

MEMORANDUM

DATE: March 26, 2018
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2018-0142-XA – Appeal Period Expired

The appeal period for the above-referenced case expired on March 23, 2018. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: ✓ Case File
Office of Administrative Hearings

**IN RE: PETITIONS FOR SPECIAL
EXCEPTION AND VARIANCE
(8302 Pulaski Highway)
15th Election District
7th Council District
Rosedale Investment, LLC
Legal Owner
Auto Point Enterprise, LLC
Lessee
Petitioners**

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BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
Case No. 2018-0142-XA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as Petitions for Special Exception and Variance filed for property located at 8302 Pulaski Highway. The Petitions were filed on behalf of Rosedale Investment, LLC, legal owner and Auto Point Enterprise, LLC, lessee ("Petitioners"). The Special Exception petition seeks to use the property for a used motor vehicle sales area separated from sales agency building. The Petition for Variance seeks parking for a non-residential use closer to 10 ft. from right-of-way line to public street. A site plan was marked as Petitioners' Exhibit 1.

Appearing at the hearing in support of the petitions were Clovis DaCuhna, Andre L. Wilbert, Felix V. Barrera and professional engineer Rick Richardson. Jonathan A. Azrael, Esq. represented Petitioners. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR) and the State Highway Administration (SHA). None of the reviewing agencies opposed the requests.

The subject property is approximately 1.15 acres in size and is zoned B.R- A.S. The site is improved with a commercial building formerly operated as a diner. Petitioners propose to reuse

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Date 2/21/18

By SEN

the existing building for a used car sales facility. In fact, the lessee has for 14 years operated a used car sales facility on the property immediately adjoining the subject property to the east. Thus, the business would simply be relocated to the adjoining lot, which is slightly larger than the present location.

SPECIAL EXCEPTION

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use. Mr. Richardson testified via proffer that Petitioners satisfied all requirements for special exception relief, and no evidence to the contrary was offered. As such the petition for special exception will be granted.

VARIANCE

A variance request involves a two-step process, summarized as follows:

1. It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
2. If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioners have met this test. The property has irregular dimensions and is therefore unique. If the B.C.Z.R. were strictly interpreted Petitioners would suffer a practical difficulty since they

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Date

2/21/18

By

sen

would be required to remove or relocate the parking spaces which have existed for over 50 years without complaint. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the absence of community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 21st day of **February, 2018**, that the Petition for Special Exception to use the property for a used motor vehicle outdoor sales area, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance to allow parking for a non-residential use 0 ft. from the right-of-way line to a public street in lieu of the required 10 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.
2. No temporary signage, banners or advertising flags shall be displayed on site.
3. Prior to issuance of permits Petitioners must provide a dumpster enclosure using solid materials in compliance with the Baltimore County Landscape Manual.
4. Prior to issuance of permits Petitioners must install curb stops or a similar solid barrier along the vehicle display area adjacent to Old Philadelphia Road.
5. There shall be no parking or display of vehicles in the public right-of-ways.
6. No storage of damaged or disabled vehicles shall be permitted.

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3 Date 2/21/18
By sen

7. No exterior mechanical work or repairs of vehicles shall be performed on site.
8. Petitioners must submit for approval by Baltimore County landscape and lighting plans for the site.
9. Prior to issuance of permits Petitioners must install curb stops or fencing along the eastern tract boundary.

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



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

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Date 2/21/18
4 By sen



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 3302 Pulaski Highway which is presently zoned BR-AS
 Deed References: 36738/018 10 Digit Tax Account # 2 3 0 0 0 0 4 3 7 6
 Property Owner(s) Printed Name(s) ROSEDALE INVESTMENTS, LLC

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve
2. X a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for used motor vehicle sales area, separated from sales agency building.
3. X a Variance from Section(s)
 409.8.A.4 Parking for non-residential use closer to 10' from right of way line to public street.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
 (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

Practical difficulty; to be presented at hearing.

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

I, or we, agree to pay expenses of above petition(s), 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.

Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

Contract Purchaser/Lessee:

Auto Point Enterprises, LLC
 Name- Type or Print
 Signature
 8312 Pulaski Highway, Baltimore, MD
 Mailing Address City State
 21237 443-756-3826 clovao@aol.com
 Zip Code Telephone # Email Address

Attorney for Petitioner:

A. Azrael
 410-821-6800
 FAX: 410-821-1265
 EMAIL: JAazrael@azraelfranz.com
 JONATHAN A. AZRAEL
 ATTORNEY AT LAW
 AZRAEL, FRANZ, SCHWAB
 & LIPOWITZ LLC
 WWW.AZRAELFRANZ.COM
 FIFTH FLOOR
 101 E. CHESAPEAKE AVENUE
 TOWSON, MARYLAND 21286

Legal Owners (Petitioners):

Rosedale Investment/, LLC CLOVES DA CUHNA
 Name #1 - Type or Print Name #2 - Type or Print
 Signature #1 Signature #2
 8312 Pulaski Highway, Baltimore, MD
 Mailing Address City State
 21237 443-756-3826
 Zip Code Telephone # Email Address
 clovao@aol.com

Representative to be contacted:

Cloves Da Cunha
 Name - Type or Print
 Signature
 8302 Pulaski Highway, Baltimore, MD
 Mailing Address City State
 21237 443-756-3826 clovao@aol.com
 Zip Code Telephone # Email Address

Date 11/28/17

ORDER RECEIVED FOR FILING
 Do Not Schedule Dates

Reviewer JF

Date 2/21/18

REV. 10/4/11

By sen

**ZONING PROPERTY DESCRIPTION FOR
8302 PULASKI HIGHWAY
(U.S. ROUTE #40)
BALTIMORE COUNTY, MARYLAND
15TH. ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT**

Beginning at a point on the **north** side of **Pulaski Highway** which is **150** feet wide at the distance of **130** feet **northeast** of the centerline of the nearest improved intersecting street **Todds Lane**. More particularly described as: Binding on the north side of Pulaski Highway (1) by a curve to the left with a radius of 25389.79 feet and an arc length of 202.19 feet, thence leaving the north side of Pulaski Highway for the following courses and distances, (2) North 16 degrees 48 minutes 00 seconds West 174.98 feet, intersecting with the south side of Old Philadelphia Road, thence binding on the south side of said road with a 50' right of way, (3) South 73 degrees 12 minutes 00 seconds West 200.00 feet, thence leaving the Old Philadelphia Road right of way for the following course and distance, (4) South 16 degrees 48 minutes 00 seconds East 204.56 feet to the point of beginning.

Containing a net area of 38,028 square feet, or 0.87 acres of land, more or less.





501 N. Calvert St., P.O. Box 1377
Baltimore, Maryland 21278-0001
tel: 410/332-6000
800/829-8000

WE HEREBY CERTIFY, that the annexed advertisement of Order No 5412600

Sold To:

AUTO POINT ENTERPRISES LLC - CU00176495
8312 Pulaski Hwy
Rosedale, MD 21237-2903

Bill To:

AUTO POINT ENTERPRISES LLC - CU00176495
8312 Pulaski Hwy
Rosedale, MD 21237-2903

Was published in "Jeffersonian", "Bi-Weekly", a newspaper printed and published in Baltimore County on the following dates:

Jan 25, 2018

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: # 2018-0142-XA
8302 Pulaski Highway
N/s Pulaski Highway, 130 ft. Northeast of the centerline of Todds Lane
15th Election District - 7th Councilmanic District
Legal Owner(s) Rosedale Investment, LLC
Contract Purchaser/Lessee: Auto Point Enterprises, LLC

Special Exception: to use property for used motor vehicle sales area separated from sales agency building. Variance - parking for non-residential use closer to 10 ft. from right-of-way line to a public street.

Hearing: Friday, February 16, 2018 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

1/101 January 25 5412600

The Baltimore Sun Media Group

By S. Wilkinson
Legal Advertising

CERTIFICATE OF POSTING

2018-0142-XA

RE: Case No.: _____

Petitioner/Developer: _____

Rosedale Investment, LLC
Auto Point Enterprise, LLC

February 16, 2018

Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

8302 Pulaski Highway

January 25, 2018

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,


(Signature of Sign Poster)

January 25, 2018

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

January 9, 2018

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2018-0142-XA

8302 Pulaski Highway

N/s Pulaski Highway, 130 ft. Northeast of the centerline of Todds Lane

15th Election District – 7th Councilmanic District

Legal Owners: Rosedale Investment, LLC

Contract Purchaser/Lessee: Auto Point Enterprises, LLC

Special Exception to use property for used motor vehicle sales area separated from sales agency building. Variance – parking for non-residential use closer to 10 ft. from right-of-way line to a public street.

Hearing: Friday, February 16, 2018 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon", is written over the printed name and title.

Arnold Jablon
Director

AJ:kl

C: Jonathan Azrael, 101 E. Chesapeake Avenue, 5th Floor, Towson 21286
Auto Point Enterprises, LLC, 8312 Pulaski Highway, Baltimore 21237
Cloves Da Cunha, 8302 Pulaski Highway, Baltimore 21237

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, JANUARY 27, 2018.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, January 25, 2018 Issue - Jeffersonian

Please forward billing to:

Cloves Da Cuhna
Auto Point Enterprises, LLC
8312 Pulaski Highway
Baltimore, MD 21237

443-756-3826

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2018-0142-XA

8302 Pulaski Highway
N/s Pulaski Highway, 130 ft. Northeast of the centerline of Todds Lane
15th Election District – 7th Councilmanic District
Legal Owners: Rosedale Investment, LLC
Contract Purchaser/Lessee: Auto Point Enterprises, LLC

Special Exception to use property for used motor vehicle sales area separated from sales agency building. Variance – parking for non-residential use closer to 10 ft. from right-of-way line to a public street.

Hearing: Friday, February 16, 2018 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE OFFICE
AND VARIANCE		
8302 Pulaski Highway; N/S Pulaski Highway,	*	OF ADMINSTRATIVE
130' NE of c/line of Todds Lane		
15 th Election & 7 th Councilmanic Districts	*	HEARINGS FOR
Legal Owner(s): Rosedale Investment LLC		
Contract Purchaser(s): Auto Point Enterprises	*	BALTIMORE COUNTY
Petitioner(s)		
	*	2018-142-XA

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party 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.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

DEC 05 2017

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of December, 2017, a copy of the foregoing Entry of Appearance was mailed to Cloves Da Cuhna, 8302 Pulaski Highway, Baltimore, Maryland 21237 and Jonathan A. Azrael, 101 E. Chesapeake Avenue, 5th Floor, Towson, Maryland 21286, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

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 legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/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:

Case Number: 2018-0142-XA

Property Address: 8302 Pulaski Highway

Property Description: _____

Legal Owners (Petitioners): Roseale Investments, LLC

Contract Purchaser/Lessee: Anchor Point Enterprises, Inc.

PLEASE FORWARD ADVERTISING BILL TO:

Name: CLAVIS DACHNHA

Company/Firm (if applicable): ANCHOR POINT ENTERPRISES, INC.

Address: 8312 PULASKI Highway
BALTIMORE 21237

Telephone Number: 443-756-3826

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

NO 160692

Date: 11/28/17

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept Obj	BS Acct	Amount
001	506	0003		615				1,000.

Total: 1,000

Rec From: AZRAEL, FRANZ, SCHWAB & LIPOWITZ, LLC

For: 8203 PULASKI HIGHWAY
LAOS # 2018-0142- YA

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME DRN
 11/29/2017 11/29/2017 10:13:11 3
 REG 0503 WALKIN CASH
 RECEIPT # 054492 11/28/2017 OFLO
 Dept 5 520 ZONING VERIFICATION
 CR NO. 160692
 Recpt Tot \$1,000.00
 \$1,000.00 CK \$1.00 CA
 Baltimore County, Maryland

**CASHIER'S
 VALIDATION**

Date: 12/14/17

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 109
Towson, Maryland 21204

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the Case number referenced below, which was received on 12/6/17. A field inspection and internal review reveals that an entrance onto US40 consistent with current State Highway Administration guidelines is required. As a condition of approval for Variance, Case Number 2018-0142-XA

Special Exception, Variance
Rosedale Investment, LLC
Clovie DaCunha
8202 Pulaski Highway US40

The applicant must contact the State Highway Administration to obtain an entrance permit. Should you have any questions regarding this matter feel free to contact Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,



Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

cc: Mr. Michael Pasquariello, Utility Engineer, SHA

Richardson Engineering, LLC / 30 East Padonia Road
Suite 500
Timonium, MD 21093

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 18-142

DATE: 12/20/2017



INFORMATION:

Property Address: 8302 Pulaski Highway
Petitioner: Rosedale Investments, LLC
Zoning: BR AS
Requested Action: Special Exception, Variance

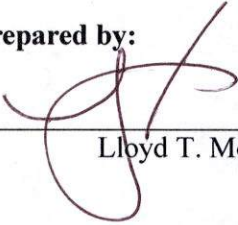
The Department of Planning has reviewed the petition for a special exception to use the property for a used motor vehicle sales area, separated from sales agency building and the petition for variance parking for non-residential use less than 10 feet from the right of way line to the public street in lieu of the required 10 feet.

The Department has no objection to granting the petitioned zoning relief conditioned upon the following:

- Install curb stops or a similar solid barrier along the eastern tract boundary to define the limits of the petitioned special exception use and prevent the adjacent used car lot from being incorporated into the subject site.
- Install curb stops or a similar solid barrier along the vehicle display area adjacent to Old Philadelphia Road to prevent vehicles from overhanging the sidewalk.
- Landscaping in the existing traffic islands on either side of the entrances shall be maintained at all times. There shall be no parking or display of vehicles in the public right-of-ways.
- Repair and replace all damaged sidewalks along the property frontage on Old Philadelphia Road.
- Provide a dumpster enclosure using solid materials.
- There shall be no working on and or storage of damaged and disable vehicles.
- There shall be no temporary signage, banners or advertising flags displayed on site.
- Proposed lighting must be designed so as to not spill off-site.
- Install a landscaped bed having a minimum of 4' in width around the base of the existing free-standing sign. This may be accomplished through the use of containers and or the removal of the paving material and replacement with soil and plantings.

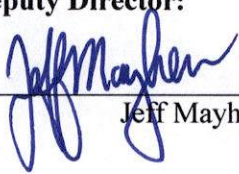
For further information concerning the matters stated herein, please contact Ngone Seye Diop at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Deputy Director:



Jeff Mayhew

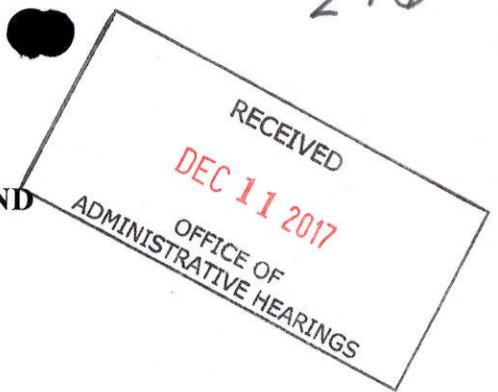
AVA/KS/LTM/ka

c: Ngone Seye Diop
James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Cloves Da Cuhna
Jonathan A. Azrael
Office of the Administrative Hearings
People's Counsel for Baltimore County

2-16

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: December 11, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0142-XA
Address 8302 Pulaski Highway
(Rosedale Investment, LLC
Property)

Zoning Advisory Committee Meeting of **December 11, 2017.**

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Steve Ford

ZAC AGENDA

Case Number: 2018-0142-XA

Primary Use: COMMERCIAL

Reviewer: Fernando Bonifacio
io

Type: SPECIAL EXCEPTION, VARIANCE

Legal Owner: Rosedale Investment LLC, Clovis DaCunha

Contract Purchaser: Auto Point Enterprises LLC, 8312 Plaski Hwy., Baltimore MD 21237

Critical Area: No Flood Plain: No Historic No Election Dist Fifteenth Councilmanic Dist Seventh

Property Address: 8302 Pulaski HIGHWAY

Location: N/S of Pulaski Highway, 130 ft. NE of the centerline of Todds Lane

Existing Zoning: BR-AS

Area: 0.87 acre

Proposed Zoning: SPECIAL EXCEPTION:

To use the herein described property for used motor vehicle sales area separated from sales agency building.

VARIANCE:

Parking for non-residential use closer to 10 ft. from right-of-way line to public street

Attorney: Jonathan A Azrael, 101 E Chesapeake Ave., 5th floor, Towson MD 21286

Prior Zoning Cases: 1957-4147-A
R-1953-2481

Concurrent Cases:

Violation Cases:

Closing Date:

Miscellaneous:

- Close western entrance (right-out) not being used.
- Construct 5' Sidewalk along property frontage on US 40 and side walk ramps at eastern entrance road.
- Reconstruct eastern entrance to right-in/right-out

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections
NCE

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For December 11, 2017
Item No. 2018-0142-XA

DATE: December 28, 2017

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

If Special Exception and Zoning Relief is granted, a Landscape Plan is required per the requirement of the Landscape Manual. A Lighting Plan is also required.

* * * * *

VKD: can
cc: file

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: 12/20/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 18-142

INFORMATION:

Property Address: 8302 Pulaski Highway
Petitioner: Rosedale Investments, LLC
Zoning: BR AS
Requested Action: Special Exception, Variance

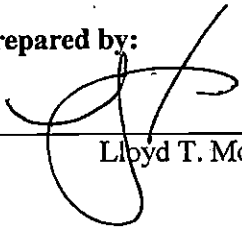
The Department of Planning has reviewed the petition for a special exception to use the property for a used motor vehicle sales area, separated from sales agency building and the petition for variance parking for non-residential use less than 10 feet from the right of way line to the public street in lieu of the required 10 feet.

The Department has no objection to granting the petitioned zoning relief conditioned upon the following:

- Install curb stops or a similar solid barrier along the eastern tract boundary to define the limits of the petitioned special exception use and prevent the adjacent used car lot from being incorporated into the subject site.
- Install curb stops or a similar solid barrier along the vehicle display area adjacent to Old Philadelphia Road to prevent vehicles from overhanging the sidewalk.
- Landscaping in the existing traffic islands on either side of the entrances shall be maintained at all times. There shall be no parking or display of vehicles in the public right-of-ways.
- Repair and replace all damaged sidewalks along the property frontage on Old Philadelphia Road.
- Provide a dumpster enclosure using solid materials.
- There shall be no working on and or storage of damaged and disable vehicles.
- There shall be no temporary signage, banners or advertising flags displayed on site.
- Proposed lighting must be designed so as to not spill off-site.
- Install a landscaped bed having a minimum of 4' in width around the base of the existing free-standing sign. This may be accomplished through the use of containers and or the removal of the paving material and replacement with soil and plantings.

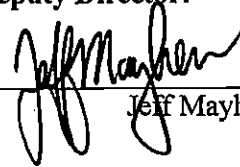
For further information concerning the matters stated herein, please contact Ngone Seye Diop at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Deputy Director:



Jeff Mayhew

AVA/KS/LTM/ka

c: Ngone Seye Diop
James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Cloves Da Cuhna
Jonathan A. Azrael
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: December 11, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0142-XA
Address 8302 Pulaski Highway
(Rosedale Investment, LLC
Property)

Zoning Advisory Committee Meeting of **December 11, 2017.**

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Steve Ford

CASE NAME Roseale Investment, LLC
CASE NUMBER 2018-0142
DATE 2/16/18

NAME _____

CITY, STATE, ZIP

E - MAIL

[illegible]

C H E C K L I S T

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
12/11	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	Comment
12/11	DEPS (if not received, date e-mail sent _____)	no comment
	FIRE DEPARTMENT	
12/21	PLANNING (if not received, date e-mail sent _____)	no objection w/ concls.
12/14	STATE HIGHWAY ADMINISTRATION	Comment
	TRAFFIC ENGINEERING	
	COMMUNITY ASSOCIATION	
	ADJACENT PROPERTY OWNERS	
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. _____)	
NEWSPAPER ADVERTISEMENT	Date: 1/25/18	
SIGN POSTING	Date: 1/25/18 by SSG Black	
PEOPLE'S COUNSEL APPEARANCE	Yes ☒ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map			View GroundRent Redemption			View GroundRent Registration			
Account Identifier:			District - 15 Account Number - 2300004376						
Owner Information									
Owner Name:		ROSEDALE INVESTMENT LLC			Use:		COMMERCIAL		
Mailing Address:		8302 PULASKI HWY BALTIMORE MD 21237-			Principal Residence:		NO		
					Deed Reference:		/36738/ 00018		
Location & Structure Information									
Premises Address:		8302 PULASKI HWY BALTIMORE 21237-			Legal Description:		.8730 AC NWS PULASKI HWY 1350FT E BATAVIA FRMS RD		
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0089	0017	0493		0000				2018	Plat Ref:
Special Tax Areas:				Town:		NONE			
				Ad Valorem:					
				Tax Class:					
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area		County Use	
1958		3560				38,028 SF		23	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation			
		RESTAURANT							
Value Information									
		Base Value		Value		Phase-in Assessments			
				As of		As of		As of	
				01/01/2018		07/01/2017		07/01/2018	
Land:		413,500		413,500					
Improvements		330,800		157,400					
Total:		744,300		570,900		744,300		570,900	
Preferential Land:		0						0	
Transfer Information									
Seller: MARMARAS GEORGE F				Date: 10/07/2015		Price: \$575,000			
Type: ARMS LENGTH IMPROVED				Deed1: /36738/ 00018		Deed2:			
Seller:				Date: 04/03/2013		Price: \$0			
Type: ARMS LENGTH MULTIPLE				Deed1: /33399/ 00441		Deed2:			
Seller:				Date:		Price: \$0			
Type:				Deed1: /07130/ 00424		Deed2:			
Exemption Information									
Partial Exempt Assessments:		Class		07/01/2017		07/01/2018			
County:		000		0.00					
State:		000		0.00					
Municipal:		000		0.00 0.00		0.00 0.00			
Tax Exempt:		Special Tax Recapture:							
Exempt Class:		NONE							
Homestead Application Information									
Homestead Application Status: No Application									

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No
Application**Date:**



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
*Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections*

February 8, 2018

Rosedale Investment LLC
Clovis Da Cuhna
8312 Pulaski Highway
Baltimore MD 21237

RE: Case Number: 2018-0142 XA, Address: 8302 Pulaski Highway

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on November 28, 2017. This letter is not an approval, but only a **NOTIFICATION**.

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, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Auto Point Enterprises LLC, 8312 Pulaski Highway, Baltimore MD 21237
Jonathan A Azrael, 101 E Chesapeake Avenue, 5th floor, Towson MD 21286
Clovis DaCuhna, 8302 Pulaski Highway, Baltimore MD 21237

Cas. No.: 2018-0142-XA - 8302 Pwaki Highway

2/16
1:30
PM

Exhibit Sheet

Petitioner/Developer

DW
3-26-18

Protestants

Sen
2/21/18

No. 1	Cert. of Posting	
No. 2	Site plan	
No. 3	Aerial photo	
No. 4	4A-4E Photos of site	
No. 5	Floor plans	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		(
No. 11		
No. 12		

Tablions

2018-0142-XA

RE: Case No.: _____

Petitioner/Developer: Rosedale Investment, LLC
Auto Point Enterprise, LLC

February 16, 2018

Date of Hearing/Closing: _____

**Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204**

Attn: Kristen Lewis:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

8302 Pulaski Highway

January 25, 2018

The sign(s) were posted on _____
(Month, Day, Year)



January 25, 2018

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



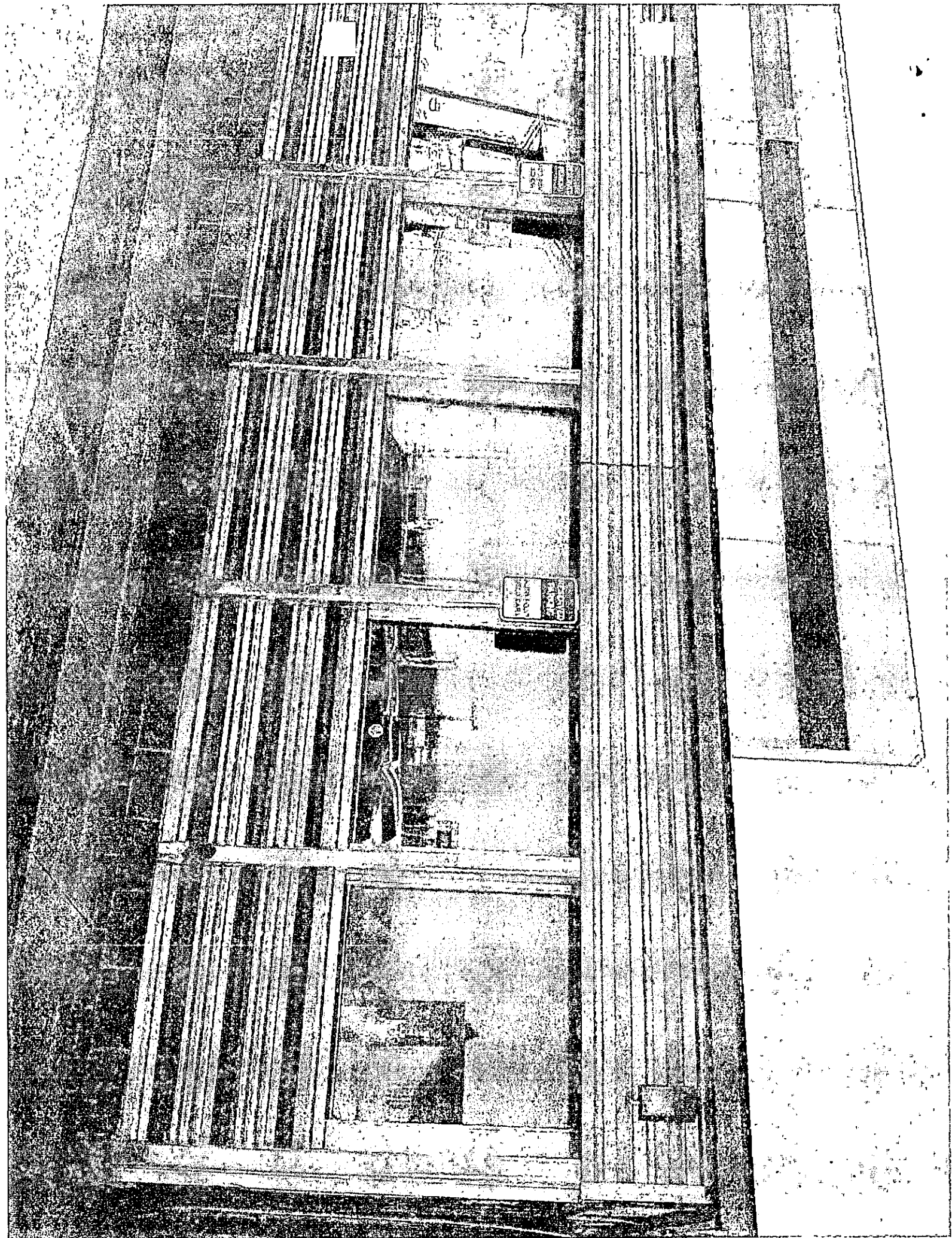
Imagery ©2018 Google, Map data ©2018 Google 50 ft

EXHIBIT

tabbles

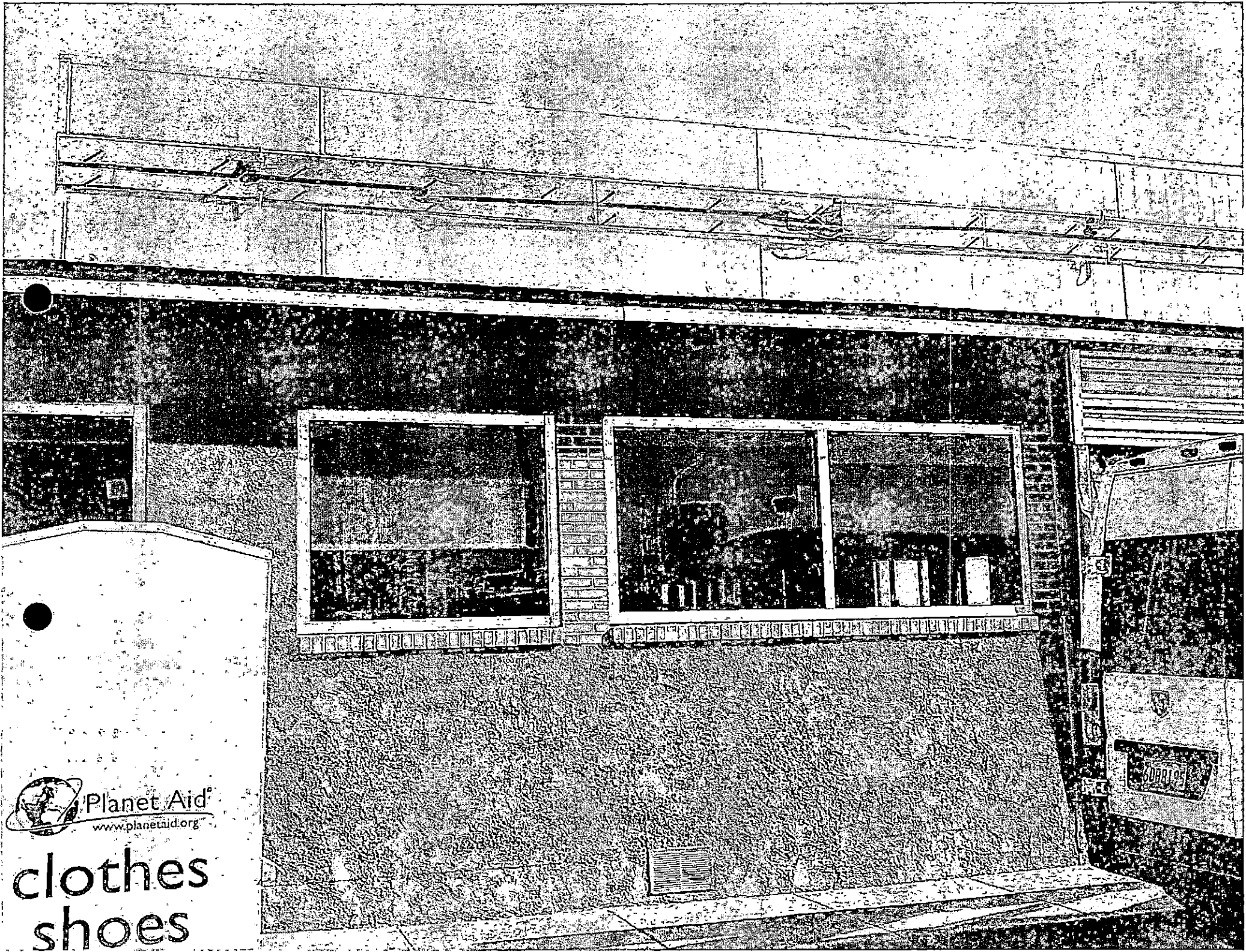
4 A-E

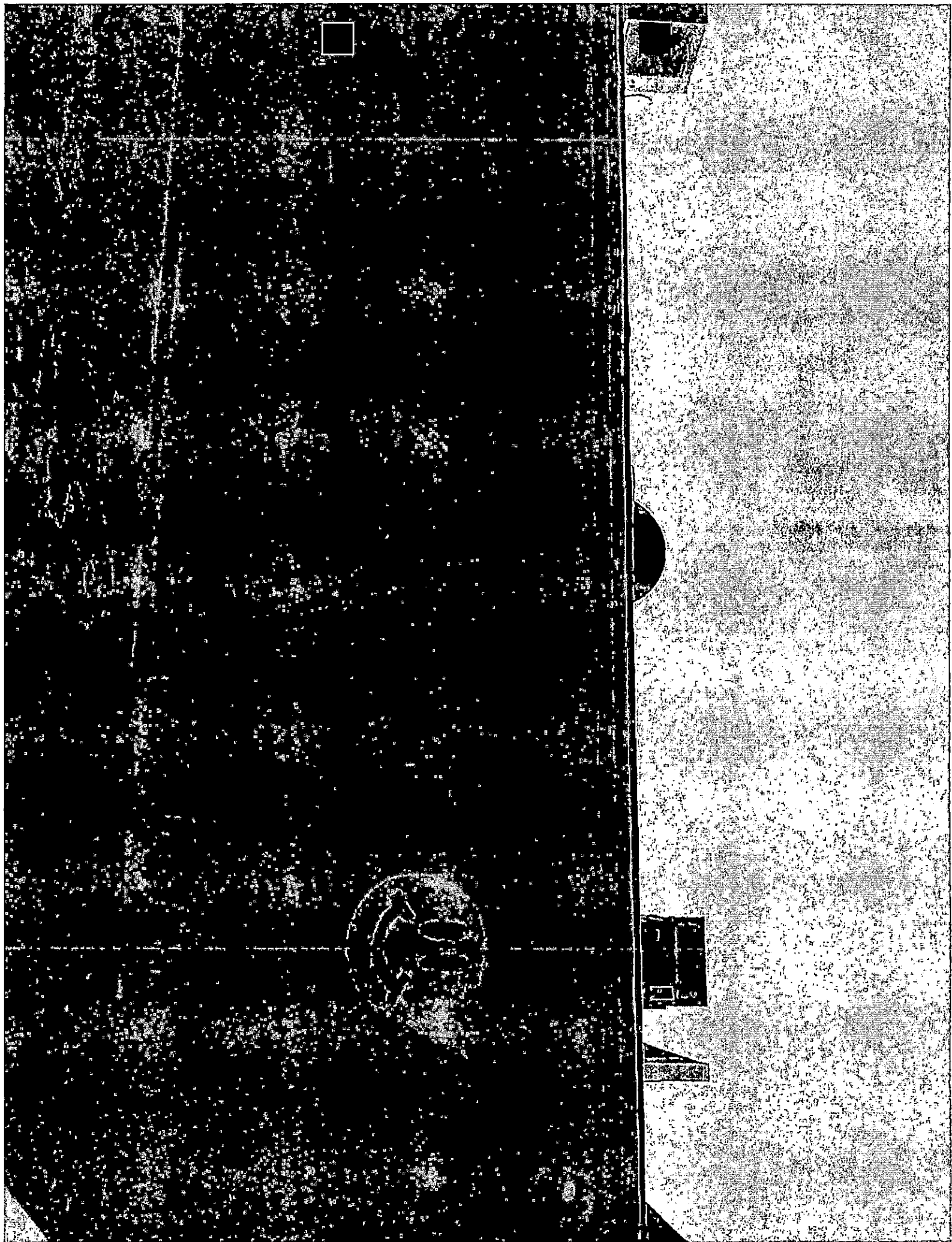


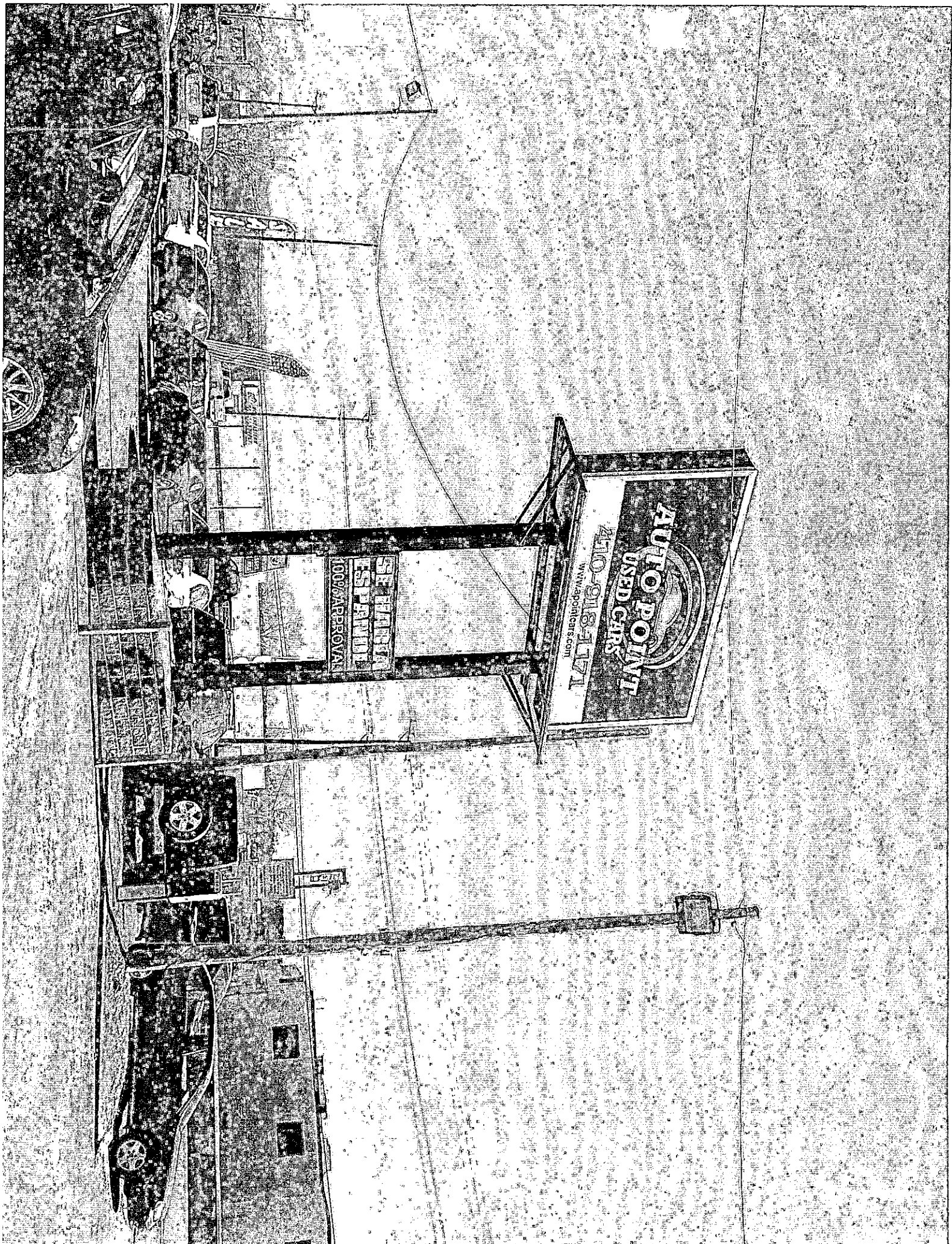




clothes
shoes







February 15, 2018

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 109
Towson, Maryland 21204

Dear Ms. Lewis:

Thank you for the opportunity to review the site plan to accompany the petition for special exception, and variance, for the Auto Point Enterprises Car Sales proposed expansion of the property at 8302 Pulaski Highway (US 40) in Baltimore County. The Maryland Department of Transportation State Highway Administration (MDOT SHA) has reviewed the submittal listed below and is pleased to respond.

**Auto Point Enterprises Car Sales
Site Plan Review for Special Exception, and Variance
Case No. 2018-0142-XA
SHA Tracking No. 18APBA003XX
US 40 (north side) 300' east of Todds Lane
Mile Post 15.82
Baltimore County**

An access permit will be required for entrance and frontage improvements on US 40 for the proposed expansion of this development. The following criteria and details will apply and must be reflected on future plan submittals:

A 5' wide sidewalk must be constructed along the entire property frontage with no greater than a 2% cross slope. Sidewalk ramps that are compliant with the American with Disabilities Act (ADA) must be constructed on all entrance radii.

The MDOT SHA recommends that the existing western entrance be closed with curb & gutter and sidewalk as it appears to no longer be utilized.

A 60" pathway must be maintained across the eastern entrance between the sidewalk ramps with no greater than a 2% cross slope.

All curb & gutter within the MDOT SHA right-of-way must be MDOT SHA 8" Type 'A' curb & gutter (MD 620.02).

Ms. Kristen Lewis
Auto Point Enterprises Car Sales US 40
Case 2018-0142-XA
SHA No. 18APBA003XX
February 15, 2018
Page 2

To initiate the plan review cycle toward the issuance of the access permit the design engineer must submit nine (9) sets of plans reflecting the above criteria and details. The plan submittal should include 1 set of hydraulic computations, and a CD containing plans and all supporting documentation to Wendy Wolcott at 320 West Warren Road, Hunt Valley, MD 21030 to the attention of Mr. Richard Zeller. Please utilize the SHA tracking number when making this submission.

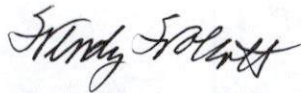
All SHA Policies, Standards and Specifications must be followed when preparing the above plan submittal including but not limited to the following documents:

SHA Access Manual
SHA Business Standards and Specifications
SHA Accessibility Policy and Guidelines for Pedestrian Facilities

The Access Management Plan Review Checklist must be utilized in drafting the SHA Improvement Plans. Please include a copy of the completed checklist when making this submittal. These documents along with additional guidance can be found on our web site at www.roads.maryland.gov under Business Center.

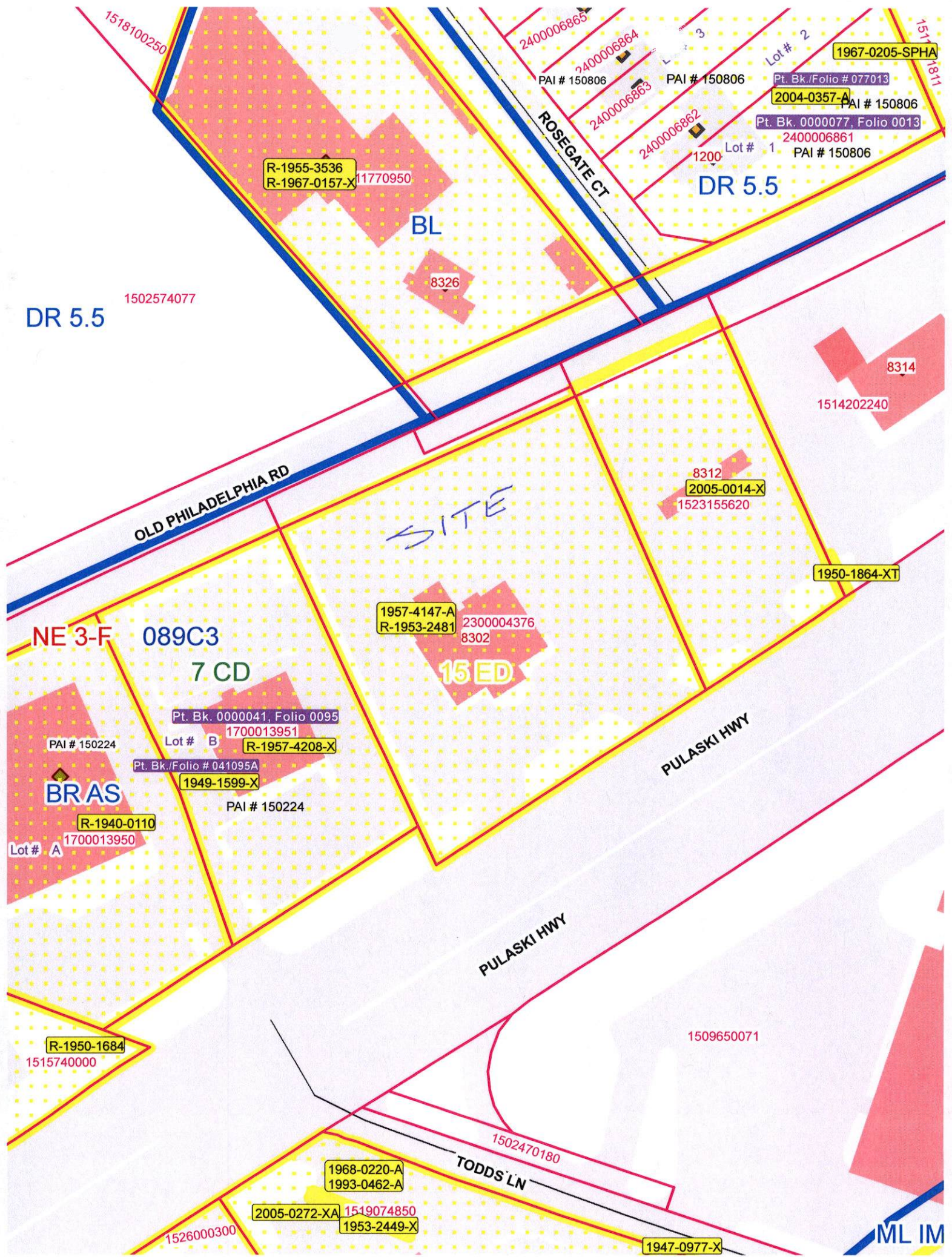
If there are any questions, please contact Mr. Richard Zeller at 410-229-2332 or toll free (in Maryland only), 1-866-998-0367 (x2332) or by email at (rzeller@sha.state.md.us).

Sincerely,



Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

cc: Richardson Engineering, LLC / 30 East Padonia Road, Suite 500, Timonium, MD 21093
Rosedale Investment, LLC, c/o Mr. Clovis DaCunha / 8302 Pulaski Highway
Baltimore, MD 21237
Mr. Jan M. Cook / 111 W. Chesapeake Avenue, Towson, MD 21204
Mr. Vishnu Desai / 111 W. Chesapeake Avenue, Towson, MD 21204
Mr. Donald Distance, MDOT SHA District 4 Traffic
Mr. Michael Pasquariello, MDOT SHA District 4 Utilities
Mr. Andre Futrell, MDOT SHA District 4 Maintenance



DR 5.5

1502574077

OLD PHILADELPHIA RD

ROSEGATE CT

DR 5.5

SITE

NE 3-F

089C3

7 CD

15 ED

BRAS

PULASKI HWY

PULASKI HWY

TODDS LN

R-1955-3536
R-1967-0157-X

11770950

BL

8326

PAI # 150806

PAI # 150806

Pt. Bk./Folio # 077013

2004-0357-A

1967-0205-SPHA

Pt. Bk. 0000077, Folio 0013

2400006861

PAI # 150806

Lot # 1

1200

2400006862

2400006863

2400006865

2400006864

1518100250

1518111

8314

1514202240

8312
2005-0014-X

1523155620

1950-1864-X

1957-4147-A
R-1953-2481

2300004376
8302

Pt. Bk. 0000041, Folio 0095

1700013951

Lot # B

R-1957-4208-X

Pt. Bk./Folio # 041095A

1949-1599-X

PAI # 150224

PAI # 150224

Lot # A

1700013950

R-1940-0110

R-1950-1684

1515740000

1968-0220-A
1993-0462-A

2005-0272-XA

1519074850
1953-2449-X

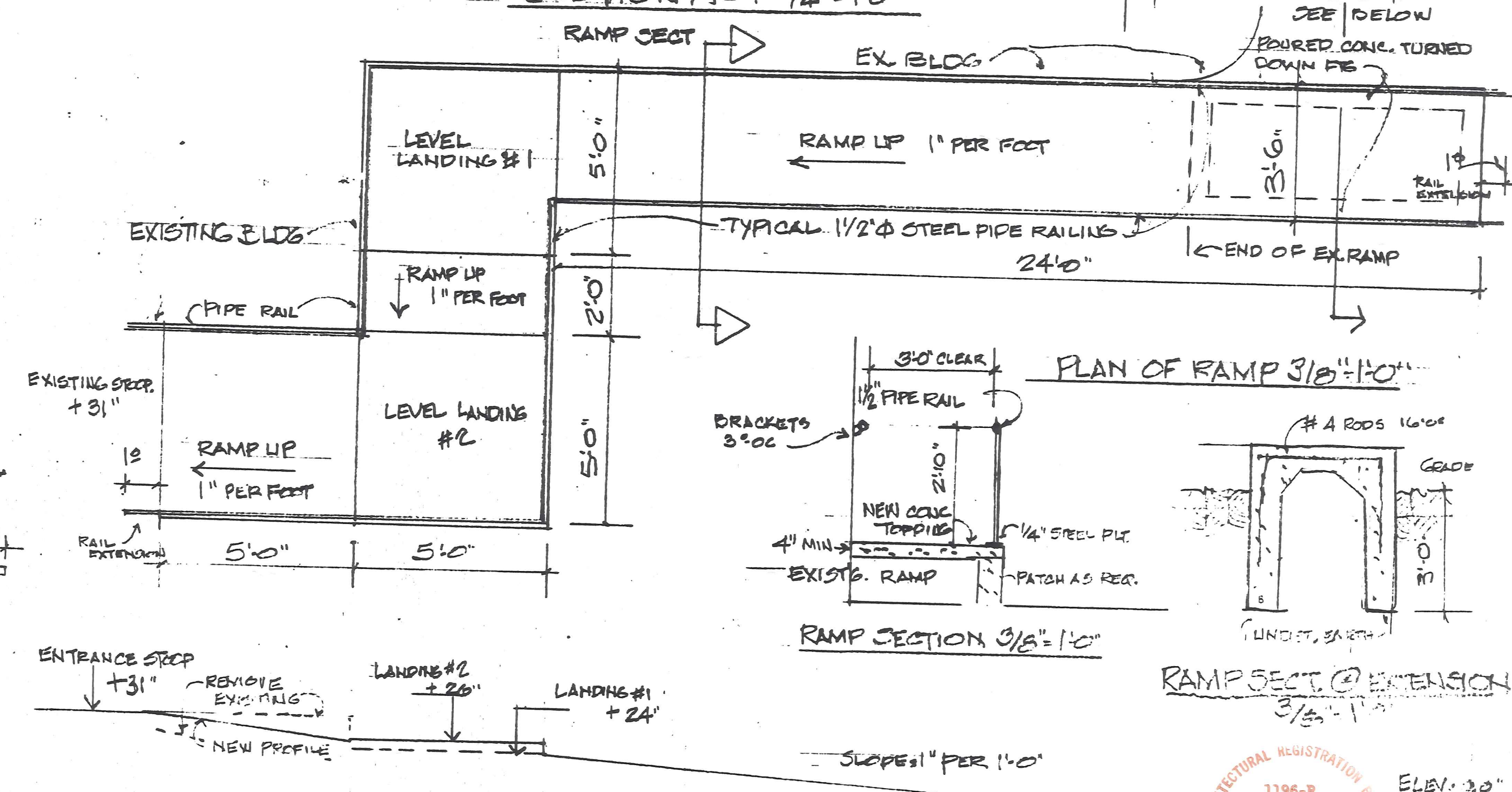
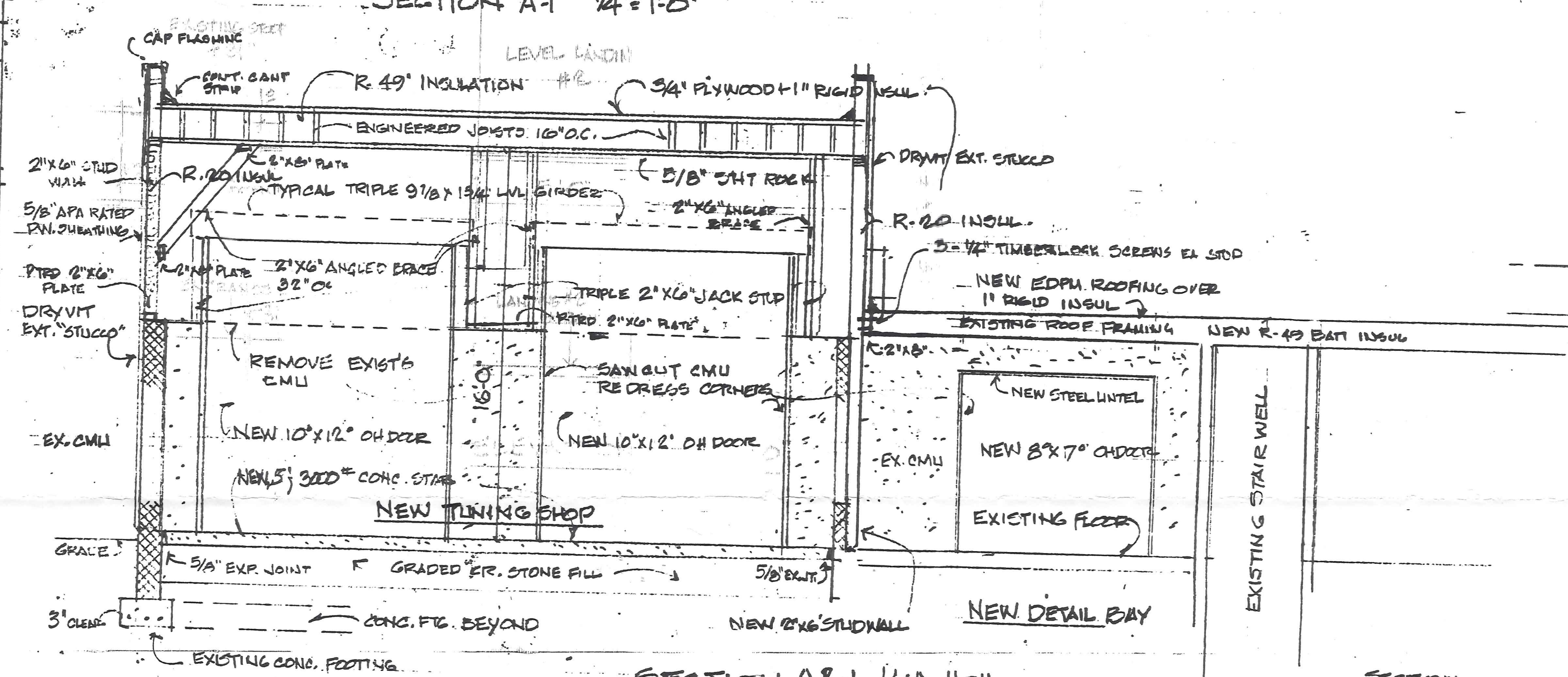
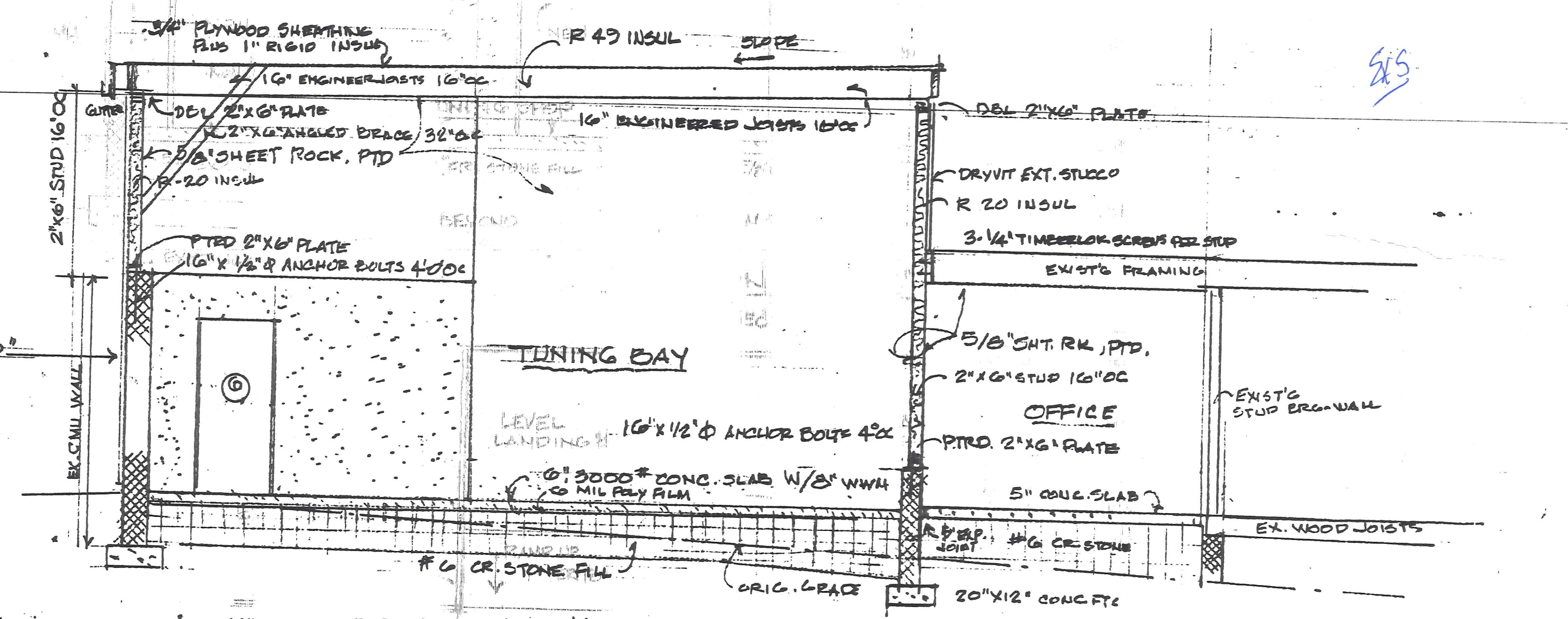
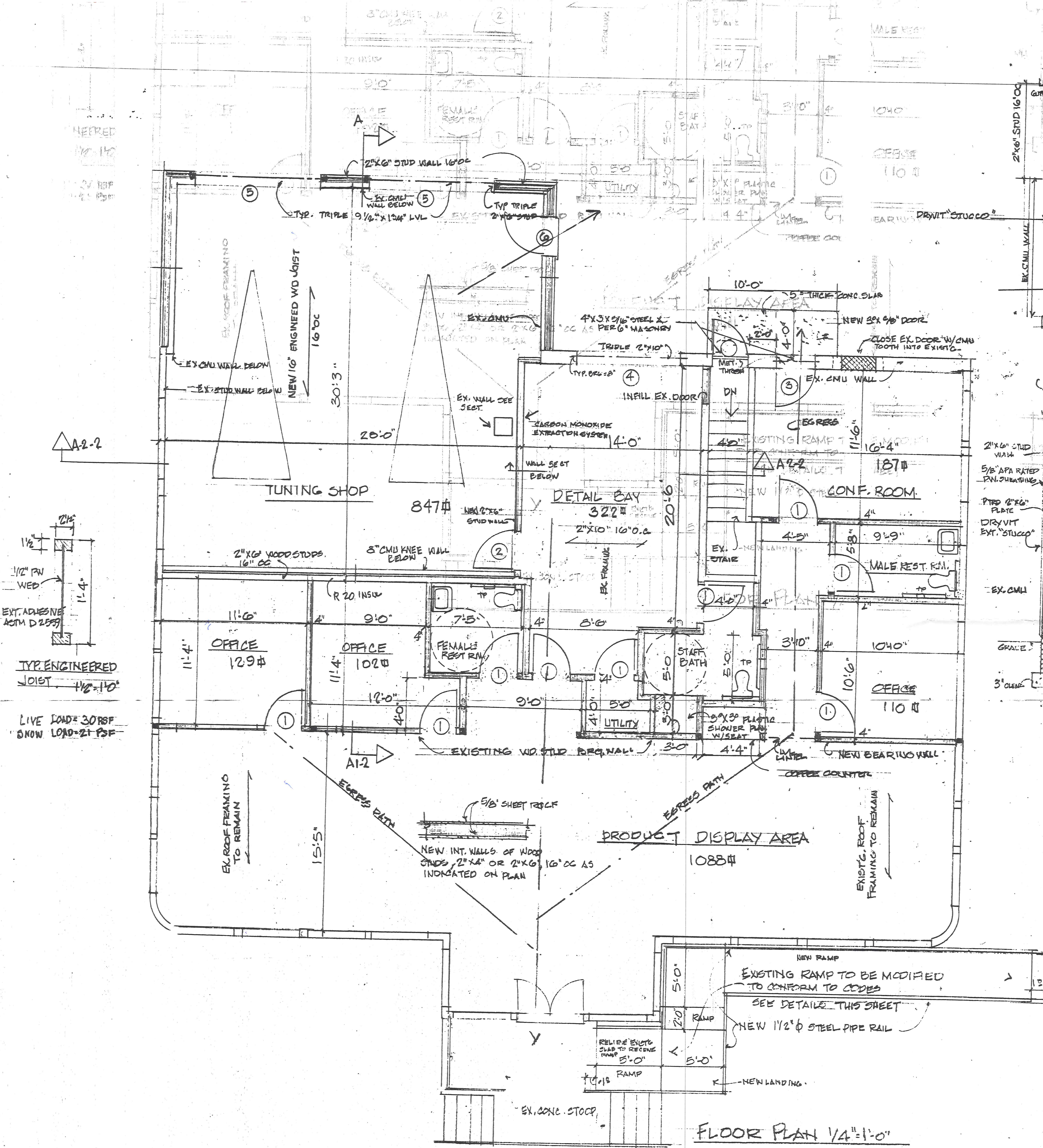
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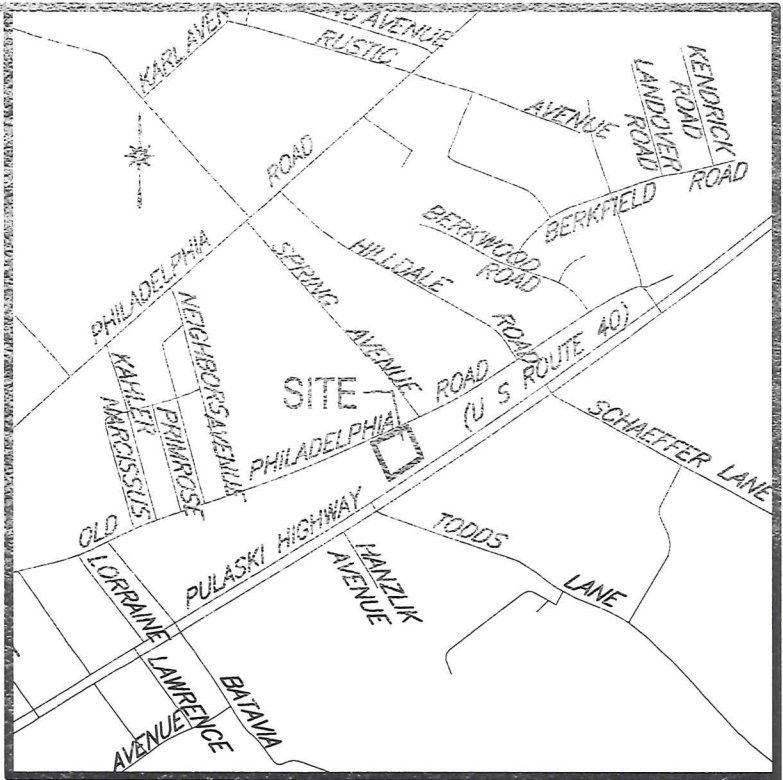
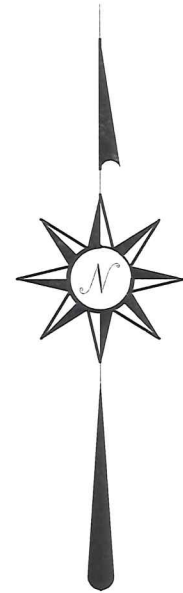
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1947-0977-X

ML IM



Ex. 5



LOCATION MAP
SCALE: 1" = 1000'

GENERAL NOTES:

- OWNER: ROSEDALE INVESTMENT LLC
8302 PULASKI HIGHWAY
BALTIMORE, MD 21237
- SITE AREA:
GROSS: 50,118 SF or 1.15 Ac.±
NET: 38,028 SF or 0.87 Ac.±
- EXISTING BUILDING AREA: 3,560 SF
- UTILITIES:
PUBLIC WATER.
PUBLIC SEPTIC.
- THE SITE DOES NOT LIE WITHIN THE FLOODPLAIN AS SHOWN ON F.I.R.M. #2400100410F, PANEL #410 OF 580 DATED SEPTEMBER 26, 2008.
- PARKING CALCULATIONS:
REQUIRED:
3,560 SF RETAIL @ 5 PER 1,000 = 18 SPACES
PROVIDED:
18 SPACES (1 HANDICAPPED, 17 REGULAR)
- SETBACKS FOR BR:

	REQUIRED	PROVIDED
FRONT:		
FROM P.L.	25'	55'±
FROM C.L.	50'	130'±
SIDE:	30'	43'±
REAR	30'	45'±
- DEED REF: 36738/18
- TAX ACCOUNT: #2300004376
- COUNCILMANIC DISTRICT: 7th
- WATERSHED: BACK RIVER
- ZONING: BR-AS
(PER 200 SCALE GIS TILE # 089C3)
- TAX MAP #89, GRID #17, PARCEL #493
- PREVIOUS ZONING CASES:
1953-2481 TO CHANGE FROM RESIDENTIAL TO COMMERCIAL AND ERECT A DINER
APPROVED FEBRUARY 19, 1953
1957-4147 VARIANCE TO ERECT A SIGN 30' TALL, 135 SF IN SIZE APPROVED MAY 29, 1957
- PREVIOUS PERMITS: D760595 TO ERECT BUILDING SIGNS (2011)
- FLOOR AREA FOR BR:
MAXIMUM PERMITTED: 2.0
EXISTING: 3,560 + 38,028 = 0.09
- EXISTING FREE STANDING SIGN MUST CONFORM WITH SECTION 450 OF THE BCZR.
- THE SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
- THERE ARE NO HISTORIC FEATURES ON SITE NOR IS THE SITE ITSELF HISTORIC.
- NO PREVIOUS DRC OR CRG'S EXISTS ON FILE.
- BASIC SERVICE MAPS (2014)

TYPE	DEFICIENT (Y/N)	NOTE
WATER	N	
SEWER	N	
TRANSPORTATION	N	D LEVEL OF SERVICE

Richardson Engineering, LLC

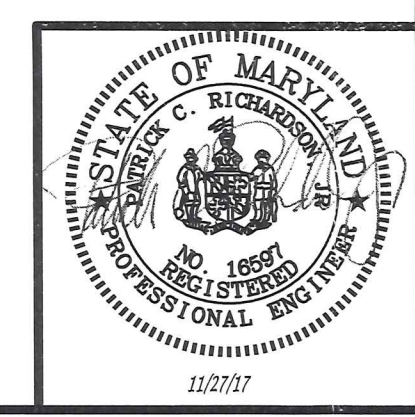
30 East Padonia Road, Suite 500
Timonium, Maryland 21093
Phone: 410-560-1502 Fax: 443-901-1208

PLAN TO ACCOMPANY ZONING PETITION
FOR
AUTO POINT ENTERPRISES
CAR SALES
8302 PULASKI HIGHWAY
BALTIMORE, MD 21237

BALTIMORE COUNTY MARYLAND
15TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT

REVISIONS			DRAWN BY:	CHECKED BY:	SCALE:
			DSD	PCR	1" = 30'
DATE:			JOB NO.:	SHEET NO.:	
11-13-17			17132	1 OF 1	

PROFESSIONAL CERTIFICATION:
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR
APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE
NUMBER 16597, EXPIRATION DATE: 08-15-2019



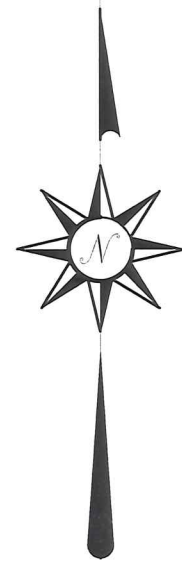
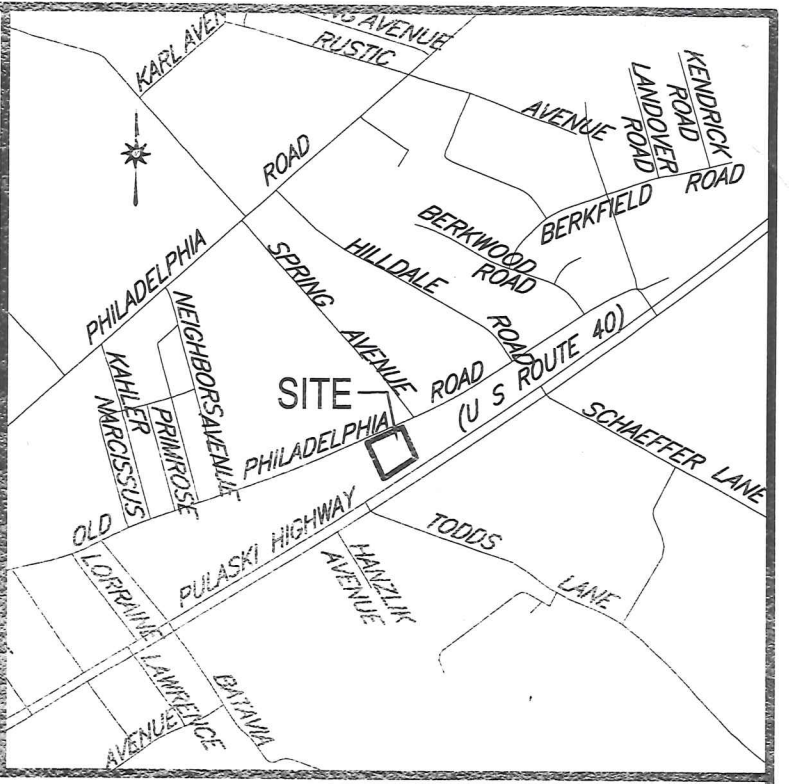


EXHIBIT
2



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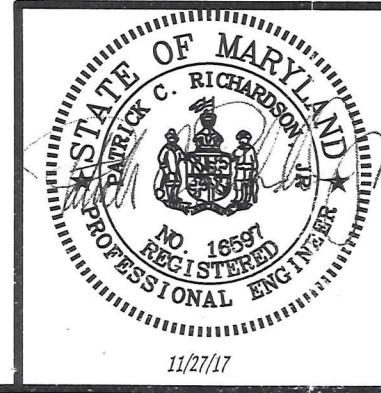
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BALTIMORE COUNTY MARYLAND
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