#4775 RX MAPC PETITION FOR (1) ZONING RECLISSIFICATION
(2) SPECIAL EXCEPTION To the Zoning Commissioner of Baltimore County: R-X I, or we. The Gunpowder Park, Inc. 10/23/59 All that parcel of land in the Rieventh District of Saltimore County, beginning for the same at a point on a 50 foot right of way 250 feet Southand Longon Rosel, the County of the Saltimore (2) for a Special Exception, under said Zoning Law and Zoning Hegu lations of Baltimore County, to use the above described property, for Stage ACE & DISMANT Ling of Vehicles Property to be posted as prescribed by Zoning Regulations I, or we, agree to pay expenses of the above reclassification and Special Exception, advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the Zoning Regulations and Restrictions of Baltimore County, adopted pursuant to the Zoning Law for Baltimore County. The Gunpowder Park, In-

by Carvelle & Pring Carville C. Evering Preside > 10 Heavy to Johns, atty-

RE: FESTITION FOR EXCLASSIFICATION
AND SPECIAL EXCEPTION FOR
DISMAITLING AND STORAGE OF
VEHICLES = 60 RM 250 S.R.
PHILADOIPHIA ROAD, \$550 N.E.
Jopas Road, 11th District The Compowder Park, Inc.,

COUNTY BOARD OF APPEALS BALTIMORE COUNTY MH-XA

# 4775 RXA

MAP

## OPINION

This corporate Petitioner asks us to reclassify a pentagonal shaped tract of land lying between the Philadelphia Road and the B. & O. Railroad, some \$550 feet northeast of Jones Road, in the Eleventh District The longest side of the pentagon parallels the Philadelphia Road, but is consistently set back to a distance of 250 feet from the road, the intervening metangle being wither heavily wooded, residentially soned property. The change in category requested is from "M-L" to "M-M", with a special exception for the storage and dismantling of automobiles.

The topography of the tract, an abandoned quarry for the most part, is severe with an abrupt and spectacular fluctuation in grade. This sudden 40 to 60 foot drop off renders the usable portion of the property completely invisible from the road. Woods on the sides

Testinony on behalf of the Potitioner indicated that, although the realtors had attempted to find a buyer since the "M-II" zoning was applied in 1956, no offers were received. Further, that public utilities were unavailable and the rocky nature of the land made preparation for most light industrial uses prohibitively expensive. In addition, the precipitous drop would make it extremely difficult and hazardous to move delicate machinery to the lower level or back to the

VS

SPIRO T. AUREM, Chairman, and CHARLES TRINBOCK, JR., Constituting the BOARD OF APPEALS FOR RALIPBORE COUNTY, MARYLAND, a municipal corporat

THE GUNTPOMDER PARK, INC.

CTRCHIT COURT FOR BALTIMORE COUNTY

IN THE

File No. 2217 Docket: Hisc 6, Folio 229

HENORANDUM OPINION

On April 1), 1960, an Order for Appeal from an Order of the County

Board of Appeals was filed in the Circuit Court for Baltimore County. On the same date there was also filed a Petition setting forth the grounds upon which such appeal was taken. On April 26, 1960, an Answer was filed in behalf of the applicant for the soning reclassification, which had been granted by the Board. On June 3, 1960, the applicant for the zoning classification, which had been granted by the Board, filed its Motion to Dismiss the Appeal upon the ground that there was a failure to comply with the provisions of Rule 1101, Section (g) sub-section (1). On June 6, 1960, the record from the administrative agency was filed by it in this Court. The appellants resist the Motion to Dismiss upon two grounds: (1) That Rule 1101 (g) sub-section (1) veste a discretion in the Court to excuse its provisions as to the time within which the record must be transmitted; (2) That in any event, under the provisions of Rule 1101 (g) sub-section (3), the evidence adduced by the appellants establishes/the fact that the record was not transmitted within the time prescribed was occasioned by the negligent omission or inability of the agency or other party, other than the appellant.

It is clear from the decisions that this Court has no discretion to excuse the time requirements imposed by Rule 1101 (g) (1). In the case of Horsey v. Woodward, 124 Md. 361, in speaking of a similar rule, the Court of Appeals stated at Page 363:

> =ILED ach 97 -9 AMIL:37 CLERA OF CIRCUIT COURT, BALTO, CO.

"he rule has the binding force of a statute, and its observance is chilestory on the Bourt. We have he recent to relat it, or to disparal it so long as it avails surrevokes. Cases following under it are not stitule the south of judicial discretion, but they are provisions."

The evidence produced by the appellants in the form of the testimony of Mr. Pericins, the official Court Reporter, and a Stipulation relating to the time of payment of the required fees to the agency does not establish that the transmittal of the record was occasioned by the negligent omission or inability

of the agency or other part; other han the appellant. Accordingly, this Court has no alternative but to dismiss the Appeal. The Clork has this day been instructed to enter upon the Docket the fact of its dismissal.

W. allest hendlin

July 9, 1960

# 4775 RX

MAP #11-6 Plans for ingress and egress to and from the property shall be subject to the approval of the State Flads Commission. DIH-XA

Burning shall be permitted no more than three days per week and shall not be permitted on Saturday or Sunday, in any event.

Any appeal from this decision must be in accombines with

Rule No. 1101 (b) of the Rules of Practice and Procedure of the Court of Appeals of Maryland.

and restrictions

COUNTY BOARD OF APPEALS OF BALTIMONE COUNTY

STATE OF MARYLAND STATE ROADS COMMISSION

November 9, 1959

Mr. Wilsie H. Adams Zoning Commissioner County Office Buildin Towson 4, Maryland

RE: Zoning Petition #4775-RX M-L Zone to M-H Zone and Special Exception (Route 7) 250' Southeast of Fhiladelphia Road 4550' Northeast of Joppa Road

A S COMPONE EXAMEN COMPROLER COMPROLER JOSEPH O BUSCHER

This office has reviewed the subject petition and has no objection to the change or Special Exception, however, if the Zoning Commissioner should see fit to grant the petition, it is requested that the plans for ereas and ingress be made subject to the approval of the State Roads Commission.

Very truly yours. Edward D. Reilly Development Engineer ohn J. Juen

BY: John L. Duerr Asst. Development Engine

JID/ne

# 4775 PXA

MAP Mr. George E. Cavrelis, Deputy Director of the Office of Planning and Zoning, testified that, in his opinion, the land is well suited to MH-X the use sought; further, that the topography would make development for industrial use very difficult, but not impossible.

Protestants registered objections based on the probability of smells, noise and traffic. Most objectors were from Forge Acres, a residential development about two miles from the site. Adjoining property owners were about equally divided, pro and con-

In the first place the Board finds it impossible to believe that any neighboring property owners will be affected by the granting of this application. The 250 foot residential buffering, the operational setback requested by Section 408 of the Zoning Regulations, the natual screening of the woods to the sides and front, and the severe drop in elevation will more than adequately prevent any impact on these residence owners. Moreover, if the Baltimore County automobile industry is to function, there must be places to burn and dismantle wrecked cars. This, in our opinion, is the most naturally suited site that has been before us. In fact, it is difficult to conceive of a more ideal location for this type operation.

Traffic is not a factor.

## ORDER

For the reasons set forth in the aforegoing Opinion, it is this 16th day of March, 1960, by the County Board of Appeals ORDERED that the reclassification of the above captioned property from an "H-L" Zone to an "H-H" Zone, with a special exception to parmit the storage and dismantling of automobiles, be and the same is hereby granteds subject, however to the provisions of Section 408 of the Zoning Regulations, in its entirety, and subject, further, to the following conditions

MAP #11-6 RE. FARTICH FOR RECLASSIFICATION AND SPECIAL EXCEPTION FOR DISMANTLING AND STORAGE OF VERICLES - 60° 48° 42° CT. S.E. Philadelphie Road 1550° N.E. Joppe Road, 11th Dist., The Cumpowder Park, Inc. Potitioner PETITION FOR (1) ZONING RECLISSIFICATION
(2) SPECIAL EXCEPTION BEFORE DEPUTY ZONING COMMISSIONER To the Zoning Commissioner of Baltimore County: OP RE: PETITION FOR RECLASSIFICATION :
AND SPECIAL ENCEPTION FOR
DISMANTAIN AND STORAGE OF :
TENICLES - 60 R/W 250 ft.
5. E. Philadelphia Road this of the control of the cont The Zoning Commissioner or County Board of Appeals, upon appeal, shall require the location and erection of such alls or fence or require the planting of such shruchery, trees, or wines, as may be reasonable and proper, to afford adequate screening of such junk yard.\* I, or we, The Gunpowder Park, Inc. BALTIMORE COUNTY BYFORE No. 4775-10. DEPUTY ZONTING COMMUNICATIONER .......... BALTINORE COUNTY hereby potition (1) that the soning status of the above described NOTICE OF APPEAL No. 4775-RX property be reclassified, pursuant to the Zoning Law of Baltimore County, from an M-L Zone to an M-14 Zone; and Please enter an appeal in the above-entitled matter to the County (2) for a Special Exception, under said Zoning Law and Zoning Regu-................. lations of Baltimore County, to use the above described property, 101 StagaGE & DISMANT Ling of Vehicles Upon hearing on the above petition (1) for reclassification of property described therein from an "N-L" Zone to an "N-H" Zone, and Property to be posted as prescribed by Zoning Regulation (2) for a special exception to use said property for the storage and I, or we, agree to pay expenses of the above reclassi-. dismantling of vehicles, and it appearing that by reason of location. the mafety, health and the general welfare of the locality involved fication and Special Exception, advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound not detrimentally affected, the reclassification and special exception BEC 1 1 '59 by the Zoning Regulations and Restrictions of Baltimore County, adopted It is this Jan day of December, 1959, by the Deputy pursuant to the Zoning Law for Baltimore County. Zoning Commissioner of Baltimore County, CRDERED that the aforesaid by Carrelle & Presing petition should be granted; the first, for reclassification from an "N-L" Zone to an "M-H" Zone, and, second for a special exception for the storage and dissantling of wehicles, subject, however, to compliance with Section 408 of the Regulations, which provides as follows: "The area of land so to be used shall be not less than 1 acre or more than 5 acres. No automobile or vehicle not in running condition, nor machinery or other jurk or scrap shall be located, either for storage or dismantling within 300 feet of any other come, within 50 feet of the freet street line nor within 30 feet of any other adjoining MICROFILMEL BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING COMMASSON MEMBERS
JOHN B. FUNK.
CAMBRAN OF COMMASSON
AND EMPLOY OF MICHAELS
FALL of BANLEY F. BANLEYF CAMBRAY
LANSINGLY O. CLAPETT
THOMAS I. KAY
JOHN J. MINULLIAN
BILLIAN B. OWNOS MORMAN M. PRITCHETT. CHEF ENGINEER MALTER C. HOPPINS. SEPUT CHEF ENGINEER STATE ROADS COMMISSION COMOT A COLDESEN COMOT A COLDESEN DACCTOR HOMES (CONTRACT) C. BATES C. ALRES DACCTOR HOMES MANITARN) NOTICE OF HEARING BALTIMORE I, MD. BALTIMORE COUNTY, MARYLAND The Cumpowder Park, Inc. Fullerton, Md. TELEPHONE No. 2518 February 3, 1960 OFFICE OF FINANCE COURT HOUSE TOWSON 4. MARYLAND 250' 35 of Philadelphia Hd. & L550' H5 of Joppa Rd.--lith Dist. The Gunpowier Park, Inc.,--Petitioner December 11, 1959 County Board of Appeals County Office Building Towson 4, Maryland 811450 Zoning Department of Baltimore County 113 County Office Bldg., TEE: 1:00 P. N. Data Use RECEIVED of E. Scott Moore, Attorney for the probestants, Monday, November 9, 1959 In connection with Application No. 4775-RX, "Petition for Reclassification and Special Exception for Dis-requested by the Loreley-Mittearsh improvement Association, to supply you with the following traffic volume data. the sum of Fifty (\$50.00) Bellars, being cost of appeal from the PL-CE: \_Boom\_106, County\_Office\_Building, 111 W. Chesapeake\_Syenue\_\_\_\_ Deputy decision of the Zoning Commissioner granting the reclassification ACH UPPER SECTION AND RETURN WITH YOUR REMITTAN and special exception for Dismantling and Storage of Vehicles -The 1959 annual average daily traff's on the Philadelphia Road (Md. Route 7) between Ebeneezer Road and Joppa Road was 4,575 vehicles per day. Thi: includes traffic moving in both directions of travel at the location indicated. 60' R/W 250 ft. . R. Philadelphia Road, 4550' northeast of Joppa Road, 11th District, The Cumpowder Park, Inc., Petitioner. Zoning Commissioner of Baltimore County 6-2060 6000 . . TIL-10.00 10.00 6-2060 6063 - - - 111-We trust this information will be of assistance to you. Zoning Commissioner PAID - Bultimers County, Md. - Office of Pleance RECEIPT Very truly yours, Date: 10/22/59 12-14-59 91 26 . . TIL . 5000 Geo. N. Lewis, Jr.,
Chief - Traffic Bureau

E. W. Bunting,
Highway Engineer 12-14-59 91 26 · · · TIL+ 5000 IMPORTANTI MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND RECEIVED of: Smith & Marrison MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE. LOCATION OF PROPERTY: \_\_\_ SPANOW Delimore County Mid -- Office of Plan FEB - / 160 10-2359 7370 · · · IIL+ 01622 843 00 Zoning Commissioner of Baltimore County

#4745 RX

## CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Maryland

	Towson, Maryand	#4775
the		# 4773
District	Restan for Stozage + St. Mande Sail, Inc. 4: S.E. of Miladelphia	Date of Posting 10-28-57
Posted for: special a	lighten for Storage + de	esmenting Nehicles
Petitioner: The dring	nander Marky Inc	0
Location of property: 250	1. S.E. of Wiladelphia	14. + 4550 fut ME of
Jopper Road.		
Location of Signa; OMM	in 52 what M. E. in Some	Rd on MyES of
Shelvelelshur Ro	in 52 what Miling Japan	of mosenty.
Remarks:		0
Posted by Hauge 16	Throng Date of return:	10-29-59

Henature



CONING DEPARTMENT OF BALTILORE PETITION FOR ZONING RECLASSIFICA-TION AND SPECIAL EXCEPTION-IITH DISTRICT

Pernand to polition find with the Zan-ine Commissioner of Ballimers County for the Commissioner of Ballimers County for the Mil Zane and a Special Exception to the property hereinster described for torsee and dismanding of Vehicles no. in running condition, the Zoning Coun-ty of the Zaning Act and Republishes of Ballimers County, with hold a public hear-ing in Room 168, Councy Office Building, 131 W. Chempeake Avenue, Tuwon, Maryland.

On Monday, November 9, 1958,

to determine whether or not the following to octermine whether or not the following mentioned and described property should be changed or reclassified and whether a Special Exception for Motor Vehicles not in running condition should be granted

All this parcet of hand in the Essensial All this parcet of hand in the Essensial District of Realismore County, beginning for the mans at a point on a no foot right of war/1200 feet Southeast of Philadelphila of war/1200 feet Southeast of Philadelphila of war/1200 feet Southeast of Philadelphila of War/1200 feet Southeast of Philadelphilad

Zoning Commissioner of Baltimore County.

## CERTIFICATE OF PUBLICATION

TOWSON, MD., October 30, 1959
THIS IS TO CERTIFY, That the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper printed
and published in Towson, Baltimore County, Md., ************************************
face 2-times xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
day of Novem er
appearing on the 23rdday ofOctober
10 CO

THE JEFFERSONIAN.

Manager.

Cost of Advertisement, \$\_\_\_\_\_

