

M E M O R A N D U M

DATE: October 15, 2020
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2020-0055-X – Appeal Period Expired

The appeal period for the above-referenced cases expired on October 13, 2020. 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.'

/dlw

c:  Case File
Office of Administrative Hearings

IN RE: **PETITION FOR SPECIAL EXCEPTION***

(122 Eastern Avenue)

15th Election District

7th Council District

Essex Plaza, LLC,

Legal Owner

BEFORE THE

* OFFICE OF

* ADMINISTRATIVE HEARINGS

* FOR BALTIMORE COUNTY

Petitioner

* **Case No. 2020-0055-X**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH") for consideration of a Petition for Special Exception filed on behalf of Essex Plaza, LLC, legal owner ("Petitioner"). The special exception petition was filed pursuant to § 230.3 of the Baltimore County Zoning Regulations ("BCZR") to approve the use of a 2,457 sq. ft. tenant suite and parking area with the address of 122 Eastern Avenue for a community building.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. A site plan was marked and accepted into evidence as Petitioners' Exhibit 1.

Neil Lanzi, Esq. represented the Petitioner, Essex Plaza, LLC. Ms. Kelly Nash appeared in support of the petition on behalf of her company, Destined 4 Greatness, LLC, which is the contract lessee for the subject premises. Bruce Doak, the licensed surveyor who prepared the site plan also attended and was accepted as an expert in land use, surveying, and the BCZR. There were no protestants or interested persons in attendance. A ZAC comment was received from the Department of Plan ("DOP"), which did not oppose the requested relief.

A site plan was marked and admitted as Petitioner's Exhibit 1. The site is approximately 2.14 acres and zoned in BL. The subject property is one of numerous similar commercial spaces

ORDER RECEIVED FOR FILING

Date

9/11/2020

By

D. Mignone

in the Essex Plaza on Eastern Boulevard. It is 103 ft. deep by 20 ft. wide. Ms. Nash testified that she and her husband have operated a state-licensed day care facility for the last six years in the same strip mall. She explained that they propose to expand into this new space in order to provide after school and weekend programs for children ages 5 to 12 years. The programs will include arts, theater, dance, and martial arts. The new facility will also be state licensed. The undersigned asked Ms. Nash about the traffic control concerns raised by the DOP. Ms. Nash testified that they will have signage at the front of the building directing traffic to the rear of the building for the pick-up and drop-off of children, and that they will have portable traffic control/directional figures in the parking lot to assist with traffic control during hours of operation.

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. Doak testified that the proposed use is fully compliant with each of the factors of BCZR § 502.1. Specifically, he testified that this will be a very low impact use compared to many of the existing businesses in the vicinity. He testified that he has visited the site numerous times and that there is more than adequate parking. He further opined that this use is squarely within the legislative intent for a “community building” use under BCZR § 230.3.

ORDER RECEIVED FOR FILING

Date 9/11/2020
By D. Mignone

Based on the record evidence I find that the proposed use is fully compliant with the factors in BCZR § 502.1 and that the Petition for Special Exception can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety and welfare.

THEREFORE, IT IS ORDERED this 11th day of **September, 2020**, by this Administrative Law Judge, that the Petition for Special Exception seeking relief under § 230.3 of the Baltimore County Zoning Regulations ("BCZR") to approve the use of 2,457 sq. ft. tenant suite and parking area with the address of 122 Eastern Avenue for a community building, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its 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, Petitioner would be required to return the subject property to its original condition.

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



PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm

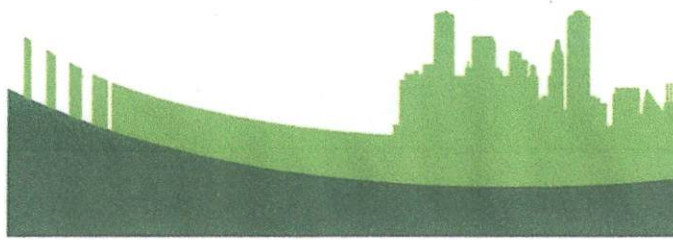
ORDER RECEIVED FOR FILING

Date

9/11/2020

By

D. Mignon



Zoning Description of the Special Exception Area

122 Eastern Avenue
Fifteenth Election District Sixth Councilmanic District
Baltimore County, Maryland

Beginning at a point north of Eastern Avenue, being Southwesterly 655 feet, more or less, and Northwesterly 26 feet from the centerline of Wiltshire Road, thence running with and binding on the outlines of the special exception area 1) North 35 degrees 52 minutes 48 seconds West 153 feet, 2) South 54 degrees 07 minutes 12 seconds West 86 feet, 3) South 35 degrees 52 minutes 48 seconds East 128 feet, 4) North 54 degrees 07 minutes 12 seconds East 18 feet, 5) South 35 degrees 52 minutes 48 seconds East 29 feet, 6) North 54 degrees 07 minutes 12 seconds East 32 feet, 7) North 35 degrees 52 minutes 48 seconds West 134 feet, 8) North 54 degrees 07 minutes 12 seconds East 16 feet, 9) South 35 degrees 52 minutes 48 seconds East 130 feet and 10) North 54 degrees 07 minutes 12 seconds East 20 feet to the point of beginning

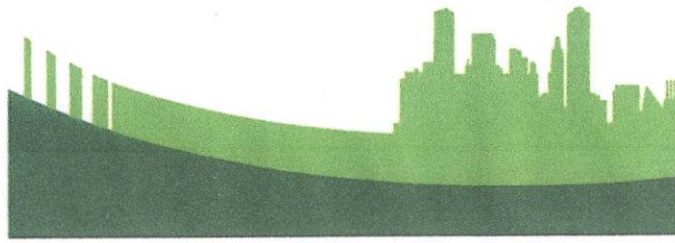
Containing 10,756 square feet or 0.247 acres of land, more or less.

This description is part of a zoning hearing petition and is not intended for any conveyance purposes.

Bruce E. Doak Consulting, LLC
3801 Baker Schoolhouse Road
Freeland, MD 21053
410-419-4906 cell / 443-900-5535 office
bdoak@bruceedoakconsulting.com



2020-0055-X



Zoning Description of the Special Exception Area

122 Eastern Avenue
Fifteenth Election District Sixth Councilmanic District
Baltimore County, Maryland

Beginning at a point north of Eastern Avenue, being Southwesterly 655 feet, more or less, and Northwesterly 26 feet from the centerline of Wiltshire Road, thence running with and binding on the outlines of the special exception area 1) North 35 degrees 52 minutes 48 seconds West 153 feet, 2) South 54 degrees 07 minutes 12 seconds West 86 feet, 3) South 35 degrees 52 minutes 48 seconds East 128 feet, 4) North 54 degrees 07 minutes 12 seconds East 18 feet, 5) South 35 degrees 52 minutes 48 seconds East 29 feet, 6) North 54 degrees 07 minutes 12 seconds East 32 feet, 7) North 35 degrees 52 minutes 48 seconds West 134 feet, 8) North 54 degrees 07 minutes 12 seconds East 16 feet, 9) South 35 degrees 52 minutes 48 seconds East 130 feet and 10) North 54 degrees 07 minutes 12 seconds East 20 feet to the point of beginning

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3801 Baker Schoolhouse Road
Freeland, MD 21053
410-419-4906 cell / 443-900-5535 office
bdoak@bruceedoakconsulting.com



2020-0055-X



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 122 EASTERN AVENUE which is presently zoned BL
 Deed References: 41233 / 84 10 Digit Tax Account # 19 00012156
 Property Owner(s) Printed Name(s) ESSEX PLAZA, LLC

(SELECT THE HEARING(S) BY MARKING ☒ 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. ☒ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

SEE ATTACHED PAGE

3. ☐ a **Variance** from Section(s)

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)

TO BE PRESENTED AT THE 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:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner: TO BE DETERMINED

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

ESSEX PLAZA LLC / AMY STERN / MANAGER

Name #1 - Type or Print Name #2 - Type or Print

X Amy Stern / NAME / TITLE

Signature #1 Signature #2

212 E MONTGOMERY ST. BALTIMORE MD

Mailing Address City State

21230 / X954-610-5990 / XACAPLAN STERN @

Zip Code Telephone # Email Address

GMAIL.COM

Representative to be contacted:

BRUCE E. DOAK

BRUCE E. DOAK CONSULTING LLC

Name - Type or Print

Bruce E. Doak

Signature

3801 BAKER SCHOOLHOUSE ROAD FREELAND MD.

Mailing Address City State

21053 / 410-419-4906 / BDOAK@BRUCEEDOAKCONSULTING.COM

Zip Code Telephone # Email Address

DO NOT SCHEDULE DATES: REVIEWER JS

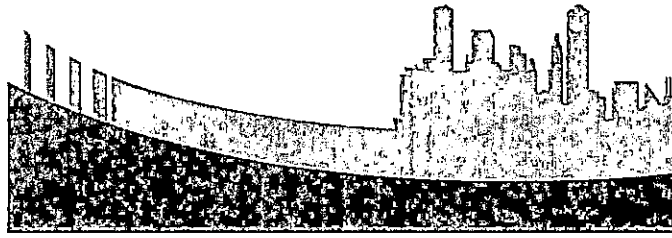
CASE NUMBER 2020-0055-X Filing Date 2/20/20 Do Not Schedule Dates: Reviewer JS

Zoning Hearing Petitions Being Requested

Case #2020-0055-X

TENANT SUITE + PARKING AREA

Special Exception to approve the use of a 2,457 square foot ~~lot~~ with the address of #122 Eastern Avenue for a community building per Section 230.3 BCZR



Zoning Description of the Special Exception Area

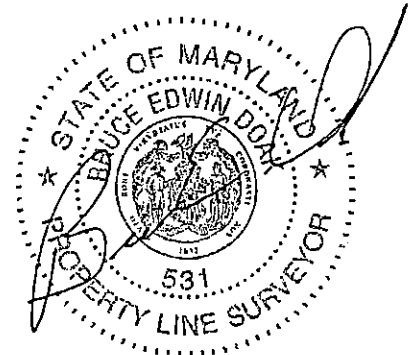
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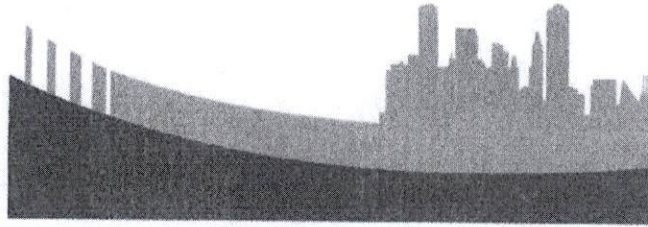
Containing 10,756 square feet or 0.247 acres of land, more or less.

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Bruce E. Doak Consulting, LLC
3801 Baker Schoolhouse Road
Freeland, MD 21053
410-419-4906 cell / 443-900-5535 office
bdoak@bruceedoakconsulting.com



2070-0055-X



CERTIFICATE OF POSTING



August 21, 2020

September 08, 2020 amended for second inspection

Re:
Zoning Case No. 2020- 0055- X
Legal Owner: Essex Plaza LLC
Hearing date: September 11, 2020

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

Attention: Jenae Johnson

Ladies and Gentlemen,

This letter is to certify under the penalties of perjury that the two necessary signs required by law were posted conspicuously on the property located at **122 Eastern Avenue**.

The signs were initially posted on **August 20, 2020**.

The subject property was also inspected on **September 08, 2020**.

Sincerely,

Bruce E. Doak
MD Property Line Surveyor #531

See the attached sheets for the photos of the posted signs

Bruce E. Doak Consulting, LLC
3801 Baker Schoolhouse Road
Freeland, MD 21053
410-419-4906 cell / 443-900-5535 office
bdoak@bruceedoakconsulting.com

Create

Destined
4 Greatness

ZONING NOTICE

CASE NO. 2020-0055-X

122 Eastern Avenue

THE ADMINISTRATIVE LAW JUDGE OF BALTIMORE COUNTY, BY
AUTHORITY OF THE ZONING ACT AND REGULATIONS OF
BALTIMORE COUNTY, WILL HOLD A VIRTUAL HEARING ON THE
PROPERTY IDENTIFIED.

DATE & TIME:

FOR INFORMATION ON HOW TO PARTICIPATE IN THE HEARINGS
PLEASE GO TO WWW.BALTIMORECOUNTYMD/GOV/ADMINHEARINGS.
YOU WILL BE ASKED TO PROVIDE YOUR CONTACT INFORMATION AND
THE CASE NUMBER PROVIDED ABOVE. YOU MAY ALSO CALL
410-887-3868, EXT. 0.

REQUESTS: SPECIAL EXCEPTION TO APPROVE THE USE OF A
2,457 SQ. FT. TENANT SPACE AND PARKING AREA WITH THE
ADDRESS OF 122 EASTERN AVE FOR A COMMUNITY
BUILDING PER SECTION 230-2.5C.31



ZONING NOTICE

CASE NO. 2020-0055-X

122 Eastern Avenue

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REQUESTS: SPECIAL EXCEPTION TO APPROVE THE USE OF A
2,457 SQ. FT. TENANT SPACE AND PARKING AREA WITH THE
ADDRESS OF 122 EASTERN AVENUE AS A COMMUNITY
BUILDING PER SECTION 230.3 BCP.



JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections

August 18, 2020

NEW 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 virtual hearing on the property identified herein as follows:

CASE NUMBER: 2020-0055-X

122 Eastern Avenue

Northwest side of Eastern Avenue, southwest of Wiltshire Road

15th Election District – 7th Councilmanic District

Legal Owners: Essex Plaza, LLC

Special Exception to approve the use of a 2,457 sq. ft. tenant space and parking area with the address of 122 Eastern Avenue for a community building per section 230.3, BCZR.

Hearing: Friday, September 11, 2020 at 10:00 a.m.

For information on how to participate in the hearings please go to www.baltimorecountymd.gov/adminhearings no later than 48 hours prior to the hearing. You will be asked to provide your contact information and the case number provided above. You may also call 410-887-3868, ext. 0.

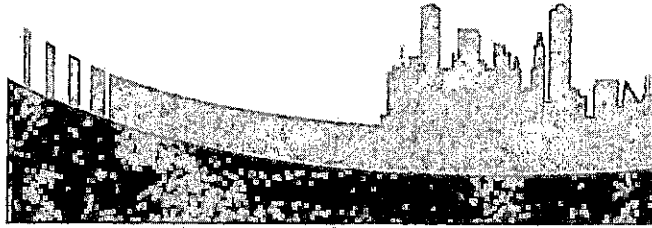
A handwritten signature in black ink, appearing to read "Michael Mallinoff".

Michael Mallinoff
Director

MM:kl

C: Neil Lanzi, 102 W. Pennsylvania Avenue, Ste. 406, Towson 21204
Amy Stern, 212 E. Montgomery Street, Baltimore 21230
Bruce Doak, 3801 Baker Schoolhouse Road, Freeland 21053

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, AUGUST 21, 2020.



CERTIFICATE OF POSTING

August 21, 2020

_____ amended for second inspection

Re:

Zoning Case No. 2020- 0055- X

Legal Owner: Essex Plaza LLC

Hearing date: September 11, 2020

Baltimore County Department of Permits, Approvals & Inspections

County Office Building

111 West Chesapeake Avenue, Room 111

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Sincerely,

Bruce E. Doak

MD Property Line Surveyor #531

See the attached sheets for the photos of the posted signs

Bruce E. Doak Consulting, LLC

3801 Baker Schoolhouse Road

Freeland, MD 21053

410-419-4906 cell / 443-900-5535 office

bdoak@bruceedoakconsulting.com

NEW DATE & TIME

ZONING NOTICE

CASE NO. 2020-0055-X

122 Eastern Avenue

THE ADMINISTRATIVE LAW JUDGE OF BALTIMORE COUNTY, BY
AUTHORITY OF THE ZONING ACT AND REGULATIONS OF
BALTIMORE COUNTY, WILL HOLD A VIRTUAL HEARING ON THE
PROPERTY IDENTIFIED.

DATE & TIME: FRIDAY SEPTEMBER 11, 2020 10:00 AM

FOR INFORMATION ON HOW TO PARTICIPATE IN THE HEARINGS
PLEASE GO TO WWW.BALTIMORECOUNTYMD/GOV/ADMINHEARINGS.
YOU WILL BE ASKED TO PROVIDE YOUR CONTACT INFORMATION AND
THE CASE NUMBER PROVIDED ABOVE. YOU MAY ALSO CALL
410-887-2868, EX. 5.

APPLICANT: SPECIAL EXCEPTION TO PERMIT THE USE OF A
2,000 SQ. FT. TENANT SPACE AND TO BE USED IN CONJUNCTION WITH THE
ADDRESS OF 122 EASTERN AVENUE, BALTIMORE COUNTY
BUILDING PER SECTION 230.1.01.01

Explore | Image

NEW DATE AND TIME

ZONING NOTICE

CASE NO. 2020-0055-X

122 Eastern Avenue

THE ADMINISTRATIVE LAW JUDGE OF BALTIMORE COUNTY, BY
AUTHORITY OF THE ZONING ACT AND REGULATIONS OF
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YOU WILL BE ASKED TO PROVIDE YOUR CONTACT INFORMATION AND
THE CASE NUMBER PROVIDED ABOVE. YOU MAY ALSO CALL
410-327-1500 EXT. 6.

REQUESTS: SPECIAL EXCISE TO APPROVE THE USE OF A
2,457 SQ. FT. TENANT SPACE IN PARKING AREA WITH THE
ADDRESS OF 122 EASTERN AVENUE FOR A COMMUNITY
BUILDING PER SECTION 200.1.01.01.

The Daily Record

200 St. Paul Place Suite 2480

Baltimore, Maryland 21202

1 (443) 524-8100

www.thedailyrecord.com

Page 1 of 1

PUBLISHER'S AFFIDAVIT

Order #: 11904691

Case #:

Description:

ZONING HEARING - 2020-0055-X

We hereby certify that the annexed advertisement was published in **The Daily Record**, a daily newspaper published in the State of Maryland 1 times on the following dates:

8/21/2020



Darlene Miller, Public Notice Coordinator
(Representative Signature)

Baltimore County

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 virtual hearing the property identified herein as follows:

CASE NUMBER: 2020-0055-X

122 Eastern Avenue

Northwest side of Eastern Avenue, southwest of Wiltshire Road

15th Election District - 7th Councilmanic District

Legal Owners: Essex Plaza, LLC

Special Exception to approve the use of a 2,457 sq. ft. tenant space and parking area with the address of 122 Eastern Avenue for a community building per section 230.3, BCZR.

Hearing Friday, September 11, 2020 at 10:00 am.

For information on how to participate in the hearings please go to www.baltimorecountymd.gov/adminhearings no later than 48 hours prior to the hearing. You will be asked to provide your contact information and the case number provided above. You may also call 410-887-3868, ext. 0.

Michael Mallinoff

Director of Permits, Approvals and Inspections for Baltimore County

au21



JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections

August 18, 2020

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Director

MM:kl

C: Neil Lanzi, 102 W. Pennsylvania Avenue, Ste. 406, Towson 21204
Amy Stern, 212 E. Montgomery Street, Baltimore 21230
Bruce Doak, 3801 Baker Schoolhouse Road, Freeland 21053

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, AUGUST 21, 2020.

TO: THE DAILY RECORD
Friday, August 21, 2020 - Issue

Please forward billing to:
Kelly Nash
142 Eastern Avenue
Essex, MD 21221

410-736-9852

NEW NOTICE OF ZONING HEARING

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122 Eastern Avenue
Northwest side of Eastern Avenue, southwest of Wiltshire Road
15th Election District – 7th Councilmanic District
Legal Owners: Essex Plaza, LLC

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Michael Mallinoff
Director of Permits, Approvals and Inspections for Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE OFFICE
122 Eastern Avenue; NW/S of Eastern Blvd, *
345' SW of Wiltshire Road * OF ADMINSTRATIVE
15th Election & 7th Councilmanic Districts *
Legal Owner(s): Essex Plaza LLC * HEARINGS FOR
Petitioner(s) * BALTIMORE COUNTY
* 2020-055-X

* * * * *

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.

RECEIVED
MAR 05 2020
[Signature]

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of March, 2020, a copy of the foregoing Entry of Appearance was mailed to Bruce Doak, 3801 Bake Schoolhouse Road, Freeland, Maryland 21053, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, Director
Department of Permits,
Approvals & Inspections

July 28, 2020

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 virtual hearing on the property identified herein as follows:

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15th Election District – 7th Councilmanic District

Legal Owners: Essex Plaza, LLC

Special Exception to approve the use of a 2,457 sq. ft. tenant space and parking area with the address of 122 Eastern Avenue for a community building per section 230.3, BCZR.

Hearing: Thursday, August 27, 2020 at 1:30 p.m.

For information on how to participate in the hearings please go to www.baltimorecountymd.gov/adminhearings no later than 48 hours prior to the hearing. You will be asked to provide your contact information and the case number provided above. You may also call 410-887-3868, ext. 0.

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Michael Mallinoff
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MM:kl

C: Neil Lanzi, 102 W. Pennsylvania Avenue, Ste. 406, Towson 21204
Amy Stern, 212 E. Montgomery Street, Baltimore 21230
Bruce Doak, 3801 Baker Schoolhouse Road, Freeland 21053

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, AUGUST 7, 2020.

TO: THE DAILY RECORD
Friday, August 7, 2020 - Issue

Please forward billing to:
Kelly Nash
142 Eastern Avenue
Essex, MD 21221

410-736-9852

NOTICE OF ZONING HEARING

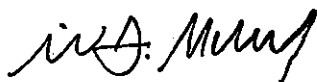
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Michael Mallinoff
Director of Permits, Approvals and Inspections for Baltimore County

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Legal Owner(s): Essex Plaza LLC * HEARINGS FOR
Petitioner(s) * BALTIMORE COUNTY
* 2020-055-X

* * * * *

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of March, 2020, a copy of the foregoing Entry of Appearance was mailed to Bruce Doak, 3801 Bake Schoolhouse Road, Freeland, Maryland 21053, Representative 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: 2020-0055-X

Property Address: 122 EASTERN BLVD

Property Description: 2.14 AC PARCEL OF LAND

Legal Owners (Petitioners): ESSEX PLAZA LLC

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: KELLY A. NASH

Company/Firm (if applicable): _____

Address: 192 EASTERN BLVD
ESSEX MD 21221

Telephone Number: 410-736-9852



JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections

September 1, 2020

Neil Lanzi,
102 W. Pennsylvania Ave Suite 406
Towson MD 21204

RE: Case Number: 2020-0055-X, 122 Eastern Avenue

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 February 20, 2020. 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, appearing to read "W. Carl Richards, Jr.", is written over the words "Very truly yours".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR/kl

Enclosures

c: People's Counsel
Bruce E. Doak 3801 Schoolhouse Road Freeland MD 21053

Date: 3/4/20

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals & Inspections
County Office Building, Room 109
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Ms. Lewis:

We have reviewed the site plan to accompany the petition for variance on the subject of the Case number referenced below, which was received on 3/4/20. A field inspection and internal review reveals that an entrance onto MD 150 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Special Exception, Case Number 2020-0055-X.

Essex Plaza, LLC
122 Eastern Boulevard
MD 150

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) X 2332 or by email at (rzeller@mdot.maryland.gov).

Sincerely,



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

WW/RAZ

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge
Office of Administrative Hearings

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

DATE: March 6, 2020

SUBJECT: DEPS Comment for Zoning Item # 2020-0055-X
Address 122 Eastern Avenue
(Essex Plaza, LLA Property)

Zoning Advisory Committee Meeting of **March 9, 2020.**

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

Reviewer: Steve Ford

BALTIMORE COUNTY, MARYLAND

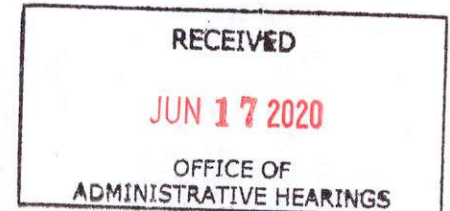
INTER-OFFICE MEMORANDUM

TO: Michael D. Mallinoff
Director, Department of Permits, Approvals and Inspections

DATE: 6/12/2020

FROM: C. Pete Gutwald
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 20-055



INFORMATION:

Property Address: 122 Eastern Avenue
Petitioner: Essex Plaza, LLC
Zoning: BL
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to approve the use of a 2,457 square foot tenant suite (suite 122) and parking area for a community building per § 230.3 of the Baltimore County Zoning Regulations (BCZR). Per Bruce Doak, the applicant intends to have a creative arts studio for children from 5th Grade to 11th grade in the space. This space will also be shared with a day care facility. The current occupant of the space is DD Furniture.

The property is located on the north side of Eastern Boulevard in Essex. There is an existing one-story retail building on the site. Current uses in the building include a variety of retail, a restaurant, fitness club and daycare. The building is located in the Essex Commercial Revitalization District and Design Review Panel areas.

A site visit was conducted on 6/11/2020. The proposed use of a community building for a space for school-aged children would be compatible with the neighborhood and with the existing tenants of the building. The building is already occupied by a daycare for younger children at the suite at the opposite end. The plan proposes a pickup and drop-off area for children at the rear of suite 122.

Given the nature of the use, and the existing use in the building of a daycare facility, the Department of Planning recommends the following actions.

1. The applicant should work with the landlord and existing tenants on traffic calming measures in the parking lot. This may include signs, paint and/or speedbumps.
2. The applicant should work with the landlord to clearly identify the location for pickup and drop-off at the rear of the facility with signage and pavement paint.

On the assumption that the above conditions are met, the Department of Planning would have no objection to the request for special exception.

02/15/14

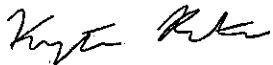
NO: 17112

201701-2017-12-31

Date: 6/12/2020
Subject: ZAC # 20-055
Page 2

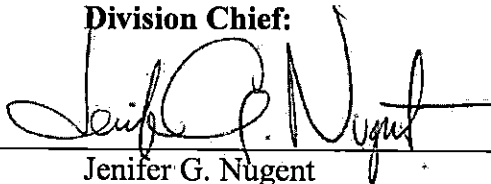
For further information concerning the matters stated herein, please contact Joseph Fraker at 410-887-3480.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

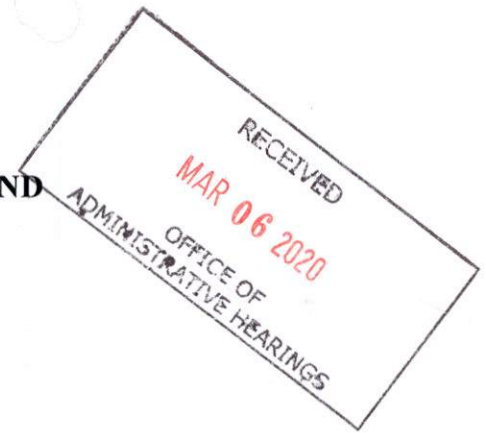
CPG/JGN/kma/

c: Joseph Fraker

Bruce E. Doak, Bruce E. Doak Consulting, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge
Office of Administrative Hearings

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

DATE: March 6, 2020

SUBJECT: DEPS Comment for Zoning Item # 2020-0055-X
Address 122 Eastern Avenue
(Essex Plaza, LLA Property)

Zoning Advisory Committee Meeting of **March 9, 2020.**

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

Reviewer: Steve Ford

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Michael Millanoff, Director
Department of Permits, Approvals

DATE: 05/22/2020

FROM: *EFC for VKD*
Vishnu Desai, Supervisor
Bureau of Development Plans Review.

SUBJECT: Zoning Advisory Committee Meeting
For March 09, 2020
Item No. 2020-0055-X, 0056-A, 0057-A, 0058-A, 0059-A, 0060-A, 0062-A,
& 0063-A

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

*

*

*

*

*

VKD: cen
cc: file

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration
Special Tax Recapture: None		
Account Identifier: District - 15 Account Number - 1900012156		
Owner Information		
Owner Name:	ESSEX PLAZA LLC	Use: COMMERCIAL
Mailing Address:	212 E MONTGOMERY STREET BALTIMORE MD 21230-	Principal Residence: NO
		Deed Reference: /41233/ 00084
Location & Structure Information		
Premises Address:	134 EASTERN AVE 0-0000	Legal Description: 2.216AC NWS EASTERN AV 250FT NE EASTERN TER RD
Map:	Grid:	Parcel:
0097	0007	0002
Neighborhood:	Subdivision:	Section:
31504.04	0000	
Block:	Lot:	Assessment Year:
		2021
Plat No:	Plat Ref:	
Town: None		
Primary Structure Built	Above Grade Living Area	Finished Basement Area
1949	56,386 SF	
Property Land Area	County Use	
2.2200 AC	06	
Stories	Basement	Type
		DISCOUNT STORE
Exterior	Quality	Full/Half Bath
/	C3	
Garage	Last Notice of Major Improvements	
Value Information		
	Base Value	Value
		As of
		01/01/2018
Land:	310,800	310,800
Improvements	775,100	775,100
Total:	1,085,900	1,085,900
Preferential Land:	0	
		Phase-in Assessments
		As of
		07/01/2020
		As of
		07/01/2021
Transfer Information		
Seller: EUCLAY REALTY CORPORATION	Date: 03/19/2019	Price: \$1,750,000
Type: ARMS LENGTH IMPROVED	Deed1: /41233/ 00084	Deed2:
Seller: EUCLAY REALTY CO RP	Date: 06/22/1983	Price: \$185,000
Type: ARMS LENGTH IMPROVED	Deed1: /06544/ 00493	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Exemption Information		
Partial Exempt Assessments:	Class	
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00
Special Tax Recapture: None		
Homestead Application Information		
Homestead Application Status: No Application		
Homeowners' Tax Credit Application Information		
Homeowners' Tax Credit Application Status: No Application		
Date:		



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 122 EASTERN AVENUE which is presently zoned BL
 Deed References: 41233 / B4 10 Digit Tax Account # 19 000 121 56
 Property Owner(s) Printed Name(s) ESSEX PLAZA, LLC

(SELECT THE HEARING(S) BY MARKING ☒ 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. ☒ a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for

SEE ATTACHED PAGE

3. a Variance from Section(s)

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)

TO BE PRESENTED AT THE 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:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner: TO BE DETERMINED
NEIL LANZI

Name- Type or Print
WRIGHT CONSTABLE & SKEEL, LLP

Signature

Legal Owners (Petitioners):

ESSEX PLAZA LLC / AMY STERN / MANAGER

Name #1 - Type or Print Name #2 - Type or Print

X Amy Stern / NAME / TITLE

Signature #1 Signature #2

212 E MONTGOMERY ST. BALTIMORE MD

Mailing Address City State

21230 / 1X954-610-5990 / 1XACAPLAN STERN @

Zip Code Telephone # Email Address

GMAIL.COM

Representative to be contacted:

BRUCE E. DOAK

BRUCE E. DOAK CONSULTING LLC

Name - Type or Print

Bruce E. Doak

Signature

3801 BAKER SCHOOLHOUSE ROAD FREEBLAND MD.

Mailing Address City State

21053 / 410-919-9906

Zip Code Telephone #

BD@BRUCEDOAKCONSULTING.COM

Email Address

Do Not Schedule Dates: Reviewer

Case Number 2020-DASS-X Filing Date 1/1

REV. 10/4/11

nloughlin@wslaw.com

Panelist List

Name	Email address	Phone number	Time Zone	Language	Locale
donna mignon (Alternate Host)	dmignon@baltimorecountymd.gov	1-	New York Time	English	U.S.
henry ayakwah (Alternate Host)	hayakwah@baltimorecountymd.gov	1-	New York Time	English	U.S.
Paul M. Mayhew (Alternate Host)	pmayhew@baltimorecountymd.gov	1-	New York Time	English	U.S.
Amy Stern	xacaplanstern@gmail.com	1-	New York Time	English	U.S.
Bruce E. Doak	brucedoak@brucedoakconsulting.com	1-	New York Time	English	U.S.
Kelly Nash	destined4greatnesslc@gmail.com	1-	New York Time	English	U.S.
Neil Lanzi, Esq.	nlanzi@wcslaw.com	1-	New York Time	English	U.S.

A rectangular button with a thin black border and the text "OK" in the center.

ZAC AGENDA

Case Number: 2020-0055-X **Reviewer:** Jason Seidelman
Existing Use: COMMERCIAL **Proposed Use:** COMMERCIAL
Type: SPECIAL EXCEPTION
Legal Owner: Essex Plaza, LLC
Contract Purchaser: No Contract Purchaser was set.

Critical Area: No **Flood Plain:** No **Historic:** No **Election Dist:** 15 **Council Dist:** 7

Property Address: 122 EASTERN AVE

Location: NW/S of Eastern Blvd (80'), 345' SW of Wiltshire Road (50').

Existing Zoning: BL **Area:** 2.14 AC

Proposed Zoning:

SPECIAL EXCEPTION:

To approve the use of a 2,457 square foot tenant suite + parking area with the address of #122 Eastern Avenue for a community building per section 230.3 BCZR.

Attorney: Not Available

Prior Zoning Cases: None

Concurrent Cases: None

Violation Cases: None

Closing Date:

Miscellaneous Notes:

Case Number: 2020-0056-A **Reviewer:** Gary Hucik
Existing Use: RESIDENTIAL **Proposed Use:** RESIDENTIAL
Type: VARIANCE
Legal Owner: Mathew P. & Maria F. Cesnik
Contract Purchaser: No Contract Purchaser was set.

Critical Area: No **Flood Plain:** No **Historic:** No **Election Dist:** 3 **Council Dist:** 2

Property Address: 907 ADANA RD

Location: East side of Adana Road 582' to the center line South West of Kingston Road.

Existing Zoning: DR 5.5 **Area:** 7701 SQ FT

Proposed Zoning:

VARIANCE:

100.6 of the (BCZR) To permit Fowl or Poultry (chicken) on lot with 0.177 acres in lieu of the minimum 1.0 acres.

Attorney: Not Available

Prior Zoning Cases: None

Concurrent Cases: None

Violation Cases: CC1914506

Closing Date:

Miscellaneous Notes:

order ✓
tr. ✓

9/11/20
@ 10:00

~~10301020~~
~~10301020~~

CASE NO. 2020-

0055-X

CHECKLIST

Comment
Received

Department

Support/Oppose/
Conditions/
Comments/
No Comment

DEVELOPMENT PLANS REVIEW

(if not received, date e-mail sent _____)

3/9

DEPS

(if not received, date e-mail sent _____)

N/C

FIRE DEPARTMENT

PLANNING

(if not received, date e-mail sent _____)

10/12

Comment
no objection

STATE HIGHWAY ADMINISTRATION

3/4

N/C

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. _____)

PRIOR ZONING

(Case No. _____)

NEWSPAPER ADVERTISEMENT

Date: _____

SIGN POSTING (1st)

Date: _____

8/20/20

by

B. D. Oak

SIGN POSTING (2nd)

Date: _____

9/8/20

by

"

PEOPLE'S COUNSEL APPEARANCE

Yes

☒

No

☐

PEOPLE'S COUNSEL COMMENT LETTER

Yes

☐

No

☒

Comments, if any: _____

Debra Wiley

From: Debra Wiley
Sent: Wednesday, September 9, 2020 12:11 PM
To: 'Neil Lanzi'
Subject: RE: 2020-0055-X Friday hearing 10 am

Hi Neil,

I see that an invitation was forwarded to that email on August 18th. I can re-send but they might want to check their junk and/or spam folder in the event it was delivered there.

The following ZAC comments in the file are:

DEPS – None
SHA- No objection
DOP – general comments with no objection

On another note, Donna reached out to Bruce Doak about the 2nd certification yesterday but we still have not received it.

Thanks.

From: Neil Lanzi <nlanzi@wcslaw.com>
Sent: Wednesday, September 9, 2020 11:17 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Cc: 'Bruce Doak' <bdoak@bruceedoakconsulting.com>
Subject: FW: 2020-0055-X Friday hearing 10 am

CAUTION: This message from nlanzi@wcslaw.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Debra,

I wanted to correct my previous email. My representation is of Destined 4 Greatness, the tenant of Essex Plaza, LLC. Also, are you able to inform us whether or not there are any letters of support or opposition in the County file? I have the County comments but without seeing the paper file, have no way of knowing if anyone else will be attending the hearing Friday.

Thanks,

Neil

From: Neil Lanzi
Sent: Wednesday, September 09, 2020 11:08 AM
To: 'Debra Wiley' <dwiley@baltimorecountymd.gov>
Cc: 'Bruce Doak' <bdoak@bruceedoakconsulting.com>
Subject: 2020-0055-X Friday hearing 10 am

Debra,

Our client, Essex Plaza, LLC will have its owner testifying at the hearing. The name is Kelly Nash and her email is destined4greatnesslc@gmail.com.

Can you make sure they get the invite? They had not received as of today.

Thanks,

Neil

Panelist List

Name	Email address	Phone number	Time Zone	Language	Locale
donna mignon (Alternate Host)	dmignon@baltimorecountymd.gov	1-	New York Time	English	U.S.
henry ayakwah (Alternate Host)	hayakwah@baltimorecountymd.gov	1-	New York Time	English	U.S.
Paul M. Mayhew (Alternate Host)	pmayhew@baltimorecountymd.gov	1-	New York Time	English	U.S.
Amy Stern	xacaplanstern@gmail.com	1-	New York Time	English	U.S.
Bruce E. Doak	brucedoak@brucedoakconsulting.com	1-	New York Time	English	U.S.
J. Neil Lanzi, Esq.	nlanzi@wclaw.com	1-	New York Time	English	U.S.
Kelly Nash ✓	destined4greatnesslc@gmail.com	1-	New York Time	English	U.S.

OK

Donna Mignon

From: Donna Mignon
Sent: Wednesday, September 2, 2020 8:47 AM
To: 'Neil Lanzi'
Cc: 'Bruce Doak'
Subject: 122 Eastern Avenue - Case No: 2020-0055-X

Good Morning,

Just a friendly reminder that a Webex hearing is scheduled for 9/11/2020 at 10:00 a.m. in regard to the above-referenced matter.

Please send any exhibits you wish to present 48 hours prior to the hearing

to: administrativehearings@baltimorecountymd.gov

Thank you so much.

Have a great day.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Debra Wiley

From: Kristen L Lewis
Sent: Tuesday, August 18, 2020 3:36 PM
To: Debra Wiley; Donna Mignon
Subject: Webex Needed
Attachments: 20200818153235869.pdf

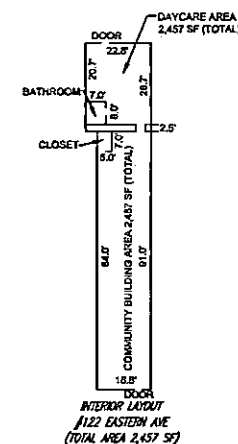
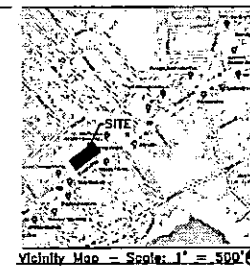
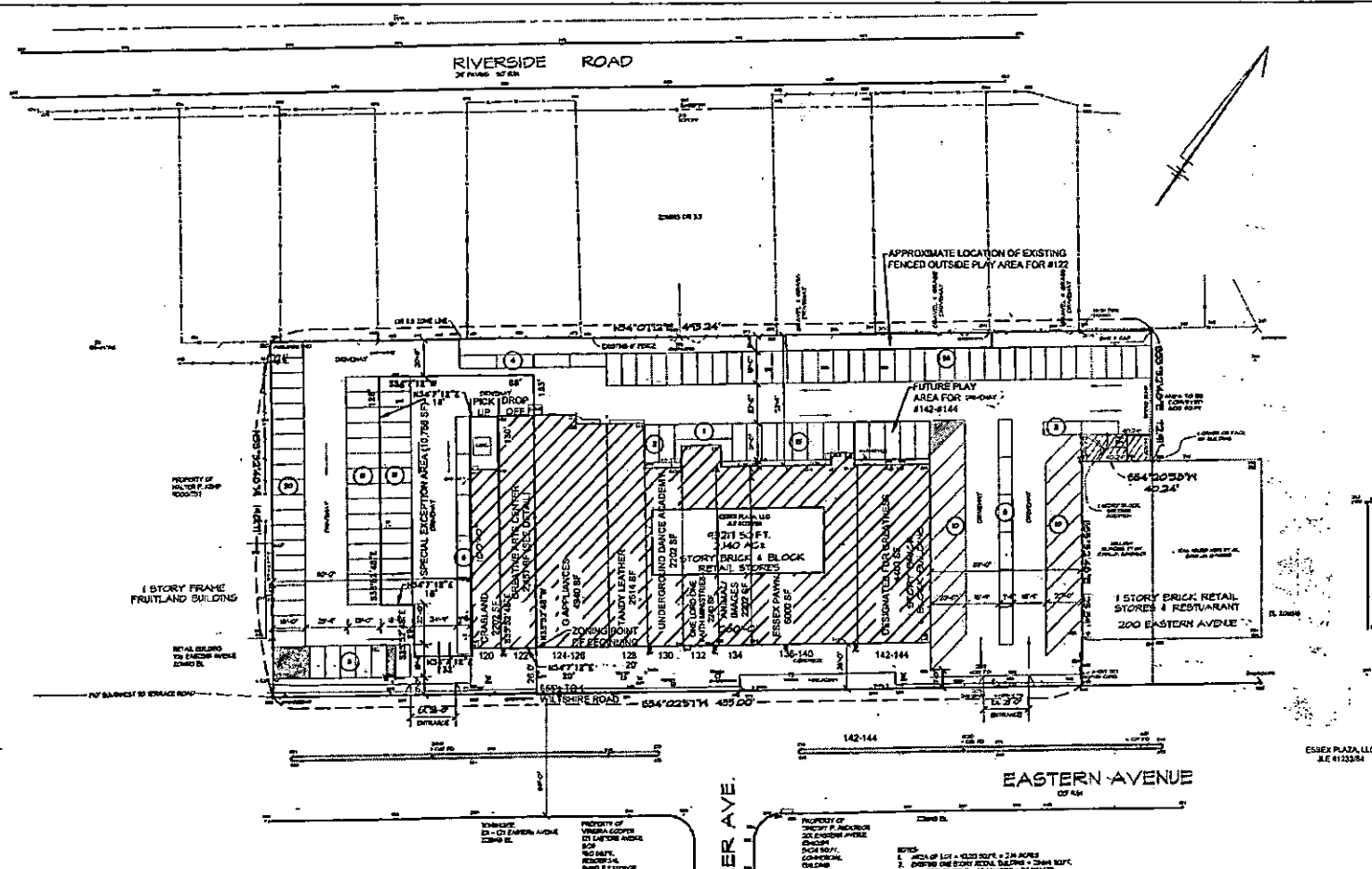
Follow Up Flag: Follow up
Flag Status: Flagged

Good afternoon,

The case originally set for 8/27 has been changed to 9/11. Please create a webex event, also they have requested that Kelly Nash be included, his email is : destined4greatnesslc@gmail.com. Thank you, have a good evening,

Kristen Lewis
PAI – Zoning Review
410-887-3391

9-11 @ 10 AM
webex No.
2020-0055-X
done
8-18
4:05 PM



GENERAL SITE INFORMATION

- [illegible]

OFFICE OF ZONING

Zoning: B

Previous zoning cases on the subject property:

- Case #1108-04-0-SP-1 (disputed by petitioner)
Case #1195-03-0-1 (phage surface granted)
Case #1184-03-0-2-1 (partial over-riding dgs denied)
Case #1163-03-0-1 (partial dgs granted dgs granted)
Case #1163-03-0-2-1 (partial dgs granted dgs granted)

Parking Calculations

Required parking spaces:	199	
Croakland	22020/	Carryout restaurant
Creative Arts Studio	18020/	Community building
Day Care	4530/	2 employees
G Appliances	4940/	Retail
Yandy Lashier	25140/	Retail
Underground Dance	22020/	Athletic club
One Lord One Ministries	24400/	Church (60 seats)
Animal Images	22020/	Retail
Essex Pawn	60000/	Retail
Unemployed & Grateful	44020/	Day care (2 employees)

Partenarij sponzorirano od: TSB

Parting spaces provided on site: 151
Parting spaces lost to the construction of a day care play area for #1427 #1446: 5
Parting spaces to be constructed on site: 224

Typical size parking space: 8.5' x 18.0'
All parking areas are paved with macadam
The parking spaces shown herein are permanently striped

ENVIRONMENTAL IMPACT

Worried? Not Now

1. The existing building is currently served by public water and sewer.
2. There are no underground storage tanks on the subject property.
3. The subject property is in the One-Sixty Day Critical Area.
4. The subject property is not located within a 100 year flood plain.

DEPARTMENT OF PLANNING

Regional Planning District: Exempt District Code: 328

PROPOSED DEVELOPMENT

To add a dry card factory and a rooming building unit, which will share one of the miles (p.22) [factory building].

PETITIONER'S

EXHIBIT NO.

Case No.: 2020-0055X – 122 Eastern Avenue

Exhibit Sheet

Petitioner/Developer

Protestants

No. 1	Plan	
No. 2	Photos	
No. 3	Aerial Photo	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

15-10-15-2020

9/11/2020
Dm



JOHN A. OLSZEWSKI, JR.
County Executive

December 3, 2020

PAUL M. MAYHEW
Managing Administrative Law Judge
LAWRENCE M. STAHL
Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

Kelly Nash
122 Eastern Blvd.
Baltimore, MD 21040

Re: Case No. 2020-0055-X

Dear Mrs. Nash:

I received your letter dated November 24, 2020 concerning your case. As I understand it, the problem you described arose because the zoning office became aware that you were advertising your facility as a wedding /event venue when my Order allows only creative arts and sports related activities for children and young adults. Your letter clarifies that you do not intend to host weddings or other such events and that you understand you are limited to the types of activities that you described in the hearing, i.e., arts, theater, dance, karate, etc. for youth. I have conferred with the zoning office and they will issue the use and occupancy permit under these approved conditions. As evidence of your good faith I suggest that you remove the wedding event and other such advertising from your website and other promotional materials.

Thank you for clarifying your intentions and best of luck with your endeavors.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Paul M. Mayhew", is written over a horizontal line.

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

c. Joseph Merrey, Zoning Office



JOHN A. OLSZEWSKI, JR.
County Executive

December 3, 2020

PAUL M. MAYHEW
Managing Administrative Law Judge
LAWRENCE M. STAHL
Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

Kelly Nash
122 Eastern Blvd.
Baltimore, MD 21040

Re: Case No. 2020-0055-X

Dear Mrs. Nash:

I received your letter dated November 24, 2020 concerning your case. As I understand it, the problem you described arose because the zoning office became aware that you were advertising your facility as a wedding /event venue when my Order allows only creative arts and sports related activities for children and young adults. Your letter clarifies that you do not intend to host weddings or other such events and that you understand you are limited to the types of activities that you described in the hearing, i.e., arts, theater, dance, karate, etc. for youth. I have conferred with the zoning office and they will issue the use and occupancy permit under these approved conditions. As evidence of your good faith I suggest that you remove the wedding event and other such advertising from your website and other promotional materials.

Thank you for clarifying your intentions and best of luck with your endeavors.

Very truly yours,


PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

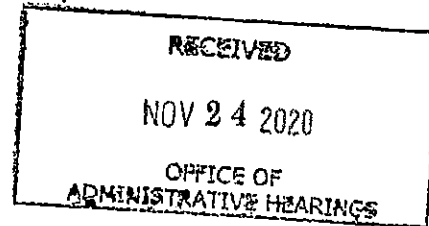
c. Joseph Merrey, Zoning Office

MRS. KELLY NASH

122 Eastern Blvd. 21221 | (443)722-5365 | D4GCAC@gmail.com

November 24, 2020

Judge Paul Mayhew
Managing Administrative Law Judge
for Baltimore Co.
105 West Chesapeake Ave.
Towson, Md. 21040



Dear Judge Paul Mayhew:

This letter is in reference to the Petition for Special Exception Case no. 2020-0055-X. It was brought to our attention that there was a miscommunication in our intended use for the building and our reason for seeking a special exception. Under no circumstance were we ever trying to be deceitful in our intended uses. We would like our creative center to be a place for the arts, music, physical activities, school age students, and to celebrate events, which we had been told would be permitted once we were approved as a community building. We were recently made aware that in order to host events we will have to pursue further actions. Being that events are a very small part of our vision for this space we would like to exclude that use for now and operate in the use that we were approved for on September 11, 2020; being a facility for school age children, dance, theatre, and other forms of the arts and physical fitness. We have come so far in this process and have hit many roadblocks, we would never intentionally do anything to sabotage our vision for this space. We do apologize for the confusion and look forward to continuing to service our neighborhood and bring light and art to the community.

Sincerely,

Mrs. Kelly Nash
Owner & Creative Director of D4GCAC
(443)722-5365

IN RE: **PETITION FOR SPECIAL EXCEPTION***

(122 Eastern Avenue)

15th Election District

7th Council District

Essex Plaza, LLC,

Legal Owner

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Petitioner

Case No. 2020-0055-X

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Special Exception filed on behalf of Essex Plaza, LLC, legal owner (“Petitioner”). The special exception petition was filed pursuant to § 230.3 of the Baltimore County Zoning Regulations (“BCZR”) to approve the use of a 2,457 sq. ft. tenant suite and parking area with the address of 122 Eastern Avenue for a community building.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Neil Lanzi, Esq. represented the Petitioner, Essex Plaza, LLC. Ms. Kelly Nash appeared in support of the petition on behalf of her company, Destined 4 Greatness, LLC, which is the contract lessee for the subject premises. Bruce Doak, the licensed surveyor who prepared the site plan also attended and was accepted as an expert in land use, surveying, and the BCZR. There were no protestants or interested persons in attendance. A ZAC comment was received from the Department of Plan (“DOP”), which did not oppose the requested relief.

A site plan was marked and admitted as Petitioner’s Exhibit 1. The site is approximately 2.14 acres and zoned in BL. The subject property is one of numerous similar commercial spaces

in the Essex Plaza on Eastern Boulevard. It is 103 ft. deep by 20 ft. wide. Ms. Nash testified that she and her husband have operated a state-licensed day care facility for the last six years in the same strip mall. She explained that they propose to expand into this new space in order to provide after school and weekend programs for children ages 5 to 12 years. The programs will include arts, theater, dance, and martial arts. The new facility will also be state licensed. The undersigned asked Ms. Nash about the traffic control concerns raised by the DOP. Ms. Nash testified that they will have signage at the front of the building directing traffic to the rear of the building for the pick-up and drop-off of children, and that they will have portable traffic control/directional figures in the parking lot to assist with traffic control during hours of operation.

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. Doak testified that the proposed use is fully compliant with each of the factors of BCZR § 502.1. Specifically, he testified that this will be a very low impact use compared to many of the existing businesses in the vicinity. He testified that he has visited the site numerous times and that there is more than adequate parking. He further opined that this use is squarely within the legislative intent for a “community building” use under BCZR § 230.3.

Based on the record evidence I find that the proposed use is fully compliant with the factors in BCZR § 502.1 and that the Petition for Special Exception can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety and welfare.

THEREFORE, IT IS ORDERED this 11th day of **September, 2020**, by this Administrative Law Judge, that the Petition for Special Exception seeking relief under § 230.3 of the Baltimore County Zoning Regulations ("BCZR") to approve the use of 2,457 sq. ft. tenant suite and parking area with the address of 122 Eastern Avenue for a community building, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its 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, Petitioner would be required to return the subject property to its original condition.

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

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm

MRS. KELLY NASH

122 Eastern Blvd. 21221 | (443)722-5365 | D4GCAC@gmail.com

November 24, 2020

Judge Paul Mayhew
Managing Administrative Law Judge
for Baltimore Co.
105 West Chesapeake Ave.
Towson, Md. 21040



Dear Judge Paul Mayhew:

This letter is in reference to the Petition for Special Exception Case no. 2020-0055-X. It was brought to our attention that there was a miscommunication in our intended use for the building and our reason for seeking a special exception. Under no circumstance were we ever trying to be deceitful in our intended uses. We would like our creative center to be a place for the arts, music, physical activities, school age students, and to celebrate events, which we had been told would be permitted once we were approved as a community building. We were recently made aware that in order to host events we will have to pursue further actions. Being that events are a very small part of our vision for this space we would like to exclude that use for now and operate in the use that we were approved for on September 11, 2020; being a facility for school age children, dance, theatre, and other forms of the arts and physical fitness. We have come so far in this process and have hit many roadblocks, we would never intentionally do anything to sabotage our vision for this space. We do apologize for the confusion and look forward to continuing to service our neighborhood and bring light and art to the community.

Sincerely,

Mrs. Kelly Nash
Owner & Creative Director of D4GCAC
(443)722-5365

Donna Mignon

From: Kelly Nash <destined4greatnesslc@gmail.com>
Sent: Tuesday, November 24, 2020 3:14 PM
To: Administrative Hearings
Subject: Attn: Judge Paul Mayhew Case NO. 2020-0055-X
Attachments: Doc1.docx

CAUTION: This message from destined4greatnesslc@gmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Happy Holidays!

Below you will find a letter in reference to the petition for special exceptions Case NO. 2020-0055-X. We thank you in advance for your consideration on this matter.

Thank you,

Mrs. Kelly Nash
(443)722-5365

Donna Mignon

From: Donna Mignon
Sent: Tuesday, November 24, 2020 3:31 PM
To: Jenae Johnson
Cc: Kristen L Lewis
Subject: 2020-0055-X

Good Afternoon,
Judge Mayhew needs this file pulled. Can you please let me know when this has been done so I can come over and get it.

Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Paul,
Zoning Could not
Find File, gave
us dummy File.

Donna Mignon

From: Administrative Hearings
Sent: Tuesday, November 24, 2020 3:26 PM
To: Kelly Nash
Subject: RE: Attn: Judge Paul Mayhew Case NO. 2020-0055-X

Received. This will be given to the Judge to review. Thank you. Have a great day.

-----Original Message-----

From: Kelly Nash <destined4greatnesslc@gmail.com>
Sent: Tuesday, November 24, 2020 3:14 PM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Subject: Attn: Judge Paul Mayhew Case NO. 2020-0055-X

CAUTION: This message from destined4greatnesslc@gmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

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Below you will find a letter in reference to the petition for special exceptions Case NO. 2020-0055-X. We thank you in advance for your consideration on this matter.

Thank you,

Mrs. Kelly Nash
(443)722-5365

Donna Mignon

From: Jenae Johnson
Sent: Monday, November 30, 2020 8:51 AM
To: Donna Mignon; Kristen L Lewis
Subject: RE: 2020-0055-X

Good morning,

If I cannot find the file do you want the dummy file?

From: Donna Mignon
Sent: Monday, November 30, 2020 8:27 AM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Jenae Johnson <jinjohnson@baltimorecountymd.gov>
Subject: RE: 2020-0055-X

Good Morning,
We gave these to Jenae a bunch of files on 10/19/2020. This case was one of them.

Thank you. Please let us know when you find it so I can get it from you for the Judge.

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Wednesday, November 25, 2020 11:52 AM
To: Donna Mignon <dmignon@baltimorecountymd.gov>; Jenae Johnson <jinjohnson@baltimorecountymd.gov>
Subject: RE: 2020-0055-X

Good Morning,

I have looked everywhere in this office and I have not been able to locate the file. Do you know when it may have come back or if it was dropped off or picked up?

Kristen Lewis
PAI – Zoning Review
410-887-3391

From: Donna Mignon
Sent: Tuesday, November 24, 2020 3:31 PM
To: Jenae Johnson <jinjohnson@baltimorecountymd.gov>
Cc: Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: 2020-0055-X

Good Afternoon,
Judge Mayhew needs this file pulled. Can you please let me know when this has been done so I can come over and get it.

Thank you.

Donna Mignon, Legal Assistant

Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Joseph C Merrey
Sent: Thursday, December 3, 2020 9:37 AM
To: Donna Mignon
Subject: RE: Case No: 2020-0055-X

Hi Donna:

Yes I have the file and I will place Judge Mayhew's letter in it. His letter was right on the money, for what my humble opinion is worth. Joe Merrey

From: Donna Mignon
Sent: Wednesday, December 02, 2020 2:46 PM
To: Joseph C Merrey <JMerrey@baltimorecountymd.gov>
Subject: Case No: 2020-0055-X

Dear Joe,
Please find attached correspondence from Judge Mayhew to Ms. Nash.

Do you have this file?

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Donna Mignon
Sent: Wednesday, December 2, 2020 2:46 PM
To: Joseph C Merrey
Subject: Case No: 2020-0055-X
Attachments: ltr to Kelly Nash 12 3 2020 Case No 2020-0055-X.pdf

Dear Joe,
Please find attached correspondence from Judge Mayhew to Ms. Nash.

Do you have this file?

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

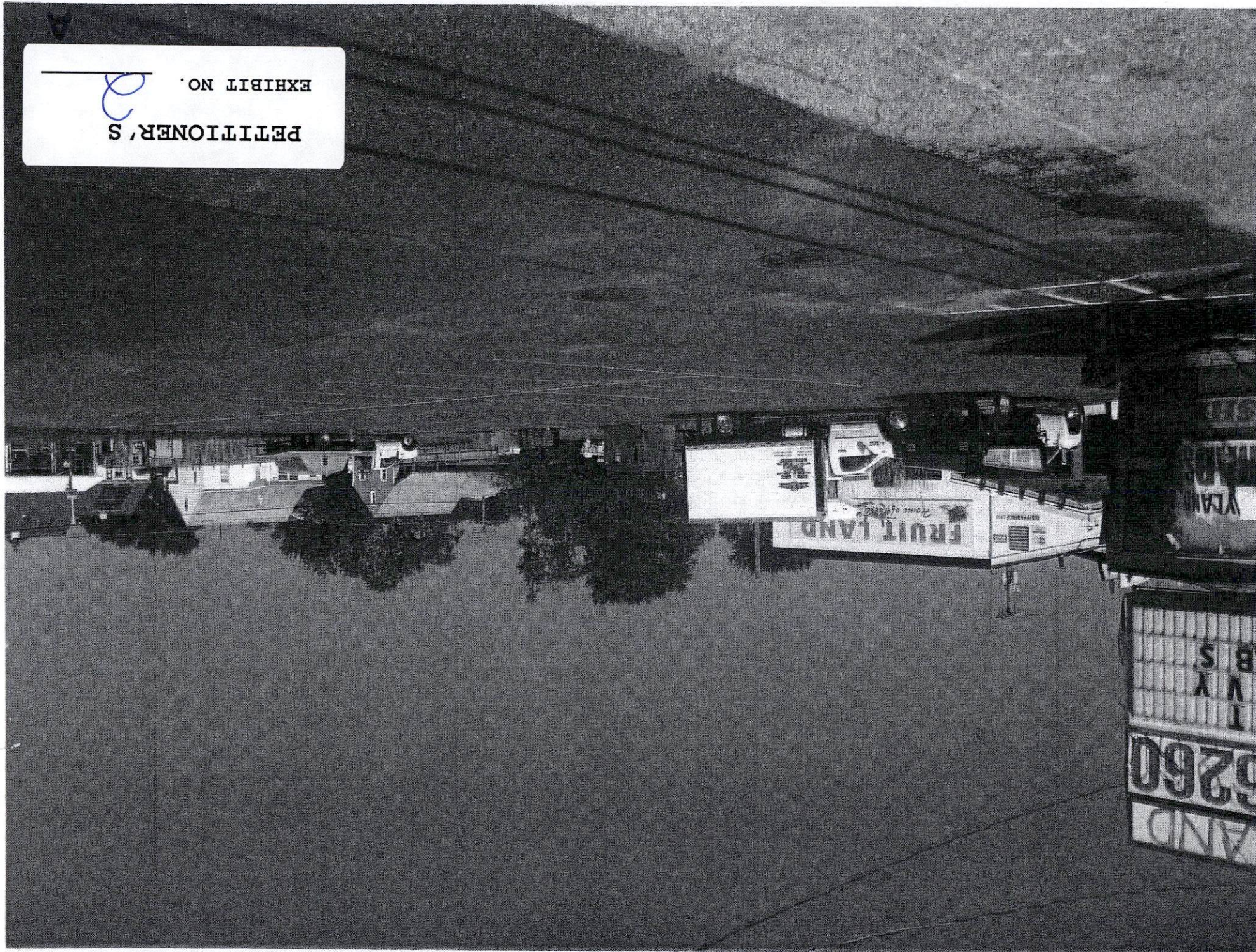
From: Donna Mignon
Sent: Wednesday, December 2, 2020 2:42 PM
To: 'destined4greatnesslc@gmail.com'
Subject: 2020-0055-X
Attachments: ltr to Kelly Nash 12 3 2020 Case No 2020-0055-X.pdf

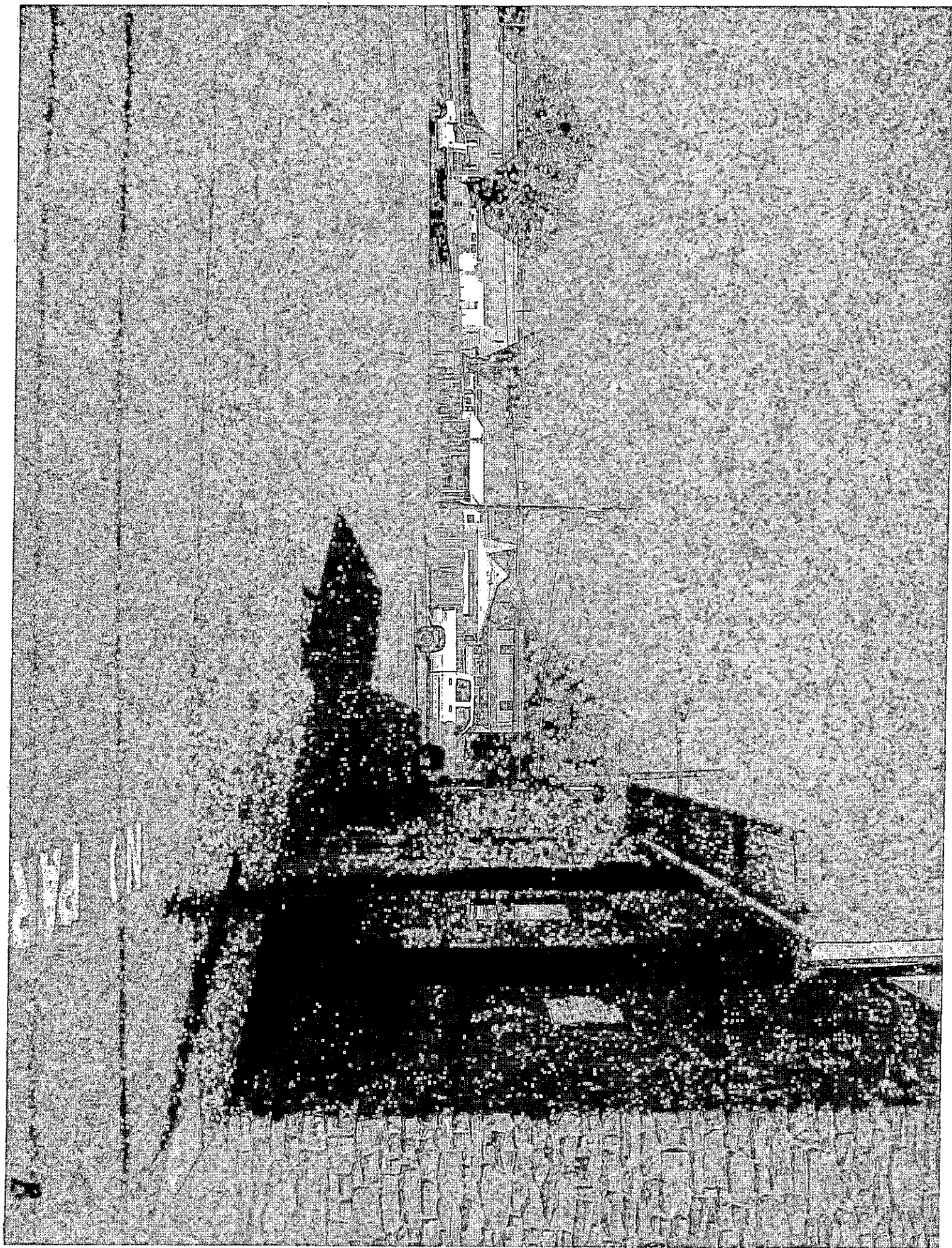
Dear Ms. Nash,
Please find the attached letter from Judge Mayhew.
Thank you.
Have a great day.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

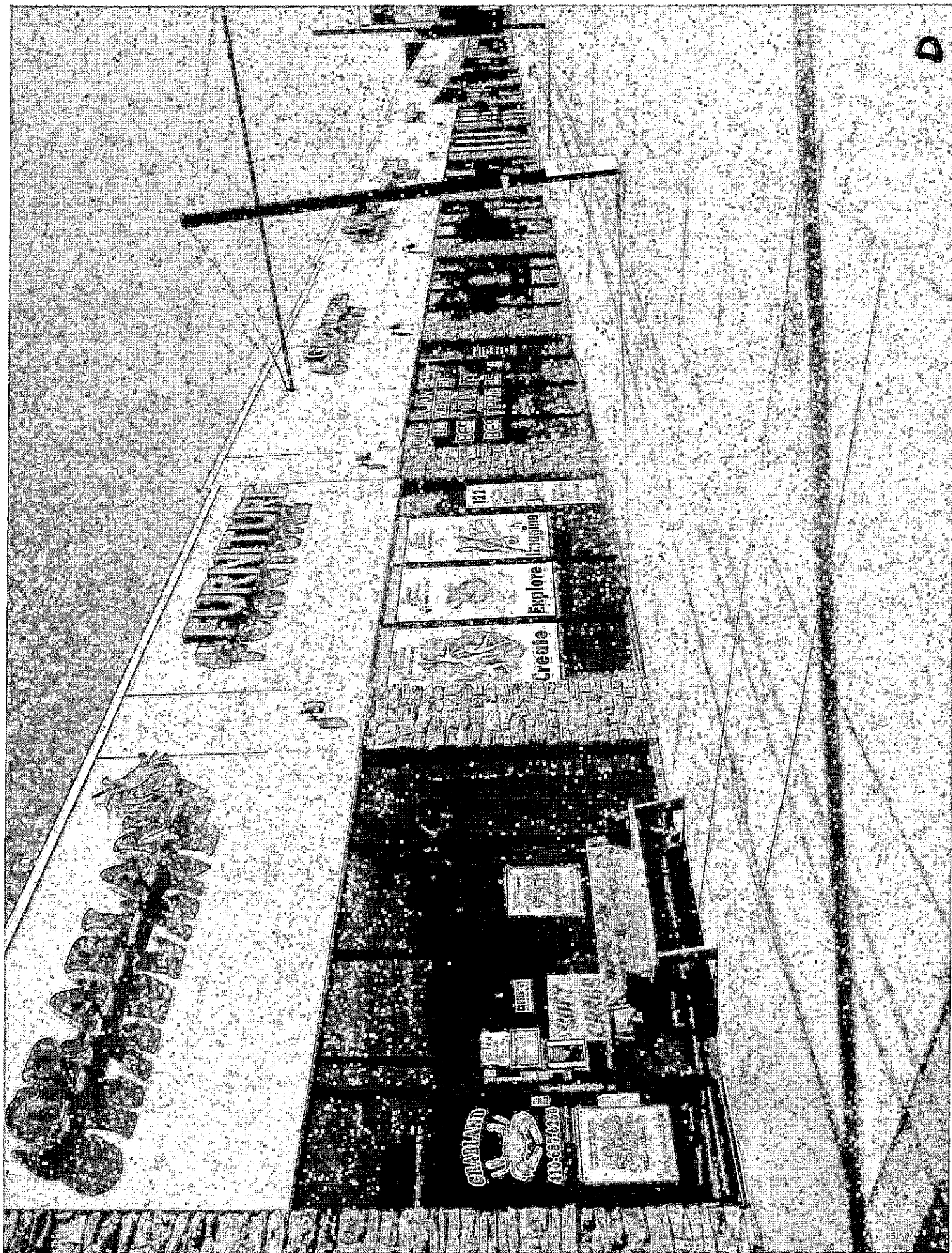
PETITIONER'S

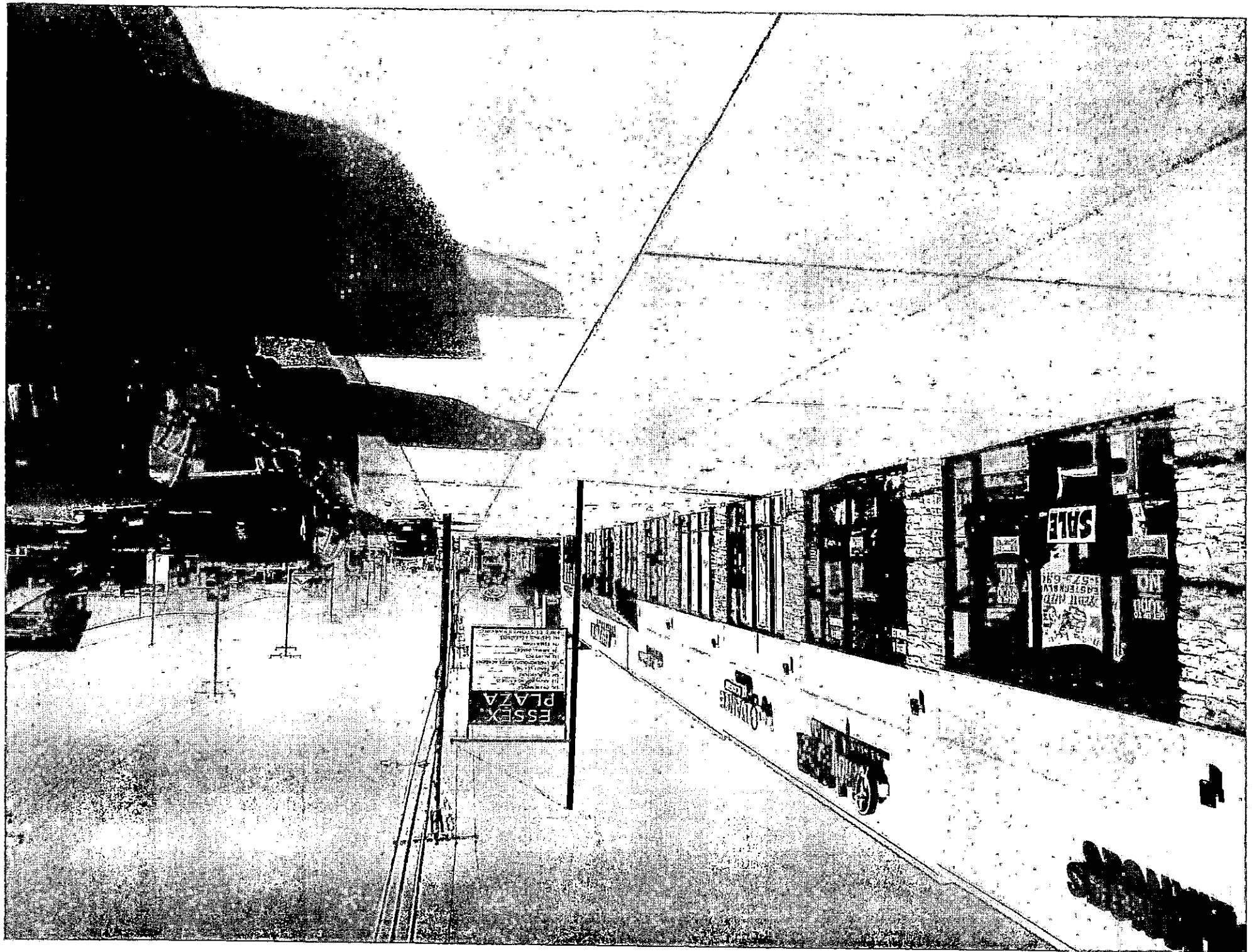
EXHIBIT NO.

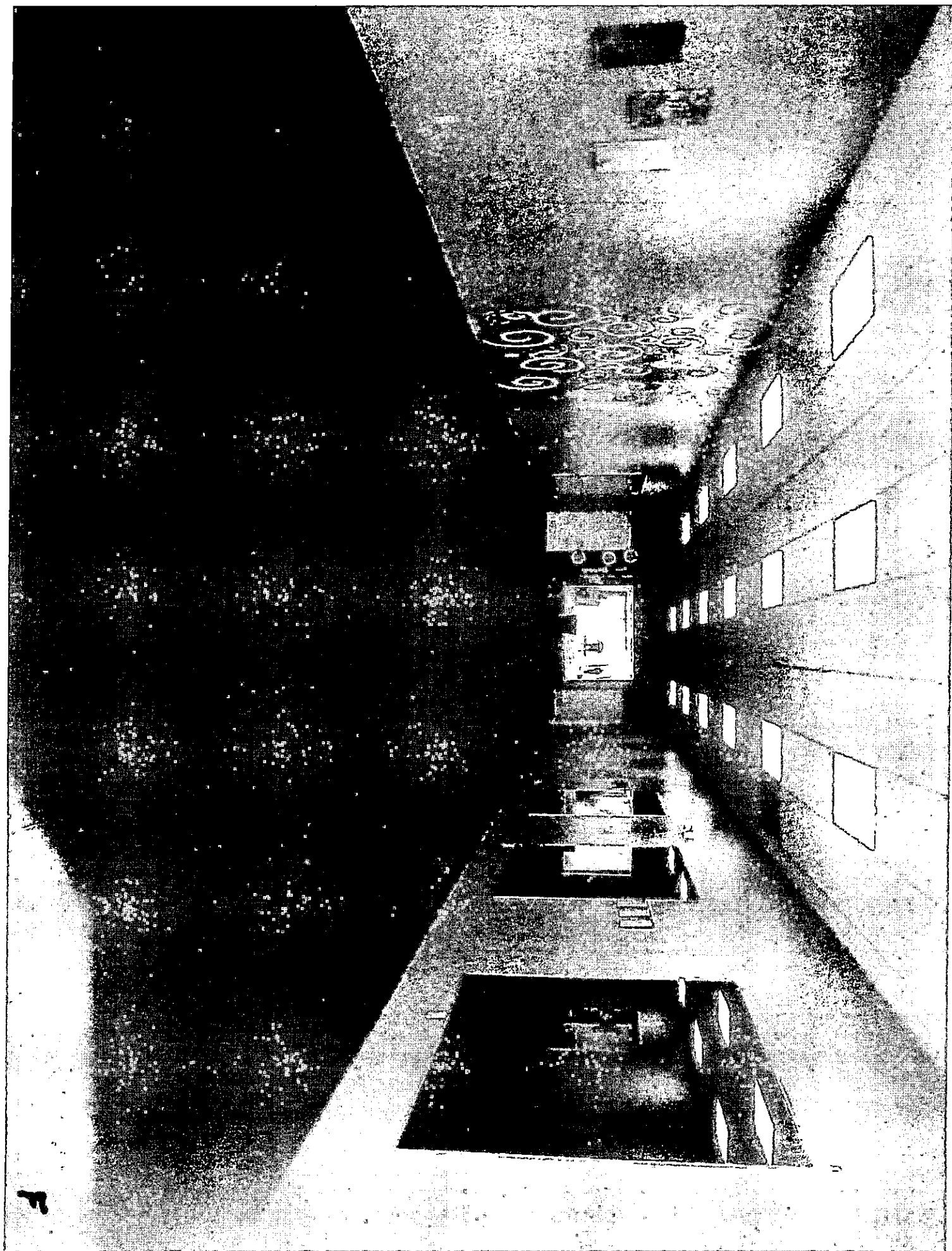


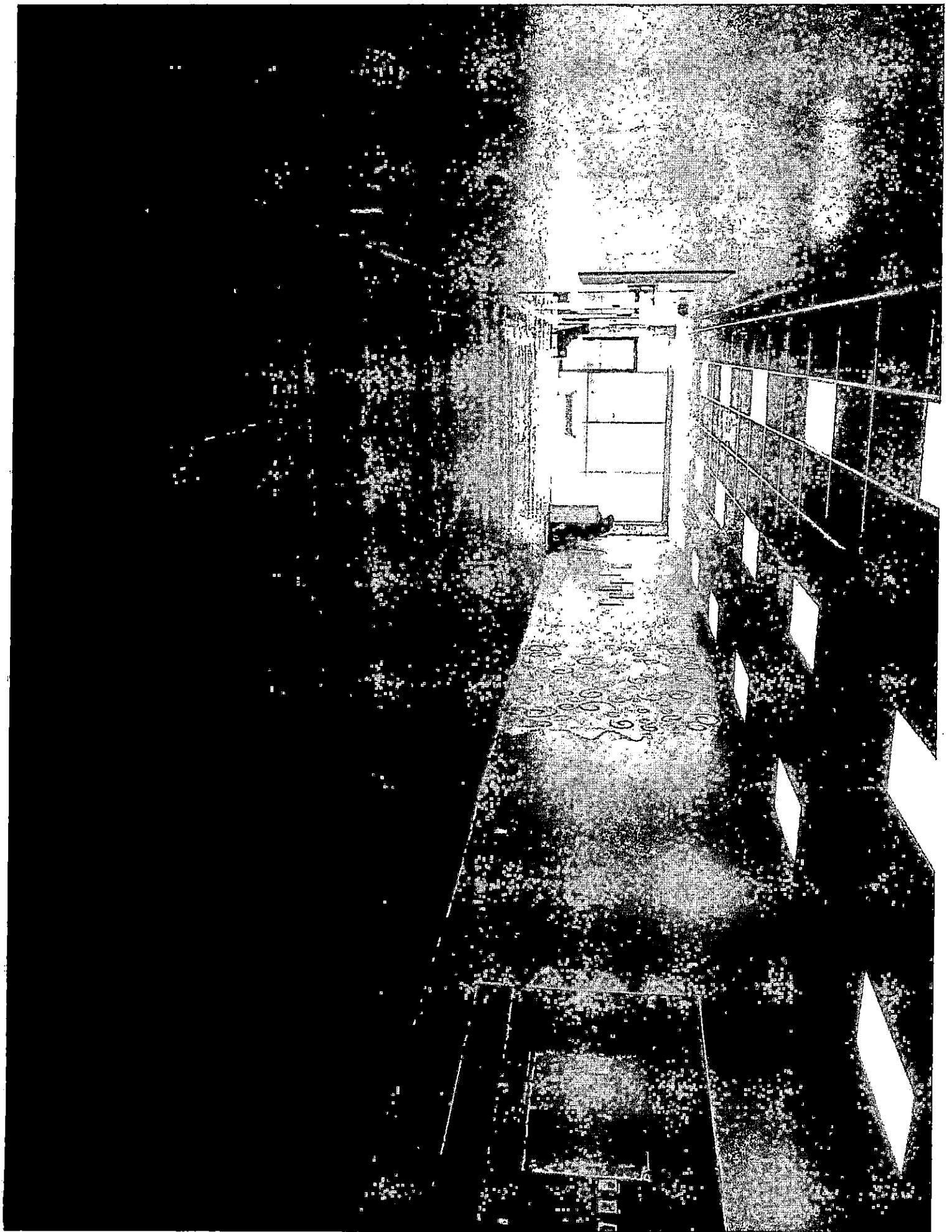


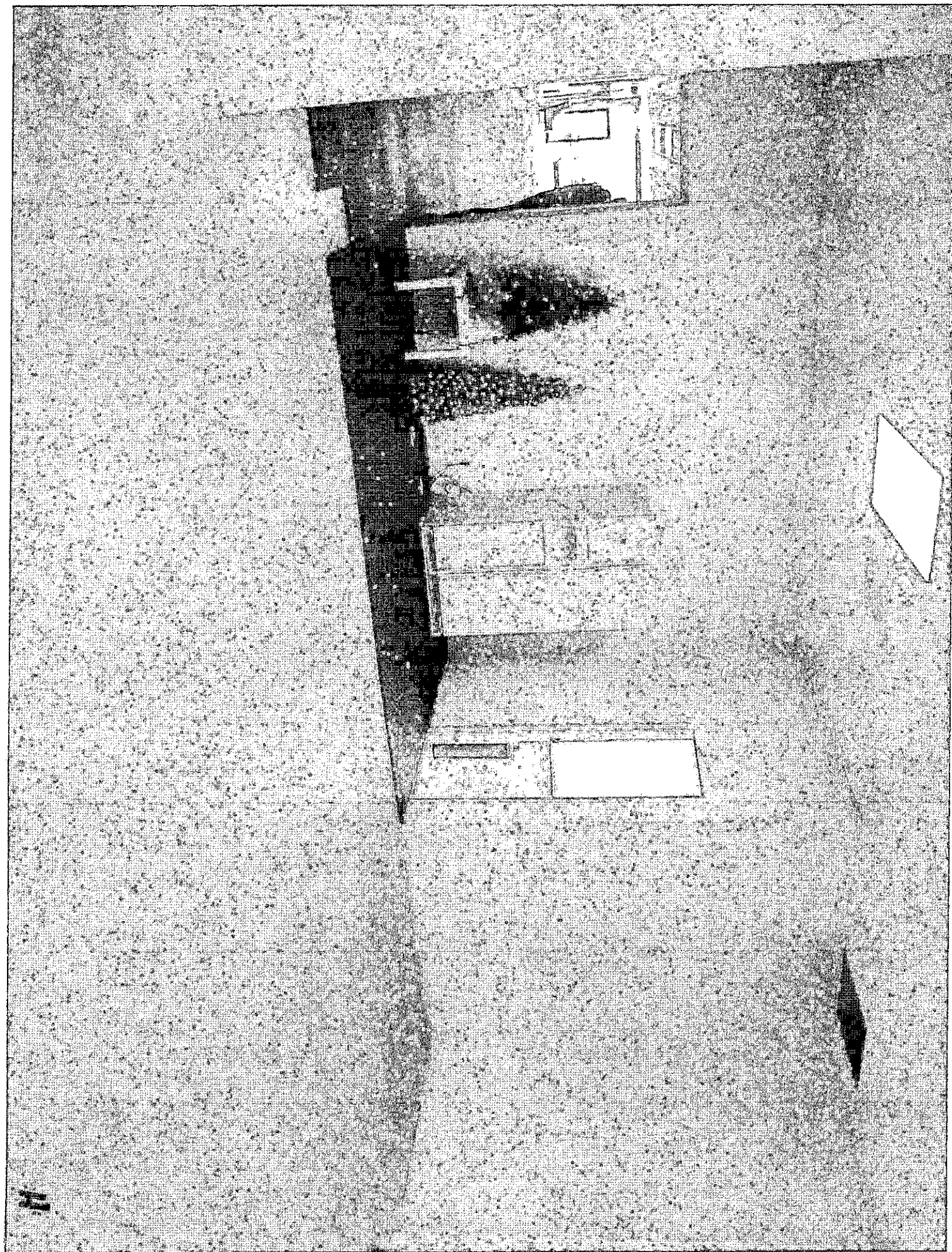


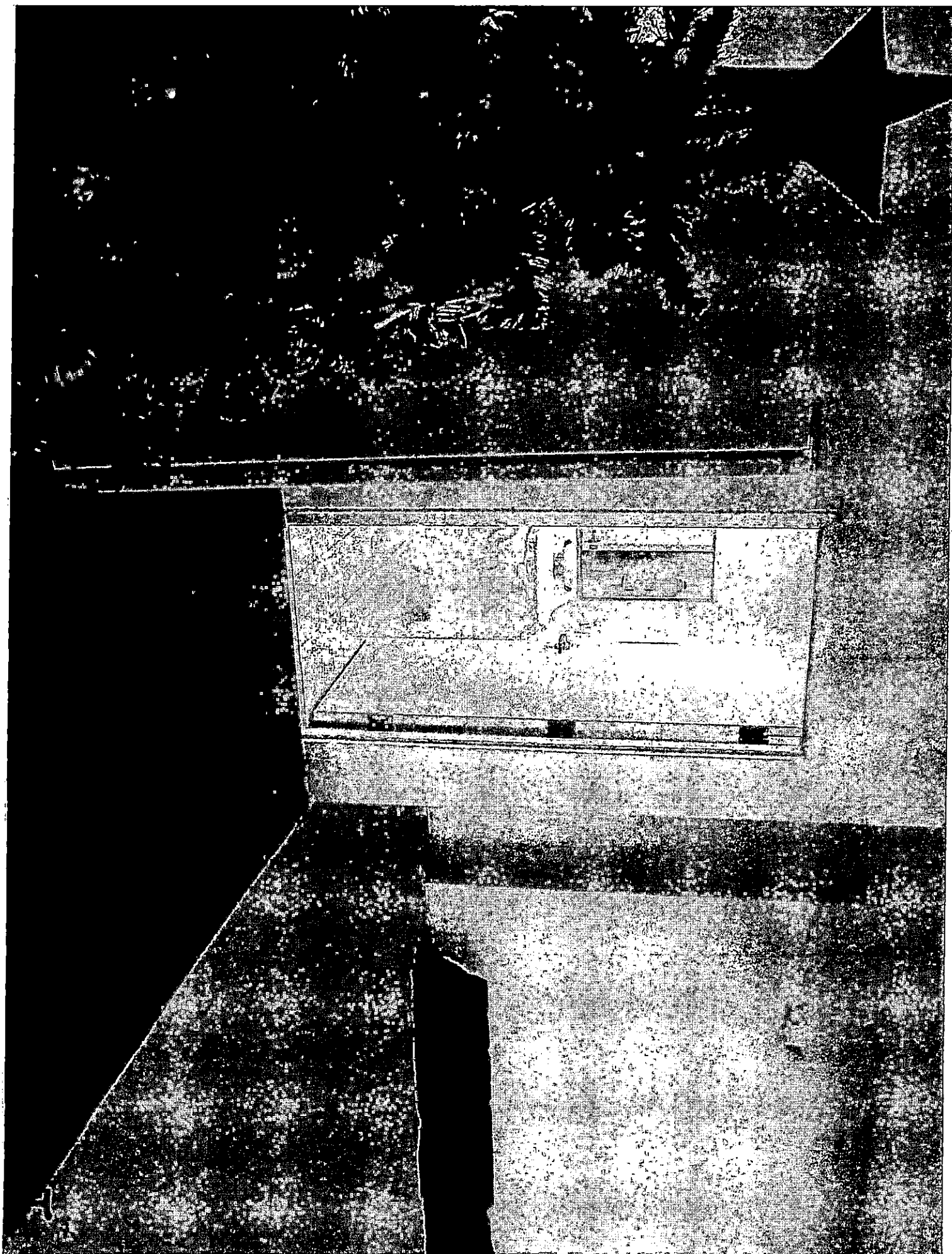












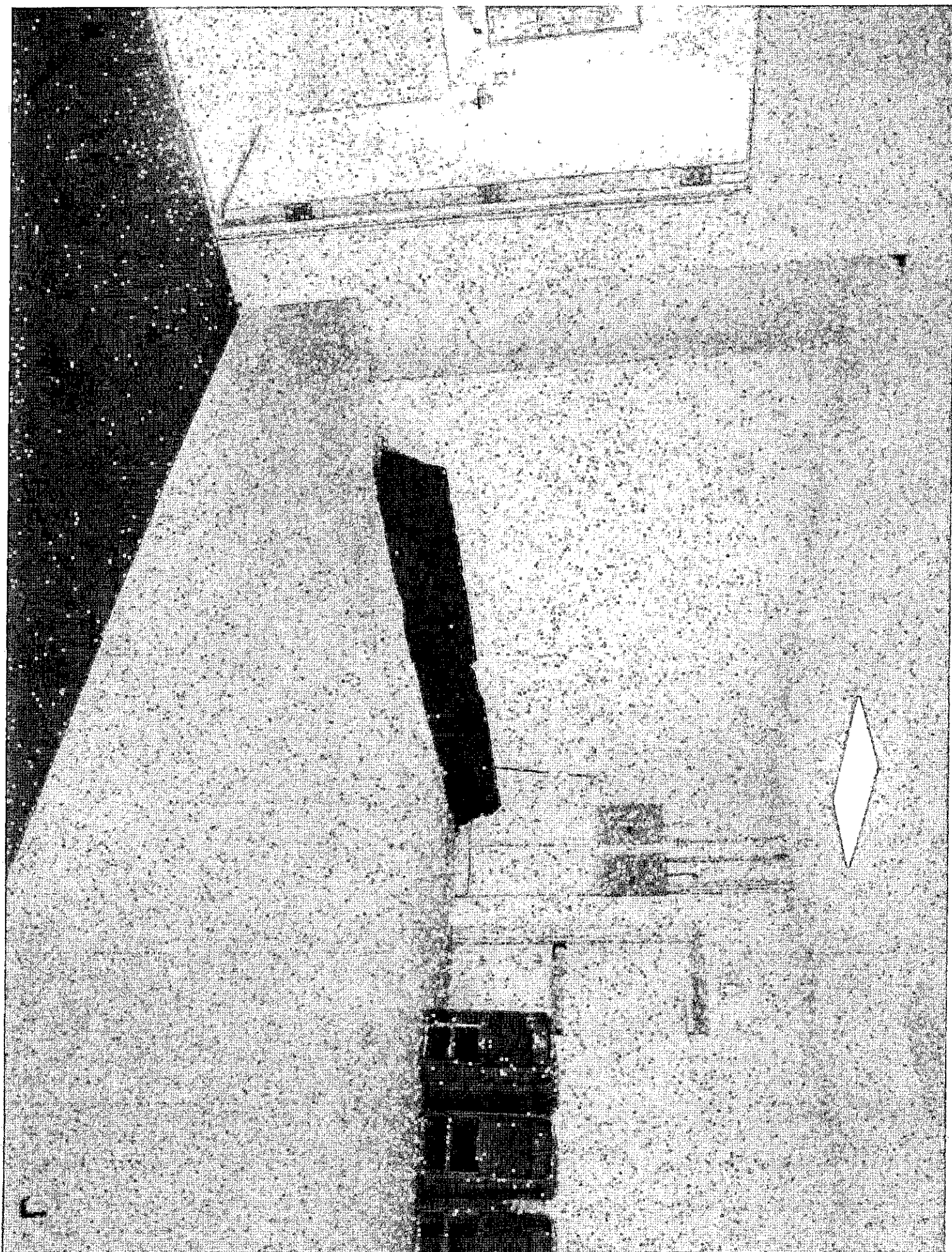


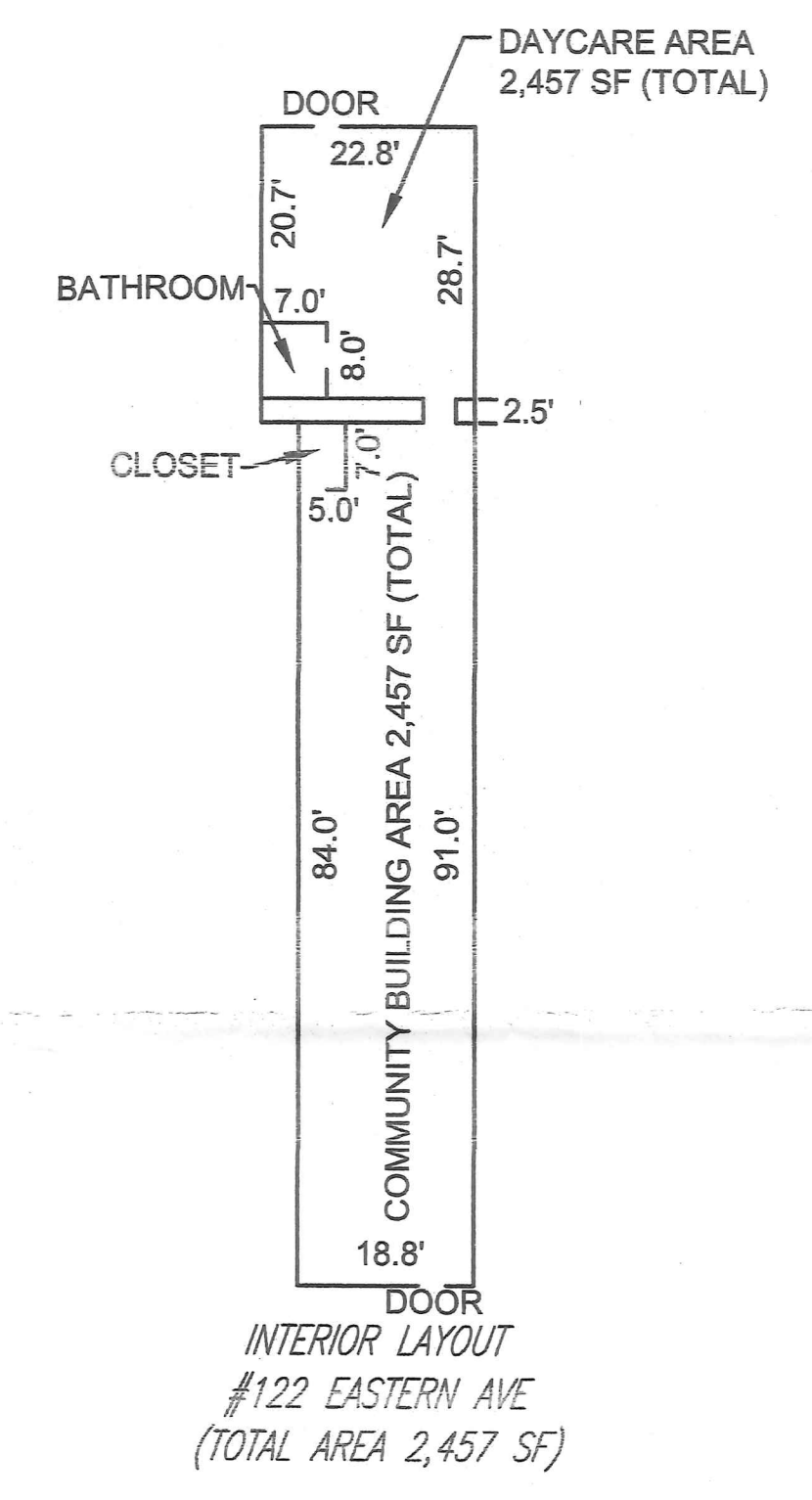
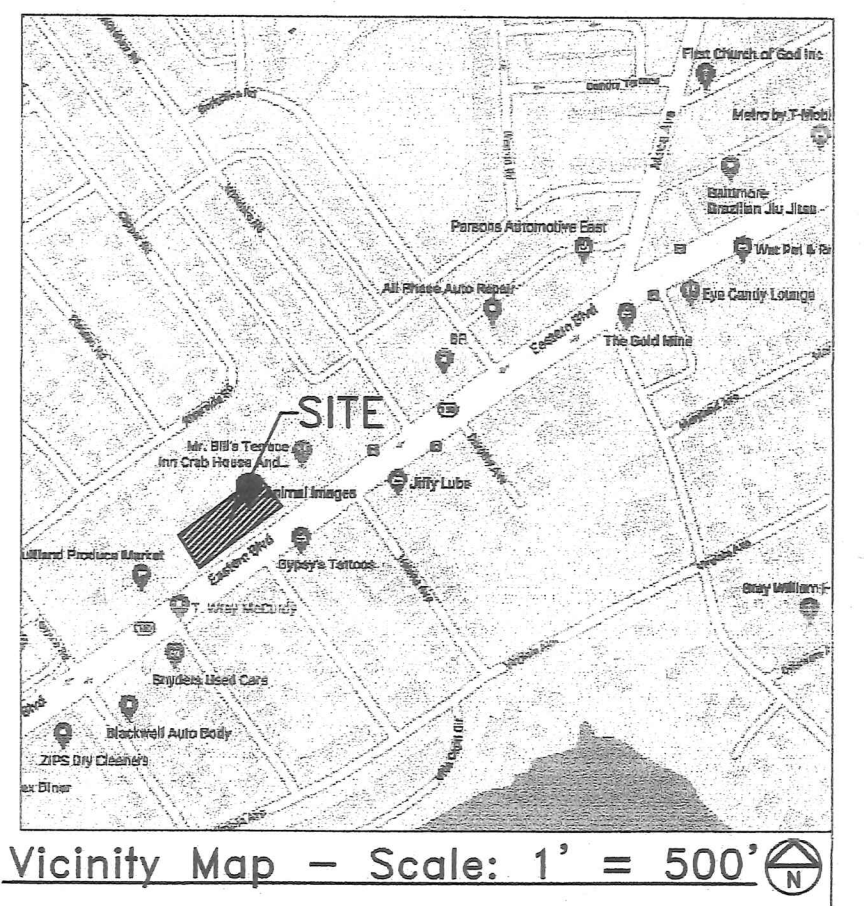
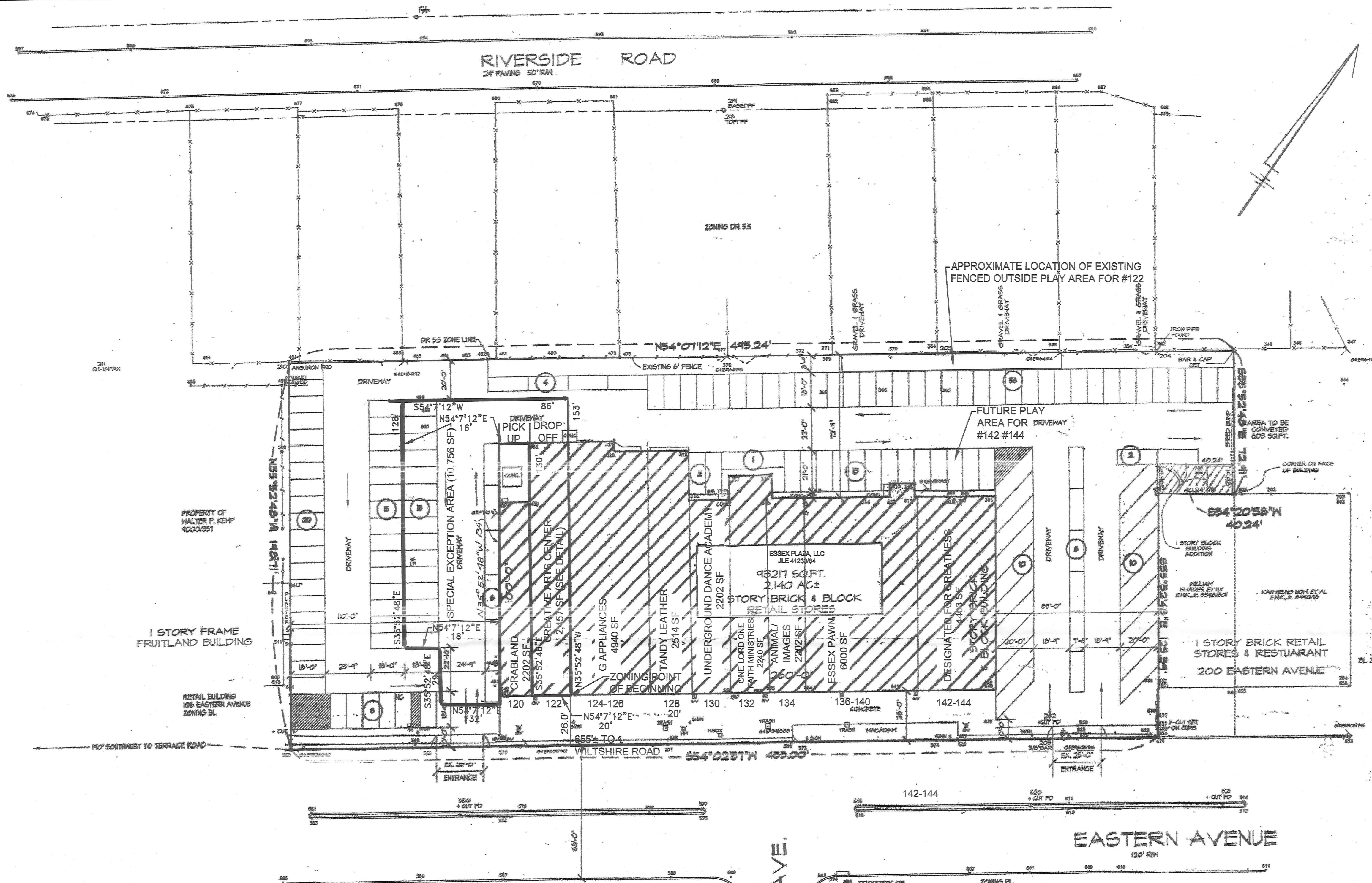
PHOTO TO ACCOMPANY PHOTO EXHIBIT



PETITIONER'S

EXHIBIT NO.

3



GENERAL SITE INFORMATION

- Ownership: Essex Plaza, LLC
212E Montgomery Street Baltimore, MD 21230
- Address: 120 - 144 Eastern Avenue
- Deed references: JLE 41233/ 84
- Area: 93,217 sq. ft. / 2.140 acres (per survey)
- Tax Map / Parcel / Tax account #: 97 / 2 / 19-00-012156
- Election District: 15 Councilmanic District: 7
ADC Map: 4821C2 GIS tile: 097A Position sheet: 3NE26
Census tract: 450200 Census block: 240054502003012
- The boundary shown hereon is from the deed recorded in the Land Records of Baltimore County. All other information shown hereon was taken from Baltimore County GIS tile 097A1 and the information provided by Baltimore County on the internet.
- Improvements: One story block and brick building & parking lot. The existing building and parking lot will remain.

OFFICE OF ZONING

Zoning: BL
Previous zoning cases on the subject property:

Case #2008-0443-SPH- (dismissed by petitioner)
Case #1995-0379-A- (signage variance granted)
Case #1984-0093-X- (outdoor advertising sign denied)
Case #1963-5897-X- (outdoor illuminated sign-granted)
Case #1963-0014-X- (outdoor illuminated sign-granted)
Case #R-1941-0233- (change in zoning- granted)

Parking Calculations

Required parking spaces: 159	Carryout restaurant	12
Crabland 2202sf	Community building	19
Creative Arts Studio 1802sf	2 employees	2
Day Care 655sf	Retail	25
G Appliances 4940sf	Retail	13
Tandy Leather 2514sf	Athletic club	23
Underground Dance 2202sf	Church (60 seats+)	15
One Lord One Ministries 2440sf	Retail	12
Animal Images 2202sf	Retail	30
Essex Pawn 6000sf	Retail	10
Designated 4 Greatness 4404sf	Day care (3 employees)	3

Parking spaces required: 154
Parking spaces provided on site: 161
Parking spaces lost to the construction of a day care play area for #142/ #144: 5
Parking spaces to be provided on site: 156

Typical size parking space: 8.5' x 18.0'
All parking areas are paved with macadam
The parking spaces shown hereon are permanently striped

ENVIRONMENTAL IMPACT

- Watershed: Back River
- The existing building is currently served by public water and sewer.
 - There are no underground storage tanks on the subject property.
 - The subject property is in the Chesapeake Bay Critical Area.
 - The subject property is not located within a 100 year flood plain.

DEPARTMENT OF PLANNING

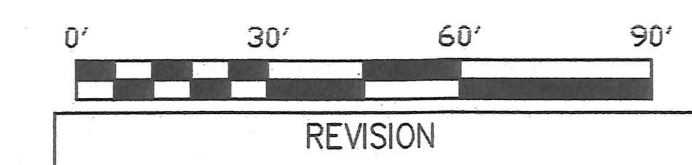
Regional Planning District: Essex District Code: 328

- The subject building is not historic. The subject property is not in a historic district.

PROPOSED DEVELOPMENT

To add a day care facility and a community building use, which will share one of the suites (#122 Eastern Avenue).

ESSEX PLAZA, LLC
JLE 41233/84



Bruce E. Doak Consulting, LLC
Land Use Expert and Surveyor
3801 Baker Schoolhouse Road
Freeland, MD 21053
o 443-900-5535 m 410-419-4906
bdoak@bruceedoakconsulting.com

PLAN TO ACCOMPANY
A PERMIT APPLICATION
AND A ZONING PETITION
FOR
#122 EASTERN AVENUE
BALTIMORE COUNTY, MARYLAND
15th ELECTION DISTRICT 6th COUNCILMANIC DISTRICT

Date: 2/26/2020
Scale: 1" = 30'