

**IN RE: PETITIONS FOR SPECIAL HEARING
SPECIAL EXCEPTION & VARIANCE -**

NE/Corner Williams Avenue and
Back River Neck Road
(149 Back River Neck Road)
15th Election District
6th Council District

Port Side Holding Company, Inc.
Petitioner

* ~~BEFORE~~ THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 06-345-SPHXA

*

* * * * *

AMENDED ORDER

WHEREAS, this matter came before this Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by Charles Westerman, President, Port Side Holding Company, Inc., owner of the subject property. The Petitioner requested a special exception to use the subject property for a boat yard, including the sales, display and cleaning of boats, pursuant to Section 230.13 of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, special hearing relief was requested to amend the previously approved site plans in Case Nos. 2955-RS, 85-160-X, 91-348-SPHA and 93-317-SPH to reflect the proposed use; to confirm that the proposed boatyard is not an out-of-water storage facility and therefore, not subject to the parking requirements of Section 409.6.A.4; and, that the eight (8) parking spaces proposed are sufficient for the proposed use. Finally, variance relief was requested from Section 230.12.D of the B.C.Z.R. to permit the sales/display of boats 52 feet in front of the front building line in lieu of the maximum allowed 5 feet. 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.

A public hearing was held on the requests on February 15, 2006 and after due consideration of all of the testimony and evidence presented in support thereof, the undersigned Zoning Commissioner granted the Petitions for Special Hearing, Special Exception and Variance by Order dated February 28, 2006. Within my Opinion, reference was made to the initial Zoning

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3/2/06

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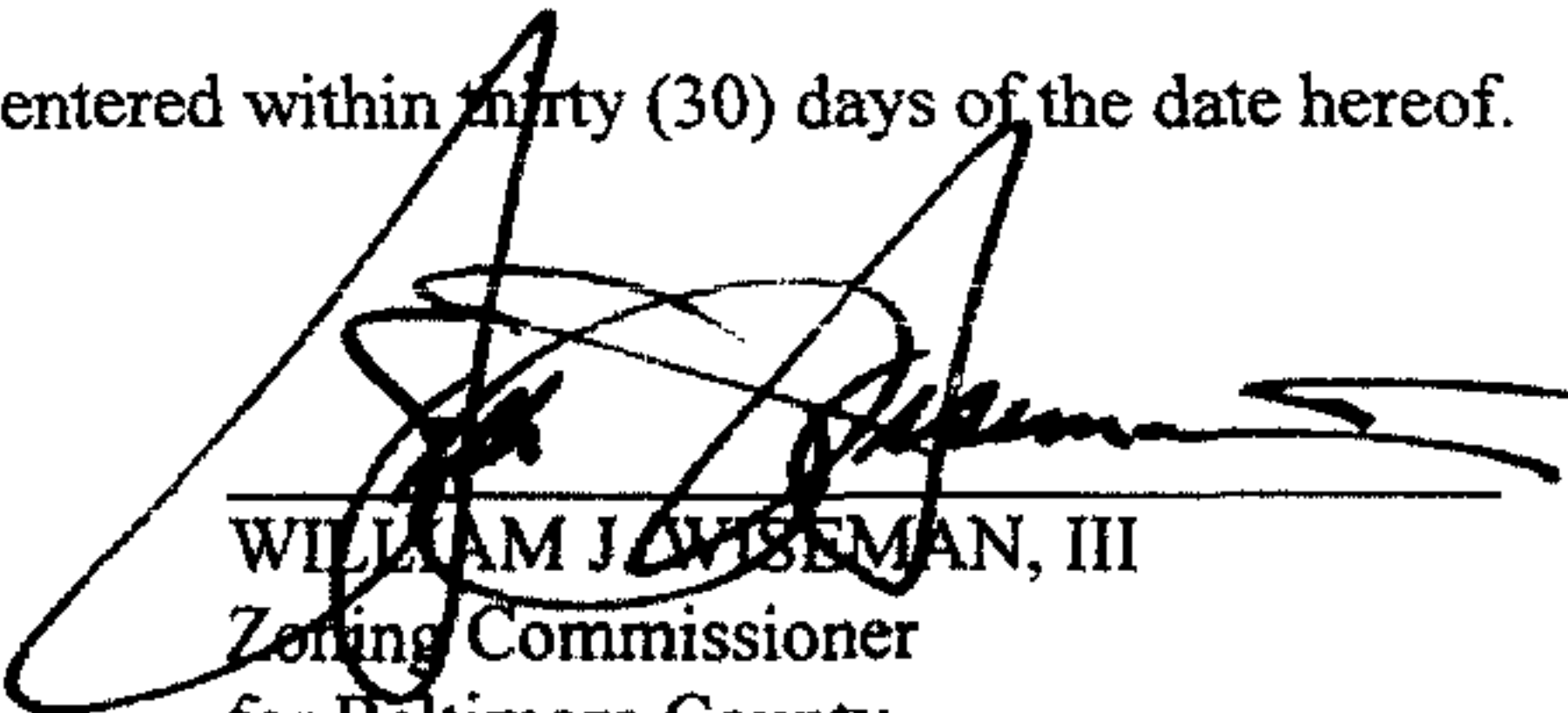
Advisory Committee (ZAC) comments submitted by the Office of Planning, dated February 13, 2006, which raised an issue relative to the proposed fencing to be installed along the Back River Neck Road and Williams Avenue frontage of the property. Although the Petitioners were advised that this issue needed to be addressed during the development process, a restriction requiring a resolution of this matter was not imposed upon the relief granted.

Subsequent to the issuance of said opinion, the Office of Planning submitted revised comments, dated February 27, 2006, reflecting certain agreements reached with the Petitioners relative to the proposed fencing. In that the relief granted was contingent upon a resolution of the fencing issue, it seems appropriate that an amended Order be issued to incorporate the revised comments.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 2nd day of March 2006 that the Order issued on February 28, 2006 be and the same shall hereby be AMENDED to incorporate the revised comments submitted by the Office of Planning, dated February 27, 2006, a copy of which is attached hereto, as Restriction No. 5 thereof.

IT IS FURTHER ORDERED that all other terms and conditions of the Order issued on February 28, 2006 shall remain in full force and effect.

Any appeal of this decision shall be entered within thirty (30) days of the date hereof.


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

cc: Allen G. Windsor, Esquire
P.O. Box 186, 2010 Pulaski Highway, Edgewood, Md. 21040
Mr. Charles Westerman, President, Port Side Holding Company, Inc.
8400 Belair Road, Baltimore, Md. 21236
Mr. David Billingsley, 601 Charwood Court, Edgewood, Md. 21040
Mr. William Jones, Department of Economic Development
Chesapeake Bay Critical Areas Commission
1804 West Street, Suite 100, Annapolis, Md. 21401
DEPRM; Office of Planning; People's Counsel; Case File

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Date 3/2/06

By [Signature]

IN RE: **PETITIONS FOR SPECIAL HEARING,*** BEFORE THE
SPECIAL EXCEPTION & VARIANCE -
 NE/Corner Williams Avenue and * ZONING COMMISSIONER
 Back River Neck Road * OF BALTIMORE COUNTY
(149 Back River Neck Road) * Case No. 06-345-SPHXA
 15th Election District
 6th Council District
 Port Side Holding Company, Inc. *
 Petitioner

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by Charles Westerman, President, Port Side Holding Company, Inc., owner of the subject property. The Petitioner requests a special exception to use the subject property for a boat yard, including sales, display and cleaning, pursuant to Section 230.13 of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, a special hearing is requested to amend the previously approved site plans in Case Nos. 2955-RS, 85-160-X, 91-348-SPHA and 93-317-SPH; to confirm that the proposed boatyard is not an out-of-water storage facility and therefore, not subject to the parking requirements of Section 409.6.A.4; and, that the eight (8) parking spaces proposed are sufficient for the proposed use. Finally, a variance is requested from Section 230.12.D of the B.C.Z.R. to permit sales/display of boats 52 feet in front of the front building line in lieu of the maximum allowed 5 feet. 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 Charles (Chuck) Westerman, President of Port Side Holding Company, Inc., property owner, David Billingsley, the consultant who prepared the site plan for this property, and Allen G. Windsor, Esquire, attorney for the Petitioner. Also appearing in support of the request was William Jones,

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who appeared on behalf of Baltimore County's Department of Economic Development. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located on the northeast corner of Back River Neck Road and Williams Avenue in Essex. The property contains a gross area of 26,458 sq.ft. (or 0.607 acres), more or less, zoned B.L.-A.S., and is improved with a one-story service garage building and accessory parking area. As noted above, this property has been the subject of prior zoning cases, the most recent of which granted relief to allow use of the property as a combination service garage/convenience store. However, that use terminated and the property has been vacant for the past 12 years.

The Petitioner purchased the property in December 2005 and is desirous of redeveloping the site for use as a boat yard with sales, display and cleaning areas as shown on Petitioner's Exhibit 1. Photographs introduced at the hearing indicate that substantial improvements will be made in the redevelopment of the site, including the rehabilitation of the exterior façade, new windows, lighting, and repaving of the entire site for outdoor sales and display. In addition, fencing will be provided around the perimeter of the property to secure the boats and customers from theft, which has been prevalent in the Cove Village and East Roc communities located less than ¼ mile away from the site. The property is surrounded by business and commercial uses, save a residential home to the east, which is completely buffered by a mature stand of trees.

Relief is requested as set forth above to allow the redevelopment of the site as proposed. Testimony indicated that the existing service garage bays to the rear of the building which comprise approximately 1,357 sq.ft., will be retained and used primarily for boat clean-up, preparation and detailing. A sales office area of 500 sq.ft. will be located in the front portion of the building, and parking for up to eight (8) vehicles provided. Access to the site in the past had been provided from two entrance points off of Back River Neck Road. However, the Petitioner proposes closing the entrance closest to the intersection, leaving one entrance on the south side of the property from Back River Neck Road and one on the west side from Williams Avenue.

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It was proffered that there will be no substantial boat repairs occurring on the site and that the use proposed is primarily to accommodate boat sales and storage of new boats and equipment. Other specifics of the proposed special exception area, including sidewalks, signage and parking, are all more particularly shown on the site plan. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency. However, the Fire Marshall's Office indicated that the proposed building should be designed and constructed to meet the applicable provisions of the Baltimore County Fire Prevention Code. In addition, Ms. Laurie Hay with the Office of Planning submitted written ZAC comments reflecting certain conditions be imposed; namely, 1) the applicant should explore options for the proposed fence other than chain link on the Back River Neck Road frontage as well as the Williams Avenue frontage. An aluminum picket fence is preferable....; 2) the applicant shall submit a revised fence design for review and approval by the Office of Planning prior to the issuance of building permits. Landscaping shall be provided around the base of the freestanding sign as well as the base of the fence (where space permits) to soften the appearance of the fence and signage; 3) a vegetative buffer shall be planted between the rear of the subject property and the dwelling located at 1611 Williams Avenue. Additionally, lighting should be directed away from the residential community on Williams Avenue; and 4) the dumpster proposed for the rear of the site shall be adequately screened.

It has been brought to my attention that the expense of an aluminum picket fence alone increases Petitioners' development costs in excess of \$70,000. Additionally, as evidenced in Petitioners' photographic and GIS aerial exhibits, the area to the rear of the subject property and the residential property at 1611 Williams Avenue is currently wooded and the Petitioner intends to maintain the 25-foot green area already in existence. Since the ZAC comment was not received until the morning of the hearing, I have instructed the Petitioner to meet with Ms. Hay to further discuss and reevaluate this matter.

The Petitioner also requests a variance from Section 230.12.D of the B.C.Z.R. to permit the sale/display of boats 52 feet in front of the front building line in lieu of the maximum

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[Signature]

allowed 5 feet. It is clear from the testimony and evidence presented that special circumstances or conditions exist on the premises that are peculiar to the land or structure which is the subject of the variance request and that strict compliance with the zoning regulations would result in a practical difficulty or unreasonable hardship. Given the location and nature of the existing building, there is no practical way to rearrange the location of the boats and still be consistent with the use of the property as a boat yard for sales and display. Customers must be able to see the boats from the street.

Finally, the Petitioner requests special hearing relief to amend the previously approved site plans in Case Nos. 2955-RS, 85-160-X, 91-348-SPHA and 93-317-SPH (see Petitioner's Exhibit 2 to confirm the zoning history of the property). Also, special hearing relief is requested to confirm that the proposed boat yard is not an out-of-water storage facility and therefore, not subject to the parking requirements of Section 409.6.A.4 of the B.C.Z.R., and that the proposed 8 parking spaces shown on the plan are sufficient for the proposed use.

Not specifically stated in the request is the Zoning Review Division's interpretation that the parking requirements for this use are instead parking specified by Section 409.6.A.2 of the B.C.Z.R., which requires "Retail-General Office" 5 spaces per 1,000 sq.ft. of office space and 3.3 spaces per 1,000 sq.ft. of service/storage. It is clear that this use is not an Out-of-water Storage Facility, Class A or Class B, as defined in the B.C.Z.R. The Zoning Review Division of DPDM concludes that since the use does not involve boat slips or out-of-water storage facility, the parking requirements of Section 409.6.A.4 do not apply. The Petitioner urges and the Zoning Review Division of DPDM agrees that the proper method to calculate off-street parking as previously stated, should be according to Section 409.6.A.2 for General-Retail (office) at 5 spaces per 1,000 sq.ft., and service/storage at 3.3 spaces per 1,000 sq.ft. In this case, the 8 parking spaces are more than adequate for the proposed use.

Section 502 of the BCZR governs special exception uses. That section provides that before the requested special exception may be granted, it must appear that the use for which it is requested will not:

2/28/16
JSP

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic, or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air;
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations...

In support of the request, Mr. Billingsley proffered the testimony from the Petitioner and his witnesses. It is clear that the proposed use would not create any adverse impact at this location more burdensome than that typically expected from such a use at similarly zoned property and that the proposed special exception met the burdens imposed by Section 502.1 of the BCZR. Based on the submitted exhibits and proffered testimony, the improvements proposed by Petitioner appear to lessen the environmental impact of the existing conditions and will improve the appearance of the property without any negative impacts on the community.

A special exception use is "expressly permissible" once certain statutory criteria have been satisfied. Mosshurg v Montgomery County, 107 Md. App. 1, 7 (1995). "It is part of a comprehensive zoning plan, sharing the presumption that it is in the interest of the general welfare and is, therefore valid." *Id.* The proper issue to be considered in a special exception case is whether the adverse effects in the particular location would be above and beyond those

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inherently associated with the special exception use irrespective of its location within the zone.
Id. (Quoting *Schultz v. Pritts*, 291 Md. 1, 22-23 (1981)).

It is clear that the use proposed is permitted in a B.L.-A.S. zone by special exception. It is equally clear from the testimony and evidence presented that the proposed use of the property as a boat yard with a sales and display area will not be detrimental to the primary uses in the vicinity. The evidence presented indicates that the use of the property as a boatyard will not create adverse effects above and beyond those inherently associated with a boatyard elsewhere within the B.L. zone. Therefore, I believe the special exception request to permit a boatyard on the property should be granted. After considering all of the testimony and evidence offered at the hearing, both for and against this request, I find that the special exception request to permit the use of the property as a boatyard, pursuant to Section 230.13 of the BCZR, is hereby approved. During the development process, Petitioner shall address the unresolved issues raised by the Office of Planning.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 28th day of February 2006, that the Petition for Special Exception to use the subject property for a boat yard, including sales, display and cleaning, pursuant to Section 230.13 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

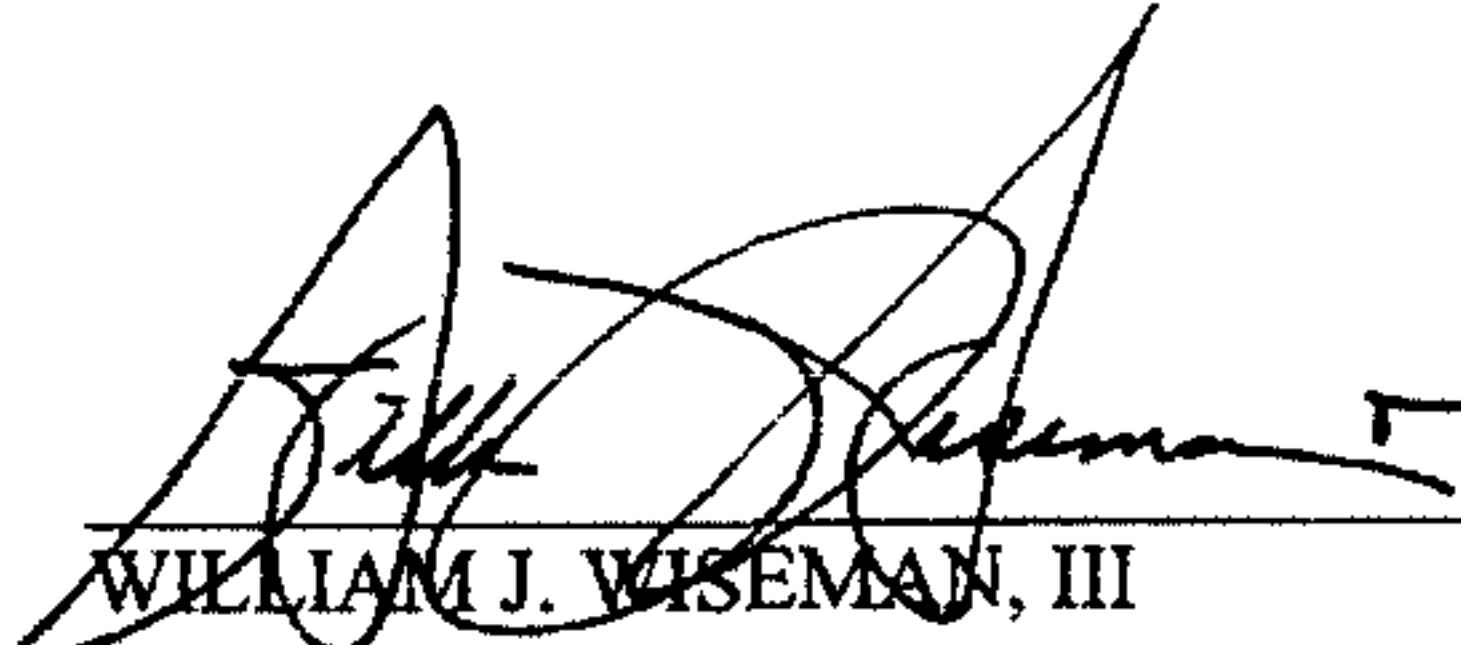
IT IS FURTHER ORDERED that the Petition for Special Hearing to approve amendments to the previously approved site plans (Case Nos. 2955-RS, 85-160-X, 91-348-SPHA and 93-317-SPH); to confirm that the proposed boatyard is not an out-of-water storage facility and not subject to the parking requirements of Section 409.6.A.4; and, that the eight (8) parking spaces proposed are sufficient for the proposed use, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS ORDERED that the Petition for Variance seeking relief from Section 230.12.D of the B.C.Z.R. to permit sales/display of boats 52 feet in front of the required front building line in lieu of the permitted 5 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

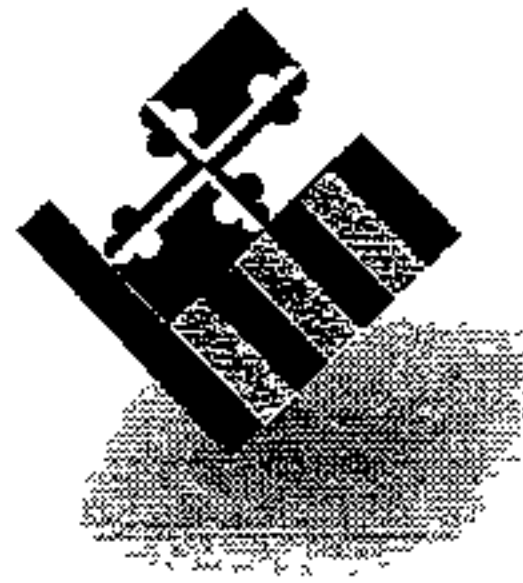
- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) There shall be no major repairs or servicing activities performed on the premises.
- 3) Landscaping shall be provided around the base of the sign as well as the fence, where space permits, to soften the appearance of the fence and signage.
- 4) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that any appeal of this decision must be filed within thirty (30) days from the date of this Order.

WJW:bjs


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

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Date 2/29/16
[Signature]



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

February 28, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

Allen G. Windsor, Esquire
P.O. Box 186
2010 Pulaski Highway
Edgewood, Maryland 21040

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE
NE/Corner Back River Neck Road & Williams Avenue
(149 Back River Neck Road)
15th Election District – 6th Council District
Port Side Holding Company, Inc. - Petitioners
Case No. 06-345-SPHXA

Dear Mr. Windsor:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing, Special Exception and Variance have 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,

A handwritten signature in black ink, appearing to read "William J. Wiseman III", written over a horizontal line.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Mr. Charles Westerman, President, Port Side Holding Company, Inc.
8400 Belair Road, Baltimore, Md. 21236
Mr. David Billingsley, 601 Charwood Court, Edgewood, Md. 21040
Mr. William Jones, Department of Economic Development
Chesapeake Bay Critical Areas Commission
1804 West Street, Suite 100, Annapolis, Md. 21401
DEPRM; People's Counsel; Case File



CBCA

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 149 BACK RIVER NECK ROAD
which is presently zoned BL-A5

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

SEE ATTACHED

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

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

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

City

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

PORT SIDE HOLDING CO., INC.

Name - Type or Print

Signature

CHARLES WESTERMAN, PRES.

Name - Type or Print

Signature

8400 BELAIR ROAD (410) 256-2588

Address

Telephone No.

BALTIMORE

MD.

21236

State

Zip Code

Representative to be Contacted:

DAVID BILLINGSLEY
CENTRAL DRAFTING & DESIGN, INC.

Name

601 CHARWOOD CT. (410) 679-8719

Address

Telephone No.

EDGEWOOD

MD.

21040

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

2 HRS

UNAVAILABLE FOR HEARING

Reviewed By

JL

Date

1/17/06

COPIES RECEIVED FOR FILING

Date 2/28/06

By [Signature]

Case No. 06 345 SPHxA

DWB
Also

AN AMENDMENT TO THE PREVIOUSLY APPROVED SITE PLANS (CASE NO. 2955-RS, 85-160X, 91-348SPHA AND 93-317SPH), TO CONFIRM THAT THE PROPOSED BOATYARD IS NOT AN OUT OF WATER STORAGE FACILITY AND NOT SUBJECT TO THE PARKING REQUIREMENTS OF SECTION 409.6.A.4 AND THAT THE PROPOSED 8 PARKING SPACES ARE SUFFICIENT FOR THE PROPOSED USE.

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Date

2/28/16

[Signature]



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 149 BACK RIVER NECK ROAD
which is presently zoned BL-A5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

A BOATYARD FOR SALES, DISPLAY AND CLEANING. (SECT 230-13)
BCLR
QWB

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

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

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

City

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

PORT SIDE HOLDING CO, INC

Name - Type or Print

Signature

CHARLES WESTERMAN, PRES.

Name - Type or Print

Signature

8400 BELAIR ROAD (410) 256-2588

Address

Telephone No.

BALTIMORE

MD.

21236

State

Zip Code

Representative to be Contacted:

DAVID BILLINGSLEY
CENTRAL DRAFTING & DESIGN, INC.

Name

601 CHARWOOD CT. (410) 679-8719

Address

Telephone No.

EDGEWOOD

MD.

21040

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2 HRS

UNAVAILABLE FOR HEARING -

Reviewed By JL

Date 1/17/06

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Date 2/26/06

By [Signature]

Case No. 06 345 SP4XA

REF 02-13-08



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 149 BACK RIVER NECK ROAD
which is presently zoned BL-AS

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

SEE ATTACHED

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

SEE ATTACHED

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

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

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

PORT SIDE HOLDING CO., INC.

Name - Type or Print

Signature

CHARLES WESTERMAN, PRES.

Name - Type or Print

Signature

8400 BELAIR ROAD (410) 256-2588

Address

Telephone No.

BALTIMORE

MD.

21236

State

Zip Code

Representative to be Contacted:

DAVID BILLINGSLEY
CENTRAL DRAFTING & DESIGN, INC.

Name

601 CHARWOOD CT (410) 679-8719

Address

Telephone No.

EDGEWOOD

MD.

21040

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2 HRS

UNAVAILABLE FOR HEARING

Reviewed By

Date

ORDER RECEIVED FOR FILING

Date

By

06-345-SPHXA

REV 1/15/98

SECTION 230.12.D TO PERMIT SALES / DISPLAY OF BOATS 52 FEET IN FRONT
OF THE REQUIRED FRONT BUILDING LINE IN LIEU OF THE PERMITTED 5
FEET.

ORDER RECEIVED FOR FILING

Date

2/23/06

By

[Signature]

ZONING DESCRIPTION

149 BACK RIVER NECK ROAD

Beginning for the same at a point on the south side of Williams Avenue (60 feet wide) distant 50 feet from the centerline of Back River Neck Road (60 feet wide) thence (1) N 24° 47' 00" E 177.16 feet, thence (2) S 38° 23' 00" E 155.52 feet, thence (3) S 24° 47' 00" W 190.93 feet, thence (4) N 39° 50' 05" W 72.45 feet, thence (5) 64.58 feet along a curve to the right having a radius of 5699.58 feet, thence (6) N 14° 16' 31" W 27.17 feet to the place of beginning. Containing 26,458 square feet or 0.607 acre of land, more or less.

Being known as 149 Back River Neck Road. Located in the 15TH Election District, 6TH Councilmanic District of Baltimore County, Maryland



345

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: #06-345-SPHXA

140 Back River Neck Road

Southwest corner Back River Neck Road and Williams Avenue

15th Election District — 6th Councilmanic District

Legal Owner(s): Portside Holding Co., Inc.

Special Exception to permit a boatyard for sales, display and cleaning.

Special Hearing for an amendment to the previously approved site plans in case no. 2955-RS, 85-160X, 91-348-SPHA, 93-317-SPH) to confirm that the proposed boatyard is not an out of water storage facility and not subject to the parking requirements and that the proposed 8 parking spaces are sufficient for the proposed use.

Variance to permit sales/display of boats, 52 feet in front of the required front building line in lieu of the permitted 5 feet.

Hearing: Wednesday, February 15, 2006, at 9:00 a.m., 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 accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
2/009 Feb. 2 82939

CERTIFICATE OF PUBLICATION

2/2/, 2006

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2/2/, 2006.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 2848

DATE

1/17/06

ACCOUNT

01006 6150

AMOUNT

\$ 800.00

RECEIVED
FROM:

PORT SOUTHERN HOLDING CO INC.

FOR:

SPHXA

149 BACK RIVER WALK RD.

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

RECEIVED BY: ACTUAL DATE

1/18/2006 1/17/2006

RECEIVED BY: MAIL

RECEIVED BY: JEFFREY

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CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No: 06-345-SPHXA

Petitioner Developer: PORTSIDE HOLDINGS CO. INC.

Date Of Hearing/Closing: 2/15/06

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

Attention:

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
at 149 BACK RIVER NECK ROAD

This sign(s) were posted on January 31, 2006
(Month, Day, Year)

Sincerely,

Martin Ogle 1/31/06
(Signature of sign Poster and Date)

Martin Ogle

Sign Poster

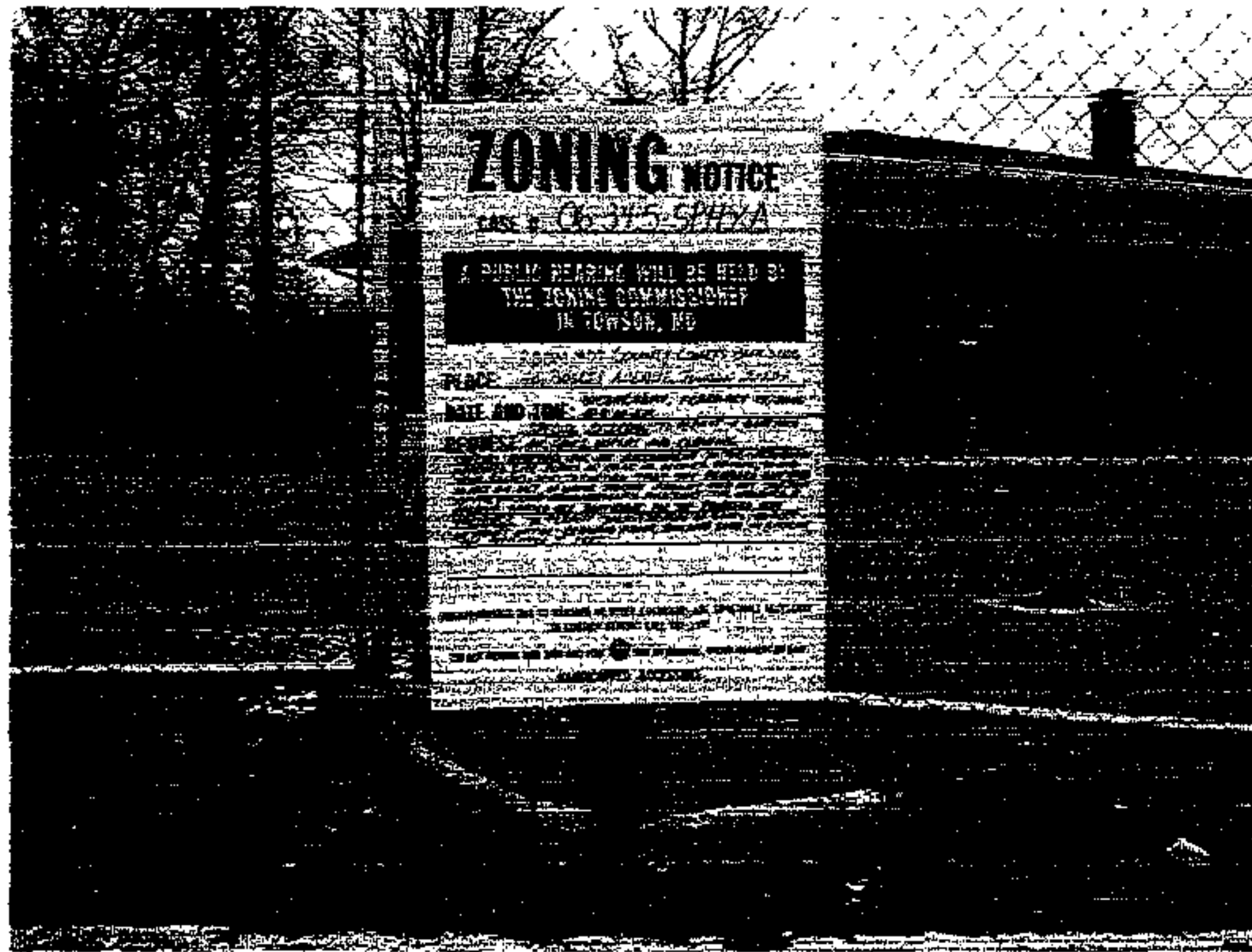
16 Salix Court

Address

Balto. Md 21220

(443-629 3411)

im000571 (1152x864x24b jpeg)



Walter D. 1/31/06



January 19, 2006

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: 06-345-SPHXA

149 Back River Neck Road

Southeast corner Back River Neck Road and Williams Avenue.

15th Election District—6th Councilmanic District

Legal Owners: Portside Holding, Co., Inc.

Special Exception to permit a boatyard for sales, display and cleaning.

Special Hearing for an amendment to the previously approved site plans in case no. 2955-RS, 85-160X, 91-348-SPHA, 93-317-SPH) to confirm that the proposed boatyard is not an out of water storage facility and not subject to the parking requirements and that the proposed 8 parking spaces are sufficient for the proposed use.

Variance to permit sales/display of boats, 52 feet in front of the required front building line in lieu of the permitted 5 feet.

Hearing: Wednesday, February 15, 2006 @ 9:00 a.m., Room 407, County Courts Building,
401 Bosley Avenue, Towson, 21204.

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

Timothy Kotroco
Director

TK: clb

C: Portside Holding Co. Charles Westerman 8400 Belair Road Baltimore 21236
David Billingsley Central Drafting & Design 601 Charwood Court Edgewood 21040

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY FEBRUARY 1, 2006.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.**
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391**

TO: PATUXENT PUBLISHING COMPANY
Thursday, February 2, 2006 Issue - Jeffersonian

Please forward billing to:

Portside Holding Company 410-256-2588
8400 Belair Road
Baltimore, Maryland 21236

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: 06-345-SPHXA

149 Back River Neck Road

Southeast corner Back River Neck Road and Williams Avenue.

15th Election District—6th Councilmanic District

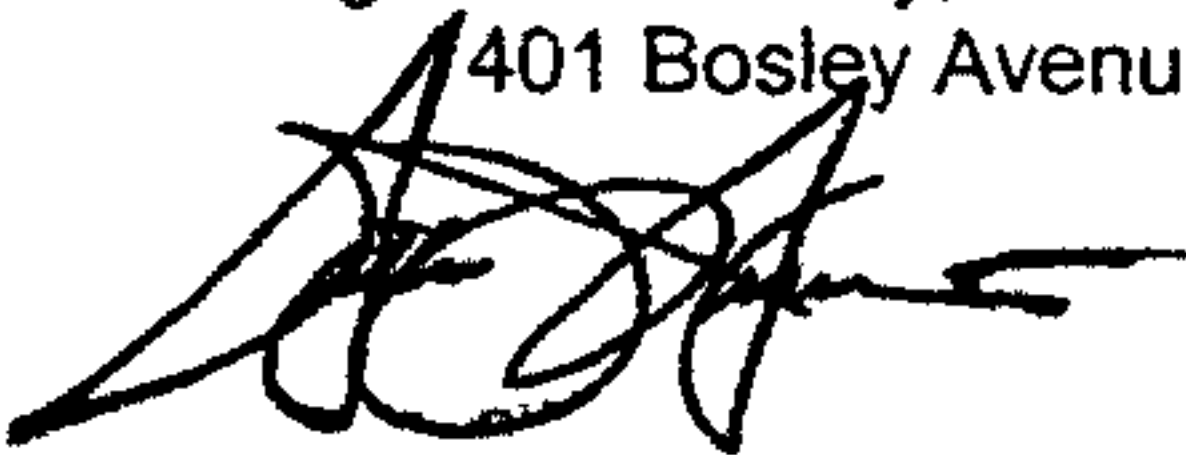
Legal Owners: Portside Holding, Co., Inc.

Special Exception to permit a boatyard for sales, display and cleaning.

Special Hearing for an amendment to the previously approved site plans in case no. 2955-RS, 85-160X, 91-348-SPHA, 93-317-SPH) to confirm that the proposed boatyard is not an out of water storage facility and not subject to the parking requirements and that the proposed 8 parking spaces are sufficient for the proposed use.

Variance to permit sales/display of boats, 52 feet in front of the required front building line in lieu of the permitted 5 feet.

Hearing: Wednesday, February 15, 2006 @ 9:00 a.m., 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 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.

06-3455PHXA

Zoning File Copy

RE: 149 BACK RIVER NECK ROAD

THE PETITIONER IS AWARE THAT HE
MUST BE REPRESENTED BY AN ATTY.
AT THE HEARING. AS SUCH THE ATTY
WILL SIGN PETITIONS AND ENTER APPEARANCE
WELL IN ADVANCE OF HEARING DATE

DWB

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 06 345 SPHxA
Petitioner: PORT SIDE HOLDING CO., INC.
Address or Location: 149 BACK RIVER NECK ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: PORT SIDE HOLDING CO., INC.
Address: 8400 BELAIR RD
BALTO., MD. 21236

Telephone Number: (410) 256-2588

**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*

February 13, 2006

Port Side Holding
Charles Westerman
8400 Belair Road
Baltimore, Maryland 21236

Dear Mr. Westerman:

RE: Case Number: 06-345-SPHXA, 149 Back River Neck Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 17, 2006.

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

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

Very truly yours,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." The signature is written in a cursive, flowing style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
David Billingsley 601 Charwood Court Edgewood 21040

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



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 27, 2006

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

SUBJECT: 149 Back River Neck Road – *(comments in response to continued hearing)*

INFORMATION:

Item Number: 06- 345

Petitioner: Port Side Holding Company, Inc., c/o Charles Westerman, Pres.

Zoning: BL-AS

Requested Action:

1. Special Exception to allow for the sales/display of boats 52 feet in from the of the required building front building line in lieu of the permitted 5 feet, and;
2. Special hearing to provide for an amendment to the previously approved site plans (Case No. 29-55-RS, 85-169X, 91-348SPHA, and 93-317SPH) to confirm that the proposed boatyard is not an out of water storage facility and not subject to the parking requirements of section 409.6A.4 and that the proposed 8 parking spaces are sufficient for the proposed use.

SUMMARY OF RECOMMENDATIONS:

Subsequent to the continuance of the above referenced case, the Office of Planning met with the applicant and his engineer to discuss a resolution to the outstanding issue of the proposed fence.

The Office of Planning's comments dated February 13, 2006 recommended an aluminum picket fence as the preferable design for this site, and conditioned our approval of the special exception on an improved fence design.

At a meeting held on February 17, 2006 the petitioner presented his case for a new metal chain link fence with wire security device on the Back River Neck Road frontage as well as the Williams Avenue frontage. Planning Office staff offered several alternative options for a combination of aluminum picket fencing and/or chain link with vinyl cladding as a compromise.

After consulting with the Office of Economic Development and the Office of Community

COPIES RECEIVED FOR FILING

Date

By

Conservation, both of whom are working on significant revitalization efforts in the subject community, it is the opinion of this office that a metal chain link fence with razor or barbed wire is unacceptable at this location. We recommend the following as a condition of approval on the request for special exception:

Any fencing installed on the site on Back River Neck Road and Williams Avenue shall be either:

1. Black aluminum picket or;
2. Chain link with black or dark green vinyl cladding without barbed wire at the top of the fence. Landscaping in the form of planter boxes shall be provided along Back River Neck Road to soften the appearance of the fence. The Planning Office shall review and approve any permit for fencing prior to its issuance.

Prepared by:

Curtis Herring

Division Chief:

John T. Haver

AFK/LL: CM

ORDER RECEIVED FOR FILING

Date

File

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

January 25, 2006

ATTENTION: Zoning Review planners

Distribution Meeting of: January 23, 2006

Item No.: 335-A, 6-336-A, 6-337-A, 6-338-A, 6-339-A, 6-340-SPH, 6-341-A, 6-342-A, 6-343-A, 6-344-A and 6-345-SPHXA

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

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

Acting Lt. W T Moffitt
Fire Marshal's Office
(O)410-887-4881 (C)443-829-2946
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: January 31, 2006

FROM: ^{DAK} Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For January 30, 2006
Item Nos. 336, 337, 338, 339, 340, 341,
343, 344, and 345

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-01302006.doc

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



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

Maryland Department of Transportation

Date: 1.20.06

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

RE: Baltimore County
Item No. 345 JLL

Dear Ms. Matthews:

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

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

Very truly yours,

Steven D. Foster, Chief
Engineering Access Permits Division

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
SPECIAL EXCEPTION & VARIANCE
142 Back River Neck Road; SE corner Back * ZONING COMMISSIONER
River Neck Road & Williams Avenue
15th Election & 6th Councilmanic Districts * FOR
Legal Owner(s): Port Side Holding Company, * BALTIMORE COUNTY
Inc by Charles Westerman, President *
Petitioner(s) *
06-345-SPHXA

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of January, 2006, a copy of the foregoing Entry of Appearance was mailed to David Billingsley, Central Drafting & Design, Inc, 601 Charwood Court, Edgewood, MD 21040, Representative for Petitioner(s).

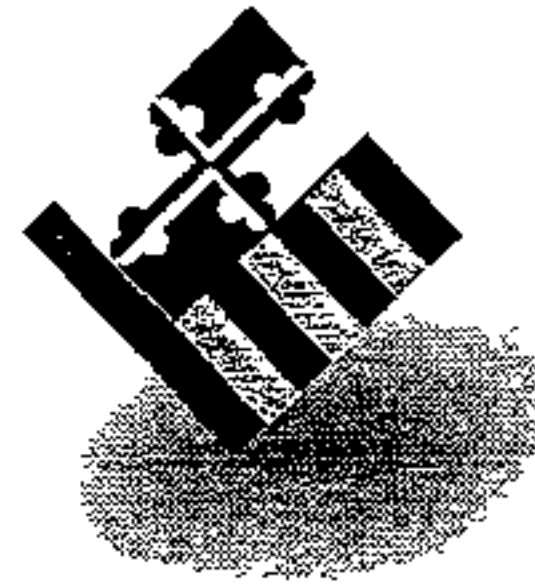
RECEIVED

JAN 23 2006

Per *CLB*

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

March 30, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

Peter Max Zimmerman, People's Counsel for Baltimore County
Carole S. Demilio, Deputy People's Counsel for Baltimore County
400 Washington Avenue, Room 47
Towson, Maryland 21204

RE: MOTION FOR RECONSIDERATION
(PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE)
(149 Back River Neck Road)
Port Side Holdings Company, Inc. – Petitioners
Case No. 06-345-SPHXA

Dear Mr. Zimmerman & Ms. Demilio:

In response to your letter of March 15, 2006 concerning the above-captioned matter, the following comments are offered. Your letter has been accepted as a Motion for Reconsideration of the Amended Order issued by me on March 2, 2006, which incorporated my previous Order of February 28, 2006, pursuant to Rule 4K of the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County.

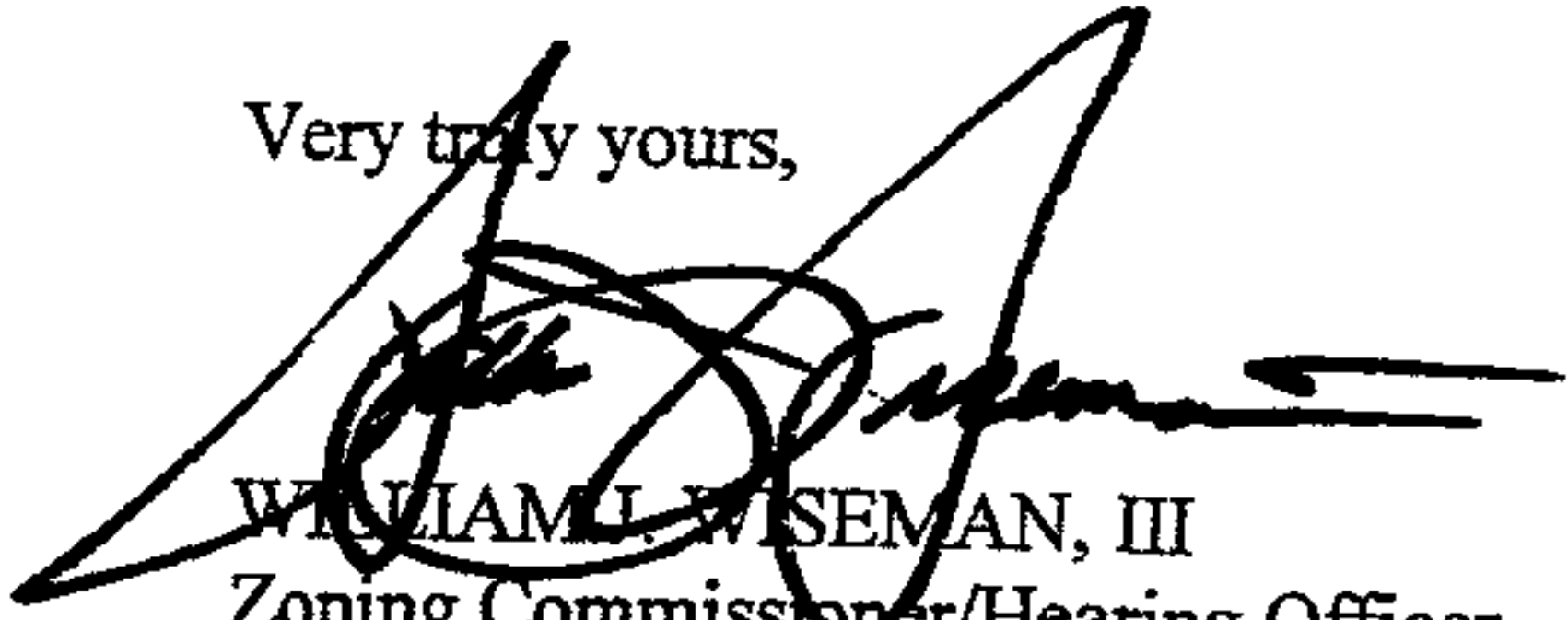
You have requested that I further amend the Order to include two additional restrictions to supplement the recommendations made by the Office of Planning in its Zoning Advisory Committee (ZAC) comment, dated February 13, 2006, a copy of which was attached to the Amended Order of March 2, 2006. Specifically, you request that additional landscaping be provided between the rear of the subject property and the residence located at 1611 Williams Avenue and that all lighting on the subject property be directed away from the residential community on Williams Avenue.

In considering your request, I have reviewed the site plan and photographic evidence contained within the case file and am not persuaded to further amend my Order. I find that sufficient landscaping exists to the rear of the property to buffer its view from the residence identified above. Moreover, the site plan shows that the lighting will be wall-mounted and directed downward so as not to impact adjacent properties. Additionally, although there is one existing light pole on Williams Avenue, which will remain, it is clear that this street light has existed where located for many years. In this regard, I note that both sides of Williams Avenue at this corner location are used commercially.

Peter Max Zimmerman, People's Counsel for Baltimore County
Carole S. Demilio, Deputy People's Counsel for Baltimore County
March 30, 2006
Page 2

In sum, I am persuaded that the issues raised by the Office of People's Counsel have been addressed and that no further modification is necessary. Thus, your Motion for Reconsideration is respectfully denied. This letter shall be considered an Order denying same and any appeal from this decision must be filed within thirty (30) days of the date hereof.

Very truly yours,



WILLIAM L. WISEMAN, III
Zoning Commissioner/Hearing Officer
for Baltimore County

WJW:bjs

cc: Allen G. Windsor, Esquire
P.O. Box 186, 2010 Pulaski Highway, Edgewood, Md. 21040
Mr. Charles Westerman, President, Port Side Holding Company, Inc.
8400 Belair Road, Baltimore, Md. 21236
Mr. David Billingsley, 601 Charwood Court, Edgewood, Md. 21040
Mr. William Jones, Department of Economic Development
Chesapeake Bay Critical Areas Commission
1804 West Street, Suite 100, Annapolis, Md. 21401
DEPRM; People's Counsel; Case File



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 15, 2006

William J. Wiseman, III, Zoning Commissioner
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

Re: PETITIONER FOR SPECIAL HEARING, SPECIAL
EXCEPTION AND VARIANCE
Port Side Holdings Company, Inc
149 Back River Neck Road
Case Nos: 06-345-SPHXA

Dear Mr. Wiseman:

Please accept this letter as a Motion for Reconsideration of the Amended Order dated March 2, 2006, and the incorporated Order dated February 28, 2006.

We respectfully request that the Order also include the following restrictions:

- "3. A vegetative buffer shall be planted between the rear of the subject property and the dwelling located at 1611 Williams Avenue. Additionally, lighting should be directed away from the residential community located on Williams Avenue.
4. The dumpster proposed for the rear of the site shall be adequately screened."

These restrictions are from the enclosed Planning Office comment dated February 13, 2006. They were also mentioned with apparent approval on Page 3 of the February 28, 2006 opinion, but they are omitted in the order.

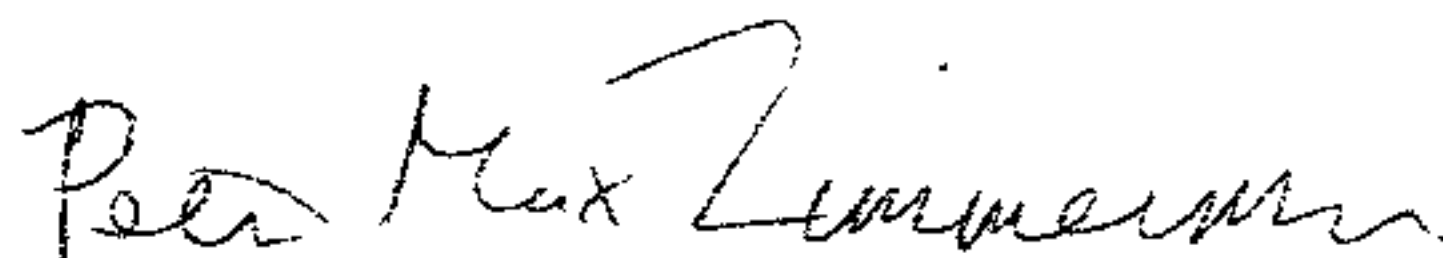
Thank you for your consideration.

William J. Wiseman, III, Zoning Commissioner

March 14, 2006

Page 2

Very truly yours,



Peter Max Zimmerman

People's Counsel for Baltimore County



Carole S. Demilio

Deputy People's Counsel for Baltimore County

PMZ/CSD/rmw

cc: Allen G. Windsor, Esquire
William Jones, Department of Economic Development
Arnold "Pat" Keller, Director of Planning

**LAW OFFICE OF
HICKEY & WINDSOR, P.A.**

P.O. Box 186
2010 Pulaski Highway
Edgewood, MD 21040

Michael C. Hickey, Jr., USMCR (Ret)
Allen G. Windsor

Phone: 410-676-4200
Baltimore Line: 410-679-4466
Fax: 410-679-1339

email: hwlaw@comcast.net

Website: www.hickeywindsor.com

March 29, 2006

William Wiseman, III, Zoning Commissioner
County Courts Building
401 Bosley Avenue, Suite 405
Towson, MD 21204

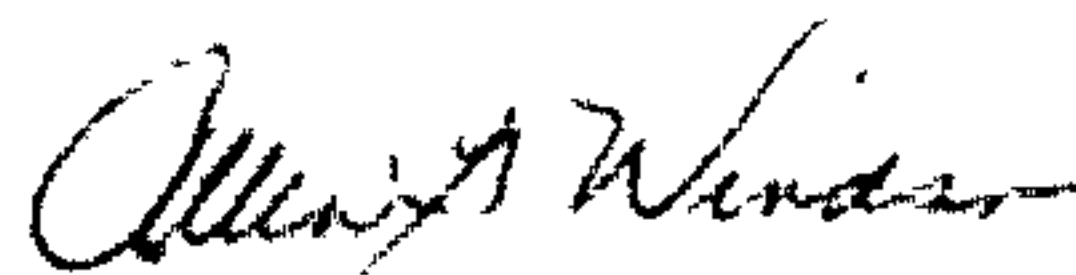
RE: Petition For Special Exception And Variance
Of Port Side Holding Company, Inc.
149 Back River Neck Road
Case No.: 06-345-SPHXA

Dear Mr. Wiseman:

Thank you for speaking with me in regard to the Letter from People's Counsel dated March 15, 2006. As you are aware, most of these issues were previously addressed with the Office Of Planning before the hearing.

I have spoken with Mr. Westerman as to the concerns stated by People's Counsel. Mr. Westerman, the President of Port Side Holding Company, has assured me that he has every intention of maintaining the existing green space on north east side of the property between his boat yard and his neighbor's property at 1611 Williams Avenue, at least to the extent that this is on his property and within his power to do so. He will do his best to see to it that the lighting in that area does not unnecessarily bother his neighbors, although, for security reasons, some lighting in that area will be required. Mr. Westerman sincerely wishes to maintain good relations with his new neighbors. It is his desire that his new business be considered to be a welcome addition to the neighborhood.

Yours Truly,


Allen G. Windsor

cc Peter Max Zimmerman, People's Counsel for Baltimore County
Carole S. Demilio, Deputy People's Counsel for Baltimore County

Bette Schuhmann - ZAC Comments for 149 Back River Neck Road, Case No. 06-345-SPHXA

From: Bette Schuhmann
To: Livingston, Jeffrey
Subject: ZAC Comments for 149 Back River Neck Road, Case No. 06-345-SPHXA

Hi, Jeff - Bill had a hearing on the above-captioned matter on February 15th and there were no comments from DEPRM. He is prepared to issue a decision in the matter within the next day or two so would you kindly check your records and if you have a comment, forward it to me at your earliest convenience. Thanks!

Bill Wiseman - Re: ZAC Comments 06-345

From: Bette Schuhmann
To: Livingston, Jeffrey
Date: 02/14/06 3:59 PM
Subject: Re: ZAC Comments 06-345
CC: Wiseman, Bill

OK - Thank you!

Bette Schuhmann
bschuhmann@co.ba.md.us
410-887-3868

>>> Jeffrey Livingston 2/14/2006 3:58 PM >>>
Bette,

DEPRM has no comments for ZAC06-345.

Still working on the other ones.

Jeff

Jeff Livingston
jlivingston@co.ba.md.us
(410) 887-4488 ext. 339

>>> Bette Schuhmann 02/14/06 9:42 AM >>>

Good morning, Jeff and Happy Valentine's Day to you! I'm writing to advise you that Bill has a couple of cases coming up this week for which he has no DEPRM comments. Would you please look into the following cases for me and if you have a comment, forward it ASAP? Thanks!!

Cases Nos. 06-345 (149 Back River Neck Road); 06-347 (300 Garrison Forest Road); and
06-351 (3040 Arizona Avenue)

Bette Schuhmann
bschuhmann@co.ba.md.us
410-887-3868

CASE NAME 149-BACK RIVER NECK RD.
CASE NUMBER 06-345 SPHXA
DATE 2/15/06

NAME

CITY, STATE, ZIP

E-MAIL

DAVID BILLINGSLEY

501 CHARWOOD CT.

EDGEWOOD, MD. 21040

www.60209mp@yahoo.com

CHUCK WESTERMAN

7711 Hogweis Ave.

EPWORTH, MO. 2/22/20

Allen G. Windsor, Esq.

P.O. Box 186, 2010 Pulaski Hwy

Edgewood, MD 21040

cgw:ndso@comcast.net

PLEASE PRINT CLEARLY

CASE NAME

CASE NUMBER

DATE

COUNTY REPRESENTATIVE'S SIGN-IN SHEET

NAME

ADDRESS

CITY, STATE, ZIP

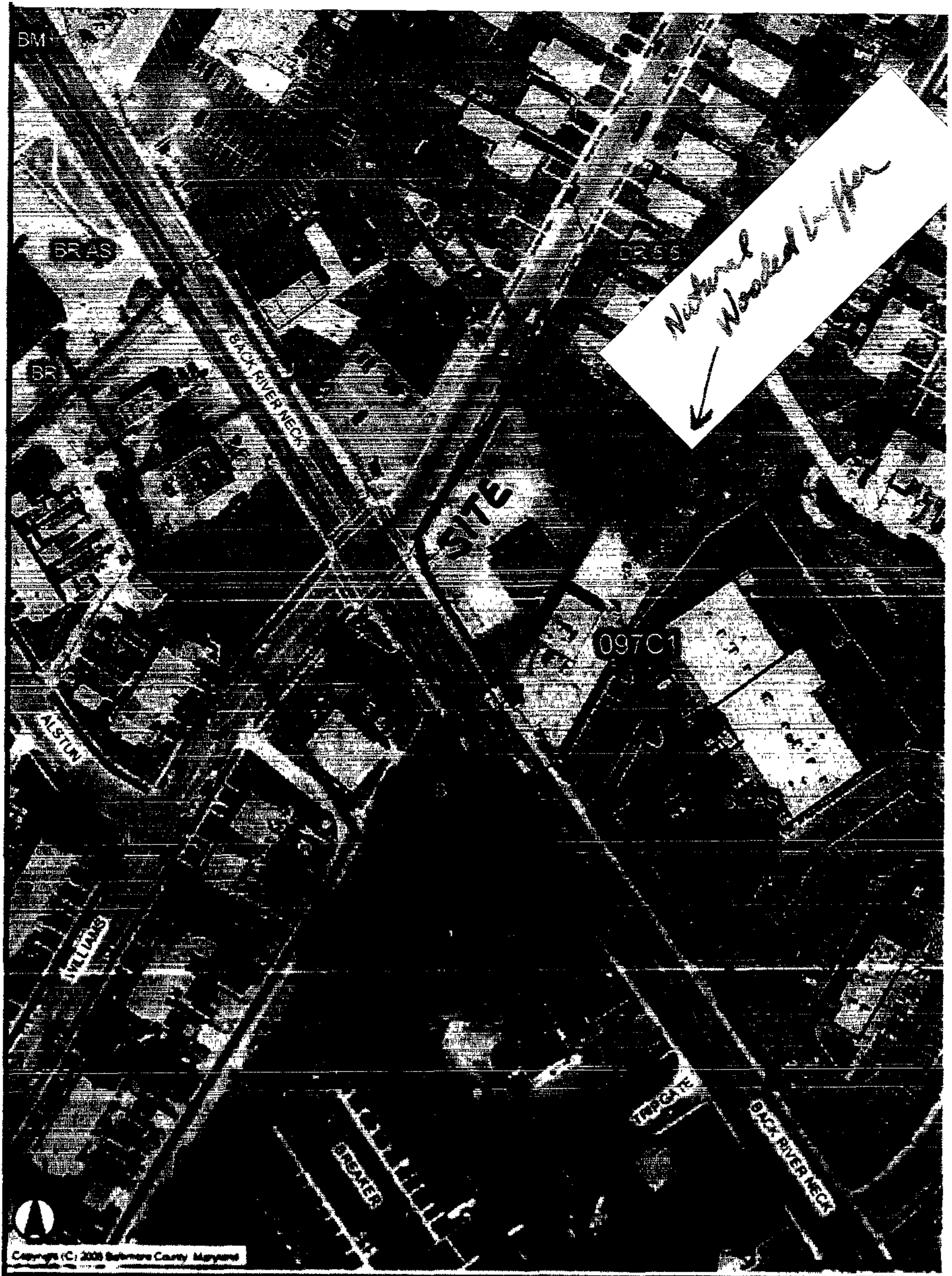
E-MAIL

Paul Jones
Jones

RED

W Jones @ CO

345



Case No.:

06-345 SPHXA

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN	
No. 2	PHOTO'S OF SUBJECT PROPERTY 2A, B & C	
No. 3		
	PRIOR ZONING CASES	
No. 4	MULTIPLE PHOTOS OF OTHER BOAT YARDS AND "FENCES USED FOR PROTECTION"	
No. 5	PHOTO - M & M BOATS - THIS IS WHAT PETITIONER PROPOSES - GRASS/FENCE/SIGNAGE	
No. 6	DEED HISTORY & PLAT	
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

EV COONAN PER
SANTA ANTONIO T-CENTINYS
231 COURTLAND ST
BALTIMORE, MD
APR 15 1916
APR 15 1916

PROPOSED LISTING PROFILE FOR VARIANCE REQUEST

1. LOT 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

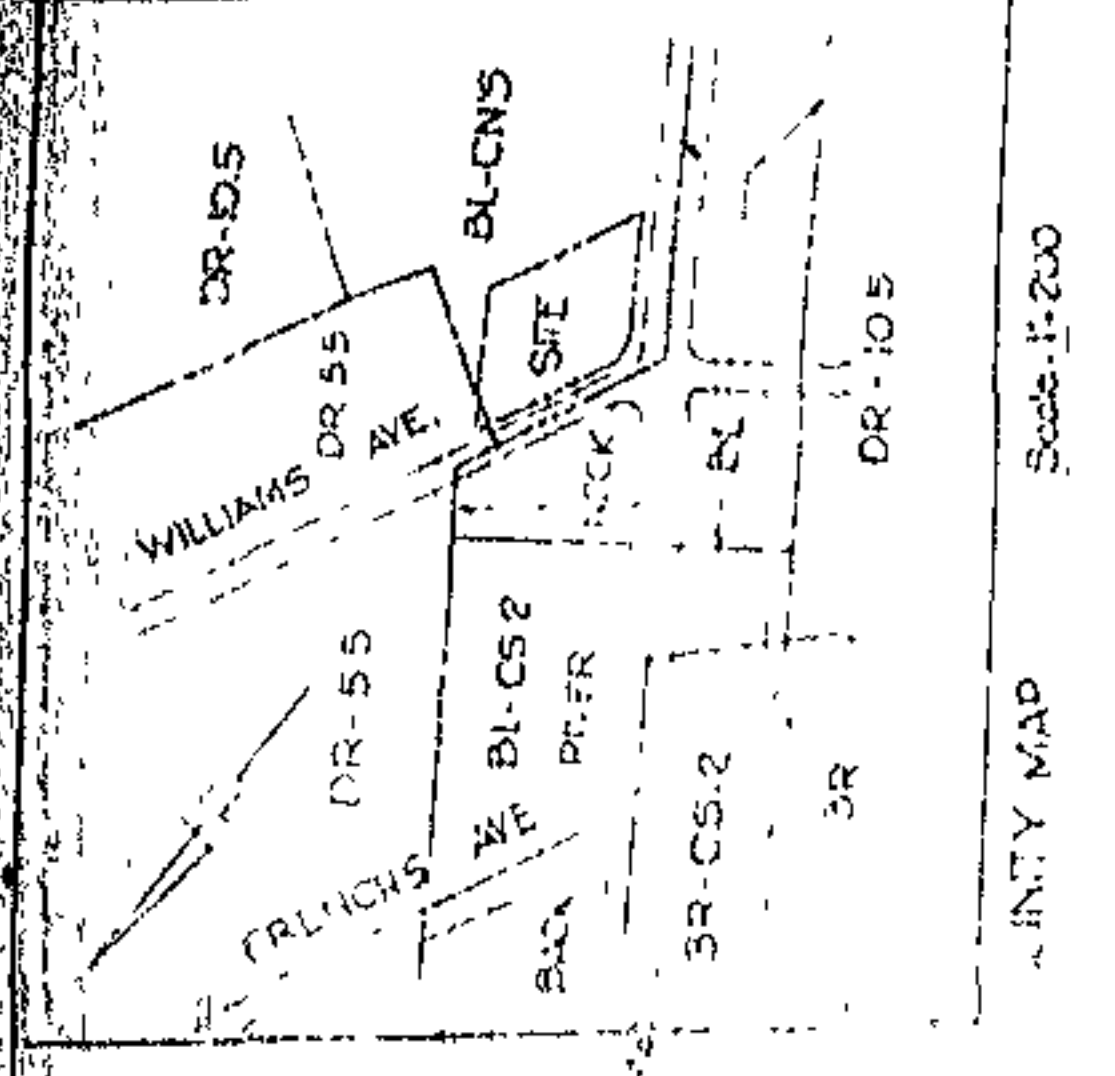
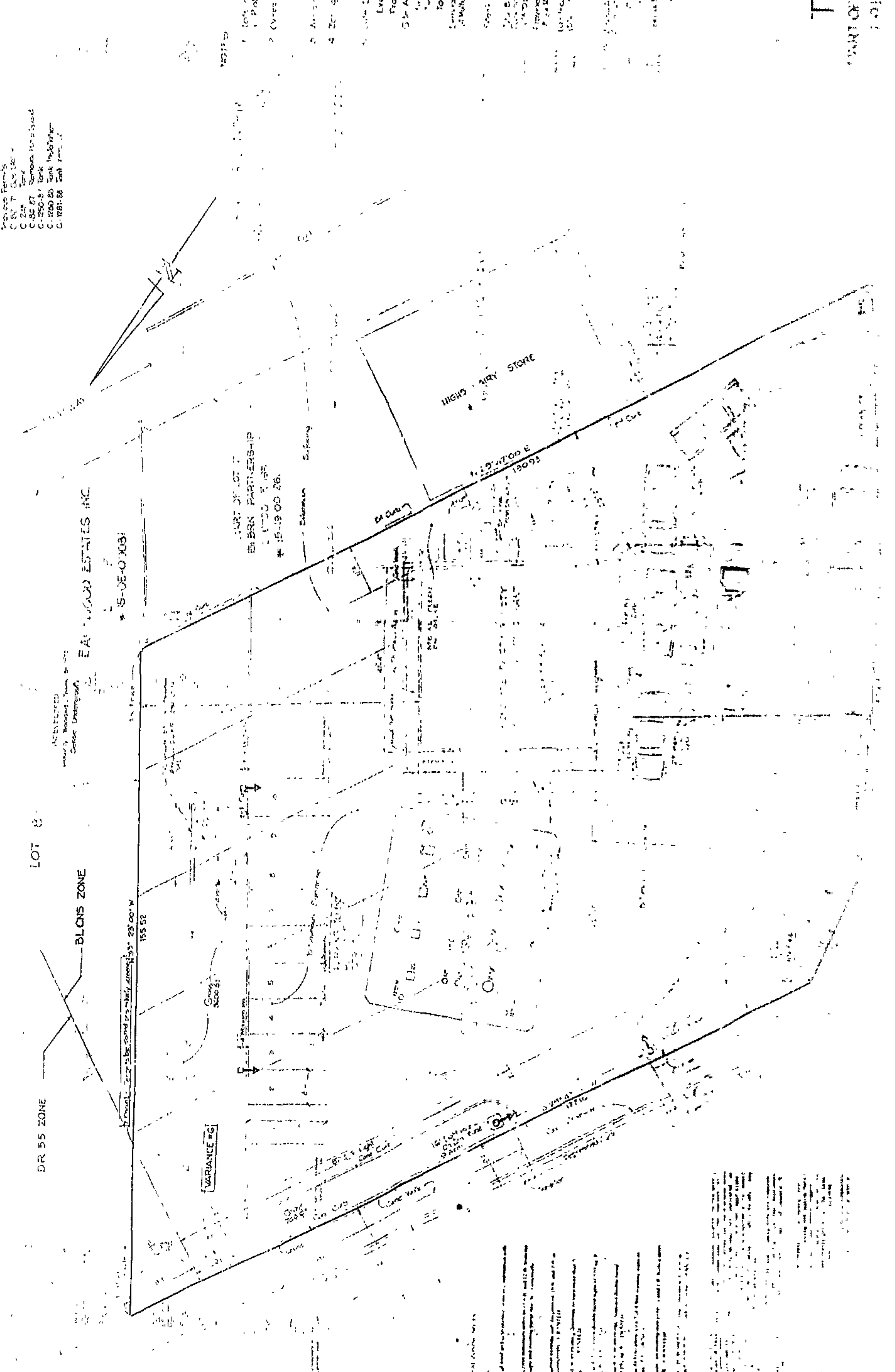
DR 55 ZONE

BLONS ZONE

LOT 10

15-05-0008

15-05-0008



NOTES

1. All signs and markings shall be removed and replaced with new signs and markings as shown on the plan.

2. All signs and markings shall be removed and replaced with new signs and markings as shown on the plan.

3. All signs and markings shall be removed and replaced with new signs and markings as shown on the plan.

4. All signs and markings shall be removed and replaced with new signs and markings as shown on the plan.

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30. All signs and markings shall be removed and replaced with new signs and markings as shown on the plan.

31. All signs and markings shall be removed and replaced with new signs and markings as shown on the plan.

ORDERED by the Zoning Commissioner of Baltimore
County this 16th day of March, 1951,
that the subject matter of this petition be advertised in
a newspaper of general circulation throughout Baltimore
County and that the property be posted, as required by the
Zoning Regulations and Act of Assembly aforesaid, and that
a public hearing thereon be had in the office of the Zoning
Commissioner of Baltimore County, Maryland, on the 14th
day of April, 1951, at 11:00 o'clock

Zoning Commissioner
of Baltimore County

Upon hearing a petition (1) for reclassification of the
parcel of land described therein from an "A" Residence Zone to an
"B" Commercial Zone and (2) for Special Permit to use said property
for a gasoline service station and it appearing, that by reason of
location, being adjacent to existing commercial areas, the said
petition should be granted, therefore

It is this 15th day of April, 1951, ORDERED by the
Zoning Commissioner of Baltimore County that the aforesaid petition
be and the same is hereby granted; the first, for reclassification
as aforesaid and, second, to use the property for a gasoline service
station, provided, however, that the setback for any buildings or
structures to be erected and the island for the gasoline pumps
shall be subject to the approval of the Zoning Department.

William S. Adams
Zoning Commissioner
of Baltimore County

PRIOR ORDERS
PETITIONER'S

EXHIBIT NO.

2

2955-RS
MAP
#154

85-160 X

The Petitioner seeks relief from Section 405.4.D.8, pursuant to Section 502.1, Baltimore County Zoning Regulations (BCZR).

It is clear that the BCZR permit the use requested by the Petitioner in a B.L.-C.W.S. Zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity of the proposed use. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioner.

After reviewing all of the testimony and evidence presented, it appears that the special exception as applied for should be granted, with certain restrictions as more fully described below.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest. The facts and circumstances of the use proposed by the Petitioner do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use irrespective of its location within the zone. Schultz v. Frittle, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the BCZR.

Pursuant to the advertisement, posting of property, and public hearing held, and it appearing that by reason of the requirements of Section 502.1

having been met and the health, safety, and general welfare of the community not being adversely affected, the special exception should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 14th day of December, 1994, that the Petition for Special Exception for a food store with less than 5,000 square feet of retail sales area in combination with a service station be and is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions:

1. Compliance with the comments submitted by the Baltimore County Zoning Plans Advisory Committee (ZPAC), which are adopted in their entirety and made a part of this Order.
2. Compliance with the requirements of the Baltimore County Landscape Manual.
3. Sales shall be limited to soda, cigarettes, candy, snacks, auto service products, pet food, and wild bird seed. The sale of any other items shall be permitted only after amending this special exception via a special hearing.


Zoning Commissioner of
Baltimore County

Attest:

cc: Mr. Marvin Taylor

Mr. & Mrs. Joseph Mangione

Dr. Thomas Morris

People's Counsel

ORDER RECEIVED FOR FILING

DATE December 14, 1994

BY [Signature]

ORDER RECEIVED FOR FILING

DATE December 14, 1994

BY [Signature]

91-348

ORDER RECEIVED FOR FILING

Date 6/5/91

By M. H. H. H.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 5th day of June, 1991, that the Petition for Special Hearing for approval of an amendment to the site plans in case No. 2955-RS and No. 85-160-X and restriction No. 3 in the latter case to allow the existing food store as a use in combination with a gasoline station to sell all types of food and convenience items in lieu of the permitted sale of soda, cigarettes, candy, snacks, auto service products, pet food and wild bird seed, is hereby GRANTED; and,

IT IS FURTHER ORDERED that Restriction No. 3 of case No. 85-160-X is hereby stricken and rendered null and void; and,

IT IS FURTHER ORDERED that all prior zoning cases 2955-RS and 85-160-X shall remain in full force and effect as if set forth in their entirety herein, except where said cases are inconsistent with the holding of the instant Order; and,

IT IS FURTHER ORDERED that, pursuant to a Petition for Zoning Variance, variances from Section 405.4.A.2.a to permit minimum setbacks of 4 ft. and 12 ft. from the street right of way in lieu of the required 10 ft. and 15 ft. for a proposed canopy and existing pump islands, respectively, is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 405.4.A.3.a. to permit existing curb tangent lengths of 10 ft. between the existing access driveway on Back River Neck Road and the corner, and 7 ft. between the existing access driveway along said road and the southerly property line

in lieu of the required 20 ft. and 10 ft. respectively, is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 405.4.A.3.b to allow the existing southerly driveway along Back River Neck Road to vary more than 5 degrees from a right angle with the street, is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance Section 405.4.B.4 (Section 413) to allow existing double faced signs of 150 sq. ft. and 39.2 sq. ft. respectively with a total area of 189.2 sq. ft., as indicated on Petitioner's Exhibit No. 2 is hereby GRANTED; and,

IT IS FURTHER ORDERED that the variance request from Section 405.4.B.4 (Section 413) to allow two proposed double-faced spreader bar signs with a total area of 192 sq. ft. in lieu of the permitted total free standing signage of 100 sq. ft. is hereby DENIED; and,

IT IS FURTHER ORDERED that the variance request from Section 405.4.B.4 (Section 413) to allow a total of 4 free-standing signs in lieu of the permitted maximum number of 3 free-standing signs is hereby DENIED; and,

IT IS FURTHER ORDERED that a variance from Section 405.4.A.2.a to permit an existing sign located 1 ft. from the right of way in lieu of the required 6 ft. is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 405.4.B.5 to permit proposed free-standing luminaries of 16 ft. in height to be located a minimum distance of 10 ft. from a residential zone in lieu of the required distance of 128 ft. from said zone, in accordance with Petitioner's Exhibit No. 2, is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the foregoing relief:

ORDER RECEIVED FOR FILING

Date

By

6/5/91
Jm Novak

ORDER RECEIVED FOR FILING

Date 6/1/91

By J. Robert Haines

JRH:mmm
cc: Peoples Council

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. Prior to the issuance of any permits, the Petitioner shall submit to the Zoning Commissioner's office a certified site plan prepared by a Registered Professional Engineer which clearly identifies all buildings, their size and area dimensions, their exact location on the subject property, their distances from all property lines, and any other information as may be required by a certified site plan.

3. All light standards located in the grassy area on the northeast side of the subject site shall be located no further into said grassy area than 4 ft. from the bituminous curb indicated on Petitioner's Exhibit No. 2. Further, said lighting shall be erected in such a manner as to avoid the unnecessary diffusion of light onto adjoining residential properties.

4. The Petitioner shall comply with all requirements and conditions set forth in the Baltimore County Fire Department's comment of January 28, 1991.

5. Pursuant to the comment of the Deputy Director of the Office of Planning and Zoning dated March 13, 1991, the Petitioner shall submit a landscape plan to the Deputy Director of the Office of Planning and Zoning prior to the issuance of any building permits for prior approval.

6. Petitioner shall not display any temporary signs or seasonal banners on the subject property.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner for
Baltimore County

93-317-SPH

opinion of the Deputy Zoning Commissioner that said zoning approvals shall be implemented in accordance with the B.C.Z.R. in effect on June 5, 1991 and subject to the restrictions set forth in the Zoning Commissioner's Order in Case No. 91-348-SPHA dated June 5, 1991.

Pursuant to the advertisement, posting of the property, and public hearing held on this Petition, and for the reasons stated above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 6th day of May, 1993 that the Petition for Special Hearing to extend the time period in which to utilize the special exception zoning approvals granted in Case No. 91-348-SPHA until June 5, 1996 be and is hereby GRANTED, subject to the following restrictions which are conditions precedent to the relief granted:

1) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) The Petitioner shall comply with the restrictions set forth in the Zoning Commissioner's Order dated June 5, 1991 in Case No. 91-348-SPHA.

[Signature]
Deputy Zoning Commissioner

Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New Search](#)
[Ground Rent](#)

Account Identifier: District - 15 Account Number - 1600005211

Owner Information

Owner Name: PORT SIDE HOLDING CO INC Use: COMMERCIAL
Principal Residence: NO
Mailing Address: C/O CHARLES F WESTERMAN PRES Deed Reference: 1) /23093/ 379
8400 BELAIR RD 2)
BALTIMORE MD 21235-0001

Location & Structure Information

Premises Address
149 BACK RIVER NECK RD

Legal Description
PT LT 1-2-3-4-5-6
SE COR WILLIAMS AVE
FRENCHS PARK

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	Plat Ref:
97	5	367				D	1	3		6/ 138

Special Tax Areas Town
Ad Valorem
Tax Class

Primary Structure Built
0000

Enclosed Area
1,848 SF

Property Land Area
26,451.00 SF

County Use
20

Stories

Basement

Type

Exterior

Value Information

	Base Value	Value As Of 01/01/2006	Phase-in Assessments As Of 07/01/2005	Phase-in Assessments As Of 07/01/2006
Land:	146,400	176,400		
Improvements:	78,000	85,900		
Total:	224,400	262,300	224,400	237,033
Preferential Land:	0	0	0	0

Transfer Information

Seller: MOTIVA ENTERPRISES LLC	Date: 12/19/2005	Price: \$255,000
Type: IMPROVED ARMS-LENGTH	Deed1: /23093/ 379	Deed2:
Seller: STAR ENTERPRISE	Date: 12/19/2005	Price: \$230,200
Type: IMPROVED ARMS-LENGTH	Deed1: /23093/ 375	Deed2:
Seller: GETTY REFINING & MARKETING COMPANY	Date: 12/19/2005	Price: \$230,200
Type: IMPROVED ARMS-LENGTH	Deed1: /23093/ 366	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2005	07/01/2006
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

PETITIONER'S

EXHIBIT NO. 6

0023093 379

RETURN TO: 4505-440166M 364
Chicago Title Insurance Co.
19 E. Fayette St., Suite 300
Baltimore, MD 21202
410-727-3700

This instrument prepared by:
Beverly J. Klug
as Agent for MOTIVA ENTERPRISES LLC
12700 Northborough, Suite 100
Houston, TX 77067

When recorded, return Deed and Tax Statements to:
Charles F. Westerman, President
Port Side Holding Co., Inc.
8400 Belair Road
Baltimore, MD 21236
C110's CASE #295050109

SPECIAL WARRANTY DEED WITH RESTRICTIVE COVENANT

THIS DEED made this 26 day of October, in the year 2005, but effective as of
DECEMBER 2, 2005.

BETWEEN:

MOTIVA ENTERPRISES LLC, a Delaware limited liability company, with offices at 12700 Northborough, Ste. 100, Houston, Texas 77067, party of the first part, and **PORT SIDE HOLDING CO., INC.**, party of the second part.

WITNESSETH, that the party of the first part, in consideration of \$255,000.00 and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs, successors and assigns of the party of the second part forever, and being and intended to be the same premises conveyed to the party of the first part by Deed recorded in the office of the Land Records of Baltimore County, Maryland on March 30, 1972, in Liber OTG No. 5269, folio 122 on the following property:

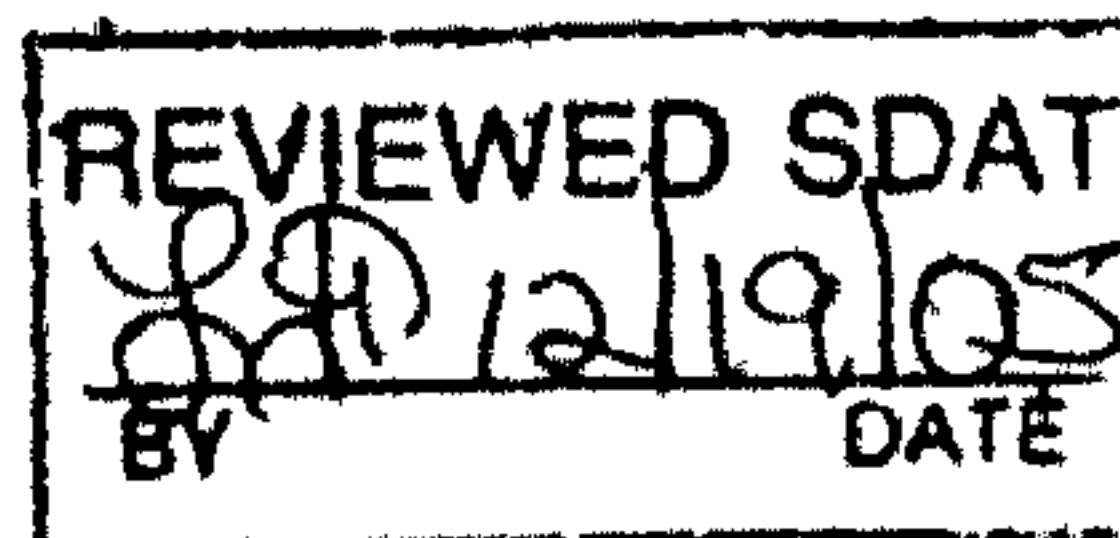
ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being described as follows:

See Exhibit A annexed hereto and made a part hereof.

Premises known as 149 Back River Neck Road, Essex, Maryland 21221

Together with all rights, privileges and appurtenances thereto.

LESS AND EXCEPT: All right, title and interest in and to any oil, gas and other minerals (including without limitation, helium, lignite, sulfur, phosphate and other solid, liquid and gaseous substances), regardless of the nature thereof and whether similar or dissimilar, and the right to explore for, develop and produce same, as well as the right to lease the Premises herein conveyed for such purposes, and all mineral and royalty rights whatsoever in, on or under and pertaining to the Premises but without the right to use,



or right of any ingress to or egress from the surface of the Premises herein conveyed for exploration or producing purposes.

TOGETHER with all right, title and interest, if any, of the party of the first part, in and to any streets and roads abutting the above-described premises to the center lines thereof;

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

TO HAVE AND TO HOLD the Premises herein granted unto the party of the second part, the heirs of successors and assigns of the party of the second part forever.

SUBJECT to the following:

a) Encroachments, protrusions, easements, changes in street lines, rights-of-way and other matters that would be revealed by a current on the ground survey and inspection of the Premises.

b) Recorded leases, agreements, easements, rights-of-way, covenants, conditions and restrictions as the same may be of present force and effect. Zoning regulations, ordinances, building restrictions, regulations and any violations thereof.

c) The lien for real property taxes for the current year, and any liens for special assessments which, as of the date hereof, are not due and payable.

IN ADDITION TO THE FOREGOING, Grantor grants the Property to Grantee subject to the following covenants and restrictions.

Additional consideration furnished by Grantee, as an inducement to Grantor to enter into this Agreement and sell the Property at a reduced purchase price, is Grantee's covenant and agreement that the following covenants and restrictions shall be observed during the period of ten (10) years after the date of recording of this Special Warranty Deed. No motor vehicle fuels whatsoever, including but not limited to petroleum products, shall be advertised, stored, sold or distributed on the Property, or any part thereof. The term "motor vehicle fuels" shall not include lubricants, additives, solvents, cleaners, or anti-freeze (the "Restrictive Covenant," whether one or more). The Restrictive Covenant shall expire automatically at the end of such ten (10) year term without need for filing a release, or other action of either Grantor or Grantee. Grantee hereby acknowledges that the terms, conditions and duration of the Restrictive Covenant are fair and reasonable. Grantee hereby agrees that, in the event the Restrictive Covenant is violated, Grantor (i) may elect to enforce the Restrictive Covenant by an action in equity to obtain an injunction against any violation of the Restrictive Covenant;

and (ii) may pursue any other remedy available at law or in equity for any breach of the Restrictive Covenant.

The Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered and conveyed subject to the Restrictive Covenant. The Restrictive Covenant shall run with the land, and pass with each and every portion of the Property, and shall apply to and bind the respective successors in interest thereof. The Restrictive Covenant is imposed upon the entire Property.

The Restrictive Covenant is for the benefit of the real property more particularly described on Exhibit 1 to the Special Warranty Deed with Restrictive Covenant (the "Benefited Property"), and the remedies set forth above may be enforced by Grantor and by any successor to Grantor's interest in the Benefited Property.

All purchasers, lessees, and possessors of all or any portion of the Property shall be deemed by their purchase, leasing, or possession of the Property to have agreed to the foregoing. Grantee's acceptance of the deed to the Property evidences Grantee's acceptance of and agreement to the Restrictive Covenant, and Grantee acknowledges that Grantee has received adequate and sufficient consideration for Grantee's acceptance of and agreement to the Restrictive Covenant. Any failure to enforce or waiver of any breach of the Restrictive Covenant shall not constitute a waiver of the Restrictive Covenant or of any subsequent breach thereof or any remedy that may be exercised for breach thereof. The exercise of any remedy for any breach of the Restrictive Covenant shall not preclude the exercise of any other remedy for any breach of the Restrictive Covenant.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said Premises have been encumbered in any way whatever, except as aforesaid.

SUBJECT to the foregoing, the party of the first part, covenants with the party of the second part that the party of the first part will warrant and defend title to the Premises against the lawful claims of all persons claiming by, through, or under the party of the first part, but not otherwise.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

MOTIVA ENTERPRISES LLC,
a Delaware limited liability company

By  _____

Charles T. Badrick
Manager, Real Estate Contracts

STATE OF MARYLAND, Baltimore County: to wit:

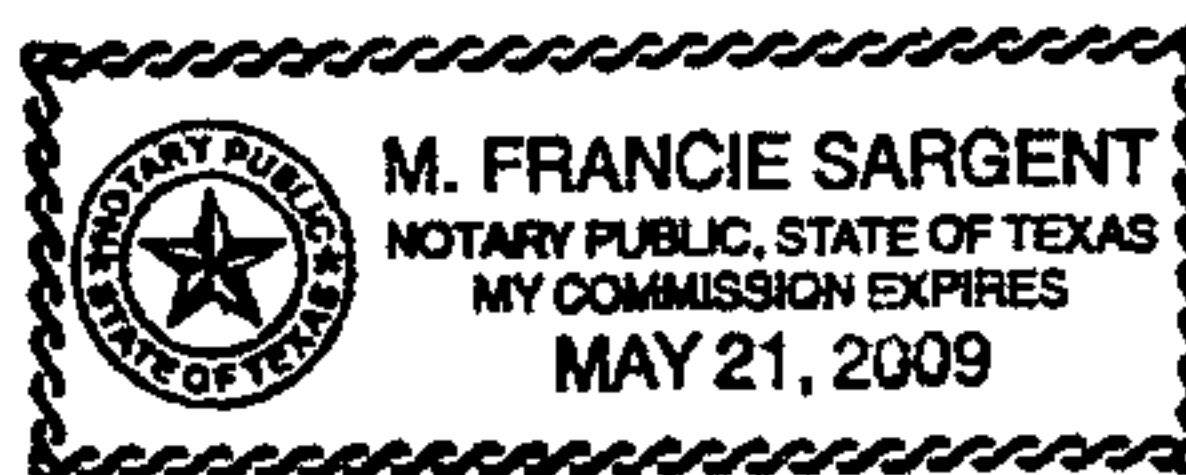
I HEREBY CERTIFY, that on this 26 day of October, 2005, before me, the subscriber, a Notary Public of the State of Texas, personally appeared Charles T. Badrick who acknowledged himself/herself to be the Manager, Real Estate Contracts of MOTIVA ENTERPRISES LLC, a Delaware limited liability company, and that as such officer, being authorized so to do, [s]he executed the within instrument for the purpose therein contained by signing in my presence the name of said corporation by himself/herself as its Manager, Real Estate Contracts and certified that this conveyance is not part of a transaction in which there is a sale, lease, exchange or other transfer of all or substantially all of the property and assets of said limited liability company.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix my Notarial seal.

M. Francie Sargent

Notary Public

My Commission Expires: _____



THIS IS TO CERTIFY THAT THE WITHIN INSTRUMENT HAS BEEN PREPARED BY, OR UNDER THE SUPERVISION OF, THE UNDERSIGNED PARTY TO THIS INSTRUMENT.

By Charles T. Badrick

Charles T. Badrick
Manager, Real Estate Contracts

EXHIBIT A

DESCRIPTION OF PREMISES

All that lot of ground situate in Baltimore County, State of Maryland, and described as follows:

Beginning for the same at a pipe heretofore set on the northeast side of Back River Neck Road, as now widened, at a point on the division line between Lots 6 and 7, Block D, as shown on the plat of "French's Park" as recorded among the Plat Records of Baltimore County, Maryland, in Plat Book W.P.C. No. 6, folio 138, thence from said place of beginning binding on said division line, North 29 degrees 47 minutes 00 seconds East 190.93 feet, to a pipe heretofore set and to the end of said division line, thence binding on the rear lot lines of Lots No. 6, 5, 4, 3, 2 and part of Lot No. 1, Block "D", as shown on said plat, in all, North 33 degrees 23 minutes 00 seconds West 155.52 feet, to a pipe heretofore set, and to the southeast side of Williams Avenue, as now widened, thence binding on said side of said Avenue, South 29 degrees 47 minutes 00 seconds West 177.16 feet to a railroad spike now set, thence South 9 degrees 16 minutes 31 seconds East 27.17 feet to a railroad spike now set and to the northeast side of Back River Neck Road, thence binding on said side of said Road, by a curve to the left having a radius of 5,729.58 feet for the distance of 64.58 feet, said arc being subtended by a chord bearing South 30 degrees 41 minutes 57 seconds East 64.58 feet to a railroad spike now set, thence continuing to bind on said Road, as now widened, South 34 degrees 50 minutes 05 seconds East 72.45 feet to the place of beginning.

The improvements thereon being known as No. 149 Back River Neck Road.

Being the same lot of ground which by Deed dated March 30, 1972 and recorded among the Land Records of Baltimore County in Liber OTG No. 5269, folio 122 was granted and conveyed by Getty Oil Company to Getty Oil Company (Eastern Operations) Inc.

Tax I.D. No. 16-00-005211, District 15

EXHIBIT 1

TO SPECIAL WARRANTY DEED WITH RESTRICTIVE COVENANT

BENEFITED PROPERTY

Attn: County Tax Assessor's Office

The address below has been listed solely for the purpose of increasing the enforceability of a recorded covenant restricting the future use of the property that is being sold.

The title to the property listed below has not changed, nor has there been a change in the name of the entity responsible for the property's tax obligations.

Therefore, there should be no property tax notice changes entered for this property.

The property benefited by the restrictive covenant is:

1. 201 N. Point Blvd., Baltimore, Maryland 21224

**Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate
Affidavit of Residence or Principal Residence**

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 states that certain tax payments must be withheld when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information	
Name of Transferor: Motiva Enterprises LLC, a Delaware limited liability company	

2. Reason for Exemption	
Resident Status	☐ I, Transferor, am a resident of the State of Maryland ☒ Transferor is a resident entity under § 10-912(A)(4) of Tax-General Article, of the Annotated Code of Maryland, I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf
Principal Residence	☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct and complete.

3a. Individual Transferors	
Witness	Name _____ Signature _____
3b. Entity Transferors	
Witness/Attest <u>Margaret Henry</u>	Motiva Enterprises LLC Name of Entity By: <u>Julie F. Galjour</u> Julie F. Galjour Name Manager, Property Management Title

3094 0023093 386

IN FD SURE \$ 20.00
RECORDING FEE 20.00
IN TAX STATE 1,275.00
TOTAL 1,315.00
COURT CLERK REC 1,315.00
DEC 19, 2005 02:23 PM
± 666276

State of Maryland Land Instrument Intake Sheet
☐ Baltimore City ☒ County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.
(Type or Print in Black Ink Only—All Copies Must Be Legible)

1	Type(s) of Instruments	☐ Check Box if addendum Intake Form is Attached.		2	Other <u>Agreement</u>	Other
2	Conveyance Type Check Box	Improved Sale	Unimproved Sale	Multiple Accounts	Not an Arms-Length Sale	
3	Tax Exemptions (if Applicable)	Recordation				
4	Consideration and Tax Calculations	Finance Office Use Only				
5	Fees	Agent: <u>JD</u>				
6	Description of Property	Parcel No. <u>367</u>				
7	Transferred From	Doc. 1 - Grantor(s) Name(s): <u>Motiva Enterprises LLC</u>				
8	Transferred To	Doc. 2 - Grantor(s) Name(s): <u>Motiva Enterprises LLC</u>				
9	Other Names to Be Indexed	Doc. 1 - Additional Names to be Indexed (Optional):				
10	Contact/Mail Information	Return to Contact Person				
11	IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER					
Assessment Information						
Assessment Use Only - Do Not Write Below This Line						
Agricultural Verification						
Other Verification						
Assessed Property No.						
Director of Budget and Planning						
BALTIMORE COUNTY, MARYLAND						
T.A. ART 10-108						

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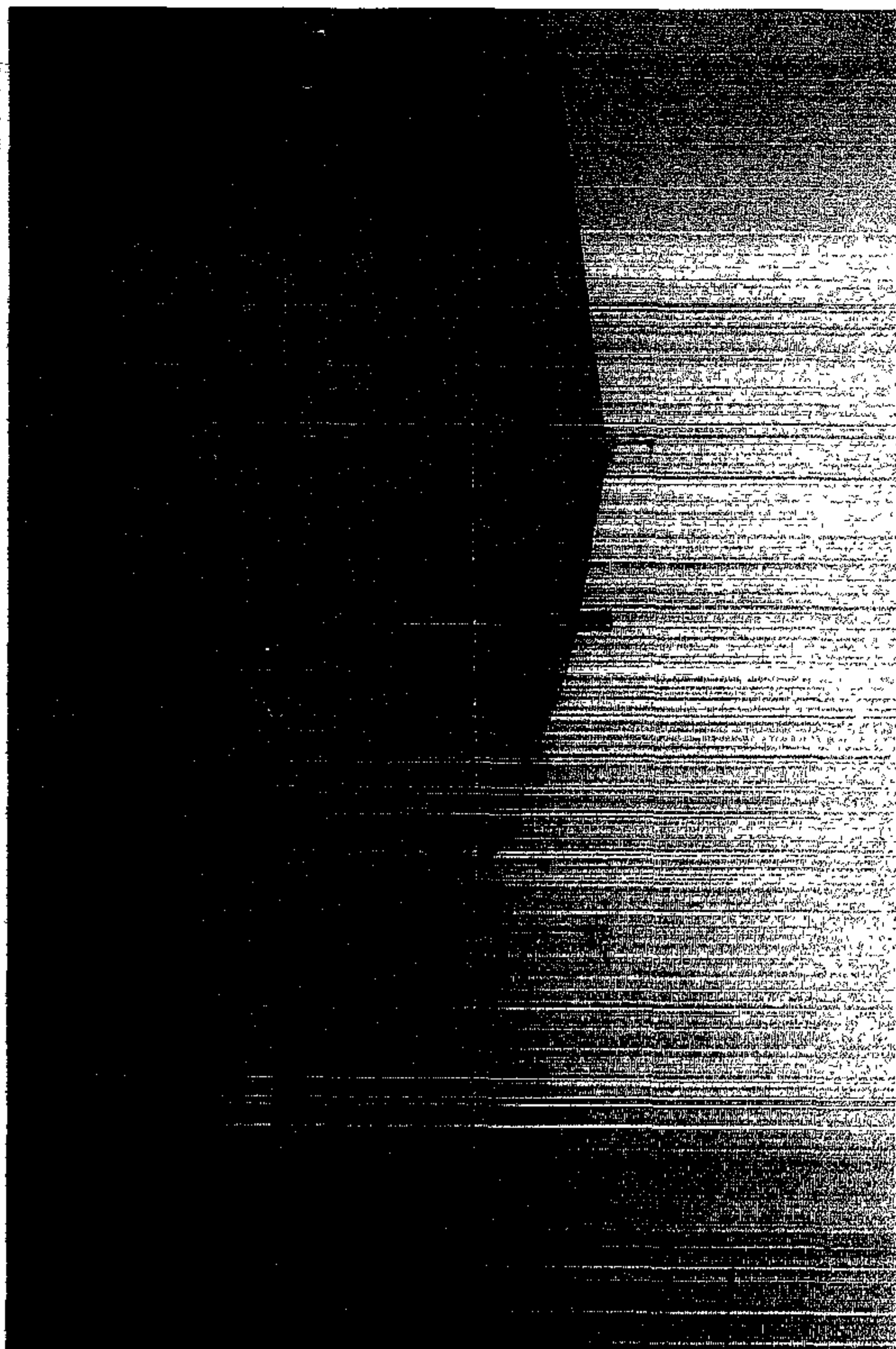
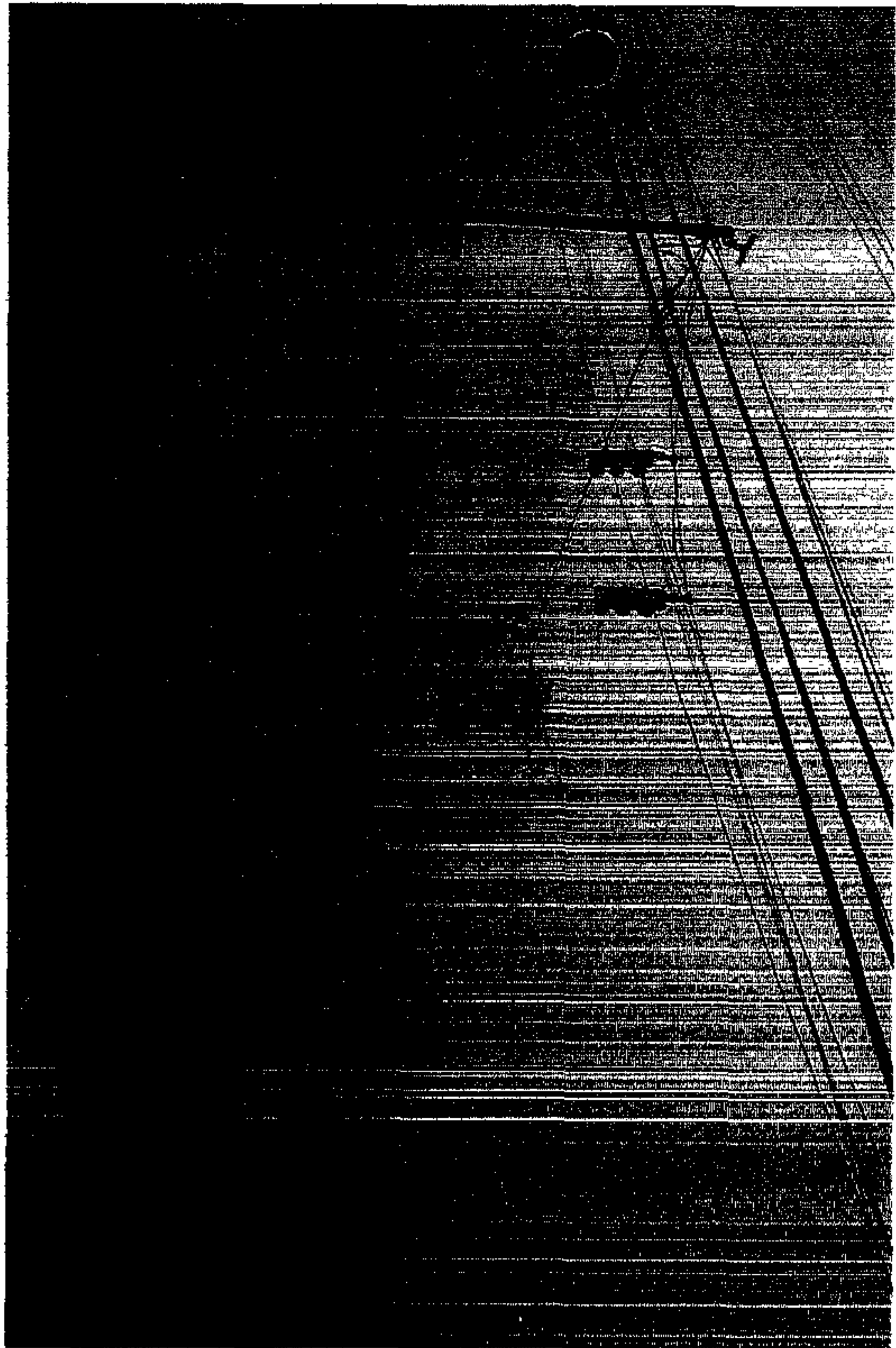


Exhibit
3



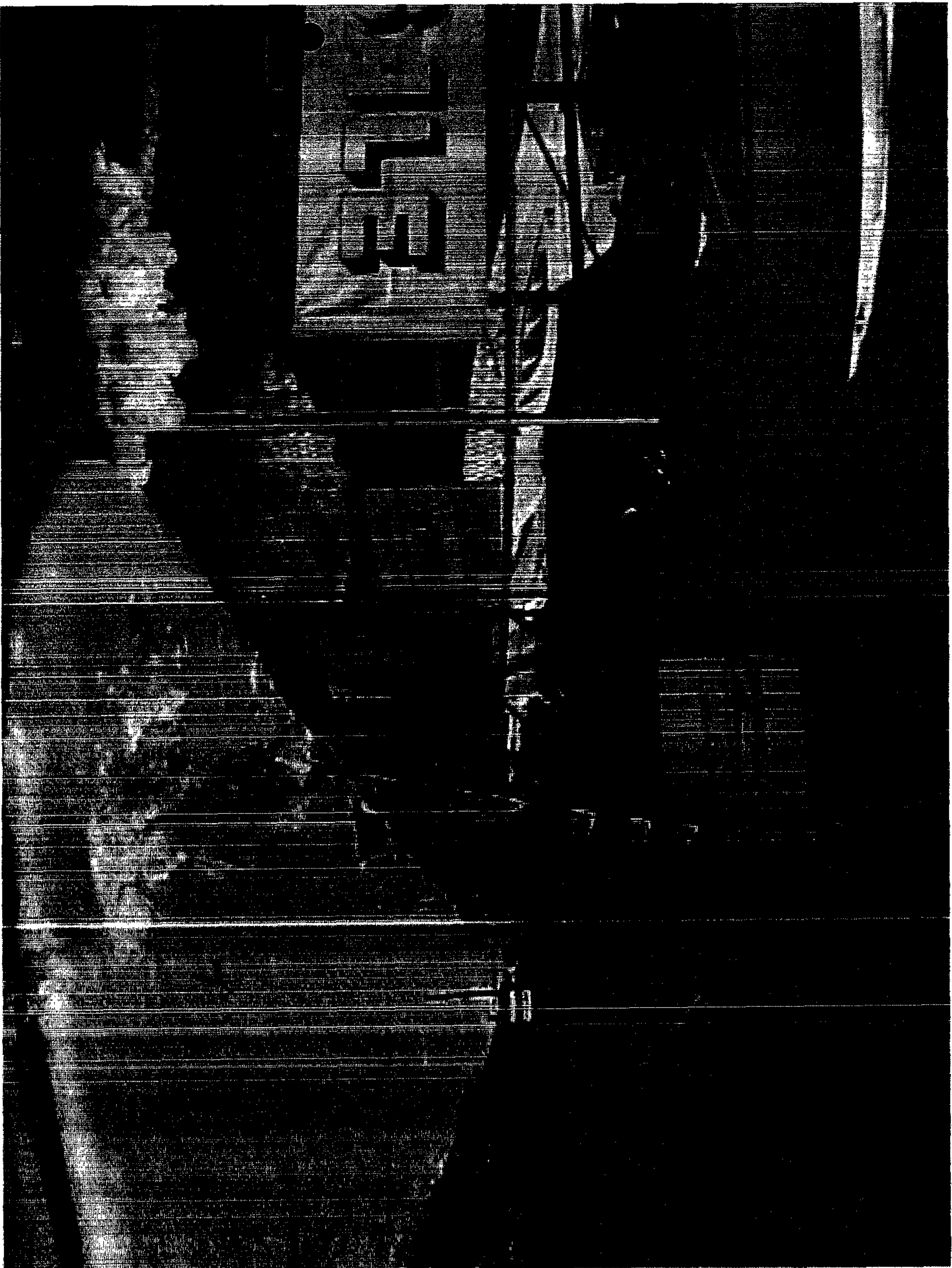
PETITIONER'S A, B, C
EXHIBIT NO. 3

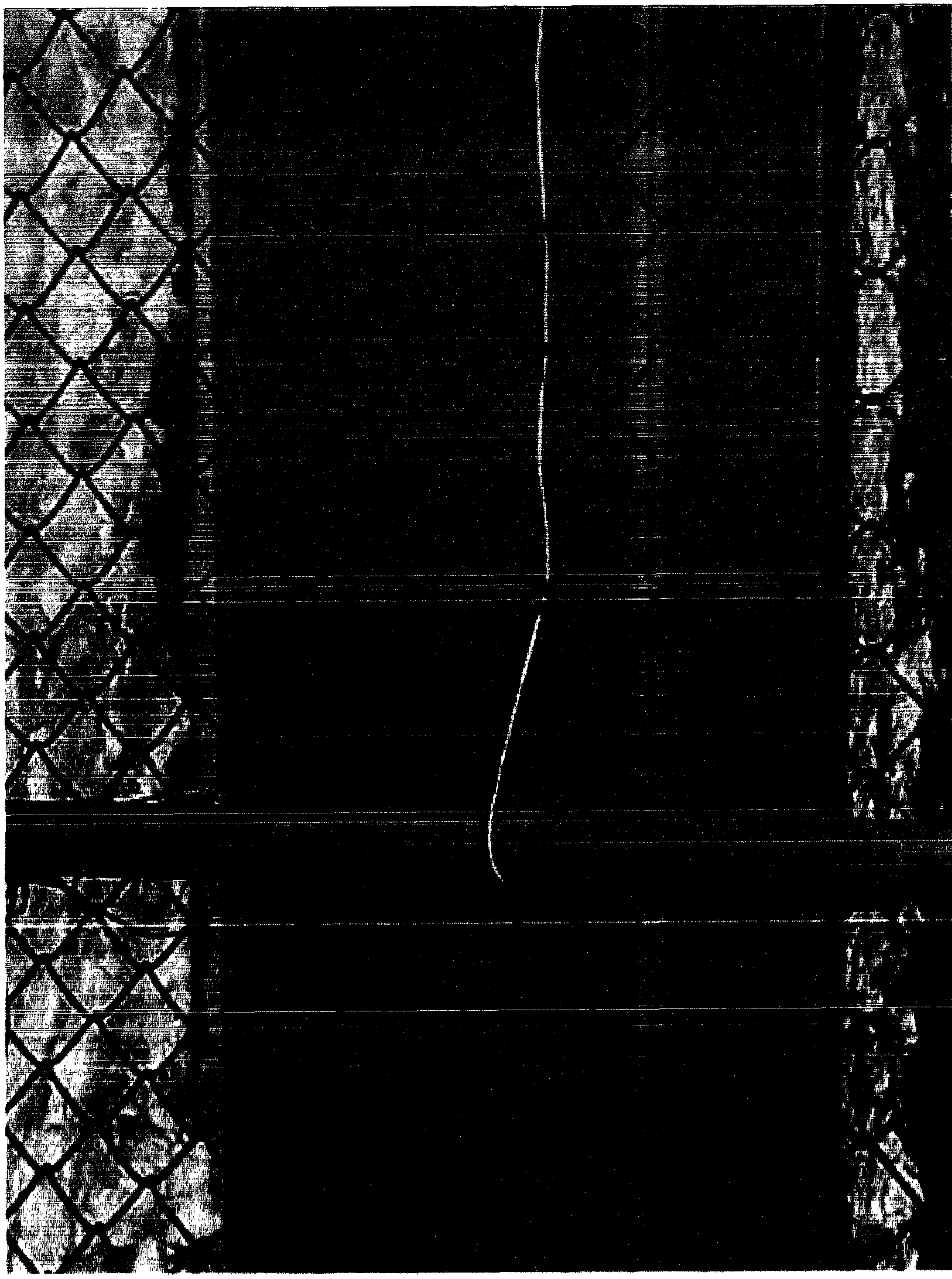
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PETITIONER'S
EXHIBIT NO.

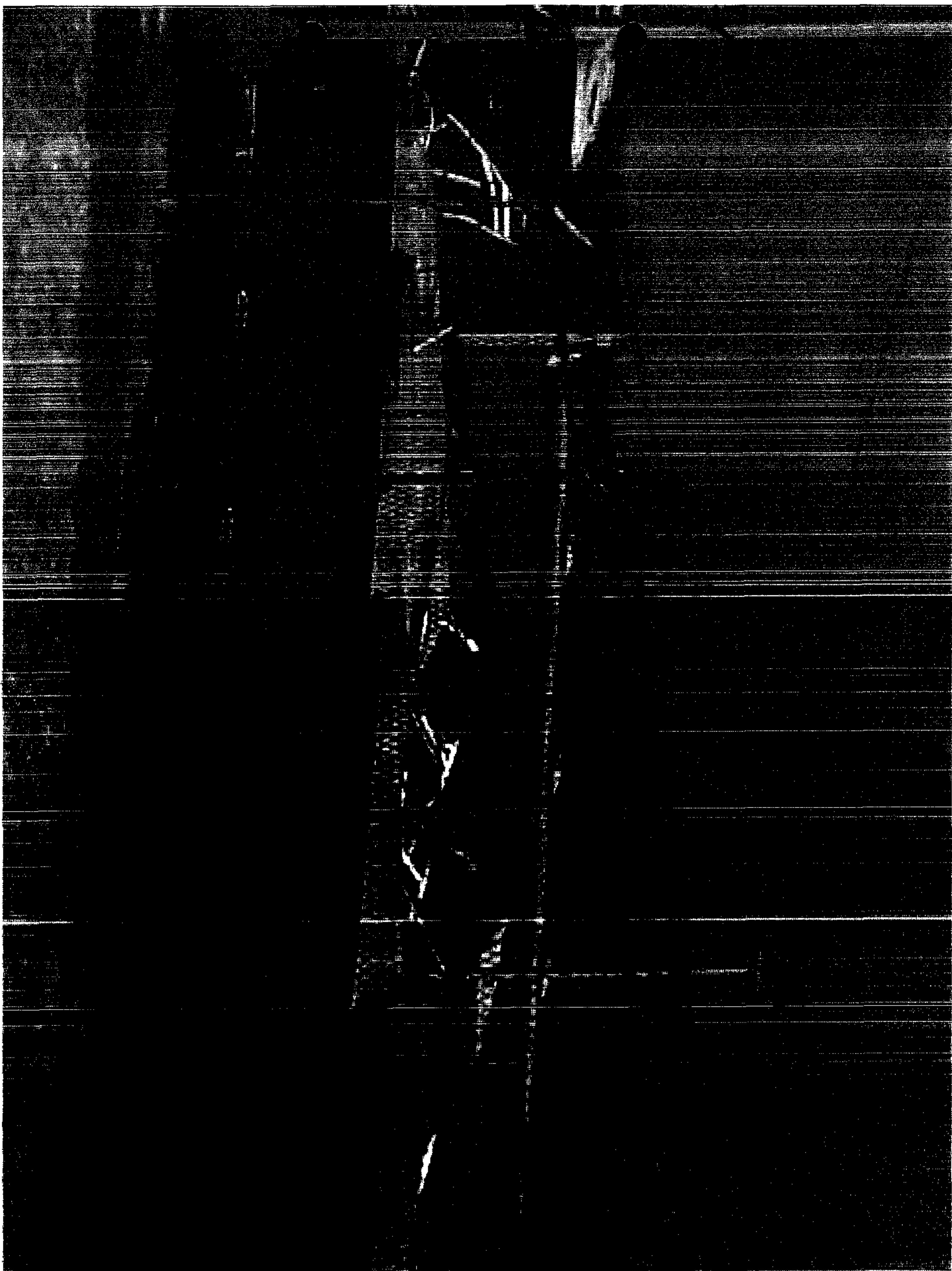
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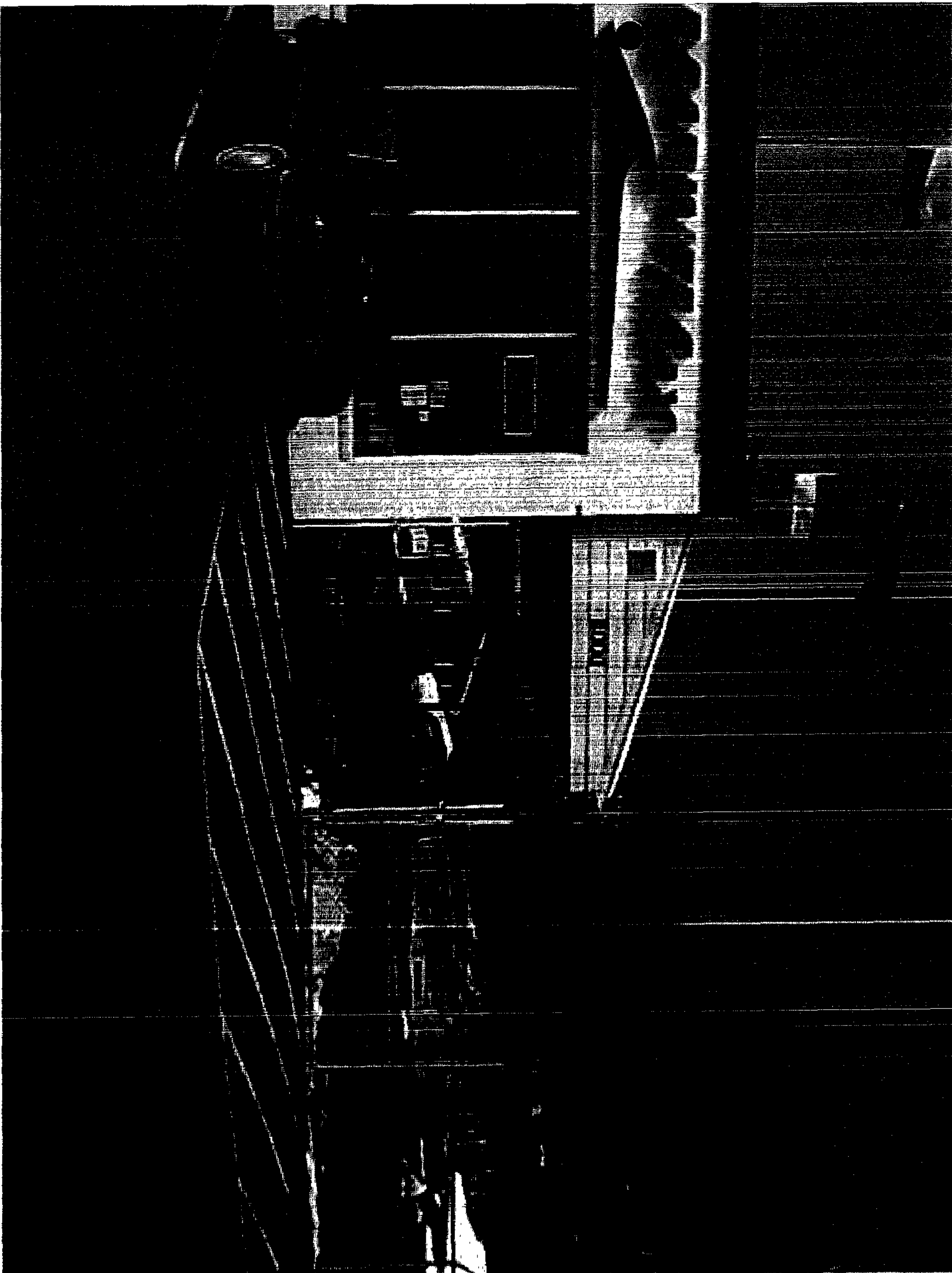


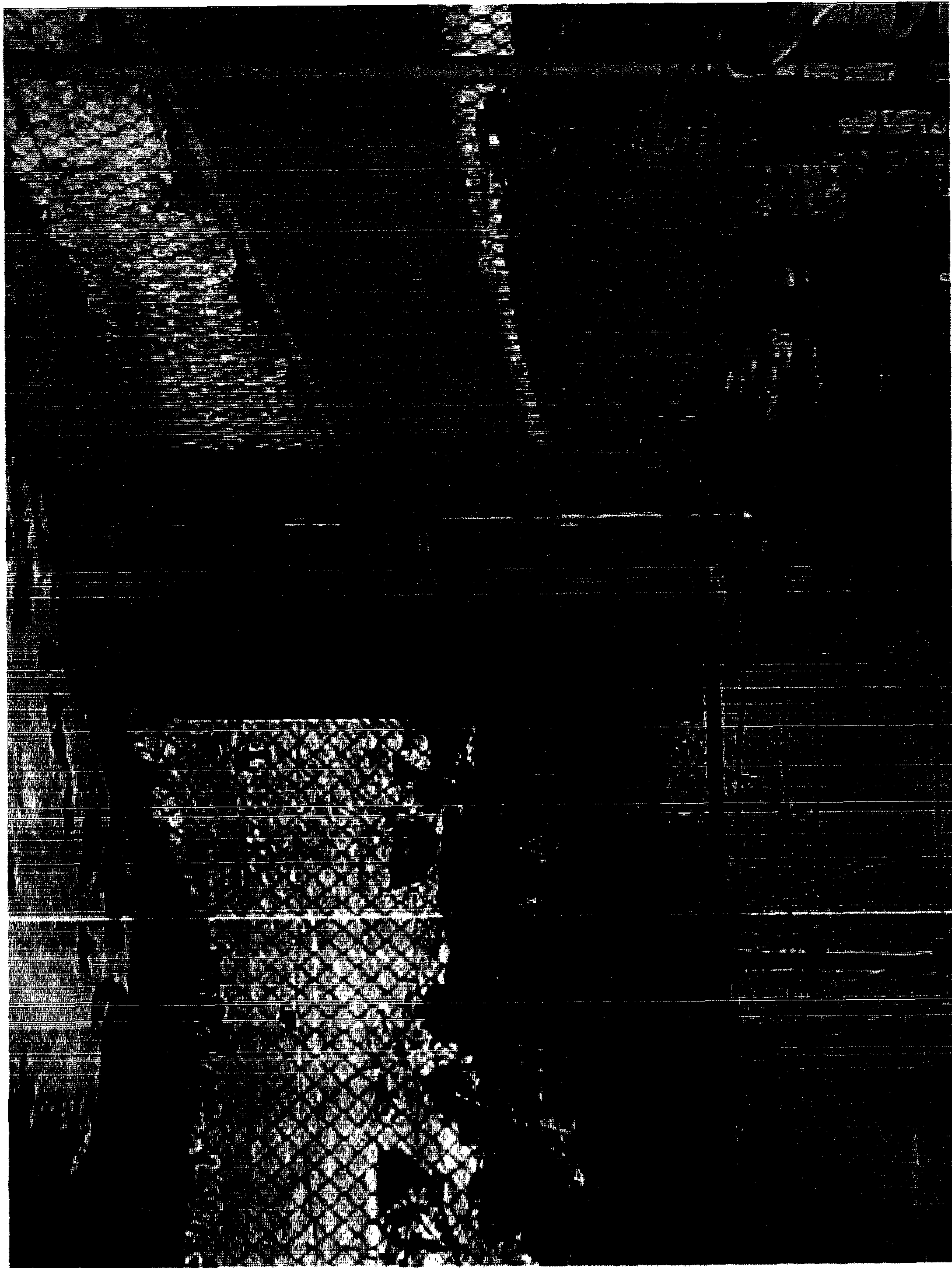














PETITIONER'S

EXHIBIT NO.

5

