

PETITION FOR ZONING RE-CLASSIFICATION
AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY

I, Ragan M. Doub, legal owner of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an R-6 zone to an M-1.5 zone as is more particularly described on plats and descriptions attached hereto.

There was a mistake in the original zoning and/or the character of the neighborhood has changed to such an extent that the reclassification as requested is proper.

See attached description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for no special exception required.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I or we agree to pay expenses of above reclassification and/or 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.

Contract purchaser Ragan M. Doub, Legal Owner
Address 6400 Johnnycake Road
Baltimore, Md. 21207
James D. Nolan, Petitioner's Attorney
Address 504 W. Penna. Ave., Towson, Md. 21204
Phone VA. 3-7800

ORDERED: By The Zoning Commissioner of Baltimore County, this 14th day of November, 1967, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 15th day of December, 1967, at 1:00 o'clock.

Zoning Commissioner of Baltimore County.

IN THE COURT OF APPEALS OF MARYLAND

NO. 365

SEPTEMBER TERM, 1969

ALBIN M. SURKOVICH, et al.

v.

RAGAN M. DOUB, et al.

Hammond, C.J.
Barnes
Finan
Smith
Digges,
JJ.

Opinion by Smith, J.

Filed: May 14, 1970

ZONING FILE #68-136-R

This case might well be entitled "Agneslane Re-visited", since the land sought to be rezoned is immediately adjacent to that involved in Agneslane, Inc. v. Lums, 347 Md. 612, 353 A.2d 757 (1971), is a part of the same tract, one of the principal expert witnesses for the landowner in that case appeared for the landowner here, and that case has a direct bearing on our decision here. We shall reverse the action of the trial court which approved the rezoning.

One of the appellants, Ragan M. Doub (Doub), back in 1945, whether fortuitously or through foresight does not appear and is unimportant to our decision, made an extremely advantageous purchase of 333 acres of farmland at what is now the intersection of the Baltimore Beltway and Route I-70-N. The State Roads Commission by condemnation took 134 acres of that land for the interchanges constructed at that location, described as "one of the largest in the entire country."

The land here in question was zoned R-6 when the Western Area Land Use Map was adopted by the Baltimore County Council on November 15, 1962. The 61.2 acre tract here under consideration may be described as lying in the southeast quadrant of the Beltway and Interstate Route I-70-N. The Baltimore County Board of Appeals described it as "shaped somewhat like the wedge of a pie", saying "the entire west, northwest and north sides of the property [are] bounded by the Baltimore County Beltway, a ramp from the Beltway to I-70, and I-70, both six lane dual highways." The east side of the property is bounded by Woodlawn Drive which extends from Johnnycake Road

northerly under I-70-N through the Industrial Park to the north, and thence to Security Boulevard and the Beltway. Johnnycake Road is the boundary on the south.

Doub bought M.L. zoning for 56.5 acres of the tract and M.L.R. zoning on the 4.7 acres located on the northeast side of Johnnycake Road.

Woodlawn Drive was formerly known as Clarke Boulevard. The land under consideration in Agneslane, Inc., was immediately across Woodlawn Drive or Clarke Boulevard from the subject property and was bounded by Route I-70-N on the north and the Johnnycake Junior High School on the south. That school lies immediately across Woodlawn Drive from the subject property. The corner of this land is the new firehouse which this Court mentioned at p. 617 of Agneslane, Inc., as "not amount[ing] to a change in the neighborhood."

The property here under consideration is currently being used as farmland and is improved by three or four buildings among which is a farmhouse. Doub was a technical party to Agneslane, being the owner of the reversionary interest in the tract which was subject to a ten year ground lease in favor of the corporate lessee, Agneslane, Inc., with the further power in that corporation to convert the whole or part of the tract into a 99 year ground rent status. Doub owns in fee simple the tract here under consideration.

As in Agneslane, the Deputy Zoning Commissioner approved the reclassification. The petition for reclassification in this case was filed on November 14, 1967, just over a month after the decision of this Court on October 12, 1967, in Agneslane. The Baltimore County

Board of Appeals approved reclassification of the 56.5 acre tract from R-6 to M-L and denied the reclassification of the 4.7 acre tract from R-6 to M.L.R., stating on the latter point:

"The Board feels, however, that the portion of the property for which the petitioner requests M.L.R. is that is, the 4.7 acres on the north side of Johnnycake Road opposite the Westview Park development, should be rezoned as R-6 so that houses can be built on the portion of the property to face the existing houses on the south side of Johnnycake Road, which should reduce to a minimum any possible impact on the existing residential development."

The M.L.R. classification apparently was desired to provide some buffer between the major portion of the tract and the R-6 development known as "Westview Park" which is across Johnnycake Road to the southwest. Doub and the protesting property owners each appealed the action of the Board of Appeals to the Circuit Court for Baltimore County. The two appeals were consolidated and considered as one by the circuit court, which affirmed the action of the Board of Appeals. Both sides appeal that decision.

In presenting his case to the Board of Appeals Doub proceeded both on the theory of error in the original zoning and change in the character of the neighborhood sufficient to justify his request for reclassification. It does not clearly appear upon which ground the Board and the court rested their respective opinions.

In Agneslane, Inc., the requested rezoning was from R-6 (now or formerly residential use) to R-A (residential use apartment). That case was heard before the same individuals constituting the Board of Appeals who sat in this case. A divided Board there rejected the claim of error in the map as well as the allegation of change in the

character of the neighborhood. In Agneslane the contentions relative to error in the map centered around the claim that the County Council underestimated the number of people who would be occupying the area embraced within the "Western Planning Area" of the county and, therefore, had provided insufficient R-A zoned acreage to house the unexpected influx. It was claimed that the change in the character of the neighborhood consisted in the actual construction (as opposed to the planning of) Clarke Boulevard or Woodlawn Drive and Route I-70-N, the expansion of the Social Security complex which had purchased 53 additional acres, the rapid growth of the Meadows Industrial Park, and the construction of the new firehouse. Mr. Bernard Willemain was one of the principal witnesses in that case.

The principal witness for Doub in this case was the same Mr. Willemain, "a consultant in the fields of city planning, site planning, and zoning", who frequently appears in cases of this kind. He said the present R-6 classification is erroneous. This time he based his opinion on the fact that it "is one of the few vacant tracts of land left in this part of Baltimore County" and "is ideally suited for more intensive use, in terms of public facilities, such as sewer and water, roads that will carry heavy traffic, good topography, a good relationship to other community facilities, that would serve the tract, affording retail services to the users of the tract, and in this particular case, a very close relationship to the well established and mostly improved Meadows Industrial tract, and the Social Security installation." He said that the property should be "devoted to its highest and best use" and he was of the opinion "that the light industrial classification, as requested by Mr. Doub, represents the highest and best use for the property." He also testified to change in the immediate neighborhood which he thought justified the requested reclassification. As evidence of this change he pointed to the construction of I-70 and Woodlawn

Drive; the widening of the Beltway to six lanes and lighting; the construction of the firehouse; and the expansion of the Social Security complex north of I-70-N in the Meadows Industrial Park. To buttress his opinion both as to error and change, he pointed to three zoning reclassifications to M.L.R. from various residential classifications embracing approximately 200 acres "less than a mile away" which took place between September, 1965, and November, 1966. They were all north of subject property and on the opposite side of the Beltway.

Mr. Doub described the buildings erected to the north on the other side of Route I-70-N and described the various out-conveyances from his tract including the conveyance for the firehouse in a corner of this land and the Johnnycake Junior High school. He saw traffic on the nearby roads, the dust "from the oxidized cement", noise and interchange lights as the principal evidence of change. He made no mention of error in the original zoning.

Mr. Frederick P. Klaus was qualified as an expert in real estate, being a realtor and real estate appraiser. He said the County Council did not provide sufficient industrial zoning in the Western Area 28 map saying:

"I base it on the need, that was not anticipated at the time of the adoption of the land use map. The industrial land that they provided for, and that that already can be developed with utilities, has practically been all developed, with the exception perhaps of a few acres in the Meadows Industrial Park."

"There were other lands south, on the other side of the Beltway, where there are utility problems. There are other lands some further west, that have no access [to any of the rapid roads, the Beltway or I-70] at this time and no utilities."

He regarded the three cases cited by Mr. Willemain as evidence of significant change in the neighborhood as well as proof that "the County Council did not provide enough land for future industrial growth". He said the R-6 zoning was erroneous because of the noise and the lights from the interchange and did not believe an R-6 developer could readily sell his house. He was of the opinion that the property should have been zoned as the property to the north of I-70-N stating as his reason "the fact that the Beltway was in existence at the adoption of the map, and also the fact it was known that I-70-N would be constructed at this location, and it was known at the time that Woodlawn Drive would be extended, and the into the industrial park on the north of I-70-N." He considered land zoned industrial as not having utilities available if it would take as long as six months to get utilities to it.

Mr. Philip E. Klein, a real estate broker, testified that there was error in the original map, giving as his reasons the fact that at the time the map was adopted the route of I-70-N was fixed, the Meadows Industrial Park was there, movement of people into the county, movement of industry into the county, the need for a balanced economy and the fact that the growth of the Social Security complex was underestimated. He did not regard R-6 zoning as the highest and best use for the property nor one calculated "to satisfy the needs of the community and the county, the neighborhood."

Mr. H. B. Stant, Director of the Industrial Development Commission for Baltimore County, was called as a witness by Doub. He

ALBIN M. SURKOVICH et al
Appellants and Protestants
vs
WILLIAM S. BALDWIN
JOHN A. SLOWIK and
W. GILES PARKER
constituting the County Board
of Appeals of Baltimore County and
RAGAN M. DOUB, Petitioner and
Intervenor
** ** *
RAGAN M. DOUB, Appellant and
Petitioner
vs
WILLIAM S. BALDWIN
W. GILES PARKER
JOHN A. SLOWIK
constituting the County Board
of Appeals of Baltimore County, and
ALBIN M. SURKOVICH et al
Protestants and Intervenor

MEMORANDUM OPINION

These two appeals arise from a decision and order of the County Board of Appeals of Baltimore County involving a 61.2 acre tract of land situated at the southeast quadrant of the Baltimore County Beltway and Interstate Route 1-70 in the First Election District of Baltimore County.

The Petitioner, Ragan M. Doub, had requested a rezoning from an R-6 classification to an M.L. (Manufacturing Light) classification on 56.5 acres of the tract; and also requested a rezoning from an R-6 classification to an M.L.R. (Manufacturing Light Restricted) classification on the remaining 4.7 acres of the subject tract that is situated on and abuts the northeast

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by the doctrine of Res Judicata and the provisions of Section 500.12 of the Baltimore County Zoning Regulations. Section 500.12 provides as follows:

"No new petition for reclassification or special exception shall be entertained by the Zoning Commissioner in any case which has been denied either by the Zoning Commissioner or the County Board of Appeals until the expiration of eighteen months from the date of the final order thereon."

This contention is based on the fact that the Agneslane tract is part of an original tract of 333 acres previously owned by Ragan Doub, as is also the subject tract. In Agneslane there was an application for a reclassification from R-6 zoning to R.A. zoning, which was denied by the Board and affirmed by this Court and by the Court of Appeals. *Agnes Lane, Inc. v. Lucas*, 247 Md. 613.

The records in Agneslane, Inc. and this proceeding disclose that the two tracts involved are completely separate and apart with different topography and bordering uses and that there is a lack of identity of parties between the two cases, Protestants as well as Petitioners.

As recited by the Board, the subject property differs from the Agneslane property in that it is directly adjacent to and forms the southeast quadrant of one of the largest highway interchanges in the United States, and two of the remaining three quadrants of the interchange are presently zoned M.L., while the Agneslane tract is bounded on three sides by R-6 property and is separated from the I-70 Beltway interchange by the subject property. The subject property and the Agneslane tract are two separate and distinct tracts separated by Woodlawn Drive.

The view of the two properties on the aerial photograph, filed in these proceedings, clearly shows there is a distinct material difference in the physical location of the two properties, and the Board, in considering the record of this case and the record produced in Agneslane, in its discretion, knowledge and expertise, could well reclassify the subject property and refuse

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side of Johnnycake Road. The apparent purpose of the M.L.R. request is to provide some buffer between the major portion of the tract and the existing R-6 development known as Westview Park, which is across (southwest) Johnnycake Road.

From the granting by the Board of the reclassification of the 56.5 acre tract from an R-6 zoning to an M.L. zoning, the Protestants appeal; and from the denial by the Board of a reclassification of the 4.7 acre tract from an R-6 zoning to an M.L.R. zoning, the Petitioner appeals.

When the two appeals reached this Court, the Petitioner and the Protestants filed a joint motion for consolidation of same, which was granted by the Court.

As recited in the Opinion of the Board:

"The subject property is shaped somewhat like the wedge of a pie, and the entire west, northwest, and north sides of the property is bounded by the Baltimore County Beltway, a ramp from the Beltway to I-70, and I-70, both six lane dual highways. North of I-70 the zoning is M.L., and the property is intensely developed with the Meadows Industrial Park, the Social Security Complex, and numerous office buildings either owned or leased by the United States Government in conjunction with the Social Security operation. The east side of the property is bounded by the recently constructed Woodlawn Drive, which extends from Johnnycake Road northerly under I-70 through the Industrial Park to the north, and thence to Security Boulevard and the Beltway. The land across Clarke Boulevard along the northern one-half of the property, is zoned R-6 and is vacant. This tract was the subject of a petition to reclassify it from an R-6 zone to an R-A zone, and is known as the Agneslane tract, zoning file #65-332-R (*Agneslane, Inc. v. Marshall L. Lucas et al*, 247 Md. 613-620). The southern portion of the land, across Clarke Boulevard, is owned by the Board of Education of Baltimore County, and is the site of the Johnnycake Junior High School. The northwest corner of Johnnycake Road and Clarke Boulevard (at the southeast corner of the subject tract) is owned by Baltimore County, and is the site of the Woodlawn Fire Station. The land south of the subject tract, across Johnnycake Road, is zoned R-6, and is developed with a fine residential community known as Westview Park. The southwest quadrant of the Beltway and I-70 is zoned R-6, and is also a part of

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the development of Westview Park. The northwest quadrant of the Beltway and I-70 is zoned M.L., and is presently undeveloped. An excellent visual presentation of this may be seen on the aerial photograph that was introduced by the petitioner as Exhibit #3.

The petitioner alleges both error in the original zoning and a change in the character of the neighborhood sufficient to justify his request for reclassification. The Protestants contend that there is neither error in the R-6 zoning, nor have there been sufficient changes in the neighborhood to justify the reclassification."

The Board, in a well written and thorough Opinion, fully discussed and evaluated the testimony produced at the hearing, the record of which consists of well over 600 pages. The Court therefore sees no constructive reason to further discuss the testimony, adopting that of the Board.

The law is well established that the zoning classification adopted by the legislative authority, is presumed to be correct, and the burden rests upon the owners of the property to show that such classification was erroneous. The burden also rests on the Applicant to show a substantial change in the neighborhood of the subject property since the adoption of the Comprehensive Zoning Map. *Pahl v. County Board of Appeals*, 237 Md. 294 and cases cited.

However, it is also well established that the scope of appellate review in an appeal from the Board of Appeals is limited in nature and that the party who attacks the decision of the Board must meet the heavy burden that the action of the Board was arbitrary, capricious or illegal. The Court does not reach its opinion from the weight of the evidence that was produced before the Board. It has been stated many times by the Court of Appeals that this Court may not substitute its discretion and judgment for that of the Board, the legislative body, if the question decided was fairly debatable. It is not the function or right of the Court to zone or rezone. Although the Board, from the testimony produced before it, may have reached an opposite finding to no

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basis to disturb the Board's decision and have the Court substitute its judgment for that of the Board. If there is room for reasonable debate as to whether the facts justify the action of the Board, such action must be upheld. It is only where there is no room for reasonable debate or where the record is barren of supporting facts that the Courts can declare the legislative action of the Board to be arbitrary, capricious or discriminatory. If there are substantial facts to justify the action of the Board, the Court must affirm that action. See the recent case of *Haldeman v. Board of County Commissioners of Howard County*, 253 Md. 298, and cases cited.

Having read the complete record of the proceedings before the Board as to both cases on appeal, and having considered argument of counsel, this Court is of the opinion that there was sufficient, substantial evidence produced at the hearing to support the finding of the Board as to each case and to cause the issues before it to be a matter of reasonable debate. It must follow that the action of the Board was not arbitrary or capricious.

It should be added that as to the 4.7 acre tract which the Board refused to reclassify from R-6 to M.L.R. zoning, this area fronts on and abuts the northeast side of Johnnycake Road. Directly across Johnnycake Road, on the southwest side thereof, are seven or eight houses in the R-6 development known as Westview Park. (See aerial map filed in this proceeding) It was the opinion of the Board that this R-6 zoned 4.7 acres should be retained as R-6 zoning so that houses can be built on this portion of the property to face the existing houses on the southwest side of Johnnycake Road, which should reduce to a minimum any substantial impact on the existing residential development. This seems to the Court to be a reasonably debatable question.

The Protestants lastly raise the question that the Petitioner is bound

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reclassification of the Agneslane tract.

For these reasons, the Order of the County Board of Appeals of Baltimore County granting the reclassification of the 56.5 acre tract from an R-6 zone to an M.L. zone and denying the reclassification of the 4.7 acre tract from an R-6 zone to an M.L.R. zone, be and the same is hereby affirmed this 7th day of November, 1969.

Judge

67176
1/3c
7/19/68

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY
W/S of Woodlawn Drive 533 N. of :
Johnnycake Road - First District : BOARD OF APPEALS
Ragan M. Doub, Petitioner :
No. 68-136-R : FOR BALTIMORE COUNTY

ANSWERS TO MOTION TO DISMISS

Ragan M. Doub, Petitioner, by James D. Nolan and Newton A. Williams, his attorneys, for answer to Protestants' motion to dismiss respectfully represents as follows:

1. That he admits the allegations of Paragraph One, Two, Three, Four, Five and Six.
2. That notwithstanding the subject tract was in no way involved in the so-called "Agneslane Case", No. 65-332-R, the only point of contact being the fact that the respective parcels were acquired by your petitioner by means of one conveyance from Monumental Life Insurance Company dated October 1, 1943, in all other respects there are no similarities between these cases, since the tracts are distinct and separate, the petitioners are distinct and separate, and the requested reclassification are completely different, in the instant case there is a request for reclassification from "R-6" to "ML" and "MLR", while in Agneslane the request was for "R-A" from "R-6".

WHEREFORE, having fully answered the motion to dismiss, your Petitioner having demonstrated that in no way is Section 500.12 of the Baltimore County Zoning Regulations violated, prays that the motion to dismiss be denied and the matter heard on its merits by this Honorable Board as scheduled.

James D. Nolan

Newton A. Williams
204 W. Pennsylvania Ave.
Towson, Maryland 21204
Attorneys for Petitioner

I HEREBY CERTIFY that a copy of the foregoing Answers to Motion to Dismiss was mailed this 24th day of July, 1968 to C. Victor McFarland, Esquire, 922 Frederick Road, Baltimore, Maryland 21228.

Newton A. Williams
Attorney for Petitioner

RE: PETITION FOR RECLASSIFICATION :
from an R-6 zone to M.L.R. and
M.L. zone : COUNTY BOARD OF APPEALS
W/S Woodlawn Drive 355' N. : OF
of Johnnycake Road, : BALTIMORE COUNTY
1st District :
Ragan M. Doub, :
Petitioner : No. 68-136-R

OPINION

This case involves an application for rezoning from an R-6 classification to an M.L. (Manufacturing Light) and an M.L.R. (Manufacturing Light Restricted) classification on a 61.2 acre tract of land situated at the southeast quadrant of the Baltimore County Beltway and Interstate Route I-70, in the First Election District of Baltimore County.

The petitioner requests M.L. zoning on 56.5 acres of the tract, and M.L.R. zoning on the 4.7 acres of the subject tract that is situated on the northeast side of Johnnycake Road. The apparent purpose of the M.L.R. request is to provide some "buffer" between the major portion of the tract, and the existing R-6 development known as Westview Park, which is across (southwest) Johnnycake Road.

This subject property is shaped somewhat like the wedge of a pie, and the entire west, northwest, and north sides of the property is bounded by the Baltimore County Beltway, a ramp from the Beltway to I-70, and I-70, both six lane dual highways. North of I-70 the zoning is M.L., and the property is intensely developed with the Meadows Industrial Park, the Social Security complex, and numerous office buildings either owned or leased by the United States Government in conjunction with the Social Security operation. The east side of the property is bounded by the recently constructed Woodlawn Drive, which extends from Johnnycake Road northerly under I-70 through the Industrial Park to the north, and thence to Security Boulevard and the Beltway. The land across Clarke Boulevard, along the northern one-half of the property, is zoned R-6 and is vacant. This tract was the subject of a petition to reclassify it from an R-6 zone to an R-A zone, and is known as the Agneslone tract, zoning file #65-332-R (Agneslone, Inc. v. Marshall L. Lucas, et al., 247 Md. 613-620).

The southern portion of the land, across Clarke Boulevard, is owned by the Board of Education of Baltimore County, and is the site of the Johnnycake Junior High School. The northwest corner of Johnnycake Road and Clarke Boulevard (at the southeast corner of the subject tract) is owned by Baltimore County, and is the site of the Woodlawn Fire Station.

The land south of the subject tract, across Johnnycake Road, is zoned R-6, and is developed with a fine residential community known as Westview Park. The southwest quadrant of the Beltway and I-70 is zoned R-6, and is also a part of the development of Westview Park. The northwest quadrant of the Beltway and I-70 is zoned M.L., and is presently undeveloped. An excellent visual presentation of this

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may be seen on the aerial photograph that was introduced by the petitioner as Exhibit #3. The petitioner alleges both error in the original zoning and a change in the character of the neighborhood sufficient to justify his request for reclassification. The protestors contend that there is neither error in the R-6 zoning, nor have there been sufficient changes in the neighborhood to justify the reclassification. Both sides produced well qualified expert witnesses in support of their contentions.

There is no question that there have been substantial changes in the immediate neighborhood since the adoption of the comprehensive map by the County Council in 1962. The question for the Board to decide is whether or not these changes are substantial enough and have a direct effect upon the subject property to justify the requested reclassification. The property is uniquely situated in that it is adjacent to what was testified as one of the most complex and largest highway interchanges existing in the United States.

Mr. H. B. Stubb, Director of the Industrial Development Commission for Baltimore County, was summoned by the petitioner, and testified that in his opinion this property is highly suited for industrial use. He stated that the property's proximity to Baltimore City, its easy access to the Beltway system, and the availability of all utilities, the property is ripe for industrial development, and that the reclassification of this property would have a beneficial effect in that the taxable basis of Baltimore County would be substantially increased. On cross-examination he agreed that there is other industrially zoned land in the immediate area, but did not feel that the other tracts are readily available for industrial use because of the uncertainty of utilities being made available to them. The petitioner's property, since its original purchase, has been the subject of numerous takings by public agencies for public purposes. Ragan M. Doub, the petitioner-property owner, testified that he originally acquired 333 acres as a farm in 1943. Thirty-four acres of the original tract, north of I-70, is under development as an office building complex leased to the United States Government's General Services Administration. The State Road Commission took 134 acres of the original tract for the Baltimore County Beltway-I-70 interchange. The Baltimore County Board of Education purchased 36 acres of the tract for the Johnnycake Junior High School site. Three additional acres of the original farm were acquired by Baltimore County for the Fire Station at the corner of Woodlawn Drive and Johnnycake Road. He further stated that in his opinion as the land owner, the property that is the subject of this petition is totally unsuited for residential development.

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agreed generally with the need for zoned industrial land for expansion of industry in the Baltimore Metropolitan Area, but felt that there is now sufficient industrial land available in Baltimore, Howard, and Anne Arundel Counties, and Baltimore City. However, the Board finds, from all the testimony in the case and with all due respect to Mr. Heinmuller's opinion, that a good deal of the industrially zoned land of which Mr. Heinmuller spoke is too remote to fill what is an apparent pressing need for additional land for industry in Baltimore County, and further, if the County is to maintain a favorable tax position it is important that the County's inventory of available industrial land be kept current.

Fred W. Tuemmler, a well qualified land planner testifying on behalf of the protestors, stated that in his opinion the Planning Board's recommendation was for M.R. (Manufacturing Restricted) rather than for M.L. or M.L.R. He stated that he had some preliminary conferences with the property owner in 1964 with regard to making a land use study of the property, and at that time he had some doubts as to the correctness of R-6 on a portion of the property, but after review felt that the property could be developed as Manufacturing Restricted next to the Beltway ramp and I-70 interchange, and the balance could be developed as R-6. He relied heavily on the fact that in his opinion the Planning Board's recommendation for possible future industrial use was for Manufacturing Restricted, rather than M.L. or M.L.R. However, the difficulty is that under the Baltimore County Zoning Regulations, Manufacturing Restricted can only be placed on a property by petition, and cannot be placed on the comprehensive map by the County Council. He stated that in his opinion the criteria for a prime industrial site are:

1. A large regular shaped site with level topography; grades not extending 5% with good subsoil conditions
2. Access to a major highway system
3. Availability of public utilities sufficient to serve an industrial site, and
4. Proximity to a major source of supply of labor.

This property certainly in all respects meets this criteria for "a prime industrial site".

The individual protestors who live in the nearby neighborhood objected primarily to:

1. Increased traffic, and
2. A zoning change in the neighborhood which could lead in their opinion to future zoning changes.

There is no question that any development of the subject tract for either residential, commercial, or industrial is going to put additional traffic on the roads in the neighborhood. However, the Board feels that any additional traffic generated by this reclassification would

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use the major highways, such as Clarke Boulevard, Security Boulevard, the Beltway, and I-70, and would not substantially increase the traffic on the residential streets in the area. It seems to the Board that the most logical places for industrial development are in close proximity to major highway interchanges, so that the traffic will have direct access to the Beltway system, and will not have to travel through residential developments. A number of the protestors stated that they feared that the reclassification of this property would revive the Agneslone and Reiblich cases, and be used as a basis for a reclassification request for these properties. While the Board understands the feelings of the protestors in this regard, we have previously made a decision denying the requested reclassification to apartments of those tracts of land, and for reasons stated below do not feel that the reclassification of this property should be a sufficient basis to justify the reclassification of the properties southeast of Clarke Boulevard.

The subject property differs from the Agneslone property in that it is directly adjacent to and forms the southeast quadrant of one of the largest highway interchanges in the United States, and two of the remaining three quadrants of the interchange are presently zoned M.L., while the Agneslone tract is bounded on three sides by R-6 property and is separated from the I-70-Beltway interchange by the subject property, thereby completely removing it from the impact of the interchange.

This case is an extremely difficult one for the Board to decide, both the petitioner and the protestors having produced expert testimony to support their respective positions. However, after reviewing all the testimony and exhibits, we feel that the weight of the evidence is balanced heavily in favor of the petitioner. The Board feels, however, that the portion of the property for which the petitioner requested M.L.R.; that is, the 4.7 acres on the north side of Johnnycake Road opposite the Westview Park development, should be retained as R-6 so that houses can be built on the portion of the property to face the existing houses on the south side of Johnnycake Road, which should reduce to a minimum any possible impact on the existing residential development.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 7th day of May, 1969 by the County Board of Appeals, ORDERED that the reclassification from an R-6 zone to an M.L. zone petitioned for, be and the same is hereby GRANTED, and further, that the reclassification from an R-6 zone to an M.L.R. zone petitioned for, be and the same is hereby DENIED, and this parcel of land is to remain in the R-6 classification.

Ragan M. Doub - #68-136-R

David W. Dallas, a registered Civil Engineer testifying on behalf of the petitioner, stated that all utilities are available at the property and have sufficient capacity to serve the proposed sixty acre tract. This testimony was not contradicted by the protestors, and is not in dispute.

Bernard Willemain, an expert in the field of land and city planning, stated that in his opinion the present R-6 zoning is erroneous because the subject property is one of the very few large vacant tracts ideally suited for more intensive land uses, and that the highest and best use for the land is M.L. He cited Page 4 of the Minutes of the Baltimore County Planning Board, dated November 17, 1960, when the subject property was under consideration in connection with the Planning Board's recommendations for the Western Area map that was adopted by the County Council in 1962, particularly paragraph 1. " * * * Here the Board recognized the special characteristics of the portion of land south of 70N and east of the Beltway and closer to these routes as having some potential for future restricted manufacturing use. * * * ". He further testified that in his opinion there have been more than sufficient changes in the immediate neighborhood since the adoption of the map in 1962 to justify the requested reclassification, citing mainly four areas of change:

1. The construction of I-70 and Woodlawn Drive. The widening of the Beltway to six lanes, and lighting
2. The expansion of the Social Security complex north of I-70 in the Meadows Industrial Park. He stated that in 1962 there were 4,300 persons employed in the complex, and the Government's projection was for a total of 6,000 employees by 1970; and that in 1962 the Government owned or controlled 80 acres of land, while they presently own or control 250 acres of land, and will have 16,000 persons employed by the Fall of 1969, and the Government's projection is for a total employment of 30,000 employees by the year 1985.
3. He cited three zoning reclassifications in the immediate area: Case #63-73, the Meekins property, which is a 115 acre tract reclassified from R-6 and R-10 to M.L.R.; northwest of the subject property and less than a mile away, which was reclassified in September of 1965. Case #65-174, the property of Baltimore Airport, Inc., a reclassification to M.L.R. of an 81 acre tract contiguous to the Meekins tract in February of 1966; and

Ragan M. Doub - #68-136-R

use the major highways, such as Clarke Boulevard, Security Boulevard, the Beltway, and I-70, and would not substantially increase the traffic on the residential streets in the area. It seems to the Board that the most logical places for industrial development are in close proximity to major highway interchanges, so that the traffic will have direct access to the Beltway system, and will not have to travel through residential developments. A number of the protestors stated that they feared that the reclassification of this property would revive the Agneslone and Reiblich cases, and be used as a basis for a reclassification request for these properties. While the Board understands the feelings of the protestors in this regard, we have previously made a decision denying the requested reclassification to apartments of those tracts of land, and for reasons stated below do not feel that the reclassification of this property should be a sufficient basis to justify the reclassification of the properties southeast of Clarke Boulevard.

The subject property differs from the Agneslone property in that it is directly adjacent to and forms the southwest quadrant of one of the largest highway interchanges in the United States, and two of the remaining three quadrants of the interchange are presently zoned M.L., while the Agneslone tract is bounded on three sides by R-6 property and is separated from the I-70-Beltway interchange by the subject property, thereby completely removing it from the impact of the interchange.

This case is an extremely difficult one for the Board to decide, both the petitioner and the protestors having produced expert testimony to support their respective positions. However, after reviewing all the testimony and exhibits, we feel that the weight of the evidence is balanced heavily in favor of the petitioner. The Board feels, however, that the portion of the property for which the petitioner requested M.L.R.; that is, the 4.7 acres on the north side of Johnnycake Road opposite the Westview Park development, should be retained as R-6 so that houses can be built on the portion of the property to face the existing houses on the south side of Johnnycake Road, which should reduce to a minimum any possible impact on the existing residential development.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 7th day of May, 1969 by the County Board of Appeals, ORDERED that the reclassification from an R-6 zone to an M.L. zone petitioned for, be and the same is hereby GRANTED, and further, that the reclassification from an R-6 zone to an M.L.R. zone petitioned for, be and the same is hereby DENIED, and this parcel of land is to remain in the R-6 classification.

THIS PAGE CORRECTED PER ATTACHED LETTER. NEW PAGE INSERTED IN OPINION.

Ragan M. Doub - #68-136-R

Case #67-107, a reclassification of a small tract of land to M.L.R. at the northeast corner of Dogwood Road and the Beltway in November of 1966.
4. The rapid, indeed explosive, expansion of the industrial areas in the immediate neighborhood.

Mr. Willemain's contention was supported by two other expert witnesses appearing for the petitioner, Frederick Klaus and Philip Klein, both real estate experts. In addition, Mr. Klein stated that he felt that the R-6 zoning placed on the property by the County in 1962 was erroneous in that the County failed to consider the impact of the Beltway, the alignment of the then proposed I-70 and its interchange with the Beltway on the property, the existence of the Meadows Industrial Park and the Social Security complex, and the County's failure to properly anticipate the rapid expansion of these facilities. The County also failed to anticipate the migration of city dwellers into the suburbs, and that generally the planning authorities, while recognizing the possible future need for industrial zoning here, did not properly anticipate the tremendous growth in the immediate area that should have been anticipated. He further testified that manufacturing zoning here would have no adverse effect on the residential development to the south, and cited various sales of houses in the area to substantiate his opinion. The witness also noted that there are eleven houses on the south side of Johnnycake Road west of Woodlawn Drive, but that only eight of these eleven houses actually confront the subject property, the other three houses are across from the Fire House and Training Station. He agreed that the property could be physically developed in an R-6 classification, but felt that such use would not be the highest and best use, and would not be of the most economic benefit to Baltimore County; that there is a great need and demand for industrial land for industries that desire to move out of the older loft type buildings in Baltimore City, which in his opinion are no longer "functional" as the modern industrial buildings.

The protestors' expert witnesses testified that in the opinion the original R-6 zoning placed on the property by the County Council in 1962 was correct, and that there have not been sufficient changes in the neighborhood to justify the reclassification. Carl Heinmuller, Jr., a realtor appearing on behalf of the protestors, agreed that there had been a number of physical changes in the neighborhood, but he did not feel that these are changes that affect the property as in his opinion most of them are construction of projects permitted within the classifications placed on the property by the County Council. He felt that the County planning authorities were certainly aware of the possible and probable expansion of the Social Security complex. However, he did not dispute the testimony of the petitioner's witnesses that the expansion of the Social Security complex has been far beyond what was contemplated by the Government in 1962. Mr. Heinmuller

Ragan M. Doub - #68-136-R

Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William S. Baldwin, Chairman

W. Cliles Parker

John A. Stank

87178
1/5c
8/2/69

RAGAN M. DOUB,
Appellant

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

At Law

WILLIAM S. BALDWIN,
W. GILES PARKER and
JOHN A. SLOWIK, constituting
the County Board of Appeals of
Baltimore County.

Appellees

ORDER FOR APPEAL

Mr. Clerk:

Please enter an appeal to the Circuit Court for Baltimore County on behalf of the Appellant, Ragan M. Doub, from the Opinion and Order of the County Board of Appeals of Baltimore County, dated May 7, 1969, in Case No. 68-136-R, entitled, Petition for Reclassification from an R-6 zone to M.L.R. and M.L. Zones, West Side of Woodlawn Drive, 355' North of Johnnycake Road, 1st District, Ragan M. Doub, Petitioner.

James D. Nolan

Nolan, Plunhoff & Williams
204 West Pennsylvania Avenue
823-7800
Towson, Maryland 21204

I hereby certify that on this 3rd day of June, 1969, a copy of the foregoing Order for Appeal was mailed to C. Victor McFarland, Esquire and Treuth and McFarland, 922 Frederick Avenue, Catonsville, Maryland, 21228, attorneys for protestants.

James D. Nolan

87178
1/5c
8/2/69

RAGAN M. DOUB,
Appellant

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

At Law

WILLIAM S. BALDWIN,
W. GILES PARKER and
JOHN A. SLOWIK, constituting
the County Board of Appeals of
Baltimore County.

Appellees

PETITION FOR APPEAL

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Petition of Ragan M. Doub, Appellant, by James D. Nolan and Nolan, Plunhoff & Williams, his attorneys, filed pursuant to the provisions of Rules B2 and B4 of the Maryland Rules of Procedure (1963 Re-Placement Volume) respectfully represents unto your Honor:

1. That this Appeal is from the decision of the County Board of Appeals of Baltimore County, dated May 7, 1969, on Petition and Case No. 68-136-R, to the extent only that the County Board of Appeals failed to reclassify that part of the Petitioner's property presently zoned R-6, which was requested to be reclassified to an M.L.R. zone, and which the Petitioner contends properly should have been reclassified for the reasons set out hereinafter.

2. That the Order of the County Board of Appeals for Baltimore County, hereinafter called the "Board," in denying the requested reclassification to M.L.R. was arbitrary, capricious and illegal for the following reasons:

(a) That this entire tract in the southeast quadrant of the Beltway and Interstate 70N which intersect at the northwest corner of

the property at a three level overpass, one of the largest in the country, is overshadowed by these high speed and interchange roads and cannot be developed for residential use of any sort.

(b) That the requested classification M.L.R. would have, and will if granted, adequately protect the small part of Westview Park across Johnnycake Road, and there is no need for an R-6 strip to the north of the said road.

(c) That this entire tract should have been placed in a light industrial classification with the denied M.L.R. zone being the transitional strip or zone.

(d) And for such other reasons as shall be shown at the hearing hereon.

WHEREFORE, your Petitioner prays that this Honorable Court pass an Order reversing that part of the Order of the County Board of Appeals of Baltimore County, dated May 7, 1969, which denied the requested reclassification to M.L.R.

AND, as in duty bound, etc.

James D. Nolan

Nolan, Plunhoff & Williams
204 West Pennsylvania Avenue
823-7800
Towson, Maryland 21204

I hereby certify that on this 3rd day of June, 1969, a copy of the foregoing Petition for Appeal was mailed to C. Victor McFarland, Esquire and Treuth and McFarland, 922 Frederick Avenue, Catonsville, Maryland 21228.

James D. Nolan

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87178
1/5c
8/2/69

RAGAN M. DOUB,
Appellant

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

At Law

WILLIAM S. BALDWIN,
W. GILES PARKER and
JOHN A. SLOWIK, constituting
the County Board of Appeals of
Baltimore County.

Appellees

CERTIFICATE OF COMPLIANCE
WITH RULE B2c.

Now comes Ragan M. Doub, Appellant, by James D. Nolan and Nolan, Plunhoff & Williams, his attorneys, and hereby certifies that the requirements of Rule B2c, of the Maryland Rules of Procedure (1963 Re-Placement Volume) have been complied with, in that the attached Order for Appeal and Petition were personally delivered by his attorneys to the County Board of Appeals for Baltimore County on the _____ day of June, 1969, prior to the filing of the same in this Honorable Court in these proceedings.

James D. Nolan

Nolan, Plunhoff & Williams
204 West Pennsylvania Ave.
823-7800
Towson, Maryland 21204

I hereby certify that on this 3rd day of June, 1969, a copy of the foregoing Certificate of Compliance with Rule B2c, was mailed to C. Victor McFarland, Esquire and Treuth and McFarland, 922 Frederick Avenue, Catonsville, Maryland 21228.

James D. Nolan

ALBIN M. SURKOVICH, et al.,

IN THE

CIRCUIT COURT

Appellants/Cross-Appellees

FOR

BALTIMORE COUNTY

AT LAW

WILLIAM S. BALDWIN, et al.,
Constituting the County Board
of Appeals of Baltimore County

Appellees

Misc. Case No. 4234
and 4236

RAGAN M. DOUB,

Cross-Appellant/Appellee

Misc. Pocket B, folios
444 and 445
County Board of Appeals
No. 68-136R

ORDER OF APPEAL

Mr. Clerk:

Please enter an appeal in the above entitled case from the decision of his Honor, Lester L. Barrett, Chief Judge of the Circuit Court for Baltimore County, dated November 7th, 1969, to the Court of Appeals of Maryland.

C. Victor McFarland

Treuth & McFarland
922 Frederick Rd.
Baltimore, Md. 21228
744 0931

Attorneys for Appellants/
Cross-Appellees

I hereby certify that on this 10th day of June, 1969, a copy of the foregoing Order of Appeal was mailed to James D. Nolan, Esquire and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, Md. 21204.

C. Victor McFarland

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY
W/S of Woodlawn Drive 355' N of : BOARD OF APPEALS
Johnnycake Road - 1st District :
Ragan M. Doub, Petitioner :
No. 68-136-R : FOR BALTIMORE COUNTY

MOTION TO DISMISS

Now Comes the Protestants, Richard Henry, et al. by their attorney, C. Victor McFarland, Treuth and McFarland, and moves that the subject case be dismissed and for reason therefor respectfully represents:

1 - That the Petition for Zoning Re-Classification and/or Special Exception form was filed on November 14, 1967 in the Office of the Zoning Commissioner for Baltimore County and known as Case No. 68-136R.

2 - That the parcel of ground in part of a tract of land owned by the applicant as shown on the Being Clause in the zoning description attached to the aforementioned petition.

3 - That in March, 1965 the balance of the applicant's tract was the subject of a case filed before the Zoning Commissioner for a Re-Classification of 54 acres from R6 to RA, the petitioner being known as "Agnesi, Inc."

4 - That the case known as Agnesi, Inc. vs. Marshall L. Lucas, et al. was the subject of an opinion by the Court of Appeals filed October 12, 1967 known as Agnesi, Inc. vs. Marshall L. Lucas, et al., 247 Md. 612, 233 A. 2d 757, wherein the Court of Appeals sustained the Board of Appeals denial of Re-Classification from R6 to RA.

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5 - That the Baltimore County Zoning Regulations, 1963 Edition, and Amendments, Section 500.12, prohibits a new petition for re-classification being filed within eighteen months from the date of the final order thereon.

6 - That the final order of the Court of Appeals was filed October 12, 1967; the subject petition was filed November 14, 1967 involving a part of the same tract of land belonging to the same owner who was involved in both cases.

WHEREFORE, your Movant requests that the Appeal in the subject case be dismissed.

C. VICTOR MCFARLAND
TREUTH AND MCFARLAND
922 Frederick Rd.
Baltimore, Md. 21228
744 0931

ATTORNEY FOR PETITIONERS

I HEREBY CERTIFY that a copy of the foregoing Motion to Dismiss was mailed this 10th day of July, 1969 to James D. Nolan, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland, 21204.

C. VICTOR MCFARLAND

FILED 744 0931
JUL 10 1969

Thomas D. Neveling
ATTORNEY AT LAW
408 EMDENSON AVENUE
SUITE 207
BALTIMORE MD 21208
March 4, 1968



The Honorable John R. Rose
Zoning Commissioner of Baltimore County
County Office Building
Towson, Maryland 21204

RE: Petition for Reclassification
W/S of Woodlawn Drive 355' N of
Johnnycake Road - 1st
District - Ragan M. Doub, Pet.
No. 68-136-R.

Dear Mr. Rose:

Please enter an appeal to the Baltimore County Board of Appeals from the decision of the Deputy Zoning Commissioner of February 6, 1968 granting the petition for reclassification in the above entitled case. This appeal is taken pursuant to Sec. 21-26, Title 21 of the Baltimore County Code.

The following is a list of names and addresses of those appealing:

Rev. T. Ernest Winder
6313 Johnnycake Rd., 21228

May A. Harrell
6315 Johnnycake Rd., 21228

Peter Haverhill
6313 Johnnycake Rd., 21228

Joseph V. Turner
6315 Johnnycake Rd., 21228

Henry Selter, Jr.
6315 Johnnycake Rd., 21228

John S. Chudrik
6311 Johnnycake Rd., 21228

Frances J. Moore
6313 Johnnycake Rd., 21228

Thomas F. Neveling
6315 Johnnycake Rd., 21228

Grace W. Turner
6317 Johnnycake Rd., 21228

Albin W. Surkovich
6315 Johnnycake Rd., 21228

J. William Tyler
1025 Rocky Hill, 21228

Rowland F. Stebbins
1025 Rocky Hill, 21228

Wayley L. Lantz
1012 Rose Lane, 21228

Margery Nebehan
1025 Rose Lane, 21228

Kenneth F. Nebehan
1025 Rose Lane, 21228

James R. Nebehan, Jr.
6317 Johnnycake Rd., 21228

FILE MEMORANDUM
SUMMARY OF CASE

I. HISTORY OF THE CASE

In this case, (No. 88-136-R) the Petitioner Ragan M. Doub, by his Petition for Reclassification filed November 14, 1987, seeks to reclassify 56,502 acres from R-6 to ML and 4,701 acres from R-6 to MLR. At the hearing held before the Deputy Zoning Commissioner on December 15, 1987, the Petitioner's case consisted of the testimony of Mr. Doub, himself, Mr. David W. Dallas, an expert, registered engineer, and Mr. Bernard J. Medary, a recognized Baltimore County expert in the fields of real estate and appraisal work. The protestants, primarily residents of the Westview Park area were ably represented by Thomas P. Neuberger, Esquire, of Catonsville since deceased.

Notwithstanding the opposition of the protestants, the Deputy Commissioner was persuaded by the testimony presented that the Petitioner had borne his burden of proof, and by his Order dated February 8, 1988, granted the requested classification subject to the approval of the site plan by the State Roads Commission, the Bureau of Public Services and the Office of Planning and Zoning.

Subsequently on March 4, 1988, an appeal was taken to the Board of Appeals by Mr. Neuberger on behalf of a number of persons, again mostly residents of the development of Westview Park. However, prior to the first day of hearing before the Board, Mr. Neuberger died very suddenly, and the law firm of Treuth and McFarland, by C. Victor McFarland, Esquire, entered its appearance on behalf of the same protestants.

The case was accordingly set down for a hearing on the merits, and five full days of hearings were held on August 8th, 14th and 15th, September 26, 1988 and October 16, 1988. The Petitioner's case consisted of the

following witnesses:

- (a.) Mr. H. B. Staab - Director of the Industrial Development Commission for Baltimore County;
- (b.) Mr. Ragan M. Doub - the property owner;
- (c.) Mr. David W. Dallas, Jr., an expert registered engineer;
- (d.) Stuart R. Wilcox, Esquire, of Baltimore;
- (e.) Mr. Bernard Willemain, a graduate land planner and a recognized expert in zoning matters;
- (f.) Mr. Hugo O. Liem, a graduate traffic engineer, then Baltimore City Assistant Commissioner, Bureau of Expressways, since recently appointed Traffic Commissioner of Baltimore City;
- (g.) Mr. Frederick P. Klaus, a recognized expert in the field of real estate and appraisal matters; and
- (h.) Mr. Phillip E. Klein, similarly an expert in the fields of real property, development of land and appraisal work.

On behalf of the protestants, a number of private citizens appeared, primarily again residents of the Westview Park area, as well as two expert opinion witnesses, Mr. Frederick W. Tuemmler, an expert in the field of planning and zoning with offices in Metropolitan Washington, and Mr. Carl Heinmuller, Jr., a realtor and appraiser of Baltimore City.

II. SUMMARY OF THE CASE

Considering the property first from a geographical viewpoint, the

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mammoth interchange and the new Interstate 70N, all slated to carry very large and ever increasing traffic volumes in the years immediately ahead.

Turning now to the various witnesses on behalf of the Petitioner, their testimony presents a solid foundation for the requested reclassification.

Mr. Staab, a public official of Baltimore County responsible in particular for the maintenance of a healthy industrial climate in Baltimore County, at page 20 of Volume #1, cites the following factors as rendering the subject property of special suitability for light industrial development:

- (a.) Access to the Beltway and to Interstate 70N;
- (b.) Proximity to Baltimore City, in which many industries have been displaced by the lower leg of the Jones Falls Expressway and the East-West Expressway (Volume #1, page 21); and
- (c.) Most importantly the fact that the subject property lies in the Baltimore-Washington corridor.

Furthermore, at page 23 of Volume #1, Mr. Staab states that "the western county industrial area of some 500 acres open for development, in which he places it, this is the only tract that is serviced by the very necessary utilities of on-site sewer and water. This lack of utilities, as well as lack of access, all militate against those areas zoned for industrial use west of the Beltway, namely the Krieger property and the Platorio properties. (See Volume #1, page 24). These other properties, at the very least, would require sewerage, possibly through sleeves under the Beltway or Interstate 70 and the status of these sleeves is not at all clear from the testimony, as well as requiring off-site easements. Assuming even that the properties could be sewerage at a reasonable cost, which is by no means certain, these western properties are still vastly inferior to the Subject tract in the matter of access as noted in Mr. Staab's testimony, and as shown by a review of the county map.

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As the Board well understood and understands, the industrial development of the subject tract would help to offset the large amounts of acreage removed from the tax base as represented by the original Doub tract as acquired in 1943, much more of an offset would be gained by industrial use, which would be more than self sustaining tax wise, as versus R-6 development which might not even carry its own weight, much less the economic weight of that acreage removed by public uses from County land subject to taxation. (See Volume #1, pages 29 and 30)

It is submitted that the eminent qualifications of this land for light industrial use (and the evident unsuitability characteristics for residential use) are crystal clear now, and that it was manifest error for the Council to have overlooked these signs so clear now that they could and should have been distinguished by the County Council of Baltimore County during the public hearings and consideration of the entire area as recently as July 1961. In fairness to the Council, however it was then, and it is now difficult to zone large areas on a comprehensive basis with virtual exactness as to each tract in any large and varied area; but this difficulty and weakness in the comprehensive zoning process is the factor which requires a delegation by the Council of its comprehensive powers to the Commissioner and the Board in order that the correct and proper zoning may be carried out on a very particular basis, with corrections being made where required by the facts. It is submitted that the tract in question is a fit subject for such exacting readjustment to light industrial use.

Turning now to the area of utilities, Mr. Doub's direct testimony, at pages 101 to 111 of Volume #1, leaves no doubt that sewer and water facilities are both present on-site, and entirely adequate to serve this property if it be placed in a light industrial category. Furthermore, as to topography as was brought out in answer to a question by Mr. Baldwin at pages 102 and 103, the bulk of this property lies over a hill crest or ridge from the Westview Park area and only a small portion of the property to a

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subject tract contains some 61.2 acres more or less, and it forms or lies within the entire southeast quadrant of the interchange formed by the Baltimore County Beltway and the new heavy duty, six lane highway designated as Interstate Route 70N. Paraphrasing, at one point during the proceedings it was stated that the multi-level interchange between these two highways at this point is one of the most complex and largest highway interchanges in the eastern United States, being surpassed in size only slightly by one, or possibly two freeway interchanges in southern California. Certainly all parties agree that it is a very large and complex interchange which has a very direct effect upon the property.

The Beltway then forms the western border, or at least part of it, while a high speed dual ramp from the Beltway sweeps in an arc, completely along the western and northwestern boundaries to connect with Interstate 70N on the north. The property is bordered on the east by Woodlawn Drive, a major traffic artery of four lanes linking the subject property directly to the Meadows Industrial Park and the Social Security Complex, presently being expanded, both lying to the north. The southern border of the property is the only point with any significant degree of contact with the development of the Westview Park, as that portion of the property for which an MLR classification is sought lies across Johnnycake Road from one edge of the Westview Park development. (As to the geography see the zoning plat, Petitioners Exhibit #1, and pages 64 and 65 of Volume #1 covering Mr. Doub's testimony.)

Also, as to the ramp leading to Interstate 70N previously mentioned, it should be noted that this is a double ramp presently permitting traffic northbound on the Beltway to proceed west onto Interstate 70N, and when that portion of Interstate 70N from the Beltway to the City Line, presently under construction, is completed this ramp will also permit northbound Beltway Traffic to proceed eastbound on the new portion of 70N leading

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point approximately where the existent farm horse stands can be seen only from the northwest corner of the Westview Park development.

As for public water, there are mains present in both Johnnycake Road and Woodlawn Drive, and their adequacy was and is acknowledged by Mr. McFarland at page 104 of Volume #1. As for sewer, there is a ten inch sanitary main in the bed of Woodlawn Drive, and again it is conceded that the sewer is entirely adequate.

The Petitioner's fourth witness Stuart R. Wilcox, Esquire, of the Baltimore City Bar, was called as a witness because of his intimate knowledge of the case entitled Agneslane, Inc. v. Lucas, 247 Md. 612 (1966) in which case he was of counsel for the corporate petitioner, with Thomas P. Neuberger, Esquire, now deceased as aforesaid, appearing on behalf of the protestants. In response to questions by the Board at page 114 of Volume #1, Mr. Wilcox explained that the corporate petitioner Agneslane, Inc., in which corporation he holds the office of vice president, is affiliated with the Malt interests, the family group which has done business in the Baltimore area for many years and is well known to the public as the Welsh Construction Company.

First of all, to clear up any question, Mr. Wilcox stated unequivocally at page 115 of Volume #1, that Mr. Doub was not a party to these proceedings. Mr. Doub did sign the petition for reclassification as owner of the reversionary estate, but in Mr. Wilcox's words this was done out of "an abundance of precaution", but Mr. Doub took no part in the proceedings, since under the terms of the lease between Mr. Doub and Agneslane, Inc., Mr. Doub is little more than a ground rent owner. This is so because the lease is a so-called "ground lease", similar in certain respects to the usual Maryland ground rent.

The mechanics of this ground lease are fully recounted, as are its advantages to the landowner and developer, at pages 116 and 117 of Volume

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eastward into the City of Baltimore. (Volume #1, page 65).

The 61 plus acres of the subject property then are located most uniquely, since the property lies entirely within a pocket bounded by two very major interstate highways, one of the nation's largest interchanges where these two highways intersect, and bounded also by a major arterial roadway, Woodlawn Drive, a 48-foot macadam roadway, concrete curbed, on an 80-foot right-of-way. (Volume #2, page 227.) Furthermore, the smallest of the bounding roadways, Johnnycake Road, is by no means a small country lane, being a 36-foot macadam roadway on a 60-foot right-of-way, with concrete curbing along the south side of the road. (Volume #2, page 227.)

The property, then, is completely surrounded by major roadways carrying large volumes of traffic, but all well within their capacities. (See Mr. Liem's testimony in Volume #2, particularly as to the large, presently unused, surplus capacity available on Woodlawn Drive, at pages 225 and 230.)

In addition to the public road and highway uses previously mentioned, the property is also closely situated to public uses provided by Baltimore County to serve the needs of fire protection and public education in the area. At page 69 of Volume #1, Mr. Doub states that the County fire house and training facility located at the northwestern corner of Woodlawn Drive and Johnnycake Road was opened about two or three years prior to the summer of 1988. (See also Petitioner's Exhibit #6, a deed covering the firehouse property from Ragan Doub to Baltimore County, dated August 18, 1962; while the Johnnycake Junior High School, a large complex covering some 36 acres, lies directly across Woodlawn Drive to the east from the subject tract. (As to this tract's conveyance to Baltimore County, see Petitioner's Exhibit #5.) As desirable as the proximity of these public services are to a residential community, these are not uses which most people care to live in close proximity to, particularly so when these uses, the school and firehouse, are added to the extremely close proximity to the Beltway, the

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#1, but in summary the instrument dated November 24, 1964, and effective December 1, 1964, provides for a ten year lease subject to no conditions, zoning or otherwise, with the entire property of 54 acres being divided into five parcels, all or any of which may at the option of the lessee be converted during the ten year term into 99 year ground rents under a standard Maryland ground rent lease. Mr. Wilcox then went on to distinguish the tracts geographically.

With respect to geographical area, the tracts are completely separate and distinct, the subject tract lying entirely west of Woodlawn Drive, while the Agneslane tract lies entirely east of Woodlawn Drive (in the Maryland Reports called Clarke Boulevard) to the rear or north of the Johnnycake Junior High School property. Furthermore, no part of the subject tract was involved in the proceedings which culminated in the Agneslane Case, (Volume #1, page 118).

Mr. Wilcox's testimony, then, left no doubt and leaves no doubt that the Agneslane tract and this tract are completely separate, as to ownership, location, topography, access, and requested or proposed reclassification, and, thus, each case should be considered entirely upon its own merits alone, since there are almost no areas of identity between the tracts or the cases.

As for Mr. Liem's testimony which has already been referred to in part, in summary his testimony concerning traffic at pages 227 and 228 of Volume #2, was that the Petitioner proposes only two access points for the proposed service road within the property (42 feet on a 70 foot right of way) onto Woodlawn Boulevard. No points of access are proposed from the MLR parcel onto Johnnycake Road at all. As previously noted, Woodlawn Boulevard is operating far, far below its capacity, i.e., a daily capacity on the order of 25,000 to 35,000 vehicles per day, or 2,500 to 3,500 in the peak hour, with a present peak hour volume of only 722, and a daily volume of

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6,480 vehicles. (Volume #2, page 229). Furthermore, the sight distances are completely adequate at the proposed access points. (Volume #2, p. 237).

Mr. Liem also testified that in his opinion the property would generate about 3,000 trips per day if developed R-6, and only slightly more than double that volume, namely 6,100 trips per day if developed ML and MLR, still well within one half of the roads capacity. (Volume #2, page 230). Any problems generated by northbound traffic on Woodlawn Boulevard could be handled within the 80 foot right of way, of which only 48 feet is now in paving, by the provision of left turn lanes at that point. (Volume #2, p. 236). In summary, despite a lengthy cross examination, no traffic difficulties are foreseen in the event that the reclassification is granted.

Bernard Willemain's testimony on zoning, the Petitioner's fifth witness, is very extensive, occupying some two thirds of Volume #2. Mr. Willemain's personal familiarity with the area encompasses at least twenty years including work on the Beltway while with Baltimore County, the Meadows Industrial Park for the developer Garden Construction Company, and the Social Security complex in initial planning. (Volume #2, pages 136 and 137). Furthermore, Mr. Willemain worked for Mr. Doub on site planning for the entire tract as early as 1954, laying out a proposed location for the junior high school, a small apartment area next to the junior high school, with the balance being devoted to group houses (Volume #2, p. 136). Recall, however, that at the time the Beltway was a mere vague plan, there was no school in existence, there was no firehouse and training area, there was no Social Security Complex, there was no Meadows Industrial Park and retail complex, and there was no federal highway program, much less an Interstate 70N plan. These and other factors have radically changed the proper zoning classification for the subject tract from high density residential to light industrial uses as in the balance of the Meadows area. Mr. Willemain then went on to explain that in addition to his excellent background knowledge of the subject tract and area acquired through extensive

- 9 -

- (1.) The massive interchange at the Beltway and 70N;
- (2.) The noise and exhaust fumes generated by the traffic in the area from the two major highways;
- (3.) The full lighting of the interchange; and
- (4.) The elevation of 70N in relation to the subject tract.

These factors all militate against the development and sale of R-6 homes on this tract, and, indeed, render the tract virtually unusable for R-6 development. He went on to state that for numerous reasons most of them cumulative as to the testimony of the other witnesses that the subject property would be correctly zoned if zoned in conformity with the proposals offered by the Petitioner.

Furthermore, based upon his knowledge and experience with the Kilmarnock Industrial Park in Timonium, Mr. Klaus testified that in his opinion such an industrial utilization of the subject property would be a stabilizing force in the area. (Volume #3, page 296.) It was brought out also during cross-examination in response to a question by Mr. Slovick, that the witness knew of no residential development anywhere directly in the quadrant against an interchange of the magnitude in question. (Volume #3, page 323.)

The Petitioner's final witness, Mr. Philip E. Klein, testified that he had long been familiar with the area, since he had been the broker in the Meadows' sale from the Wise brothers to the Knott interests. (Volume #4, page 371.) Of course, in preparation for the hearing he had made a new

- 12 -

work in the area, he has investigated and studied the area anew since employment by the property owner. (Volume #2, p. 138)

Based upon this knowledge and investigation at pages 139 and 140 of Volume #2, Mr. Willemain states that the present classification R-6 was and is erroneous, both now and at the time of its adoption by the Council. One fact upon which he bases this conclusion is the fact that this is one of the few vacant tracts of land left in this part of Baltimore County which have all the requisite industrial advantages present, namely, fully adequate public facilities of sewer and water, excellent access by means of road capable of carrying large traffic volumes, good topography and location, presence of other community facilities, including retail services, and most particularly in this case, a close relationship in every respect to the Social Security complex and the Meadows Industrial Park. (Volume #2, pages 140 and 141.)

Mr. Willemain also points out that the acetate overlay, a part of the Master Plan, Petitioner's Exhibit #10, contains an "R", meaning that in the estimation of the Planning Board the proper long term use for the subject property is for restricted manufacturing use rather than any residential use, be it R-6, RG, RA or otherwise. (Volume #2, page 149.) The Planning Board, thus, recognized the industrial character and potentialities of the property as early as November 17, 1960. Furthermore, this industrial potentiality of the subject property is borne out in the Planning Board minutes of November 17, 1960, which can be found at pages 153 and 154 of Volume #2.

Furthermore, since the adoption of the map there have been numerous changes in the roads in the area, including, but not only, the actual construction of Woodlawn Drive (Clarke Boulevard) perhaps the largest obstacle to previous utilization of this land in any form, the partial completion of Interstate 70N and the work on the Beltway-City Line leg, the construction and opening of the third lane of the Beltway with continuing traffic growth on

- 10 -

study of the subject tract and surrounding area.

Of particular interest is the fact that only eleven homes on the south side of Johnnycake Road confront this property directly, and of these eleven, only eight actually confront the property since three are directly across from the fire and training station. These and the other houses in Westview Park are mostly brick and frame, split levels, composition roofs, selling in a price range from \$17,500 to \$19,500, subject to annual ground rents of \$150.00 (Volume #3, page 380)

As to his reasons for feeling that R-6 zoning was erroneous, Mr. Klein stated that he felt that there had been original error in zoning and that neighborhood changes had in the meanwhile intervened. His reasoning as to error is documented at length from pages 381 to 383 of Volume #4, but, in summary, he states that the Council failed to recognize the industrial potentialities of this tract, its complete unsuitability for residential use, and the size of future needs for choice industrial land in the County in general and in this western area in particular. Rapid changes were taking place and the Council could have, and should have noted these evident factors and trends.

As for change, Mr. Klein first noted the tremendous unforeseen expansion of the Social Security complex in part due to the implementation of the Medicare program. (See Volume #4, pages 384 to 388.) He also notes the addition of the Beltway third lane at page 388, as well as the construction of the fire station in 1966.

Finally, it should be noted that Mr. Klein feels that the entire tract would be correctly zoned ML, since there would be no construction expected within 250 feet of the Beltway. (Volume #3, page 390.) Furthermore, based upon his examination of area sales, Mr. Klein feels that the requested reclassification would have no adverse effect upon the homes or values in the Westview Park development. (Volume #4, page 391.)

- 11 -

the Beltway - all these factors, as well as the installation of traffic control devices on Woodlawn Boulevard at Johnnycake Road, have fully realized the industrial potential of the subject tract. These are major changes in the neighborhood which cannot be ignored - not to mention the completion of the firehouse and training station, an unfavorable public use to all properties which directly confront it. These changes in the road network, however, are not the only changes by any means in this area.

But, before we turn to other changes, it should be noted that Mr. Doub though represented by counsel at the time of the Map's adoption did not object strenuously to the erroneous classification of R-6 imposed upon the subject tract because he was quite ill at the time, and he was deeply embroiled in marital problems - both of which areas he has since cleared up.

As for change, there has been an employment explosion at the Social Security complex, in sight of the subject property, with employment mushrooming from 4,300 employees in 1962, with the plan then to eventually reach 6,000 at Woodlawn on eighty acres of land, whereas today they already have two hundred fifty acres with more being acquired all the time, and a present employment level of 16,000 persons with similar plans for further expansion. (See Pages 167 and 168 of Volume #2). In fact, the entire structure and concept of Social Security has been vastly enlarged by the passage of the Medicare program in recent years, since the adoption of the Map in this area. Mr. Willemain then noted three zoning changes with impact upon this tract.

Case #6373, the Meekins property involved a change of 115.79 acres from R-6 and R-10 to ML. This case is significant in that it represents a crossing of the Beltway by Meadows type industrial development similar to that requested herein as to Interstate 70N; and it is also illustrative of the continuing need for light manufacturing acreage in this western part of the

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CONCLUSION

For all these reasons, the Petitioner believes that the requested reclassification is entirely sound and merited by the facts.

county, a need which was understantiated by the Council; and, finally, it represents MLR zoning directly confronting cottage type development on the north side of Windsor Mill Road, the same MLR buffer as requested in the instant case. In like manner, and to the same effect, is the former Rutherford Airport property, namely, Case No. 65-174, which involved 81 acres going from R-6 and RA to BL and MLR. Finally, we have Case No. 67-107, Petitioner Violet N. Bond, involving a change of 8.9 acres in the northwest quadrant of the Beltway and Logwood Road going from R-6 and R-10 to MLR. Note that in none of these cases did the Beltway, in every respect similar to Interstate 70N pose any barrier or hindrance to the westward expansion of Meadows type industrial development, exactly similar to the proposal Mr. Doub makes in this present case as to Interstate 70N. The Petitioner then proceeded to complete his proof by means of the testimony of two witnesses expert in the fields of zoning, land development and appraisal work, namely, Mr. Frederick F. Klaus and Mr. Philip E. Klein.

First, as to Mr. Klaus' testimony, one very new point brought out by him is that the property has a most advantageous exposure to the traffic pattern, but the reverse is not true, the consequent exposure of the property to the traffic pattern is a distinct liability insofar as residential use of the property is concerned. (See Volume #3, page 276.) Mr. Klaus further noted that the three zoning cases brought up by Mr. Willemain are significant in that, among other things, they illustrate the need for additional industrial land in the County, most particularly the western part. While there are some areas to the west of the Beltway already zoned for industrial use, they cannot be promptly utilized because of access difficulties or utility problems, or both. (See Volume #3, page 276.)

As to his opinion that the present R-6 zoning is erroneous, Mr. Klaus cited the following:

- 12 -

Jennings Brinsfield
6323 Craigmont Rd., 21226
Nicholas Stratton
6326 Craigmont Rd., 21228
Elton T. Gell
6329 Craigmont Rd., 21228
Charles W. Fries
6331 Craigmont Rd., 21228

Josephine T. Brinsfield
6323 Craigmont Rd., 21228
Woodrow Blake
6326 Craigmont Rd., 21228
Jacqueline A. Gell
6329 Craigmont Rd., 21228
Westview Park Improvement & Civic
Association, Inc.
507 Prestwood Rd., 21228

Very truly yours,

Thomas P. Neuberger

TPN/mcn
cc: James D. Nolan, Esquire
206 W. Pennsylvania Avenue
Baltimore, Maryland 21201

RE: PETITION FOR RECLASSIFICATION : BEFORE THE
W/S of Woodlawn Drive 55' N of
Johnnycake Road - 1st District : DEPUTY
Ragan M. Doub, Petitioner : ZONING COMMISSIONER
NO. 68-136-R : OF
BALTIMORE COUNTY

The Petitioner's property, consisting of 61.2 acres of land, located on the west side of Woodlawn Drive 535' north of Johnnycake Road, is the subject of a Petition for reclassification from an R-6 zone to an MLR zone and ML zone. This property has been divided into two parcels: 4.7 acres for which MLR zoning is requested, and 56.5 acres for which ML zoning is requested. Plans call for the construction of a substantial office complex or part of the land with the balance presumably reserved for some type of industrial development.

The property was described as being bordered on the north by I-70-N, a non-access freeway, on the south by Johnnycake Road, on the west by the Baltimore County Beltway and the beltway ramp leading to I-70-N, and on the east by Woodlawn Drive, a four lane undivided artery linking Johnnycake Road with Security Boulevard.

Just across Woodlawn Drive is another tract of land owned by the Petitioner which was the subject of zoning Petition 65-332-R. On June 24, 1965, the Deputy Zoning Commissioner granted a reclassification of the aforementioned neighboring property from an R-6 zone to an RA zone. The County Board of Appeals in a split decision on March 28, 1966, reversed the action of the Deputy Zoning Commissioner, said reversal being sustained by the Circuit Court for Baltimore County and the Court of Appeals of Maryland. There is not too much difference in the topography of both tracts of land. The neighborhood as described in Petition 65-332-R is basically the same--there being one change; Wood-

lawn Drive was completed in April, 1967.

Just across I-70-N is another parcel consisting of 34 acres owned by the Petitioner extending from I-70-N to Security Boulevard and bordered on the west by the Baltimore County Beltway and on the east by the Social Security complex. This particular tract will be developed in the form of an office complex patterned after the Social Security buildings and will be leased to the United States Government as part of the Social Security Program. Just to the east of the Social Security complex is another large tract of land which is currently the subject of a condemnation proceeding in the United States District Court. The Government intends to use this particular property as an eastern extension of its Social Security complex. Across Security Boulevard and bordering the Baltimore County Beltway is a large industrial development known as Meadows Industrial Park. Several thousand feet to the north and west of the Beltway at Windsor Mill Road is the situs of another large industrial park, now under construction. South of the subject property across Johnnycake Road is a housing development known as Westview with prices ranging from \$15,000 to \$25,000. On the northwest corner of Johnnycake Road and Woodlawn Drive is the Westview fire station on the northeast corner of Johnnycake Road and Woodlawn Drive is the Johnnycake Junior High School.

The Petitioner has purposely reserved the 4.7 acres, bordered on the west by the Baltimore County Beltway ramp and on the east by the aforementioned fire station and fronting on Johnnycake Road for MLR zoning, the intention being to treat this small tract as a buffer between the Westview development and the proposed office buildings.

An expert realtor engaged by the Petitioner testified that in his opinion the subject property is best suited for industrial use. He felt that the proximity of the property to three major arteries, the Beltway, I-70-N and Woodlawn Drive, renders it inappropriate for a housing

development comparable to that of Westview. He felt that no reputable developer would attempt to build homes in the \$15,000 to \$25,000 bracket because of the terrific noise of high speed vehicles, both automobiles and trucks. He stated that it may be possible for some developer to construct a semi-detached development but that this would have a more depreciating effect than would an office-industrial park combination.

It would be appropriate to refer to the dissenting opinion filed in Petition No. 65-332-R by the Honorable Giles Parker, a member of the County Board of Appeals. In paragraph two of that opinion he states:

"The interchange of I-70-N with the Beltway is under construction and nearing completion, and for this purpose there has been taken a large area of land to be used for State Road rights-of-way for a very complicated and massive interchange of through routes. In what was left of the area surrounding this interchange and also the interchange of the Beltway with Security Boulevard there has been laid out, as readily appears from inspection of the zoning map, extensive areas of manufacturing zoned land upon which construction is taking place at a rapid rate. For some reason unknown to me the southeast quadrant of the I-70-N Beltway interchange was left as R-6 zoning at the time of the map and although no application has been made for a change this would certainly be a prime candidate for ML or MLR zoning in the future." (emphasis supplied by the undersigned)

It is significant to note that at least one member of the County Board of Appeals considered the subject property a prime candidate from ML or MLR zoning in the future. The interchange of I-70-N and the Beltway referred to by Mr. Parker is a triple decker structure which has been described as the third largest interchange in the United States.

The Industrial Development Commission for Baltimore County in written comments dated November 15, 1967, are as follows:

"The abovementioned property, because of its location adjacent to both the Beltway and Interstate 70-N, is a logical area for industrial development. It has excellent road access in all directions. The nearby Meadows Industrial Park is rapidly being developed and the need for industrial land in this vicinity will shortly be imminent. The Industrial Development Commission recommends that the petition to reclassify the land to industrial zoning be given favorable consideration."

The Director of Planning in comments dated December 1, 1967,

states:

"In adopting the Northwestern Area Master Plan, the Planning Board identified a future potential for industrial development on the subject property. This was done by placing a symbol on the master plan overlay indicating the location as suitable for restricted industrial development. In light of the completion of Woodlawn Drive and the partial completion of I-70-N we feel that the concept of industrial zoning here is consistent with the master plan."

Another witness produced by the Petitioner was Mr. David Dallas, a registered engineer, who testified that water and sewer facilities are available and adequate and that if the requested zoning was granted there would be no adverse effect on the surrounding area.

Several people appeared in protest. They were opposed on grounds that they did not want any zoning changes in the area, that there was no need for additional manufacturing zoned land in this section of Baltimore County, and that proposed development would result in traffic congestion. With respect to traffic congestion, there was submitted to the undersigned by Mr. Eugene Clifford, Baltimore County Traffic Engineer, on December 4, 1967, the following comments:

"Woodlawn Drive is existing as a 48 foot roadway on a 80 foot right of way and has a capacity of 25,000 Average Daily Traffic (ADT) and a peak hour of 2500.

"The 1967 ADT of Woodlawn Drive 4500.

"The estimated 1987 traffic volume for Woodlawn Drive, assuming no development I-70 and Johnnycake Road, is 13,500 ADT. With R-6 development along Woodlawn Drive, the estimated 1987 ADT is 19,500 with a peak hour of 1950. If the subject petition is granted, the 1987 ADT will be 22,500 with a peak hour of 2250.

"In summary, the Bureau of Traffic Engineering does not believe that this change to ML & MLR will overload Woodlawn Drive, however, provision for left turn lanes on Woodlawn Drive into the site must be provided.

With respect to the fear of change in the area, it must be borne in mind that all zoning changes are not bad. In this particular instance the Deputy Zoning Commissioner feels that the requested zoning is not

only logical and appropriate but would have a beneficial effect on the public health, safety and general welfare of the community involved. The Petitioner's plan for office and industrial development would have less of an impact on the utilities, schools and fire and police facilities than would a housing development. It must also be borne in mind that industrial zoning as opposed to residential zoning permits a much higher taxable yield and greatly reduces costs of services to be provided by Baltimore County.

After consideration of all evidence, the Deputy Zoning Commissioner is of the opinion that the zoning map with respect to the subject property is in error and that the request for ML and MLR zoning is proper.

For the foregoing reasons, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 6 day of February, 1968, that the herein described property or area should be and the same is hereby reclassified from an R-6 zone to a MLR and ML zone from and after the date of this Order, subject to approval of the site plan by the State Roads Commission, Bureau of Public Services and the Office of Planning and Zoning.

David D. Hickey
Deputy Zoning Commissioner

**ZONING DESCRIPTION
RAGAN M. DOUB PROPERTY
68-136-R**

BOUNDARY for the same at the point formed by the intersection of the center of Johnnycake Road with the east side of Interstate Route No. 70 N Ramp "A" said point of beginning being distant 195.30 feet north 75 degrees 40 minutes 20 seconds west from the beginning of the twelfth line of that tract of land which by deed dated October 1, 1943 and recorded among the Land Records of Baltimore County in Liber N/S No. 1307 folio 455 etc. was conveyed by Monumental Life Insurance Company to Ragan M. Doub and wife, thence running with and binding reversely on a part of said twelfth line, the eleventh and tenth lines of said deed and on the center of said Johnnycake Road the three following courses and distances: south 75 degrees 40 minutes 20 seconds east 195.30 feet, south 74 degrees 53 minutes 50 seconds east 200.00 feet and south 71 degrees 50 minutes 50 seconds east 250.00 feet to the beginning of said tenth line, thence running with and binding reversely on the ninth line of said deed south 21 degrees 09 minutes 10 seconds west 16.50 feet to the side of said Johnnycake Road, thence running with and binding reversely on a part of the eighth line of said deed and on the south side of said Johnnycake Road south 75 degrees 55 minutes 50 seconds east 107.56 feet thence leaving said line and running with and binding reversely on a part of the third line of that tract of land which by deed dated August 18, 1962 and recorded among the Land Records of Baltimore County in Liber N/S No. 4093 folio 107 etc. was conveyed by Ragan M. Doub and wife to Baltimore County, Maryland north 30 degrees 09 minutes 10 seconds east 270.00 feet, thence leaving said line and running for a line of division north 71 degrees 01 minutes 20 seconds west 864.2 feet to the east side of said Interstate Route No. 70 N Ramp "A", thence binding on the east side of said Ramp "A" southerly by a line curving toward the east with a radius of 2279.89 foot radius for a distance of 280.00 feet to the place of beginning.

CONTAINING 4.701 acres of land more or less.

REMO part of that tract of land which by deed dated October 1, 1943 and recorded among the Land Records of Baltimore County in Liber N/S No. 1307 folio 455 etc. was conveyed by Monumental Life Insurance Company to Ragan M. Doub and wife.

**ZONING DESCRIPTION
RAGAN M. DOUB PROPERTY
68-136-R**

BOUNDARY for the same on the west side of Woodlawn Drive (80 feet wide) at a point distant 355 feet measured northeasterly along the center of said Woodlawn Drive from its intersection with the center of Johnnycake Road, said point of beginning being distant 325.12 feet south 62 degrees 31 minutes 20 seconds east from the end of the second line of that tract of land which by deed dated August 18, 1962 and recorded among the Land Records of Baltimore County in Liber N/S No. 4093 folio 107 etc. was conveyed by Ragan M. Doub and wife to Baltimore County, Maryland, thence binding on the west side of said Woodlawn Drive the two following courses and distances north 31 degrees 46 minutes 41 seconds east 1913.41 feet and northerly by a line curving toward the west with a radius of 1209.02 feet for a distance of 262.22 feet to the southeast side of Interstate Route No. 70 N Ramp "A", thence leaving said Woodlawn Drive and binding on the southeast side of said Ramp "A" the twenty-four following courses and distances: north 01 degrees 44 minutes 50 seconds west 134.51 feet, north 09 degrees 42 minutes 20 seconds west 170.20 feet, south 07 degrees 58 minutes 20 seconds west 239.78 feet, south 74 degrees 54 minutes 00 seconds west 48.02 feet, south 84 degrees 15 minutes 20 seconds west 230.00 feet, north 88 degrees 51 minutes 20 seconds west 49.10 feet, south 76 degrees 56 minutes 40 seconds west 48.20 feet, south 71 degrees 41 minutes 40 seconds west 47.90 feet, south 83 degrees 30 minutes 40 seconds west 97.20 feet, south 75 degrees 08 minutes 40 seconds west 96.36 feet, south 63 degrees 44 minutes 40 seconds west 96.95 feet, south 73 degrees 11 minutes 40 seconds west 95.16 feet, south 56 degrees 39 minutes 40 seconds west 143.18 feet, south 55 degrees 03 minutes 40 seconds west 188.85 feet, south 27 degrees 01 minutes 40 seconds west 191.85 feet, south 39 degrees 01 minutes 40 seconds west 48.02 feet, south 43 degrees 22 minutes 40 seconds west 47.71 feet, south 42 degrees 39 minutes 40 seconds west 77.10 feet, south 37 degrees 14 minutes 40 seconds west 96.26 feet, south 46 degrees 18 minutes 40 seconds west 49.34 feet, south 31 degrees 09 minutes 40 seconds west 145.45 feet, south 14 degrees 38 minutes 40 seconds west 194.80 feet southerly by a line curving toward the west with a radius of 1552.02 feet for distance of 66.31 feet and southerly by a line curving toward the east with a radius of 3279.89 feet

for a distance of 470.03 feet, thence leaving the southeast side of said Ramp "A" and running for a line of division south 71 degrees 01 minutes 20 seconds east 864.2 feet to intersect the second line of said deed at a point distant 93.22 feet south 30 degrees 09 minutes 10 seconds west from the beginning of said line, thence running with and binding reversely on a part of said third and second lines the two following courses and distances: north 30 degrees 09 minutes 10 seconds east 93.22 feet and south 52 degrees 32 minutes 40 seconds east 325.12 feet to the place of beginning.

CONTAINING 56.502 acres of land more or less

REMO part of that tract of land which by deed dated October 1, 1943 and recorded among the Land Records of Baltimore County in Liber N/S No. 1307 folio 455 etc. was conveyed by Monumental Life Insurance Company to Ragan M. Doub and wife.

68-136 R
Ragan M. Doub
Exhibit

10/14/68
#17 Proposed plans by Turner to
Doub dated 4/2/64

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68-136 R
Ragan M. Doub
Exhibit

10/14/68
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Doub dated 4/2/64

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BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

James D. Nolan, Esq.,
204 W. Pennsylvania Avenue
Towson, Maryland 21204

SUBJECT: Reclassification from R-6 to M-LR
and M-LR for Ragan M. Doub, located
NE Cor. of Johnnycake Road and
Woodlawn Drive
(Item 23, November 14, 1967)

Dear Sirs:

The Zoning Advisory Committee has reviewed the subject petition and has the following comments to offer:

BUREAU OF ENGINEERING:
Water - Existing 12" water in Woodlawn Drive
Sewer - Existing 10" sanitary sewer in Woodlawn Drive.
Existing 20" sanitary sewer at the southwest corner of the property
as shown on the submitted plan.
Road - Johnnycake Road is to be developed as a minimum 36' road on a 60' x/4.
Woodlawn Drive is an existing improved road.

BUREAU OF TRAFFIC ENGINEERING:
MITT review and make any necessary comment at a later date.

INDUSTRIAL DEVELOPMENT:
The above mentioned property, because of its location adjacent to both the Baltimore and Annapolis Roads, is a logical area for industrial development. It has excellent road access in all directions. The nearby Woodson Industrial Park is rapidly being developed and the need for industrial land in this vicinity will shortly be imminent.

The Industrial Development Commission recommends that the petition to reclassify the land to industrial zoning be given favorable consideration.

HEALTH DEPARTMENT:
Since public water and sewer are available to the subject site, this office has no comment.

FIRE BUREAU:
The petitioner will be required to meet all Fire Dept. requirements as to proposed use. On site fire hydrants shall be required as per Baltimore County Standards.

ZONING ADMINISTRATION DIVISION:
A 100' restrictive line must be indicated on revised plans. Any proposed use within this 100' restrictive line must be a use as permitted in an MR zone.

If the petition is granted, no occupancy may be made until such time as plans have been submitted and approved and the property inspected for compliance to approved plan.

The above comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems that may have a bearing on this case. The Director and/or the Deputy Director of the Office of Planning and Zoning will submit recommendations on the appropriateness of the requested zoning 10 days before the Zoning Commission's hearing.

The following members had no comment to offer:

Project Planning Division
State Roads Commission
Building Engineer
Board of Education

Very truly yours,

James D. Nolan, Esq.,
Principal Zoning Technician
cc: Carlyle Brown-Sur. of Engrs., Richard Moore-Traffic Engr., George Hoff-Inds. Development

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner
DATE: December 1, 1967

FROM: George T. Gavelly, Director of Planning

SUBJECT: Petition #68-136-R, West side of Woodlawn Drive 355 feet North of Johnnycake Road. Petition for Reclassification from R-6 to M.L.R. and M.L. Ragan M. Doub - Petitioner.

1st District
HEARING: Friday, December 15, 1967 (1:00 P.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition for reclassification from R-6 to M.L.R. and M.L. zoning. It has the following advisory comments to make with respect to pertinent planning factors:

- In adopting the Northwestern Area Master Plan, the Planning Board identified a future potential for industrial development on the subject property. This was done by placing a symbol on the master plan overlay indicating the location as suitable for restricted industrial development. In light of the completion of Woodlawn Drive and the partial completion of Route I-70-N we feel that the concept of industrial zoning here is consistent with the master plan.
- We note the M.L.R. zoning is proposed as a buffer against residences on Johnnycake Road. Can the petitioner develop a site plan that will limit access to restricted industrial use here by means of the interior development road rather than Johnnycake Road itself? Adjacency to the freeway and residential zoning would limit all of the road frontages to the uses permitted in the M.L.R. Zone.

Gt G:ms

INTER-OFFICE CORRESPONDENCE
BUREAU OF TRAFFIC ENGINEERING
Baltimore County, Maryland
Towson, Maryland 21204

DATE: December 5, 1967

TO: Mr. James E. Dyer
FROM: Eugene J. Clifford
SUBJECT: Zoning Petition 68-136R
West side of Woodlawn Drive 355 feet North of Johnnycake Road

Review of the subject petition results in the following comments.

Woodlawn Drive is existing as a 40 foot roadway on a 80 foot right of way and has a capacity of 25,000 Average Daily Traffic (ADT) and a peak hour of 2500.

The 1967 ADT of Woodlawn Drive is 5500.

The estimated 1987 traffic volume for Woodlawn Drive, assuming no development between I-70 and Johnnycake Road, is 12,500 ADT. With 2-6 development along Woodlawn Drive, the estimated 1987 ADT is 19,500 with a peak hour of 1950. If the subject petition is granted, the 1987 ADT will be 22,500 with a peak hour of 2250.

In summary, the Bureau of Traffic Engineering does not believe that this change to M-LR will overload Woodlawn Drive, however, provisions for left turn lanes on Woodlawn Drive into the site must be provided.

Eugene J. Clifford
County Traffic Engineer

EJC:CM:mr

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

DATE: March 4, 1968

TO: Thos. P. Neuberger, Esq.,
606 Edmondson Avenue
Baltimore, Md. 21228

Office of Planning & Zoning
119 County Office Bldg.,
Towson, Md. 21204

REPORT TO ACCOUNT NO. 01-622

QUANTITY	DESCRIPTION	TOTAL AMOUNT
1	Cost of appeal - Property of Ragan Doub	\$ 70.00
2	2 signs	10.00
		\$80.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

DATE: Nov. 21, 1967

TO: James D. Nolan, Esq.,
204 W. Pennsylvania Avenue
Towson, Md. 21204

Office of Planning & Zoning
119 County Office Bldg.,
Towson, Md. 21204

REPORT TO ACCOUNT NO. 01-622

QUANTITY	DESCRIPTION	TOTAL AMOUNT
1	Petition for Reclassification for Ragan Doub #68-136-R	\$50.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

James D. Nolan, Esq.,
204 W. Pennsylvania Avenue
Towson, Maryland 21204

Country Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
14th day of November, 1967

John G. Rose,
Zoning Commissioner

Petitioner: Ragan M. Doub

Petitioner's Attorney: James D. Nolan

Reviewed by: [Signature]
Chairman of Advisory Com.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

DATE: Dec. 13, 1967

TO: R.M. Doub
6400 Johnnycake Road
Baltimore, Md. 21207

Office of Planning & Zoning
119 County Office Bldg.,
Towson, Md. 21204

REPORT TO ACCOUNT NO. 01-622

QUANTITY	DESCRIPTION	TOTAL AMOUNT
1	Advertising and posting of property #68-136-R	152.38

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

Post to: [Signature]
Petitioner: [Signature]
Location of property: [Signature]
Location of signs: [Signature]
Remarks: [Signature]
Posted to: [Signature]

Date of Posting: [Signature]

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

DATE: 4/9/69

TO: James D. Nolan, Esq.,
204 W. Pennsylvania Avenue
Towson, Maryland 21204

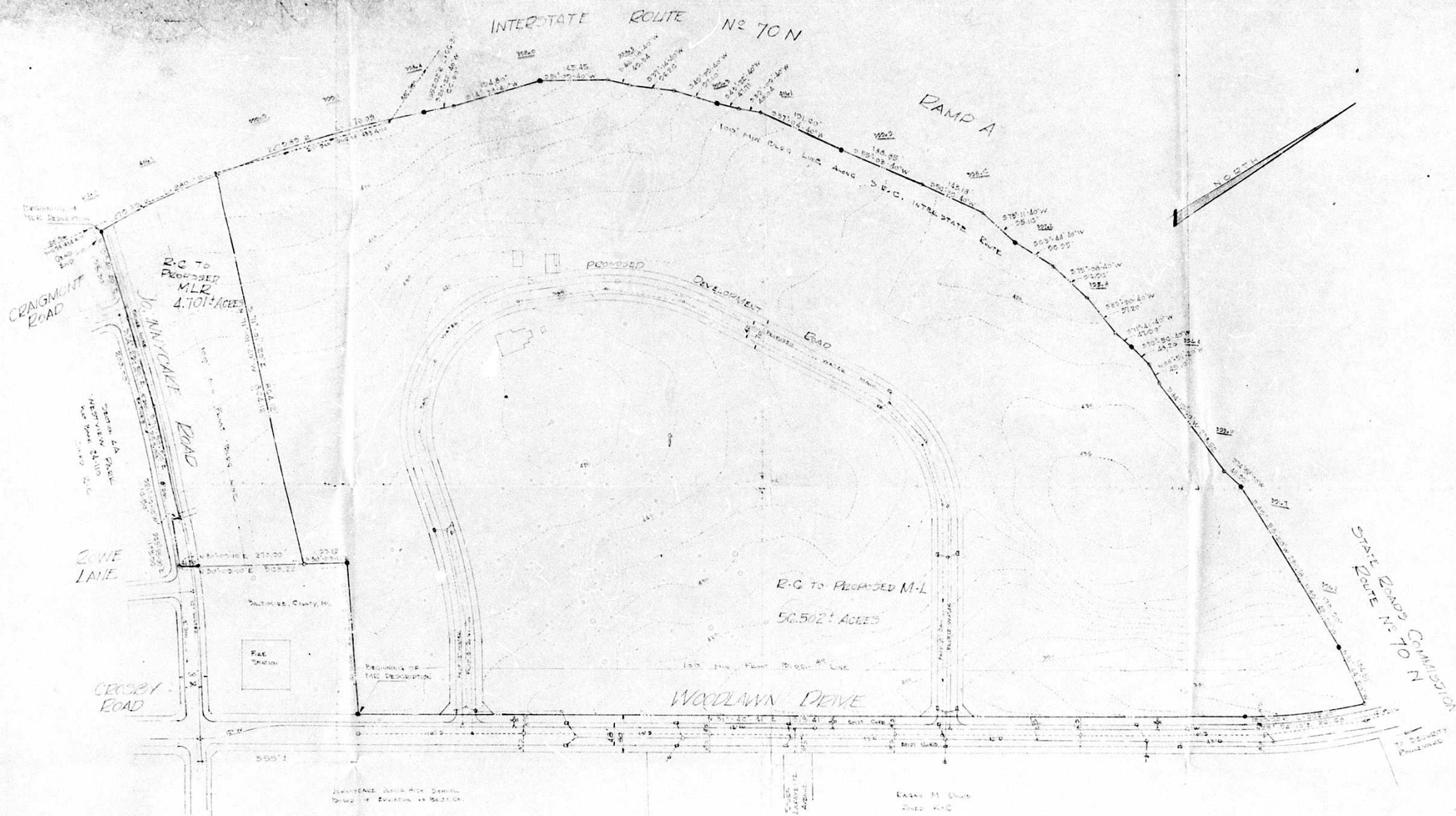
County Board of Appeals
(Zoning)

REPORT TO ACCOUNT NO. 01-712

QUANTITY	DESCRIPTION	TOTAL AMOUNT
1	Cost of certified documents - Case No. 68-136-R Ragan M. Doub W/S of Woodlawn Drive 355' N. of Johnnycake Road - First District	\$20.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

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ZONING DATA
 1. EXISTING ZONING OF TRACT R.G.
 2. PROPOSED ZONING OF TRACT M-L
 3. GROSS ACRES IN TRACT 50.502+ ACRES
 4. ALL LOTS AVAILABLE TO TRACT

ZONING PLAT
 PROPERTY OF
RAGAN M. DOUB

CLAS JOHNNYDALE ROAD BALTIMORE 21207
 1ST ELECTION DISTRICT BALTIMORE COUNTY, MD
 DATE 11/10/57 OCTOBER 5 1957
 REV. DEC 11 1957

