

A G E N D A

Massillon Planning Commission
May 11, 1988 7:30 P.M.
Massillon City Council Chambers

1. Approval of the Minutes for the April 13 Commission Meeting.
2. Petitions and Requests

Rezoning Request

Location: 120 feet north of the northwest corner of Burd Avenue, N.E., and Wales Road, N.E., and consisting of Lot No. 10170 and Part of Out Lot No. 363, with a frontage of 60 feet and a depth of 330 feet as measured from the centerline of Wales Road, N.E. The request is to rezone this property from R-1 Single Family Residential to B-3 General Business. This request has been submitted by Evans-Baucom & Assoc., Inc., 2037 Wales Road, N.W., who wish to use this property for parking.

Rezoning Request

Location: 2417-2439 Lincoln Way East, consisting of Lots No. 3641, 3642, 3643, 3644, and 3645, excepting 60 feet off the south end of Lots No. 3641 and 3642. The request is to rezone this property from RM-1 Multiple Family Residential to B-3 General Business. This request has been submitted by Carl Oser who wishes to develop this property commercially.

Rezoning Request

Location: 2109-2119 Lincoln Way East and 125 22nd Street, S.E., and consisting of Lots No. 4328, 4329, 4330, and 4331. The request is to rezone this property from RM-1 Multiple Family Residential to B-3 General Business. This request has been submitted by Carl Oser who wishes to develop this property commercially.

Rezoning Request

Location: 2515 Lincoln Way East, consisting of Lot No. 4907. The request is to rezone this property from RM-1 Multiple Family Residential to B-3 General Business. This request has been submitted by Carl Oser who wishes to develop this property commercially.

3. Old Business

Rezoning Request

Location: 704 Lincoln Way East, Lot No. 488. The request is to rezone this property from B-1 Local Business to B-3 General Business. This rezoning request has been submitted by Jeffrey H. Doll, who wishes to move his existing business, Jeff's Auto Sales, to this location. This rezoning was tabled at the April 13 Commission meeting to obtain a legal opinion from the Law Director as to whether the proposed business could be operated at this location as a legal non-conforming use.

JOHN D. FERRERO, JR

DIRECTOR OF LAW

100 City Hall Street, S.E.
Massillon, Ohio 44646
(216) 830-1718



Prosecutors:
JOHN H. SIMPSON, Chief
C. STEPHEN AYERS
LINDA A. KATE

May 6, 1988

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Aane Aaby
Assistant Planning Director
Massillon, Ohio 44646

RE: LEGAL OPINION 12-1988
Rezoning Property

Dear Mr. Aaby:

This letter is in response to your request for a legal opinion on April 18, 1988, regarding rezoning of property located at 704 Lincoln Way East.

Section 1167.03(a) of the Massillon Planning and Zoning Code permits outdoor sales for the sale of new or secondhand automobiles as a permitted use subject to special conditions in a B-3 District. The property that Mr. Doll owns, 704 Lincoln Way East, Lot No. 488, is presently zoned B-1 Local Business.

The Massillon Zoning Ordinance was enacted on November 2, 1970. It is important that we examine the use of that property on that date and up to the date of Mr. Doll's request.

In reviewing your letters, the property was used for the following:

<u>Year</u>	<u>Business</u>
1970-1975	Factory Tire Outlet
1977-1979	Custom Muffler, Inc.
1981-1987	For Wheel Fashion

It is my understanding that all of these business were considered B-1 Local Business, therefore making them in conformance with the Zoning Laws. The business located at the property on November 2, 1970, Factory Tire Outlet, was a legal conforming use. Since that time, the other two businesses have also conformed to the Zoning Laws.

A "nonconforming use" is defined as a use which lawfully existed prior to the enactment of a zoning ordinance, and which is maintained after the effective date of the ordinance although it does not comply with the use restrictions applicable to the area in which it is situated.

Page 2

May 6, 1988

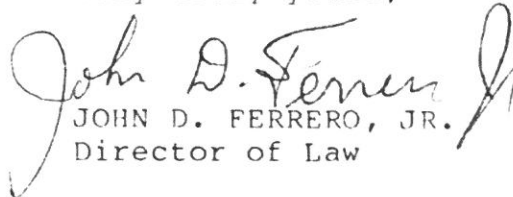
RE: Legal Opinion 12-1988

In looking at the three businesses that have been located at the property in question since 1970, it is my feeling that the sale of used automobiles is not closely related to the nature of those businesses. The previous businesses were "service" type of operations that is provided for in B-1 Local Business. The sale of used automobile is clearly a B-3 General Business Use.

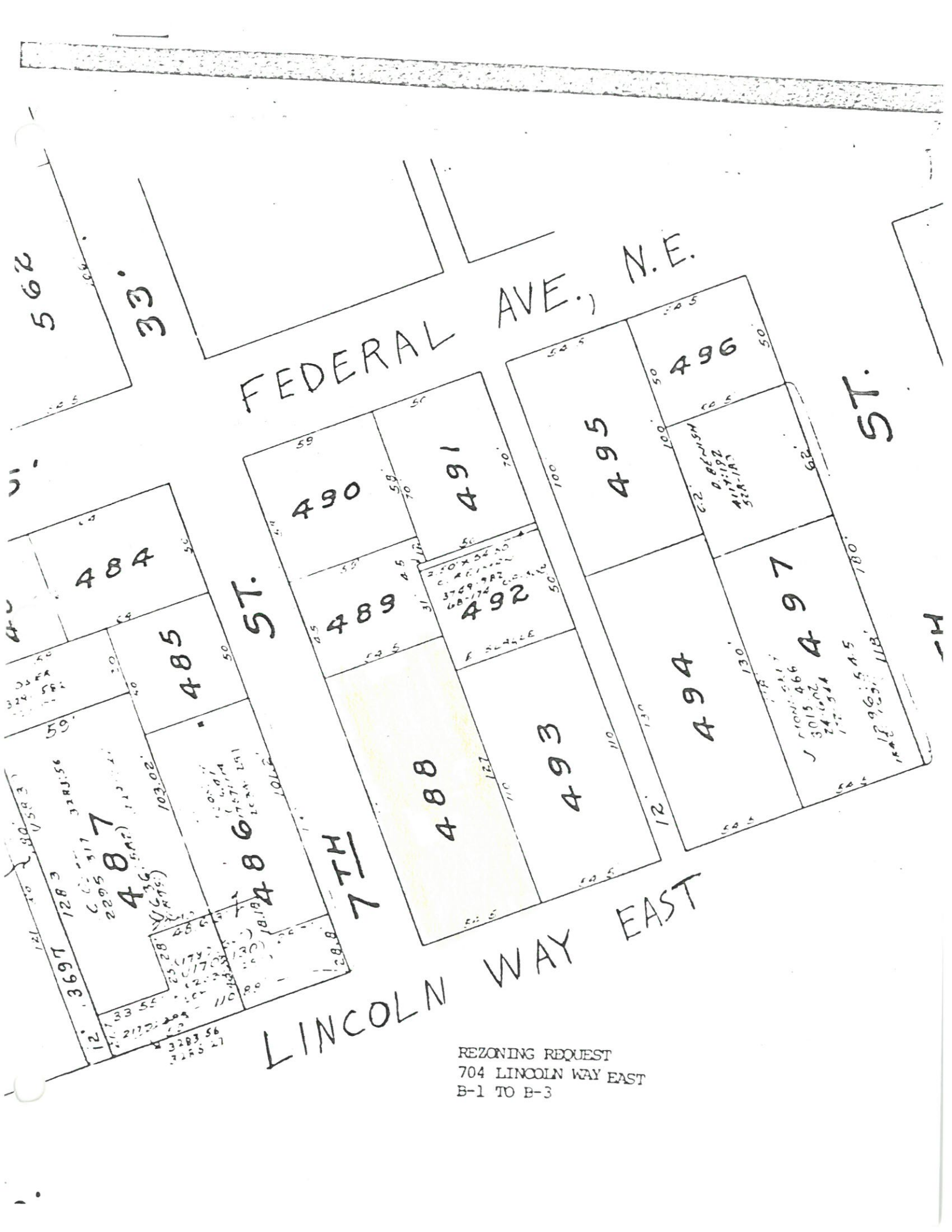
It is my legal opinion that Jeff's Auto Sales cannot occupy the property at 704 Lincoln Way East as a legal nonconforming use based on Massillon's Zoning Ordinance. The property was never used for a "nonconforming use" since November 2, 1970. It is also my opinion that the sale of used automobiles is in no way related to the prior uses of the property.

If you would have any further question about this matter, please advise.

Very truly yours,


JOHN D. FERRERO, JR.
Director of Law

JDF/ec1



EXISTING ZONING MAP
REZONING REQUEST
704 LINCOLN WAY EAST
B-1 to B-3



The Massillon Planning Commission met in regular session on April 13, 1988, in Massillon City Council Chambers. The following were present:

Chairman Fred Wilson
Dr. Dale E. Hart
Bill Hamit
Michael J. Loudiana
Steven Seaton
Henry Joiner

Aane Aaby
Marilyn Frazier

The first item of business was the minutes of the March 9, meeting. The minutes were approved as prepared.

The next item was a replat under petitions and request. Location: A vacant parcel of land on the west side of 24th Street, N.W., south of Gorrell School, and consisting of Lots No. 3788, 3789, and approximately 100 feet off the north end of Lots No. 12454, 3841, and 3842. The purpose of this request is to re-plat this property into two separate lots to provide for the construction of one duplex on each lot. This request has been submitted by Reinhold C. Dominick. Mr. Aaby made the presentation. This property was before the Commission for rezoning in February. The ward Councilman, Thomas Brennan would like the property to be replatted into two lots with one duplex on each lot. This action would prohibit the owner from building more duplexes on the property. After a short discussion, Mr. Hamit moved to recommend approval of the request, seconded by Dr. Hart, motion carried.

Mr. Wilson then explained that another replat had been filed after the agenda was prepared and mailed. He asked if the Commission would like to consider it. Henry Joiner moved to amend the agenda to consider the item. Mr. Loudiana seconded the motion, which carried. The request was to replat Lots 8236 and 8237 into one lot to allow the owner to build a garage. The owner of the property is Cleme As-Samad. Mr. Aaby presented the request. The ordinance prohibits the construction of a garage on a lot without a house. Mr. As-Samad resides at this property. Mr. Joiner moved to recommend approval of the request, seconded by Mr. Loudiana, motion carried.

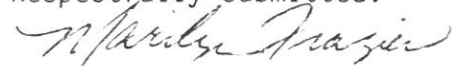
The final item for the evening was under Old Business. A rezoning request at 704 Lincoln Way, East. The Lot No. is 488, containing 7,500 square feet, the request being to rezone this property from B-1 Local Business to B-3 General Business. This request has been submitted by Jeffrey H. Doll, who wishes to move his existing business J & J Auto Sales, to this location. This request was tabled at the March 9, Commission meeting. Mr. Aaby made the presentation after Mr. Wilson made some reference to Chapter 1167 of the Zoning Code. He referred specifically to the intent and some of the requirements of the Section. Mr. Aaby explained that the property had formerly been used as a van customizing business. Also, since last month's meeting, the Building Superintendent had issued a temporary permit to operate conditional on the rezoning. The petition has more than the 50% signatures of surrounding owners. Mr. Doll was present and explained that he had invested a lot of money into renovation of the building. He said that he doesn't sell junk cars, but nice used cars. He also intends to expand his business to wholesale to lots. These cars would not even be at this location. The Commission members agreed that the present Law Director should rule on the possibility of considering this use a legal non-conforming use because of the van customizing business. Michael Loudiana moved to request an opinion from the Law Director concerning the non-conforming use, seconded by Steven Seaton, motion carried.

4/13/88
Planning Commission

Page 2

There being no further business before the Commission, the meeting adjourned at 8:10 P

Respectfully submitted:

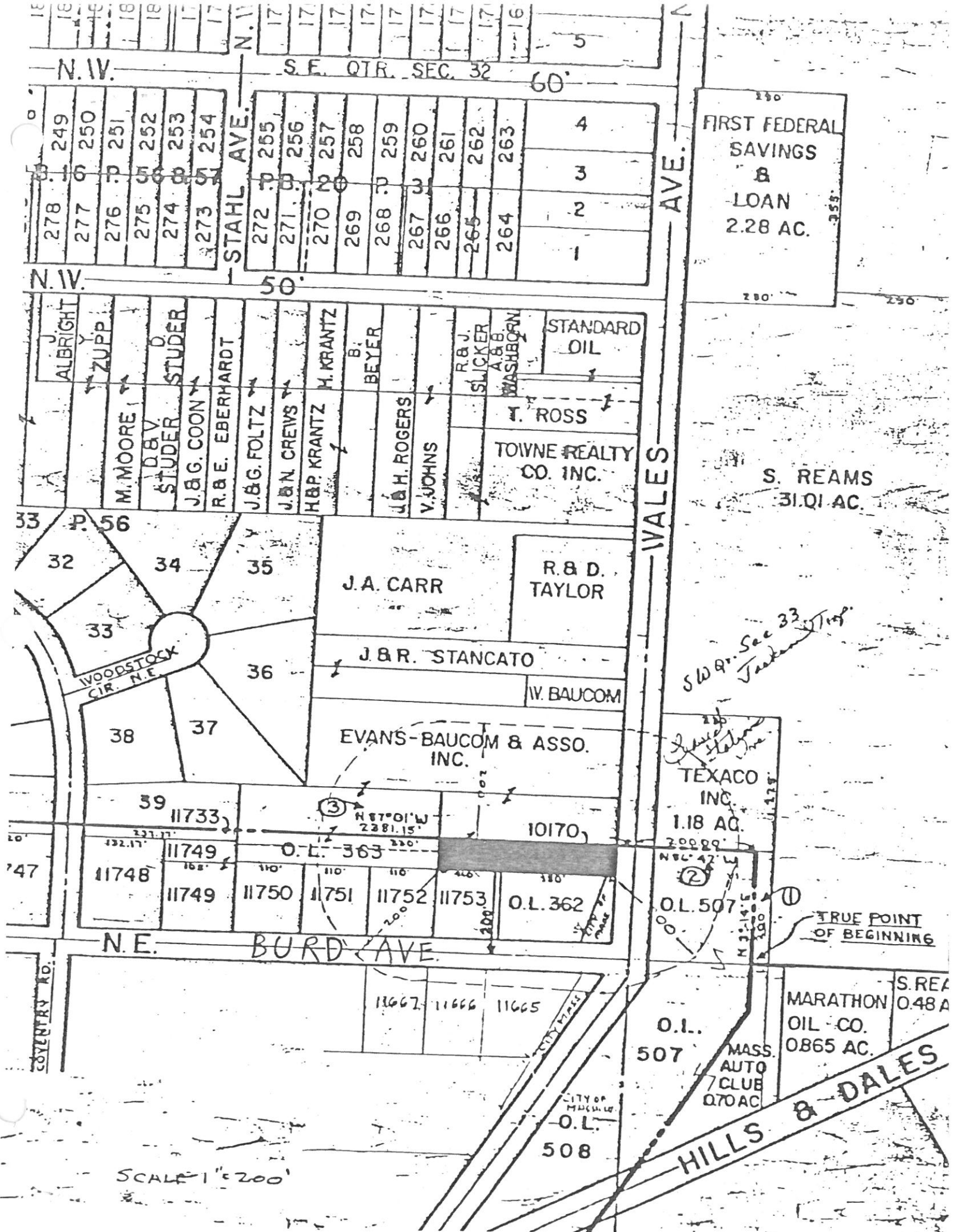
A handwritten signature in cursive script, appearing to read "Marilyn Frazier".

Marilyn Frazier, Clerk

Approved:

Fred Wilson, Chairman

[illegible]



EXISTING ZONING MAP

JACKSON
TOWNSHIP

CORP. LINE

R-3

BURD AVE.

R-3

R-3 to B-3

O-1

WALES ROAD

O-1

B-1

R-3

2417-2439 LINCOLN WAY EAST

LOTS NO. 3641 - 3645

RM-1 to B-3

LINCOLN

Massin Corp.

Pr 1750A

$$\begin{array}{r}
 -3.46 \cdot 279.214 \\
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 -17.04 \\
 -1.20 \cdot 303.200 \quad (47.500) \\
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 -12.84 \\
 -6.41 \cdot 346.132 \\
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 6.43
 \end{array}$$

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09

ST

2-4TH

25TH ST.

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EXISTING ZONING MAP

B-3

LINCOLN WAY EAST

24TH ST, SE

25TH ST, SE

RM-1

RM-1

RM-1

RM-1 TO
B-3

RM-1

RM-1

R-1

R-1

R-1

R-1

LINCOLN WAY E.

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MASSACHUSETTS

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Rezoning Request - 2109-2119 Lincoln
Way East, 125 22nd Street, S.E.

Lots No. 4328, 4329, 4330, 4331

RM-1 to B-3

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CONNECTICUT

B-3

LINCOLN WAY EAST

RM-1

RM-1 TO

B-3

RM-1

R-1

VERMONT SE

R-1

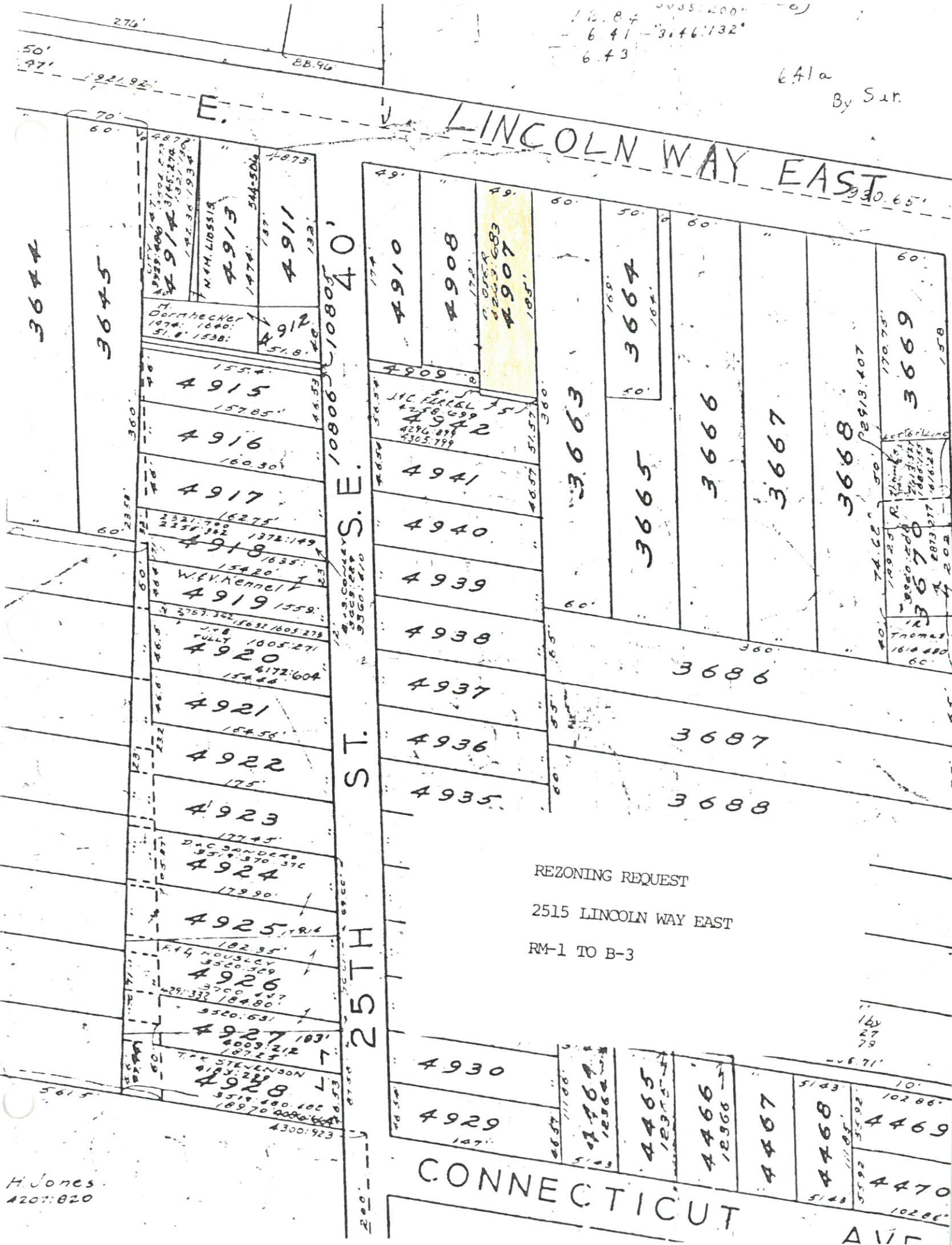
22ND ST SE

R-1

R-1

21ST ST SE

EXISTING ZONING
MAP



H. Jones
4207:820

REZONING REQUEST
2515 LINCOLN WAY EAST
RM-1 TO B-3

6/4/10
By S. J.

B-3

LINCOLN WAY EAST

RM-1

RM-1

RM-1
TO
B-3

RM-1

R-1

25TH ST, SE

R-1

EXISTING
ZONING
MAP