

IN RE: PETITION FOR SPECIAL HEARING

S/S Murdock Road, 120' E of the c/l

York Road

(505 Murdock Road)

9th Election District

5th Council District

Guy W. Bonner & Dellie S. James Petitioners

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 06-175-SPH

F

ORDER OF DISMISSAL

WHEREAS, this matter came before this Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Guy W. Bonner and Dellie S. James, seeking approval of the two-apartment dwelling on the subject property as a nonconforming use.

Although a public hearing was scheduled on the matter for Monday, November 14, 2005, no one appeared. Moreover, a review of the case file disclosed that the property was not properly posted. Thus, by letter of November 15, 2005, I advised the Petitioners to contact the Department of Permits and Development Management should they wish to pursue the matter. By letter dated December 30, 2005, the Petitioners requested a withdrawal of the Petition.

NOW, THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of January 2006 that the Petition for Special Hearing seeking approval of the two-apartment dwelling on the subject property as a legal, nonconforming use, be and the same is hereby DISMISSED without prejudice.

WILLIAM JASEMAN, III

Zoning Commissioner for Baltimore County

WJW:bis

cc: Mr. Guy W. Bonner & Ms. Dellie S. James

505 Murdock Road, Baltimore, Maryland 21212

Mr. James W. Dobson, 510 Murdock Road, Baltimore, Md. 21212 Code Enforcement Division, DPDM; People's Counsel; Case File

ANDER HECEWED FOR FILING



REV 9/15/98

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

Reviewed By BR Date 9/22/05

which is presently zoned DR 5.5

This Petition shall be owner(s) of the propert made a part hereof, he County, to determine w	ereby petition for	nore County and wr r a Special Hearing	NCN is described in the	nt Management. The description and plat at of the Zoning Regular	
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Property is to be posted I, or we, agree to pay expensions zoning regulations and res	enses of above 55	ecisi Heanna advedi	sing poeting ato and fi	irther agree to and are to v for Baltimore County.	be bounded by the
			I/We do solemnly perjury, that I/we a is the subject of the	declare and affirm, under the legal owner(s) of the legal owner(s) of the legal owner(s) are the legal owner(s).	the penalties of e property which
Contract Purchaser/	<u>Lessee:</u>		Legal Owner(s	次 (
Name - Type or Print			Name - Type or Print	Sidnes	
Signature			Signature	BONNER	<u> </u>
Address		Telephone No.	Name - Type or Print	W. 12	· · · · · · · · · · · · · · · · · · ·
Attorney For Petition	State	Zip Code	Signature 505	hurdock Rd	······································
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lame - Type or Print			City	State	Zip Code
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ompany		<u> </u>	Name	——————————————————————————————————————	
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ity	State	Zip Code	City	State	Zip Code
			<u>C</u>	FFICE USE ONLY	
1			ESTIMATED LE	NGTH OF HEARING	
ase No. 06-17	5-38H		UNAVAILABLE	FOR HEARING	

for the property located at

To approve the non-conforming use of a single-family dwelling as two apartments.

ZONING DESCRIPTION

Zoning Description For 505 Murdock Road

Beginning at a point on the South side of Murdock Road, which is 50 feet wide at a distance of 120 feet east of the centerline of the nearest improved intersecting street York Road which is 66 feet wide. Being Lots #5 & 6, Section F in the subdivision known as Anneslie as recorded in Baltimore County Plat Book #7, Folio# 40, containing 6,250 square feet. Also known as 505 Murdock Road and located in the 9th Election District, 5th Councilmanic District.

MOTICE OF ZOMING

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: #06-175-SPH
505 Murdock Road
S/side of Murdock Road,
120 feet east of centerline
of Joppa Road
9th Election District
5th Councilmanic District
Legal Owner(s)
Dellie S. James &
Guy W. Bonner
Special Hearing: to approve the non-conforming
use of a single family
dwelling as two
apartments.
Hearing: Wednesday, Janmary 11, 2006 at 2:00 p.m.
In Room 407, County
Courts Building, 401
Bostey Avenue, Towson
21204

WILLIAM J. WISEMAN, 111
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.

fice at (410) 887-4386.

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

JT/12/733 Dec. 27 79201

CERTIFICATE OF PUBLICATION

12 29,20,05
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 12 , 20 .
The Jeffersonian Arbutus Times
Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News
J. WILLIAMS TO THE STATE OF THE
LEGAL ADVERTISING

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Case: #06-175-SPH
505 Murdock Road
S/side of Murdock Road,
120 feet east of centerline
of Joppa Road
9th Election District
5th Councilmanic District
Legal Owner(s): Dellie S.
James & Guy W. Bonner

Special Hearing: to approve the non-conforming use of a single family dwelling as two apartments.

Hearing: Monday, November 14, 2005 at 10:00 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

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(2) For information concerning the File and/or Hearing, Contact the Zon-ing Review Office at (410) 887-3391... 72672

CERTIFICATE OF PUBLICATION

1027,2005
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 1027 _,2005.
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
□ NE Booster/Reporter
☐ North County News
S. Wilking.

LEGAL ADVERTISING

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Department of Permits 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

October 13, 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: 06-175-SPH

505 Murdock Road

S/side of Murdock Road, 120 feet east of centerline of Joppa Road 9th Election District – 5th Councilmanic District

Legal Owners: Dellie S. James & Guy W. Bonner

Special Hearing to approve the non-conforming use of a single family dwelling as two apartments.

Hearing: Monday, November 14, 2005 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: Dellie James/Guy Bonner, 505 Murdock Road, Baltimore 21212

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, OCTOBER 29, 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

TO: PATUXENT PUBLISHING COMPANY

Thursday, October 27, 2005 Issue - Jeffersonian

Please forward billing to:

Dellie S. James 505 Murdock Road Baltimore, MD 21212 410-377-3395

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WILLIAM J WISEMAN III

ZONING COMMISSIONER FOR BALTIMORE COUNTY

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DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:
Item Number or Case Number: 06-175-58H Petitioner: Dellie S. James + Gay Wm. Bonner Address or Location: 505 Mundock Rd Baltume WD 21212
PLEASE FORWARD ADVERTISING BILL TO: Name:
Telephone Number: 410-377-3395

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

December 8, 2005

NEW 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: 06-175-SPH

505 Murdock Road

S/side of Murdock Road, 120 feet east of centerline of Joppa Road

9th Election District – 5th Councilmanic District

Legal Owners: Dellie S. James & Guy W. Bonner

Special Hearing to approve the non-conforming use of a single family dwelling as two apartments.

Hearing: Wednesday, January 11, 2006 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: Dellie James/Guy Bonner, 505 Murdock Road, Baltimore 21212

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, DECEMBER 27, 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

TO: PATUXENT PUBLISHING COMPANY
Tuesday, December 27, 2005 Issue - Jeffersonian

Please forward billing to:

Dellie S. James 505 Murdock Road Baltimore, MD 21212

410-377-3395

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WILLIAM J WISEMAN III

ZONING COMMISSIONER FOR BALTIMORE COUNTY

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Department of Permits Development Management

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





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

January 9, 2006

Dellie S. James Guy W. Bonner 505 Murdock Road Baltimore, Maryland 21212

Dear Ms. James and Mr. Bonner:

RE: Case Number: 06-175-SPH, 505 Murdock Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 22, 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. Callilally

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel



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

Department of Permit Development Management

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





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

November 14, 2005

Dellie S. James Guy W. Bonner 505 Murdock Road Baltimore, Maryland 21212

Dear Ms. James and Mr. Bonner:

RE: Case Number: 06-175-SPH, 505 Murdock Road

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

Very truly yours,
U. Call Richall

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel



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



DATE: October 20 2005 _

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

505 Murdock Road

INFORMATION:

Item Number:

6-175

Petitioner:

Dellie S. James

Zoning:

DR 5.5

Requested Action:

Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request. However is of the position that the following items need to be addressed prior to Zoning Commissioner's approval:

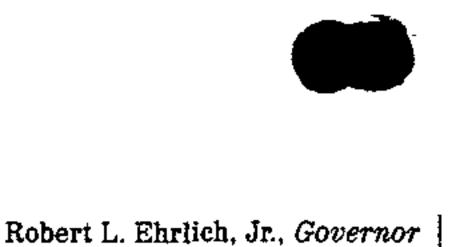
- 1. Submit proof to the Zoning Commissioner that the subject property has generated rental income from each of the non-conforming apartments continuously for one calendar year.
- 2. The department of Permits and Development Management, Code Enforcement Division shall conduct a survey of the subject property to determine if the dwellings meet current County standards for public health and safety.

For further information concerning the matters stated here in, please contact Kevin Gambrill at 410-887-3480.

Prepared by:

Division Chief: AFK/LL: CM

W:\DEVREV\ZAC\6-175.doc



Michael S. Steele, Lt. Governor



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

Maryland Department of Transportation

Date: 10-4.05

Baltimore County

Item No. 175 BPR

RE:

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

Dear. Ms. Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Steven D. Foster, Chief

1.1. Indle

Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: October 19, 2005

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For October IV, 2005

Item No. 175

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

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

DAK:CEN:clw

cc: File

ZAC-ITEM NO 175-10192005.doc



INTER-OFFICE CORRESPONDENCE

DATE: October 20, 2005

TO: Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM: Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT: 505 Murdock Road

INFORMATIO

Item Number:

Petitioner:

Dellie S. James

Zoning: DR 5.5

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request. However is of the position that the following items need to be addressed prior to Zoning Commissioner's approval:

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For further information concerning the matters stated here in, please contact Kevin Gambrill at 410-887-3480.

Prepared by:

Division Chief: AFK/LL: CM

DATE:

October 19, 2005

TO:

W. Carl Richards, Jr.

Zoning Review Supervisor

FROM:

Rick Wisnom, Chief

Division of Code Inspections & Enforcement

SUBJECT:

Item No.: 175

Legal Owner/Petitioner: Dellie S. James and Guy W. Bonner

Contract Purchaser:

Property Address: 505 Murdock Road

Location Description: South side of Murdock Road, 120 feet east centerline Joppa Road

VIOLATION INFORMATION:

Case No.: 05-7261

Defendants: Guy Bonner and Dellie S. James

Please be advised that the aforementioned petition is the subject of an active violation case.

When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:

Anneslie Community Association 702 Dunkirk Road Baltimore, MD 21212

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Complaint letter

Complaint Intake Form

State Tax Assessment printout

Correction Notice/Code Violation Notice

Other: Petition for Special Hearing and Petition for Non-Conforming Use

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Lisa Henson in Room 213 in order that the appropriate action may be taken relative to the violation case.

RSW/

c: Leonard Wasilewski

HAX

DATE: 8/8/05
TO: Jin Thompson (Suforcent) 887-2824

FROM: Jim DOBSOH 410-340-3504

NUMBER OF PAGES INCLUDING COVER: 4

COMMENTS:

Jim :

Enclosed is the Complaint Fram Mursslie Assoc. Des well as the listing of the property on 505 murpock Rd. I have · Addressed it to Tim Kotraco As you Réquesdes.

IF you have suy grusstions, phase FREE FOR COLL ME OR SALL BRAGUSE.

Thanks.

Tim Dokson

Result 1 of 1.

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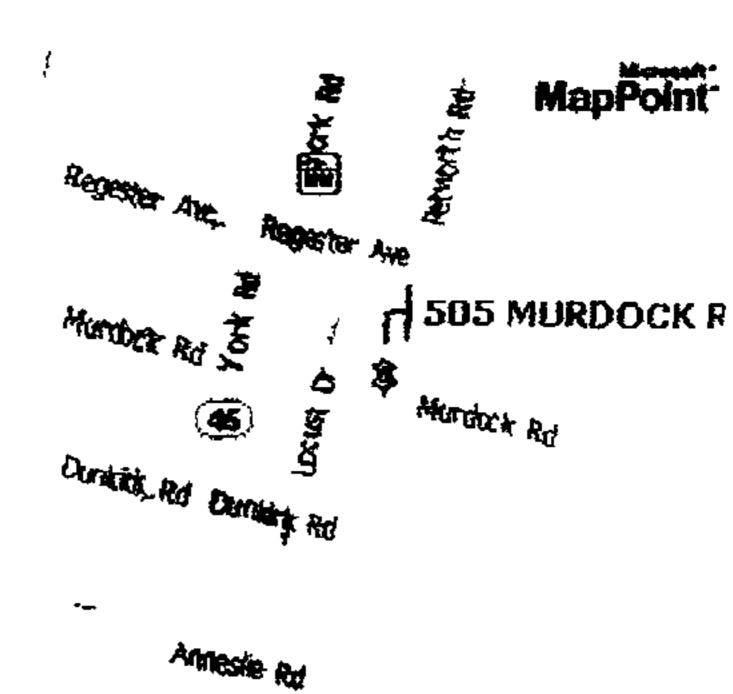
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Metropolitan Regional Information Systems, Inc.

BC5328763 - BALTIMORE 505 MURDOCK RD, BALTIMORE, MD 21212-0000

Customer Synopsis Residential





62005 Moreset Corp 62004 NAVEQ and for GDT, the ...

Ownership: Fee Simple, Sale

Adv Subdivision: Anneslie Leg Subdivision: ANNESLIE

Condo/Coop Proj Name: Year Built: 1929

Total Taxes: \$1,957 Style: Colonial

Status: ACTIVE

List Price: \$389,900 **Ground Rent:** #Lvis/Fpis: 4/2

Model: Map Coord: 27D11

Tax Year: 2004 HOA Fee: \$.00/mo pd None

Type: Detached C/C Fee: /mo pd

	Total	Main	Upper 1	Upper 2	Lower 1	Lower 2	Schools		
BR:	フ	3	3	1	0	0	ES:		
FB:	3	1	1	1	0	0	MS:		
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Bedroo	om - 4t	:h	Upp	er 1	12x 11	0	ther 1	Upper 2	20x
Bedroo	om - 5t	:h	Upp	er 1	11x 11	0	ther 2	Upper 1	14x
Living	Room		Mai	מ	17x 12	_	ther 3	Upper 1	16x
Dining	Room		Mai	ń	16x 14	_	arage	oppo. 7	X
Kitchei	n				×		arport		x
Breakf	ast Roc	ា			x		nfinished Baseme	ant	•
Family	Room				X	·		7116	×

PROPERTY INFORMATION:

Lot AC/SF: .140 / 6098 Exterior: Porch-front Exterior Const: Other Other Structures:

Total Fin Sq/Ft: Exposure: Roofing: Slate

Lot Desc:

Basement: Yes, Full, Partially Finished, Space For Rooms

Parking: Drvwy/Off Str #Gar/Crpt/Assgd: //

HEATING/COOLING/WATER:

Heat System: Radiator Heat Fuel: Natural Gas Water: Public Hot Water: Natural Gas Cool System: Ceiling Fan(s), Window Unit(s) Cool Fuel: Electric

Sewer/Septic: Public Sewer Soil:

Appliances: Oven/Range-Gas, Refrigerator

Amenities: Drapery Rods, Entry Lvi BR, Tub-Soaking, Washer/Dryer Hookup, Wood Floors

Community Fee Includes: Community Amenities:

Internet Remarks: Great investment opprtunity (3 units, w/3 meters) or home. 2 huge covered porches, one screened, original hardwoods throughout. Sold as-is, any inspection for buyers information only. Price based on as-is sale. Contact listing office for additional detalls, original construction drawings, schedule appointments, etc. Check out additional photos. 1 hour notice!

Directions: Northern Parkway To York Rd North To Right On Murdock...House On Right

List Date: 26-Jul-2005 DOM-MLS: 2 **DOM-Prop:** 2

Listing Company: The Sterling Brokerage, LLC



Tim Kotroco, Director Permits & Development Management County Office Building, Suite 105 111 Chesapeake Avenue Towson, Maryland 21204

410377<u>83?</u>2

August 4, 2005

Dear Director Kotroco:

A house in our neighborhood is for sale at 505 Murdock Road. At present, the house is set up as several apartments, one of which is occupied by the owner. Because this house is currently on the market, the Community Association is requesting that the owner comply with Baltimore County code regarding rental apartments in a private residence. The listing agent suggests the possibility of this property remaining as three apartments. We do not believe under present Baltimore County zoning laws that this residence should be allowed to operate as multiple apartments as it is located in a DR5.5 zone, and the property is smaller in size than the 10,000 square foot requirement.

Enclosed with this letter is a copy of the multiple listing of this property. The listing agent is:

Sterling Brokerage

410 280 5300

Mike Mulvey

443 255 2223

FAX 410 280- 5301

Please advise of action taken.

Very truly yours,

Sam Bradner, President

For the Board of Governors

Anneslie Community Association

702 Dunkirk Road

Baltimore, Md. 21212

410 377 8782

DDE ENFORCEMENT REPORT 99-7101 99-7107
DATE: 8 18 105 INTAKE BY: SHT CASE #: 05-726 INSPEC: Q LOCATION: VILLE SOLUTION CASE #: 05-726 INSPEC: Q
ZIP CODE: 21212_DIST: 9+0
COMPLANANT NAME: + NNES E OMM. + SSOC. PHONE #: (H) 4/0-377-9782
ADDRESS: 702 DONKITK ROOM ZIP CODE: Z1Z1Z
PROBLEM: THEE ARACTMENT DUE DING
UR FOR SA E OFFIC SIZE (CLOSES) DECRIT AND ARACTMENTS IN THUS DWELLING
IS THIS A RENTAL UNIT! YES NO
OWNER/TENANT Gry Borner and Dellie James-James
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BALTIMORE MD 21212-2021 FORMER OWNER: MULLER PATRICIA T

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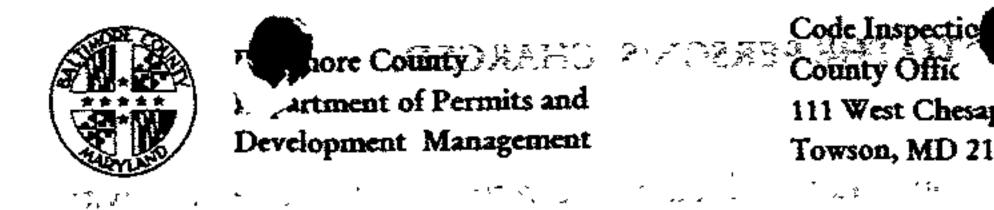
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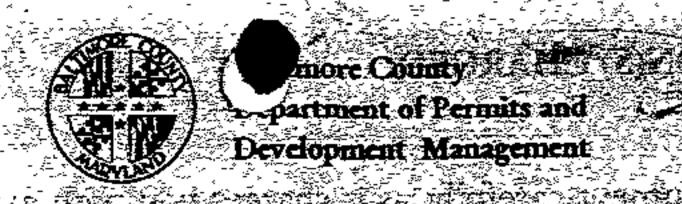
d Enforcement ading 111 West Chesapeake Avenue Towson, MD 21204

Code Enforcement: Building Inspection: 410-887-3351 410-887-3953 the state of the s Plumbing Inspection: 410-887-3620 Electrical Inspection:

410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

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Citation/Case No. Property No. 05-7261 091939	1490 DR 5.5
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Address: 212	12
Violation 505 MRCO	CK R 21212
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ad Enforcement Code Inspect ilding County Offi 111 West Chesapeake Avenue Towson, MD 21204

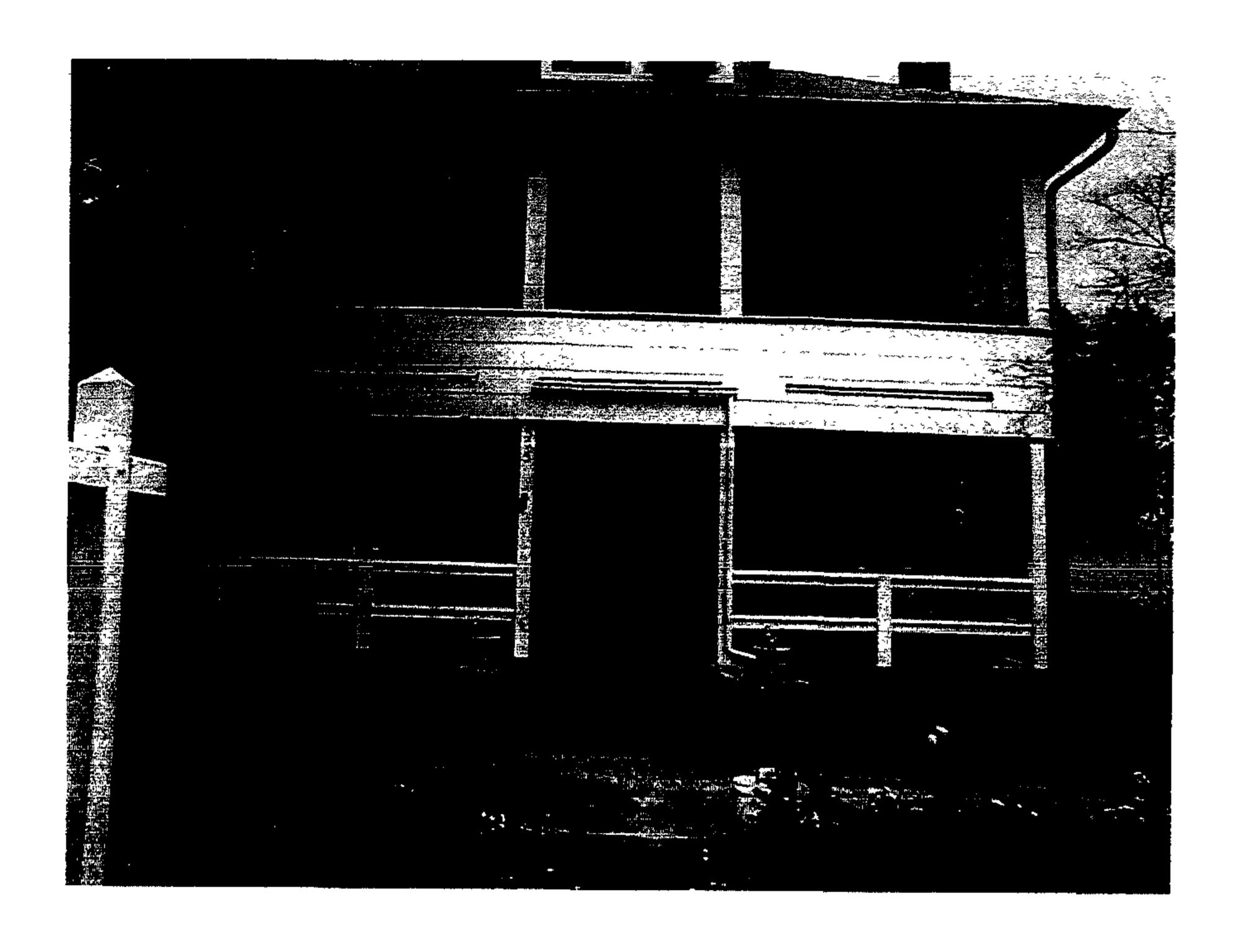
Code Enforcement: **Building Inspection:** 410-887-3351

Plumbing Inspection: 410-887-3620

410-887-3960

Electrical Inspection: 410-887-3953

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION	NOLICE
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RE: PETITION FOR SPECIAL HEARING * BEFORE THE
505 Murdock Road; S/side Murdock Road,
120' E c/line Joppa Road * ZONING COMMISSIONER
9th Election & 5th Councilmanic Districts
Legal Owner(s): Dellie James & Guy Bonner * FOR
Petitioner(s)

* BALTIMORE COUNTY

* 06-175-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 5th day of October, 2005, a copy of the foregoing Entry of Appearance was mailed to Dellie James & Guy Bonner, 505 Murdock Road, Baltimore, MD 21212, Petitioner(s).

RECEIVED

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Per....



JAMES T. SMITH, JR.

November 15, 2005

WILLIAM J. WISEMAN III

Zoning Commissioner

County Executive
Mr. Guy W. Bonner & Ms. Dellie S. James
505 Murdock Road
Baltimore, Maryland 21212

RE: PETITION FOR SPECIAL HEARING

S/S Murdock Road, 120' E of the c/l York Road

(505 Murdock Road)

9th Election District — 5th Council District

Guy W. Bonner & Dellie S. James — Petitioners

Case No. 06-175-SPH

Dear Mr. Bonner & Ms. James:

As you know, the above-captioned matter was scheduled for a public hearing on Monday, November 14, 2005 at 10:00 AM in Room 407 of the Circuit Courts Building in Towson. However, neither of you appeared for the hearing nor did I receive word from any designated representative that you would not be able to attend. Indeed, no one appeared at the hearing on the scheduled date. Thus, the case was not opened and no testimony was taken.

In this regard, it is my understanding, based on prior telephone calls received from Mr. James W. Dobson, a representative of the Anneslie Community Association, that there were certain deficiencies in both posting and notice requirements and Mr. Dobson questioned whether the hearing would proceed under these circumstances. Indeed, a review of the case file discloses that the notice that was published in the Jeffersonian newspaper identified the property as being located 120' east of the centerline of Joppa Road as opposed to York Road. Moreover, there is no Certificate of Posting contained within the case file. You should have been advised of these requirements at the time of filing the Petition. In any event, I advised Mr. Dobson that the hearing would not proceed and that it would not be necessary for him or anyone else from the community to appear.

Should you wish to pursue this matter, it will be necessary for you to contact Ms. Kristen Matthews in the Department of Permits and Development Management at 410-887-3391 to reschedule this case. Moreover, your property must be posted with a sign giving neighbors and other interested persons notice of the public hearing at least 15 days prior to the hearing date. The sign must properly identify the location of your property and describe the nature of the relief sought, and the date, time and place of the public hearing.

In the meantime, your case file is being returned to the Department of Permits and Development Management for safekeeping.

WILY IAM J. WISEMAN, III Zoning Commissioner

for Baltimore County

WJW:bis

cc: Mr. James W. Dobson

510 Murdock Road, Baltimore, Md. 21212

Ms. Kristen Matthews, DPDM; Code Enforcement Division, DPDM; People's Counsel; Case File



Kristen Matthews - 505 Murdock Road

Page 1

D6-112-544

From: "jim dobson" < jimdobson@comcast.net>

To: kmatthews@co.ba.md.us
Date: 11/7/2005 9:40:43 AM
Subject: 505 Murdock Road ---

CC: "Jakub Simon" < dkozjsimon@verizon.net>

Dear Ms. Matthews:

We recently spoke on the phone in regard to an upcoming hearing on 505 Murdock Road in the Anneslie neighborhood. The original complaint from the Anneslie Community Association was sent by our President Sam Bradner. Recently, Mr. Bradner was offered a job out of state and is moving. As Vice President of the association, I would like to be listed as the contact person for this complaint.

There are two conditions involving this complaint of which you should be aware:

- * The listing on the web site states that this property is located 120 feet east of centerline of Joppa Road. This is incorrect as Joppa Road is more than one mile away. The listing should have been 120 feet east of York Road.
- * The hearing is supposed to be on November 14th and as of today, November 7th, there is still no notice of hearing date posted in front of this property. This notice is very important as many neighbors will be unaware of this hearing involving a change in zoning within our neighborhood. How do we correct this situation so that every interested party can make plans?

Thank you for your assistance in this matter.

Jim Dobson
510 Murdock Road
Baltimore, Md. 21212
410 377 8322
jimdobson@comcast.net

FROM B NISEMAN
FOR YOUR INFO: - PLEASE GIVE ME A CALL
Mr. William J. Wiseman, III 94 3868 December 30, 2005.

Mr. William J. Wiseman, III Ms. Kristen Matthews County Courts Building 401 Bosley Avenue #405 Towson, MD 21204

Dear Mr. Wiseman, Ms. Matthews,

Case #06-175-SPH

Despite my request for a second Special Hearing, scheduled to be held January 11 at 2:00 p.m., I am now writing to officially cancel that Hearing.

I find myself in a financial catch 22 that makes me unable to afford the cost of a lawyer to try a case that has a 50/50 chance of going either way. I understand that this means I can only sell my house as a single family house.

My son and I purchased the house in 1996 from Patricia Muller, now deceased., who had her daughter living on the 3rd floor and rented out the 2rd and 1st floors to college students. She signed the property disclosure statement that there were NO zoning violations, nonconforming use, or violation of building restrictions in the sale of the house. Our purchase was based on the premise that I could have separate living space in close proximity to my son and his family. We had no idea we needed special permission to sell the house as multiple units. It is clearly intended to be two separate units, with a full kitchen, living room, dining room and three bedrooms on first and second floors with separate entrances. The third floor is an extension of the second floor and must have been outfitted with a kitchen by Mrs. Muller for her daughter. It goes with out saying, the 3rd floor kitchen must come out, but the rest of the house would be difficult to convert to a one family house in my opinion. I would just like to have this on record. I apologize for any inconvenience I have caused the court. Sincerely,

Dellie S. James 505 Murdock Road Baltimore, MD 21212

Guy W. Bonner 2322 Franklin Street Johnstown, PA 15905

cc: Mr. James Dobson

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JAN 18

To Whom I may Concern, september 13,2005 I have been oshed by Delly James, the current ower of 505 mindoch Rd in annestie, to write to you explaining the history of that home as I know it, and its use as a two - family divelling. my wife and I purchased that house in 1961 and we lived there until 1965. We purchased the house from a Mrs. Warner who had lived there for many years, but she was not the original owner. When my write and I bought the house, we inherited a temant who lived on the 2nd floor. Hot tenant had leved there for some years prior to our purchasing the for the duratum of our ownership. Regarding the 3rd plan, when we pur chased the house, there was a both tub and torlet and sink in place. We rested that soon to a single woman with the understanding she could use a set plate for cooking of she writed. Delly James informs me there is now a letter installed.

the america community association from about and accepted the boruse

as a two family home.

I recommend that you examine the original construction plans for that house.

I think it will be clear that the house was designed for and built with two opartments.

Surcerely yours

Sencerely your, Richard ademon 61952 Bouley Rd. Bornesville OH 43713

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SIGNED Richard a. Rimon

State of Ohio County of Belmont

Richard A Simon has signed in my presence this 13th day of September 2005.

STE OF OH M

ROBYN S. TURNER
Notary Public, State of Ohio
My Commission Expires July 12, 2006

NOTARY Aben

December 1, 2005

Ms. Kristen Matthews Department of Permits and Development Ill W. Chesapeake Avenue Towson, MD 21204

Dear Kristen and Mr. Wiseman,

I apologize for my failure to show up in court on November 14. I mistakenly thought I had notified your department of my intention to drop the request, I lost sight of your request to put it in writing and return it to you. The newspaper ad ran because I was unable to get my son's signature on the request to drop in a timely manner. (He has moved to Pennsylvania and said he never received my request) As the time to cancel the ad had passed, I didn't realize the request was still necessary to notify the court, and simply paid the cost of the ad.

My decision to drop was based on advice that I now think was wrong. I would like to request a new hearing and understand that will become sometime in January. Thank you and I apologize again for the inconvenience to the court.

Dellie James 505 Murdock Road Baltimore, MD

Guy William Bonner 2322 Franklin Street Johnstown, PA 15905

Case # 06-175-SPH.

110-377-3395

IN RE: PETITION FOR SPECIAL HEARING S/S Murdock Road, 175.ft. E

of c/l Locust Drive

507 Murdock Road 9th Election District 4th Councilmanic District

John H. Tumminello, et∜ux Petitioners

BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE # 92-211-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition Special Hearing seeking approval of a nonconforming use for two apartme at that property known as 507 Murdock Road, as more particularly descr. on Petitioners' Exhibit No. 1.

*

The Petitioners/property owners, John H. and Marion M. Tummine: appeared and testified. They were represented by Newton A. Williams, quire and Francis X. Borgerding, Esquire. Also appearing in support of Petition was Muriel E. Buddemerer, Jane E. Johnson, Bob Norrell and M Appearing in opposition to the Petition was Jim Dobson and Rick Brock. Katz. The Protestants were represented by Gerard Uehlinger, Esquire. Num ous exhibits, both in support and in opposition to the Petition, were They include Petitioners' Exhibit No. 1, the site plan to accomp fered. the Petition for Variance, as well as numerous deeds and photographs perta ing to the property.

The facts surrounding the case are clear and not in dispute. The proerty, known as 507 Murdock Road, is located in the Anneslie subdivision Baltimore County. The subject lot is 6,250 sq. ft. in area and is $z_{\rm c}$ D.R.5.5. It is improved by #2 story framed dwelling which has an attac screened deck on the back and a garage to the rear of the lot.

SI ILING

ristance, it must be noted that the County Council designated three conditions within Section 104.1 of the B.C.Z.R. which would terminate an otherwise proper nonconforming use. They are: (1) whether there has been any change from the use to another use: or (2) whether said use has been abandoned; or (3) whether said use has been discontinued. Further, these three (3) tests, by use of the word "or", are presented in the disjunctive.

Clearly, therefore, the Petitioners must prove that they have satisfied each test for this nonconforming use to continue.

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As to the first test, the Petitioners have met their burden. The evidence is uncontradicted that there has been no change of the use and the structure. The property retains the same physical characteristics and floor plan as when built as a two family apartment. Further, the Petitioners continue to reside only in the downstairs unit and have not occupied the entire dwelling so as to change or convert same to a single family unit.

As to the second prong regarding abandonment, one need examine the applicable case law. The propriety of nonconforming uses and the abandonment of same was comprehensively addressed by the Court of Appeals in Landay v. Board of Zoning Appeals, et al, 173 Md. 460 (1938). This case arose out of Baltimore City and set forth the legal definition of the term "abandonment". This definition remains valid today. Within that case, the Court held that:

"Abandonment in law depends upon the concurrence of two, and only two, factors; one, an intention to abandon or relinquish; and two, some overt act or some failure to act, which carries the implication that the owner neither claims nor retains any interest in the subject matter of the abandonment." Landay, page 469-470.

This principal of law has been upheld numerous times by the Appellate Courts of this State. For example, in Canada's Tavern, Inc. v. Town of

Glen Echo, 260 Md. 206 (1970), the Court noted its approval of the Emrelay definition of abandonment.

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Applying that definition to the instant case, I must conclude that there has been no abandonment. The facts presented disclose no intention of the property owners to abandon or relinquish the use of this premises as a two apartment complex. In fact, by their continued occupancy of only the first floor, it seems clear that withey intended to retain the two family character of the dwelling. Also, there has been no overt act or failure to act which would reflect an abandonment. There has been no physical renovation of the structure or attempted conversion of same to a single family dwelling, or other use. Although it is arguable that failure to retain a tenant might constitute a failure to mat, I do not find that fact sufficient to justify the finding of an abandonment.

Having, therefore, satisfied the first two tests, the Petitioner must now address the final prong offered by Section 104.1 of the B.C.Z.R. That is, has their been a discontinuance of the use.

Although the term "discontinuance" within Webster's Third New International Dictionary can be construed to mean abandonment, I do not believe that the Council intended that word to be so defined in Section 104.1. If that were their intent, the regulations would be unnecessarily repetitious. Rather, use of the phrase, "abandonment or discontinuance", suggests that the Council intended that there be two different litmus tests in order for a nonconforming use to be permitted. Further, Webster also defines discontinue as to break off, give up, or end operations. That is, discontinuance can be defined as when the use has ceased, notwithstanding the owner's intent. In applying this broader definition to the facts presented, it is abundantly clear that the use has been discontinued in this case. Notwithstanding the

fact that there has been no abandonment as that term is defined at law, it is equally apparent that the property owner/Petitioners have discontinued the use of this dwelling as a two apartment complex. They have made no effort to secure tenants for a lefigthy period. Certainly, for an apartment use to exist, there must be a landlord and tenant relationship and lease; conditions which are unfulfilled in the instant case. Under these circumstances, it must follow that the Petitioners have not met their burden and the Petition must, therefore, be defiled.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the Petition for Special Hearing should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 19 day of Lectural 1992 that, pursuant to the Petition for Special Hearing, approval of a nonconforming use for two apartments at that property known as 507 Murdock Road, be and is hereby DENIED.

LAWRENCE E. SCHMIDT Zoning Commissioner for

Baltimore County

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MR. & MRS. JOHN H. TUMMINELLO* 507 Murdock Road Towson, Maryland 21204

BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No.: 91-211-SPH

PETITIONERS! MEMORANDUM
CONCERNING NON-CONFORMING USE

1

Mr. and Mrs. John H. Tumminello, Petitioners herein, by Newton A. Williams and Nolan, Plumhoff & Williams, Chartered, and Francis X. Borgerding and DiNenna & Breschi, their attorneys, offer this Memorandum for the consideration of the Zoning Commissioner.

STATEMENT; OF THE CASE

This case, originally filed by the late S. Eric DiNenna, involves a special hearing concerning the status of 507 Murdock Road, the Tumminello duplex, a two family residence. The petition was filed in the fall of 1991, and was the subject of a hearing before the Zoning Commissioner on December 13, 1991. The parties were asked by the Commissioner to submit Memoranda concerning their respective positions.

STATEMENT OF THE FACTS

All parties concerned, including Gerard P. Uehlinger, Esquire, counsel for the Anneslie Association, concede the basic facts of the matter.

According to the testimony, and to the agreed fact situation, 507 Murdock Road is a two story duplex, built in

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approximately 1924 as a two family dwelling, one living unit over the other, located on the south side of Murdock Road, east of York Road in the Anneslie subdivision. The subject property at 507 Murdock Road and the adjacent property to the west at 505 Murdock Road are the only two true duplexes in Anneslie. Both built in the 1920's, and both maintained as duplexes to this day. As such, this is not a case of a single family house converted to a two family dwelling before 1955.

The structure, shown very clearly in Petitioners' photograph Exhibit 2(b), has a front door on the right side (west side) of the structure, which leads to the Tumminello portion of the dwelling on the first floor. While the door on the left (east side) leads to the upstairs dwelling. Both the upstairs and downstairs are exact images of each other, as is shown in the floor plan. (See Petitioners' Exhibit Number 3).

The basic configuration of the house is a two family duplex before 1945, and before March of 1955. This fact was conceded at the hearing, was also proven by the testimony of Mrs. Jane Johnson of Maplewood Road and her sister, Mrs. Muriel Buddemier of Murdock Road, both of whom grew up in the neighborhood, and have continued to live in the neighborhood until the present time.

It is conceded by all parties concerned that approximately ten years ago, due to a very unpleasant experience with a tenant, and due to the fragile health of the

elderly Mr. and Mrs. Tumminello, who are up in years, that the upper floor of 507 Murdock Road was no longer rented on a continuous basis to tenants. However, the structure was not changed in any way or reconverted from a duplex to a single family dwelling or used in its entirety as a single family dwelling. The testimony showed that the house has not been converted into a single family dwelling, that the individual staircases on each side remain, that the kitchen and all facilities upstairs remain, and that the current configuration of this duplex remains exactly as it was built in 1924.

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QUESTION] PRESENTED

WHAT IS THE LEGAL EFFECT OF A CONTINUATION OF A DUPLEX CONFIGURATION OF A STRUCTURE IN A SINGLE FAMILY HOME ZONED AREA, AS OPPOSED TO A FAILURE TO RENT THE UPPER FLOOR FOR APPROXIMATELY TEN YEARS UNDER THE APPLICABLE BALTIMORE COUNTY ZONING REGULATIONS?

DISCUSSION

The Petitioners contend that the basic, continuing two family duplex nature of 507 Murdock Road is the important and controlling nonconforming feature, and not whether or not it is occupied, even if it is vacant for a period as long as ten years.

During the December 13th hearing it was stated, and the Commissioner can take notice of his own records to see that from 1945 to 1955, that the Anneslie area was zoned Cottage A. In the 1948 Regulations, (a copy of a portion of which was furnished to the Commissioner, and which the Commissioner has

also Vogl v. Mayor and City Council of Baltimore, 228 Md. 283(1961).

There are no cases in Maryland law discovered by our research which specifically pertain to multi-dwelling units as nonconforming uses in single family residential neighborhoods. The following cases, however, are identical to the Tumminello's situation, not only in factual pattern, but also share the issue of whether a nonconforming use has been abandoned or discontinued because of a failure to rent the premises or utilize the property by more than one family.

In Town of East Greenwich v. Day, 375 A.2d 953 (1977), the Court held that the occupancy by a single family of a nonconforming, two-family dwelling for a period of five years did not extinguish the building owner's vested right in the nonconforming use. The two-family dwelling had, for the past five years, been used by a previous owner who only occupied one-half of the house. The Court held that sufficient evidence could be found that the nonconforming use was not abandoned because the previous building owners took no steps to remove the fixtures and improvements appurtenant to a multi-family dwelling such as separate utility meters, separate kitchens, and separate bath facilities. This is exactly the situation in the Tumminello's case. Furthermore, the previous owners in Town of East Greenwich also obtained a reduction in their sewer assessment to single family use; however, the Court held that this overt act lacked probative value of intent to abandon the nonconforming use as a two family dwelling.

Another case, Brown v.__Gerhardt, 125 N.E. 2d 53 (11). 1955), also held that the absense of physical changes made to property indicated that no intent could be found to discontinue a nonconforming use for the reason of abandonment. In Brown, the Court was faced with $a \hat{n}_{\mu \nu}^{(i)}$ action for an injunction and declaratory relief against a city's enforcement of a single-family zoning restriction. The Court held that occupancy of a five-unit multiple family dwelling by a single family did not constitute an abandonment of the structure's pre-existing nonconforming use where the evidence showed that the reduction in occupancy was intended as only a temporary suspension. The Court found this evidence in the fact that no fixtures were removed to convert the building to single-family use, and that the owners had undertaken subscantial remodeling and modernization to make the premises suitable for multiple occupancy. Further, the Court concluded that while a change in the use of a nonconforming structure may constitute an abandonment or discontinuance of such use, the circumstances of the present case do not constitute changes of such permanent nature as to establish such discontinuance or abandonment, notwithstanding that the aggregate single-family occupancy lasted eight years.

These cases are similar to the Tumminello's case in that the Tumminello's duplex is situated in an area zoned for single family homes, and has been used for a period of years for only one family. The Tumminellos have also never physically changed or reconverted their duplex into a single

family home.

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property for single family use. This can be evidenced by the fact that no overt act, such as removing the second floor entrance, kitchen, separate doors or stairs, or combining the utility meters, was even attempted. The lack of any overt act of intent is the necessary proof to show that the Tumminellos did not discontinue or abandon their nonconforming use of the property, ie. the basic duplex configuration of the structure.

Other cases concerning multiple dwelling units held to as nonconforming be uses status their lost have <u>Parish of</u> Tumminello's case. the distinguished from <u>Jefferson v Boyd</u>, 192 So.2d873 (La. App. 4th Cir. 1966), a multi-family dwelling was held to no longer be considered a nonconforming use because the previous owner had removed the partition wall which had separated the downstairs apartment from the upstairs apartment in order to make one living unit. In yet another distinguishable Louisiana decision, Pailet v. New Orleans Department of Safety & Permits, 433 So.2d 1091 (La.App. 1983), the Court held that a nonconforming use to a multi-family dwelling was extinguished when the dwelling was no longer rented and the owner moved out of the building. Neither of these cases are analogous to the Tumminello's case because at no time have the Tumminellos attempted to physically alter the duplex residence so as to create a single family home, nor have they moved out of the residence thus completely abandoning any use of the property whatsoever.

We respectfully submit that in the case of a structure clearly built as a two family duplex dwelling, the duplex aspect of the structure is the non-conforming use, not the occupancy which is a mere incident. Double occupancy is not key to the basic duplex configuration of the structure.

We would contend that a correct view of the situation would be that if the Tumminello's had converted the upstairs to their own use, taken out the stairways, substituted a common stairway from their own dwelling on the first floor, taken out the kitchen, or otherwise reconverted what has always been a duplex into a single family dwelling, then it could fairly be stated that this would constitute abandonment or discontinuance of the duplex configuration of the structure which is the key to the non-conforming aspect of it.

The nearby Anneslie residents have always looked at, walked by or otherwise considered the Tumminello duplex as just that, a duplex, and they are in no way harmed by the continuation and use of both units, which began in 1924, and which we trust will be allowed to continue by the Commissioner granting the relief requested.

Respectfully submitted,

Newton A. Williams

Theury Chilleant

NOLAN, PLUMHOFF & WILLIAMS, CHTD.

700 Court Towers

210 W. Pennsylvania Avenue

Towson, Maryland 21204

(410) 823-7800

FRANCIS X. BORGERDING

Or Fierma and Briche

DINENNA AND BRESCHI Suite 600 409 Washington Avenue Towson, Maryland 21204 (410) 296-6820

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of January, 1992, a copy of the aforegoing Petitioners' Memorandum Concerning Nonconforming Use was mailed postage prepaid to Gerard P. Uehlinger, Esquire, and Peoples Counsel, Phyllis Friedman, Esquire at County Office Building, Towson, Maryland 21204.

Newton a. Williams-

NEWTON A. WILLIAMS

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MR. & MRS. JOHN N. TUMMINELLO:

BEFORE THE

507 Murdock Road

Petition for Non-Conforming

ZONING COMMISSIONER

Use

OF BALTIMORE COUNTY

Case No.: 9,1-211-SPH

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PROTESTANT'S MEMORANDUM OF LAW IN OPPOSITION TO PETITION FOR NON-CONFORMING USE

Anneslie Community, Inc., protestant, by its attorney Gerard P. Uehlinger, opposes the Petition for Non-Conforming Use of Mr. & Mrs. John N. Tumminello, 507 Murdock Road. The facts and the law do not permit these homeowners to abandon the use of their property for ten years as a two-family dwelling and then claim a special exception.

FACTS -

The overriding and undisputed fact which should defeat the Petition for Non-Conforming Use is that <u>for ten years</u> (from approximately 1981 to the present, and continuing) <u>the owners did not rent the upper floor of 507 Murdock Road</u>. The improvement was a single-family residence for that entire period. Indeed, in testimony one of the owners admitted they used the upper floor on at least one occasion during the 10 years to house relatives.

Protestants would also point out that there is no evidence before the Zoning Commissioner that the owners have

either a) priced the cost of an internal stairway or other carpentry alteration to render the house a marketable single-family unit, or b) considered a small reduction in price of their home so as to reflect conversion costs.

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But the one fact that makes this case simple, and which therefore elicited a 10 page memorandum from the other side in hopes of destroying years of well-considered precedent, is the abandonment and discontinued use of 507 Murdock Road as a two-family dwelling for ten years.

LEGAL ARGUMENT

The law in this case is simple to apply. The owners are applying for a non-conforming use special exception, due to the obvious fact that no real estate agent will touch the property with a ten foot pole if it is proposed to be advertised as a legal two-family residence.

As this Commission has noted many times, the burden of proving a non-conforming use is on the claimant of the use.

Calhoun v. Board of Appeals of Baltimore County, 277 A.2d 589 (1971). The legal issue presented by 507 Murdock is not unique. As recently as April, 1990, the issue before Commissioner Nastorowicz was whether a rental use had been abandoned or discontinued at 530 Windwood Road in Anneslie.

The Commissioner noted:

"As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning. It is not disputed that the dwelling when built was a legal, two apartment dwelling.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property or any abandonment or discontinuance of such nonconforming use for a period of one year or more. In the event of abandonment or discontinuances for one year or more, the nonconforming use is deemed to have been lost.

After due consideration of the testimony and evidence presented, there is insufficient evidence to support that the use of the property as two apartments has been continuous and without interruption since its development in 1950. While it is evident the subject property was constructed as a two apartment dwelling, as of right, the testimony presented regarding its continuous use as such was inconsistent. The burden of proof is upon the Petitioner to present testimony and evidence which clearly supports his position. In this instance, the testimony and evidence presented by the Protestants would indicate that there was a break in the use of the property as two apartments for an extended period of time, and as such, the nonconforming use of the property ceased. Therefore, the relief requested in the special hearing should be denied."

This case is identical, and should be decided in identical fashion. The County Council could have used

language in Section 104.1 other than "abandonment" or "discontinuance", (such as "reconversion"), but it did not.

If 10 years without a tenant is not abandonment or discontinuance of that use, then what is?

The cases cited by Petitioners are not from Maryland, and they are not applicable to Baltimore County, or to the Anneslie area, where the law has been consistently applied that a break without tenants of more than one year removes the two family unit from the grandfather clause, and requires one-family use from that point forward.

The Anneslie Community, with its narrow tree-lined streets, has been steadfast in its determination to be a single-family community. The Baltimore County zoning ordinance establishes in no uncertain terms what it takes to obtain an exception to single-family housing. The owners of 507 Murdock have been long-time residents, and we regret we must oppose their plans. However, the law and these facts require that you deny their Petition.

Respectfully submitted,

GERARD P. UEHLINGER

Suite 1631 Munsey Bldg.

7 N. Calvert Street

Baltimore, MD 21202-1940

410-539-0025

Attorney for Anneslie Community, Inc.

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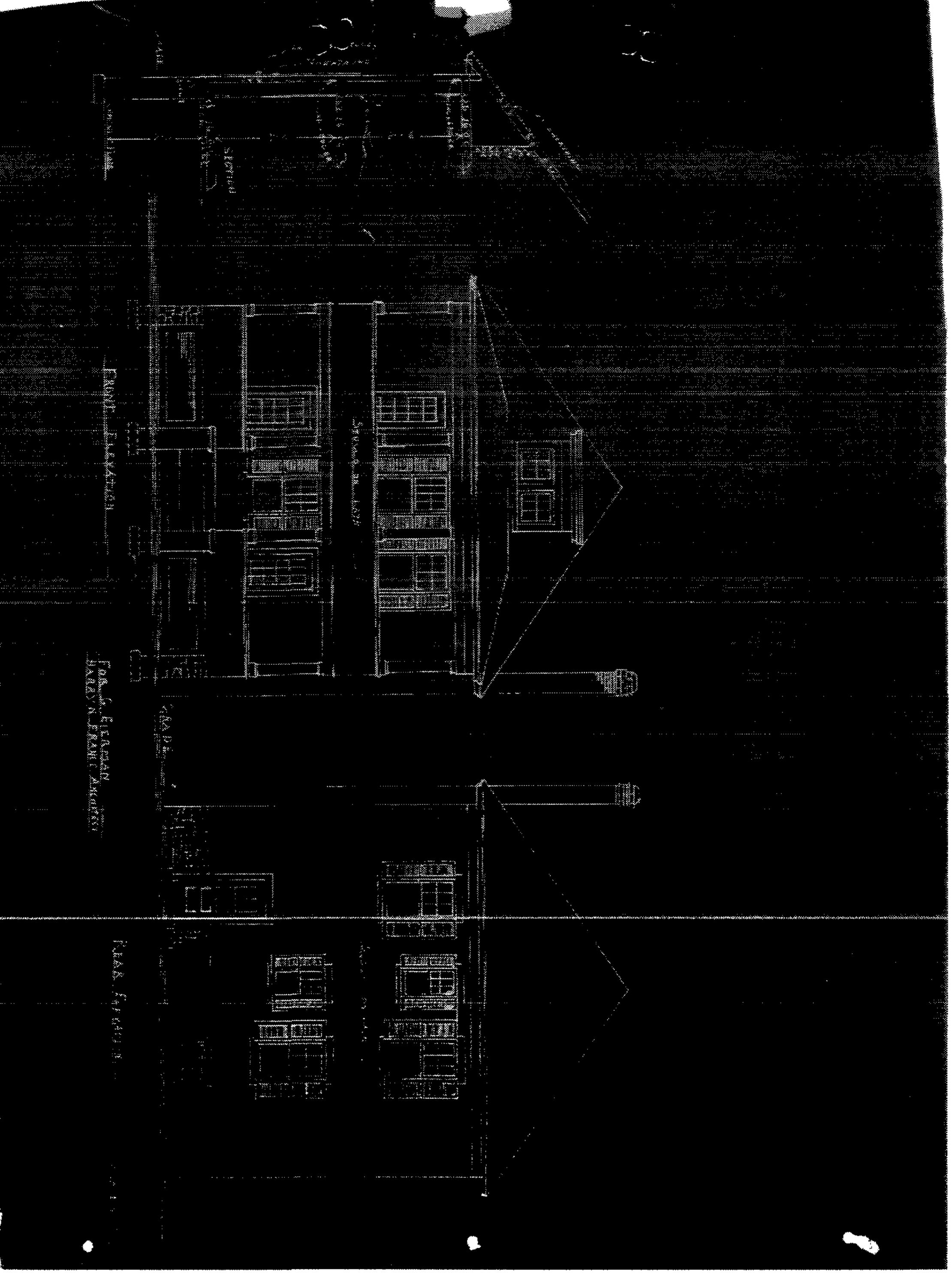
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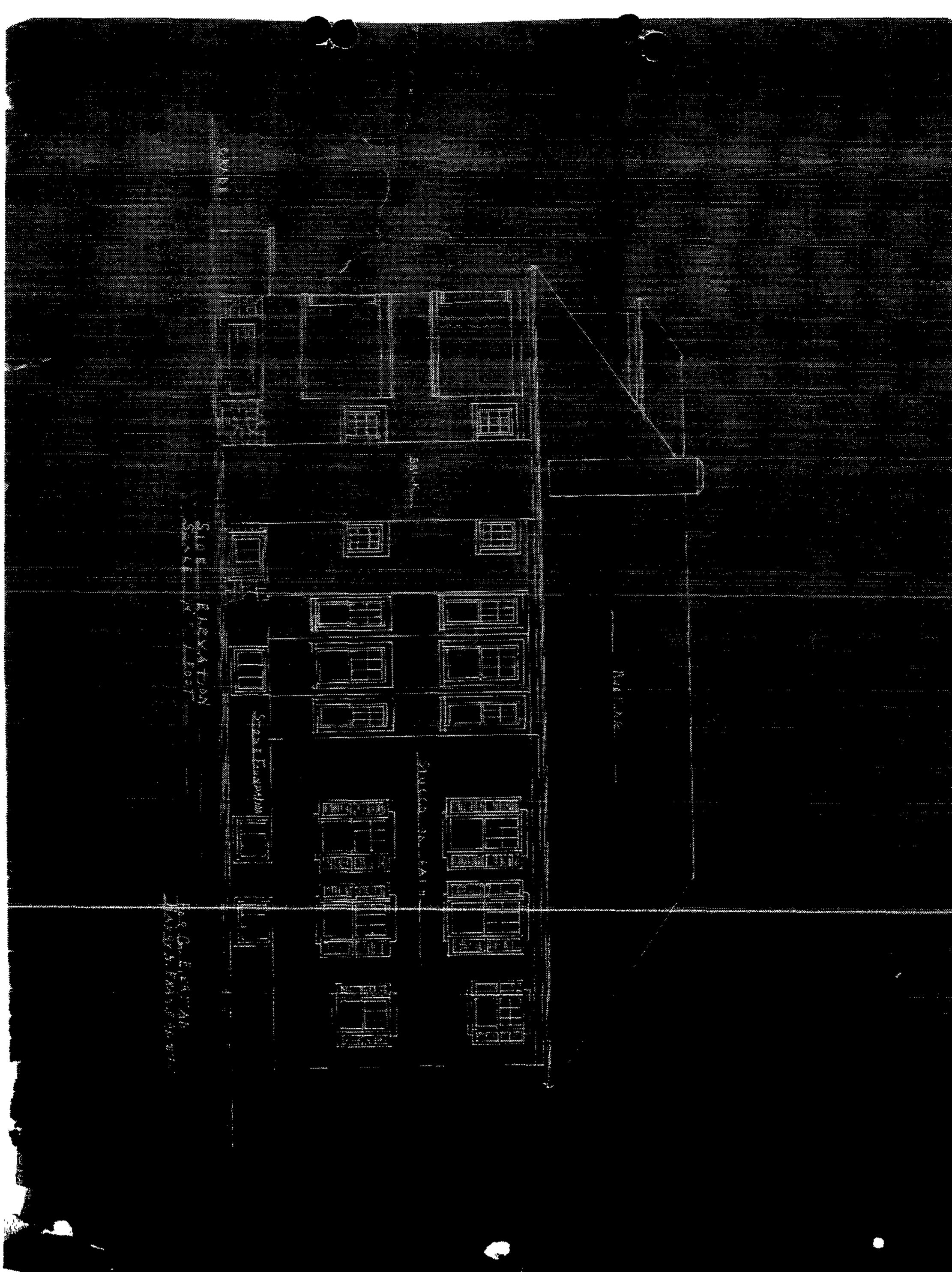
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Exhibit Sheet

Petitioner/Developer

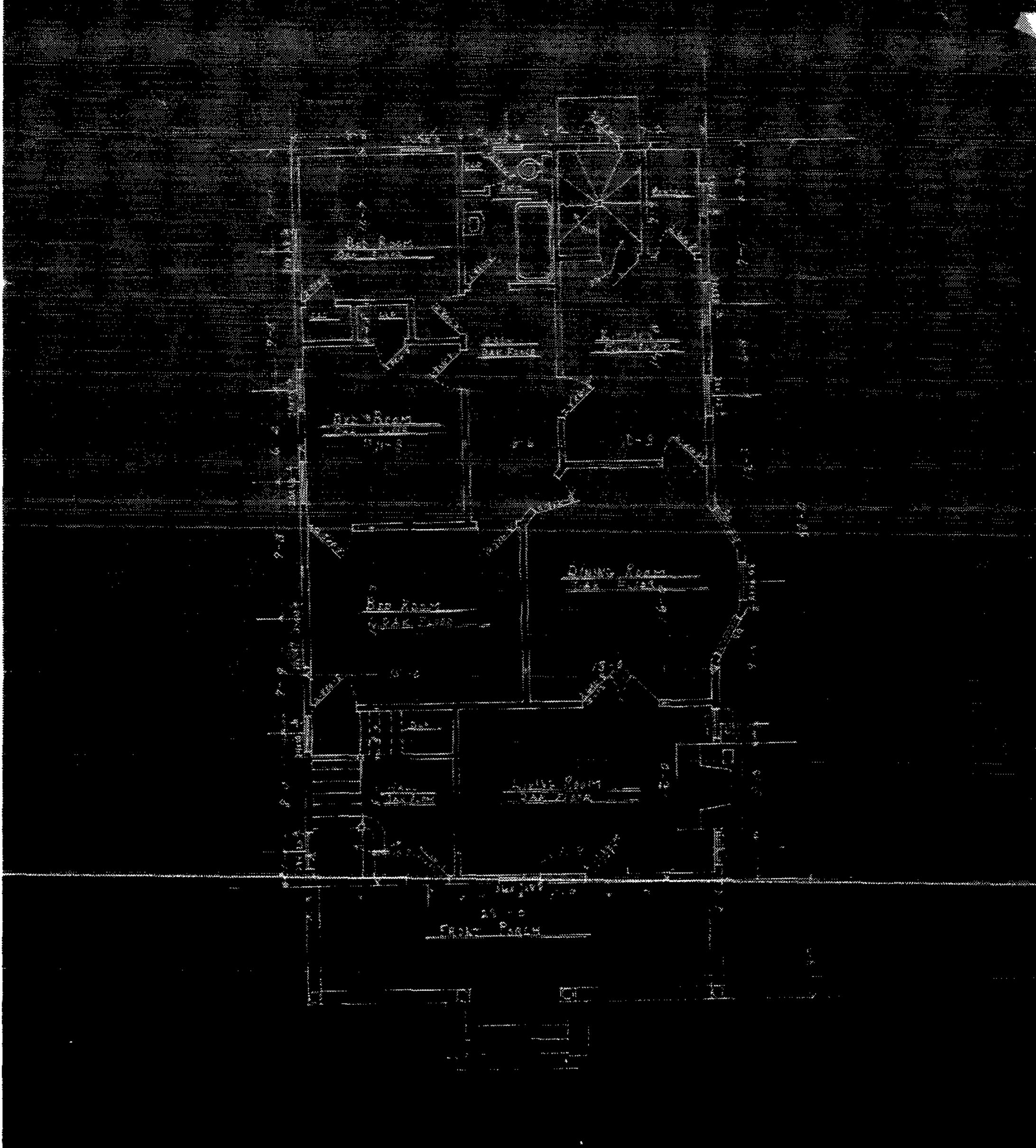
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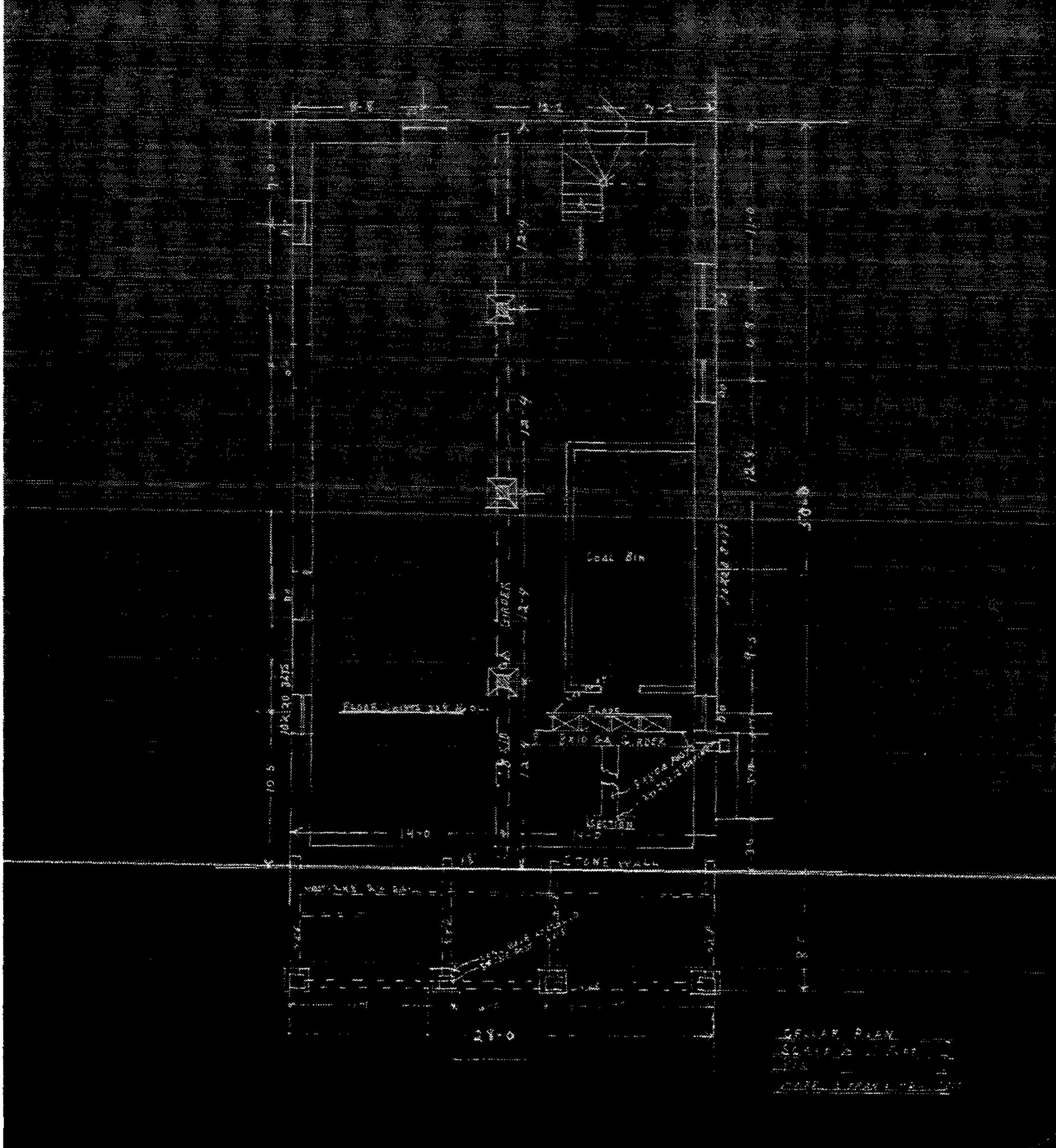
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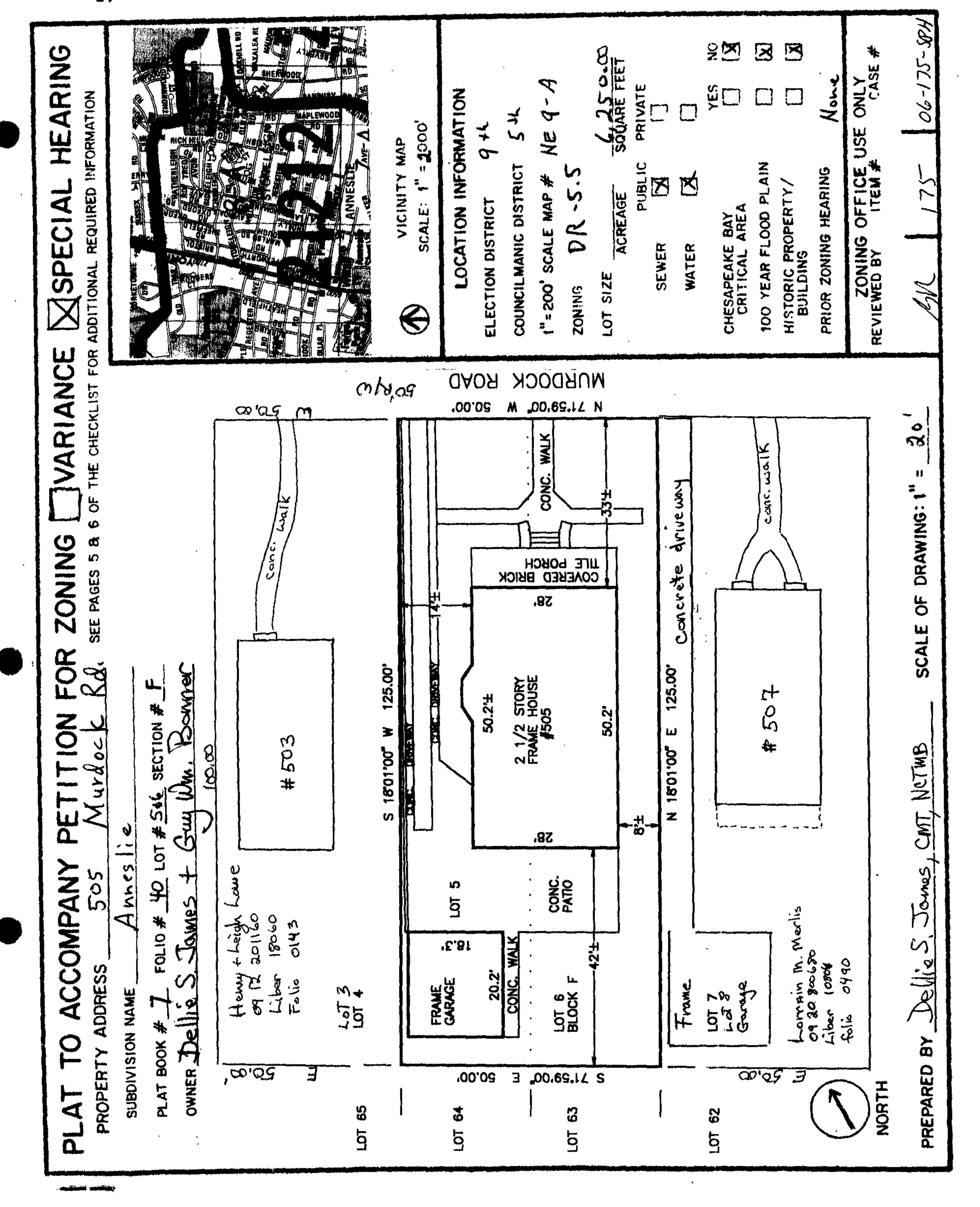


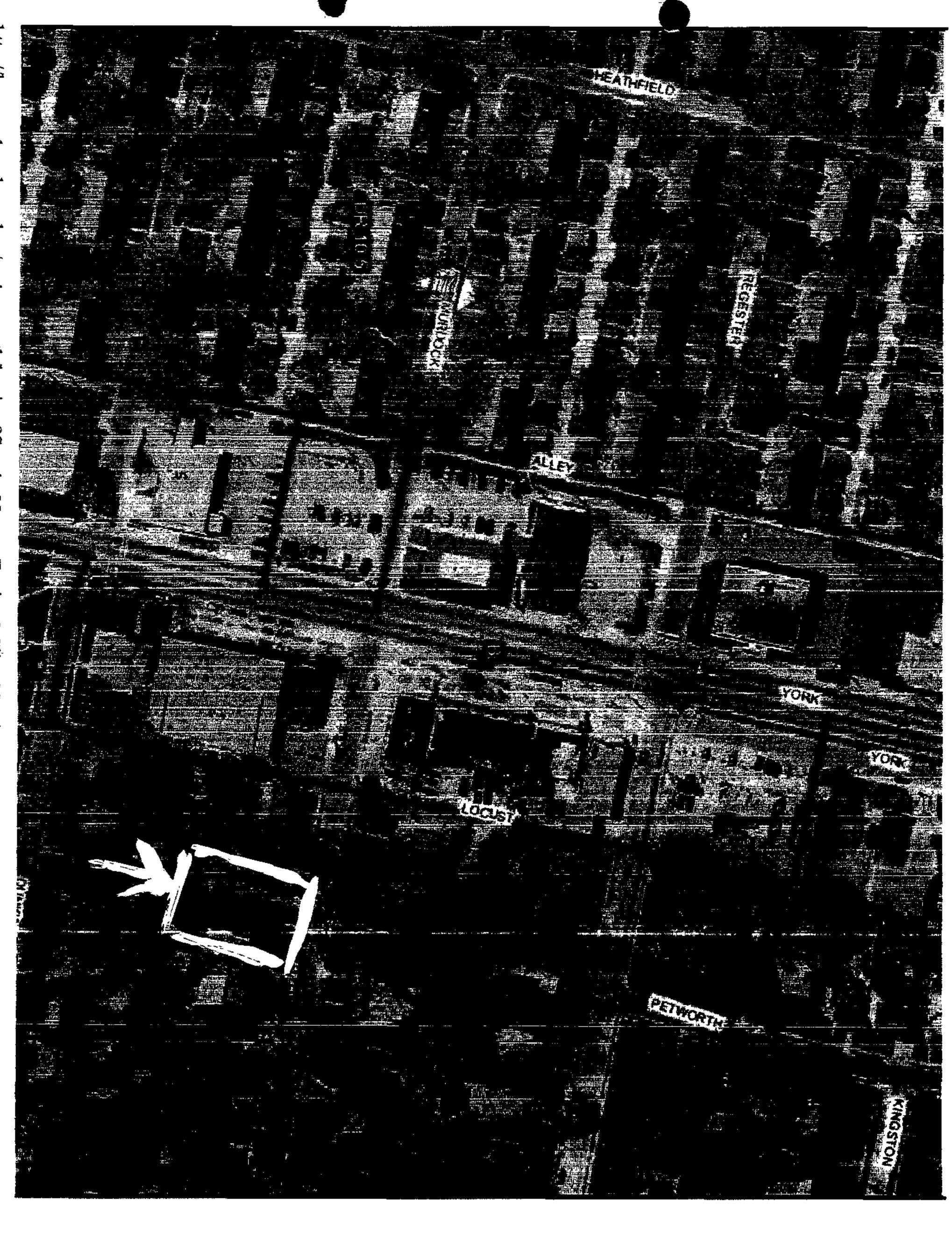


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