" = 200'±	OWINGS MILLS GREEN SPRING JUNCTION	N.W. 11-H
DATE OF PHOTOGRAPHY JANUARY 1986		

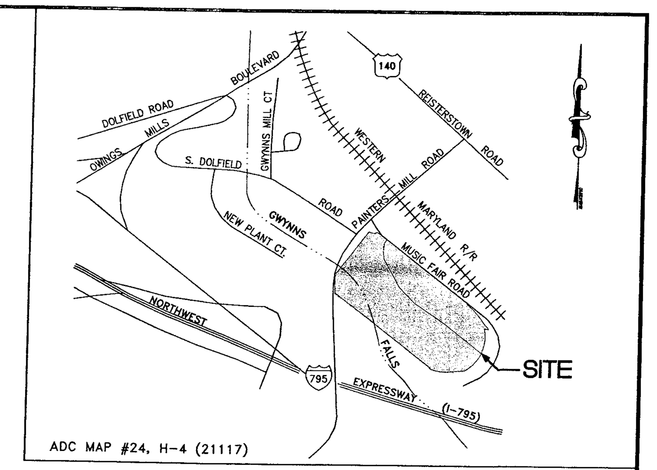
NW 11 H

SITE
CLOVERLEAF
CLOSED
CLOSED
CLOSED

Map Produced By Baltimore County GIS Services Scale: 1 inch equals 200 feet

Baltimore County Tile: 067B1





ADC MAP #24, H-4 (21117)

VICINITY MAP

SCALE: 1"=1000'

GENERAL NOTES

1. OWNER: MUSIC FAIR ROAD LIMITED PARTNERSHIP
C/O MANGIONE FAMILY BUSINESS
SUITE 39C, 1205 YORK RD, LUTH-TIMONIUM, MD 21093
ATTN: LOUIS MANGIONE (410)825-3400

2. LOCATION: 11 MUSIC FAIR ROAD, OWINGS MILLS, MD 21117

3. TAX MAP

MAP	DED.	AREA	ACCOUNT NO.
67	13637-634 (PARCEL 4Y)	30.7 ac.	03-19-000377
67	11058-189 (PARCEL 3B)	4.2 ac.	22-00-013232
67	11058-189 (PARCEL 3B)	0.7 ac.	22-00-013231
	Total Area	35.6 ac. (1,553,800 s.f.)	

4. ELECTION DISTRICT: 03
COUNCILMANIC DIST.: C-2

5. ZONING: M.L.-I.M.
Zoning Map: N.W. 11-H

6. EXISTING LAND USE: RADIO TOWERS

7. PROPOSED LAND USE: RADIO TOWERS AND SERVICE GARAGE

8. BUILDING :
Prop. Building Area 127,370 s.f.
Prop. Building Height 40 ft
Maximum Height permitted: unlimited.

9. PARKING
Total parking spaces required: Shop & business office
127,370 s.f. x 3.3 p.s./1000 s.f.=421 p.s.
Storage: = 114 p.s.
Total parking spaces provided: = 535 p.s. (incl. 10 hc)

10. BUILDING SETBACKS:

	Min. Reqr. M.L.-I.M.	Prop. Bldgs.
Front:	25 ft.	59 ft.
Side:	50 ft.	109 ft.
Rear:	30 ft	55 ft.

11. FLOOR AREA RATIO: 127,370 sf/1,553,800 sf = 0.08 < 2.0

12. There are no known historic buildings, archaeological sites, endangered species habitats, wells, septic systems, underground storage tanks or hazardous material sites located on this property. There are no significant views or site features that may affect the development proposal. There are no significant regulated plant or wildlife communities based upon DEPRM and DNR data.

13. Lighting: Proposed lights shall be shielded to minimize glare.

14. Storm Water Management: Storm Water Management and Water Quality Management shall be provided in accordance with Baltimore County requirements.

15. PREVIOUS ZONING CASES:
Zoning Case No. 1200-S: Special Permit to construct radio transmission discs. Denial by Zoning Commissioner. Reversed @ Board of Appeals and upheld @ Circuit Court.

16. PREVIOUS COMMERCIAL PERMIT:
#1089-83 Footing & Disc Antenna.

17. BOUNDARY: Boundary shown hereon based on boundary survey performed by KCW Engineering Technologies, Inc.

18. TOPOGRAPHY:
The existing topography shown hereon is based upon Baltimore County - O.I.T. G.I.S. Services Unit file 06781. Cross-sections 1, 2, 3, 4 are based on field surveys performed by KCW Engineering Technologies, Inc.

19. FLOODPLAIN: The 100-yr floodplain shown hereon is based on the Floodplain Study dated Nov. 29, 2004 prepared by KCW Engineering Technologies, Inc. and approved by the Baltimore County.

20. UTILITIES: Public utilities presently serve this site.
Sanitary Sewer: Ex. 8" sanitary sewer on Music Fair Road
Water: Ex. 12" water on Music Fair Road

LEGEND

448	EXISTING 2' CONTOUR
450	EXISTING 10' CONTOUR
	PROPOSED LOT LINE
	EXISTING LOT LINE
	EASEMENT LINE
	EXISTING WOODS
	STREAM
X	EXISTING FENCE
CL(C)	SOIL TYPE BOUNDARY
WSEL	100-YR WATER SURFACE ELEVATION
FPE	FLOOD PROTECTION ELEVATION
W	WETLANDS
	EX. WETLAND

Petition for ZONING SPECIAL EXCEPTION

Special Exception for service garage use, pursuant to Section 253.2.B.3 of the Baltimore County Zoning Regulations.

Petition for ZONING SPECIAL HEARING

A waiver pursuant to Section 500.6, BCZR; Section 517.2 (510.2), Building Code; and Sections 32-4-414, 32-8-303, 32-4-107, Baltimore County Code to grade and construct a paved parking area, access driveway and stormwater management facility in a riverine floodplain.

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

STATE OF MARYLAND PROFESSIONAL ENGINEER
1/11/05

OWNER:
MUSIC FAIR ROAD L.P.
C/O MANGIONE FAMILY BUSINESS
STE 39C
1205 YORK RD
LUTH-TIMONIUM, MD 21093
ATTN: LOUIS MANGIONE
TELE: (410)825-3400

REVISIONS

DATE	DESCRIPTION

KCW J.O.:	2030078
SCALE:	1" = 100'
DESIGNED:	MT
DRAWN:	MT/ST
CHECKED:	N.S.H.
DATE:	January 12, 2005
DWG. NO.:	C-100

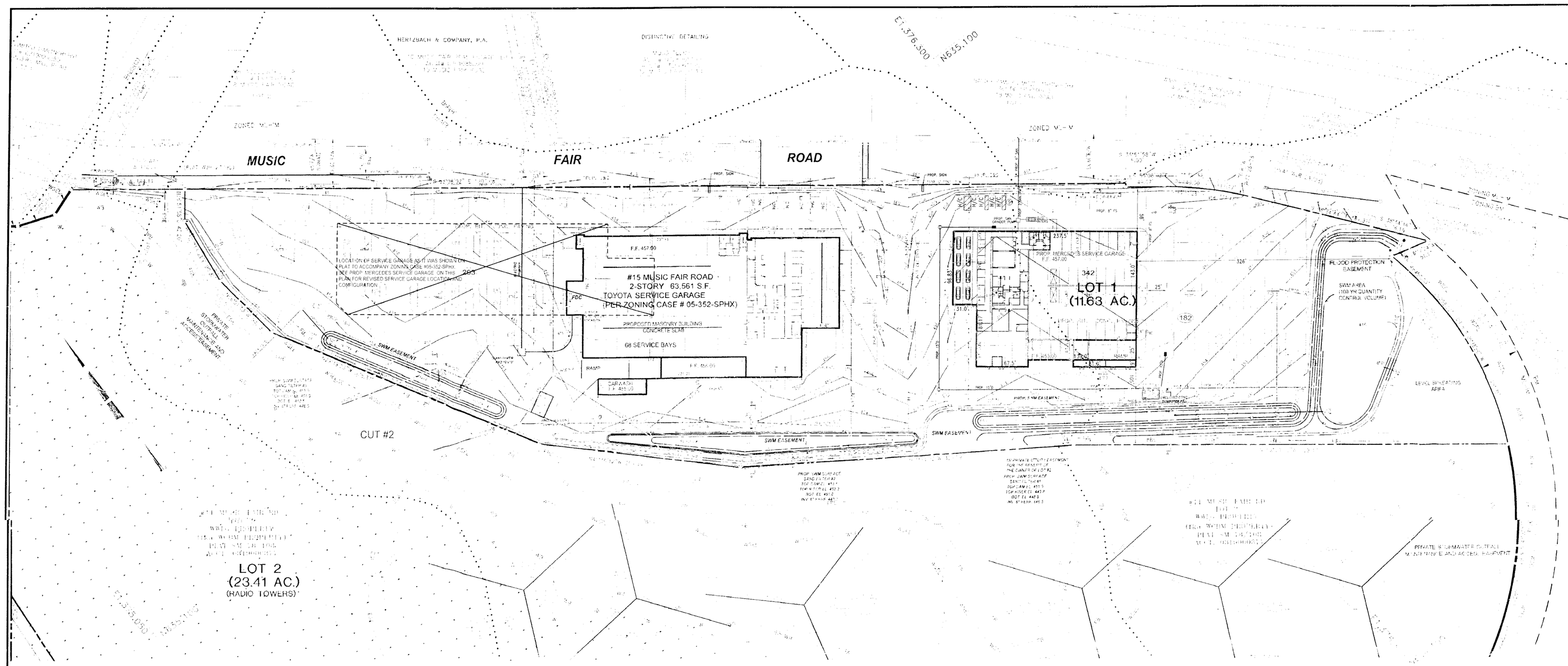
PLAN TO ACCOMPANY PETITION for ZONING SPECIAL HEARING and SPECIAL EXCEPTION

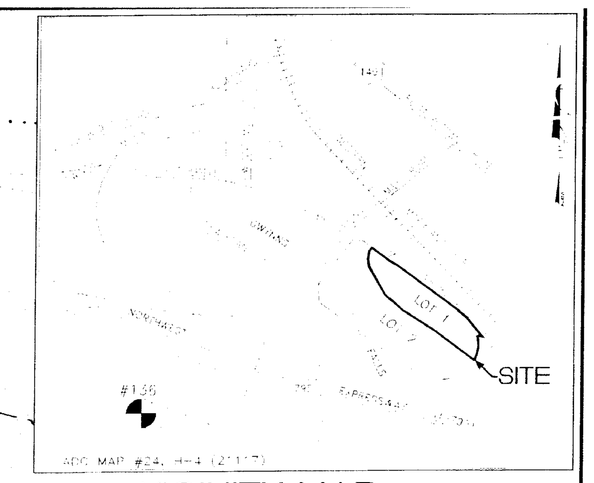
WCBM

11 MUSIC FAIR ROAD

ELECTION DISTRICT - 03 COUNCILMANIC DISTRICT C-2

BALTIMORE COUNTY, MARYLAND





VICINITY MAP

GENERAL NOTES

DELINQUENT ACCOUNTS CERTIFICATION

6-4-2007

ENGINEER'S CERTIFICATION

KCW Engineering, Surveying, Inc.
By: Mark Turlik, P.E. #31551

LEGEND

CERTIFIED SERVICE CENTER

CERTIFIED SERVICE CENTER

PROPOSED SIGN DETAIL
SCALE: 1"=5'

REASON FOR SECOND REFINEMENT
TO SHOW PROPOSED DEVELOPMENT ON LOT 1
FOR 2ND AUTOMOTIVE SERVICE GARAGE
PER ZONING CASE #05-352-SPHX
AND DRC # 100607

12/18/07

REASON FOR FIRST REFINEMENT
TO SHOW PROPOSED DEVELOPMENT ON
LOT 1 FOR AUTOMOTIVE SERVICE GARAGE
PER ZONING CASE #05-352-SPHX
PER DRC #010306A

LOT 1 DEVELOPMENT PLAN

R&H TOYOTA SERVICE GARAGE

1ST REFINEMENT
DEVELOPMENT PLAN

LOT #1 SUBDIVISION OF WALG PROPERTY
1ST REVISION OF WGM PROPERTY

KCW

C-100A