IN RE: PETITION FOR SPECIAL HEARING W/S Hanover Pike (MD Route 30), 150' N

Of the c/l Lees Mill Road

(16208 Hanover Pike)

4th Election District

*

3rd Council District

William L. McAdams and Leisure Specialties, Inc. – Petitioners BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 06-042-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owner of the subject property, William L. McAdams, and the Contract Purchasers, Leisure Specialties, Inc., through their attorney, J. Neil Lanzi, Esquire. The Petitioners request a special hearing seeking approval of an extension of time (two years) in which to utilize the special hearing and special exception relief granted in prior Case No. 03-527-SPHX. The subject property and requested approval are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Rudy McAdams on behalf of William L. McAdams, property owner, and Robert Bathurst, Professional Engineer. Also present were A. Leroy (Roy) Snyder, the Surveyor who prepared the site plan for this property, and J. Neil Lanzi, Esquire, attorney for the Petitioners. Appearing as Protestants/interested citizens were George and Laurie Burnham, and Bob Walker, nearby residents of the area.

Testimony and evidence offered disclosed that the subject property is an irregular shaped parcel located on the west side of Hanover Pike, just north of its intersection with Lees Mill Road in Hampstead. The property contains a gross area of 2.1402 acres, split zoned R.C.2 (1.454 acres) and B.L.-C.R. (0.686 acres), and is presently unimproved, however, pursuant to the relief granted in prior Case No. 03-527-SPHX, is proposed for development with a Home Garden

SET B FORR PER Center. In that matter, the former owners of the property, George Knouse and Margaret Eline, and Leisure Specialties, Inc. requested a special exception to allow a home garden center building with a Floor Area Ratio (FAR) of .21 in lieu of the maximum allowed .20, pursuant to Sections 259.3B and 259.3.C.1.b of the Baltimore County Zoning Regulations (BCZR), and special hearing relief to allow business parking in a residential zone for an adjacent retail use. By his Opinion and Order dated August 14, 2003, then Zoning Commissioner Lawrence E. Schmidt granted the requests subject to certain terms and conditions.

Pursuant to Section 502.3 of the B.C.Z.R., any special exception granted must be utilized within two years of the date of any final Order granting same. However, an extension of up to five years may be obtained, if requested prior to the expiration of the initial two-year period. Moreover, where a Special Exception in effect cannot be utilized within the maximum allowable time because of inadequacy or unavailability of public sewer or water facilities, the Zoning Commissioner shall extend such time for utilization to a date eighteen months after such facilities become adequate and available. This particular site has no public water or sewer.

The current owner, William L. McAdams, and Leisure Specialties, Inc., now come before me seeking approval of an extension of two years for utilization of the Special Exception and Special Hearing relief granted on August 14, 2003, pursuant to Section 502.3 of the B.C.Z.R. In support of their request, the previously approved site plan in Case No. 03-527-SPHX was offered into evidence as Petitioner's Exhibit 1. Petitioner indicated there were no changes to the site plan or to the home garden center approved in the prior case. Petitioner confirmed that testimony from the prior case for this property and proposed use is the same and all plans for construction remain the same. Petitioner offered the testimony of A. Leroy Snyder, Surveyor and Robert Bathurst, P.E. regarding the requirements of the Maryland State Highway Administration (SHA). Specifically, testimony indicated that as Hanover Pike is a state highway, the SHA required

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several improvements to the roadway in front of and near the subject site prior to allowing an access permit to be issued. Negotiations were lengthy and the improvements ultimately required by the SHA are extensive and will be at a substantial cost to the Petitioners. Further, through testimony by Robert Bathurst, P.E., Petitioner established that one of the conditions of the previous Order was the approval of a storm water management plan by the Department of Environment Protection and Resource Management (DEPRM). The storm water management plan was just approved this past July by DEPRM.

Finally, Petitioner, through counsel, established that, pursuant to Section 502.3 of the B.C.Z.R., a timely extension request for the Special Exception and Special Hearing relief was made by letter dated June 10, 2005 to Timothy M. Kotroco, Director of Baltimore County Department of Permits and Development Management. A copy of that letter was offered and accepted as Petitioner's Exhibit 2. The Department of Permits and Development Management instructed Petitioners to file for a Special Hearing for the extension of their utilization period. In that regard, Petitioners request for extension was timely filed and meets the requirements of Section 502.3 of the B.C.Z.R.

Community residents Laurie and George Burnham testified along with Bob Walker on behalf of the Hanover Road Association. The Burnhams own a rental property adjacent to the subject site as well as reside on a second lot they own next to the subject property. The Burnhams are not opposed to the garden center but did express concern regarding the maintenance (or lack thereof) of the subject property. They complained of the constant noise coming from the site and that trash and debris from other users of the property continues to accumulate unabated. Mr. Walker testified of his concerns regarding various businesses and trucks, using the subject property, including furniture and crab sales. Mr. Walker also confirmed the Hanover Road Association did not oppose the garden center and was looking forward to the

improvements to the long vacant property. Mr. McAdams indicated that the various businesses operating on the property were trespassers and were not authorized by him to operate.

After due consideration of all of the testimony and evidence presented, I am persuaded to grant the requested extension. I find that the Petitioners have met the requirements of Section 502.3 of the B.C.Z.R. for relief to be granted. However, due to the delays in construction to this point and understanding further time may elapse before the home garden center will be constructed, I will condition any extension with a requirement for the property owner to maintain the property and take reasonable steps to notify the public there is to be no trespassing and/or parking on the property.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of September 2005 that the Petition for Special Hearing seeking approval of an extension of time (two years) in which to utilize the special hearing and special exception relief granted in prior Case No. 03-527-SPHX, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners shall maintain the property, including mowing the west side of the site adjacent to the Burnham property line, and take appropriate steps to insure that all trash and debris is regularly removed from the site.
- 2) The Petitioners shall take appropriate step to notify the public that the subject property is privately owned and cannot be used for parking vehicles or operating businesses other than Petitioner's intended use.

IT IS FURTHER ORDERED that the terms and conditions of the Order issued in prior Case No. 03-527-SPHX on August 14, 2003 shall remain in full force and effect.

Any appeal of this Order shall be taken in accordance with Baltimore County Code,

Sections 32-3-401.

WJW:bjs

SECTION

WILLIAM J. WISHMAN, III

Zoning Commissioner for Baltimore County

Zoning Commissioner

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



Baltimore County

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

September 15, 2005

J. Neil Lanzi, Esquire 409 Washington Avenue, Suite 617 Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING

W/S Hanover Pike (MD Route 30), 150' N of the c/l Lees Mill Road

(16208 Hanover Pike)

4th Election District – 3rd Council District

William L. McAdams, Owner; Leisure Specialties, Inc., Contract Purchasers - Petitioners

Case No. 06-042-SPH

Dear Mr. Lanzi:

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

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

Very truly yours,

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

WJW:bjs

cc: Mr. William L. McAdams, 5495 Levering Avenue, Elkridge, MD 21075 Leisure Specialties, Inc., 5495 Levering Avenue, Elkridge, MD 21075 Mr. & Mrs. George Burnham, 132 Lees Mill Road, Hampstead, MD 21074 Mr. Bob Walker, 14625 Hanover Road, Upperco, Md. 21155 People's Counsel; Case File





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at	16208 Hanover Pike
which is	presently zoned RC2 and BL-CR

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

an extension of two (2) years pursuant to Section 502.3 of the BCZR for utilization of special exception and special hearing relief provided in Order of Zoning Commissioner dated August 14, 2003in Zoning Case 03-527-58HX

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

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

	IWe do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser/Lessee:	Legal Owner(s):
Leisure Specialties, Inc.	William I. McAdams
Name - Appe or Prior	Name - Type or Print
Signature Signature Signature Signature Signature Signature 410-796-4600	Signature
Address Telephone No. Elkridge MD 21075	Name - Type or Print
City State Zip Code	Signature 5495 Levering Avenue 410-796-4600
Attorney For Petitioner: J. Neil Lanzi	Address Elkridge MD 21075
Name/-Type or Print	City State Zip Code Representative to be Contacted:
Signature J. Neil Lanzi, P.A.	J. Neil Lanzi
Company 409 Washington Ave Ste 617 410-296-0686	Name 409 Washington Ave Ste 617 410-296-0686
Address Telephone No. Towson, MD 21204	Address Towson MD 21204
State Zip Code	City State Zip Code
	OFFICE USE ONLY
06-042-SPH	ESTIMATED LENGTH OF HEARING
Tage No. 63	UNAVAILABLE FOR HEARING
₽ & Rev	riewed By UNP per WCR Date 7/21/05
RES 115198	

A. L. Snyder
Surveyor, Inc.
1911 Hanover Pike
Hampstead, Maryland 21074

(410) 239-7744

(410) 374-9695 phone/fax

Zoning Description

Special Exception

16208 Hanover Pike

April 17, 2003

Beginning for the same at a point in the centerline of Hanover Pike (Maryland Route 30) which is 66 feet wide, at the distance of 306 feet +/- north of the centerline of Lee's Mill Road; thence running, the following five courses and distances,

- 1.) South 01 degrees 30 minutes 00 seconds West 160.51 feet,
- 2.) North 87 degrees 42 minutes 02 seconds West 190.24 feet,
- 3.) North 03 degrees 10 minutes 37 seconds East 155.64 feet,
- 4.) North 87 degrees 08 minutes 28 seconds East 30.00 feet,
- 5.) South 88 degrees 30 minutes 00 seconds East 155.75 feet to place of beginning.

Containing 0.6860 acres of land, more or less.

Being a part of that parcel of land conveyed by Elwood E. Swam to George W. Knouse and Margaret E. Eline by deed dated February 1, 1993 and recorded among the Land Records of Baltimore County, Maryland in Liber S.M. 9646 folio 012 etc., and being known as #16208 Hanover Pike in the Fourth Election District and the Third Councilmanic District.



A. L. Snyder
Surveyor, Inc.
1911 Hanover Pike
Hampstead, Maryland 21074

(410) 239-7744

(410) 374-9695 phone/fax

Zoning Description

Special Hearing

16208 Hanover Pike

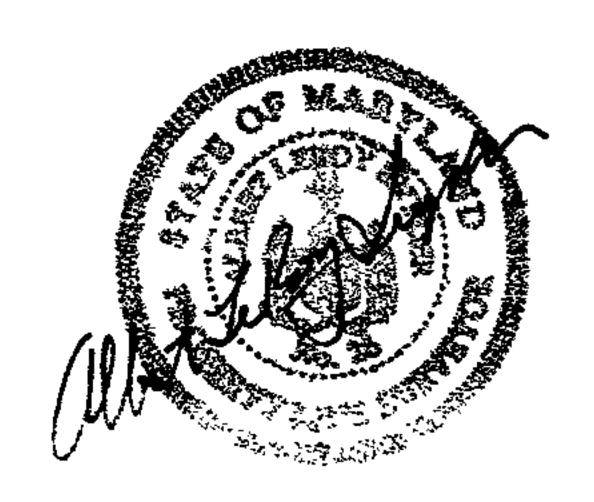
April 17, 2003

Beginning for the same at a point in the centerline of Hanover Pike (Maryland Route 30) which is 66 feet wide, at the distance of 306 feet +/- north of the centerline of Lee's Mill Road; thence running, the following four courses and distances,

- 1.) North 88 degrees 30 minutes 00 seconds West 155.75 feet,
- 2.) North 01 degrees 30 minutes 00 seconds East 115.67 feet,
- 3.) South 87 degrees 42 minutes 02 seconds East 155.77 feet,
- 4.) South 01 degrees 30 minutes 00 seconds West 113.49 feet to the place of beginning.

Containing 0.4097 acres of land, more or less.

Being a part of that parcel of land conveyed by Elwood E. Swam to George W. Knouse and Margaret E. Eline by deed dated February 1, 1993 and recorded among the Land Records of Baltimore County, Maryland in Liber S.M. 9646 folio 012 etc., and being known as #16208 Hanover Pike in the Fourth Election District and the Third Councilmanic District.



A. L. Snyder Surveyor, Inc. 1911 Hanover Pike Hampstead, Maryland 21074

(410) 239-7744

(410) 374-9695 phone/fax

Zoning Description

Entire Site

16208 Hanover Pike

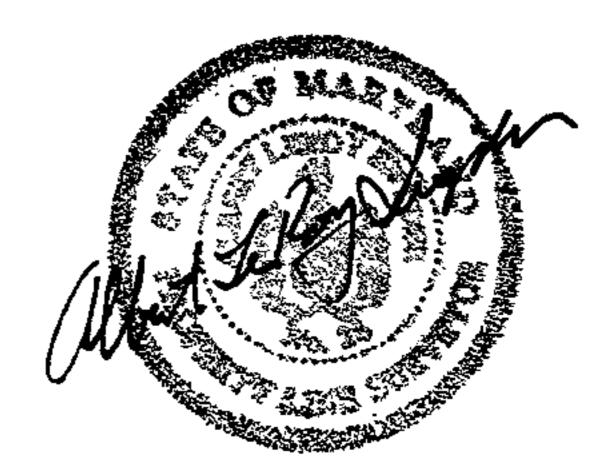
April 17, 2003

Beginning for the same at a point in the centerline of Hanover Pike (Maryland Route 30) which is 66 feet wide, at a distance of 145 feet +/- north of the centerline of Lee's Mill Road; thence running, the following six courses and distances,

- 1.) North 87 degrees 42 minutes 02 seconds West 190.24 feet,
- 2.) North 03 degrees 10 minutes 37 seconds East 155.64 feet,
- 3.) South 87 degrees 08 minutes 28 seconds West 276.88 feet,
- 4.) North 15 degrees 39 minutes 19 seconds East 167.78 feet,
- 5.) South 87 degrees 42 minutes 02 seconds East 420.75 feet,
- 6.) South 01 degrees 30 minutes 00 seconds West 294.00 feet to the place of beginning.

Containing 2.1402 acres of land, more or less.

Being a part of that parcel of land conveyed by Elwood E. Swam to George W. Knouse and Margaret E. Eline by deed dated February 1, 1993 and recorded among the Land Records of Baltimore County, Maryland in Liber S.M. 9646 folio 012 etc., and being know as #16208 Hanover Pike in the Fourth Election District and the Third Councilmanic District.



NOTICE OF ZONING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in <u>Towson</u>, <u>Maryland</u> on the property identified herein as follows: Case: #06-042-SPH 16208 Hanover Pike W/side of Hanover Pike, 145 feet north of Less Mill Road 4th Election District 3rd Councilmanic District Legal Owner(s): William L. **McAdams** Special Hearing: to allow for the extension of two years for utilization of spe-cial exception and special hearing relief provided in order of Zoning Commissioner dated August 14, 2005. Hearing: Friday, September 9, 2005 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204. WILLIAM J. WISEMAN, III Zoning Commissioner for Baltimore County NOTES: (1) Hearings are Handicapped Accessible; for special accommoda-tions 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.
8/260 Aug. 25 63939

CERTIFICATE OF PUBLICATION

<u>8/25 _,2005</u>
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 825,2005.
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
□ NE Booster/Reporter
☐ North County News
P/Welman_

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYL D OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT	No. 743227	DATE TO THE TABLE
DATE $\frac{7/21/05}{1}$ ACCOUNT $\frac{R}{2}$		TYCL/2005 1 2 . DOES JELLIAN TO SEE MSD2 MAIL JELA DET MAIL JELA DE MAIL JELA DET MAIL JELA DET MAIL JELA DE
RECEIVED J. Noil Lanzi, PA	15,00	R WO. 445277 Recot Tot 6525.06 \$325.00 Ok \$.00 A Baltimore County, Maryland
FOR: Scella (Hearing-16208	Hanover Pike	
DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER	L.McAdarus)	CASHIER'S VALIDATION

-<u>---</u>--

CERTIFICATE OF POSTING

RE: Case No.: 06-042-5PH Petitioner/Developer: WILLIAM L. MCADAMS Date of Hearing/Closing: SEPT 9, 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: 16208 HANOVER PIKE 8-25-05 The sign(s) were posted on (Month, Day, Year) Sincerely, (Signature of Sign Poster) **SSG Robert Black** (Print Name) 1508 Leslie Road (Address) Dundalk, Maryland 21222 (City, State, Zip Code) (410) 282-7940 (Telephone Number)

16208 HANOVER PIKE

RECEIVED

AUG 29 2005

DEAETOL WELL STATE

TO: PATUXENT PUBLISHING COMPANY

Thursday, August 25, 2005 Issue - Jeffersonian

Please forward billing to:

J. Neil Lanzi 409 Washington Avenue, Ste. 617 Towson, MD 21204

410-296-0686

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: 06-042-SPH

16208 Hanover Pike

W/side of Hanover Pike, 145 feet north of Less Mill Road

4th Election District – 3rd Councilmanic District

Legal Owners: William L. McAdams

Special Hearing to allow for the extension of two years for utilization of special exception and special hearing relief provided in order of Zoning Commissioner dated August 14, 2005.

Hearing: Friday, September 9, 2005 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

WILLIAM JWISEMAN III

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Department of Permits and Development Management

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



Baltimore County

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

August 1, 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: 06-042-SPH

16208 Hanover Pike

W/side of Hanover Pike, 145 feet north of Less Mill Road

4th Election District – 3rd Councilmanic District

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Hearing: Friday, September 9, 2005 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: J. Neil Lanzi, 409 Washington Avenue, Ste. 617, Towson 21204 William McAdams, 5495 Levering Avenue, Elkridge 21075 Leisure Specialties, 5495 Levering Avenue, Elkridge 21075

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, AUGUST 25, 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.



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

Note to Hearing File:

This Drop-Off Petition was submitted without complying with the Zoning Office policy procedures for accuracy and completeness as required and shown below:

FREQUENT FLYER ATTORNEYS DROP OFF ZONING PETITIONS POLICY PROCEDURES

The following zoning policy is related to the filing of zoning petitions and is aimed at expediting the petition filing process with this office:

- 1. The Director of the Office of Permits and Development Management (PDM) allows zoning attorneys who frequently file for zoning hearings and who are capable of filing petitions that comply with <u>all</u> technical aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of an appointment for review by zoning personnel.
- 2. Any attorney using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. In the event that the petition has not been filed correctly, there is the possibility that another hearing will be required or the zoning commissioner may deny the petition due to errors or incompleteness. All petitions filed in this manner will receive a cursory review and if necessary they will be commented on by zoning personnel prior to the hearing. A corrective memo by zoning review may be placed in the hearing file to be considered by the Hearing Officer.
- When a petition has been dropped off by the attorney, it will only be reviewed for very basic necessary input, logging, and distribution information.

Therefore, the attorney submitting this Drop-Off Petition is solely responsible for the accuracy and completeness of all information filed.

For Carl Richards

by:

Jeffrey Perlow, Planner II

Zoning Review

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is ubject 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: 06-042-SPH
Petitioner: William L. McAdams
Address or Location: 16208 Hanover Pite
PLEASE FORWARD ADVERTISING BILL TO:
Name: J. Neil Lauri, P.A.
Address: Mercantile Building
409 Washing ton Ave, Svite 6.17
Towson, MD 21204
Telephone Number: $410-296-0686$

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

August 29, 2005

J. Neil Lanzi 409 Washington Avenue, Ste. 617 Towson, Maryland 21204

Dear Mr. Lanzi:

RE: Case Number: 06-042-SPH, 16208 Hanover Pike

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 21, 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.

W. Calling yours, Calling Calling Control of the Calling of the Ca

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: db

Enclosures

c: People's Counsel
William L. McAdams 5495 Levering Avenue Elkridge 21075



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

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 August 2, 2005

Distribution Meeting of August 1, 2005

ATTENTION: Zoning Review Planners

Item No. 042

Pursuant to your request, the above referenced plan(s) have been reviewed by this Office 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.

If you have any questions contact my office.

Acting Lt. Warren T. Moffitt Fire Marshal's Office 410-887-4880 MS-1102F

Cc:file

Buy

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For August 8, 2005

Item Nos. 032, 033, 034, 035, 036, 038,

039, 040, 041, 042, 043,

DATE: August 8, 2005

RECEIVED

AUG 1 0 2005

ZONING COMMISSIONER

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

DAK:CEN:clw

cc: File

ZAC-NO COMMENTS-08082005.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

DATE: August 15, 2005 RECEIVED

AUG 2 2 2005

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

ZONING COMMISSIONER

Zoning Advisory Petition(s): Case(s) 6-042- Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request provided the conditions and relief granted in zoning case 03-527 be placed on the site plan.

For further questions or additional information concerning the matters stated herein, please contact Bill Hughey in the Office of Planning at 410-887-3480.

Division Chief:

CM/LL

RE: PETITION FOR SPECIAL HEARING

16208 Hanover Pike; W/side Hanover Pike,

145' N Lees Mill Road

4th Election & 3rd Councilmanic Districts

Legal Owner(s): William L. McAdams

Contract Purchaser(s): Leisure Specialties, Inc

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

*

BALTIMORE COUNTY

06-042-SPH

*

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO Deputy People's Counsel Old Courthouse, Room 47 400 Washington Avenue Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of August, 2005, a copy of the foregoing Entry of Appearance was mailed to J. Neil Lanzi, Esquire, 409 Washington Avenue, Suite 617, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

AUG 0 2 2005

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Case No.:	06-042	SPH

Exhibit Sheet

Petitioner/Developer

Protestant

	SITE PLAN	PHOTO'S OF PROPERTY AND TRESS PASSING USE
No. 2	6/10/05 CETTER Extention REQUEST	
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

PLEASE PRINT CLEARLY

CASE NAME CASE NUMBER DATE

CITIZEN'S SIGN-IN SHEET

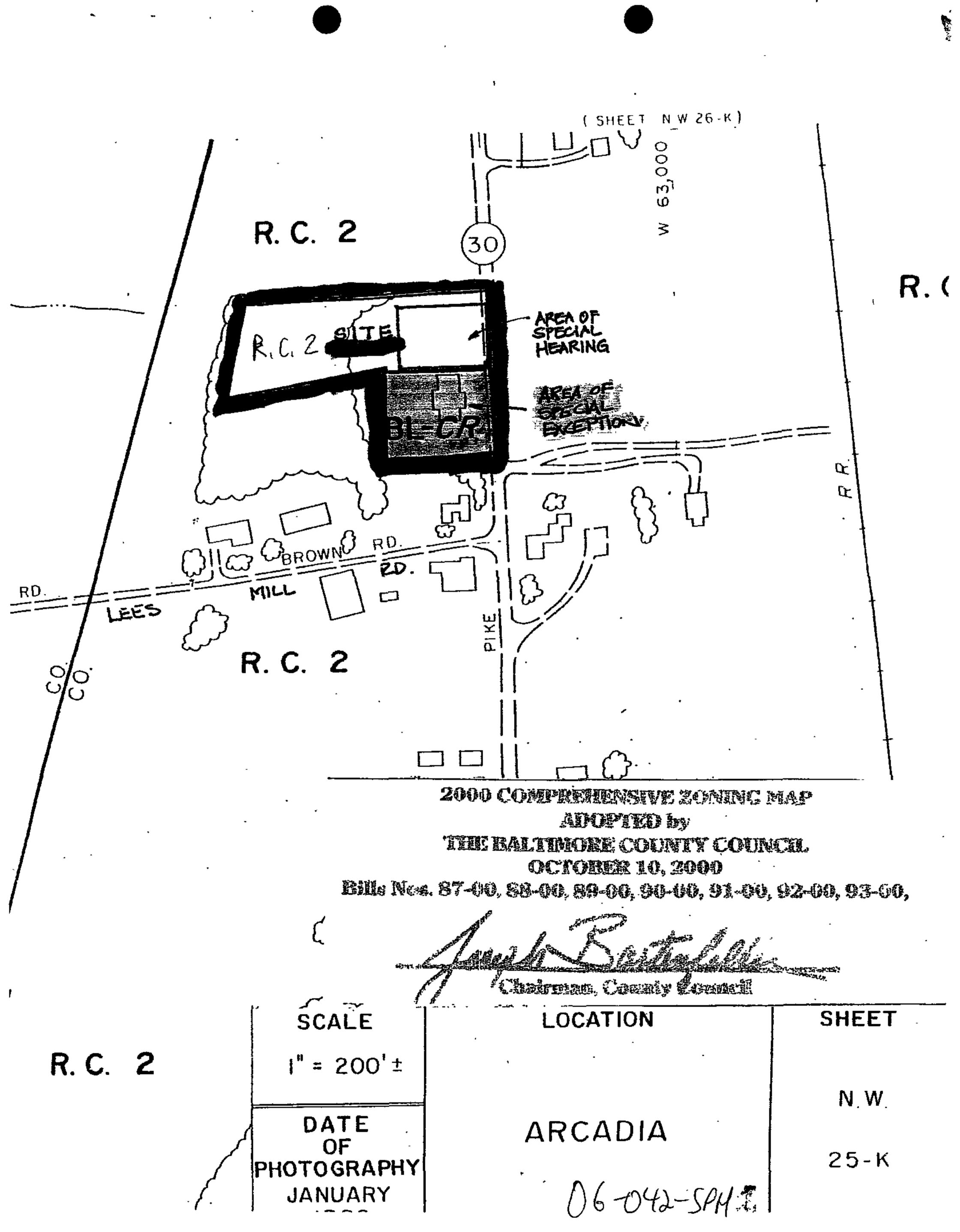
E- MAIL		1625@ ash com								
CITY, STATE, ZIP	Hamsgard Mel 21074	7								
ADDRESS	133 LESS Mill Agad	Hanaylea 6						•		
NAME	\$ 5 5	Bor Walker								

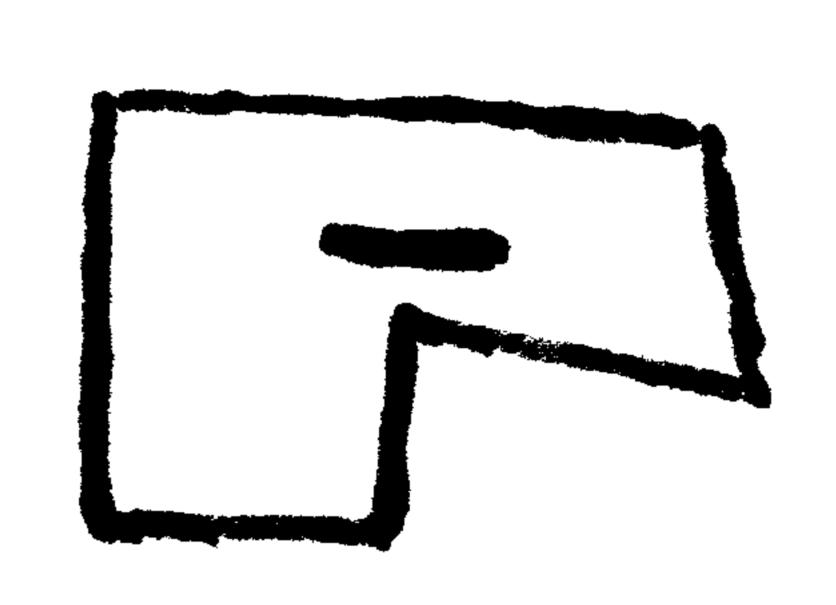
PLEASE PRINT CLEARLY

CASE NAME CASE NUMBER DATE

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Locat Berthuist	32100at (Cd	ر در	Dbattleste centurping, con
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J. Neil Lanzi

OF COUNSEL

Fred L. Coover*

June 10, 2005

Timothy M. Kotroco, Director Baltimore County Department of Permits and Development Management 111 West Chesapeake Avenue, Room 111 Towson, Maryland 21204

> Re: Leisure Specialties, Inc. - Contract Purchasers

> > Case No. 03-527-SPHX

16208 Hanover Pike Property

Dear Mr. Kotroco:

Please be advised that I represent Leisure Specialties, Inc., Contract Purchasers/Petitioners in the above referenced case. The purpose of this letter is to request an extension of time for the Petitioner to utilize its special exception for the property known as 16208 Hanover Pike.

By way of background, the Contract Purchaser along with the then Property Owner/Petitioner, filed for a Special Exception for a new home garden center building with a floor area ratio of .21 in lieu of the maximum allowed .20 and a Special Hearing to approve business parking in a residential zone. The property is split zoned with approximately 1.45 acres zoned RC2 and approximately .686 acres zoned BL-CR. The property is considered a single lot of record.

By order of the Zoning Commissioner dated August 14, 2003, the Petition for Special Hearing and Petition for Special Exception were both granted subject to seven conditions. In addition, the Maryland State Highway Administration had additional requirements including specific conditions be met in order for my client to obtain an access permit. I have enclosed a copy of the initial SHA Comment dated May 12, 2003 and the revised Comment dated February 25, 2004. Engineers for Leisure Specialties, Inc. have concluded extensive negotiations with the State Highway Administration and additional items need to be completed including, but not limited to, the widening of Hanover Pike near my client's property. The widening will require

PETITIONER'S

EXHIBIT NO.

Timothy M. Kotroco, Director June 10, 2005
Page Two

access agreements with one of the neighbors and it is anticipated the finalization of all of the requirements of SHA will require additional time.

Accordingly, as the two year special exception utilization period will end August 13, 2005, I hereby request on behalf of my client an extension of eighteen months pursuant to Section 502.3 of the BCZR which states in part "after a final order granting a Special Exception, the Zoning Commissioner, at any time prior to expiration of the period of time authorized for its utilization, may grant one or more extensions of such period, provided that a maximum time for utilization of the Special Exception is not thereby extended for a period of more than five years from the date of the final Order granting same."

I would respectfully request the extension be granted without the necessity for a hearing in light of the circumstances as outlined above.

Thank you very much for your consideration.

Very truly yours,

J. Neil Lanzi

cc: Leisure Specialties, Inc.

Robert G. Bathurst, P.E.

Date 8/19/03 William State By annual State State

IN RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION – W/S

Hanover Pike, (Md. Route 30), 150' N of

Lees Mill Road

(16208 Hanover Pike)

4th Election District

3rd Council District

George Knouse & Margaret Eline Petitioners * BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 03-527-SPHX

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Special Exception filed by the owners of the subject property, George W. Knouse and Margaret E. Eline, and the Contract Purchasers, Leisure Specialties, Inc., through their attorney, J. Neil Lanzi, Esquire. The Petitioners request a special hearing to approve business parking in a residential zone for an adjacent retail use, and a special exception for a new home garden center building with a floor area ratio of .21 in lieu of the maximum allowed .20, pursuant to Sections 259.3.B and 259.3.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Wendy McAdams, a principal of Leisure Specialties, Inc., co-Petitioners/Contract Purchasers; Roy Snyder, the Surveyor who prepared the site plan; and J. Neil Lanzi, Esquire, attorney for the Petitioners. Appearing as interested citizens/Protestants were Bob Walker and George Harmon, representatives of the Hanover Road Association, and George and Laurie Burnham, adjacent property owners.

The subject property is an irregular "L" shaped parcel located with frontage on the west side of Hanover Pike (Maryland Route 30), just north of Lees Mill Road in northwestern Baltimore County, a short distance from the Carroll County line. The property, although a single lot of record, is made up of two sections. One section is rectangular in shape, approximately 113' wide along Hanover Pike, and 420'deep; however, widens to nearly 168' across the rear property line.

This portion of the property contains approximately 1.454 acres and is zoned R.C.2. The other section of the property is square shaped and is 160' wide and 157' deep. It contains approximately 0.686 acres, zoned B.L.-C.R. Again, it is to be emphasized that this property is considered a single lot of record, although it is comprised of two different zoned parcels.

Ms. McAdams appeared and testified on behalf of Leisure Specialties, Inc., the contract purchasers of the subject property. She testified that Leisure Specialties is a home garden center, which is presently located in Elkridge, Maryland and proposes to relocate to the subject site. Ms. McAdams indicated that the subject site is ideal for the business for several reasons, including convenience, visibility, and the rural/residential nature of the locale. She testified that Leisure Specialties features "high end" products that are typically not available in big box stores such as Home Depot or Lowes. These items include plastic furniture, decking, railing, fencing and other decorative items for the home and garden. She indicated that store hours would be weekdays from 8:00 AM to 5:00 PM and one evening per week until 8:00 PM to allow those individuals who work during the day to visit the store. The business will also be open for limited hours on Saturday; however, will be closed on Sunday.

Testimony was also received from A. Leroy Snyder, the surveyor who prepared the site plan. He generally described the property including its split zoning and configuration as noted above. He opined that the proposed use would not be detrimental to the health, safety and general welfare of the locale and that the requirements for special exception relief under Section 502.1 of the B.C.Z.R. would be satisfied. He also indicated that a compatibility study was prepared and submitted by him to the Office of Planning, pursuant to Section 26-282 of the Baltimore County Code. This study concluded that the use of the subject property as proposed would not have a negative impact on the area and was compatible with the surrounding locale.

In this regard, the site is generally vacant at the present time. At one time, there was a commercial operation on the site; however, that has long since been abandoned. The property does feature a small shed-like building, which was visible in a number of photographs that were

submitted at the hearing. Additionally, there appears to be a crusher run parking area immediately adjacent to Hanover Pike.

As shown on the site plan, the Petitioners propose the construction of the home center building entirely on the B.L.-C.R. zoned portion of the property. The building will be 85' wide by 75' deep and will not exceed a height of 22 feet. Floor plans of the proposed building were also submitted at the hearing (see Exhibits 3A and 3B), as well as architectural elevation drawings (Exhibits 4A and 4B). The building appears to be an attractively designed commercial structure. In addition to the building, the Petitioners propose the construction of a macadam parking area for up to 12 vehicles along the front portion of the adjacent parcel, which is zoned R.C.2. This has necessitated the special hearing request.

Under the B.C.Z.R., the proposed business is considered a "garden center." Under Section 101 of the B.C.Z.R., a garden center is defined as "A place of business where garden related products, horticultural materials, or produce are sold to the retail customer. A garden center may include a nursery or controlled environmental structures." Section 230.9 of the B.C.Z.R. permits garden centers as uses by right in the B.L. zone. Thus, it need be emphasized that the proposed use is permitted within this zone. The need for the special exception relief is generated by the floor area ratio requirement set out in the C.R. district. The proposed building is located in that portion of the property zoned B.L. (business-local), which permits the proposed use as of right; however, the parcel is overlaid with the C.R. (commercial-rural) district. The C.R. district is frequently applied to commercial sites within rural areas of the County. The regulations for such districts are found within Section 259 of the B.C.Z.R. Pursuant to Section 259.3.C.1.b thereof, buildings in the C.R. district are limited to a floor area ratio of no greater than .20. Floor area ratio is defined in Section 101 of the B.C.Z.R. as "The total adjusted gross floor area of buildings on a site, divided by the gross area of the site." The floor area ratio for the proposed building is .21, minimally larger than the maximum allowed ratio of .20. If the building were slightly smaller, special exception approval would not be necessary. In this regard, the Petitioners testified regarding the size and use of the building and the proposed floor plan. It was indicated

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that a 75' x 85' building was necessary for the proposed use and that a reduction in size would inappropriately limit the business operation proposed by Leisure Specialties.

The Petition for Special Hearing seeks approval of business parking in a residential zone. The term "Residential zone" is also defined in Section 101, and includes the R.C. zone. Thus, business parking may be approved in an R.C. zone, pursuant to the criteria set forth in Section 409 of the B.C.Z.R. It is to be emphasized that the property is split zoned and that the proposed parking area is on the same lot of record as the home garden center. It is also to be noted that the property owners previously obtained zoning relief under Case No. 97-156-SPHA to allow parking in the residentially zoned portion of the site. Although approved by then Deputy Zoning Commissioner Timothy M. Kotroco, the Office of People's Counsel appealed that decision to the Board of Appeals, whereupon the Petitioners withdrew their request thereby forfeiting the relief, and their Petition was dismissed.

Based upon the testimony and evidence offered, I am persuaded to grant the special exception relief. It is clear that the proposed use will not be detrimental to the health safety and general welfare of the locale and satisfies the criteria set out in Section 502.1 of the B.C.Z.R. I am likewise persuaded to grant the special hearing relief. The fact that the parking lot will occupy a modestly sized area of the R.C.2 zoned parcel and be clustered in the front portion of the site immediately adjacent to Hanover Pike is persuasive. Moreover, the lot will not extend further towards the rear of the proposed building. Thus, I am persuaded to grant the requested relief. However, in so doing, I shall impose certain conditions to minimize any impacts the proposed use may have on adjacent properties.

The Zoning Commissioner is empowered to impose restrictions upon the grant of any relief. Pursuant to Section 502.2 of the B.C.Z.R., conditions or restrictions may be imposed for the protection of the surrounding and neighboring properties. A number of restrictions are appropriate here, particularly given the concerns expressed by the Protestants. First, the building shall be constructed substantially in accordance with the elevation drawings submitted at the hearing and approved by the Office of Planning as part of the compatibility study. The building shall not

exceed a height of 22 feet and shall be no larger than 75' x 85' in dimension. Additionally, the architectural design and materials used for the building shall be reviewed and approved by the Office of Planning for compatibility with the surrounding locale. Secondly, the Petitioners shall landscape the property as shown on the site plan and in accordance with the landscape plan to be approved by Mr. Avery Harden, the County's Landscape Architect. The site plan shows significant landscaping and buffering are proposed along the side and rear property lines of that portion of the property zoned B.L.-C.R. This landscaping will buffer both the proposed building and parking area from the Burnham residence and other residences to the south. Third, the Protestants expressed legitimate concerns regarding storm water runoff. The case file does not contain any Zoning Advisory Committee (ZAC) from the Department of Environmental Protection and Resource Management (DEPRM) regarding this proposal. Thus, prior to the issuance of any building permits, the Petitioners shall submit a storm water management plan to DEPRM for review and approval. Said plan will provide that storm water runoff from the proposed building and parking lot will not be inappropriately discharged onto adjacent properties.

Fourth, the Protestants raised certain issues regarding traffic and parking on the property. I appreciate that traffic levels on Hanover Pike have risen dramatically in recent years. Obviously, it is clear that much of the increase in traffic is due to commuters from Carroll County. However, in my judgment, the additional traffic that may be generated by the subject proposal will be relatively minimal when compared with existing traffic volumes in the area. I am also appreciative of the Protestants' concerns regarding overnight truck parking on the site and will restrict truck parking to the one Isuzu truck that is presently used for delivery purposes. There shall be no tractor-trailers or large trucks parked on the site overnight. Fifth, there will be no exterior dumpsters on the site and no outdoor display of items on either a temporary or permanent basis. Lastly, signage on the property shall be limited to one sign, 3' x 1.5' in dimension, mounted on a 5' high pole, as shown on the site plan.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth herein, the relief requested shall be granted, subject to the terms and conditions set forth below.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this ______ day of August, 2003 that the Petition for Special Hearing to approve business parking in a residential zone for an adjacent retail use, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to permit a new home garden center building on the subject property with a floor area ratio of .21 in lieu of the maximum allowed .20, pursuant to Sections 259.3.B and 259.3.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The proposed building shall be constructed substantially in accordance with the elevation drawings reviewed and approved by the Office of Planning and submitted into evidence as Petitioner's Exhibits 3A & 3B. The building shall be no greater in height than 22 feet and no larger in dimension than 75' x 85'. The architectural design and materials used for the building shall also be reviewed and approved by the Office of Planning for compatibility with the surrounding locale.
- 3) The Petitioner shall landscape the site in accordance with the landscape plan reviewed and approved by the Landscape Architect.
- 4) Prior to the issuance of any building permits, the Petitioners shall submit a storm water management plan for review and approval by the Department of Environmental Protection and Resource Management.
- 5) There shall be no tractor-trailers or large trucks parked on the site overnight. Moreover, there shall be no outdoor display of items for sale on either a temporary or permanent basis, and no exterior dumpsters on the site.

ORDER RECEWED FOR FILIN By Sylvage May Sylvage Sylvage

6) Signage on the subject property shall be limited to one sign, 3' x 1.5' in dimension, mounted on a 5' high pole, as shown on the site plan.

7) When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

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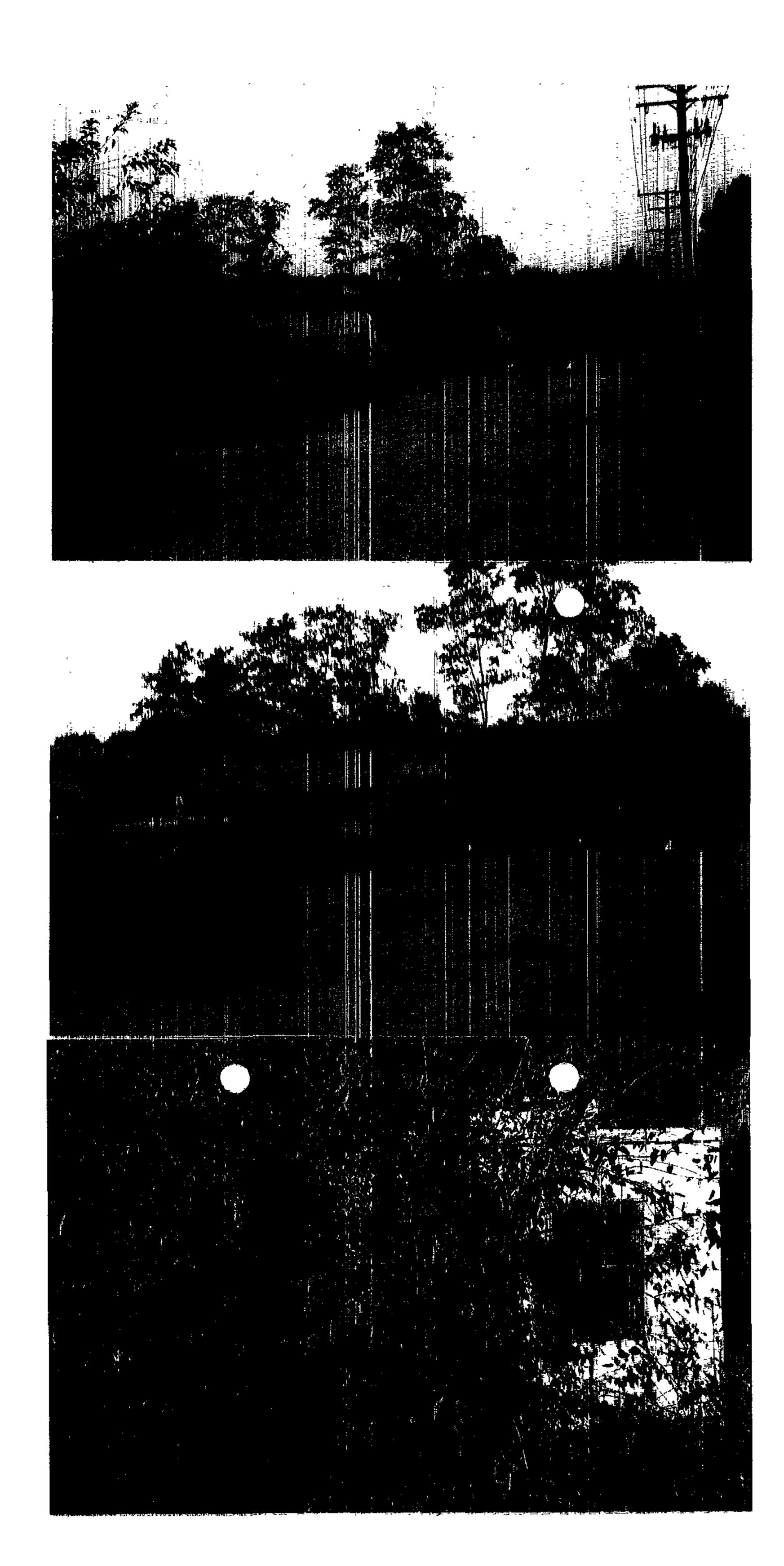
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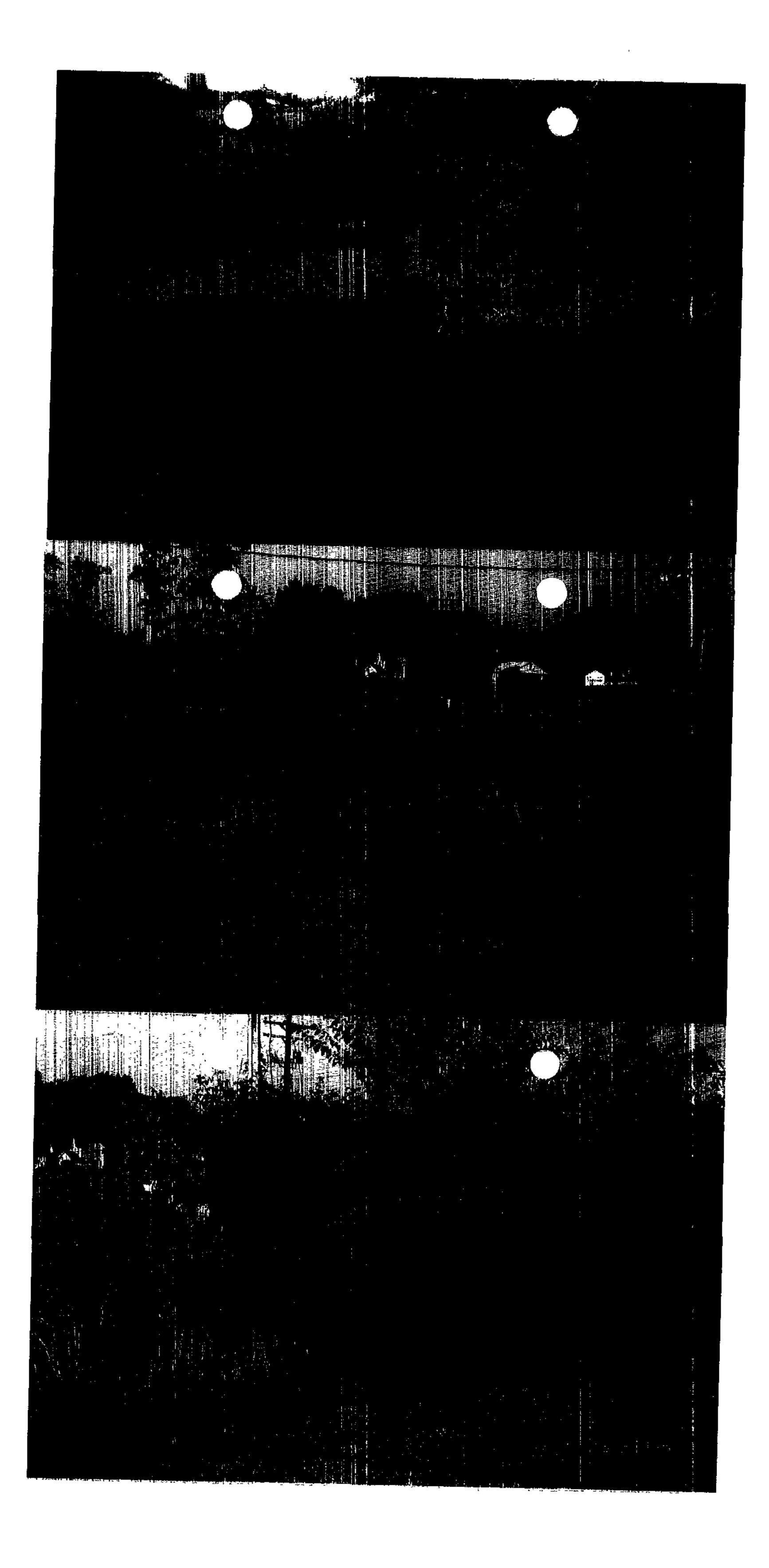
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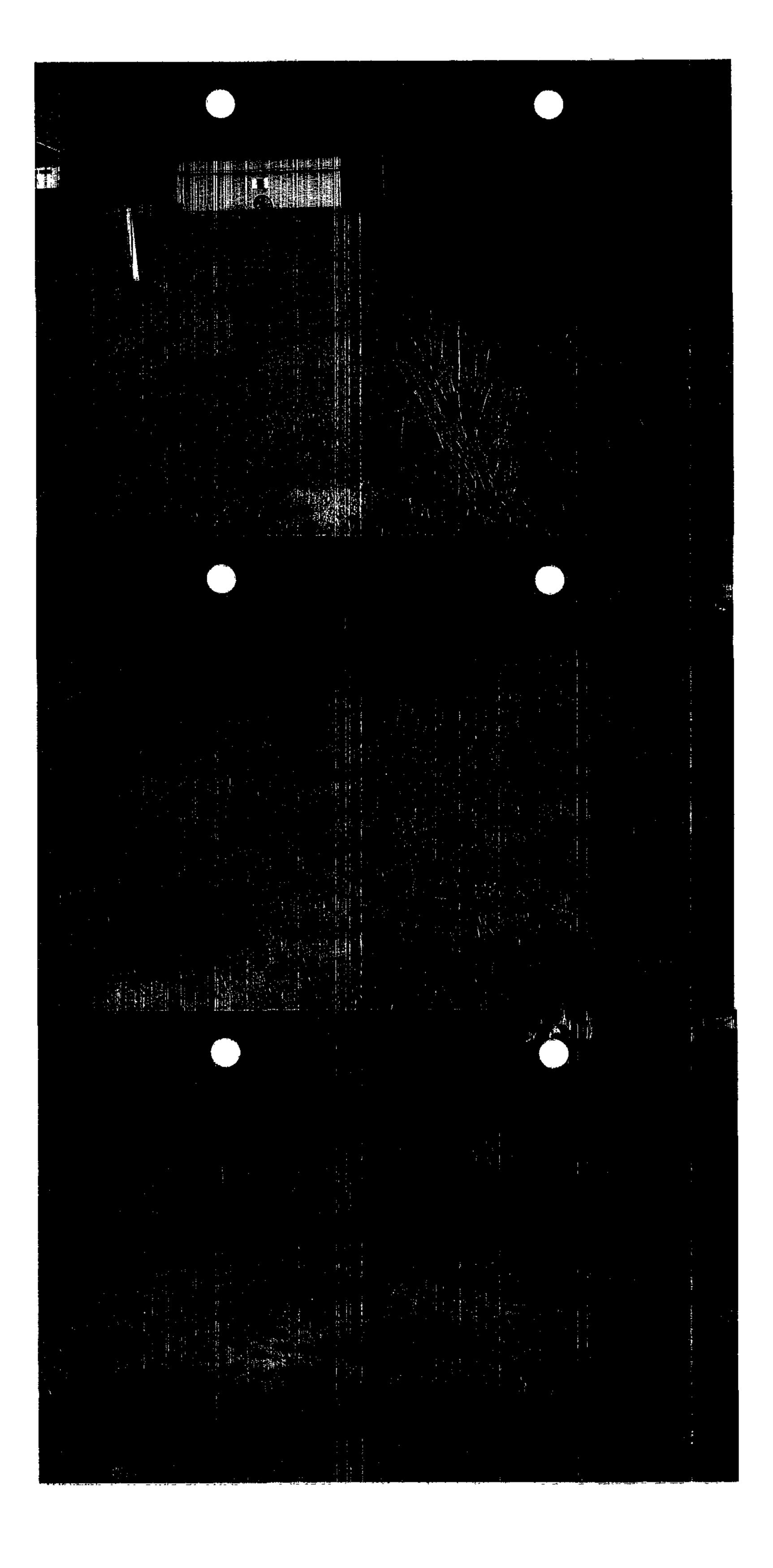
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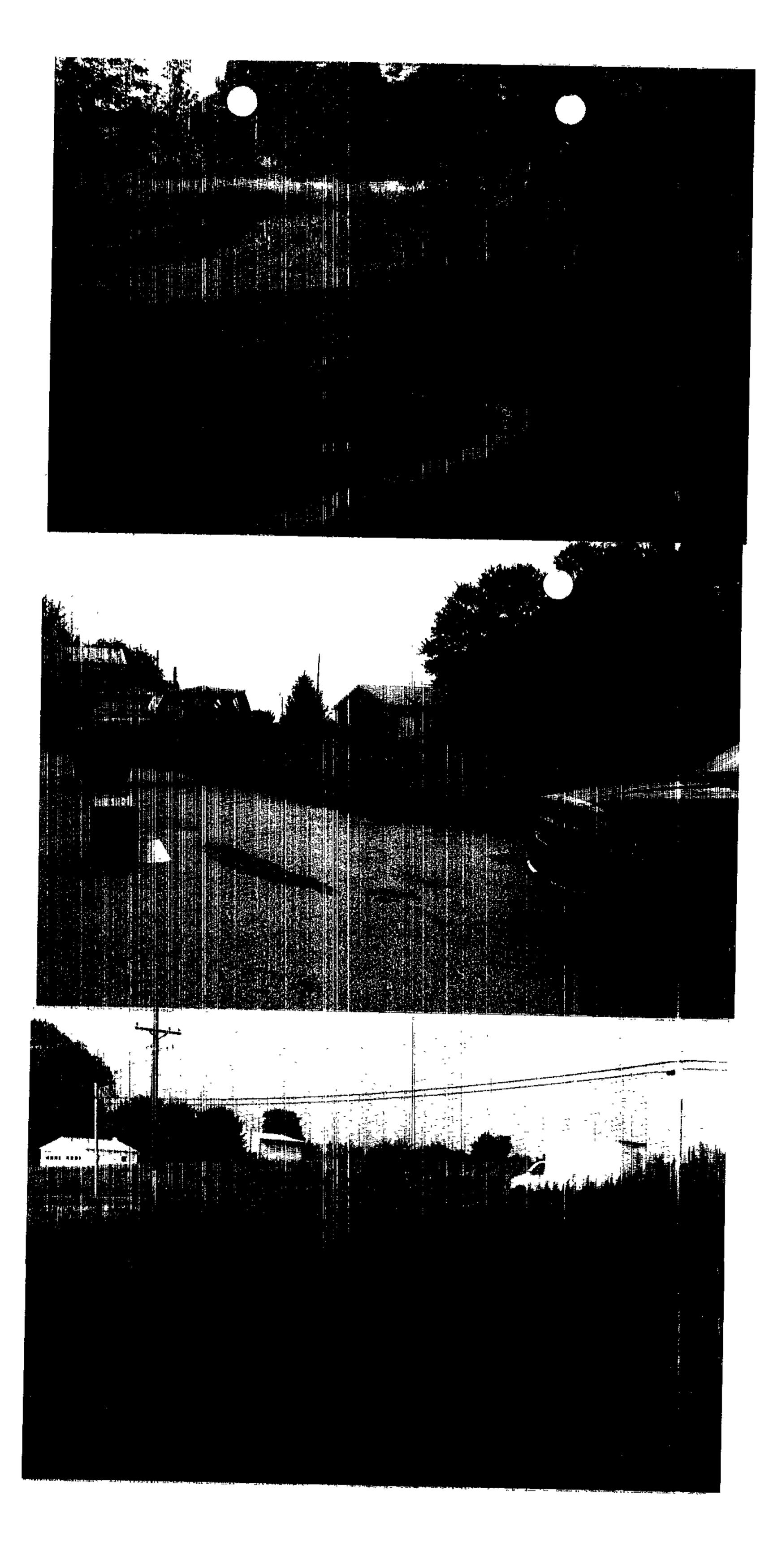
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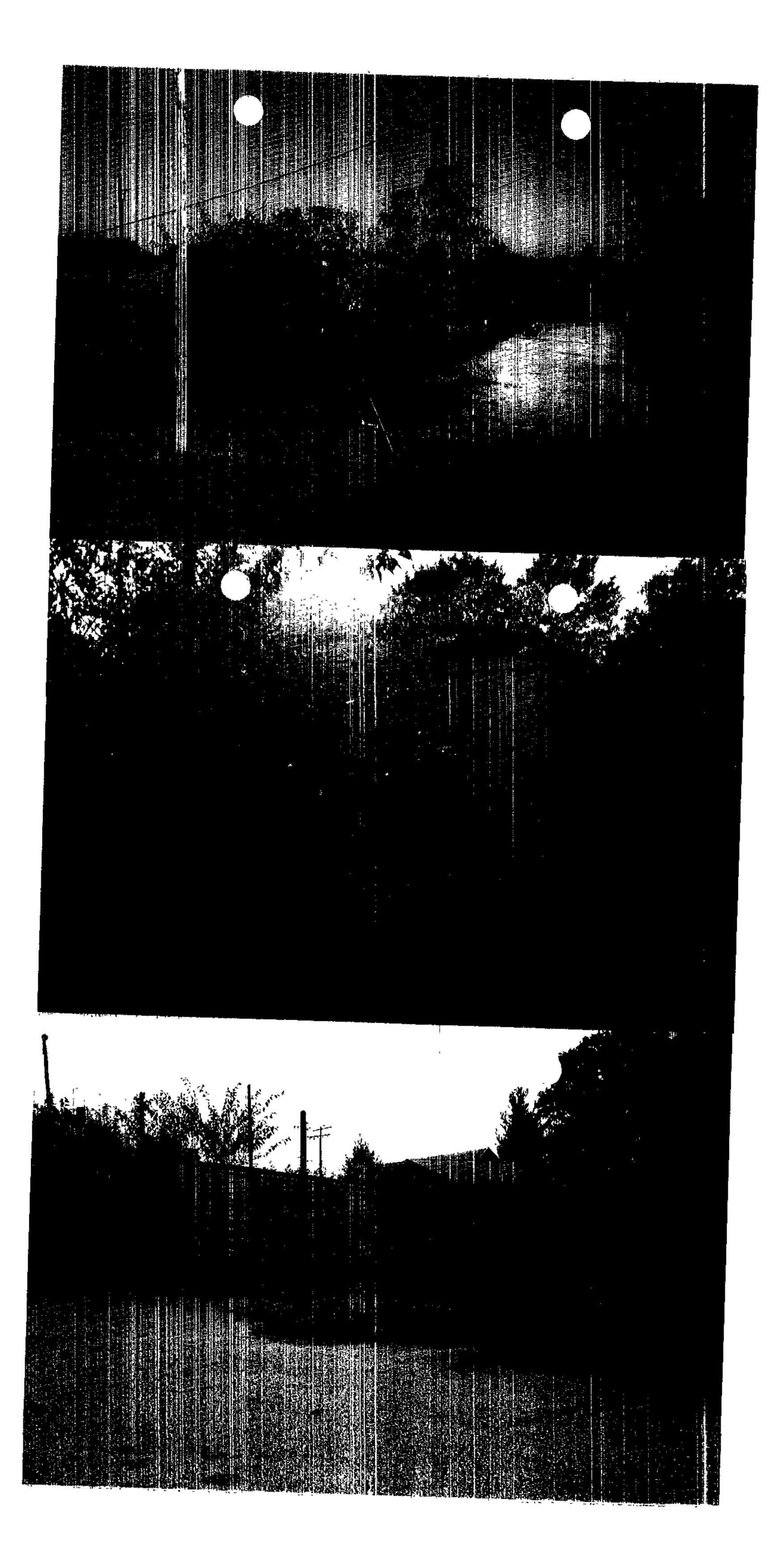
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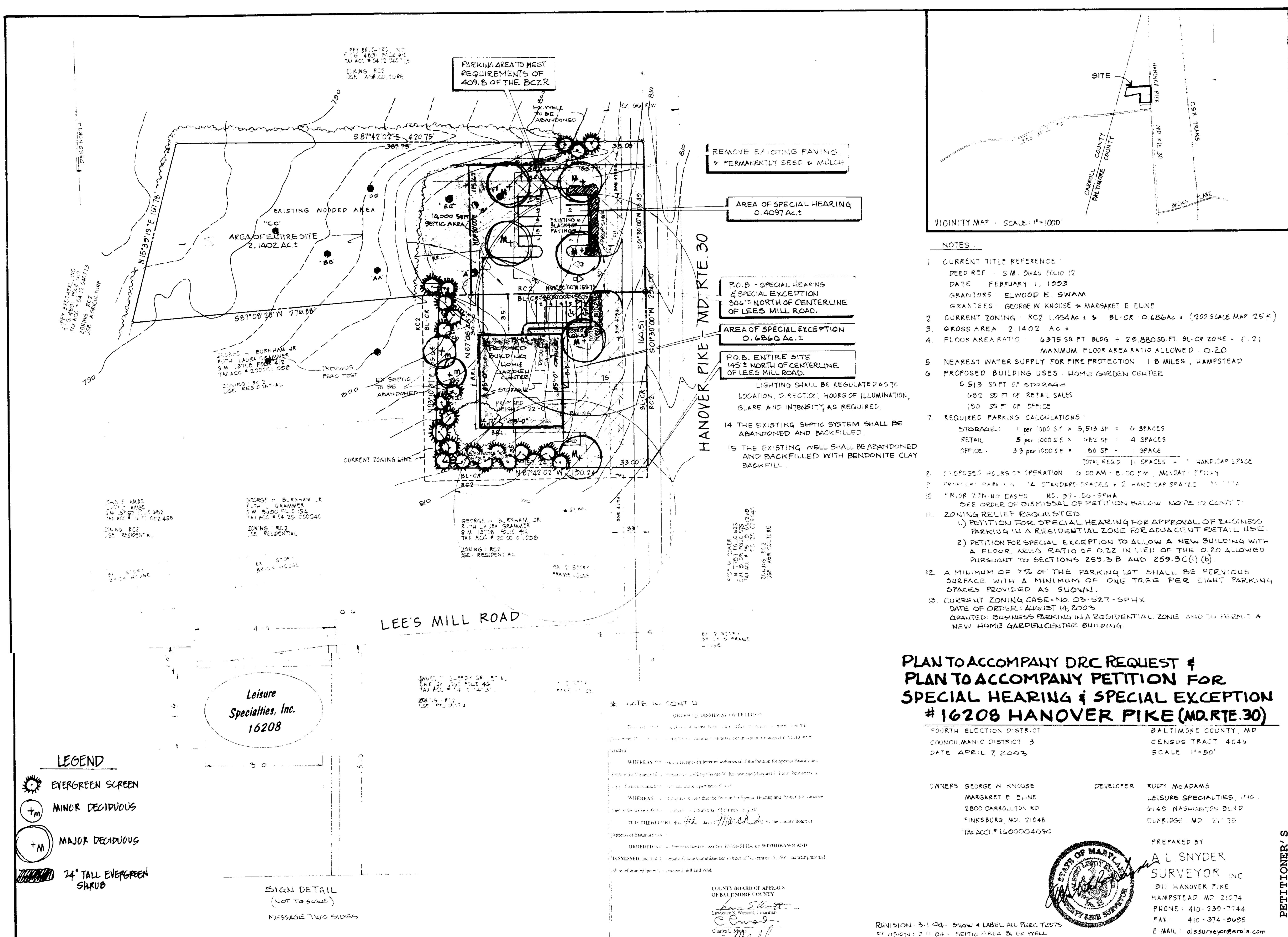












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REVISION 2304 - SEPTIC AREA & WELL SITE

KEVISION: 10.29.03 - DRC REQUEST