

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

Ernest J. Kern, with the consent of
Bethlehem Steel Corp., 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 N/A zone to an
zone, for the following reason:

entitled "C. J. Langenfelder Tract #135, General Arrangement" last revised
10-16-74 showing land acquired by Bethlehem Steel Corporation by Deed
recorded in Liber O.T.G. 4597, at Page 513, excepting that part conveyed
by Bethlehem Steel Corporation by Deed recorded in Liber O.T.G. 5172, at
Page 658

See attached description

hereby petition
and for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore
County, to use the herein described property, for... operation of a truck terminal
pursuant to Sections 236.4 and 253.5 of the Baltimore County Zoning
Regulations.

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.

Ernest J. Kern
Bethlehem Steel Corporation
BY: C.E. Hagan
Contract purchaser
Legal Owner
Address: Sparrows Point
Baltimore, Maryland 21219

This Consent does not extend to the
execution by Ernest J. Kern of any agree-
ment binding on said property until he
becomes the record owner thereof. Any such agreement
may be executed only by Bethlehem Steel
Corporation so long as it is record owner
of said property.

ORDERED By The Zoning Commissioner of Baltimore County, this 14th day
of April, 1975, that the subject matter of this petition be advertised, as
required by the Zoning Law of Baltimore County, in two newspapers of general circulation through-
out 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 22nd day of May, 1975, at 10:00 o'clock
A. M.

10-007
5/23/75
Zoning Commissioner of Baltimore County
(over)

MCA 
MCA ENGINEERING CORPORATION
ENGINEERS
SURVEYORS
1020 Cromwell Bridge Road, Baltimore, Maryland 21204 • Tel. (301) 923-0900

DESCRIPTION

18.6 ACRE PARCEL, LAND OF BETHLEHEM STEEL CORPORATION, WISE
AVENUE, EAST OF NORTH POINT BOULEVARD, TWELFTH ELECTION
DISTRICT, BALTIMORE COUNTY, MARYLAND.

THIS DESCRIPTION IS FOR SPECIAL EXCEPTION.

Beginning for the same at a point in the center line of Wise Avenue, at the
distance of 240 feet, more or less, as measured easterly along said center line
from its intersection with the east side of North Point Boulevard, said beginning
point being at the beginning of the sixteenth line of the land conveyed to Bethlehem
Steel Corporation by deed recorded among the Land Records of Baltimore County
in Liber O. T. G. 4597, page 513, running thence binding on said sixteenth line
and continuing to bind on the outlines of said land three courses: (1)
N 08° 15' 00" W 700.87 feet, (2) S 27° 42' 20" E 3.96 feet, and (3) N 62° 11' 30" E
350 feet, more or less, to a point on the west right of way line of the Patapsco
Freeway, as shown on State Roads Commission of Maryland Plats No. 35537 and
35542, thence binding on said right of way line seven courses: (4) S 12° E 760 feet,
more or less, (5) S 68° W 71 feet, more or less, (6) S 22° E 63 feet, more or less,

RE: PETITION FOR SPECIAL
EXCEPTION
N & S sides of Wise Avenue,
Extended, 240' E of North Point
Boulevard - 12th Election District
Bethlehem Steel Corporation -
Petitioner
NO. 75-266-X (Item No. 183)

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

This matter comes before the Zoning Commissioner as a result of a Peti-
tion filed by Bethlehem Steel Corporation, for a Special Exception for a truck
terminal. The subject property is located on the north and south sides of Wise
Avenue, extended, 240 feet east of North Point Boulevard, in the Twelfth Elec-
tion District of Baltimore County, and contains 18.6 acres of land, more or less.

Testimony on behalf of the Petitioner indicated that there is a need for a
truck terminal in the general area. Evidence indicated that the subject property
adjoins the Patapsco Freeway to the east, an automobile salvage yard and lum-
ber yard to the south, and commercial and residential uses along North Point
Boulevard. Said property is to be leased to different trucking concerns for the
parking and layover storage of their trucks. It was testified that public water
and sewer are available to North Point Boulevard and to the subject property.
Mr. Ernest J. Kern, real estate appraiser, testifying for the Petitioner, indi-
cated that the use of this property as a truck terminal would not be detrimental
to the health, safety, or general welfare of the community.

Residents of the area, in protest to the subject Petition, indicated that
they were fearful that the entrance to the subject property, by way of Wise
Avenue, would not be improved as submitted on the plat. Wise Avenue is pre-
sently an off-site existing road from North Point Boulevard to the subject prop-
erty, with 20 foot wide paving.

Mr. Richard C. Smith, engineer for M. C. A., testifying on behalf of the
Petitioner, indicated that there is a proposal to acquire additional property to
the south of the subject property in order to give additional access to North
Point Boulevard.

Without reviewing the evidence further in detail but based on all the evi-
dence presented at the hearing, in the judgment of the Zoning Commissioner,
the requested Special Exception should not be granted. The burden of proving
that the prerequisites of Section 592.1 of the Baltimore County Zoning Regula-
tions have been met, i.e., that the requested Special Exception will not be de-
trimental to the health, safety, or general welfare of the locality involved; tend
to create congestion in roads, streets, or alleys therein; etc., is borne by the
Petitioner. In the instant case, this burden has not been met. The means of
access to the subject property by way of Wise Avenue and the proposed acqui-
sition for another entrance leaves a doubt as to whether or not the granting of
the Special Exception would be detrimental to the health, safety, or general
welfare of the community. In the instant case, the access to the subject prop-
erty is insufficient for major truck movement.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore
County, this 30th day of December, 1975, that the herein requested Special
Exception for a truck terminal be and the same is hereby DENIED.


Zoning Commissioner of
Baltimore County

-2-

RE: PETITION FOR SPECIAL
EXCEPTION
N & S sides of Wise Avenue,
Extended, 240' E of North Point
Boulevard - 12th Election District:
Bethlehem Steel Corporation -
Petitioner
NO. 75-266-X (Item No. 183)

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

NOTICE OF APPEAL

MR. COMMISSIONER:

Please note an Appeal to the County Board of Appeals
from the Order of the Zoning Commissioner of Baltimore County on
December 30, 1975 in the above-captioned matter.

Bethlehem Steel Corporation -
Legal Owner
Ernest J. Kern -
Contract Purchaser
601 Anneslie Road
Baltimore, Maryland 21212
377-0400


J. Norris Byrnes
305 W. Pennsylvania Avenue
Towson, Maryland 21204
825-5512
Attorney



MCA 
MCA ENGINEERING CORPORATION
ENGINEERS
SURVEYORS

-2-

(7) N 70° E 60 feet, more or less, (8) southeasterly, by a curve to the left with
the radius of 5829.58 feet, the distance of 990 feet, more or less, (9) S 16° E
112 feet, more or less, and (10) S 17° E 85 feet, more or less, to a point on the
fifth line of the land herein mentioned, thence binding on a part of said fifth line,
(11) S 30° 49' 40" W 20 feet, more or less, thence binding on the sixth line of said
land and on the northwest side of the 25 foot road referred to in said deed, (12)
S 71° 14' 00" W 470.38 feet, thence binding on the seventh line of said land, (13)
N 18° 41' 50" W 374.72 feet, thence binding on the eighth line of said land and on
the center line of Merritt Avenue, (14) S 71° 14' 00" W 100.00 feet, thence still
binding on the outlines of said land five courses: (15) N 18° 49' 40" W 203.45 feet,
(16) N 71° 14' 00" E 150.00 feet, (17) N 18° 49' 40" W 478.61 feet, (18)
N 86° 52' 00" E 140.94 feet, and (19) N 07° 21' 00" W 229.25 feet, and thence
binding on the center line of Wise Avenue and on the fifteenth line of the land
herein referred to, (20) S 86° 52' 00" W 114.65 feet to the place of beginning.
Containing 18.6 acres of land, more or less.

HGW:egr

J.O. # 175009
W.O. # 3143-C

February 7, 1975



December 30, 1975

J. Norris Byrnes, Esquire
305 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Special Exception
N & S sides of Wise Avenue,
Extended, 240' E of North Point
Boulevard - 12th Election District
Bethlehem Steel Corporation -
Petitioner
NO. 75-266-X (Item No. 183)

Dear Mr. Byrnes:

I have this date passed my Order in the above referenced matter.
Copy of said Order is attached.

Very truly yours,


S. ERIC DI NENNA
Zoning Commissioner

SED:scw

Attachments

cc: Mrs. Virginia Tolbert, President
North Point Peninsula Community
Coordinating Council
7741 North Point Creek Road
Baltimore, Maryland 21219

John W. Hessian, III, Esquire
People's Counsel

July 21, 1977

J. Norris Byrnes, Esquire
305 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Case No. 75-266-X
Bethlehem Steel Corporation

Dear Mr. Byrnes:

Enclosed herewith is a copy of the Opinion and Order
passed today by the County Board of Appeals in the above entitled case.

Very truly yours,


Edith T. Eisenhart, Adm. Secretary

Encl.

cc: Bethlehem Steel Corp.
Mr. Ernest J. Kern
Mrs. Pearl Chintley
Mr. Lowell Gilmore
John W. Hessian, III, Esquire
Mr. S. E. DiNenna
Mr. N. E. Garber
Board of Education
Mr. James Howell

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE
for a Truck Terminal : COUNTY BOARD OF APPEALS
N. and S. sides of Wise Avenue :
Extended, 240' E. of North : OF
Point Boulevard :
12th District : BALTIMORE COUNTY
Bethlehem Steel Corp., Petitioner :
Ernest J. Kern :
Contract Purchaser : No. 75-266-X

OPINION

This case comes before the Board on an appeal by the Petitioner from an Order of the Zoning Commissioner, dated December 30, 1975, which denied his request for a special exception for a truck terminal on property located on the north and south sides of Wise Avenue Extended, 240 feet east of North Point Boulevard in the Twelfth Election District of Baltimore County.

The subject site comprises approximately 18.6 acres and enjoys M.L. zoning in an I.M. District, and is located behind the commercial uses fronting on North Point Boulevard. The subject property is substantially unimproved at this time and all the property in the immediate vicinity is zoned commercially, either in one of the business classifications or one of the manufacturing classifications.

The proposal presented to this Board was for the development of a truck terminal including extensive parking area for trucks, service area for trucks and a motel for the overnight accommodation of truck drivers. In support of this petition appeared the contract purchaser and his professional engineer, Richard L. Smith, who testified as to the development plan concerning the proposal, as well as the availability of all the public utilities. He further indicated to the Board that there was no residential zoning affected, although some of the commercially zoned properties presently accommodate private residences.

Also appearing on behalf of the Petitioner was David Mungen, a traffic engineer, who indicated that there would be no traffic problems generated from this proposal as the present peak volume on North Point Boulevard, being the main road affected by this proposal, is presently only seventy-three percent of its designed capacity, and the traffic generated by the subject proposal would have peak traffic volume at a different time than that on North Point Boulevard. Further testimony from this witness was that there

Bethlehem Steel Corp. - #75-266-X

2.

would be no effect on traffic volume whatsoever. The reason for this is that there would be no additional traffic generated, but that the traffic coming to the subject proposal would be traffic already in existence and would be diverted from other locations along the North Point Boulevard.

Seven witnesses appeared in the opposition's case to this proposal, being composed of four neighborhood protestants, a former truck dispatcher who lives in West Baltimore City, and two officials from Baltimore County; the first of which was C. Richard Moore, a traffic engineer, who did not refute any of the testimony adduced by the Petitioner's traffic witness, and secondly, James Haswell from the Office of Planning and Zoning who indicated that their only opposition was in view of the adjacent dwellings to the subject property. However, this witness did indicate that this was a good location for a truck terminal, and it would be an appropriate use at this location. The Protestants' objection seemed to be to the dirt, noise, and odors or fumes that might be generated from the operation of the proposed development.

In view of all the foregoing and based upon all the evidence presented, it is the opinion of this Board that there has been full compliance with the requirements dictated by Section 502.1 of the Baltimore County Zoning Regulations, and that the requested special exception should be granted subject to certain restrictions and limitations which will be delineated in the accompanying Order.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 21st day of July, 1977, by the County Board of Appeals, ORDERED, nunc pro tunc, that the special exception petitioned for, be and the same is hereby GRANTED as of February 3, 1977, subject to the following restrictions:

1. There shall be no ingress or egress via Wise Avenue Extended.
2. The special exception shall be limited to that portion of the subject property that is south of Wise Avenue Extended.

Bethlehem Steel Corp. - #75-266-X

3.

Any appeal from this decision must be in accordance with Rules 8-1 thru 8-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Keiter, Jr., Chairman

Robert L. Gifford

Herbert A. Davis

RE: PETITION FOR SPECIAL EXCEPTION FOR A TRUCK TERMINAL. North and South sides of Wise Avenue Extended, 240 feet East of North Point Boulevard 12th District

* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No. 75-266-X

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.



John W. Hessian, III
People's Counsel

Charles E. Kountz, Jr.
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
494-3211

I HEREBY CERTIFY That a copy of the foregoing Order was mailed this 21st day of May, 1975 to J. Norris Byrnes, Esquire, 305 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Petitioner.

John W. Hessian, III

I will not attend. JWH

BETHLEHEM STEEL CORPORATION, et al
Petitioners
V.
JOHN J. LASKEY, et al
Respondents

IN THE
COURT OF APPEALS
OF
MARYLAND
No. 336, September Term, 1979

ANSWER TO PETITION FOR WRIT OF CERTIORARI

John J. Laskey, et al, Respondents, answer the Petition for Writ of Certiorari to the Court of Special Appeals, and say:

1. The Petition does not show any special circumstances rendering it desirable and in the public interest that the decision of the Court of Special Appeals be reviewed pursuant to Maryland Annotated Code C.J. Article, Section 12-305(2). Rather, it contains reargument of legal and factual details already disposed of upon appeal.
2. The Opinion of the Court of Special Appeals was per curiam, therefore involving no precedent. Moreover, a review of the Opinion indicates the simple application of established concepts of statutory construction, relating to language and legislative history.

The record does not, in fact, suggest any special circumstances rendering necessary and appropriate further review by the Court of Appeals. So, there being no allegation that the grant of the Writ is necessary to secure uniformity of decision, it becomes appropriate to deny the instant Petition.

John W. Hessian, III
People's Counsel for Baltimore County

I HEREBY CERTIFY that a copy of the foregoing Answer to Petition for Writ of Certiorari was mailed to Ernest C. Trimble, Esquire, and J. Norris Byrnes, Esquire, 305 W. Pennsylvania Avenue, Towson, Maryland 21204, this 28th day of November, 1979.

Peter Max Zimmerman
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
494-2188

BETHLEHEM STEEL CORPORATION
et al.

v.

JOHN J. LASKEY et al.

In the
Court of Appeals
of Maryland

Petition Docket No. 336
September Term, 1979

(No. 18, September Term, 1979
Court of Special Appeals)

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

RECEIVED
BALTIMORE COUNTY
CLERK OF COURT
JUL 11 11 21 AM '79
COUNTY CLERK
BY: [Signature]
December 13, 1979.

Robert C. Murnby
Chief Judge

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: S. Eric DiRenna, Zoning Commissioner Date: May 19, 1975
FROM: William D. Fromm, Director of Planning
SUBJECT: Petition #75-266-X. North and South side of Wise Avenue Extended 240 feet more or less, East of North Point Boulevard
Petition for Special Exception for a Truck Terminal
Petitioner - Bethlehem Steel Corp.

12th District

HEARING: Thursday, May 22, 1975 (10:00 A.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition and has the following comments to offer.

Generally speaking the area is appropriately located for use by truck terminals. It is reasonably close to the freeway system and Bethlehem Steel Company who manufactures many products which are shipped by truck. The proposed use is not inconsistent with the surrounding zoning. However, examination of the site plan reveals that the only access to the property is via Wise Avenue extended and Merritt Avenue. Both of these roads are substandard and should be improved as per the Department of Public Works recommendations before this special exception should be granted. Additionally any needed improvements at the intersection of these two access roads with North Point Boulevard, (left turn slots and/or modified or additional signalization) should be made prior to the granting of this request.

There are no project items in the current or proposed Budget and 5-Year Capital Program, providing funds for any of the above highway or signalization projects.

The staff also recommends that the non-conforming residences adjacent to the proposed truck terminal be screened by an 8' high fence.

William D. Fromm
Director of Planning

WDF:REG:rw

RE: PETITION FOR SPECIAL EXCEPTION
for a Truck Terminal, N. and S. sides of
Wise Avenue, Extended, 240' E. of North Point
Boulevard, 12th District

BETHLEHEM STEEL CORP., Petitioner

ERNEST J. KERN, Contract Purchaser

JOHN J. LASKEY &
MARY B. LASKEY, his wife
LOWELL D. GILMORE &
ELLA GILMORE, his wife
JOHN W. HESSIAN, III
PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, Appellees

MEMORANDUM & ORDER

This case is an Appeal from the Order of the County Board of Appeals for Baltimore County of July 21, 1977, granting a Special Exception for the construction, operation and maintenance of a truck terminal on the south side of Wise Avenue, Extended, in the 12th Election District of Baltimore County.

In the Appellant's Petition on Appeal, they argue that the Special Exception is

... directly contrary to the provisions of Section 502.1.a. because the evidence contained in the record before the Board conclusively shows that the operation of said Special Exception will be detrimental to the health, safety, or general welfare of the locality involved; the Board ignored the uncontradicted testimony in the record with regard to the impact of the noise of truck engines being started and/or run without time restriction throughout the day and night upon the affected residences, the impact of the odors emanating from the motor fuel facility proposed in said Petition upon the use and enjoyment of the impacted residences and, having done so in the absence of any contrary testimony or evidence before it, the Board could not and should not have by implication attempted to embrace the premise that the proposed operation would not have a harmful effect upon the use and enjoyment of the residences adjacent to the proposed location.

B. That the granting of said Special Exception by the said County Board of Appeals is directly contrary to the provisions of Section 502.1.b. because the evidence contained in the record before the Board conclusively shows that the operation will tend to create congestion in roads, streets or alleys within the locality involved.

C. That the granting of this Special Exception for any portion of the property situate within 300 feet of a dwelling is in direct contravention of the provisions of Section 410.A.2 of the Baltimore County Zoning Regulations, and is therefore,

an illegal act on the part of the County Board of Appeals, which said illegality can be cured only by reversal of said Order."

On April 19, 1976, the Baltimore County Council enacted Bill 18-76 which repealed zoning classifications for truck terminals and enacted Section 410 and Section 410 A which created two classes (I and II) for trucking facilities and truck stops (Section 6 A). It is the language of the following Section that is in dispute, Section 410 A.2:

"Location. Proximity to residential zone or wetland. No Class II trucking facility or part thereof (including any access point or driveway) established on or after the effective date of this section may be located within 200 feet of a wetland or, with the exception of accessory passenger-automobile parking areas, within 300 feet of a dwelling or a residential zone. No passenger-automobile parking area or part thereof accessory to a Class II trucking facility may be located within 25 feet of a dwelling or residential zone." (Emphasis Supplied.)

The People's Counsel argued that the Board completely ignored the operation of the new law and their act was an illegal act. Counsel for the Appellees argue that law is ambiguous and that it should be interpreted to mean 300 feet within a dwelling "zone" or residential "zone", not a single residence.

The Appellees original request for Special Exception was for a much larger terminal. The Board in the exercise of its discretion declined to grant this request and limited the Special Exception to that portion of that property that lies south of Wise Avenue. The original request would have placed several homes within 300 feet of the subject lot. The Special Exception as granted leaves only one residential home within the 300' area, that of the protestants, Mr. and Mrs. John J. Laskey. Counsel pointed out that, in fact, the Laskey's property is a "non-conforming use" lying within an area which is zoned for commercial and industrial use and is, in fact, heavily developed. The Protestants home is within 300' of the Patapsco Freeway, a large limited access highway, which abuts the applicants property.

It is interesting to note that the Zoning Commissioner denied the request for Special Exception because he felt the burdens placed on the Petitioner by Section 502.1 had not been met. He stated that the means of access of this subject property by way of Wise Avenue and the proposed acquisition of another entrance, left doubt as to whether or not the granting of the Special Exceptions would be detrimental to the

- 2 -

to the health safety, or general welfare of the community.

These problems were specifically provided for by the Opinion of the Board of Zoning Commissioners which granted the exception subject to the following restrictions:

1. There shall be no ingress or egress over Wise Avenue, Extended.
2. The Special Exceptions shall be limited to that portion of the subject property that is south of Wise Avenue, Extended.

Reference to the plat of the subject property clearly indicates that the means of ingress and egress are provided for by these restrictions.

This Court has carefully reviewed the transcript of record and the entire file, and has come to the conclusion that there was substantial evidence upon which the Board could find that the granting of the Special Exception would not be detrimental to the health, safety, or general welfare of the locality involved. The Court is also satisfied that there was sufficient evidence before the Board to enable it to find that the operation would not tend to create the congestion of the roads, streets or alleys within the locality involved, if the restrictions imposed are obeyed.

The major problem to be determined is the meaning and effect of Section 410 A.2.

The People's Counsel's argument that the Board completely ignored the operation of the new law is without merit. A review of the record clearly indicates that the Board was totally familiar with and aware of the new ordinance. It was referred to at numerous points in the hearing and it would serve no useful purpose to list the various comments made about the new law. Suffice it to say that the Board did not ignore the Section in question but, in fact, made its decision fully aware of the impact of this ordinance.

Any possible doubt in this regard is completely eliminated when it is considered that the restrictions excluded all residential property except that of the Protestants, Mr. and Mrs. Laskey.

With regard to the interpretation of Section 410 A.2, this Court believes that the County Board of Appeals interpreted the law correctly and that its ruling was a proper one. To interpret the law otherwise would mean, as in the instant case,

- 3 -

the fact that a non-conforming use for residential purposes, exists within an entirely commercial and industrial zone, would prevent the property being used for a trucking facility of any type. The intent of the County Council can only be interpreted as meaning no trucking facilities or part thereof shall be established within 300 feet of a dwelling zone or residential zone.

It is noted that while not controlling, the title to the particular section is "proximity" to residential zone or wetland.

For the reasons stated herein, the Order of the County Board of Appeals of July 21, 1977, granting a Special Exception for the construction operation and maintenance of a truck terminal on the southwest side of Wise Avenue, Extended, in the 12th Election District of Baltimore County is hereby affirmed with costs to be paid by the Appellants.

MARVIN J. LAND, JUDGE

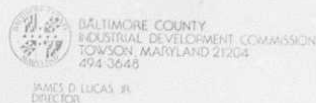
Date: December 15, 1978
Copies sent to:

J. Norris Byrnes, Esq.
John W. Hessian, III, Esq.
County Board of Appeals of Baltimore County

79-882 NBC - Reorganized file!
BALTIMORE COUNTY INDUSTRIAL DEVELOPMENT COMMISSION
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204
301-494-3648

15-266
8/21

Bill—
Please let me know if EMARCO comes in for approval of a container repair & storage facility! Thanks Jim



Mr. John A. Warfield, President
Emergency Maintenance & Repair Corporation
525 Benninghaus Road
Baltimore, Maryland 21212

Dear Mr. Warfield:

I am pleased to learn that you intend to proceed with an Industrial Revenue Bond of about \$750,000 for the purpose of constructing a container repair and storage facility on North Point Boulevard and Wise Avenue in Edgemere.

I am told by the Zoning Commissioner's office that your engineer has not yet filed a preliminary layout of the proposed project. As I suggested to you during our meeting on August 10th, I strongly recommend that you insure that the Zoning Commissioner has approved your project at the very earliest stages.

We have advised Mr. Rich Davis, Miles and Stockbridge, that the initial Resolution adopting a Letter of Intent must be submitted to the County by August 11, 1979. Mr. Chris Olander, Shapiro, Vettori and Olander, must review this Resolution as Bond Counsel for the County prior to this submission date. Meeting this deadline will allow us to review the matter with County Council at its September 11th work session in time for the September 17th County Council session.

Let me reiterate that we will be unable to proceed with the initial Resolution unless your project has received approval from the Zoning Commissioner. Let me know if we can help in any possible way.

Sincerely,

JAMES D. LUCAS, JR.
Director

JDL:pk
cc: Chris Olander
Rich Davis
Scott Wilfong
Bill Hammond

August 21, 1979



May 19, 1975

Mr. Robert W. Austin, Vice President
Baltimore Elite Streaks Model Airplane Club
98 Avalon Avenue
Baltimore, Maryland 21222

Dear Mr. Austin:

Thank you for your recent letter informing me of the upcoming zoning hearing pertaining to a piece of property owned by Bethlehem Steel Corporation and rented by the Baltimore Elite Streaks Model Airplane Club.

As you may know, the zoning processes have been established by the Baltimore County Charter and provides the Zoning Commissioner the full authority in reviewing these cases. The Baltimore County Executive, by way of the Baltimore County Charter, is prohibited from participating in or injecting any opinion in zoning matters. If, for any reason, you disagree with the decision rendered by the Zoning Commissioner, you have the right of appeal to the Zoning Appeals Board.

I have forwarded your letter of opposition to Mr. Eric DiNenna, Zoning Commissioner, requesting that he include this in his file on the May 22 hearing. If you have any further questions concerning the zoning process, feel free to contact Mr. DiNenna, whose telephone number is 494-3391.

Thank you for taking the time to bring this matter to my attention and if I may be of assistance to you in the future, do not hesitate in contacting me.

Sincerely,

Theodore G. Venetoulis
County Executive

TGV:m
cc: E. DiNenna
Scott E. LaVal



Zoning Commission
Baltimore County
Towson, Maryland

Dear Sir,

My letter concerns a piece of property on which a zoning notice has been posted. The property under question belongs to the Bethlehem Steel Co., which is rented by the Baltimore Elite Streaks Model Airplane Club.

The field is supposed to be zoned into a truck stop. As of now the field has two paved flying circles, picnic area, adequate parking and much more. The property is kept in excellent condition through volunteer work by members of the Elite Streaks Model Airplane Club. This field is in my opinion is the best piece of property on Route #151 near Wise Ave. I feel a truck stop in this area would downgrade the entire surroundings.

My second complaint is that the zoning commission scheduled a public hearing May 22 which is on Thursday at 10:00 A.M. So one in the club will be able to attend the meeting because they are working and cannot afford to loose a days pay. Also there are students who can't legally be absent from school on that day. I feel this is unfair to the members of the Baltimore Elite Streaks Model Airplane Club.

Sincerely yours,

Robert W. Austin
Vice-President
Baltimore Elite
Streaks Model
Airplane Club



RE: PETITION FOR SPECIAL EXCEPTION
for a Truck Terminal
N. and S. sides of Wise Avenue
Extended, 240' E. of North
Point Boulevard
12th District
Bethlehem Steel Corp., Petitioner
Ernest J. Kern
Contract Purchaser

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
Case No. 75-266-X

PETITION ON APPEAL

John J. Laskey and Mary B. Laskey, his wife; Lowell D. Gilmore and Ella Gilmore, his wife; and John W. Hessian, III, People's Counsel for Baltimore County, Protestants below, having heretofore filed their Order for appeal from the decision herein of the County Board of Appeals under date of July 21, 1977, granting a Special Exception for the construction, operation and maintenance of a truck terminal on the south side of Wise Avenue, Extended, in the 12th Election District of Baltimore County, in compliance with Maryland Rule 8.2.e., file this Petition setting forth the grounds upon which their said appeal is taken, viz:

A. That the granting of said Special Exception by the said County Board of Appeals is directly contrary to the provisions of Section 502.1.a. because the evidence contained in the record before the Board conclusively shows that the operation of said Special Exception will be detrimental to the health, safety, or general welfare of the locality involved; the Board ignored the uncontradicted testimony in the record with regard to the impact of the noise of truck engines being started and/or run without time restriction throughout the day and night upon the affected residences, the impact of the odors emanating from the motor fuel facility proposed in said Petition upon the use and enjoyment of the impacted residences and, having done so in the absence of any contrary testimony or evidence before it, the Board could not and should not have by implication attempted to embrace the premise that the proposed operation would not have a harmful effect upon the use and enjoyment of the residences adjacent to the proposed location.

B. That the granting of said Special Exception by the said County Board of Appeals is directly contrary to the provisions of Section 502.1.b. because the evidence contained in the record before the Board conclusively shows that the operation will tend to create congestion in roads, streets or alleys within the locality involved.

C. That the granting of this Special Exception for any portion of the property situate within 300 feet of a dwelling is in direct contravention of the provisions of Section 410.A.2 of the Baltimore County Zoning Regulations, and is therefore an illegal act on the part of the County Board of Appeals, which said illegality can be cured only by reversal of said Order.

AND AS IN DUTY BOUND, etc.,

John J. Laskey
4331 Sunny Lane
Dundalk, Maryland 21219
477-4135

Mary B. Laskey
4331 Sunny Lane
Dundalk, Maryland 21219
477-4135

Lowell D. Gilmore
8913 Wise Avenue, Extended
Dundalk, Maryland 21219
477-2967

Ella Gilmore
8913 Wise Avenue, Extended
Dundalk, Maryland 21219
477-2967

- 3 -

John W. Hessian, III
People's Counsel for Baltimore County
County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 19th day of August, 1977,

A. That a copy of this Petition was served on the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204, prior to the presentation of the original to the Clerk of the Circuit Court for Baltimore County.

B. That a copy thereof was mailed to J. Norris Byrnes, Esquire, 305 West Pennsylvania Avenue, Towson, Maryland 21204, Counsel for the Petitioner and Contract Purchaser herein.

Petition Against Special Exception
for Bethlehem Steel Corp.

I have signed below feel that
Shyview Model Park should not be turned
into a truck stop but be kept as is.

- 1 Mrs. Vera Austin
- 2 Julius Bialak 3200 Clifton Ave. 21213
- 3 Mr. Rex Ruth 1414 Four Seasons Ct 21222
- 4 Mrs. Emily M. M. 715 Westwood Rd 21229
- 5 Edward J. G. 715 Westwood Rd 21229
- 6 Thelma S. 715 Westwood Rd 21229
- 7 William J. 715 Westwood Rd 21229
- 8 Ronald J. 715 Westwood Rd 21229
- 9 Gary J. 715 Westwood Rd 21229
- 10 Mr. Van Dusen 315 S. Hammond Ferry Rd 91061
- 11 J. J. Van Dusen 1915 Church Rd 21222
- 12 Charles A. K. 35A Oak Grove Dr. Bacto 21222
- 13 Charles R. 1915 Hilborn Rd. Bacto 21222
- 14 Thomas C. 98 Avalon Ave. Bacto 21222

Rec'd 8-19-77
11 AM

File
MAY 20 75 AM
BETHLEHEM STEEL CORP.
3000 Delmar Avenue
Baltimore, Md 21219
May 15, 1975
ZONING DEPARTMENT

Mr. Eric DiNenna
Zoning Commissioner
Baltimore County Office Bldg
Towson, Md. 21204

Dear Mr. DiNenna,

I am opposed to any change in zoning that will allow a trucking terminal to be put on North Point Blvd towards Route 695 from North Point Road intersection to Wise Ave Extended. (to be heard by you on May 22 - Kerns request).

During the hearing for the last Comprehensive Maps the people of this general area (many who are 3rd generation and were living here before North Point Blvd was built) pointed out the unbelievable hazards on North Point Blvd due to the truck traffic. Our children are used to Stricker Jr High over this road. Our very lives are endangered. The opening of 695 helped relieve this danger. I can see no new developments that should convince you to again saturate this road with trucks entering and exiting a

File
75-266-X
NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

June 24, 1975

Mr. Eric DiNenna
Zoning Commissioner
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. DiNenna:

Our council would like to go on record as being opposed to the granting of "special exception" in the case heard June 23, 1975, when Mr. Pete Kerns petitioned for use of the property behind North Point Blvd. and Wise Avenue for use as truck terminal.

There are homes adjacent to this property; we can foresee many traffic hazards; there will be no guarantee that it will remedy the parking and/or terminal problems already existing in this area.

In fact, we simply see the establishing of yet another truck terminal in an area already over-run with terminals.

Yours truly,

Virginia Tolbert
Virginia Tolbert, President

JUN 24 3:75 PM
ZONING DEPARTMENT

Mr. Eric DiNenna
Zoning Commissioner
Towson, Md.

We wish to protest the rezoning of land along 695 on either side of Wise Ave Extended, for a truck terminal.

This would create a lot of noise and air pollution.

It would create excessive heavy traffic on N. Pt. Blvd.

The influx of heavily loaded trucks will damage the walls and foundations worse than they already are.

The property is too narrow for a truck terminal. Adequate access roads are not available; cars can only pass in some places on Wise Ave, it cannot be widened at N. Pt. Blvd.

This would greatly decrease the value of property of the neighborhood residents.

The noise from diesel trucks, especially refrigerated trailers running all night would

would make it impossible for people of the neighborhood to sleep at night.

The proposed property on Chape Road would seem to be a better location since there are no homes near, also access roads are available.

Thank you,

Lowell Gilmore
Ella Gilmore
LOWELL GILMORE
ELLA GILMORE

MAY 20 75 AM
ZONING DEPARTMENT

RE: PETITION FOR SPECIAL EXCEPTION : IN THE
for a Truck Terminal : CIRCUIT COURT
North and South sides of Wise Avenue :
Extended, 240 feet East of North :
Point Boulevard : FOR
12th District : BALTIMORE COUNTY
Bethlehem Steel Corporation :
Petitioner : AT LAW
Ernest J. Kern :
Contract Purchaser : Misc. Docket No. 10
Zoning File No. 75-266-X :
John J. Laskey, et ux, and :
Lowell D. Gilmore, et ux, and :
John W. Hession, III, People's Counsel :
Protestants-Appellants : File No. 6321

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, Walter A. Reiter, Jr., Robert L. Gilland and Herbert A. Davis, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, J. Norris Byrnes, Esq., 305 W. Pennsylvania Avenue, Towson, Maryland, 21204, attorney for the Petitioner and Contract Purchaser; Bethlehem Steel Corporation, Sparrows Point, Maryland, 21219, Petitioner; Mr. Ernest J. Kern, 601 Anneslie Road, Baltimore, Maryland, 21212, Contract Purchaser; John J. Laskey and Mary B. Laskey, 4331 Bunny Lane, Dundalk, Maryland, 21219, and Lowell D. Gilmore and Ella Gilmore, 8915 Wise Avenue Extended, Dundalk, Maryland, 21219, and John W. Hession, III, Esq., People's Counsel for Baltimore County, County Office Building, Towson, Maryland, 21204, Appellants; and Mrs. Pearl Gintley, Vice President, North Point Peninsula Community Coordinating Council, 7718 North Point Creek Road, Baltimore, Maryland, 21219, Protestant, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

Muriel E. Buddemeier
Muriel E. Buddemeier
County Board of Appeals of Baltimore County
Room 219 Court House, Towson, Md. 21204
Telephone - 494-3180

Bethlehem Steel Corporation - No. 75-266-X (6321)

2.

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to J. Norris Byrnes, Esq., 305 W. Pennsylvania Avenue, Towson, Maryland, 21204, attorney for the Petitioner and Contract Purchaser; Bethlehem Steel Corporation, Sparrows Point, Maryland, 21219, Petitioner; Mr. Ernest J. Kern, 601 Anneslie Road, Baltimore, Maryland, 21212, Contract Purchaser; John J. Laskey and Mary B. Laskey, his wife, 4331 Bunny Lane, Dundalk, Maryland, 21219, and Lowell D. Gilmore and Ella Gilmore, his wife, 8915 Wise Avenue Extended, Dundalk, Maryland, 21219, and John W. Hession, III, Esq., People's Counsel for Baltimore County, County Office Building, Towson, Maryland, 21204, Appellants; and Mrs. Pearl Gintley, Vice President, North Point Peninsula Community Coordinating Council, 7718 North Point Creek Road, Baltimore, Maryland, 21219, Protestants, on this 22nd day of August, 1977.

Muriel E. Buddemeier
Muriel E. Buddemeier
County Board of Appeals of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION : IN THE CIRCUIT COURT
for a Truck Terminal, N and S Sides :
of Wise Ave., Extended, 240' E of :
North Point Blvd., 12th District : FOR BALTIMORE COUNTY
Bethlehem Steel Corp., Petitioner : AT LAW
Ernest J. Kern, Contract Purchaser : Misc. Docket No. 10
John J. Laskey & Mary B. Laskey, :
his wife : Folio No. 412
Lowell D. Gilmore & Ella Gilmore, :
his wife : File No. 6321
John W. Hession, III :
People's Counsel for Baltimore County :
Appellees :
File No. 75-266-X

ORDER FOR APPEAL

Mr. Clerk:

Please note an appeal to the Court of Special Appeals of Maryland from the decision of the Circuit Court for Baltimore County in this case, dated December 15, 1978, and forward all papers in connection with said case to the Clerk of the Court of Special Appeals of Maryland in accordance with the Maryland Rules.

John J. Laskey
John J. Laskey
4331 Bunny Lane
Dundalk, Maryland 21219
477-4135

Mary B. Laskey
Mary B. Laskey
4331 Bunny Lane
Dundalk, Maryland 21219
477-4135

Lowell D. Gilmore
Lowell D. Gilmore
8915 Wise Avenue, Extended
Dundalk, Maryland 21219
477-2967

Ella Gilmore
Ella Gilmore
8915 Wise Avenue, Extended
Dundalk, Maryland 21219
477-2967

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
494-2188

John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County
County Office Building
Towson, Maryland 21204
494-2158

- 2 -

I HEREBY CERTIFY that a copy of the foregoing Order for Appeal was mailed this 31st day of January, 1979 to J. Norris Byrnes, Esquire, and Ernest C. Trimble, Esquire, 305 W. Pennsylvania Avenue, Towson, Maryland 21204, Counsel for Petitioner and Contract Purchaser herein.

John W. Hession, III

truck terminal.

This type of operation should be located out of sight and ear shot of residences. This area is presently residential and local businesses. A truck terminal would force the residents to move and would gravely diminish the local businesses.

Without going into the pollution, traffic, safety and other factors involved here, I trust your good judgment to not allow this request for a change to allow this truck terminal behind the 4400 - 4700 blocks of North Point Blvd.

Sincerely
Nancy R. Bruno

Page 1
Petition Against Special Exception for Bethlehem Steel Corp.
Those signed below feel that Skyview Model Park should not be turned into a truck zone but be kept as is.

- 1 Robert Austin 98 Avalon Ave.
- 2 Willie Gator Jr. 914 Hemlock Ave.
- 3 Andrew W. Roberts 3002 Ewald Ave.
- 4 Stan G. Wiley 9836 Kavanagh Rd.
- 5 Kent House 8136 Kavanagh Rd.
- 6 Keith Perry 504 Barry Road
- 7 Mark G. Harolt 1907 Amy Rd.
- 8 Gary W. Skene 1110 Timberline Dr.
- 9 Victoria Ali 46 Markham Ct.
- 10 Rosemary Martin 4 Elmwood Rd.
- 11 Mark McIlhenny 2109 Scarles Rd.

- Page 2
- 12 Justina Archetti Blidway
 - 13 Mary Haplachowski 1944 Teatary Lane
 - 14 Susan Carey 1932 Ewald Ave.
 - 15 Bill Yeager 1707 Stokesley Rd.
 - 16 Chuck Belling 1707 Ewald Ave.
 - 17 John Brune 2009 Washburn Rd.
 - 18 Stephen Dunham 2118 Jarmin Road
 - 19 Long Swinton Colliery Dr.
 - 20 Susan Blom 41 Gharaf 21222
 - 21 Kim Keith 1461 Stokesley Rd.
 - 22 C. Lippert Mant + Wae Ave. N.P.H.
 - 23 Thomas C. ABE 101 Oak Hill Ave.

- Page 3
- 24 Jim Hensley 7817 Schlar Rd.
 - 25 Bobby Campbell 8461 Kavanagh Rd.
 - 26 Ricky Tilly 2014 Larkhall Rd.
 - 27 Jo Emery 7876 Kavanagh Rd.
 - 28 Dale Copeland 2003 Codd Ave.
 - 29 Skip Tilly 177 Bayview Drive
 - 30 James Coyne 2024 Jarmin Rd.
 - 31 Gary J. Haplachowski 1904 Cottfield Rd.
 - 32 Donald Jones 1955 Scarles Rd.
 - 33 John Kane 1938 Guy Way
 - 34 Mike Giering 1956 Hawthorne Rd.
 - 35 David Melton 821 Codd Ave.

RE: PETITION FOR SPECIAL EXCEPTION
for a Truck Terminal
N. and S. sides of Wise Avenue
Extended, 240' E. of North
Point Boulevard
12th District
Bethlehem Steel Corp., Petitioner
Ernest J. Kern
Contract Purchaser

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
Case No. 75-266-X

ORDER FOR APPEAL

MR. CLERK:

On behalf of the following, viz:

John J. Laskey and
Mary B. Laskey, his wife
4331 Bunny Lane
Dundalk, Maryland 21219
and
Lowell D. Gilmore and
Ella Gilmore, his wife
8915 Wise Avenue, Extended
Dundalk, Maryland 21219
and
John W. Hession, III
People's Counsel for Baltimore County
County Office Building
Towson, Maryland 21204,

please note an appeal to the Circuit Court for Baltimore County from the Order of
the County Board of Appeals for Baltimore County under date of July 21, 1977 granting
a Special Exception for the construction, operation and maintenance of a truck terminal
on the south side of Wise Avenue, Extended, in the 12th Election District of Baltimore
County.

John J. Laskey
4331 Bunny Lane
Dundalk, Maryland 21219
477-4135

Mary B. Laskey
4331 Bunny Lane
Dundalk, Maryland 21219
477-4135

- 2 -

Lowell D. Gilmore
8915 Wise Avenue, Extended
Dundalk, Maryland 21219
477-2967

Ella Gilmore
8915 Wise Avenue, Extended
Dundalk, Maryland 21219
477-2967

John W. Hession, III
People's Counsel for Baltimore County
County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 19th day of August, 1977,

A. That a copy of this Order was served on the Administrative Secretary of
the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Mary-
land 21204, prior to the presentation of the original to the Clerk of the Circuit Court
for Baltimore County.

B. That a copy thereof was mailed to J. Norris Bynum, Esquire, 305 West
Pennsylvania Avenue, Towson, Maryland 21204, Counsel for the Petitioner and Contract
Purchaser herein.

Page 4

37 John Sellers 2008 Paulette Rd. Apt 104
38 Ricky Alexander 7829 Hard Rd
39 Robert L. Wilson 1958 Church Rd.
40 Carl R. J. 2134 Jasmine Rd.
41 Janet Hance 7908 Stratman Rd
42 Dann Hickey 2007 Bear Ridge Rd apt 101
43 Dave Alingenanth 2060 Belmore Rd
44 Vicki Carlisle 7844 Kavanagh Rd
45 Larry Stapleton 2005 Dark Hall Rd.
46 Ray J. 2061 Jasmine Rd.
47 Josy Mc Gurley 2073 Larkhall Rd.
48 Michael Jomarr 1924 Jasmine

Page 5

49 Janice McElroy 1915 Frames RD.
50 Diane Marsh 1969 Merri H. B.
51 Susan Mathis 1962 Standage Rd
52 Lisa Price 416 Wise Ave
53 Melody Harrison 8453 Kavanagh Rd.
54 Dee Hillbert 2005 Bear Ridge Rd. apt 103
55 Kelly Goodwill 1754 Larkley Rd
56 Dianna Dugan 8547 Kavanagh Rd.
57 Rithe Bludagh 2018 Guy Way
58 Don Robinson 2008 Paulette #3
59 Michelle Card 8051 Spaldman Rd

Total Names 59

UNREPORTED
IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

September Term, 1979

No. 18

NO. 75-266-X

JOHN J. LASKEY, et al.,

v.

BETHLEHEM STEEL
CORPORATION, et al.

Gilbert, C.J.
Wilner
Couch,
JJ.

PER CURIAM

Filed: September 26, 1979

This appeal generally involves the matter of statutory construction and
the recognized rules to be followed in such an exercise by a zoning board of
appeals, a trial court, and this Court.

The factual background of the case is simple and straightforward. Appellee
Bethlehem Steel Corporation (Ernest J. Kern, contract purchaser) filed a petition
for special exception for a truck terminal on property east of North Point Boulevard
near its intersection with Wise Avenue. The subject property is located in a mixed
residential, commercial, and industrial neighborhood in the southeastern section
of Baltimore County, and is zoned M.L. - I.M. (manufacturing,
light industrial - major district). There are residences in the vicinity of this
property which constitute non-conforming uses since these properties are not zoned
residential but have various classifications of business, commercial, or manufacturing-
light. Several of the occupants of these residences opposed the petition for special
exception.

Following a hearing before the Zoning Commissioner of Baltimore County
the petition was denied. Appellees noted an appeal to the County Board of Appeals
which, after hearing, granted the petition with restrictions. From this action
appellants appealed to the circuit court, which affirmed the action of the Board of
Appeals. From the circuit court's order appellants bring the matter to us, presenting
two questions:

1. Whether the proximity of residences to the
proposed trucking facility clearly was a bar to approval
pursuant to Section 410A.2 of the Baltimore County Zoning
Regulations, by plain language and legislative history?

-2-

2. Whether the failure of the Petitioner to
contradict probative evidence of adverse environmental
impact from noise, fumes, and congested access
associated with the proposed trucking facility clearly
was a bar to approval pursuant to Section 502.1 of the
Baltimore County Zoning Regulations?

The Baltimore County Zoning Regulations (hereinafter BCZR) existing at
the time of the filing of the instant petition, BCZR 253.2A.6 (1975), provided that
"truck terminals" would be permitted by special exception only. The former
regulation made no mention of restrictions relative to a truck terminal's proximity
to a dwelling or residential zone. By the time the hearing was held before the
Board of Appeals, the County Council enacted a bill (Bill No. 18, 1976) amending
the Zoning Regulations which by definition in present BCZR § 101 divided the former
"truck terminals" into two classifications, "Class I trucking facility" and "Class II
truck facility". The parties agree that the petition for special exception here
concerns a Class II trucking facility which is defined as, "A trucking facility other
than a Class I trucking facility, including a truck yard (the primary purpose of which
is to accommodate the parking or storage of trucks, truck trailers, or truck tractors)".
Far more relevant to the present inquiry was the amendment's placement of restrictions
on the establishment of trucking facilities, the most notable of which was a require-
ment that a Class II trucking facility be located 300 feet from a dwelling or a
residential zone. It appears uncontradicted that under the Board of Appeals' order

1. "Trucking facility, Class I (truck terminal): A trucking facility whose
primary purpose is to accommodate the transfer of goods or chattels from trucks
or truck trailers or to vehicles of other types, in order to facilitate the transportation
of such goods or chattels. BCZR § 101 (1976). [Bill No. 18, 1976]

-3-

at least one of the protestants' dwellings is within this distance. Whether the
other protestants' homes are within this distance is not clear from the record.

Both the Board of Appeals and the circuit court, in making their respective
determinations, interpreted the pertinent section of the new Zoning Ordinance as
meaning that a dwelling must be in a residential zone for the restriction to apply;
we believe both erred in this construction.

The relevant section of the Zoning Ordinance (BCZR 410A.2) provides:

"Location. Proximity to residential zone or wetland. No
Class II trucking facility or part thereof (including any
access point or driveway) established on or after the
effective date of this section may be located within 200
feet of a wetland or, with the exception of accessory
passenger-automobile parking areas, within 300 feet of
a dwelling or a residential zone. No passenger-automobile
parking area or part thereof accessory to a Class II trucking
facility may be located within 25 feet of a dwelling or a
residential zone."

Section 101 of the Zoning Regulations defines dwelling as "a building or portion
thereof which provides living facilities for one or more families."

The resolution of this appeal will depend upon an examination of BCZR 410A.2
to determine the legislative intent. Appellants contend that it was the intent of the
County Council to allow a Class II trucking facility, under circumstances such as
exist in this case, only if such facility is located more than 300 feet from a dwelling.
The evidence demonstrated that this restriction was not met, and that
both the Board of Appeals and the circuit court erred in concluding otherwise. On the
other hand, appellees urge that the Board of Appeals and the circuit court were correct
in interpreting the pertinent section to mean, in effect, that the dwellings must be
within a residential zone for the restriction to apply. We disagree with appellees'
position and shall reverse.

A cardinal rule of statutory construction is to ascertain and carry out the real legislative intention. See Wheeler v. State, 281 Md. 593, 596, 380 A.2d 1052 (1977), cert. den., 435 U.S. 997, 98 S. Ct. 1650, 56 L.Ed.2d 86. It is also well settled that a statute should not be construed to lead to an unreasonable or illogical result. See Curtis v. State, 284 Md. 132, 149, 395 A.2d 464 (1978), and cases cited therein. Furthermore, a statute is to be read so no word is rendered surplusage or meaningless. Mazor v. St. Dept. of Corrections, 279 Md. 355, 360, 369 A.2d 82 (1977). We also recognize that the legislature is presumed to have full knowledge and information as to prior and existing law on the subject of a statute it has enacted. Bowers v. State, 283 Md. 115, 127, 389 A.2d 341 (1978). Additionally, where statutory language is plain and free from ambiguity and expresses a definite and sensible meaning, courts are not at liberty to disregard the natural meaning of words with a view toward making the statute express an intention which is different from its plain meaning. Wheeler, supra.

Keeping these principles in mind, we conclude that BCZR 410A.2 is unambiguous and the intent of the legislature is clear - the County Council intended to provide that no trucking facility, or part thereof, could be located any closer than 300 feet from a dwelling. The appellees, in contending otherwise, state that since BCZR § 101 defines the word "OR: [as] The word 'or' shall mean 'and/or' unless the context otherwise clearly indicates another meaning." (emphasis supplied), the language should be read to mean that a residential zone must be involved. Such an interpretation, even if one were to read BCZR 410A.2 as "a dwelling and/or a residential zone", would render the use of the term "dwelling" surplusage. Mazor

v. St. Dept. of Corrections, supra. Clearly, there would be no necessity for the use of the term "dwelling" if a dwelling had to be in a residential zone for the restriction to apply. Further support for this conclusion can be found in the fact that "dwelling" was specifically added in the new regulation, it having been absent in the repealed regulation. Additional evidence of this intention can be found in the Baltimore County Planning Board's final report which accompanied the proposed trucking facilities zoning amendment and was before the Council during its deliberations. The report concluded that trucking facilities are "totally inappropriate in or near residential areas The fact is ... that a number of trucking facilities have been established too close to the homes of Baltimore County citizens over the years, especially in communities near major industrial areas." It is evident from a consideration of all these factors, the lack of ambiguity, the mere presence of the term "dwelling", the specific addition of the term to the new regulation, and the Planning Board's final report, that the real legislative intent behind BCZR 410A.2 is to protect those dwellings which are not located in a residential zone.

The appellees, of course, look for support for their position in the opinion of the circuit court, where it is stated: "It is noted that while not controlling, the title to the particular section is 'proximity' to residential zone or wetland." According to appellees, if the drafters of the legislation or the County Council intended that the existence of a "dwelling" was the crucial element in the phrase "within 300 feet of a dwelling or a residential zone", the ^{caption} should have used the word "dwelling" by itself, or at the very least included the word "dwelling" concomitantly with "residential zone". We reject this argument. As the lower court

2. The new regulations were based to a large extent on recommendations of the special Citizens Task Force on Truck Terminals, appointed by the County Executive. The Planning Board held a hearing on the recommendations and revised

properly observed, though we disagree with the conclusion it reached on the merits, the caption to BCZR 410A.2 is not controlling. The caption to this section plays no part in ascertaining its intent, purpose, or effect, since we find no ambiguity in the body of the regulation.

We believe the Board of Appeals and the circuit court both erred in construing the Ordinance as they did. In view of this conclusion we find it unnecessary to reach appellants' second question.

ORDER REVERSED. CASE REMANDED FOR THE ENTRY OF AN ORDER NOT INCONSISTENT WITH THIS OPINION.

COSTS TO BE PAID BY APPELLEES.



98 Avalon Avenue
Baltimore, Maryland
21222

Mr. S. Eric Dinenna
Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson Maryland 21204

Dear Mr. Dinenna,
On Monday, June 23, 1975, at 10:00 AM there was a hearing in regards to a Petition for Special Exception for Bethlehem Steel Corp. #75-266-X. The petition was for a truck stop.
At the end of the hearing you stated you would let us know your decision. As of this date, September 29, 1975, 99 days after the hearing, we have not heard of your decision.
The Flite Streaks Model Club is very interested in your decision so we know whether to look for another flying field or stay on the one we have.
Please let us know if you have made your decision and the outcome of your decision.

Sincerely,
Bob Austin
Bob Austin
Vice-President & Secretary
Flite Streaks Model Airplane
Club

BALTIMORE COUNTY
ZONING PLANS
ADVISORY COMMITTEE



PETITION AND SITE PLAN
EVALUATION COMMENTS

J. Norris Byrnes, Esq.
305 W. Pennsylvania Avenue
Towson, Md. 21204

Item 183

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your Petition has been received and accepted for
filing this 14 day of May 1975

S. Eric Dinenna
S. Eric Dinenna,
Zoning Commissioner

Petitioner Bethlehem Steel Corporation

Petitioner's Attorney J. Norris Byrnes Reviewed by Franklin T. Hogans, Jr.
cc: MCA
1020 Cromwell Bridge Road
Baltimore, Md. 21204
Chairman,
Zoning Advisory
Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

May 15, 1975

COUNTY OFFICE BUILDING
111 W. Chesapeake Avenue
Towson, Maryland 21204
Franklin T. Hogans, Jr.
XXXXXXXXXXXXXXXXXXXX
Chairman

J. Norris Byrnes, Esq.
305 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Special Exception Petition
Item 183
Bethlehem Steel Corporation - Petitioner

Dear Mr. Byrnes:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

These 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 with regard to the development of the property. The following comments are the result of this review and inspection.

The petitioner is requesting a Special Exception to permit a truck terminal operation for an 18.6 acre tract of land located on the north and south sides of Wise Avenue extended, 240 feet east of North Point Blvd. This property, for the most part, is currently unimproved, and lies behind the commercial uses fronting on North Point Blvd. This property abuts along its easternmost boundary the Patapsco Freeway.

Access to this property is proposed in two places to North Point Blvd. The access as proposed is the cause of much concern by this Committee. Please note, therefore, with particular interest the wants of State Highway Administration and the Object & Development Planning section. It should be noted that this petition does not involve

J. Norris Byrnes, Esq.
Re: Item 183
May 15, 1975
Page 2

a request for a Special Exception for a motel, as is indicated on the submitted site plan.

This petition is accepted for filing on the date of the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 30, nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,
Franklin T. Hogans, Jr.
FRANKLIN T. HOGANS, JR.
Chairman,
Zoning Plans Advisory Committee

FTH:JD

Enclosure

cc: MCA
1020 Cromwell Bridge Road
Baltimore, Md. 21204

Baltimore County, Maryland
Department Of Public Works
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

Bureau of Engineering
ELLSWORTH H. DIVER, P.E. CHIEF

April 22, 1975

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #183 (1974-1975)
Property Owner: Bethlehem Steel Corp.
N & S side of Wise Ave. Extended, 240' E of North
Point Blvd.
Existing Zoning: BR-IM, BR-CS1 & ML-IM
Proposed Zoning: Special Exception for operation of
a truck terminal pursuant to Sec. 236.4 & 253.5.
No. of Acres: 18.6 District: 12th

Dear Mr. DiNenna:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

The proposed development of this site as indicated on the submitted plan should receive comprehensive review by the Joint Subdivision Planning Committee, with particular regard to indicated proposed access from North Point Boulevard via presently inadequate "residential use" roads, and lack of access from the recently constructed and contiguous Patapsco Freeway.

A Public Works Agreement will be required to be executed in connection with the public improvements required to develop this site.

Highways:

North Point Boulevard (MD. 151) and Patapsco Freeway (I-95) are State Roads; therefore, all improvements, intersections, entrances and drainage requirements as they affect these roads come under the jurisdiction of the Maryland Highway Administration. Any utility construction within the State Road right-of-way will be subject to the standards, specifications and approval of the State in addition to those of Baltimore County.

Wise Avenue (Extended) and Merritt Avenue, existing public roads would be proposed to be improved in the future as 40-foot closed section roadways on 60-foot rights-of-way. Such improvement and use of these roads would require off-site right-of-way acquisitions.

Item #183 (1974-1975)
Property Owner: Bethlehem Steel Corp.
Page 2
April 22, 1975

Highways: (Cont'd)

Bunny Lane, if improved in the future as a public road, would be as a 30-foot closed section roadway on a minimum 40-foot right-of-way; no improvements are proposed at this time.

Complete highway improvements including all necessary highway rights-of-way widening and reversible easements for slopes for Wise Avenue (Extended) and Merritt Avenue will be required in connection with any grading or building permit application.

It is the responsibility of the Petitioner to ascertain and clarify any and all rights-of-way as may be within this property and to initiate any action necessary to abandon, widen, relocate, etc. such rights-of-way.

The entrance locations are subject to approval by the Department of Traffic Engineering, and shall be constructed in accordance with Baltimore County Design Standards.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Drainage studies, storm water management drawings and sediment control drawings will be necessary to be reviewed and approved prior to the recording of any record plat or the issuance of any grading or building permits.

All proposed subdivisions are subject to the requirements of the Storm Water Management Program. It shall be the responsibility of the Petitioner's engineer to obtain and familiarize himself with the requirements and design criteria available from this office. The preliminary plan must indicate the required Storm Water Management features before tentative approval can be granted.

Storm Drains:

Provisions for accommodating storm water or drainage have not been indicated on the submitted plan. Storm drainage facilities and/or improvements together with supporting drainage and utility easements may be required in connection with any grading or building permit application.

In accordance with the drainage policy, the Petitioner is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall.

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

Item #183 (1974-1975)
Property Owner: Bethlehem Steel Corp.
Page 3
April 22, 1975

Water:

Public water supply exists in Wise Avenue (Extended), North Point Boulevard and Merritt Avenue.

The Petitioner will be responsible for any extension or relocation of existing water mains and/or fire hydrant relocation. It appears that additional fire hydrant protection may be required.

Sanitary Sewer:

Public sanitary sewerage can be made available to serve this site by extension from existing sanitary sewerage in North Point Boulevard.

Very truly yours,

Ellsworth H. Diver
ELLSWORTH H. DIVER, P.E.
Chief, Bureau of Engineering

END/DEAM:WVP:ms

cc: J. Brenner
J. Meyers (SHA)

E-OM Ker Sheet
15 & 16 SE 30 Pos. Sheets
SE 4 H Topo
10th Tax Map

Maryland Department of Transportation
State Highway Administration

Harry R. Hughes
Secretary
Bernard M. Evans
Assistant Secretary

March 20, 1975

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Attn: Mr. Franklin Hogans

Dear Mr. DiNenna:

Access into the subject site is by way of Wise Ave. extended and by way of a right of way to the South.

Wise Avenue extended is only 20' in width. The paving is in very poor condition. Vehicles are generally parked along both sides, further restricting the flow of traffic.

In order to accommodate the proposed heavy volume of truck traffic, Wise Ave. extended should be widened and repaved and the intersection at North Point Blvd. improved in order that trucks can negotiate the intersection without undue difficulty.

The plan indicates a proposed entrance to the south, having a width of 40 ft. The maximum permitted width is 35 ft. Although the proposed improvements to the entrance at North Point Blvd. are highly desirable, and are in fact, a necessity to accommodate the traffic, they may be impossible to accomplish without the acquisition of additional frontage from the adjacent properties. The intersection should be channelized with curb and gutter in order to preclude conflict with vehicles entering and leaving the adjacent properties.

We are concerned that the special exception could be granted with the terminal going into operation without improving the points of access. Similar situations have occurred in the past. After a terminal has gone into operation it is extremely difficult to require the developer to comply with State and County regulations. We have cases in our files of many years standing that have yet to be resolved.

North Point Blvd. carries a high volume of traffic; 24,000 average daily count in this area in 1973. If the improvements previously mentioned and indicated on the plan are not made, serious traffic problems are anticipated. It is our opinion that this matter should be resolved prior to the hearing.

Very truly yours,

Charles Lee, Chief
Bureau of Engineering
Access Permits

CL:JE:mbk

P.O. Box 717 / 300 West Preston Street, Baltimore, Maryland 21203
by: John E. Meyers

Baltimore County Fire Department



J. Austin Deitz
Chief

Towson, Maryland 21204
828-7310

Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Mr. Jack Dillon, Chairman
Zoning Advisory Committee

Re: Property Owner: Bethlehem Steel Corp.

Location: N & S side of Wise Ave. Extended 240' E of N. Point Blvd.

Item No. 183 Zoning Agenda March 24, 1975

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "x" are applicable and required to be corrected or incorporated into the final plans for the property.

(X) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 300 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.
() 3. The vehicle dead-end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.
() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "The Life Safety Code", 1970 Edition prior to occupancy.

() 6. Site plans are approved as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

Reviewed: *H. J. Tully* Noted and Approved: *Paul H. Deitz*
Planning Group Deputy Chief
Special Inspection Division Fire Prevention Bureau

BALTIMORE COUNTY, MARYLAND
JEFFERSON BUILDING TOWSON, MARYLAND 21204



DEPARTMENT OF TRAFFIC ENGINEERING

EUGENE J. CLIFFORD, P.E. Wm. T. MELZER
DIRECTOR DEPUTY TRAFFIC ENGINEER

May 14, 1975

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item 183 - ZAC - March 24, 1975
Property Owner: Bethlehem Steel Corp.
Location: N & S side of Wise Avenue Extended 240' E of N. Point Blvd.
Existing Zoning: BR-IM, BR-CS1 & ML-IM
Proposed Zoning: SPECIAL EXCEPTION for operation of a truck terminal pursuant to Sec. 236.4 & 253.5.
No. of Acres: 18.6
District: 12th

Dear Mr. DiNenna:

Should this special exception for a truck terminal be granted; improvement to the intersection of Wise Avenue and North Point Boulevard, the traffic signal, and Wise Avenue extended will be necessary.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineering Assoc.

MSF/baa

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF HEALTH



JEFFERSON BUILDING
TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE AND COUNTY HEALTH OFFICER

March 20, 1975

Mr. S. Eric DiNenna, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item 183, Zoning Advisory Committee Meeting, March 24, 1975, are as follows:

Property Owner: Bethlehem Steel Corp.
Location: N & S side of Wise Ave. Extended 240' E of N. Point Blvd.
Existing Zoning: BR-IM, BR-CS1 & ML-IM
Proposed Zoning: SPECIAL EXCEPTION for operation of a truck terminal pursuant to Sec. 236.4 & 253.5.
No. of Acres: 18.6
District: 12th

Metropolitan water and sewer are available.

Food Protection Comments: If a food service facility is proposed, complete plans and specifications must be submitted to the Division of Food Protection, Baltimore County Department of Health, for review and approval.

Air Pollution Comments: The building or buildings on this site may be subject to a permit to construct and a permit to operate any and all fuel burning and processing equipment. Additional information may be obtained from the Division of Air Pollution and Industrial Hygiene, Baltimore County Department of Health.

Water Resources Administration Comments: If lubrication work and oil changes are performed at this location, revised plans must be submitted showing method providing for the elimination of waste oil in accordance with Water Resources Administration requirements.

Very truly yours,

Thomas G. Devlin
Thomas G. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

VNC:ms
CC--L.A. Schuppert
W.L. Phillips

WILLIAM D. FROMM
DIRECTOR
S. ERIC DINENNA
ZONING COMMISSIONER



April 14, 1975

Mr. S. Eric DiNenna, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #183, Zoning Advisory Committee Meeting, March 24, 1975, are as follows:

Property Owner: Bethlehem Steel Corp.
Location: N and S side of Wise Avenue extended 240' E. of N. Point Blvd
Existing Zoning: B.R.-I.M., B.R.-C.S.1 and M.L.-I.M.
Proposed Zoning: Special Exception for operation of a truck terminal pursuant to Sec. 236.4 and 253.5
No. of Acres: 18.6
District: 12th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

The petitioner should indicate what type screen fencing will be provided to screen the residential premises from the truck terminal and increase the height to 8 feet.

The access from Wise Avenue Extended is insufficient because of its width.

Very truly yours,

John L. Wimbley
John L. Wimbley
Planning Specialist I
Project and Development Planning

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
SUITE 301 JEFFERSON BUILDING 128 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21201
AREA CODE 301 PLANNING 484-2211 ZONING 484-3221

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: March 25, 1975

Mr. S. Eric DiNenna
Zoning Commissioner
Baltimore County Office Building
Towson, Maryland 21204

Z.A.C. Meeting of: March 24, 1975

Re: Item 183
Property Owner: Bethlehem Steel Corporation
Location: N & S side of Wise Ave. Extended 240' E. of North Point Blvd.
Present Zoning: BR-IM, BR-CSI & MI-IM
Proposed Zoning: Special Exception for operation of a truck terminal pursuant to Sec. 236.4 & 253.5
District: 12th
No. Acres: 18.6

Dear Mr. DiNenna:
No hearing on student population.

Very truly yours,
W. Nick Petrovich,
Field Representative.

W. Nick Petrovich, Field Representative
MRS. ROBERT L. BENNETT
JOSHUA M. WHITLOCK, JUDICIAL CLERK
NANCIE M. WOTENSKI
JOSEPH N. HIGDON
ALVIN LORICK
E. BAYARD WILLIAMS, JR.
RICHARD M. FRICK, CLERK
HIS HONORABLE JUDGE



INDUSTRIAL DEVELOPMENT COMMISSION BALTIMORE COUNTY, MARYLAND

March 19, 1975

Mr. S. Eric DiNenna
Zoning Commissioner, Baltimore County
Towson, Maryland

Dear Mr. DiNenna:

Re: Item 183 ZAC Addendum of March 24, 1975
Prop. Owner: Bethlehem Steel Corporation
Location: North and south sides Wise Avenue
Extended 240 feet east of North Point Boulevard
Existing Zoning: BR-IM, BR-CSI, and MI-IM
Prop. Zoning: Special Exception for operation of a truck terminal pursuant to Sec. 236.4 and 253.5
No. of Acres: 18.6
District: 12th

This office has reviewed the petition and visited the site and offers the following comments:

The proposed facility is urgently needed in this area and this office feels that the intended site is ideally located to provide the services needed by the trucking industry.

Granting of this petition appears to be the beginning toward the correction of an undesirable situation that presently exists. This office believes the request for the Special Exception is appropriate and warrants a favorable decision.

Sincerely,

H. B. STAAB
H. B. STAAB
Director

PETITIONER'S EXHIBIT #3

THIS AGREEMENT, made this 18th day of June, 1975, by and between ERNEST JUNIOR KERN OR ASSIGNEE (hereinafter called "Kern") and JAMES WARREN GOSNELL, JR. and SAMUEL WILLIAM HENNINGER (hereinafter called "Gosnell and Henninger").

WITNESSETH

WHEREAS, "Kern" is the holder of an option dated December 31, 1974 to purchase certain property containing 18.5 acres as outlined in red on a plat attached hereto and incorporated herein and marked "Exhibit A"; and

WHEREAS, "Gosnell and Henninger" are the owners of certain property outlined in green on a plat attached hereto and incorporated herein and marked "Exhibit B"; and

WHEREAS, in the event that "Kern" exercises the option dated December 31, 1974 and does purchase the approximately 18.5 acres as outlined in red on "Exhibit A", then and in that event, "Kern" and "Gosnell and Henninger" hereby enter into an agreement for the mutual exchange of portions of the above-mentioned properties subject to certain terms and conditions as set forth herein.

NOW, THEREFORE in consideration of the mutual exchange of portions of the properties set forth herein and of the covenants and agreements of the parties hereto, the parties hereby covenant and agree as follows:

1. "Kern" agrees to transfer to "Gosnell and Henninger", provided "Kern" exercises the aforementioned option, that portion of the 18.5 acres to be purchased by "Kern" which abuts on the "Gosnell and Henninger" property which is outlined in green on Exhibit B; said portion of land is more particularly described as follows: "a piece of land generally rectangular in shape running approximately 100 feet in an easterly direction beyond the "Gosnell and Henninger" property line located on the south side of Merritt Avenue, (as widened in item 2 below), as an extension of said property line thence turning southerly at approximately a 90° angle running parallel to the present "Gosnell and Henninger" south property line, if said property line were extended 100 feet in an easterly direction then turning westerly and running 100 feet along said extended south property line of the "Gosnell and Henninger" property thence, turning northerly and running approximately 330 feet in common with the present western property line of the "Gosnell and Henninger" property to the place of beginning. This property is illustrated by the area outlined in brown on Exhibit A.

2. In exchange for the property described in #1 herein, "Gosnell and Henninger" agree to transfer to "Kern" a strip of land which abuts Merritt Avenue on its south side and runs easterly contiguously with Merritt Avenue beginning at its intersection with North Point Road along the "Gosnell and Henninger" northern property line to its eastern most point then turning southerly at an approximate 90° angle and running 30 feet then turning westerly and running parallel to the present "Gosnell and Henninger" northern

property line to a point intersecting the western "Gosnell and Henninger" property line thence turning northerly running 30 feet parallel to North Point Road to the place of beginning. This portion of property is illustrated by the area outlined in blue on Exhibit "B" and is intended to allow "Kern" to widen the presently existing Merritt Avenue from 30 feet to 60 feet. The 30 feet of width of said portion of land being conveyed by "Gosnell and Henninger" herein includes a 15 foot width of said same portion of land previously committed by "Gosnell and Henninger" to dedicate or grant to Baltimore County for purposes of widening Merritt Avenue.

3. The exchange of all properties mentioned herein is contingent on the following conditions precedent:

- "Kern" exercising his option to purchase the aforementioned 18.5 acres
 - "Kern" exercising his option to exchange the within properties on or before January 15, 1976.
 - "Gosnell and Henninger" being able to obtain a release of the within portion to be exchanged by them from the mortgage of their land described herein.
 - The properties to be exchanged herein shall be conveyed free and clear of all liens and encumbrances by good and merchantable title and special warranty fee simple deeds.
 - If all four prior conditions are not met then this agreement becomes null and void.
4. Upon completion of the exchange "Kern" agrees to have a section of fence owned by "Gosnell and Henninger" immediately relocated from its present location on the east side of "Gosnell and Henninger" present property, easterly 100 feet to the property line which will become the east side of "Gosnell and Henninger's" property after the exchange has occurred. "Kern" only agrees to pay the labor associated with relocating the present fence.
5. Upon completion of the exchange and within one year thereafter, "Kern" agrees to build at his entire and sole expense with no contributions of any kind whatever, whether by way of tax assessment, municipal assessment, public works agreement or any other private or public changes being required or made by "Gosnell and Henninger"; the necessary 60 feet wide road over what is now known as Merritt Avenue including a cul-de-sac if required to run a distance of at least 330 feet easterly from North Point Road.

6. "Kern" agrees at his sole expense with no contributions from "Gosnell and Henninger" to obtain the necessary survey, new descriptions, plats, and any other requirements necessary to accomplish the purposes of this agreement with reference to all properties being exchanged and to also pay for all documentary stamps, recording costs, transfer taxes and any all other charges necessary to accomplish the within transfer of properties and the purposes of this agreement.

7. All the terms and conditions herein contained shall be for and inure to the benefit of an shall bind the respective parties, therein legal representatives, successors, heirs and assigns.

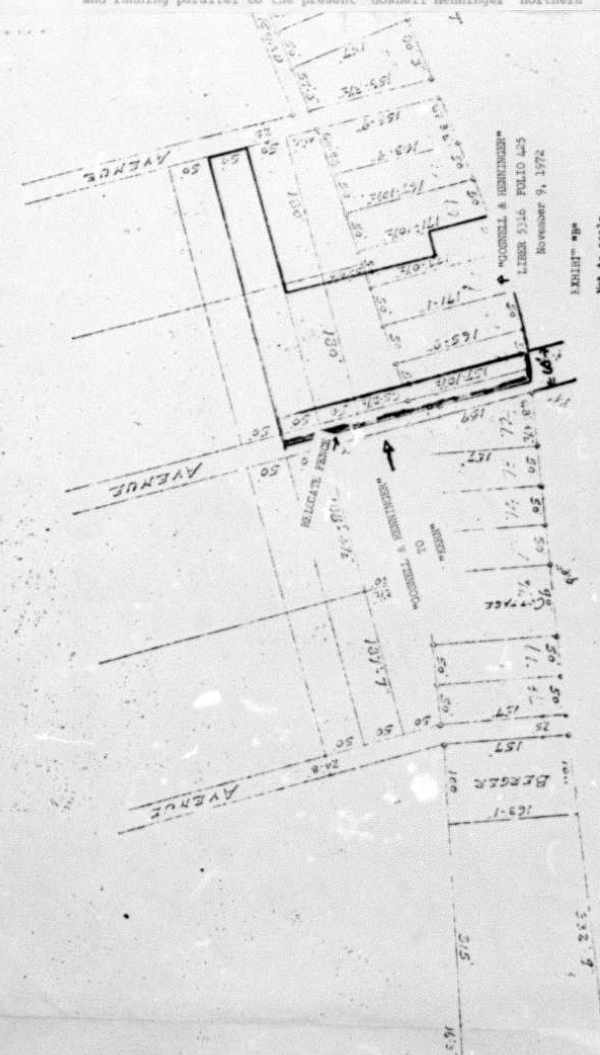
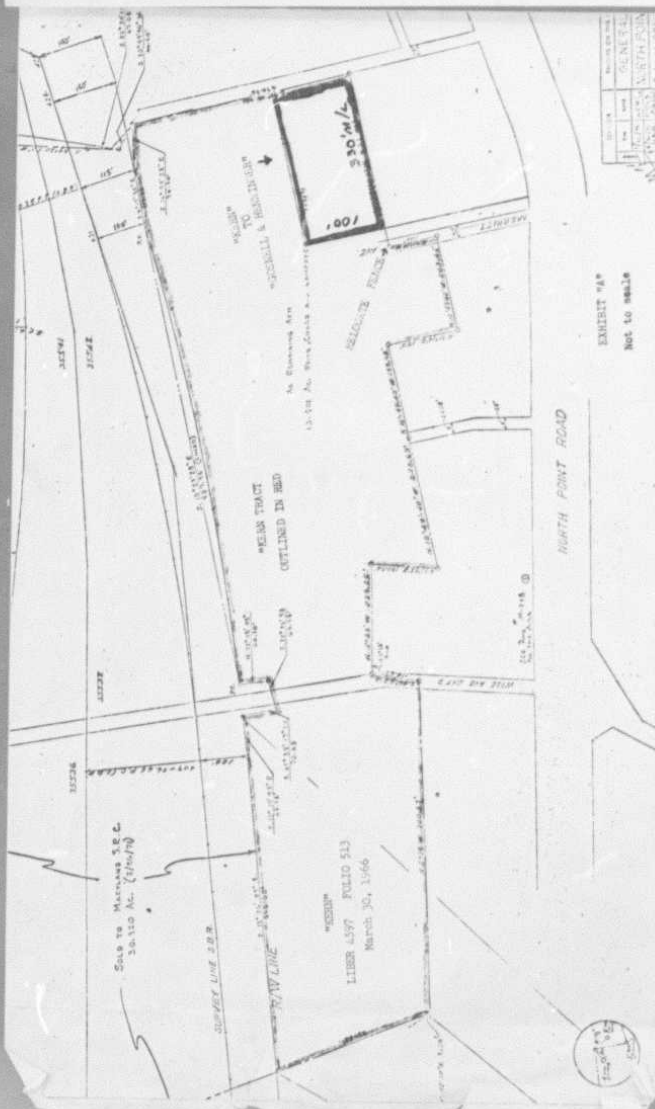
-2-

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement, the day and year first above written.

ATTEST:

Ernest Junior Kern
James Warren Gosnell, Jr.
Samuel William Henninger

ERNEST JUNIOR KERN
JAMES WARREN GOSNELL, JR.
SAMUEL WILLIAM HENNINGER



Baltimore County Board of Appeals
Towson, Md.
Dear Sirs:
Would you please place our name on the notification list for the case of Bethlehem Steel #75-266-X, concerning rezoning for truck terminal on property between North Point Blvd. & 695 and North & South of Wise Ave. Etc.
Thank you
Lowell Gilmore
LOWELL GILMORE
8915 WISE AVE. ETC.
BALTO MD 21219

Rec'd 9-19-76
9:45AM

CERTIFICATE OF PUBLICATION

TOWSON, MD., MAY 1, 1975

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper, printed and published in Towson, Baltimore County, Md., on consecutive days of one time consecutive weeks before the 22nd day of May, 1975, the first publication appearing on the 1st day of May, 1975.

THE JEFFERSONIAN

H. L. Smith
Manager

Cost of Advertisement, \$

CERTIFICATE OF PUBLICATION

OFFICE OF

"The Dundalk Times"

DUNDALK, MD., June 5 1975

THIS IS TO CERTIFY, that the annexed advertisement of PETITION NORTH AND SOUTH SIDES OF WISE AVENUE EXTENDED was inserted in THE DUNDALK TIMES, a weekly newspaper published in Baltimore County, Maryland, once a week for one consecutive weeks before the 23rd day of June 1975; that is to say, the same was inserted in the issues of June 5, 1975

Stromberg Publications, Inc.

Publisher.

By *C. Curran*

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 5, 1975

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., on consecutive days of one time consecutive weeks before the 23rd day of June 1975, the first publication appearing on the 5th day of June 1975.

THE JEFFERSONIAN

H. L. Smith
Manager

Cost of Advertisement, \$

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 12th Date of Posting: 2-26-76
Posted for: *Bethlehem Steel Corp.*
Petitioner: *Bethlehem Steel Corp.*
Location of property: *N. & S. Sides of W. & E. Exts. 240' E. & 240' W. of North Point Blvd.*
Location of Signs: *1 Sign on East Side, 1 Sign on West Side*
Remarks: *See Map*
Posted by: *W. H. Hise* Signature
Date of return: 3-4-76

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 12th Date of Posting: 5-1-75
Posted for: *Hearing on May 22nd 1975 at 10:00 A.M.*
Petitioner: *Bethlehem Steel Corp.*
Location of property: *N. & S. Sides of W. & E. Exts. 240' E. & 240' W. of North Point Blvd.*
Location of Signs: *1 Sign on East Side, 1 Sign on West Side*
Remarks: *See Map*
Posted by: *W. H. Hise* Signature
Date of return: 5-8-75

PETITION MAPPING PROGRESS SHEET

FUNCTION	Wall Map date by	Original date by	Duplicate date by	Tracing date by	200 Sheet date by
Descriptions checked and outline plotted on map					
Petition number added to outline					
Denied					
Granted by ZC, RA, CC, CA					
Reviewed by: <i>N.B.C.</i>		Revised Plans: Change in outline or description	Yes No		
Previous cases:		Map #			

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE February 26, 1976 ACCOUNT 01-662

AMOUNT \$10.00

RECEIVED FROM *J. Norris Byrnes, Esquire*
FOR: Cost of Posting Property of Bethlehem Steel Corp.
N/S and S/S of Wise Avenue, Extended, 240' E of North
Point Boulevard - 12th Election District 1 J.C.C.M.
Case No. 76-266-X (Item No. 183)

VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received * this 13 day of May 1975. Item #

H. L. Smith
Eric DiLenna,
Zoning Commissioner

Petitioner: *KEEN* Submitted by: *Byrnes*
Petitioner's Attorney: *Byrnes* Reviewed by: *N.B.C.*

* This is not to be interpreted as acceptance of the Petition for assignment of a hearing date.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE 9/2/77 ACCOUNT 01-712

John W. Hession, III, Esq.
People's Counsel
County Office Building
County, Md. 21204
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Cost of certified documents in Case #25-266-X
North and South sides of W. & E. Exts.
240' E. of North Point Blvd.
12th District
Bethlehem Steel Corporation 240' E. & W.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE February 10, 1976 ACCOUNT 01-662

AMOUNT \$70.00
RECEIVED J. Norris Byrnes, Esquire
FOR: Cost of Filing of an Appeal on Case No. 75-266-X
(Item No. 183)

N/S and S/S of Wise Avenue, Extended, 240' E. & W. of North
Point Boulevard - 12th Election District
Bethlehem Steel Corporation - Petitioner
7 J.C.C.M.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE June 4, 1975 ACCOUNT 01-662

AMOUNT \$85.00
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

FOR: Cost of Posting Property of Bethlehem Steel Corp.
N/S and S/S of Wise Avenue, Extended, 240' E. & W. of North
Point Boulevard - 12th Election District
Bethlehem Steel Corporation - Petitioner
7 J.C.C.M.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE April 28, 1975 ACCOUNT 01-662

AMOUNT \$50.00
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

FOR: Cost of Posting Property of Bethlehem Steel Corp.
N/S and S/S of Wise Avenue, Extended, 240' E. & W. of North
Point Boulevard - 12th Election District
Bethlehem Steel Corporation - Petitioner
7 J.C.C.M.

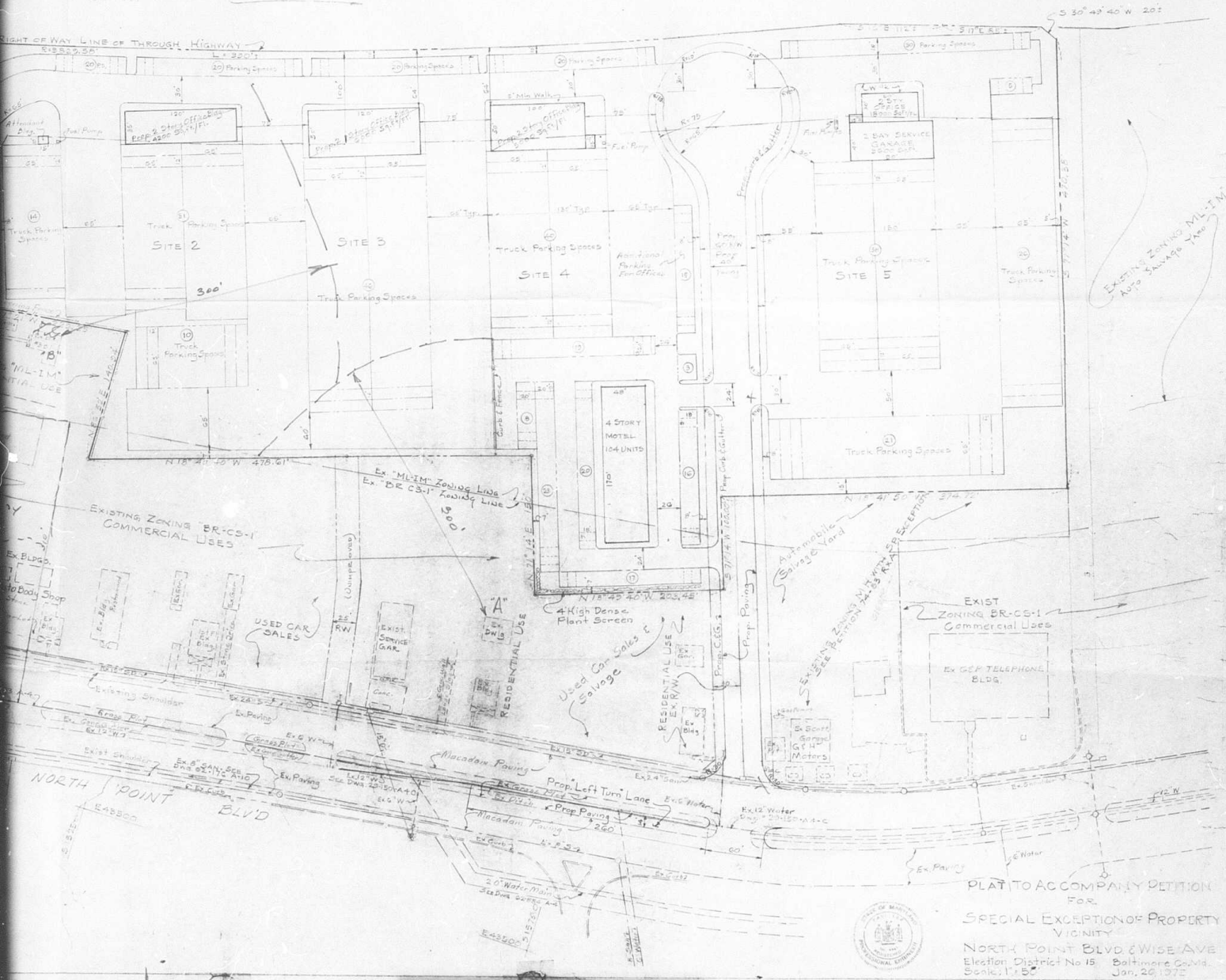


BOARD OF APPEALS
PETITIONER'S
EXHIBIT 1

LOCATION MAP
Scale: 1" = 500'

EXISTING ZONING M-L-1M
STATE HIGHWAY USE

TAPOCO FREEWAY



PLAT TO ACCOMPANY PETITION
FOR
SPECIAL EXCEPTION OF PROPERTY
VICINITY
NORTH POINT BLVD & WISE AVE
Election District No 15 Baltimore County
Jan. 20, 1975



EXISTING ZONING "ML-1M"
STATE HIGHWAY

BOARD OF APPEALS
PETITIONER'S
EXHIBIT 1

EXISTING ZONING "ML-1M"
STATE HIGHWAY





GENERAL NOTES

1. TOTAL AREA OF PROPERTY EQUALS 18.6 ACRES ±
2. EXISTING ZONING OF PROPERTY "BR-1M, BR-CB-1 & ML-1M"
3. EXISTING USE OF PROPERTY "VACANT LAND"
4. PROPOSED ZONING OF PROPERTY "BR-1M, BR-CB-1 & ML-1M, WITH SPECIAL EXCEPTION"
5. PROPOSED USE OF PROPERTY "REGIONAL TRUCK TERMINAL"
6. OFF-STREET PARKING DATA:

	SITE ONE	SITE TWO	SITE THREE	SITE FOUR	SITE FIVE	MOTEL SITE
Area of Office 65 Acres	5,400 Sq Ft	6,400 Sq Ft	12,000 Sq Ft	10,000 Sq Ft	72,000 Sq Ft	104,000 Sq Ft
Required Parking (2000)	18 Spaces	23 Spaces	32 Spaces	27 Spaces	18 Spaces	104 Spaces
Proposed Parking	21 Spaces	23 Spaces	37 Spaces	35 Spaces	35 Spaces	106 Spaces
Proposed Truck Parking	65	55	45	57	85	

7. PETITIONER IS REQUESTING A "SPECIAL EXCEPTION" PURSUANT TO SECTION 253.2(a) OF THE ZONING REGULATIONS, TO PERMIT A TRUCK TERMINAL IN AN "ML-1M" ZONE.
8. PETITIONER IS REQUESTING A "SPECIAL EXCEPTION" PURSUANT TO SECTION 253.2(b) OF THE ZONING REGULATIONS, TO PERMIT A MOTEL IN AN "ML-1M" DISTRICT.

EXISTING ZONING 'ML-1M'
STATE HIGHWAY

Active Area No Truck Parking Allowed

PATAPSCO FREEWAY

EXISTING ZONING
STATE HIGHWAY

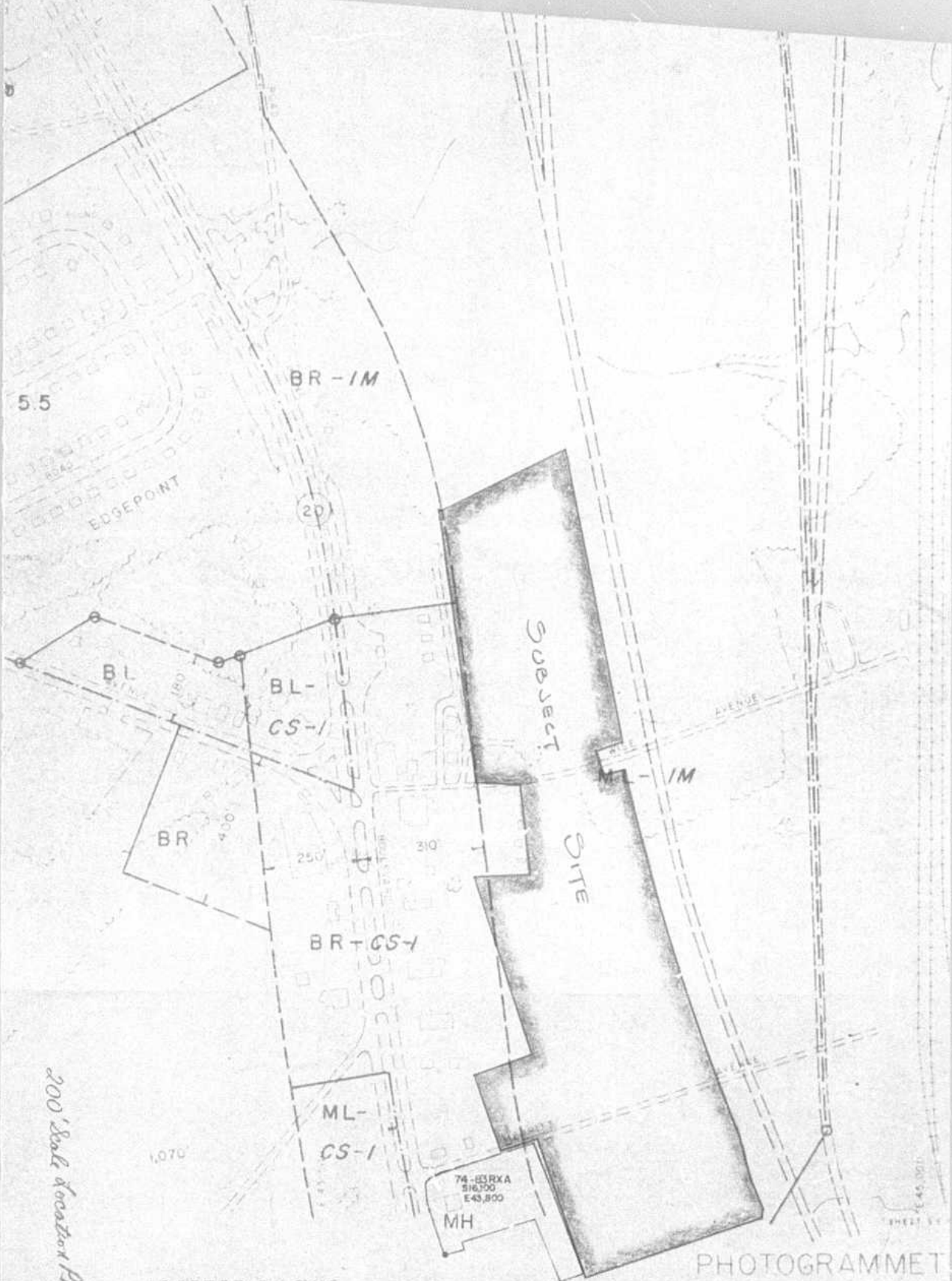


NOTE: WISE AVENUE & NORTH POINT
BLVD. IS A SIGNALIZED
INTERSECTION.

WITH SPECIAL EXCEPTION

SITE
Rooms
Spaces/Use
Spaces

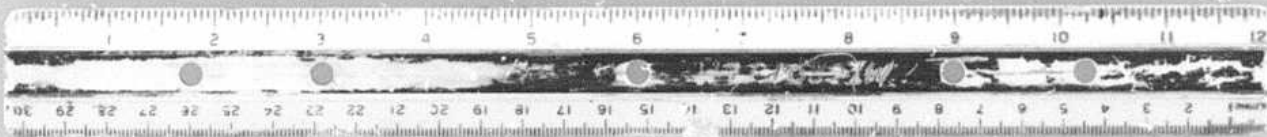
SECTION 253.2(a) OF
IN AN 'ML-1M' ZONE
TO SECTION 253.2(b) OF
'IM' DISTRICT.



200' Scale Location Plan

ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
MARCH 24, 1971
BY BILLS NOS. 28, 29, 30, 31, and 32

PHOTOGRAMMETRIC
BALTIMORE COUNTY MAP
OFFICIAL ZONING



Baltimore County, Maryland
 Date 9-24-79
 To Earl Richards, Jr.
 From John J. Laskey, et al.
☐ Please Note & File
☐ Please Note & Return
☐ Please Note & Handle
☐ Please Prepare reply for my Signature
☐ To be Signed
☐ Please Comment
☐ Please See Me
☐ Investigate & Report
 Remarks
100-25-266-X-Bethlehem
Steel Corp.
Appealed on 9/24/79
Appealed on 9/24/79
 SEP 26 1979
 RECEIVED

UNRECORDED
 IN THE COURT OF SPECIAL APPEALS
 OF MARYLAND
 September Term, 1979
 No. 18
 NO. 75-266-X

JOHN J. LASKEY, et al.,

BETHLEHEM STEEL CORPORATION, et al.

Gilbert, C. J.
 Wilbur
 Couch,
 II.

PER CURIAM

Filed: September 26, 1979

RECEIVED SEP 13 1980

This appeal generally involves the matter of statutory construction and the recognized rules to be followed in such an exercise by a zoning board of appeals, a trial court, and this Court.

The factual background of the case is simple and straightforward. Appellees Bethlehem Steel Corporation (Ernest J. Kern, contract purchaser) filed a petition for special exception for a truck terminal on property east of North Point Boulevard near its intersection with Wise Avenue. The subject property is located in a mixed residential, commercial, and industrial neighborhood in the southeastern section of Baltimore County, and is zoned M.L. - I.M. (manufacturing, light industrial - major district). There are residences in the vicinity of this property which constitute non-conforming uses since these properties are not zoned residential but have various classifications of business, commercial, or manufacturing-light. Several of the occupants of these residences opposed the petition for special exception.

Following a hearing before the Zoning Commissioner of Baltimore County the petition was denied. Appellees noted an appeal to the County Board of Appeals which, after hearing, granted the petition with restrictions. From this action appellants appealed to the circuit court, which affirmed the action of the Board of Appeals. From the circuit court's order appellants bring the matter to us, presenting two questions:

1. Whether the proximity of residences to the proposed trucking facility clearly was a bar to approval pursuant to Section 410A.2 of the Baltimore County Zoning Regulations, by plain language and legislative history?

2. Whether the failure of the Petitioner to contradict probative evidence of adverse environmental impact from noise, fumes, and congested access associated with the proposed trucking facility clearly was a bar to approval pursuant to Section 502.1 of the Baltimore County Zoning Regulations?

The Baltimore County Zoning Regulations (hereinafter BCZR) existing at the time of the filing of the instant petition, BCZR 253.2A.6 (1975), provided that "truck terminals" would be permitted by special exception only. The former regulation made no mention of restrictions relative to a truck terminal's proximity to a dwelling or residential zone. By the time the hearing was held before the Board of Appeals, the County Council enacted a bill (Bill No. 18, 1976) amending the Zoning Regulations which by definition in present BCZR § 101 divided the former "truck terminals" into two classifications, "Class I trucking facility" and "Class II trucking facility". The parties agree that the petition for special exception here concerns a Class II trucking facility which is defined as, "A trucking facility other than a Class I trucking facility, including a truck yard (the primary purpose of which is to accommodate the parking or storage of trucks, truck trailers, or truck tractors)". Far more relevant to the present inquiry was the amendment's placement of restrictions on the establishment of trucking facilities, the most notable of which was a requirement that a Class II trucking facility be located 300 feet from a dwelling or a residential zone. It appears uncontradicted that under the Board of Appeals' order

1. "Trucking facility, Class I (truck terminal): A trucking facility whose primary purpose is to accommodate the transfer of goods or chattels from trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels. BCZR § 101 (1976). [Bill No. 18, 1976]

at least one of the protestants' dwellings is within this distance. Whether the other protestants' homes are within this distance is not clear from the record.

Both the Board of Appeals and the circuit court, in making their respective determinations, interpreted the pertinent section of the new Zoning Ordinance as meaning that a dwelling must be in a residential zone for the restriction to apply; we believe both erred in this construction.

The relevant section of the Zoning Ordinance (BCZR 410A.2) provides:

"Location. Proximity to residential zone or wetland. No Class II trucking facility or part thereof (including any access point or driveway) established on or after the effective date of this section may be located within 300 feet of a wetland or, with the exception of accessory passenger-automobile parking areas, within 300 feet of a dwelling or a residential zone. No passenger-automobile parking area or part thereof accessory to a Class II trucking facility may be located within 25 feet of a dwelling or a residential zone."

Section 101 of the Zoning Regulations defines dwelling as "a building or portion thereof which provides living facilities for one or more families."

The resolution of this appeal will depend upon an examination of BCZR 410A.2 to determine the legislative intent. Appellants contend that it was the intent of the County Council to allow a Class II trucking facility, under circumstances such as exist in this case, only if such facility is located more than 300 feet from a dwelling. They contend the evidence demonstrated that this restriction was not met, and that both the Board of Appeals and the circuit court erred in concluding otherwise. On the other hand, appellees urge that the Board of Appeals and the circuit court were correct in interpreting the pertinent section to mean, in effect, that the dwellings must be within a residential zone for the restriction to apply. We disagree with appellants' position and shall reverse.

A cardinal rule of statutory construction is to ascertain and carry out the real legislative intention. See Wheeler v. State, 281 Md. 593, 596, 300 A.2d 1052 (1977), cert. den., 435 U.S. 937, 98 S. Ct. 1650, 56 L.Ed.2d 86. It is also well settled that a statute should not be construed to lead to an unreasonable or illogical result. See Curtis v. State, 284 Md. 132, 149, 395 A.2d 464 (1978), and cases cited therein. Furthermore, a statute is to be read so no word is rendered surplusage or meaningless. Mayor v. St. Dep. of Corrections, 279 Md. 355, 360, 359 A.2d 82 (1977). We also recognize that the legislature is presumed to have full knowledge and information as to prior and existing law on the subject of a statute it has enacted. Mayor v. State, 283 Md. 115, 127, 389 A.2d 341 (1978). Additionally, where statutory language is plain and free from ambiguity and expresses a definite and sensible meaning, courts are not at liberty to disregard the nature meaning of words with a view toward making the statute express an intention which is different from its plain meaning. Wheeler, supra.

Keeping these principles in mind, we conclude that BCZR 410A.2 is unambiguous and the intent of the legislature is clear - the County Council intended to provide that no trucking facility, or part thereof, could be located any closer than 300 feet from a dwelling. The appellees, in contending otherwise, state that since BCZR § 101 defines the word "Or" [as] The word "or" shall mean "and/or" unless the context otherwise clearly indicates another meaning." (emphasis supplied), the language should be read to mean that a residential zone must be involved. Such an interpretation, even if one were to read BCZR 410A.2 as "a dwelling and/or a residential zone", would render the use of the term "dwelling" surplusage. Mayor

v. St. Dep. of Corrections, supra. Clearly, there would be no necessity for the use of the term "dwelling" if a dwelling had to be in a residential zone for the restriction to apply. Further support for this conclusion can be found in the fact that "dwelling" was specifically added in the new regulation, it having been absent in the repealed regulation. Additional evidence of this intention can be found in the Baltimore County Planning Board's final report which accompanied the proposed trucking facilities zoning amendment and was before the Council during its deliberations. The report concluded that trucking facilities are "totally inappropriate in or near residential areas The fact is ... that a number of trucking facilities have been established too close to the homes of Baltimore County citizens over the years, especially in communities near major industrial areas." It is evident from a consideration of all these factors, the lack of ambiguity, the mere presence of the term "dwelling", the specific addition of the term to the new regulation, and the Planning Board's final report, that the real legislative intent behind BCZR 410A.2 is to protect those dwellings which are not located in a residential zone.

The appellees, of course, look for support for their position in the opinion of the circuit court, where it is stated: "It is noted that while not controlling, the title to the particular section is 'proximity to residential zone or wetland.' According to appellees, if the drafters of the legislation or the County Council intended that the existence of a 'dwelling' was the crucial element in the phrase 'within 300 feet of a dwelling or a residential zone', the caption should have used the word 'dwelling' by itself, or at the very least included the word 'dwelling' consistently with 'residential zone'. We reject this argument. As the lower court

2. The new regulations were based to a large extent on recommendations of the special Citizens Task Force on Truck Terminals, appointed by the County Council. The Planning Board held a hearing on the recommendations and revised the regulations.

properly observed, though we disagree with the conclusion it reached on the merits, the caption to BCZR 410A.2 is not controlling. The caption to this section plays no part in ascertaining its intent, purpose, or effect, since we find no ambiguity in the body of the regulation.

We believe the Board of Appeals and the circuit court both erred in construing the Ordinance as they did. In view of this conclusion we find it unnecessary to reach appellants' second question.

ORDER REVERSED, CASE REMANDED FOR THE ENTRY OF AN ORDER NOT INCONSISTENT WITH THIS OPINION.
 COSTS TO BE PAID BY APPELLEES.