IN RE: PETITION FOR VARIANCE
E/S of Beach Avenue, north of
Rockaway Beach Avenue
15th Election District
6th Councilmanic District
(2401 Beach Avenue)

Philip and Janice Misey
Petitioners

* BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* CASE NO. 06-615-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

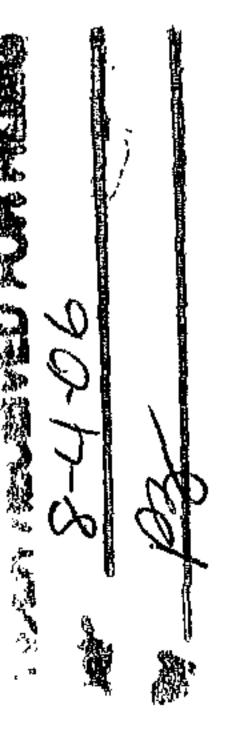
This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, Philip and Janice Misey. The Petitioners are requesting variance relief for property located at 2401 Beach Avenue. Variance relief is requested from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a garage to be located in the front yard in lieu of the required rear yard and a height of 20.5 feet in lieu of the permitted 15 feet.

The property was posted with notice of the public hearing date and time on July 19, 2006. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on July 18, 2006 to notify any interested persons of the scheduled hearing date and relief requested.

Applicable Law

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

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall



be granted only if in strict harmony with the spirit and intent of said height, area, offstreet parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments from the Planning Office dated July 31, 2006 and DEPRM dated July 31, 2006 were received which request conditions for approval.

Interested Persons

Appearing at the hearing on behalf of the variance request were Philip and Janice Misey, Petitioners. No protestants or citizens appeared at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that the subject property contains 0.49 acres zoned DR 3.5 that is improved by the Petitioner's home. The Petitioners indicated that they had very limited storage space in their waterfront home. In addition, they noted that they must find a place on the property to park their vehicles since parking on Beach Avenue is prohibited.

As a result, they would like to erect a two-story garage in the area shown on Exhibit 1 which is nearest the street. For reasons unknown, the County designates that portion of the home which faces Beach Avenue as the front. Consequently, the waterfront side of

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the home is considered the rear yard. The proposed garage then would be in the front yard. Exhibit 2, photographs of the property in question, show where the foundation of the garage would be located.

In regard to the height of the structure, Mrs. Misey indicated that the garage must be compatible with their home, as well as the need to store vehicles and the general need for storage space. To satisfy these needs, the Petitioners selected a garage design with a steeply pitched roof and some storage space on the second floor. They agree with the Planning Office comments that the garage not be converted to a dwelling or commercial use and have submitted elevations and designs to the Office for review. They indicated that the only utilities planned for the garage are electricity and water.

They also indicated that there were many detached garages in the neighborhood, some of which were so tall and so big as to compare to the size of the Petitioner's home. They noted that the lots behind them away from the water were wooded, had no improvements, and were likely unbuildable due to environmental constraints. Consequently, there were no complaints about the height of the garage.

Findings of Fact and Conclusions of Law

The garage must be architecturally compatible with the existing house and so requires a pitched roof. This and the need for more storage space requires that the height of the proposed garage be 20.5 feet. I find the property unique from a zoning standpoint in that the architectural features of the home have to be replicated in the garage. Said another way, the zoning regulations impact this property differently from other properties in the zoning district.

8-4-8 1

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. The Petitioners could build a garage in accordance with the zoning regulations, but not one that would be large enough for their needs or architecturally compatible.

No increase in residential density beyond that otherwise allowable by the Zoning Regulations will occur as a result of granting this variance. The Petitioners understand that this structure is never to become a second residence.

Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. There are similar garages in the neighborhood, some of which are much larger than the proposed structure, and the garage will not block the view of the water from those lots behind.

THEREFORE, IT IS ORDERED, this _____day of August by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a garage to be located in the front yard in lieu of the required rear yard and a height of 20.5 feet in lieu of the permitted 15 feet is hereby GRANTED subject to the following:

- 1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2. The Petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
- 3. The accessory structure shall not be used for commercial purposes
- 4. The Petitioners shall comply with the ZAC comments from DEPRM dated July 31, 2006.

5. The Petitioners shall comply with the ZAC comments from the Office of Planning dated July 31, 2006 regarding submission of information for the review and approval of the Office of Planning.

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

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

JVM:pz

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JAMES T. SMITH, JR. County Executive

WILLIAM J. WISEMAN III

Zoning Commissioner

August 4, 2006

PHILIP AND JANICE MISEY 2401 BEACH AVENUE BALTIMORE MD 21221

Re: Petition for Variance
Case No. 06-615-A
Property: 2401 Beach Avenue

Dear Mr. and Mrs. Misey:

Enclosed please find the decision rendered in the above-captioned case. The petition for variance has been granted in accordance with the enclosed Order.

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

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

JVM:pz Enclosure



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at 2701 Beach Avenue

	which is presently zoned DR-3.5
his Petition shall be filed with the Department of Permit f the property situate in Baltimore County and which is des ereof, hereby petition for a Variance from Section(s)	s and Development Management. The undersigned, legal owner(s) scribed in the description and plat attached hereto and made a part $1 \notin 3$, $BC 2=R$, $TO PERMIT A GARAGE$
TO BE LOCATED IN THE	1) DIDCAR, 10 PERMIT A GARAGE
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AND AND	HEIGHT OF ZOIST IN LIEU
OF THE PERMITTED 15 ft.	
or king food and a gravel brite was being to for a with the codes build footers. For a to fore garage, roperty is to be posted and advertised as prescribed by the or we, agree to pay expenses of above Variance, advertising, egulations and restrictions of Baltimore County adopted pursuant to	posting, etc. and further agree to and are to be bounded by the zoning the zoning law for Baltimore County.
perjury, that i/ is the subject of this Pe	
ontract Purchaser/Lessee:	Legal Owner(s): Name - Type or Print
anne - Type or Print	Name - Type or Print
gnature	Signature
Idress Telephone No.	Name - Type or Print
State Zip Code	Signature
ttorney For Petitioner:	2461 Beach Huz 410-68208
	Telephone No.
me - Type or Print	City State Zip Code
nature	Representative to be Contacted:
mpany	Name / / / / / / / / / / / / / / / / / / /
dress Telephone No.	Address Baltimure My Telephone No.
State Zip Code	City State Zip Code
•	OFFICE USE ONLY
ase No. 06-615-A	ESTIMATED LENGTH OF HEARING
TO THE CENTED FOR FRANCE	UNAVAILABLE FOR HEARING
Reviewed By	Date 6.2.06

Zoning Description

Zoning Description For: 2401 Beach Avenue:

Beginning at a point east side of Beach Avenue which is 40' wide at the distance of 324' east of the centerline of the nearest improved intersecting street, Rockaway Beach which is 40' wide. Being Lot # 18, Block # – N/A, Section # - N/A, in the subdivision as recorded in Baltimore County Plat Book # 0004, Folio # 0171 containing 20520.00 S. Also known as 2401 Beach Avenue and located in the 15 election district and the 045 precinet.

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CERTIFICATE OF POSTING

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: # 06-615-A

Case: # 06-615-A
2401 Beach Avenue
East side of Beach Avenue, 324 feet +/- north of centerline of Rockaway Beach Avenue
15th Election District — 6th Councilmanic District
Legal Owner(s): Philip & Janice Misey
Variance: to permit a garage to be located in the front yard in lieu of the required rear yard and a height of 20.5 feet in lieu of the permitted 15 feet.
Hearing: Thursday, August 3, 2006 at 11:00 a.m. In Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

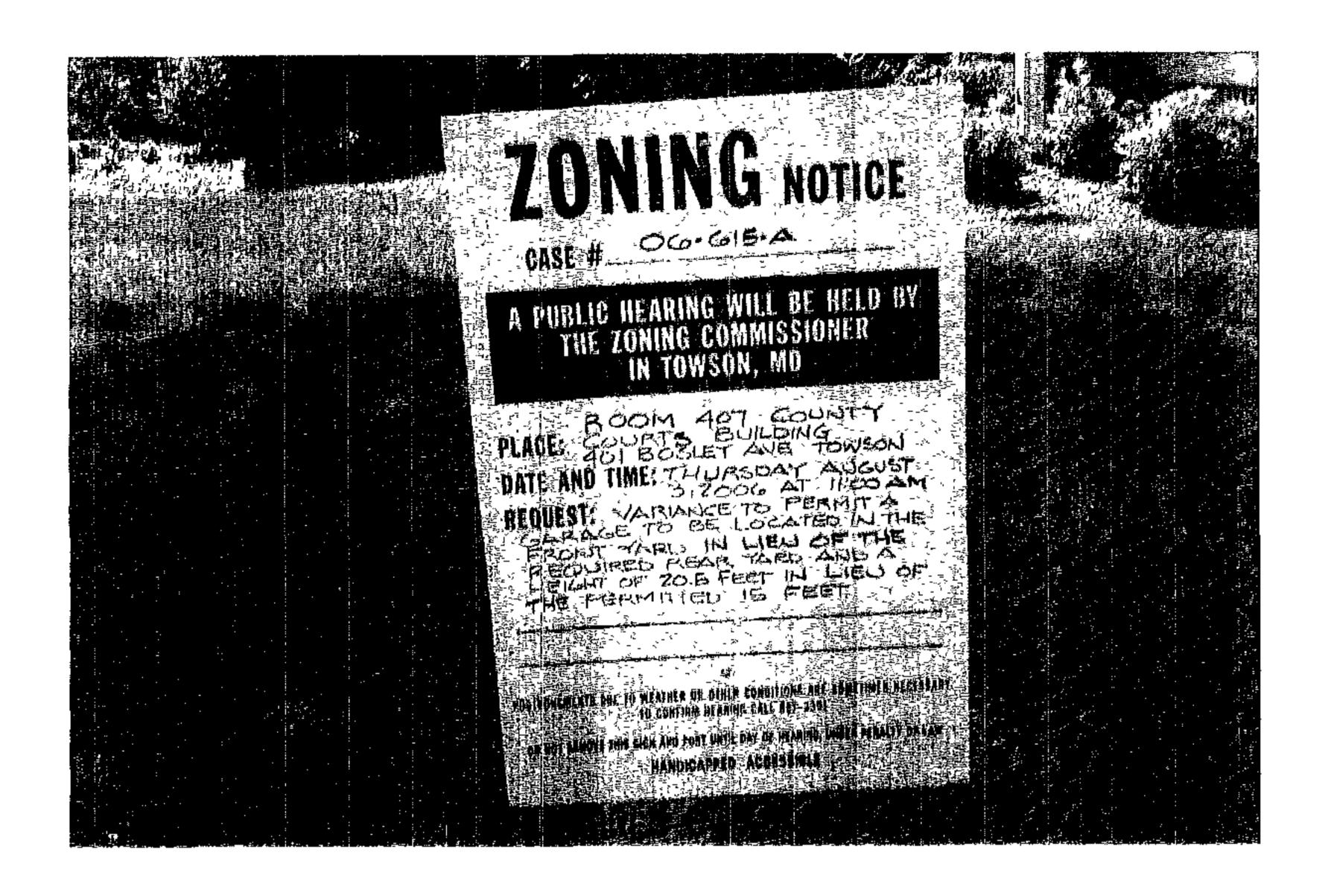
(2) For Information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT_7/680 July 18

102370

CERTIFICATE OF PUBLICATION

$-\frac{7/20}{1,2006}$
THIS IS TO CERTIFY, that the annexed advertisement was publishe
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing on7 18,20
The Jeffersonian
Arbutus Times
☐ Catonsville Times
☐ Towson Times
☐ Owings Mills Times
□ NE Booster/Reporter
☐ North County News
S. Wilking
LEGAL ADVERTISING





TO: PATUXENT PUBLISHING COMPANY

Tuesday, July 18, 2006 Issue - Jeffersonian

Please forward billing to:

Philip Misey 2401 Beach Avenue Baltimore, MD 21221

410-682-6308

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: 06-615-A

2401 Beach Avenue

East side of Beach Avenue, 324 feet +/- north of centerline of Rockaway Beach Avenue 15th Election District – 6th Councilmanic District

Legal Owners: Philip & Janice Misey

Variance to permit a garage to be located in the front yard in lieu of the required rear yard and a height of 20.5 feet in lieu of the permitted 15 feet.

Hearing: Thursday, August 3, 2006 at 11:00 a.m. in Room 407, County Courts Building, \

,401 Bosley Avenue, Towson 21204

WILLIAM J. WISEMAN III

ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

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

Department of Permits 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

June 14, 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: 06-615-A

2401 Beach Avenue

East side of Beach Avenue, 324 feet +/- north of centerline of Rockaway Beach Avenue 15th Election District – 6th Councilmanic District

Legal Owners: Philip & Janice Misey

Variance to permit a garage to be located in the front yard in lieu of the required rear yard and a height of 20.5 feet in lieu of the permitted 15 feet.

Hearing: Thursday, August 3, 2006 at 11:00 a.m. in Room 407, County Courts Building, \ 401 Bosley Avenue, Towson 21204

Timothy Kotroco

1 Hotroco

Director

TK:klm

C: Philip & Janice Misey, 2401 Beach Road, Baltimore 21221

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, JULY 19, 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.



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

RE: PETITION FOR VARIANCE
2401 Beach Avenue; E/S Beach Avenue,
324' N c/line Rockaway Beach Avenue
15th Election & 6th Councilmanic Districts
Legal Owner(s): Philip & Janice Misey

BEFORE THE

ZONING COMMISSIONER

* FOR

* BALTIMORE COUNTY

* 06-615-A

* * * * * * * * * *

Petitioner(s)

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 and all documentation filed in the case.

RECEIVED

2006 - 11 Mills

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 14th day of June, 2006, a copy of the foregoing Entry of Appearance was mailed to, Philip Misey, 2401 Beach Avenue, Baltimore, MD 21221, Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

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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.

em Number or Case Number:	615
Petitioner: Philip M	7/5c V
Riddress or Location: 2 401	Seach Avenue, 2101
LEASE FORWARD ADVERTISI	ING BILL TO:
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Address:	
	Ame.

elephone Number:	10-682-6308

Revised 7/11/05 - SCJ



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

July 26, 2006

Department of Permits and Development Management

Philip Misey Janice Misey 2401 Beach Avenue Baltimore, MD 21221

Dear Mr. and Mrs. Misey:

RE: Case Number: 06-615-A, 2401 Beach Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 2, 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,

W. Carl Richards, Jr.

Supervisor, Zoning Review

u. Callalala

WCR:amf

Enclosures

People's Counsel

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

JUL 3 1 2006

COMMISSIONE	1
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TO:

Timothy M. Kotroco

FROM:

Dave Lykens, DEPRM - Development Coordination

DATE:

July 31, 2006

SUBJECT:

Zoning Item # 06-615-A

Address

2401 Beach Avenue

Baltimore, MD 21221

Zoning Advisory Committee Meeting of June 12, 2006

The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

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

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

This property is within the Limited Development Area of the CBCA. The impervious surface limit is 25% of the lot size, and 15% tree cover must be maintained.

Reviewer:

Kevin Brittingham

Date: June 19, 2006

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

RECEIVED

DATE: July 31, 2006

AUG 0 2 2006

ZONNG COMMISSIONER

SUBJECT:

2401 Beach Ave

INFORMATION:

Item Number: 6-615

Petitioner:

Mr. Philip Misey and Mrs. Janice Misey

Zoning:

DR 3.5

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request to permit an accessory structure (garage) to be located in the front yard in lieu of the required rear yard with a height of 20.5 feet in lieu of the maximum permitted 15 feet provided the following conditions are met:

- 1. Elevations of the proposed structure are presented. The elevations should show building height and the relationship between the proposed garage and the existing house. These elevations should also show materials of the proposed garage, which should be uniform with the existing house. (Property owner would present elevations at the upcoming hearing).
- 2. The petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
- 3. The accessory structure shall not be used for commercial purposes.
- 4. The floor plans should include access to the proposed garage from the street and then from the proposed garage to the existing house.

5. Lastly, there is an existing pattern of garages in this neighborhood and this request is consistent with the pattern of the neighborhood.

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

Prepared by:

Division Chief:

AFK/LL: CM

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

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

Maryland Department of Transportation

Date: 6.13.276

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

RE:

Baltimore County

Item No. 615 JCM

Dear. Ms. Matthews:

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

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

Very truly yours,

Steven D. Foster, Chief

1. J. Arest

Engineering Access Permits Division,

From:

Patricia Zook

To:

Livingston, Jeffrey; Murray, Curtis

Date:

7/28/2006 3:55:41 PM

Subject:

Comments needed for cases scheduled for hearing next week

Hello -

The following cases are scheduled for hearings next week and we do not have comments:

Case No. 06-661-SPHA hearing on Wed August 2, 2006 @ 10:00 am

Case No. 06-654-SPH hearing on Thurs Aug 3, 2006 @ 9:00 am Case No. 06-655-SPH hearing on Thurs Aug 3, 2006 @ 10:00 am **

Case No. 06-615-A hearing on Thurs Aug 3, 2006 @ 11:00 am **

Thanks for your help.

Patti Zook Legal Secretary Baltimore County Office of the Zoning Commissioner 410-887-3868

CC:

Murphy, John

^{**}this case also needs DEPRM comments



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

June 19, 2007

Stacey A. McArthur, R.L.A.
Chief, Department of Landscape Architecture
D.S. Thaler & Associates, Inc.
7115 Ambassador Road, P.O. Box 47428
Baltimore, MD 21244

Dear Ms. Arthur:

RE: Spirit and Intent Letter

Mill Run

Case #IV - 615 Case #06-095-SPH

Your recent letter sent to Timothy Kotroco, Director of Permits and Development Management has bee referred to me for reply. Based on the information provided therein and our research of the zoning records, the following has been determined:

- After consulting with John V. Murphy, Deputy Zoning Commissioner for Baltimore County, the proposed reconfiguration of the main residential component as shown on the red-lined plan pursuant to zoning case #06-095-SPH and IV – 615 are approved as being in the spirit and intent of the Baltimore County Zoning Regulations (BCZR), since there is no increase in density, height and parking.
- A copy of your request letter, this response and a signed red-lined plan will be recorded and made a permanent part of the zoning case file.
- A verbatim copy of this response must be affixed to your building permit site plan prior to building permit application.
- 4. This approval is for zoning purposes only, and you will be required to comply with any restrictions contained in the Zoning Commissioner's order and must also comply with all other County and State regulations relative to this property.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

John V. Murphy Den V. Murphy Denny

Sincerely,

Planner II

Zoning Review

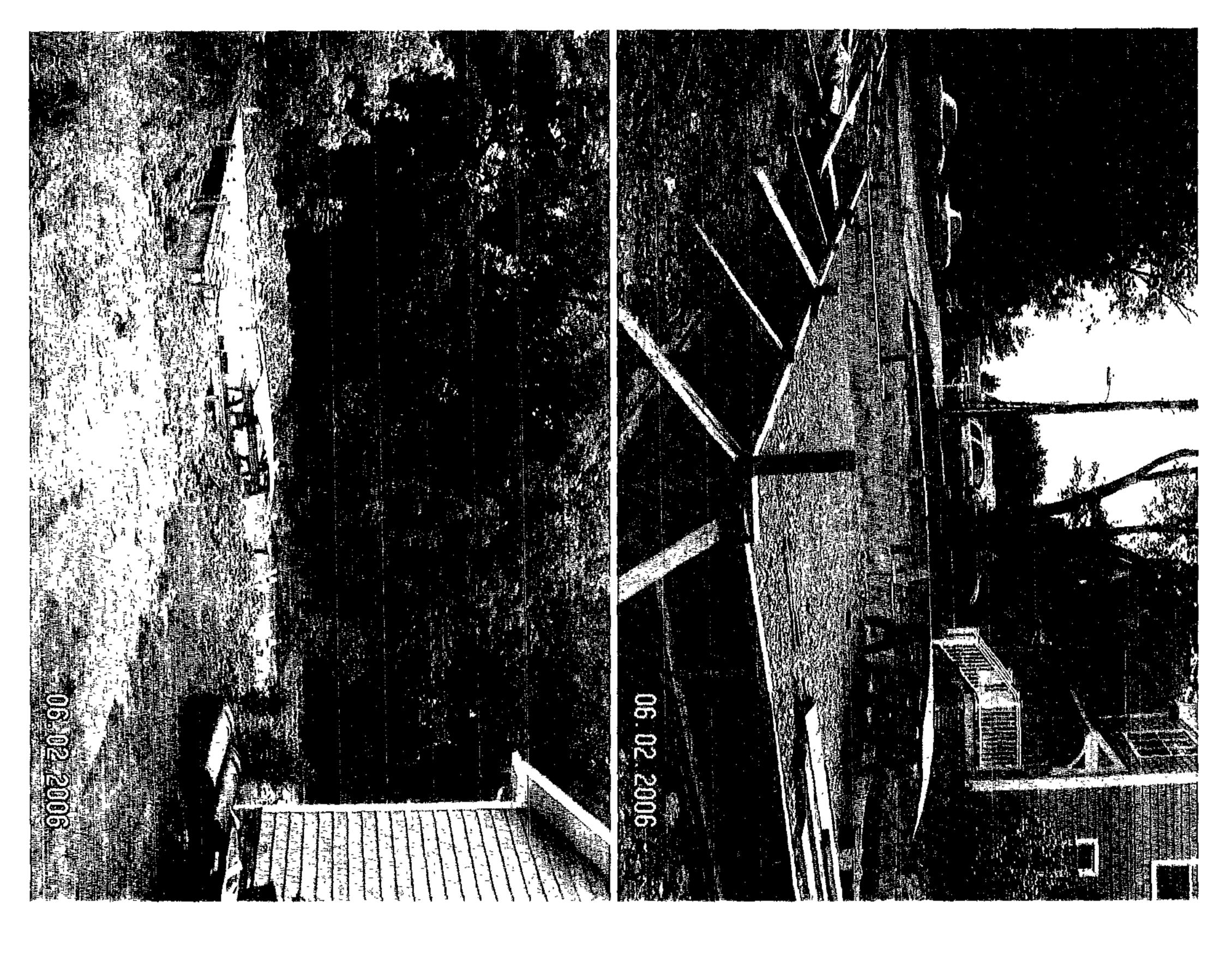
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CASE NAME 2 401 occ.
CASE NUMBER 06-615-A
DATE 8-3-

PETTONER'S SIGN-IN SHEET

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ZONING MAR # 098 B 3



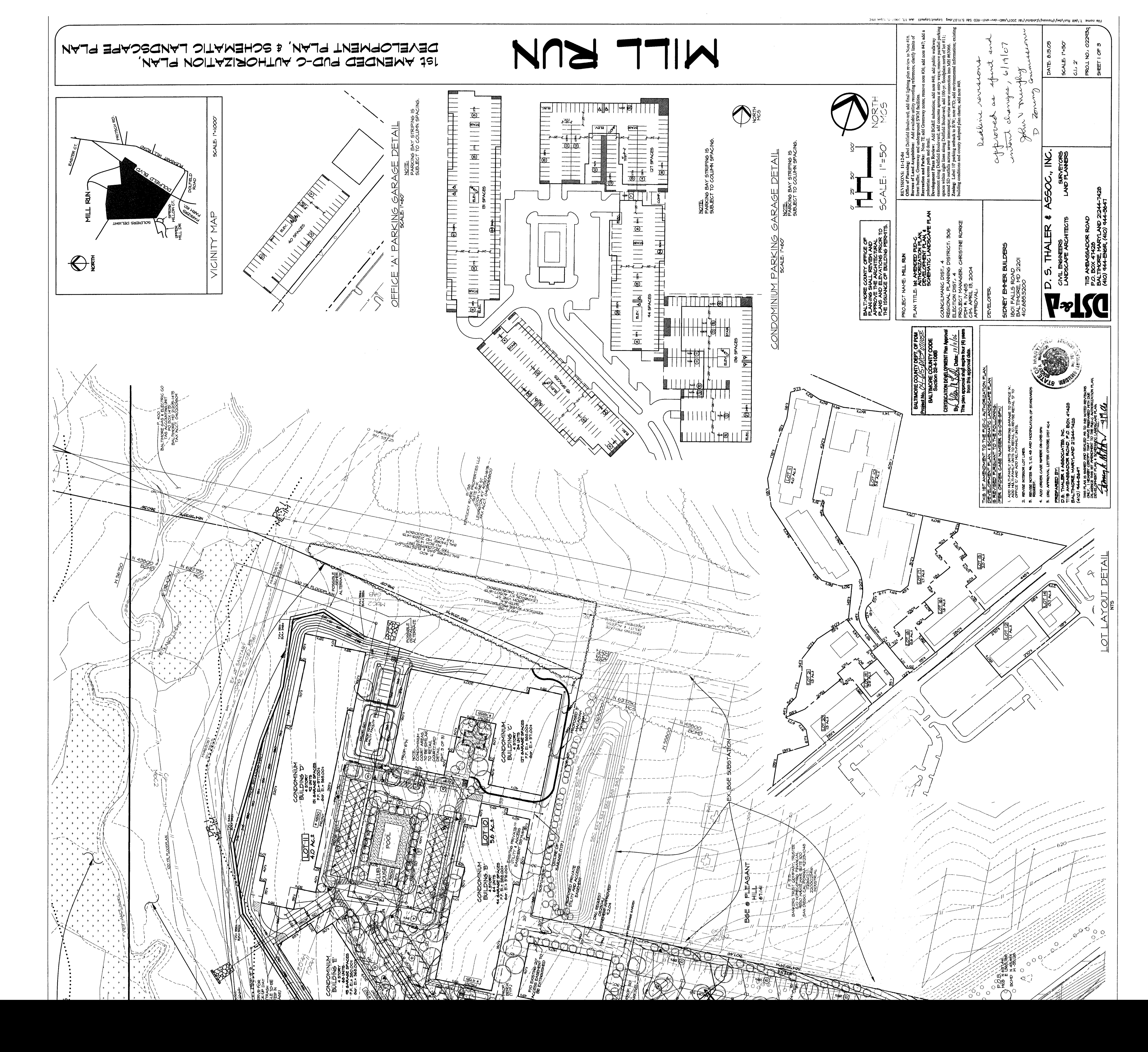


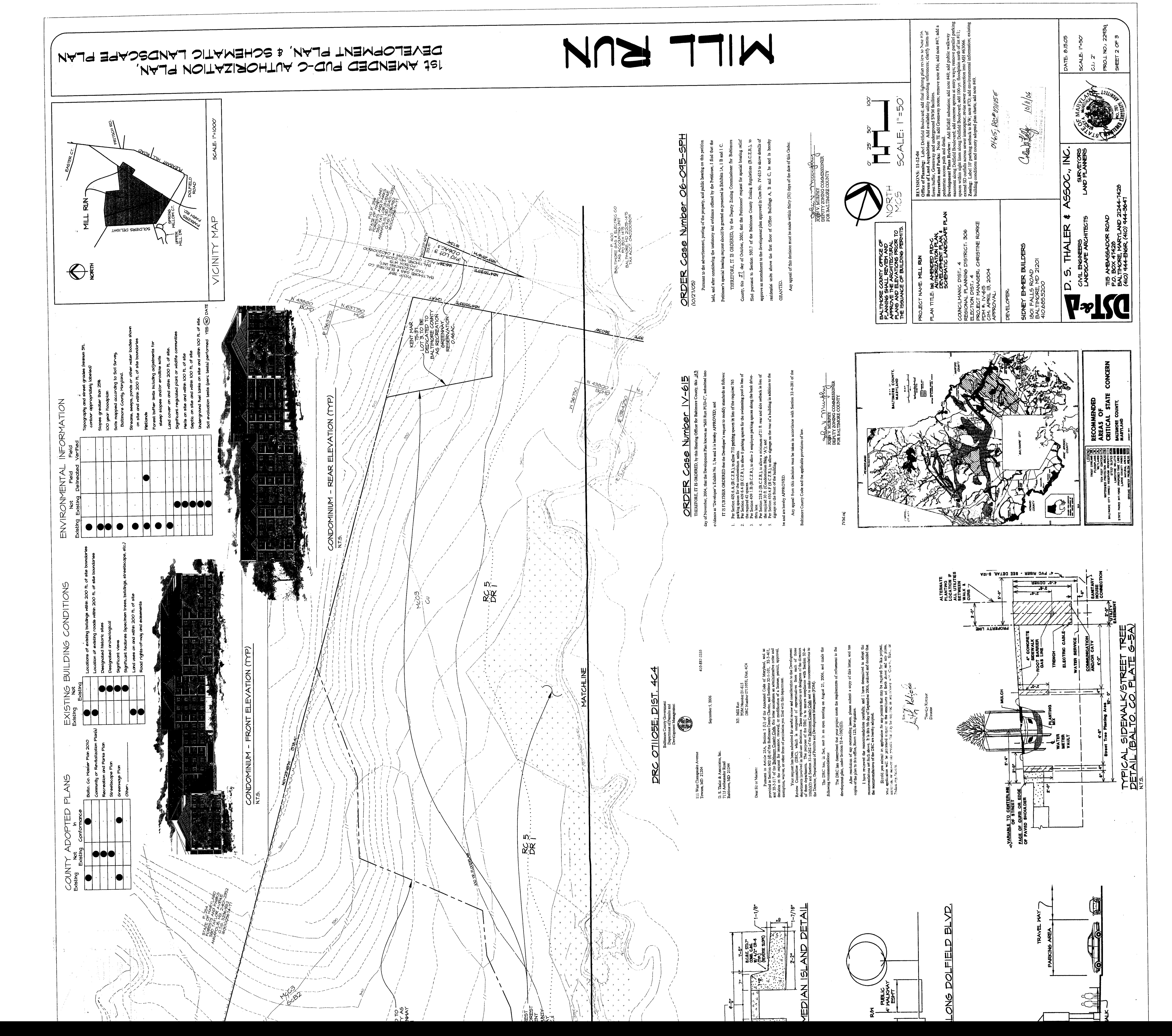
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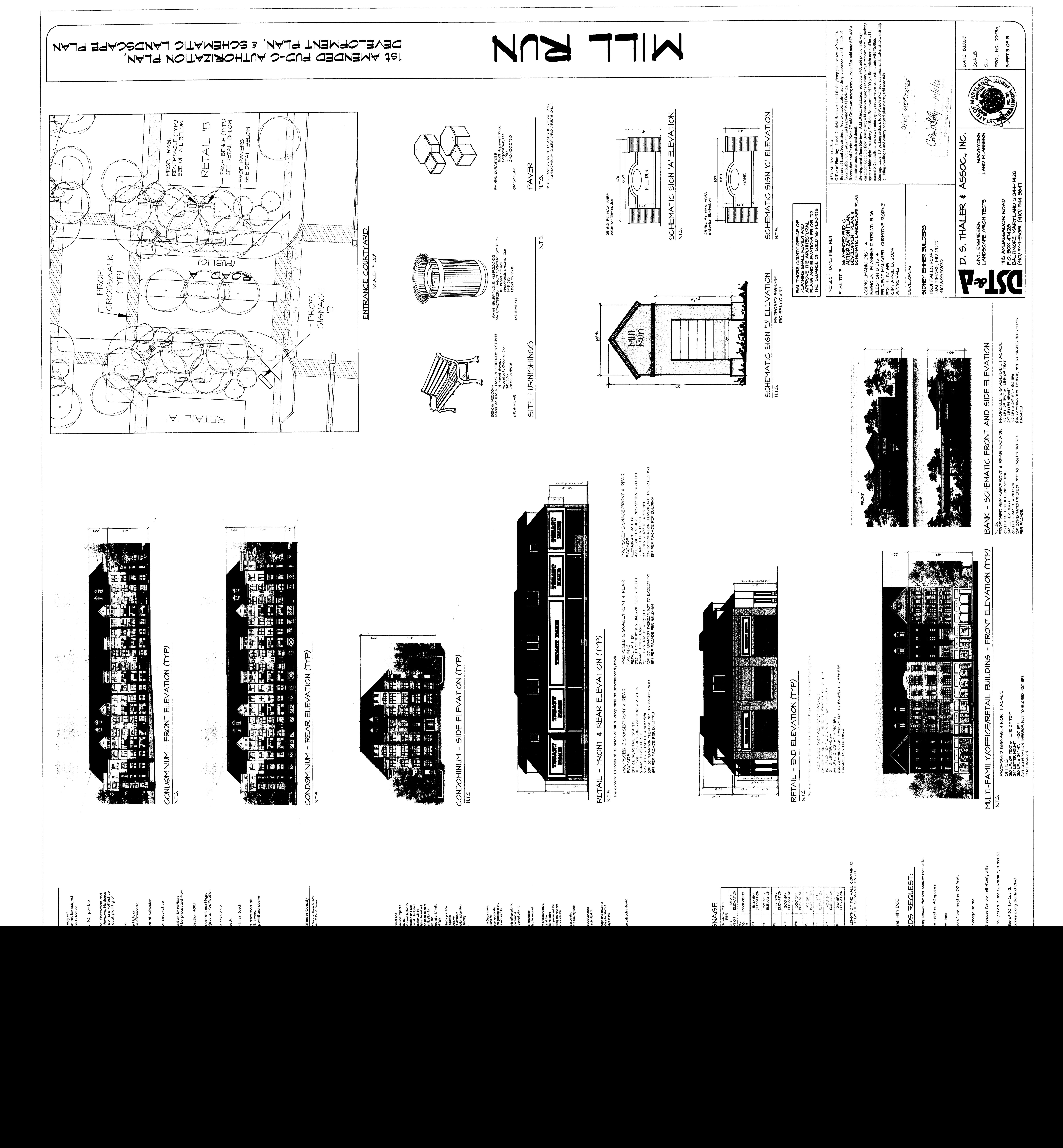


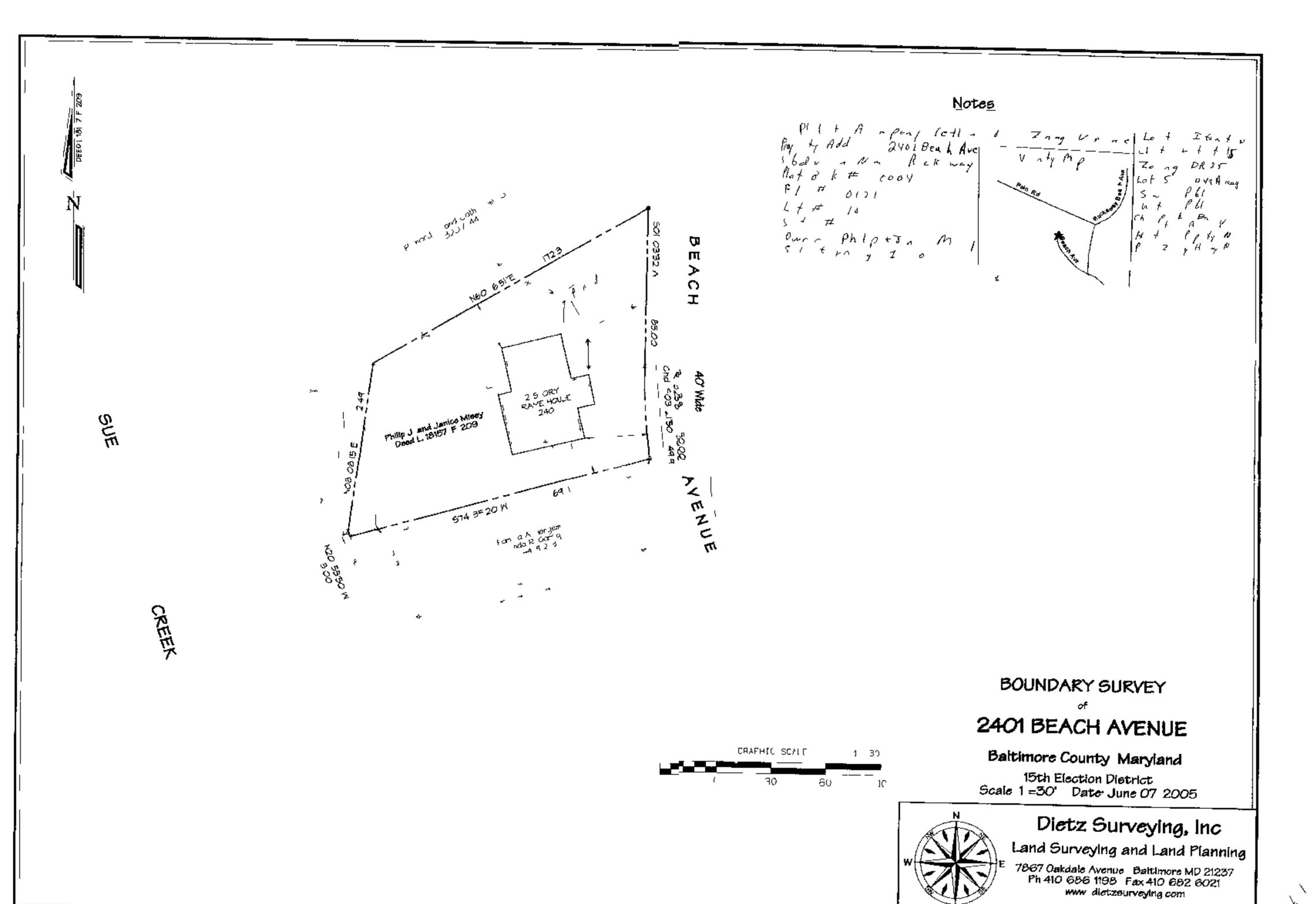












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Flor #16 6/21/2005

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