

Court of Special Appeals of Maryland

No. 798, September Term, 1979

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

VS.

A. V. WILLIAMS ET AL

June 10, 1980 - Opinion by Melvin, J.
Judgment affirmed. Costs to be paid
by appellant.
July 10, 1980 - Mandate issued.

STATEMENT OF COSTS:

In Circuit Court: BALTIMORE COUNTY

Record 25.00
Stenographer's Costs

In Court of Special Appeals:

Filing Record on Appeal 30.00
Printing Brief for Appellant 1,240.00
Reply Brief 292.95
Portion of Record Extract - Appellant
Printing Brief for Cross-Appellee

Printing Brief for Appellee 524.09
Portion of Record Extract - Appellee
Printing Brief for Cross-Appellant

STATE OF MARYLAND, Sec:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this 5th day of July, A.D. 1980

James P. Insler
Clerk of the Court of Special Appeals of Maryland.

Costs shown on this Mandate are to be settled between counsel and NOT THROUGH THIS OFFICE.

Filed 8/1/80 (LEAVE BLANK)

RE: PETITION FOR RECLASSIFICATION IN THE
from M.L. zone - I.M. District FOR
to a B.M. Zone CIRCUIT COURT
SE/S Philadelphia Road 724.30' SW of Rossville Boulevard 15th District
A. V. Williams, Petitioner AT LAW
Case No. 78-40-R Misc. Docket No. 11
Folio No. 110
File No. 6660

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 8-2 (d) of the Maryland Rules of Procedure:

Robert L. Gilland, Herbert A. Davis and William T. Hackett, 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, W. Lee Harrison, Esquire, 503 Equitable Building, Towson, Maryland 21204, Attorney for the Petitioner, and Mr. A. V. Williams, 8660 Pulaski Highway, Baltimore, Maryland 21237, Petitioner, and John W. Hession, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County, and Mr. James A. Sweetwood, Real Estate Department, Acme Markets, Inc., 908 York Road, Towson, Maryland 21204, and James D. Nolan, Esquire, 204 West Pennsylvania Avenue, Towson, Maryland 21204, requested notification, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

Edith T. Eisenhart

Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 219, Courthouse, Towson, Md. 21204
494-3180

I hereby certify that a copy of the foregoing Certificate of Notice has been mailed to W. Lee Harrison, Esquire, 503 Equitable Building, Towson, Maryland 21204, Attorney for the Petitioner, and Mr. A. V. Williams, 8660 Pulaski Highway, Baltimore, Maryland 21237, Petitioner, and John W. Hession, III, Esquire, County Office Building,

RE: PETITION FOR RECLASSIFICATION BEFORE THE ZONING COMMISSIONER
SE/S of Philadelphia Rd. 724.30' SW of Rossville Blvd., 15th District OF BALTIMORE COUNTY
A. V. WILLIAMS, Petitioner Case No. 78-40-R

ORDER FOR APPEAL

Mr. Commissioner:

Please note on Appeal from the decision of the Deputy Zoning Commissioner in the above-entitled matter, under date of October 4, 1977, to the County Board of Appeals and forward all papers in connection therewith to said Board for hearing.

Charles E. Keizer, Jr.
Charles E. Keizer, Jr., Jr.
Deputy People's Counsel

I HEREBY CERTIFY that on this 31st day of October, 1977, a copy of the foregoing Order was mailed to W. Lee Harrison, Esquire, 503 Equitable Building, Towson, Maryland 21204, Attorney for Petitioner.

John W. Hession, III

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



A. V. Williams - #78-40-R

Towson, Maryland 21204, People's Counsel for Baltimore County, and Mr. James A. Sweetwood, Real Estate Department, Acme Markets, Inc., 908 York Road, Towson, Maryland 21204, and James D. Nolan, Esquire, 204 West Pennsylvania Avenue, Towson, Maryland 21204, requested notification, on this 24th day of October, 1978.

Edith T. Eisenhart

Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County

cc: Zoning, Mr. Canagone
Planning, Mr. Howell

RE: PETITION FOR RECLASSIFICATION BEFORE THE CIRCUIT COURT
from M.L. zone-I.M. District FOR BALTIMORE COUNTY
to a B.M. zone AT LAW
SE/S Philadelphia Road 724.30' SW of Rossville Boulevard 15th District Misc. Docket No. 11
A. V. Williams, Petitioner Folio No. 110
Case No. 78-40-R File No. 6660

PETITION ON APPEAL

The People's Counsel for Baltimore County, Protester below and Appellant here, having heretofore filed an Order for Appeal from the decision herein of the County Board of Appeals under date of September 25, 1978, granting a reclassification from M.L.-I.M. zone to a B.M. zone for the property in said proceeding more particularly described, in compliance with Maryland Rule 8.2.e, files this Petition setting forth the grounds upon which this appeal is taken, viz:

A. That since the evidence in this case clearly shows that the zoning classification for the tract here involved was directly and fully considered upon the evidence presented on behalf of the Petitioner before the County Council for Baltimore County during the comprehensive zoning process conducted during the year 1976, and upon which this said County Council for Baltimore County made its determination, no action by the County Board of Appeals upon the same evidential base contrary to the decision of the County Council for Baltimore County is legally permissible and said Order of the County Board of Appeals herein purporting to grant a reclassification of said property is an illegal act upon the part of the County Board of Appeals, which said illegality can be cured only by reversal of said Order.

B. That the County Board of Appeals had no evidence before it upon which it could properly base its finding that the original classification of said property was legally improper, and Petitioner failed to meet his burden to demonstrate that there is no reasonable use for his property under its present zoning classification; the County Board of Appeals having no legally sufficient evidence before it upon which to make

RE: PETITION FOR RECLASSIFICATION BEFORE THE CIRCUIT COURT
from M.L. zone-I.M. District FOR BALTIMORE COUNTY
to a B.M. zone AT LAW
SE/S Philadelphia Road 724.30' SW of Rossville Boulevard 15th District Misc. Docket No. 11
A. V. Williams, Petitioner Folio No. 110
Case No. 78-40-R File No. 6660

ORDER FOR APPEAL

MR. CLERK:

On behalf of the People's Counsel for Baltimore County, pursuant to the provisions of Section 5.4.1 of the Baltimore County Charter, please note an appeal to the petition granting reclassification from an M.L.-I.M. zoning district to a B.M. zone, as in said Order of the County Board of Appeals, under date of September 25, 1978, provided.

John W. Hession, III
John W. Hession, III
People's Counsel

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

I HEREBY CERTIFY that on this 24th day of October, 1978,

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, Maryland 21204, pursuant to the presentation of the original to the Clerk of the Circuit Court for Baltimore County.

RE: PETITION FOR RECLASSIFICATION :
SE/S of Philadelphia Road, 724.30' SW
of Roseville Boulevard - 15th Election :
District :
A. V. Williams - Petitioner
NO. 78-40-R (Item No. 21)

BEFORE THE
DEPUTY ZONING
COMMISSIONER
OF
BALTIMORE COUNTY

This matter comes before the Deputy Zoning Commissioner as a result of a Petition for a Reclassification from a M.L. Zone - I.M. District to a B.M. Zone, for a parcel of land containing 13.09 acres, more or less, located on the southeast side of Philadelphia Road, 724.30 feet southwest of Roseville Boulevard, in the 15th Election District of Baltimore County.

This property was the subject of a prior zoning case, No. 75-55-R, which considered a Reclassification from its then M.L., M.L.R., and D.R.16 Zones to a B.L. Zone. The then Deputy Zoning Commissioner denied the Reclassification in his Order, dated December 13, 1974.

The Baltimore County Board of Appeals, in its Order, dated February 11, 1976, ruled that the Reclassification be granted. The 1976 Comprehensive Zoning Map shifted the tract to a M.L. Zone - I.M. District.

Testimony on behalf of the Petitioner claimed map error, emphasizing the amount of industrially zoned land nearby which the Petitioner claimed constituted an unrealistic and excessive manufacturing land bank. The adjacent Golden Ring Mall figured prominently in the testimony, with the Petitioner calling attention to its prior manufacturing-oriented zoning and grandfathering for commercial purposes. The Petitioner's Exhibit No. 3 purports to describe benefits to the County which would accrue through commercial development of the site.

In the like manner, it was alleged that several zoning changes, which occurred in 1973 on nearby Pulaski Highway, justify the subject Reclassification:

1. The Levenson Klein property, rezoned from M.L. to B.R. in February, 1973.

2. The Diecraft property, rezoned from M.L. to B.R. in March, 1973.
3. The Glen Gail Lumber property, rezoned from M.L. to B.R. in October, 1973.

The Petitioner further averred that the County Council was in error in not recognizing that he could not develop his property in the reasonably foreseeable future under its M.L. classification. In support of this thesis, the Petitioner claimed that out of a total of 6,300 acres of industrially zoned land in the Eastern County, 58 percent remains undeveloped. As examples, it was noted that the nearby Pulaski Industrial Park has developed as M.L. only 18 acres of its 158 acre potential and that Chesapeake Park has approximately 84 acres of industrial land awaiting development.

The Petitioner's memorandum, filed herein, lists additional alleged errors in the current maps. These include the mislocation of Stemmers Run Road through the property, failure to recognize population trends, and incorrect zoning identification of a contiguous property. In fact, there has been a movement of industrial operations away from the subject vicinity in recent years. These include Diecraft and MacMillan Blonder, as well as Glen Gail Lumber. As noted earlier, these properties were rezoned to P.R. and are being utilized commercially.

The traffic consultant stated that the most critical intersection is Pulaski Highway and Roseville Boulevard but that only a small part of this condition can presently be attributed to Golden Ring Mall.

Without reviewing the evidence further in detail but based upon all of the evidence presented at the hearing, it is the opinion of the Deputy Zoning Commissioner that the Petitioner has proven error in the Comprehensive Zoning Map and that this relatively small tract has little relationship to the Eastern County's huge industrial developments, with hundreds of acres of currently unused land. There is no critical need for the preservation of this minuscule property as an industrial keepsake to be utilized at some distant

- 2 -

future date. (Reference Petitioner's Exhibit No.2.) This site has been acted upon by a number of extenuating factors over a period of several years. These include measures as drastic as changes in a nearby stream bed, flood plain impact, a sluggish industrial market, adjacent zoning changes, and its proximity to a major regional shopping complex, Golden Ring Mall.

Testimony further indicated that more than ample off-street parking (773 spaces), would be provided and the satellite nature of the approved enterprises, such as a drugstore, bank, grocery store, discount store, and restaurant, would tend to promote an acceptable flow of traffic between the Mall and the subject property. It is difficult to conclude other than that the property bears a relationship to the Mall and has little in common with nearby industrial land.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 4th day of October, 1977, that the requested Reclassification from a M.L. Zone - I.M. District to a B.M. Zone should be and the same is hereby GRANTED, from and after the date of this Order, subject to the approval of a site plan by the State Highway Administration, the Department of Public Works, and the Office of Planning and Zoning.

Signatures
Deputy Zoning Commissioner of
Baltimore County

CASE NO. 78-40-R (Item #21)

November 1, 1977

SE/S Philadelphia Road 724.30'
SW of Roseville Blvd.

15th Election District

A.V. Williams - Petitioner

4/29/77 Copy of Petition
Copy of Description of Property
Copy of Memorandum to accompany Petition Request for Reclassification Change
5/2/77 Copy of Zoning Advisory Committee Comments
8/29/77 Copy of Order to Enter Appearance, John V. Hession, Jr., People's Counsel
9/2/77 Copy of Certificate of Posting
9/1/77 Copy of Certificate of Publication (Hess Times)
9/1/77 Copy of Certificate of Publication (The Jeffersonian)
10/1/77 Copy of Deputy Zoning Commissioner's Order
10/31/77 Copy of Order for Appeal, John V. Hession, Jr., People's Counsel
Petitioner's Exhibit #1 - James Spenser Map, Jan. 30, 1974
Petitioner's Exhibit #2 - A.V. Williams Property, Sept. 19, 1977 Colored Map
Petitioner's Exhibit #3 - Economic Impact Study
Petitioner's Exhibit #4 - Aerial Map (Mounted)
Petitioner's Exhibit #5 - Aerial Map (Mounted)
Petitioner's Exhibit #6 - James Spenser Map, Feb. 9, 1977
Petitioner's Exhibit #7 - Brochure-Industrial Realty
Petitioner's Exhibit #8 - Traffic Analysis
Copy of Plat of the property
1-Sign
Council for Petitioner
V. Lee Harrison, Esq.
503 Equitable Building
Towson, Maryland 21204
John V. Hession, Jr., Esq.
James E. Dyer
People's Counsel
Request Notification

2, 1977
V. Lee Harrison, Esq.
503 Equitable Building
Towson, Md. 21204

NOTICE OF HEARING

Re: Petition for Reclassification for A. V. Williams
#78-40-R
Item #21

TIME: 1:00 P.M.

DATE: Monday, September 19, 1977

PLACE: ROCK JONES COUNTY OFFICE BUILDING, 111 V. CHESAPEAKE AVENUE,

BOWEN, MARYLAND

Cc:
Williams Construction Co., Inc.
8660 Pulaski Highway
Box 836
Baltimore, Md. 21203

Signatures
ZONING COMMISSIONER OF
BALTIMORE COUNTY

WILLIAMS CONSTRUCTION COMPANY, INC.
GENERAL CONTRACTORS
8660 PULASKI HIGHWAY
BOX 836
BALTIMORE, MD. 21203

August 1, 1977

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

Re: Cycle Zoning Item No. 21
Roseville Boulevard and
Philadelphia Road

Dear Mr. DiNenna:

Please advise as to the date and time scheduled for the hearing on above-captioned.

Thank you very much.

Very truly yours,
WILLIAMS CONSTRUCTION CO., INC.
Signature
William T. Poole, Jr.

WTP:mp

FORREST D. MILLER
Senior Associate Traffic Engineer

Education Purdue University, B.S. and M.S. in Civil Engineering
University of Illinois, course work in Traffic Engineering
Northwestern University, Highway Capacity Seminar
Previous Positions Crawford, Bunte, Rothen, Inc., 1969. Train. Engineer
St. Louis County, 1961-1969. Principal Traffic Engineer
Purdue University, 1960-1961. Research Assistant

Experience Traffic Safety. Conducted traffic safety studies for many municipalities. Developed integrated record systems for accident, traffic control, and physical inventory data. Developed a program for upgrading traffic control devices on an arterial road system.

Traffic Operations. Has performed numerous studies to determine traffic impact of a wide range of existing and proposed developments. Provides testimony in zoning cases. Advised on and coordinated traffic engineering activities of the 90 municipalities in St. Louis County including plan of future roadways, preparation of plans for intersection and roadway improvements, and supervision of accident analysis, signing, and pavement marking. Has been in charge of and participated in numerous TOPICS studies.

Transportation Planning. Prepared plans involving vehicular and pedestrian circulation and parking for central business districts (CBD) in large cities and smaller areas. Worked with traffic data from metropolitan network assignments conducting area, subarea, and corridor analyses for various alternatives. Analyzed bus and personal rapid transit systems and estimated patronage and cost.

Signal and Geometric Design. Prepared and advised on complete plans, specifications, bid documents, cost estimates for installation of traffic signals and reviewed bids. Performed analyses for a large metropolitan area signal system study. Performed geometric design of roadway and intersection improvements.

Toll Facilities. Prepared estimates of traffic and revenue for existing and planned toll facilities based on O/D surveys.

Research. Performed school crossing protection, truck weight, speed and speed trend studies. Performed and managed trip generation studies.

Licenses Registered Professional Engineer in Missouri, North Carolina, and Virginia

Affiliations Institute of Transportation Engineers
Washington, D.C. Section of the Institute of Transportation Engineers
Traffic Engineering Association of Metropolitan St. Louis, Past Vice President

Miller, Publications

"Speed Trends in Indiana," co-authored with Donald F. Petty, Purdue University, 1960.
"A Study of School Crossing Protection," Purdue University, September 1961.
"Uniform Pavement Markings in St. Louis County," Missouri Municipal Review, April 1967.
"Trip Generation at Shopping Centers," Traffic Engineering, September 1969.
"Commuter Ticket Characteristics for Jacksonville, Florida, Bridge Toll Facilities," (unpublished). Presented at IBTTA Seminar, Norfolk, Virginia, April 1977.

RE: PETITION FOR RECLASSIFICATION : IN '78
from W.L. zone-1.M. District : CIRCUIT COURT
to a B.M. zone : FOR
SE/6 Philadelphia Rd. 724.30' : BALTIMORE COUNTY
SW of Rosville Blvd., 15th District : AT LAW
A. V. Williams, Petitioner :
Case No. 78-40-R : Misc. Docket No. 11,
Folio 110, File 6660

REQUEST FOR IMMEDIATE HEARING

Now comes A. V. Williams and/or Williams Construction Company, Inc., Petitioner, by W. Lee Harrison, their attorney, and request an immediate hearing on the Motion to Dismiss filed in the above captioned matter.

W. Lee Harrison
W. Lee Harrison
503 Equitable Building
401 Washington Avenue
Towson, Maryland 21204
332-2812
Attorney for Petitioner

I hereby certify that on this 15th day of November, 1978, copy of the foregoing Answer to Petition on Appeal and Motion to Dismiss was sent to John W. Hession, III, Esq., County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County and to the County Board of Appeals, Room 219, Courthouse, Towson, Maryland 21204.

W. Lee Harrison
W. Lee Harrison

RE: PETITION FOR RECLASSIFICATION : IN THE CIRCUIT COURT
from W.L. zone-1.M. District : FOR BALTIMORE COUNTY
to a B.M. zone : AT LAW
SE/6 Philadelphia Rd. 724.30' :
SW of Rosville Blvd., 15th District : Misc. Docket No. 11
A. V. Williams, Petitioner : Folio No. 110
Case No. 78-40-R : File No. 6660
People's Counsel for Baltimore County :
Appellant

MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS

John W. Hession, III, People's Counsel for Baltimore County, files this Memorandum in Opposition to the Motion to Dismiss filed in the above-captioned matter as follows:

I.
The people of Baltimore County established in the 1974 general election the office of People's Counsel, embodied in Section 524.1(b) of the Charter. The section was amended, and the responsibilities of the office expanded, by Bill 90-78, adopted by the voters on November 7, 1978, a copy of which is attached hereto as Exhibit A. His mandate is to defend, on behalf of Baltimore County, the comprehensive plan and zoning maps enacted by the Baltimore County Council (County Code Sections 22-20, et seq.), to represent the public interest of the County in reclassification, special exception, and variance proceedings before the Zoning Commissioner, the Board of Appeals, and the Courts, and to appear before agencies and courts in cases affecting the land, air, and water resources of the County. There can be no doubt, moreover, that, in specifically empowering the People's Counsel to "appeal to the courts," the Charter language and purpose was to afford complete and full appellate rights, consistent with the Maryland Rules, suitable to an effective office of public advocacy. In this context, the Court of Special Appeals acknowledged the appearance of this office in *Holmes v. Frank Realty Co.*, 35 Md. App. 691, 373 A.2d 273 (1977), footnote 3, by saying,

"The People's Counsel is appointed by the Baltimore County Executive and is charged with representing the public interest before the Zoning Commissioner, the County Board of Appeals, or the courts in any matter involving the Baltimore County Zoning Regulations."

And, in *Barkus v. Stencil Contracting Co.*, No. 383, September Term, 1978, per curiam, that Court held, in a case on appeal from the Circuit Court for Baltimore County, that the "People's Counsel has been appointed as an aggrieved party to protect the public interest." (P. 7) A copy of the opinion is attached hereto as Exhibit B.

A. V. Williams nevertheless argues that the People's Counsel cannot qualify as an "aggrieved person," entitled under Section 604 of the Charter to appeal decisions of the Board of Appeals. To this, we submit that the nature of home rule, under the Maryland Constitution, the provisions of the Express Powers Act (Section 5(S), 5(U), and 5(X)), and analogous state legislation on zoning in non-charter counties, proceedings before state administrative agencies, and the People's Counsel of the Public Service Commission, independently and/or collectively, support the proposition that the people of Baltimore County could validly designate the People's Counsel to represent their collective interest as a party and an aggrieved person in the context of the prescribed county zoning cases.

II.
The Court of Appeals gave its clearest expression of the history, purpose and structure of Home Rule in *Richmont Partnership v. Board*, 283 Md. 48, 381 A.2d 423 (1978). In evaluating the referendum provisions of the Annapolis County Charter applied to the comprehensive zoning process, the Court came to the "foundation of local self-government in Maryland counties, Article XI-A of the State Constitution, the Home Rule Amendment, particularly Section 1. This Amendment implicitly 'reserves to the people of this state the right to organize themselves into semi-autonomous political communities for the purpose of instituting self-government within the

territorial limits of the several counties." 283 Md. at 58. The Charter is the means to this end, being a local constitution "which requires no implementing legislation to render it operative." And, as the expression of the "popular will," the Charter may make provision "for any form of government (the people) deem suitable for their needs, so long as they do not run afoul of the letter and spirit of the Federal and State Constitutions." 283 Md. at 59.

The power to form and establish local government is distinct from the power to enact local law. So, the Court of Appeals drew a two-step process for assessing the validity of a local charter provision. If the provision flows from the basic organizational powers implied in Article XI-A, Section 1, then the Court need look no further. If, on the other hand, the provision is deemed outside the scope of basic organization, the Court must determine whether it constitutes a valid exercise of the legislative power. To this latter end, the analysis proceeds to the Express Powers Act, Article 25A of the Maryland Annotated Code.

III.

In *Richmont*, the Court of Appeals had no difficulty in concluding that the referendum power, a basic instrument of democratic government, a "coordinate legislative entity," affected the form or structure of local government. Here, the structural effect is different, but no less significant. In establishing the office of the People's Counsel, the voters of Baltimore County have sought further expression of their will, by extending the reach of the planning and zoning process. This office is particularly designed to enforce the will of the people by an institutional presence before the administrative agencies and courts.

In its mandate, to defend the comprehensive plan and zoning map, it is guided by the law made by the legislative and executive branches of government. At the same time, by virtue of its independence, it represents the public interest, under law, free from any political influence, or appearance thereof, that otherwise might attend

particular planning and zoning cases. The office is different from that of the companion charter office of County Solicitor (Section 507) in that the occupant is not subject to removal by the executive alone.

We believe, therefore, that the Office of People's Counsel constitutes an expression of the local popular will regarding the form and structure of government in a home rule county. Even assuming *arguendo*, however, that the legitimacy of the office is considered pursuant to Article 25A of the Maryland Annotated Code, the Express Powers Act, as an expression of legislative power, we believe there is ample authority.

IV.

Supplementing the enumerated legislative powers afforded charter counties, Article 25A, Section 5(S) provides:

"The foregoing or other enumeration of powers in this article shall not be held to limit the power of the county council, in addition thereto, to pass all ordinances, resolutions or bylaws, not inconsistent with the provisions of this article or the laws of the State, as may be proper in executing and enforcing any of the powers enumerated in this section or elsewhere in this article, as well as such ordinances as may be deemed expedient in maintaining the peace, good government, health and welfare of the county."

In defining the scope of the legislative power, the Court of Appeals said, in the landmark case of *Montgomery Citizens League v. Greenhalgh*, 253 Md. 151, 252 A.2d 242, 247 (1966),

"Gratification would not be afforded the purpose of home rule or the reasons which prompted it if the language of s 5(S) of Art. 25A were not to be construed as a broad grant of power to legislate on matters not specifically enumerated in Art. 25A and the language of that section clearly indicates that such a construction is sound."

There, the Court upheld the enactment by Montgomery County of a fair housing law notwithstanding the absence of any specifically enumerated power.

In the present case, the general welfare clause, subsection 5(S), should be read together with subsection 5(U), enabling home rule counties to provide for bounds of appeals and appeals therefrom, and subsection 5(X), affording home rule counties full control of "planning and zoning."

To fulfill the purposes of home rule, in the interest of general welfare, effective functioning of the Board of Appeals, and sound planning and zoning, the people of Baltimore County surely may designate the People's Counsel as the advocate to represent the public interest in the same manner as an "aggrieved person" and thereby fill a felt need to further execution and enforcement of enumerated powers regarding planning and zoning.

The concept of "aggravement," herein adopted by the people of a home rule county, reflects the concept of aggravement adopted by the General Assembly in defining the mandate of the People's Counsel for the Public Service Commission. Indeed, an examination of Section 524.1(b) of the County Charter shows the language to parallel that of Md. Ann. Code Art. 78, Sec. 15 (1976) which currently provides, in subsection (b),

"If (the office of people's counsel) shall appear before the commission and courts on behalf of those users in all matters or proceedings over which the commission has original jurisdiction and in which the office of people's counsel deems their interest to be involved.... It shall have, in such appearances, all the rights of counsel for a party to the proceeding...."

In this connection, that office of people's counsel appeared as a party before the Court of Appeals in *Potomac Edison Co. v. P.S.C.*, 279 Md. 573, 369 A.2d 1035 (1977). Said office may also appear "before any federal or State agency as necessary to protect the interests of residential and noncommercial users." Md. Ann. Code, Art. 78, Sec. 15(e).

Analogously, with reference to state proceedings under the Administrative Procedure Act, Md. Ann. Code Art. 41, Sec. 256A declares,

"...the political subdivisions of this State and their agencies and instrumentalities have the status of an interested person, petitioner, or party, as the case may be, in all matters including appeals."

Further, reference to zoning proceedings indicates that a charter county may appear as a party appellant in the appellate courts. In *McKean v. Baltimore County*, 37 Md. App. 257, 385 A.2d 96 (1978), the County, represented by its office of law in a violation proceeding, appeared in a case originating with the Zoning Commissioner, and then proceeding to the Board of Appeals and Circuit Court.

And by local law, the people of Harford County similarly, by charter amendment, have established an office of people's counsel. See Harford County Code Secs. 2-30.1, 2-30.2, titled "People's Counsel" and "People's Counsel Citizens' Advisory Board," (Bill No. 76-103).

Finally, research shows that the General Assembly, by public local law, has established an office of people's counsel for zoning proceedings in Kent County, a code county, Kent County Code, Article 15, Section 475-D (1968, 1975 Supp. as amended), Laws of Maryland 1977, Chapter 733. The Kent County Act, in those portions which deal with the authority of the Kent County People's Counsel, is substantially identical to that of the Baltimore County Charter section. The fact that the Legislature of the State of Maryland invested in a public officer the ability to function as an "aggrieved party" would foreclose debate on this question. It follows that a charter county such as Baltimore County has powers equal to or greater than a code county with reference to the establishment of such an office.

V.

Accordingly, we believe that the office of People's Counsel finds its source of legitimacy in the legislative power as well as the basic organizational power afforded the people of Home Rule Counties. In this context, we note that A. V. Williams suggests that the People's Counsel cannot qualify as an "aggrieved person" under Section 604 of the Charter. If, however, we take it as established that Section 524.1(b) of the Charter is consistent with State constitutional and/or statutory

provisions regarding Home Rule, we have no further difficulty with Section 604. Simply put, Section 524.1(b) harmonizes with Section 604 by identifying the People's Counsel as an "aggrieved party" capable of pursuing legal redress to the courts. And assuming *arguendo* there were any conflict, Section 524.1(b), as the later enacted provision, would necessarily take precedence.

CONCLUSION

For the foregoing reasons, the Motion to Dismiss should be denied.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

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

I HEREBY CERTIFY that on this 9th day of January, 1979, a copy of the foregoing Memorandum in Opposition to Motion to Dismiss was mailed to W. Lee Harrison, Esquire, 303 Equitable Building, 401 Washington Avenue, Towson, Maryland 21204, Attorney for Petitioner-Appellee.

John W. Hession, III
John W. Hession, III

RE: PETITION FOR RECLASSIFICATION : IN THE CIRCUIT COURT
from M.L. Zone - I.M. District : FOR BALTIMORE COUNTY
to B.M. Zone : AT LAW
SE 1/4 Philadelphia Rd. 724.30'
S 1/4 of Rossville Blvd., 15th District
A. V. Williams, Petitioner : Misc. Docket No. 11
Case No. 78-40-R : Folio No. 110
People's Counsel for Baltimore County : File No. 6660
Appellant

ANSWER TO MOTION TO DISMISS

John W. Heslen, III, People's Counsel for Baltimore County, answers the Motion to Dismiss as filed in the above-entitled case, as follows:

1. The authority of the People's Counsel, pursuant to Section 524.1(b) of the Baltimore County Charter, to represent the public interest in cases involving reclassification and other described planning, zoning and natural resource issues, is authorized by Article XI-A, Section 1 of the Maryland Constitution, the Home Rule Amendment, affording the people of charter counties the power to establish and organize local government.
2. The authority of the People's Counsel, pursuant to Section 524.1(b) of the Baltimore County Charter, to represent the public interest in cases involving reclassification and other described planning, zoning and natural resource issues, is vested by the Express Powers Act, Md. Ann. Code, Art. 25A, Sections 5(5), 5(U), and 5(X) affording the people of charter counties the power to enact legislation necessary and appropriate to execute and enforce law regarding planning, zoning, and the public safety, health and welfare of Baltimore County.
3. Section 524.1(b) is consistent with Section 604 of the Baltimore County Charter.

WHEREFORE, Appellant prays that the Motion to Dismiss be denied.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

I HEREBY CERTIFY that on this 9th day of January, 1979, a copy of the foregoing Answer to Motion to Dismiss was mailed to W. Lee Harrison, Esquire, 501 Equitable Building, 401 Washington Avenue, Towson, Maryland 21204, Attorney for Petitioner-Appellee.

John W. Heslen, III
John W. Heslen, III

RE: PETITION FOR RECLASSIFICATION : IN THE CIRCUIT COURT
from M.L. zone - I.M. District : FOR BALTIMORE COUNTY
to B.M. zone : AT LAW
SE 1/4 Philadelphia Road 724.30'
SW of Rossville Boulevard
15th District
A. V. WILLIAMS, Petitioner : Misc. Docket No. 11
Case No. 78-40-R : Folio 110
File 6660

MEMORANDUM IN SUPPORT OF PETITIONER'S ANSWER AND MOTION TO DISMISS

The Petitioner-Appellee, A. V. Williams and/or Williams Construction Company, Inc., by his attorneys, W. Lee Harrison and Duckett, Orem, Christie & Beckett, submits the following Memorandum in Support of Petitioner's Answer and Motion to Dismiss.

STATEMENT OF FACTS

The record in this case reveals that the subject property consists of approximately 13 acres which are immediately adjacent to the Golden Ring Mall, a regional shopping center and is bounded by Rossville Boulevard, Philadelphia Road and Route 40 (T. 4). Public water and sewer is available with no capacity problems (T. 12-14). Subject property is a portion of a rectangle bounded by Rossville Boulevard, Pulaski Highway, the Beltway and Philadelphia Road, which are freeways, expressways or major highways (See Exhibit #1), two-thirds of which is zoned and used for retail commercial uses (T. 14-15). There are other properties zoned and used for business uses directly across Pulaski Highway from the subject property (T. 17).

Prior to the adoption of the latest comprehensive map on or about October 8, 1976, the Golden Ring Mall was a non-conforming use in an M.L. zone and the subject property was B.L. as the result of a reclassification by the County Board of Appeals earlier that year (T. 68-74). Testimony was uncontradicted that other properties zoned for industrial

purposes in very close proximity to subject property were vacant, undeveloped and unsold although the owners had been attempting to develop them for at least twelve years (T. 23-31, 32). It was also uncontradicted that economic feasibility requires that industrial developments be sold out between five to seven years (T. 33, 38); that there was no need for additional industrial land in the area in 1976; and that the subject property is not a "high image site" and possesses no exceptional value as an industrial parcel of land (T. 31-32). Moreover, industrial parks in this area are notoriously slow movers (T. 53-54) and that the property, being next to the Golden Ring Mall would be a lot more homogeneous if it were a commercial use (T. 32). It was also conceded that the use of the property for offices could have a greater impact on peak hour traffic conditions than a retail commercial use of the same square footage (T. 65, 124). There is a vast reservoir of M.L. property in the immediate area (T. 78-80); the owners have had no inquiries about the property for M.L. uses (T. 82); there have been many inquiries about the property for retail commercial uses (T. 83); there would be enumerable benefits to the county if it were developed for retail commercial uses (T. 84-87) and there is no reasonable probability that the subject property could be utilized for M.L. uses in the reasonably foreseeable future (T. 96, 142).

On October 8, 1976, the County Council removed the M.L. zoning from Golden Ring Mall and placed its 90 acres in a B.M. zone, while the immediately contiguous thirteen acres, the subject property, was changed from a B.L. zone to an M.L. zone (T. 139-140). At the same time, the Council created 170 acres of B.M. zoning on the Nottingham property located a mile to a mile and one-half away, despite the fact that not a single acre of the property was zoned for business purposes, and the roads to serve that property were not yet in existence (T. 133-140). The change of zoning on the subject property only became an issue on the 1976 map because of the recommendation of the planning staff (T. '98).

However, the planning staff representative did not know whether or not the subject property could be developed and used for an M.L. use within the reasonably foreseeable future and admitted that the existing Golden Ring Mall has an effect on said property (T. 142-144). Moreover, it was admitted that not a single person appeared in favor of the planning board's recommendations at either of the two public hearings of the council and not a single letter was received from any citizen supporting the planning board's recommendation to reclassify the subject property (T. 151).

PEOPLE'S COUNSEL IS NOT AN AGGRIEVED PARTY

Baltimore County, Maryland (the County) is a body corporate and politic incorporated as a charter form of government under the laws of the State of Maryland, specifically Article XI-A of the Constitution of Maryland and Article 25A of the Annotated Code of Maryland, adopted pursuant thereto.

Section 604 of the Charter of Baltimore County (the Charter) entitled "Appeals from Decision of the Board," as originally enacted in 1958, and as presently effective provides, in relevant part:

"Within thirty days after any decision by the county board of appeals is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the circuit court of Baltimore County, which shall have power to affirm the decision of the board, or, if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing, as justice may require. . . . Within thirty days after the decision of the circuit court is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the court of appeals of this state. The review proceedings provided by this section shall be exclusive."

At the general election held on November 5, 1974, a proposed charter amendment to Section 524.1 was placed before the voters of the County.^{1/}

^{1/} Under Article XI-A, Section 5 of the Maryland Constitution, a charter amendment can be proposed in one of two ways: by petition of the voters or by action by the County Council. This charter amendment was proposed by the County Council in Bill No. 61-74.

The proposal, which was adopted by the voters, and thus became effective on December 5, 1974, provided in relevant part:

"(3) Powers and Duties:

The People's Counsel shall have the following powers and duties:

A. He shall appear as a party before the zoning commissioner of Baltimore County, his deputy, the county board of appeals, and the courts on behalf of the interests of the public in general, to defend the comprehensive zoning maps as adopted by the county council, and in any matter or proceeding now pending or hereafter brought involving zoning reclassification and/or variance from or special exception under the Baltimore County Zoning Regulations, as now or hereafter in force and effect, in which he may deem the public interest to be involved. He shall have in such appearance, all the rights of counsel for a party in interest, including but not limited to the right to present his case, to cross examine, to object, to be heard, and to file and prosecute an appeal in his capacity as people's counsel from any order or act of the zoning commissioner of Baltimore County or his deputy, or of the county board of appeals to the courts as an aggrieved party pursuant to the provisions of Section 604 of this Charter to promote and protect the health, safety and general welfare of the community."

In 1978, after approval by the voters at the general election held on November 7, 1978,^{2/} Section 524.1 was amended, effective December 7, 1978 to provide, in relevant part:^{3/}

"A. He (People's Counsel) shall appear as a party before the zoning commissioner of Baltimore County, his deputy, the County Board of Appeals, THE PLANNING BOARD, and the Courts on behalf of the interests of the public in general, to defend ANY DULY ENACTED MASTER PLAN AND/OR comprehensive zoning maps as adopted by the county council, and in any matter or proceeding now pending or hereafter brought involving zoning reclassification

and/or variance from or special exception under the Baltimore County zoning regulations, as now or hereafter in force and effect, in which he may deem the public interest to be involved. HE MAY APPEAR AS A PARTY IN INTEREST BEFORE ALL STATE AND FEDERAL AGENCIES, BOARDS, AND COURTS ON MATTERS INVOLVING THE PRESERVATION OF THE QUALITY OF THE AIR, LAND, AND WATER RESOURCES OF BALTIMORE COUNTY, AND/OR MAY INITIATE SUCH PROCEEDINGS IN THE PUBLIC INTEREST. He shall have in such appearance, all the rights of counsel for a party in interest, including but not limited to the right to present his case, to cross examine, to object, to be heard, and to file and prosecute an appeal in his capacity as people's counsel from any order or act of the zoning commissioner of Baltimore County or his deputy, or of the County Board of Appeals to the courts as an aggrieved party pursuant to the provisions of Section 604 of this charter to promote and protect the health, safety and general welfare of the community. THE PEOPLE'S COUNSEL MAY ALSO PROSECUTE AN APPLICATION BEFORE ANY STATE OR FEDERAL COURT FOR INJUNCTIVE AND OTHER RELIEF INCIDENTAL THERETO, TO ENJOIN VIOLATION OF ANY BALTIMORE COUNTY ZONING MAPS OR MASTER PLAN OR AS AUTHORIZED BY RESOLUTION BY THE COUNTY COUNCIL."

The People's Counsel, purportedly acting pursuant to the authority granted him by Section 524.1 filed an Order for Appeal of the present case on October 24, 1978. Said appeal was taken solely by People's Counsel notwithstanding that no person or organization appeared in opposition to the application before any administrative body although due notice of its pendency was given pursuant to law.

Argument

1. The provisions of Section 524.1 of the Baltimore County charter did not authorize the People's Counsel to prosecute the instant appeal of the decision of the County Board of Appeals.

A. Initially, Petitioner-Appellee asserts that, given the particular facts and circumstances of this case, and notwithstanding any other authority which may, or may not, be vested in the People's Counsel, he may

not prosecute this appeal. The basis for that position is that, as the record herein clearly reflects, no party entered their appearance at any administrative hearing regarding this matter, to indicate any protest or opposition to the granting of the application. Thus, there was not the slightest basis upon which to conclude that the public interest would be served by an appeal. Furthermore, there is no individual "aggrieved party" who instituted any appeal which would permit the involvement of the People's Counsel.

Unquestionably, in the legislative grant of authority to a public official, discretion vested in that official must be unbridled. *Huffman v. Roads Commission of Maryland*, 152 Md. 565, 137 A. 358 (1927). It would be impermissible for the People's Counsel, without any standard or guideline, to determine subjectively that the public interest would not be served by the granting of a particular rezoning application. Thus, if he is ever authorized to prosecute an appeal, (which Petitioner-Appellee does not concede), it must be on the basis of some objective standard upon which the People's Counsel can reach a conclusion as to the public interest. Without the presence and participation of an aggrieved party to present testimony or evidence before the board of appeals to allege any harm which could be occasioned by the granting of the application, there is no standard which could be applied in the instant case to indicate the public's interest.

B. As will be set forth in Argument II below, Article 23A 5(U) of Annotated Code of Maryland, a public general law, strictly limits the right to appeal from a charter county board of appeals, to a "person aggrieved by the decision of the board." By the myriad of cases referred to in Argument II delineating what is considered an aggrieved person, it is clear that it would not include People's Counsel. Therefore, if the language of

^{2/} Proposed by Council No. 90-78.

^{3/} For the convenience of the court, new language is shown in capital letters.

Section 524.1 is construed to expand that limitation and authorize People's Counsel to prosecute the instant appeal, said section would be in direct conflict with the public general law of the State of Maryland, and, therefore, invalid. Wilson v. Bd. of Supvs. of Elections, 273 Md. 206, 328 A.2d 305 (1974); Prince George's County v. M-NCPPC, 269 Md. 202, 306 A.2d 223 (1973).

In order to avoid possible conflict between local legislation and public general law, the court must attempt to interpret both legislative acts so that they can be read together and reconciled. Montgomery County v. Bigelow, 196 Md. 413, 77 A.2d 164 (1951); Montgomery County v. PJI, 20 Md. App. 289, 315 A.2d 136 (1974).

Thus, the court must closely scrutinize the provisions of the Baltimore County charter, and strive to give meaning to it which would not place it in fatal conflict with Article 25A of the Annotated Code of Maryland. With such rule of statutory construction in mind, particular focus on the following reference to the function of People's Counsel in Section 524.1 is necessary:

"... and to prosecute an appeal in his capacity as People's Counsel from any order or act of... the County Board of Appeals to the courts as an aggrieved party pursuant to the provisions of Section 504 of the charter..." (Emphasis added).

Thus, in determining the express authority of the People's Counsel, reference must be made to Section 604. That section clearly limits the right of appeal to a party to the proceedings before the County board of appeals "who is aggrieved thereby." The ultimate sentence of Section 604 further states that "the review proceedings provided by this section shall be exclusive."

In conjunction with the rule of statutory construction set forth above, a second basic rule will be of assistance to the court herein. A statute

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should be construed according to the ordinary and natural import of its language. Schweitzer v. Brewer, 280 Md. 430, 374 A.2d 347 (1977); Baltimore County v. White, 235 Md. 212, 201 A.2d 358 (1964).

The term "pursuant to" as contained in Section 524.1 is a phrase generally used and has an ordinary and natural import. Mirriam-Webster Dictionary (1974 Edition) defines that term as: "In carrying out: according to." In Fabianich v. Hart, 31 A.2d 881 (1943), in construing the term "pursuant to" as it appeared in an ordinance of that city, the District of Columbia Municipal Court of Appeals opined, at page 883:

"The expressions 'pursuant to' or 'in pursuance of' have a restrictive interpretation. They have been regarded as equivalent to 'in conformity with' and imply that what is done is in accordance with an instruction or direction."

Thus, quite simply, the unstrained and obvious meaning of the above-quoted portion of Section 524.1 is that the People's Counsel can only appeal an order of the board of appeals if he has standing to do so in accordance with the legislated standard of Section 604 (i.e., when, but only when, he qualifies as an "aggrieved party.") Section 524.1 was not intended to expand the definition of "aggrieved party" but only to set forth the permissible function of the People's Counsel if he can first show that he is an aggrieved party.

Buttressing such an interpretation is the clear intent of the final sentence of Section 604. It declares that the review proceeding set forth therein shall be exclusive. Thus, if it were the intent of the voters of the County to attempt to vest the People's Counsel with plenary authority to appeal decisions of the board, such an expression would have been set forth in Section 604, not in Section 524.1.

4/ See also White v. Major Realty, Inc., 251 Md. 63, 246 A.2d 249 (1968) wherein the Court of Appeals recognized Sec. 604 as the definitional provision for aggrievement.

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Association v. Anne Arundel County Board of Appeals, 251 Md. 310, 247 A.2d 402 (1968). In that case the Court of Appeals was confronted with an argument that a charter county could, by its own legislative enactment, vary the standard required for standing in order to appeal from the local board of appeals. After reciting, with appropriate emphasis, Section 5(U), in speaking for the court, Judge Finan stated, at page 314:

"Article 25A, §5(U) (the enabling act) specifically provides for the manner in which an appeal may be taken from a county board of appeals to the circuit court and as is stated above, by the language that we have italicized in the statute, only an aggrieved party to the proceedings is authorized by the enabling act to appeal from the county board of appeals to the circuit court of the county. Anne Arundel County followed this procedure authorized by the enabling act by enacting §2-102 of the Anne Arundel County Code (1967 Ed.) YC."

We think the intent is clear and unambiguous that the language of §2-102 was to dutifully and properly follow that employed by Art. 25A, §5(U), the enabling act. (Emphasis added).

As with Anne Arundel County in Shore Acres Improvement Association, supra, this County is as well constrained to "dutifully and properly follow" the limitations set forth in Article 25A.

In a case which originated in the Circuit Court for Baltimore County (Turnbull, J.) the Court of Appeals recognized the paramount authority of Article 25A when it concluded:

"The right of appeal from the Board to the Circuit Court stems from Code (1957), Art. 25A, Sec. 5 (granting express powers to a chartered county). By Paragraph U of Sec. 5 such a county has power to establish a county board of appeals provided that 'any decision by a county board of appeals' may be appealed by an aggrieved party to the circuit court for the county 'which shall have power to affirm the decision of the board, or if such decision is not in accordance with law, to modify or reverse such decision.'"
Levy v. Seven Slade, Inc., 234 Md. 145, 149, 198 A.2d 267 (1964).

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C. Even beyond all of the above, the recent amendment to Section 524.1 further indicates that the section, as it existed at all times relevant to this case, does not purport to authorize the present appeal. If, without an amendment to Article 25A, Section 5(U), the power exists to expand the standing of one authorized to appeal a board decision, and if further, such authority could be granted by Section 524.1 (neither of which propositions is conceded by Petitioner-Appellee) then, nevertheless, such was not accomplished until the November 7, 1978 charter amendment became effective on December 7, 1978. There is very little doubt that, by that amendment, the voters were attempting to vest some additional authority in the People's Counsel. 5/ The enactment of a subsequent amendment which expressly enlarges upon original legislation, is given great weight by the court in concluding that the authority granted by such amendment did not exist prior thereto. U. S. v. Eisinger M. & L. Co., 202 Md. 113, 98 A.2d 81 (1953); Montgomery County Comm'rs. v. Supervisor of Elections, 192 Md. 196, 63 A.2d 735 (1949); Swarthmore Co. v. Kaestner, 258 Md. 517, 266 A.2d 341 (1970).

II. In order to authorize People's Counsel to prosecute an appeal from an order of the County board of appeals, there must be an amendment to Article 25A of the Annotated Code of Maryland.

The constitutional provisions which authorize the creation of all "Home Rule" or charter forms of County government in Maryland, such as

5/ Inasmuch as the 1978 amendment was not effective until after the instant appeal was taken, it is not applicable to this appeal. Therefore, its validity is neither questioned nor conceded, but only its existence is relevant.

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Thus, the issue is rather narrow: Is the People's Counsel in this case "aggrieved by the decision of the Board" as required by Article 25A? If not, he simply has no standing, and any charter provision which purports to grant such standing, is invalid.

A comprehensive and exhaustive discussion of the cases which define aggrievement is contained in Brynjaraki v. Montgomery County Board of Appeals, 247 Md. 137, 230 A.2d 289 (1967). At page 144, the Court stated:

"Generally speaking, the decisions indicate that a person aggrieved by the decision of a board of zoning appeals is one whose personal or property rights are adversely affected by the decision of the board. The decision must not only affect a matter in which the proponent has a specific interest or property right but his interest therein must be such that he is personally and specially affected in a way different from that suffered by the public generally. DuBay v. Crane, 240 Md. 180, 185, 213 A.2d 467 (1965)."

Significantly, several of the appellate decisions which recite that definition found their genesis in this County. In White v. Major Realty, Inc., 251 Md. 65, 246 A.2d 249 (1968) the Court held:

"In our opinion Judge Raines' order dismissing the appeal was correct. Our decision in Loughborough Development Corp. v. Rivercross Corp., 213 Md. 239, 131 A.2d 461 (1957) and DuBay v. Crane, 240 Md. 180, 213 A.2d 457 (1965) indicate that the appellants did not establish the necessary special damage to their property (an adverse effect different than that suffered by the public generally) to make them aggrieved by the Board's order and these decisions are dispositive of the present case. See also Brynjaraki v. Montgomery County Board of Appeals, 247 Md. 137, 230 A.2d 289 (1967) for a review of our prior decisions in regard to aggrievement in zoning cases."

That same standard for standing, which had been applied by Judge Jenifer below, was affirmed in Wier v. Witney Land Company, 257 Md. 600, 263 A.2d 833 (1970).

Again, in Onay v. Seidel, 25 Md. App. 16, 332 A.2d 739 (1975) in appeal from this court (McDaniel, J.) the Court of Special Appeals

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that adopted in the County in 1956, are found in Article XI-A, MD. CONST. Section 2 of that Article established the general framework of the powers of such counties. It states as follows:

"General Assembly to provide grant of express powers; extension, modification, etc., of such powers.

The General Assembly at its first session after the adoption of this amendment shall by public general law provide a grant of express powers for such County or Counties as may thereafter form a charter under the provisions of this Article. Such express powers granted to the Counties and the powers heretofore granted to the City of Baltimore, as set forth in Article 4, Section 6, Public Local Laws of Maryland, shall not be enlarged or extended by any charter formed under the provisions of this Article, but such powers may be extended, modified, amended or repealed by the General Assembly." (Emphasis added).

In accordance with that constitutional mandate, during its next session the General Assembly duly enacted as public general law Article 25A, entitled "Chartered Counties of Maryland." Section 3 of Article 25A in implementing the constitution, set forth the express powers which the State thereby conferred upon chartered counties. As is pertinent to this case, Section 5 provides:

"Section 5 Enumeration.

The following enumerated express powers are hereby granted to and conferred upon any county or counties which shall hereafter form a charter under the provisions of said Article XI-A of the Constitution, that is to say:

(U) County Board of Appeals

To enact local laws providing (1) for the establishment of a county board of appeals whose members shall be appointed by the county council; (2) for the number, qualifications,

5/ Although that section was amended in the November 7, 1978 general election, the relevant language has not been affected thereby.

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terms, and compensation of the members; (3) for the adoption by the board of rules of practice governing its proceedings; and (4) for the decision by the board on petition by any interested person and after notice and opportunity for hearing and on the basis of the record before the board, of such of the following matters arising either originally or on review of the action of an administrative officer or agency under any law, ordinance, or regulation, or subject to amendment or repeal by, the county council, as shall be specified from time to time by such local laws enacted under this subsection: An application for a zoning variation or exception or amendment of a zoning ordinance map; the issuance, renewal, denial, revocation, suspension, amendment, or modification of any license, permit, approval, exemption, waiver, certificate, registration, or other form of permission or of any adjudicatory order; and the assessment of any special benefit tax. Provided, that upon any decision by a county board of appeals it shall file an opinion which shall include a statement of the facts found and the grounds for its decision. Any person aggrieved by the decision of the board and a party to the proceeding before it may appeal to the circuit court for the county which shall have power to affirm the decision of the board or if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing as justice may require. Any party to the proceeding in the circuit court aggrieved by the decision of the said court may appeal from such decision to the Court of Special Appeals. The review proceedings provided by this subsection shall be exclusive." (Emphasis added).

Therefore, both the power of the County to establish a board of appeals as well as the criteria for determining who may appeal decisions of that board are governed by the express powers grant of Article 25A. Recalling that Article XI-A Section 2, MD. CONST., prohibits any charter from enlarging or extending the Article 25A express powers, it becomes evident that unless the People's Counsel falls within the definition of "aggrieved", as it appears in Article 25A, Section 5(U), any charter provision to the contrary is invalid. Wilson v. Board of Supervisors of Elections, 273 Md. 206, 328 A.2d 305 (1974). Prince George's County v. Maryland National Capital Park and Planning Commission, 269 Md. 202, 306 A.2d 223 (1973).

That rule was further expressed in Shore Acres Improvement

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reiterated that definition as it applies in Baltimore County.

From all of the above, it is without doubt that, unless Article 25A is amended by act of the General Assembly of Maryland, or unless the People's Counsel can establish that he is one whose personal or property rights are adversely affected by the decision of the board of appeals herein, so that he is personally and specially affected in a way different from that suffered by the public generally, he has no standing, and this case should be dismissed.

Such a showing by the People's Counsel, it is submitted, would be impossible. By the very nature of his office, it is his function to protect the "interest of the public in general" and he may therefore not, in his official capacity, represent such a personal or specific interest. See Maryland National Park and Planning Commission v. Rockville, 269 Md. 240, 305 A.2d 122 (1973).

Conclusion

Based upon the foregoing, this appeal should be dismissed for lack of standing by the People's Counsel upon any of the following alternative grounds:

- No member of the public appeared at any administrative hearing herein in opposition to the granting of the subject rezoning petition;
- In reading the charter in conjunction with the public general law of Maryland, the charter does not purport to authorize this appeal;
- In reading the charter as it was effective at all times relevant to this appeal, in conjunction with the recently adopted charter amendment, the effective provisions of the charter do not pur-

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port to authorize this appeal:

- (d) The charter may not vest authority in the People's Counsel to prosecute a judicial appeal from the board of appeals unless and until the General Assembly appropriately amends Article 25A Section 5(U).

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developed and sixty-six of which remain undeveloped (T. 27-29). Pulaski Industrial Park is located approximately one-quarter to one-half mile from the subject and has approximately seventy acres remaining undeveloped. Furthermore, the price per acre has been reduced since 1975 (T. 30-31). Chesapeake Industrial Park has approximately eighty-four undeveloped acres (T. 31). Moreover, the subject property does not especially possess any particular desirability for industrial development (T. 32). Mr. Klaus, a real estate expert, testified that he did not believe there was a need for industrial use on the subject property (T. 75). Mr. Klaus stated further that to the immediate east and south of Pulaski Highway there are at least 1,000 to 1,500 acres of land which have been undeveloped for many years and not yet over half of it occupied with industrial uses, even though railroad and all utilities are available (T. 76). He further states that retail space would be a reasonable and good development in this neighborhood (T. 77).

The Planning Board emphasized the necessity for expanding tax revenues and employment opportunities. Petitioner's Exhibit 3 demonstrates that as a shopping center the subject will produce tax revenues of \$877,875.00 and if services, estimated at a dollar a square foot, are deducted therefrom there will be a direct annual tax surplus to the State and County of \$531,875.00. There will also be additional benefits in the form of 150 job payroll, and it is estimated that the benefits from the payroll will amount to \$1,092,000.00.

Again, a reasonable inference to be drawn from the Planning Board's statement is that commercial development of the subject property would not be advantageous to the County from the point of view of revenue and employment, while the actual facts indicate that those statements are false. The Planning Board noted finally that additional road improvements in the immediate area would not be necessitated by industrial development, but would be required for commercial development. Petitioner's Exhibit 9

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THE EVIDENCE CLEARLY ESTABLISHES ERROR IN THE COMPREHENSIVE REZONING OF THE SUBJECT PROPERTY

The evidence indicates that at the time of consideration of the maps amendment in 1976 by the County Council, the information (or lack thereof) and issues presented to the Council relating to the subject property consisted of the following:

1. List of Issues (Exhibit A) identifying Planning Board comments as set forth in 2 below.
2. The Planning Board's recommendations in the B. zoning petition granted in January 1976 (part of Exhibit 10).
3. The oral statements of Messrs. Lee and Thomas Harrison (Exhibits B and C).
4. Problems with Philadelphia Road were known and proposals to make improvements were being considered (T. 131-132). The Secondary Highway Improvement Program 1979-83, which included funding for improvements to Philadelphia Road, was issued in January 1978 (Exhibit 9), and rights of way are presently being acquired (T. 58).
5. No opposition or public comment (T. 151).

Exhibit A (Summary of Issues) lists under Planning Board comments, Zoning Petition No. 75-55R, Item 6, (The 1974 Planning Board Comments) encompassed within Exhibit 10, relates to said zoning petition and are the comments referred to in Exhibit A. Part of Exhibit 10 includes a letter from William D. Fromm, Director of Planning, dated May 13, 1976, responding to the letter of April 29, 1976, from Mr. Barry P. Gossett requesting specific information as to the recommendations for down-zoning the subject. Mr. Fromm states that the comments attached under Item 6 set forth much of the Board's reasoning on these issues. For clarification, Zoning Petition No. 75-55 was the Petition wherein the Board of Appeals granted B. L. zoning in January 1976.

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obviously does not rely upon the existence of the proposed shopping center and clearly indicates that Philadelphia Road is funded for improvement in any event. The other highways surrounding this rectangle, most clearly seen on Exhibit 1, are substantial roads, each having six lanes.

3. Failure to Comply with the Baltimore County 1980 Guideplan Relating to Regional Shopping Complexes.

Again, the Planning Board misstated an obvious fact to the Council by quoting the guideline relating to "regional" shopping complexes. The Petitioner's proposal was to build a satellite type shopping center, and not a regional shopping center (T. 80). References to ring roads and rapid transit stations have no application to this tract. Furthermore, the property is obviously not on a freeway interchange which the Planning Board in Item 6 attempted to prove by its statement that the zoning would be "... contrary to the Board's policy on land use at freeway interchanges."

In summary, the record herein establishes clearly that the Planning Board has dramatically misrepresented material facts including the condition of traffic, the need for industrial zoning, the economic productivity of the proposed project and the provisions of the Master Plan relating to development of the subject property. The evidence in this case indicates that the premises upon which the County Council acted in its downzoning must have been derived from the Planning Board's recommendations since the Planning Board has provided no other evidence or reason for the Council's action after written request therefor.

APPLICABLE LAW.

Numerous cases have been decided by the Maryland courts of appeal on the questions presented herein with respect to the zoning process. The recent case of *Boyce v. Sembly*, 25 Md. App. 45, 334 A.2d 137 (1975) presents a very scholarly analysis of the requirements to establish mistake or error. The Court, at page 50, stated as follows:

It would appear, therefore, that Item 6 constitutes the fundamental basis for factual consideration of the October 1976 downzoning by the County Council. A review of Item 6 indicates three primary predicates upon which the recommendation was made to justify M. L. zoning of the subject, namely, (i) traffic, (ii) retention of industrial acreage for industrial development, generation of tax revenues and employment and (iii) failure to comply with the Baltimore County 1980 Guideplan relating to regional shopping complexes. A definitive review of each of these points follows:

1. Traffic - Item 6 states as follows: "The Planning Board is concerned with the probable adverse effects of the traffic that will be generated by the Golden Ring Mall on the Baltimore Beltway interchange: to grant additional commercial zoning here would appear to be, at best, unthinkable." It should be noted that no evidence was provided to support the superlative statement "unthinkable" nor was any mention whatsoever made of proposed improvements to Philadelphia Road. Possibly such improvements were not defined until January 1978 when the Secondary Road Program provided for the widening of Philadelphia Road as a four lane divided highway (Exhibit 9). The evidence in this case, however, indicates that the critical intersection at Philadelphia Road and the Beltway ramp operates at level of service D (See Exhibit 8). Mr. Richard Moore testifying for the People's Council defined level of service D as consisting of loaded cycles from thirty percent to seventy percent of the time during peak hours, and further states that at the subject intersection, the cycles were loaded forty-eight percent of the time, indicating a level of service D. (T. 105). Considering that the range of loaded cycles in service level D extends from thirty to seventy percent (or a forty percent differential), and that the mid point is fifty percent, forty-eight percent is better than mid level of service D. Substantial additional capacity therefore exists at this intersection.

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"... A perusal of cases, particularly those in which a finding of error was upheld, indicates that the presumption of validity accorded to a comprehensive zoning is overcome and error or mistake is established when there is a preponderant evidence to show that the assumptions or premises relied upon by the Council at the time of the comprehensive rezoning were invalid. Error can be established by showing that at the time of the comprehensive zoning the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable or fruition in the future, so that the Council's action was premised initially on a misapprehension..." (citing numerous cases). Error or mistake may also be established by showing events occurring subsequent to the comprehensive zoning have proven that the Council's initial premises were incorrect. As the Court of Appeals said in *Rockville v. Stone*, 271 Md. 655, 319 A.2d 536, 541 (1974):

"On the question of original mistake, this Court has held that when the assumption upon which a particular use is predicated proves, with the passage of time, to be erroneous, this is sufficient to authorize a rezoning."

At page 53 in footnote 3, the Court further states: "When subsequent events demonstrate that any significant assumption made by the Council at the time of the comprehensive rezoning was invalid, the presumption of the validity accorded to the comprehensive rezoning is overcome." (Emphasis supplied).

Also on page 53 the Court points out another well known legal premise... that the opinion or conclusion of an expert or lay witness is of no greater probative value than that warranted by the soundness of his underlined reasons or facts. *Surkovich v. Doub*, 258 Md. 263, 272, 285 A.2d 447, 451 (1970)."

Applying the law to the facts as set forth above, the opinions expressed by the Planning Board such as to grant additional commercial zoning would by virtue of the highway problem be "unthinkable", that the rezoning "would drastically reduce" available industrial land, and that planning considerations applicable to regional shopping centers at a freeway interchange are applicable to a convenience strip center not at a freeway interchange, are on the one hand, conclusions without factual support, and on the other, assumptions and premises which are invalid and which misled the Council. Moreover, the subsequent funding of the

Petitioner-Appellee contends that the use of the term "unthinkable" by the Planning Board in its recommendations which went to the County Council, without any backup data, in light of proposed improvements to the intersection, together with an actual level of service of better than mid range of D, is substantially misleading and tantamount to a false representation of a very material fact which clearly could have led to the error on the part of the Council in downzoning the subject property.

2. Retention of industrial acreage for industrial development.

generation of tax revenue and employment - Item 6 of Exhibit 10 quotes the Director of the Industrial Development Commission as follows:

"All three of the subject tracts are prime industrial sites with available utilities and excellent transportation facilities. The loss of this prime industrial acreage to commercial development would drastically reduce the amount of available ready-to-go industrially-zoned land other than the industrial parks. It is the belief of this office that these sites should remain in the present classification to permit orderly growth of industrial development in the County." (Emphasis supplied).

Item 6 continues,

"The Planning Board agrees: continued industrial growth is vital to the County, both in expanding tax revenues and increasing employment opportunities. Further, it should be noted that industrial development would not necessitate the additional road improvements in the immediate area that would be required for commercial development."

The choice of words "would drastically reduce the available industrial land ready-to-go in this area" is such a gross overstatement in light of the facts and testimony in the record, as to constitute a false representation of a material fact which was presented to the County Council. Mr. Martien, a real estate expert on behalf of the Petitioner, testified that the Roseville Industrial Park, which lies directly to the north of the subject property along Yellow Brick Road, the extension of which abuts the subject property, contains approximately eighty-five acres, nineteen of which have been

-18-

expansion of Philadelphia Road which will alleviate the claimed traffic problem at the Baltimore Beltway interchange, is a subsequent event which makes the initial premise of the Planning Board as presented to the Council clearly now incorrect, and because of the acceptable level of service now existing at that intersection, even factually invalid under present traffic conditions.

It would appear that one false premise would be enough to overcome the presumption of validity accorded to comprehensive rezoning, and thus make the question of error "fairly debatable." In this case, each premise presented by the Planning Board was invalid and the presumption of validity afforded to the comprehensive zoning is therefore rebutted. Accordingly, the action of the Board of Appeals should be sustained on its merits.

Respectfully submitted,
HARRISON & HARRISON

By *W. Lee Harrison*
W. Lee Harrison
300 W. Joyce Road
Towson, Maryland 21204
828-1325

DUCKETT, CREM, CHRISTIE & BECKETT

By *William W. Beckett*
William W. Beckett
6421 New Hampshire Avenue
Baltimore, Maryland 21203
273-8600
James C. Chapin
James C. Chapin
6401 New Hampshire Avenue
Baltimore, Maryland 21203
273-2800

-22-

11/3/77 78-402 #21 **PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION**

TO THE HONORABLE COMMISSIONER OF BALTIMORE COUNTY:

I, or we, A. V. Williams, 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 re-classified, pursuant to the Zoning Law of Baltimore County, from M.L. - I.M. District to M.L. and (2) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from M.L. - I.M. District to M.L. for the following reasons:

Error: 1. Comprehensive Reasoning.

See attached description

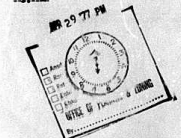
and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for:

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

I, or we, agree to pay expenses of above re-classification 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 of Baltimore County.

Contract purchaser
A. V. Williams, Legal Owner
Address: 8660 Dulaski Highway
Baltimore, Maryland
W. Lee Harrison, Esquire
503 Equitable Building
Towson, Maryland 21204
Petitioner's Attorney

ORDERED By The Zoning Commissioner of Baltimore County, this 29th day of September, 1977, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 13th day of September, 1977, at 1:00 o'clock P.M.



(SWE)

October 4, 1977

W. Lee Harrison, Esquire
503 Equitable Building
Towson, Maryland 21204

RE: Petition for Reclassification
SE/8 of Philadelphia Road,
724.30' SW of Roosevelt Boulevard -
15th Election District
A. V. Williams - Petitioner
No. 78-40-R (Item No. 21)

Dear Mr. Harrison:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,

GEORGE J. MARTINAK
Deputy Zoning Commissioner

GJM/af

cc: John W. Hession, III, Esquire
People's Counsel

RE: PETITION FOR RECLASSIFICATION : BEFORE THE
FROM M.L. - I.M. DISTRICT TO B.M. ZONING COMMISSIONER
SOME SOUTHEAST CORNER ROOSEVILLE BOULEVARD AND PHILADELPHIA ROAD : OF BALTIMORE COUNTY
15th Election District
A. V. Williams, Petitioner.

MEMORANDUM TO ACCOMPANY PETITION REQUEST FOR RECLASSIFICATION OF PROPERTY

Now comes A. V. Williams, Petitioner, by W. Lee Harrison, his attorney, requesting reclassification of the subject property claiming that the Baltimore County Council failed to recognize the following:

1. Stemmers Run is mislocated through the subject property.
2. Buildings and the pond are incorrectly shown on said property and are nonexistent.
3. Existing Business Local zoning was removed from subject property and simultaneously therewith, Business Major zoning was placed on a much larger tract of land immediately contiguous to the southwest.
4. A portion of another contiguous property was purportedly reclassified to M.H. and is erroneously shown on said Zoning Map as M.L.
5. That the Council ignored uncontradicted facts that the subject property could not be utilized or developed within the M.L. zone within the reasonably foreseeable future and the M.L. zone was being used to preclude any development or use of the property.
6. Both the increase and trends in population as outlined in population reports prepared by the Baltimore County Office of Planning and Zoning.

WILLIAMS AND GREEN
BALTIMORE, MD. 21204

7. The commercial potential of the subject site because of its immediate proximity to one of the largest regional shopping centers within the entire county.

W. Lee Harrison
503 Equitable Building
401 Washington Avenue
Towson, Maryland 21204
332-8812
Attorney for Petitioner

WILLIAMS AND GREEN
BALTIMORE, MD. 21204

JAMES R. SPANER & ASSOCIATES
PROFESSIONAL ENGINEERS & LAND SURVEYORS
P. O. BOX 8888 - BALTIMORE, MD. 21204

by C.E.S. A. V. Williams owner
date 3-26-77 3-26-77 3-26-77
Zoning Description 15th

Southwest Corner Roosevelt Blvd. & Philadelphia Rd. (Md. Route 7)

- Beginning for the same on the southeast right of Way Line of Philadelphia Road (Md. Route 7) at the distance of 724.30 feet southwesterly from the center line of Philadelphia Road, said point of beginning being 30.00 feet southwesterly measured at right angles from Center Line Station 13 + 86 as shown on Baltimore County Bureau of Land Acquisition Plat 1566-210-39 and running thence binding on said Philadelphia Road Right of Way Line the two following courses and distances
1. North 54° 15' 10" East 325.37 feet and
 2. North 50° 04' 10" East 125.11 feet to the southeast right of Way Line of Stemmers Run Relocated as shown on Baltimore County Plat 1566-210-39A and 39B, thence binding thereon
 3. South 38° 10' 10" East 10.00 feet
 4. North 81° 10' 10" East 17.25 feet
 5. South 38° 10' 10" East 360.21 feet
 6. Southwesterly by a line curving to the east with a radius of 125.23 feet for an arc distance of 322.66 feet (the chord of said arc being South 14° 37' 10" East 320.87 feet)
 7. South 55° 34' 10" East 75.10 feet
 8. South 13° 10' 10" East 18.21 feet
 9. South 24° 30' 00" East 22.22 feet
 10. South 55° 34' 10" East 154.91 feet and
 11. Southwesterly by a line curving to the south with a radius of 195.67 feet for an arc distance of 27.31 feet (the chord of said arc being South 54° 51' 56.5 East 27.10 feet) to the northeast curb line of a 60 foot wide private drive thence binding on said northeast curb line
 12. Southwesterly by a line curving to the west with a radius of 505.11 feet for an arc distance of 31.72 feet (the chord of said arc being South 13° 55' 28.9 West 21.74 feet) and
 13. South 15° 00' 20" West 575.22 feet to the northeast outline of the property covered by A. V. Williams et al., to Northwest Ward Development Corporation dated May 21, 1971 and recorded among the Land Records of Baltimore County in Liber O.T.O. 95187 folio 431 etc. thence binding on said northeast outline as now surveyed
 14. North 70° 15' 15" West 127.76 feet
 15. North 14° 59' 53" East 124.12 feet
 16. North 11° 21' 10" West 347.68 feet to the place of beginning.

Containing 33.09 acres of land more or less.



Charles K. Stark #2026

PETITION FOR RECLASSIFICATION

15th DISTRICT
From M.L. - I.M. District to B.M. Zone.
LOCATION: Southwest Side of Philadelphia Road 724.30 feet Southwest of Roosevelt Boulevard.
DATE & TIME: MONDAY, SEPTEMBER 19, 1977 at 1:00 P.M.
PUBLIC HEARING: Room 106, County Office Building, 111 V. Chesapeake Avenue, Towson, Maryland.
The Zoning Commissioners of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing
Present: Seidings P.L. - L.K. District
Proposed: Seidings B.L.
All that parcel of land in the Fifteenth District of Baltimore County

Being the property of A. V. Williams, as shown on plat plan filed with the Zoning Department.

Hearing Date: Monday, September 19, 1977 at 1:00 P.M.
Public Hearings Room 106, County Office Building, 111 V. Chesapeake Avenue, Towson, Md.

BY ORDER OF
S. ERIC HARRISON
ZONING COMMISSIONER OF
BALTIMORE COUNTY

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

COUNTY OFFICE BLDG.
111 V. Chesapeake Ave.
Towson, Maryland 21204
Nicholas B. Conodari
Chairman
MEMBERS
BUREAU OF ENGINEERING
DEPARTMENT OF TRAFFIC ENGINEERING
STATES ROAD COMMISSION
BUREAU OF FIRE PROTECTION
HEALTH DEPARTMENT
"PROTECT PLANNING"
BUILDING DEPARTMENT
BOARDS OF EDUCATION
ZONING ADMINISTRATION
RECREATION
DEVELOPMENT

May 25, 1977
W. Lee Harrison, Esquire
503 Equitable Building
Towson, Maryland 21204
RE: Reclassification
Item No. 21 - 1st Cycle
Petitioner - A. V. Williams

Dear Mr. Harrison:
This is to inform you that my original comments dated May 2, 1977 on the above referenced matter indicated that the subject property was currently zoned D.R. 16. This was an oversight on my part M.L. - I.M.
If you have any further questions regarding this matter, please feel free to contact this office.

Very truly yours,
Nicholas B. Conodari
Chairman
Zoning Plans Advisory Committee

NBCrf
cc: James S. Spaner & Associates
8017 York Road
Towson, Maryland 21204

78-402
A.V. WILLIAMS
EXHIBIT PETITIONER
V#1 SPANER MAP, JAN. 30, 1977
V#2 A.V. WILLIAMS PROP. SEPT. 19, 1977
V#3 ECONOMIC IMPACT STUDY
V#4 AERIAL MAP (MOUNTED)
V#5 AERIAL MAP (MOUNTED)
V#6 SPANER MAP, 2-7-1977
V#7 BROCK-AG INDUST. REPORT
V#8 TRAFFIC ANALYSIS

RE: PETITION FOR RECLASSIFICATION
56 1/2 of Philadelphia Rd., 724.30' SW of
Ravensville Blvd., 15th District
A. V. WILLIAMS, Petitioner

BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 78-40-R

ORDER FOR APPEAL

Mr. Commissioner:

Please note an Appeal from the decision of the Deputy Zoning Commissioner in the above-entitled matter, under date of October 4, 1977, to the County Board of Appeals and forward all papers in connection therewith to said Board for hearing.

Charles E. Kountz, Jr.
Charles E. Kountz, Jr.
Deputy People's Counsel

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

I HEREBY CERTIFY that on this 31st day of October, 1977, a copy of the foregoing Order was mailed to W. Lee Harrison, Esquire, 503 Equitable Building, Towson, Maryland 21204, Attorney for Petitioner.



RE: PETITION FOR RECLASSIFICATION
56 1/2 of Philadelphia Rd., 724.30' SW of
Ravensville Blvd., 15th District
A. V. WILLIAMS, Petitioner

BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 78-40-R

ORDER TO ENTER APPEARANCE

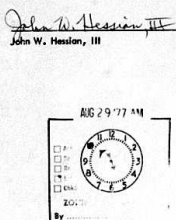
Mr. Commissioner:

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.

Charles E. Kountz, Jr.
Charles E. Kountz, Jr.
Deputy People's Counsel

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

I HEREBY CERTIFY that on this 24th day of August, 1977, a copy of the foregoing Order was mailed to W. Lee Harrison, Esquire, 503 Equitable Building, Towson, Maryland 21204, Attorney for Petitioner.



Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
(301) 494-2261

S. ERIC DINENIA
ZONING COMMISSIONER

W. Lee Harrison, Esq.
503 Equitable Building
Towson, Md. 21204

Re: Petition for Reclassification for A. V. Williams
Cycle #1 - Item #21

Dear Sir:

You are attorney of record in the above captioned case. In order to assist in scheduling your case and allotting sufficient time for its hearing, it is requested that you furnish us, by return mail, the information asked on the questionnaire, listed below.

- 1.. Number of witnesses you anticipate calling _____
2. How many of these witnesses will be "expert witnesses" _____
3. Fields to be covered by experts you intend to call - please check:
Land Planner _____
Real Estate _____
Engineer _____
Traffic _____
Other _____
4. Total time required (in hours) for presentation of your side of the case _____

Please return the above information by _____

JULY 11, 1977

Attorney for Protestants ()

Attorney for Petitioners (X)

Very truly yours,

S. Eric Dinena
S. ERIC DINENIA
ZONING COMMISSIONER

END/ba

Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
(301) 494-2261

S. ERIC DINENIA
ZONING COMMISSIONER

November 4, 1977

W. Lee Harrison, Esq.
503 Equitable Building
Towson, Md. 21204

Re: Petition for Reclassification for A.V. Williams
#75-40-R (Item #21)

Dear Sir:

Please be advised that an appeal has been filed by John W. Hession, 3rd, Esq., People's Counsel, from the decision rendered by the Deputy Zoning Commissioner of Baltimore County in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the Baltimore County Board of Appeals.

Very truly yours,
cc: John W. Hession, 3rd, Esq.
People's Counsel

Nicholas B. Comodari
NICHOLAS B. COMODARI
ZONING COMMISSIONER

BALTIMORE COUNTY
ZONING PLANS
ADVISORY COMMITTEE



PETITION AND SITE PLAN
EVALUATION COMMENTS

W. Lee Harrison, Esquire
503 Equitable Building
Towson, Maryland 21204

Item No. 21

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 24th day of April 1977

S. Eric Dinena
S. ERIC DINENIA
Zoning Commissioner

Petitioner: A. V. Williams

Petitioner's Attorney: W. Lee Harrison
cc: James S. Spamer & Associates, Esquire
8017 York Road
Towson, Maryland 21204

Reviewed by: *Nicholas B. Comodari*
Nicholas B. Comodari,
Planning & Zoning
Associate III

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

May 2, 1977

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204
Nicholas B. Comodari
Comodari
JENNIFER B. COMODARI
Acting Chairman

W. Lee Harrison, Esquire
503 Equitable Building
Towson, Maryland 21204

RE: Reclassification
Item No. 21 - 1st Cycle
Petitioner - A. V. Williams

Dear Mr. Harrison:

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 plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the appropriateness of the requested zoning.

This currently vacant D.R. 16 zoned site is located on the southeast side of Philadelphia Road approximately 724' southwest of Ravensville Boulevard in the 15th Election District. Adjacent properties are improved with the Williams Construction Company and Golden Ring Mall to the east and southeast respectively, while vacant land and combination residential/office use exist to the northwest and northeast.

This property was the subject of a previous zoning hearing, Case #75-55-R, in which a reclassification to B.1. zoning for essentially the same use was granted. However, with the adoption of the recent countywide zoning maps towards the end of last year, the then existing commercial zoning was downshifted to its present P.R. 16 classification.

Particular attention should be afforded the comments of the State Highway Administration and the Office of Project and Development Planning and revised site plans submitted accordingly.

W. Lee Harrison, Esquire
Page 2
11-m No. 21
May 2, 1977

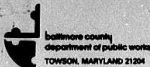
In addition to the above, it appears that a portion of this property may lie within an environmental protection area, as indicated on the Interim Development Control Map, and therefore, development of this property could be affected by Bill 12-77.

This petition for Reclassification is accepted for filing on the date of the enclosed filing certificate. However, any revisions or corrections to petitions, descriptions, or plats, as may have been requested by this Committee, shall be submitted to this office prior to May 27, 1977 in order to allow time for final Committee review and advertising. Failure to comply may result in this petition not being scheduled for a hearing. Notice of the hearing date and time, which will be between September 1, 1977 and October 15, 1977 will be forwarded to you well in advance.

Very truly yours,
Nicholas B. Comodari
NICHOLAS B. COMODARI,
Acting Chairman
Zoning Plans Advisory Committee

MB:rf

cc: James S. Spamer & Associates
8017 York Road
Towson, Maryland 21204



THOMAS M. MOURING, P.E.
DIRECTOR

May 2, 1977

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

Re: Item #21 (Cycle I April-October 1977)
Property Owner: A. V. Williams
S/W of Phila. Rd. 724.30' S/W of Rossville Blvd.
Relating Zoning: M.L. - I.M. District
Proposed Zoning: B.M.
District: 15th No. of Acres: 13.09

Dear Mr. DiNenna:

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

General:

A portion of this property lies within the Steamers Run flood plain. The submitted plan should indicate the Steamers Run 100-year flood plain relative to this property. Further information may be obtained from the Baltimore County Bureau of Engineering.

Highways:

Philadelphia Road (Md. 7) is a State Road; therefore, all improvements, intersections, entrance and drainage requirements as they affect the road come under the jurisdiction of the Maryland State 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.

Rossville Boulevard is a recently constructed County dual lane, divided access highway, in this vicinity. No additional highway improvements are required.

There is a private drive, contiguous to the southeastermost outline of this site, which connects to Rossville Boulevard opposite Yellow Brick Road.

Sediment Control:

Development of this property through striping, 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 striping of top soil.

Item #21 (Cycle I April-October 1977)
Property Owner: A. V. Williams
Page 2
May 2, 1977

Storm Drains:

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.

Open stream drainage requires a drainage reservation or easement of sufficient width to cover the flood plain of a 100-year design storm.

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 responsibility of the Petitioner.

Water and Sanitary Sewer:

Public water supply and sanitary sewerage are available to serve this property.

Very truly yours,

Donald W. Tucker, P.E.
DONALD W. TUCKER, P.E.
Acting Chief, Bureau of Engineering

DMT:KAM:PW:RS

I-10 Key Sheet
15 & 16 NE 2d Pos. Sheet
NE & 2 Topo
90 Tax Map

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

June 20, 1977

COUNTY OFFICE BLDG.
101 W. Cheltenham Ave.
Towson, Maryland 21204

Nicholas B. B.
Commodari
Chairman

MEMBERS
BUREAU OF ENGINEERING
DEPARTMENT OF TRAFFIC ENGINEERING
STATE ROAD COMMISSION
BUREAU OF THE PREVENTION
HEALTH DEPARTMENT
PROJECT PLANNING
BUILDING DEPARTMENT
BOARD OF EDUCATION
ZONING ADMINISTRATION
INDUSTRIAL DEVELOPMENT

W. Lee Harrison, Esquire
603 Equitable Building
Towson, Maryland 21204

RE: Reclassification
Item No. 21 - 1st Cycle
Petitioner - A. V. Williams

Dear Mr. Harrison:

Enclosed is a copy of the revised comment from the Department of Traffic Engineering on the above referenced matter that should be included within the comments that were forwarded to you on May 2, 1977.

Very truly yours,

Nicholas B. Commodari
NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NDC:rf

Enclosure

CC: James S. Spamer and Associates
8017 York Road
Towson, Maryland 21204



STEPHEN E. COLLINS
DIRECTOR

June 14, 1977

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

Re: Revised Comments
Cycle I, Item 21, ZAC April 1977
Property Owner: A. V. Williams
Location: SE/S of Phila. Rd. 724.30 ft. S.W. of Rossville Blvd.
Present Zoning: M.L. & I.M. District
Proposed Zoning: B.M.
District: 15th
No. Acres: 13.09

Dear Mr. DiNenna:

As presently zoned this site will generate approximately 800 trips per day. The proposed B.L. zoning will generate approximately 9,000 per average weekday and 12,000 trips per average Saturday.

At the present time the intersections of Pulaski Highway and the highway and Philadelphia Road and the Beltway are experiencing traffic problems and a development of this size can only appreciate these problems.

Michael S. Flanagan
Michael S. Flanagan
Associate Traffic Engineer

MSF/jlf



April 19, 1977

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

Attention: Mr. N. Commodari

Dear Mr. DiNenna:

The proposed entrance from Philadelphia Road must be located directly opposite Fontana Lane. The right of way line of Phila. Road or the parking lot frontage must be curbed with concrete. The plan must be revised prior to the hearing.

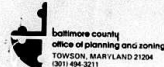
Pulaski Highway and Philadelphia Road, in this area, is somewhat congested due to the many developments that have occurred in the area in recent years. The proposed development will undoubtedly increase the congestion.

Very truly yours,

Charles Lee, Chief
Bureau of Engineering
Access Permits

CLJ:JEM:vd

By: John E. Meyers



April 20, 1977

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

Dear Mr. DiNenna:

Comments on Item 21, Zoning Cycle I, April, 1977, are as follows:

Property Owner: A. V. Williams
Location: SE/S of Philadelphia Road 724.30 ft. SW of Rossville Blvd.
Present Zoning: M.L. - I.M. District
Proposed Zoning: B.M.
District: 15th
No. Acres: 13.09

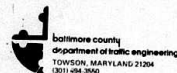
This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on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

This site had been previously reviewed as a Preliminary Subdivision when the property was commercially zoned.

A driveway must be provided between this property and the property to the South as previously required at the time of Subdivision Review.

Very truly yours,

John L. Wimbley
John L. Wimbley
Planner III
Project and Development Planning



STEPHEN E. COLLINS
DIRECTOR

April 22, 1977

Mr. Eric S. DiNenna
Zoning Commissioner
2nd Floor, Courthouse
Towson, Maryland 21204

Re: Cycle Zoning Item 21 - ZAC April, 1977
Property Owner: A. V. Williams
Location: SE/S of Phila. Rd. 724.30 ft. SW of Rossville Blvd.
Present Zoning: M.L. - I.M. District
Proposed Zoning: B.M.
District: 15th
No. Acres: 13.09

Dear Mr. DiNenna:

As presently zoned this site will generate approximately 800 trips per day. The proposed B.L. zoning will generate approximately 9,000 trips per average weekday and 12,000 trips on Saturday.

Very truly yours,

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Associate

MSF/jlf



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

April 19, 1977

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

Dear Mr. DiNenna:

Comments on Item #21, Zoning Cycle I Meeting, April 5, 1977, are as follows:

Property Owner: A. V. Williams
Location: S/S of Phila. Rd. 724.30 ft. SW of Rossville Blvd.
Present Zoning: M.L. - I.M. District
Proposed Zoning: B.M.
District: 15th
Acres: 13.09

Since metropolitan water and sewer are available, no health hazard is anticipated.

Very truly yours,

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

KS:mab

Baltimore County
the department
TOWSON, MARYLAND 21204
(301) 825-7310
Paul H. Heinicke
Chief

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

Attention: Nicholas B. Comodori, Chairman
Zoning Advisory Committee

Re: Property Owner: A. V. Williams

Location: SE/4 of Phila. Rd. 724.30 ft. SW of Rossville Blvd.

Item No. 21 Zoning Agenda Zoning Cycle I

Comments:

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 200 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works. (On site in a loop)
- () 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, "Life Safety Code", 1970 Edition prior to occupancy. (Plus 90 ft. from Fire Dept. Connection)
- () 6. Site plans are approved as drawn.
- () 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWED: *[Signature]* Hotel and *[Signature]* Approved: *[Signature]*
Planning Group Special Inspection Division Petition Chief FIRE Prevention Bureau

Baltimore County
Department of Permits and Licenses
TOWSON, MARYLAND 21204
(301) 424-3610
JOHN D. BEYFERT
DIRECTOR

April 18, 1977

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

Zoning Cycle #1

Dear Mr. DiNenna:

Comments on Item # 21 Zoning Advisory Committee Meeting, are as follows:

Property Owner: A. V. Williams
Location: SE/4 of Philadelphia Road 724.30 ft. SW of Rossville Blvd.
Existing Zoning: M.L. - I.M. District
Proposed Zoning: B.M.

Acre: 13.09
District: 15th

The items checked below are applicable:

- ☒ A. Structure shall conform to Baltimore County Building Code (B.C.C.A.) 1970 Edition and the 1971 Supplement and other applicable codes.
- ☒ B. A building permit shall be required before construction can begin.
- ☐ C. Three sets of construction drawings will be required to file an application for a building permit.
- ☒ D. Three sets of construction drawings with a registered Maryland Architect or Engineer's original seal will be required to file an application for a building permit.
- ☐ E. Wood frame walls are not permitted within 3'0" of a property line. Contact Building Department if distance is between 3'0" and 6'0" of property line.
- ☐ F. No comment.
- ☐ G. Requested setback variance conflicts with the Baltimore County Building Code. See Section _____.

Very truly yours,

[Signature]
Charles E. Burham
Plans Review Chief
CEB

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: April 12, 1977

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

Z.A.C. Meeting of: Zoning Cycle I

RE: Item No: 21

Property Owner: A. V. Williams
Location: SE/4 of Phila. Rd. 724.30 ft. SW of Rossville Blvd.
Present Zoning: M.L. - I.M. District
Proposed Zoning: B.M.

District: 15th
No. Acres: 13.09

Dear Mr. DiNenna:

No adverse effect on student population.

Very truly yours,

[Signature]
W. Nick Petrovich
Field Representative

WNP/tp

JOSEPH N. McDONALD, President
Y. BARBAR WILLIAMS, JR., Vice President
HAROLD W. BURMAN

THOMAS H. ALVER
MRS. LOREANNE F. CHURCH
ROGER R. HARTON

ROBERT V. DUBEL, ALTERNATE

ALVIN LORICK
MRS. HELEN S. SMITH, JR.
WILLIAM W. TRACY, D.V.M.

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

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

Your Petition has been received * this 21st day of March 1977. Filing Fee \$ 30.00. Received ☒ Check ☐ Cash ☐ Other

[Signature]
S. Eric DiNenna,
Zoning Commissioner

Petitioner A. V. Williams Submitted by B. Burman

Petitioner's Attorney W. Nick Petrovich Reviewed by GBB

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

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

#78-41-R

District: 15th Date of Posting: 9-1-77
Posted for: Posting Monday Sept. 19, 1977 @ 1:00 P.M.
Petitioner: B. V. Williams
Location of property: SE 1/4 Phila. Rd. 724.30 ft. SW of Rossville!
Location of Sign: 1 Sign Posted on Phila. Rd. Right corner from Post Office Lane
Remarks: _____
Posted by: W. Nick Petrovich Signature Date of return: 9-8-77

OFFICE OF THE TIMES NEWSPAPERS

TOWSON, MD. 21204 September 1, 1977

THIS IS TO CERTIFY that the annexed advertisement of PETITION FOR RECLASSIFICATION - A. V. Williams, SE/4 of Phila. Rd. was inserted in the following:

- ☐ Catonsville Times ☐ Towson Times
☐ Dundalk Times ☐ Arbutus Times
☐ Essex Times ☐ Community Times
☐ Suburban Times East ☐ Suburban Times West

weekly newspapers published in Baltimore County, Maryland, once a week for one successive week before the 2nd day of September 1977, that is to say, the same was inserted in the issues of September 1, 1977

STROMBERG PUBLICATIONS, INC.

By *[Signature]*

CERTIFICATE OF PUBLICATION

TOWSON, MD. September 1, 1977

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md. once each week for one successive week before the 19th day of September 1977, the first publication appearing on the 1st day of September 1977.

[Signature]
THE JEFFERSONIAN
Manager

Cost of Advertisement, \$ _____

PETITION MAPPING PROGRESS SHEET

FUNCTION	Wall Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: <i>[Signature]</i>			Revised Plans:		Change in outline or description		Yes		No	
Previous case:			Map #							

BALTIMORE COUNTY, MARYLAND
OFFICE OF PUBLIC REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 51701

DATE: May 3, 1977 ACCOUNT: 01-662

AMOUNT: \$50.00

RECEIVED: Messrs. Winberg and Green 601 Reptable
Towson Building, Towson, Md. 21204
FOR: Petition for Reclassification For A. V. Williams

5000000 3 5000000

VALIDATION OR SIGNATURE OF CLERK

BALTIMORE COUNTY, MARYLAND
OFFICE OF PUBLIC REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 57268

DATE: Oct. 31, 1977 ACCOUNT: 01-662

AMOUNT: \$75.00

RECEIVED: Delto Co. Disbursement Account, John F. Reardon,
Towson, Md. 21204
FOR: Cost of Appeal - A. V. Williams
#78-41-R

5000000 3 7500000

VALIDATION OR SIGNATURE OF CLERK

BALTIMORE COUNTY, MARYLAND
OFFICE OF PUBLIC REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 57177

DATE: Nov. 27, 1977 ACCOUNT: 01-662

AMOUNT: \$183.00

RECEIVED: A. V. Williams P.O. Box 636, Baltimore, Md. 21203
FOR: Advertising and posting of property
#78-41-R

5000000 3 18300000

VALIDATION OR SIGNATURE OF CLERK

RE: PETITION FOR RECLASSIFICATION • IN THE CIRCUIT COURT
from M.L. zone - I.M. District
to a B.M. zone • FOR
SE/5 Philadelphia Road 724.30' •
SW of Rossville Boulevard • BALTIMORE COUNTY
15th District • AT LAW
A. V. Williams, Petitioner • Misc. Docket No. 11
Case No. 78-40-R • Folio No. 110
File No. 6660

ORDER

It is ORDERED by the Circuit Court for Baltimore County this 26th day of June, 1979, that the decision of the Baltimore County Board of Appeals be, and the same hereby is, affirmed for the reasons set forth in the oral opinion dictated to the Court Reporter this date.

John W. Hession, III
Judge

I hereby certify that on this 26th day of June, 1979, copy of the foregoing Order was sent to John W. Hession, III, Esq., County Office Building, Towson, Maryland 21204.

W. Lee Harrison
W. Lee Harrison
306 W. Joppa Road
Towson, Maryland 21204
838-1335
Attorney for Petitioner

FILED JUN 26 1979



RE: PETITION FOR RECLASSIFICATION • IN THE
from M.L. zone - I.M. District • CIRCUIT COURT
to a B.M. zone • FOR
SE/5 Philadelphia Road 724.30' •
SW of Rossville Boulevard • BALTIMORE COUNTY
15th District • AT LAW
A. V. Williams, Petitioner • Misc. Docket No. 11
Case No. 78-40-R • Folio No. 110
People's Counsel for • File No. 6660
Baltimore County
Appellant

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 8-2 (a) of the Maryland Rules of Procedure; Robert L. Gilland, Herbert A. Davis and William T. Hackett, 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, W. Lee Harrison, Esquire, 503 Equitable Building, Towson, Maryland 21204, Attorney for the Petitioner, and Mr. A. V. Williams, 8660 Pulaski Highway, Baltimore, Maryland 21227, Petitioner, and John W. Hession, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County, and Mr. James A. Sweetwood, Real Estate Department, Acme Markets, Inc., 908 York Road, Towson, Maryland 21204, and James D. Nolan, Esquire, 204 West Pennsylvania Avenue, Towson, Maryland 21204, requested notification, a copy of which notice is attached hereto and proved that it may be made a part thereof.

Edith T. Elsenhart
Edith T. Elsenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 219, Courthouse, Towson, Md. 21204
494-3180

I hereby certify that a copy of the foregoing Certificate of Notice has been mailed to W. Lee Harrison, Esquire, 503 Equitable Building, Towson, Maryland 21204, Attorney for the Petitioner, and Mr. A. V. Williams, 8660 Pulaski Highway, Baltimore, Maryland 21227, Petitioner, and John W. Hession, III, Esquire, County Office Building,

Peoples' Counsel for • In the Circuit Court
Baltimore County • for Baltimore County
Appellant •
V. •
A. V. Williams, Petitioner • Appeal No. 110
Appellee • Misc. Docket 11-110

MEMORANDUM AND ORDER

By Order dated September 25, 1978, the County Board of Appeals reclassified 13 acres of land fronting on the Southeast side of Philadelphia Road in the 15th Election District of Baltimore County from M.L. Zoning and J.M. District (Industrial) to a B.M. Zone (Business Major).

The Peoples' Counsel for Baltimore County, purporting to act under authority granted by the provisions of the Baltimore County Charter, entered an appeal from that Order to the Circuit Court for Baltimore County. No other party to the proceedings before the Board entered an appeal from the Order.

The property owner has filed a Motion to Dismiss the appeal upon the ground that the Peoples' Counsel has no standing to prosecute an appeal from the Board of Appeals in the absence of a true aggrieved party appellant.

He argues that the purported power to appeal conferred by Section 524.1 does not in law confer such right upon Peoples' Counsel by reason of the restrictive effect of Section 604 of the Baltimore County Charter and of Maryland Code Article 25 (Home Rule Article) Section 5 (u).

A. V. Williams - 78-40-R

Towson, Maryland 21204, People's Counsel for Baltimore County, and Mr. James A. Sweetwood, Real Estate Department, Acme Markets, Inc., 908 York Road, Towson, Maryland 21204, and James D. Nolan, Esquire, 204 West Pennsylvania Avenue, Towson, Maryland 21204, requested notification, on this 24th day of October, 1978.

Edith T. Elsenhart
Edith T. Elsenhart, Administrative Secretary
County Board of Appeals of Baltimore County

cc: Zoning, M. Commission
Planning, Mr. Howell

Section 524.1 of the Baltimore County Code (1976 Cum. Supp.) related to the appointment of a Peoples' Counsel. Section 524.1 (b) states, in pertinent part, that "the county executive shall appoint a Peoples' Counsel who shall represent the interests of the public in general zoning matters . . . (3) Powers and duties: The Peoples' Counsel shall have the following powers and duties: A. He shall appear as a party before the Zoning Commission of Baltimore County, . . . the County Board of Appeals, and the Courts on behalf of the interests of the public in general, to defend the comprehensive zoning maps as adopted by the County Council and in any matter . . . involving zoning reclassification . . . in which he may deem the public interest to be involved. He shall have in such appearance, all the rights of counsel for a party in interest, including but not limited to the right to . . . prosecute an appeal in his capacity as Peoples' Counsel from any order or act of . . . the County Board of Appeals to the courts as an aggrieved party pursuant to the provisions of Section 604 of this Charter to promote and protect the health, safety and general welfare of the community." (Emphasis added)

The plain language of Section 524.1 (b) (1976 Cum. Supp.) states that the Peoples' Counsel is appointed "to promote and protect the . . . general welfare of the community." To perform this function, he is given the status of an aggrieved party pursuant to Section 604 of the Baltimore County Charter. Section 604, "Appeals from decisions of the Board", states, in part, "Within thirty days after any decision by the County Board of Appeals is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the Circuit Court of Baltimore County . . ."

Article 25, Section 5 (u), 'County Board of Appeals,' states, in pertinent part, that "(a) any person aggrieved by the decision of Board and a party to the proceeding before it may appeal to the Circuit Court for the County which shall have power to affirm the decision of the Board, or if such decision is not in accordance with law, to modify or reverse such decision . . ."

The language of the earlier adopted Section 604 cannot be interpreted as imposing a limitation upon the power later to enlarge the ambit of the phrase "aggrieved party" nor does Article 25, Section 5 (u) accomplish such a purpose.

Nor does the Court interpret the provisions of Article 25 (u) as restrictive of the right of Baltimore County to provide by law that "(the Peoples' Counsel shall appear as a party before . . . the County Board of Appeals, and the Courts." (Emphasis added) The Court sees no violation of the express powers provisions of Article 25 A.

In the subject case, Peoples' Counsel appeared at the hearing before the Board; cross-examined witnesses offered in behalf of the land owner; and called, as witnesses, a Baltimore County Traffic Engineer and a Planner of the County Planning Office, both of whom opposed the requested reclassification.

For the reasons heretofore stated, the Motion to Dismiss the Appeal is denied.

W. Albert Henchman
W. Albert Henchman
Judge
Specially Assigned
January 24, 1979
Date

RE: PETITION FOR RECLASSIFICATION • IN THE CIRCUIT COURT
from M.L. Zone - I.M. District • FOR BALTIMORE COUNTY
to a B.M. Zone •
SE/5 Philadelphia Road 724.30' • AT LAW
SW of Rossville Boulevard •
15th District •
A. V. Williams, Petitioner • Misc. Docket No. 11
Zoning Case No. 78-40-R • Folio No. 110
John W. Hession, III • File No. 6660
People's Counsel for Baltimore County
Appellant

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, under date of June 26, 1979, 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 W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County

Patricia Max Zimmerman
Patricia Max Zimmerman
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
694-2188

I HEREBY CERTIFY that a copy of the foregoing Order for Appeal was mailed this 25th day of July, 1979 to W. Lee Harrison, Esquire, 306 W. Joppa Road, Towson, Maryland 21204, Attorney for Petitioner.

John W. Hession, III
John W. Hession, III

FEB 15 1980

77-3472

September 25, 1978

John W. Houston, III, Esquire
People's Counsel
County Office Building
Towson, Maryland 21204

Re: Case No. 78-40-R
A. V. Williams

Dear Mr. Houston:

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,

John T. Hockett, Admin. Secretary

End.

cc: W. Lee Houston, Esquire
Mr. A. V. Williams
Mr. James A. Sweetwood
James D. Nelson, Esquire
Mr. J. E. Dyer
Mr. S. E. Dillman
Mr. G. J. Montlake
Mr. L. N. Gural
Board of Education
Mr. I. Marshall



RE: PETITION FOR RECLASSIFICATION : BEFORE
from M.L. zone-I.M. District : COUNTY BOARD OF APPEALS
to a B.M. zone :
SE/S Philadelphia Road 724.30' : OF
SW of Rossville Boulevard :
15th District : BALTIMORE COUNTY
A. V. Williams, Petitioner :
No. 78-40-R

OPINION

This case comes before the Board on an appeal by the People's Counsel from an Order of the Deputy Zoning Commissioner of October 4, 1977, which granted the requested petition for reclassification from M.L. zoning and I.M. District to a B.M. zone.

The subject property comprises 13.09 acres and is located in the southeast quadrant of the intersection of Philadelphia Road (Maryland Route 7) and Rossville Boulevard. The subject proposal is for an approximately 150,000 square foot shopping center, which would be an adjunct to those presently operating and known as "Golden Ring Mall". Said Golden Ring Mall is a huge regional shopping center adjacent to the subject property, all of which is isolated in an island created by limited access highways which surround the perimeter of the area in question; namely, the Baltimore County Beltway, U. S. Route 40, Rossville Boulevard and Philadelphia Road (Maryland Route 7). This property is located in the Fifteenth Election District of Baltimore County.

It is to be noted that the subject property was zoned B.L. by virtue of a previous zoning petition prior to the 1976 comprehensive zoning map, said zoning was changed to M.L. in an I.M. District as a result of said zoning map. Interestingly enough, the same zoning map changed the M.L. zoning of the property upon which Golden Ring Mall itself was built, under a grandfathering clause, to B.M. It is difficult for this Board to comprehend any logic to these changes inasmuch as the subject property and that upon which Golden Ring Mall is located are identical in character, adjacent to each other and both isolated by the highway system described above.

Several expert witnesses testified on behalf of the Petitioner and outlined the proposal which they indicated would be in no wise detrimental to the health or general

A. V. Williams - # 78-40-R

2.

welfare of Baltimore County and, in fact, to the contrary, it would be beneficial to have additional shopping facilities located in the same area or adjacent to the existing shopping center wherein the highway system is more than adequate to handle the needs created by such an undertaking. Additional testimony was advanced by traffic experts and in particular other real estate experts who gave their opinion that the downshift from B.L. to industrial was an error.

In support of this there was considerable testimony as to the availability of industrial land in the immediate vicinity of the subject property; namely, the industrial park across Rossville Boulevard which was in existence at the prior hearing and is still greatly underutilized as well as the industrial park on the east side of Pulaski Highway, here again, "across the street" from the subject property where there is an excess of one hundred acres of industrial land that is undeveloped. Additionally, there is still another substantial tract of land that was zoned industrial on the west side of Philadelphia Road, adjacent to the Baltimore County Beltway, which is completely vacant. It is unrealistic for this Board to change the zoning on the subject property to that of an industrial classification wherein there is such a huge excess of vacant and underutilized industrial land within a half mile radius. Additionally, it is noted by this Board that a huge tract of land was retained in commercial zoning approximately three miles north along the Philadelphia Road which is totally undeveloped, has no utilities, and the Philadelphia Road at that location, or any other roads in that area for that matter, are incapable of supporting a shopping center development.

Additionally, the Board takes notice of the fact that other industrial users of the land in the immediate area, particularly with frontage along U. S. Route 40, have abandoned their industrial use and have had zoning classification changes to commercial since the inception of the Golden Ring Mall.

The Board agrees fully with the opinion expressed by the Deputy Zoning Commissioner and his accompanying order, dated October 4, 1977, and, therefore, will grant the requested petition.

A. V. Williams - #78-40-R

3.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 25th day of September, 1978, by the County Board of Appeals, ORDERED that the reclassification petitioned for from M.L. zone, I.M. District to a B.M. zone is hereby GRANTED, and the Order of the Deputy Zoning Commissioner, dated October 4, 1977, is hereby affirmed, subject to the approval of the site plan by the State Highway Administration, the Department of Public Works and the Office of Planning and Zoning.

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

Robert L. Gifford, Vice Chairman

Herbert A. Davis

William T. Hockett

Section 524.1 of the Baltimore County Code (1976 Cum. Supp.) related to the appointment of a Peoples' Counsel.

Section 524.1 (b) states, in pertinent part, that "the county executive shall appoint a Peoples' Counsel who shall represent the interests of the public in general zoning matters . . .

(3) Powers and duties: The Peoples' Counsel shall have the following powers and duties: A. He shall appear as a party before the Zoning Commissioner of Baltimore County, . . .

the County Board of Appeals, and the Courts on behalf of the interests of the public in general, to defend the comprehensive zoning maps as adopted by the County Council and in any matter involving zoning reclassification . . . in which he may deem the public interest to be involved. He shall have in

such appearance, all the rights of counsel for a party in interest, including but not limited to the right to . . . prosecute an appeal in his capacity as Peoples' Counsel from any order or act of . . . the County Board of Appeals to the Courts as an aggrieved party pursuant to the provisions of Section 604 of this Charter to promote and protect the health, safety and general welfare of the community." (Emphasis added)

The plain language of Section 524.1 (b) (1976 Cum. Supp.) states that the Peoples' Counsel is appointed "to promote and protect the . . . general welfare of the community." To perform this function, he is given the status of an aggrieved party pursuant to Section 604 of the Baltimore County Charter. Section 604, "Appeals from Decisions of the Board", states, in part, "Within thirty days after any decision by the County Board of Appeals is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the Circuit Court of Baltimore County . . ."

- 2 -

Article 25, Section 5 (u), 'County Board of Appeals,' states, in pertinent part, that "any person aggrieved by the decision of Board and a party to the proceeding before it may appeal to the Circuit Court for the County which shall have power to affirm the decision of the Board, or if such decision is not in accordance with law, to modify or reverse such decision . . ."

The language of the earlier adopted Section 604 cannot be interpreted as imposing a limitation upon the power later to enlarge the ambit of the phrase "aggrieved party" nor does Article 25, Section 5 (u) accomplish such a purpose.

Nor does the Court interpret the provisions of Article 25 (u) as restrictive of the right of Baltimore County to provide by law that "(the Peoples' Counsel shall appear as a party before . . . the County Board of Appeals, and the Courts." (Emphasis added) The Court sees no violation of the express powers provisions of Article 25 A.

In the subject case, Peoples' Counsel appeared at the hearing before the Board; cross-examined witnesses offered in behalf of the land owner; and called, as witnesses, a Baltimore County Traffic Engineer and a Planner of the County Planning Office, both of whom opposed the requested reclassification.

For the reasons heretofore stated, the Motion to Dismiss the Appeal is denied.

W. Albert Manchine
W. Albert Manchine
Judge
Specially Assigned
January 24, 1979
Date

- 3 -

A. V. WILLIAMS
SE/S Philadelphia Rd. 724.30' SW of Roseville Blvd.
M.L.-I.M. District to B.M.
NO. 78-40-R
15th District
13.09 acres

Apr. 29, 1977 Petition filed
Oct. 4 D.Z.C. GRANTED reclassification
" 31 Appealed to C.B. of A. by People's Counsel
Mar. 2, 1978 Hearing before the Board
May 4 " (G.D.H.)
Sept. 25 Board GRANTED reclassification
Oct. 24 Order for Appeal filed in the Circuit Court by People's
Nov. 13 Motion to Dismiss filed by Harrison Counsel (File #6660)
Nov. 24 Record of proceedings filed in the Circuit Court
Jan. 9, 1979 Answer to Motion to Dismiss filed by People's Counsel
Jan. 24 Motion to Dismiss DENIED by Judge W. Albert Manchine (Specially Assigned)
June 26 Hearing on merits by Judge Brizendine
" 26 Board AFFIRMED - Judge A. W. Brizendine
July 25 Order for Appeal filed in the Court of Special Appeals by P.C.
Aug. 27 Record of proceedings filed in the Court of Special Appeals
June 10, 1980 Board AFFIRMED by the Court of Special Appeals
July 10 Mandate filed

April 19, 1977

Mr. E. Eric Williams, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Williams:

Comments on Item #11, Zoning Code 1 Meeting,
April 3, 1977, are as follows:

Property Owner: A. V. Williams
Location: SE/S of Pella Rd. 724.30 St.
SW of Roseville Blvd.
M.L. - I.M. District
Present Zoning: B.M.
Proposed Zoning: B.M.
Acreage: 13.09

When metropolitan water and sewer are available,
no health hazard is anticipated.

Very truly yours,

Thomas H. Davis
Thomas H. Davis, Director
BUREAU OF ENVIRONMENTAL SERVICES

ES:msh

DEC
PETITIONER'S
EXHIBIT 3
ECONOMIC IMPACT STUDY
146,000 S.F. SHOPPING CENTER

Benefits to County & State

Real Estate Tax (\$.60/s.f.)	
Land: 13 acres @ 380,000	\$1,040,000
Buildings: 146,000 s.f. @ \$29.45 s.f.	\$4,301,500
Total	\$5,341,500
	x 30%
Assessment	\$2,670,750 x 33.28/100
	\$897,600
Sales Tax: 146,000 s.f. x \$70/s.f. sales @ 5%	511,000
Income Taxes:	
Merchants: 146,000 s.f. x \$70/s.f. sales	
x 5% return @ 75% City & State tax rate	\$58,325
Employees: 150 people @ \$3.50/hr.	
x 40 hrs. x 52 wks. LESS 30% deductions x 75% Tax Rate	40,950
	70,275
	\$677,875

LESS: SERVICES

Sewer & Water (supported by separate metropolitan charges)
Police Protection (center provides its own security)
Schools - NO EFFECT
Trash Removal - Private
Street Lighting - (center provides own lights)
Fire Protection (buildings sprinklered; hydrants)
Highways - some maintenance necessary

Total Services...estimated at \$1.00/s.f. x 146,000 s.f.	146,000
DIRECT ANNUAL BENEFIT TO COUNTY AND STATE	531,875
ADDITIONAL BENEFIT (150 JOB PAYROLL)	1,092,000
TOTAL MEASURABLE BENEFIT	\$1,623,875

This is an appeal by the People's Counsel for Baltimore County from an order, dated June 26, 1979, of the Circuit Court for Baltimore County (Brizendine, J.). The order affirmed the decision of the Baltimore County Board of Appeals rezoning approximately 13 acres of appellees' land from a M.L. - I.M. (Manufacturing Light - Industrial Major) classification to a B.M. (Business Major) Classification. The Board's decision had in turn affirmed the decision of the Deputy Zoning Commissioner granting the appellees' petition for the rezoning.

At the hearing before the Board and the Circuit Court, People's Counsel was the only proponent. When he appealed the Board's decision to the Circuit Court, the appellees filed a motion to dismiss the appeal on the ground that the People's Counsel had no standing to prosecute the appeal. The motion was denied. When the Circuit Court affirmed the Board's rezoning decision, the People's Counsel noted an appeal to this Court contending that appellees had failed to show sufficient evidence of mistake in the comprehensive zoning map adopted by the County Council in October, 1976, to justify the requested rezoning. The appellees filed a cross-appeal, nor did they file a motion to dismiss the appeal pursuant to Md. Rule 1035, either separately or with their brief (See § c and § d of Rule 1035). They did argue in their brief, however, that the People's Counsel has no standing here and had no standing below to contest the Board's decision. The People's

(3)

counsel from any order or act of the zoning commissioner of Baltimore County or his deputy, or of the county board of appeals to the courts as an aggrieved party pursuant to the provisions of section 604 of this Charter to promote and protect the health, safety and general welfare of the community." (Emphasis added).

The record in this case shows that the People's Counsel in his official capacity appeared and fully participated in the proceedings before the Board and the court below. We think the charter amendment gave him the right to do so as well as to prosecute the appeal to this Court.

Section 5 of Article 25 of the Annotated Code of Maryland (1957, 1973 Repl. Vol., 1979 Cum. Supp.) sets forth the "Express Powers" of those counties that have adopted a "Home Rule" charter under the provisions of Article XI-A of the Maryland Constitution. Subsection (U) of Section 5 grants to those counties the power to enact local laws providing for the establishment of a county board of appeals to hear and decide controversies concerning, inter alia, the application of the county's zoning laws. Subsection (U) further provides:

"Any person aggrieved by the decision of the board and a party to the proceeding before it may appeal to the circuit court for the county which shall have power to affirm the decision of the board, or if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing as justice may require. Any party to the proceeding in the circuit court aggrieved by the decision of the said court may appeal from such decision to the Court of Special Appeals. The review proceedings provided by this subsection shall be exclusive." (Emphasis added).

(5)

cision in each case rests upon the facts and circumstances of the particular review."

Because it is the People's Counsel function to protect the "interests of the public in general," appellees argue that it "would be impossible" for him in his official capacity to show that he "has a specific interest or property right" and that "he is personally and specially affected in a way different from that suffered by the public generally." Thus, argue appellees, he has no standing to appeal and the appeal must be dismissed.

What the appellees overlook is that the "case by case" determinations of whether, in particular cases, a person is an "aggrieved" party, and thus entitled to appeal decisions of the board, have been made in the absence of any legislative definition of the word. As stated in Brynarski, pages 143-144, "there have been many cases in Maryland and in other states considering the meaning of 'a person aggrieved,' but apparently the word 'aggrieved' has never been legislatively defined." In the case before us, however, Section 524.1 of the Charter of Baltimore County provides in unambiguous terms that the People's Counsel "shall have . . . all the rights of counsel for a party in interest . . . including the right . . . to file and prosecute an appeal in his capacity as People's Counsel from any order or act . . . of the county board of appeals to the courts as an aggrieved party pursuant to the provisions of section 604 of this Charter to promote and protect the health, safety and general welfare of the community." (Emphasis added). As we have seen,

Counsel filed a reply brief addressing that issue. We shall, therefore, regard the appellees' argument in their brief on the issue as a motion to dismiss this appeal. So considered, we find no merit to the motion and shall deny it for the reasons set forth below.

Motion to Dismiss

At the general election held in November, 1974, the voters of Baltimore County adopted an amendment, effective December 5, 1974, to Section 524.1 of their Home Rule Charter. The amendment provided for the appointment by the county executive, subject to confirmation by the county council, of "a people's counsel who shall represent the interests of the public in general in zoning matters as hereinafter set forth." The amendment set forth the People's Counsel's powers and duties as follows:

"A. He shall appear as a party before the zoning commissioner of Baltimore County, his deputy, the county board of appeals, and the courts on behalf of the interests of the public in general, to defend the comprehensive zoning maps as adopted by the county council, and in any matter or proceeding now pending or hereafter brought involving zoning reclassification and/or variance from or special exception under the Baltimore County Zoning Regulations, as now or hereafter in force and effect, in which he may deem the public interest to be involved. He shall have in such appearance, all the rights of counsel for a party in interest, including but not limited to the right to present his case, to cross examine, to object, to be heard, and to file and prosecute an appeal in his capacity as people's

Pursuant to this grant of power, Section 604 of the Baltimore County Charter, titled "Appeals from Decision of the Board," originally enacted in 1956, and as presently in effect, provides in relevant part as follows:

"Within thirty days after any decision by the county board of appeals is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the circuit court of Baltimore County, which shall have power to affirm the decision of the board, or, if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing, as justice may require. . . . Within thirty days after the decision of the circuit court is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the court of appeals of this state. [Court of Special Appeals] The review proceedings provided by this section shall be exclusive." (Emphasis added).

Appellees argue that under neither the "Express Powers Act" (Article 25 A) nor the county charter (Section 604) can the People's Counsel be considered "aggrieved" by the decision of the board because he does not fit within the definition of that word as determined by the Maryland cases. Appellees cite *Brynarski v. Montgomery County*, 247 Md. 137, 144, 230 A.2d 289 (1966), where the Court of Appeals said:

"Generally speaking, the decisions indicate that a person aggrieved by the decision of a board of zoning appeals is one whose personal or property rights are adversely affected by the decision of the board. The decision must not only affect a matter in which the proponent has a specific interest or property right but his interest therein must be such that he is personally and specially affected in a way different from that suffered by the public generally. *Dubay v. County*, 240 Md. 180, 185, 214 A.2d 467 (1965). The circumstances under which this occurs have been determined by the courts on a case by case basis, and the de-

Section 604 of the Charter, quoted *supra*, provides that "any party to the proceeding [before the board] who is aggrieved" may appeal "to the circuit court of Baltimore County" and then to the Court of Special Appeals. When the two sections (§§ 524.1 and 604) are read together, it is manifest that, whatever judicial interpretation may in the past have been given to the word "aggrieved" absent any legislative definition thereof, in Baltimore County the People's Counsel is now "legislatively defined" as one who may occupy the status of an "aggrieved" party entitled to appeal "to the courts."

But the appellees argue that the charter amendment purporting to give the People's Counsel the status of one who may be an "aggrieved party," is unconstitutional. Their argument goes like this: Section 2 of Art. XI-A of the Maryland Constitution provides that only the General Assembly may extend or enlarge the "express powers" granted to charter counties by Article 25 A; such powers may not be changed by the charter itself. Section 5 (U) of Article 25 A provides that only an "aggrieved party" may appeal from a decision of the board of appeals. An "aggrieved" person has been judicially defined as "one whose personal or property rights are adversely affected by the decision of the board . . . in a way different from that suffered by the public generally." (*Brynarski v. Montgomery County*, *supra*). Therefore, appellees argue, because the People's Counsel does not fit within that judicial definition the People's Counsel may have the right to appeal only if the General Assembly amends Article 25 A to so provide. We find no merit

to this argument. As already indicated, the word "aggrieved" is not defined in Article 25 A. We note, also, that by Section 5 (U) of Article 25 A the General Assembly has granted to charter counties the broad power "[t]o enact local laws, for the protection and promotion of public safety, health, morals and welfare, relating to zoning and planning." (Emphasis added). We conclude that Section 524.1 of the Baltimore County Charter granting to the People's Counsel the status of one who may be "aggrieved" by a decision of the board of appeals and therefore entitled to appeal therefrom does not enlarge or extend the powers granted to the County by Article 25 A and is therefore permissible under the Maryland Constitution.

Error in Comprehensive Rezoning

Although we have found that the People's Counsel is entitled to enter the fray in this appeal, we do not find that he is entitled to win the day. He contends that the trial judge was wrong in upholding the decision of the board of appeals. The Board "agree[d] fully" with the opinion of the Deputy Zoning Commissioner who had found that "the Petitioner has proven error in the Comprehensive Zoning Map . . ."

In *Boyce v. Somby*, 25 Md. App. 43, 334 A.2d 137 (1975), Judge Davidson (now a member of the Court of Appeals) said for this Court, at pp. 50-51:

"In this case, in order to grant the requested reclassification, the Board needed strong and substantial probative

function of the courts to substitute their judgment for that of the zoning authority."

Applying these principles to the instant case, and after a careful review of the record, we conclude that the evidence before the board was sufficient to render the issue of "error" or "mistake" fairly debatable. The subject property is a relatively small tract (13 acres) located within a rectangle that is bounded by four major highways (Rossville Boulevard, Pulaski Highway, the Baltimore Railway and Philadelphia Road). Two-thirds of the rectangle is zoned and used for retail commercial uses. Immediately adjacent to the 13 acre tract, within the rectangle, is a 90 acre tract zoned B. M. on which is located a regional shopping center known as Golden Ring Mall.

Prior to the adoption of the comprehensive rezoning map in October 1976, the Golden Ring Mall was a non-conforming use in an M. L. zone and the subject property was zoned B. L. as a result of a reclassification by the Board earlier that year without opposition. In adopting the comprehensive rezoning map in October 1976, the County Council removed the M. L. zoning from Golden Ring Mall and placed its 90 acres in a B. M. zone. At the same time the council changed the immediately adjacent subject property to an M. L. zone, the zoning that applied to most of the tract before it had been reclassified to B. L. earlier in the year.

There was probative evidence before the Board that the County Council, in reclassifying the subject property back to an M. L. zone, relied upon

REPORTED

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

No. 798

September Term, 1979

PEOPLE'S COUNSEL
FOR BALTIMORE COUNTY

v.

A. V. WILLIAMS, et al.

Love
Melvin
Couch,
Jr.

Opinion by Melvin, J.

Filed: June 10, 1980

RECEIVED
BALTIMORE COUNTY
JUN 11 2 04 PM '80
CLERK OF COURT

April 23, 1977

Mr. Eric S. Williams
Senior Counselman
2nd Floor, Courthouse
Baltimore, Maryland 21204

Re: Cycle Road; 15 A 21-267 April, 1977
Property Owner: A.V. Williams
Location: 50% of Plot 15, 750.00 sq ft NW of Rossville Blvd.
Present Zoning: M.L. v I.M. District
Proposed Zoning: B.M.
District: 1964
In Acres: 13.99

Dear Mr. Williams:

We previously used this site will generate approximately 600 trips per day. The proposed B.M. zoning will generate approximately 9,000 trips per average weekday and 12000 trips on Saturday.

Very truly yours,

John J. Williams
John J. Williams
Traffic Engineer Associates

ENCLOSURE

ACME MARKETS, INC.

NEW YORK ROAD, TOWSON, MD 21204
TELEPHONE (301) 421-1200



January 4, 1978

County Board of Appeals
Room 219
Court House Building
Towson, Maryland 21204

RE: Case #78-40R

Gentlemen:

As you suggested, I am writing to request that you put my name in your file for notification or the scheduling of case #78-40R for review by the Board. This is the A.V. Williams site located at Rossville Blvd. and Philadelphia Road. If the appeal is dropped, I would also appreciate your notification.

Also, would there be any documents available which would indicate the reason for this appeal being taken? If so, would it be too much trouble to forward a copy to me?

Sincerely,

John J. Williams
John J. Williams
Real Estate Department

JAS:ns

Rec'd 1/19/78
JAW

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of January, 1979, a copy of the foregoing Memorandum was hand delivered to John W. Heslin, III, Esq., County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County and to the County Board of Appeals, County Office Building, and/or Room 219, Courthouse, Towson, Maryland 21204.

John W. Heslin, III
John W. Heslin, III

RE: PETITION FOR RECLASSIFICATION : IN THE CIRCUIT COURT
from M.L. Zone - I.M. District : FOR BALTIMORE COUNTY
to a B.M. zone : AT LAW
SE/5 of Philadelphia Rd. 734.30' :
SW of Rossville Blvd., 15th District :
A. V. Williams, Petitioner : Misc. Docket No. 11
Case No. 78-40-R : Folio No. 110
People's Counsel for Baltimore County : File No. 6660
Appellant

REPLY MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS

John W. Heslin, III, People's Counsel for Baltimore County, files this Reply Memorandum in Opposition to the Motion to Dismiss in the above-entitled case, as follows:

Appellee in his argument avoids the fact that the function of the People's Counsel for Baltimore County is to exercise for Baltimore County part of its constitutional privilege and obligation to defend its laws and ordinances. The public purpose upon which the function is based is hardly novel. The mechanics involved are merely the transfer by Charter action of a portion of the duties formerly assigned to the County Solicitor and the Office of Law to the People's Counsel. The Comprehensive Zoning Maps and the appertinent regulations are ordinances of Baltimore County and therefore fall within the category of those legislative matters which the County has an obligation to defend. The source of the authority of a charter county to establish and organize its government to make laws, and take such steps as are necessary and appropriate to their execution and enforcement, is Article XI-A, Section 1, of the Maryland Constitution, the Home Rule Amendment. The scope of this authority was defined and confirmed in *Richmont Partnership v. Board*, 283 Md. 48, 388 A.2d 523 (1978). The People's Counsel represents simply the choice of the people of Baltimore County as the designated instrumentality to enforce in the public interest the law of the Comprehensive Plan and Zoning Map in Baltimore County.

*Rec'd 1-19-79
10:50 AM*

This constitutional authority is sufficient to legitimize the establishment of the People's Counsel, independent from any issue pertaining to the Expressed Powers Act, which defines the legislative powers of charter counties. Nevertheless, an examination of that Act, and particularly Article 25A, Section 5(1), of the Maryland Annotated Code, demonstrates that a charter county may,

"...pass all ordinances, resolutions, or bylaws...as may be proper in executing and enforcing any of the powers enumerated in this section or elsewhere in this article, as well as...in ordinances as may be deemed expedient in maintaining the peace, good government, health and welfare of the county."

It defies logic to believe that the General Assembly would empower a charter county to develop comprehensive plans and zoning maps, but preclude the use of a public office dedicated to defense and enforcement thereof.

The people of Baltimore County, in designating the People's Counsel as the defender of the public interest have authorized the office to appear in planning and zoning proceedings in the same manner as "an aggrieved party," that is to say, with "all the rights of counsel for a party in interest" including the right of appeal "to the courts as an aggrieved party." Section 524.1(b) of the Baltimore County Charter. This section is the source of his authority than it is the direction as to the procedure that he shall follow in exercise of the authority.

Respectfully submitted,

John W. Heslin, III
John W. Heslin, III
People's Counsel

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

I HEREBY CERTIFY that on this 16th day of January, 1979, a copy of the foregoing Reply Memorandum in Opposition to Motion to Dismiss was mailed to W. Lee Harrison, Esquire, Harrison & Harrison, 306 W. Joppa Road, Towson, Maryland 21204 and William W. Beckett, Esquire and James C. Chapin, Esquire, Duckett, Oren, Christie & Beckett, 6401 New Hampshire Avenue, Hyattsville, Maryland 20785, Co-Counsel for Petitioner.

John W. Heslin, III
John W. Heslin, III

RE: PETITION FOR RECLASSIFICATION : IN THE CIRCUIT COURT
from M.L. zone - I.M. District : FOR BALTIMORE COUNTY
to a B.M. zone : AT LAW
SE/5 Philadelphia Road 734.30' :
SW of Rossville Boulevard :
15th District :
A. V. WILLIAMS, Petitioner : Misc. Docket No. 11
Case No. 78-40-R : Folio 110
File 6660

SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PETITIONER'S MOTION TO DISMISS

The Petitioner-Appellee, A. V. Williams and/or Williams Construction Company, Inc., by his attorneys, W. Lee Harrison and Duckett, Oren, Christie & Beckett, submits the following Supplemental Memorandum in Support of Petitioner's Motion to Dismiss, limited in scope to brief responses to certain arguments contained in the heretofore filed Memorandum in Opposition to Motion to Dismiss:

1. Reliance upon footnote 3 of *Heflinger v. Frank Realty Company*, 35 Md. App. 691, 375 A.2d 273 (1977), as a judicial determination of standing of the People's Counsel before this Court is misplaced. The issue in that case was not the authority of the People's Counsel, thus a ruling on such authority was neither necessary nor intended by the Court; said footnote is to the portion of that opinion setting forth the factual background, not to that portion reciting the law. In any event, in sharp contrast to the present case, there were additional co-parties therein who were, themselves, "aggrieved" and therefore made a determination of standing of People's Counsel moot.
2. Reference to the unsupported opinion of *Bartholow v. Stancill Contracting Co.* is both inappropriate and improper. Rule 1092, Md. Rules of Procedure, specifically prohibits its citation or consideration.
3. The rule of law set forth in *Montgomery v. Citizens League v. Greenhalgh*, 253 Md. 151, 252, A.2d 242, 247 (1969), is inapposite. In brief, the *Greenhalgh* Court acknowledged that no charter county may make legislation

which is "inconsistent with the provisions of [Article 25A] or the laws of the State" Article 25A, Section 5(1). In the case at bar, any attempt to confer standing on People's Counsel would place the charter in direct conflict with Article 25A, Section 5(1) ("County Board of Appeals"), and thus would be "inconsistent" therewith. This is particularly evident when considering the strong language contained in the ultimate sentence of Section 5(1): "The review proceedings provided by this section shall be exclusive."

4. In summary response to the balance of the Memorandum in Opposition to Motion to Dismiss:

- (a) Statements contained therein of the self-perceived public good served by the creation of the office of People's Counsel (both in this county and elsewhere) is totally irrelevant to a determination of the express authority of such an office.
- (b) Arguments contained therein as to the wisdom of permitting, *vel non*, People's Counsel to prosecute an appeal to this Court may or may not be persuasive. But, in any event, such arguments should properly be addressed to the General Assembly in a lobbying effort to amend Article 25A, not to this court. The only issue here is whether such authority presently *does* exist, not whether it *should* exist.

Respectfully submitted,
HARRISON & HARRISON

W. Lee Harrison
306 W. Joppa Road
Towson, Maryland 21204
828-1335

DUCKETT, OREN, CHRISTIE & BECKETT
William W. Beckett
6401 New Hampshire Avenue
Hyattsville, Maryland 20783
270-2800

James C. Chapin
6401 New Hampshire Avenue
Hyattsville, Maryland 20783
270-1200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of January, 1979, a copy of the foregoing Supplemental Memorandum was hand delivered to John W. Heslin, III, Esq., County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County and to the County Board of Appeals, County Office Building, and/or Room 219, Courthouse, Towson, Maryland 21204.

W. Lee Harrison

People's Counsel for Baltimore County : In the Circuit Court
Appellant : for Baltimore County
v. :
A. V. Williams, Petitioner : Appeal No. 11-110
Appellee : Misc. Docket 11-110

MEMORANDUM AND ORDER

By Order dated September 25, 1978, the County Board of Appeals reclassified 13 acres of land fronting on the Southeast side of Philadelphia Road in the 15th Election District of Baltimore County from M.L. Zoning and J.M. District (Industrial) to a B.M. Zone (Business Major).

The Peoples' Counsel for Baltimore County, purporting to act under authority granted by the provisions of the Baltimore County Charter, entered an appeal from that Order to the Circuit Court for Baltimore County. No other party to the proceedings before the Board entered an appeal from the Order.

The property owner has filed a Motion to Dismiss the appeal upon the ground that the Peoples' Counsel has no standing to prosecute an appeal from the Board of Appeals in the absence of a true aggrieved party appellant.

He argues that the purported power to appeal conferred by Section 524.1 does not in law confer such right upon Peoples' Counsel by reason of the restrictive effect of Section 504 of the Baltimore County Charter and of Maryland Code Article 25 (Home Rule Article) Section 5 (a).

WV
JAN 24 1979

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 15-B Date of Posting 11-4-77
Posted for:
Petitioner: A. V. Williams
Location of property: SE 1/4 Pk 14 Rpt 724.30' S/W of Roseville Blvd
Location of Sign: Sign Posted at Entrance to Drive way & A. V. Williams
Remarks:
Posted by Mal H. Shaw Date of return: 11-10-77

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCIAL REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 15402

DATE 12/9/77 ACCOUNT 01.712

AMOUNT \$10.00

WHITE - CASHIER
Morton Fisher, Esq.
Baltimore, Md.

DISTRIBUTION

YELLOW - CUSTOMER
Cost of copies of documents from file #78-40-R, A. V. Williams

DID NOT CALL OFFICE
ADDRESS? DID NOT
REQUEST NOTIFICATION

1000000

#78-40-R

SE 1/4 Philadelphia Road 724.30'
SW of Roseville Boulevard

A. V. Williams, Petitioner

1-SIGN

ITEM NO. 21

PROPERTY OWNER: A. V. Williams
LOCATION: SE 1/4 of Philadelphia Road, 724.3' S/W of Roseville Boulevard
ELECTION DISTRICT: 15 ACREAGE: 13.09
COUNCILMANIC DISTRICT: 6 GEOGRAPHIC/L GROUP: VII
RECOMMENDED DATE OF HEARING: Week of September 19, 1977 FUNCTIONAL CATEGORY: A-8

ZONING PRIOR TO ADOPTION OF 1976 COMPREHENSIVE ZONING MAP: S.L.
EXISTING ZONING: M.L.-I.M.
REQUESTED ZONING: S.M.

PLANNING BOARD RECOMMENDATION: Retain Existing Zoning (M.L.-I.M.)

This vacant, 13.09-acre property is located on the southeast side of Philadelphia Road, 724 feet southwest of Roseville Boulevard. To the southwest is the Golden Ring Mall; to the southeast, the Williams Construction Company Facility; to the northwest, vacant and residential properties zoned D.R. 10.5 and D.R. 16; to the northeast, industrially zoned properties. The petitioner is requesting a change from M.L.-I.M. to S.M. zoning, proposing to construct a shopping center.

Prior to the adoption of the 1976 Comprehensive Zoning Map, the subject property was zoned S.L. (see Zoning Petition No. 75-55-8, Cycle VII-Item 4). During the preparation of this map, the zoning of this property was identified as an issue before both the Planning Board (VI-17) and the County Council (6-17). The Planning staff and Planning Board recommended and the County Council adopted M.L. zoning.

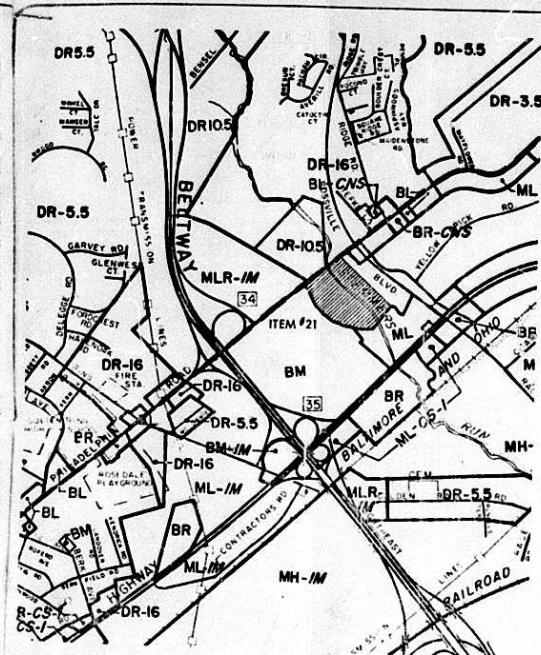
The State Highway Administration's representative on the Zoning Advisory Committee stated, in part, that Pulaski Highway and Philadelphia Road, in this area, are "somewhat congested due to many developments that have occurred in the area in recent years. The proposed development will undoubtedly increase the congestion." The Department of Traffic Engineering's representative on the Zoning Advisory Committee stated, in part, that traffic problems already exist at Pulaski Highway and the Beltway and at Philadelphia Road and the Beltway development as proposed by the petitioner would intensify these conditions.

The 1975 Baltimore County Comprehensive Plan, adopted by the Planning Board on October 13, 1975, delineates this property as industrial commercial zoning would be in conflict with the plan. Further, the Planning Board believes that this prime industrial property should be developed accordingly.

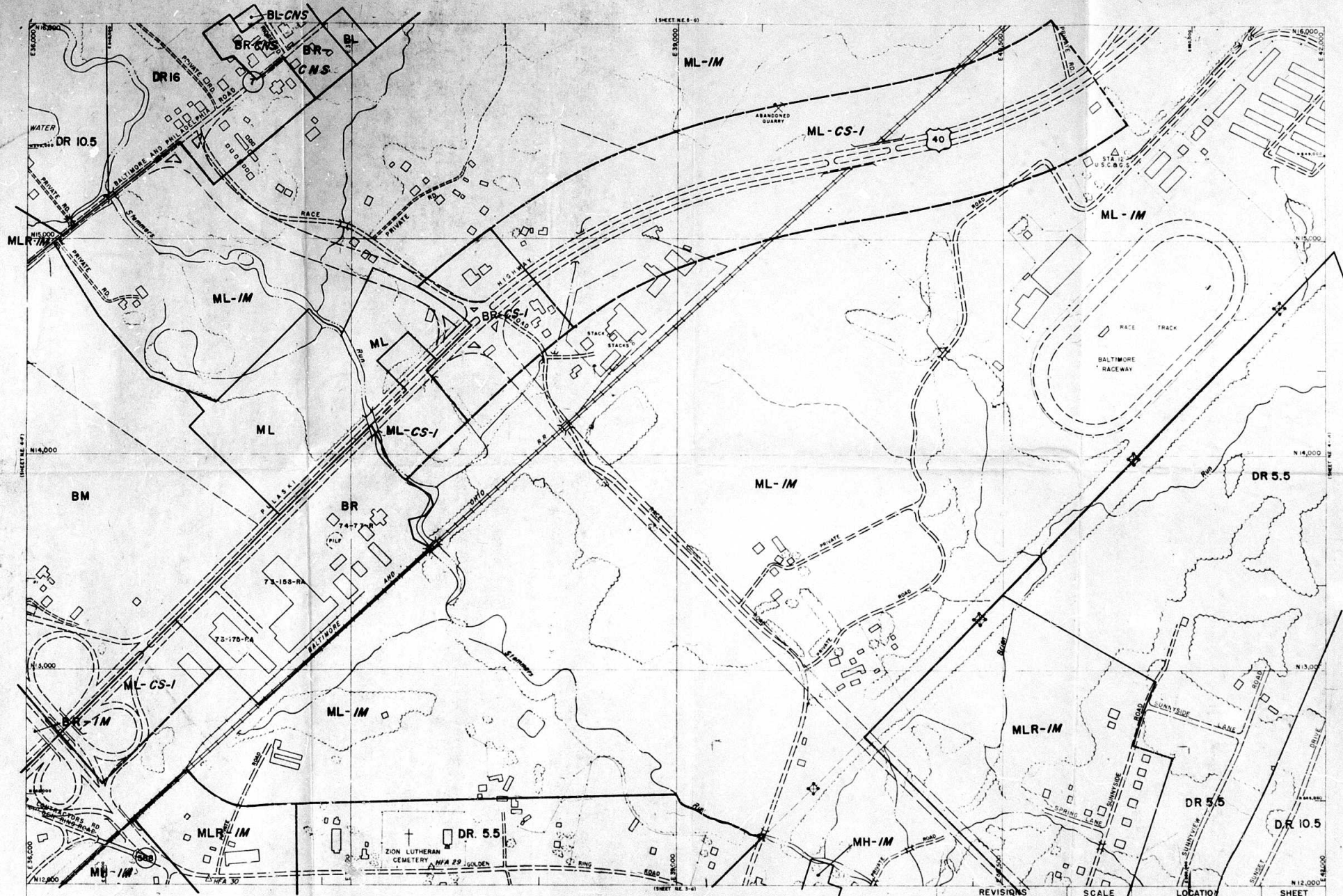
It is the opinion of the Planning Board that the current zoning is appropriate for this property, that ample commercial opportunities have been provided in the area, and that the zoning map is correct. Adjacent to this property is the 43-acre Golden Ring Mall with approximately 850,000 square feet of retail floor space; the proposed Nottingham Center will encompass approximately 170 acres of S.M.-C.T. zoned land. Further, neighborhood centers exist at Philadelphia Road and King Avenue and at Philadelphia Road and Kemwood Avenue; a community center exists at Golden Ring Road and Kemwood Avenue.

The Planning Board has attempted to protect the traffic volume capacity of freeway interchanges, as much as possible, by recommending zoning which allows uses that, on the average, do not generate as much traffic as others. In general, industrial development at interchanges tends to generate much less traffic than do commercial uses. Approval of the petitioner's request and his proposal to construct approximately 150,000 square feet of retail floor space here would be contrary to the Board's policy on land use at freeway interchanges.

It is therefore recommended that the existing zoning, M.L.-I.M., be retained.



LOCATION OF PROPERTY UNDER PETITION
BASE MAP 48
SCALE 1" = 1000'



1976 COMPREHENSIVE ZONING MAP
 ADOPTED BY THE
 BALTIMORE COUNTY COUNCIL
 OCT. 7, 1976 & OCT. 8, 1976
 BL NOS. 108 76, 109 76, 110 76, 111 76,
 112 76, 113 76, and 114 76

PHOTOGRAMMETRIC MAP OF BALTIMORE COUNTY METROPOLITAN AREA OFFICIAL ZONING MAP

REVISIONS		SCALE	DATE OF PHOTOGRAPHY	LOCATION	SHEET
BY	DATE				
		1" = 200'	APRIL 1953	ROSSVILLE	NE 4-G
Topography Compiled By Photogrammetric Methods AERO SERVICE CORPORATION-PHILADELPHIA, PA.					



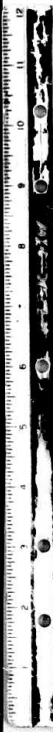


BALTIMORE COUNTY OFFICE
OF PLANNING AND ZONING

ESSEX-MIDDLE RIVER
BALTIMORE COUNTY BASE MAP SERIES-

4B

REVISIONS
DATE
BY
NO. 1
NO. 2
NO. 3
NO. 4
NO. 5
NO. 6
NO. 7
NO. 8
NO. 9
NO. 10



DENSITY DATA
 AREA: 13.91 ACRES
 ZONING: ML-1M

Proposed Zoning: B3 (Shopping Center)
 FOUR ADJ. LOTS BEC. ONE LOT
 SEAWALL EXISTING: 149,850 S 750 SPACES
 DRIVE IN BANK: 300 S 7
 751 SPACES
 PARKING PROPOSED: 773 SPACES
 (1x18 MIN.)

ZONED ML-1M

ROSSVILLE

BOULEVARD

PROPERTY OF BALTIMORE COUNTY
 ZONED ML-1M

NOTE:

100 YR FLOOD PLAIN OBTAINED FROM S.W. REPORT D.P.W./B.E./B.H.C. CO. MAY 1977

RELOCATION STEMMERS RUN
 (100' RIGHT OF WAY)

10' SANITARY ZIM
 EX. 22 (CONCRETE)

3' SIDEWALKS (LAW SCRAPING AREA)
 TOP OF SCULP
 R. 255.23' (10' CO. SUTTING LINE 330.87')

PLANTING ISLANDS

PLANTING ISLANDS

PLANTING ISLANDS

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MONUMENTAL ENTRANCE AND
 ROAD & GUTTER ALONG PLE 7 BY
 S.W. REPORT # A.B. 7242-17
 DATED APRIL 1, 1977

EXISTING PLANS

Montgomery Ward Development Corporation
 DTG 5187/431
 TONED: 2M

DRAWN AND DEVELOPER

ALBERT V. WILLIAMS
 1501 PULASKI HIGHWAY BOX 826
 BALTIMORE COUNTY, MD 21205

ZONING PLAN

SOUTHEAST CORNER ROSSVILLE BLVD. & PHILADELPHIA ROAD
 15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

JAMES S. SCAVER & ASSOCIATES

ENGINEERS AND SURVEYORS
 1501 PULASKI HIGHWAY BOX 826
 BALTIMORE COUNTY, MD 21205
 DATE: January 30, 1974 Scale: 1"=50'

DENSITY DATA
 AREA: 13.09 ACRES
 ZONED: ML-1M

Proposed Zoning: B2 (Shopping Center)
 Floor Area: 149,800 sq. ft.
 Required Parking: 1,950 : 150 spaces
 DRIVE IN BANK: 2.100 : 7
 TRUCKS: 100
 PARKING REQUIRED: 1,775 SPACES
 (1:16 MIN.)

ZONED ML-1M

ROSSVILLE

BOULEVARD

PROPERTY OF BALTIMORE COUNTY
 ZONED ML-1M

RELOCATION STEMMERS RUN
 (ON RIGHT OF WAY)

3.38 ACRES (LAND SHOPPING AREA)
 TOP OF SOFT
 CONCRETE

ROAD (MD. RTE. 7)
 ZONED
 DE 10

PHILADELPHIA
 ZONED: DE 10.5

FONTANA LANE

Montgomery Ward Development Corporation
 DTG 5187/431
 ZONED 5M

OWNER AND DEVELOPER

ALBERT V. WILLIAMS
 8600 PHILADELPHIA HIGHWAY, SUITE
 BALTIMORE COUNTY, MD. 21206

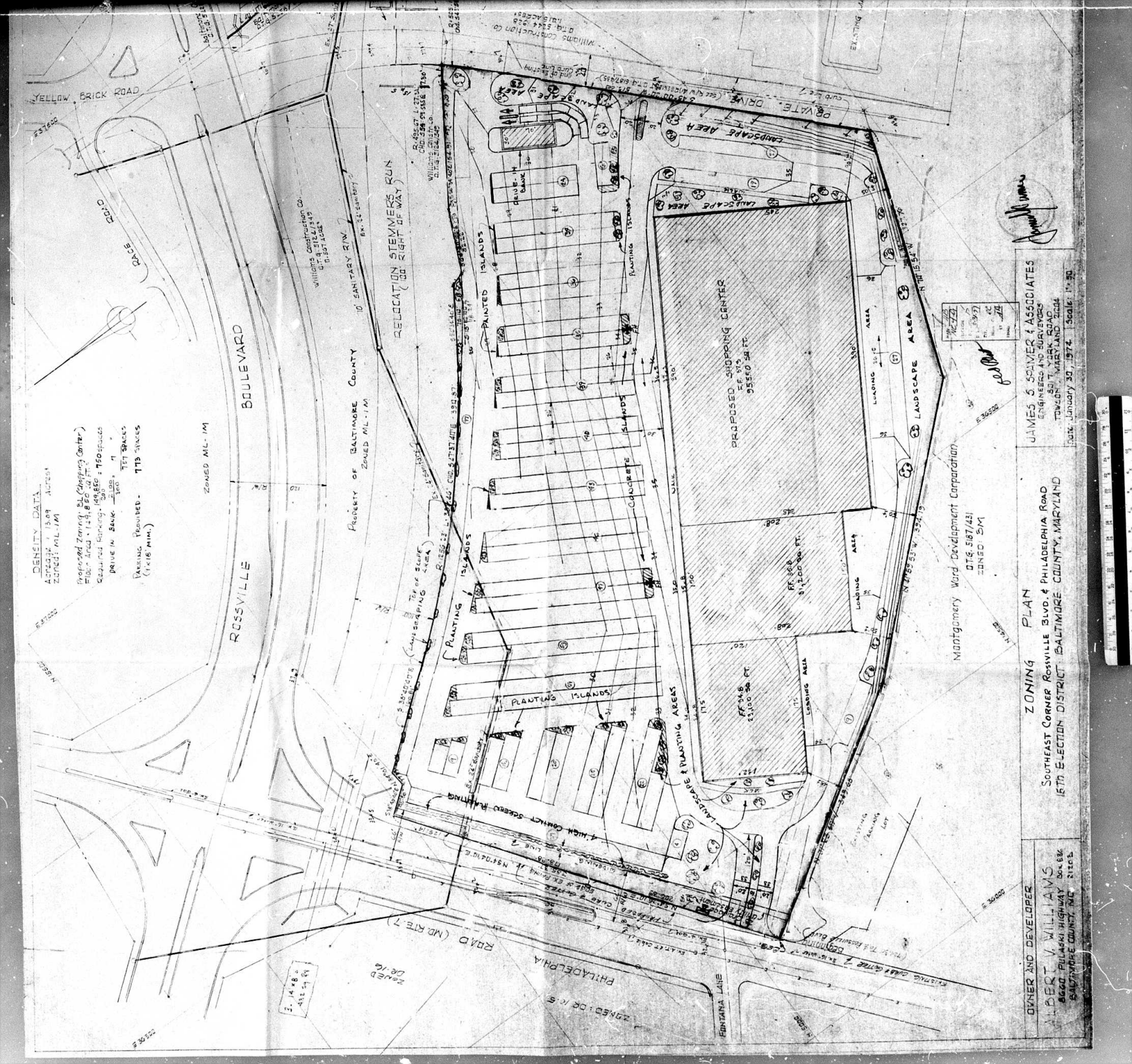
ZONING PLAN

SOUTHEAST CORNER ROSSVILLE BLVD. & PHILADELPHIA ROAD
 15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

JAMES S. SOMMER & ASSOCIATES

ENGINEERS AND SURVEYORS
 3011 W. MARYLAND AVE.
 TOWSON, MARYLAND 21204

DATE: January 30, 1974 Scale: 1" = 50'



DENSITY DATA
ACREAGE - 13.09 ACRES
ZONED ML-1M

Proposed Zoning: B-1 (Shopping Center)
Floor Area - 129,880 SQ. FT.
Required Parking - 1,985 - 150 spaces
Drive in Bank - 150 ft.
Paving Required - 175 spaces
(1216 MIN.)

ZONED ML-1M

ROSSVILLE

BOULEVARD

PROPERTY OF BALTIMORE COUNTY
ZONED ML-1M

RELOCATION STEVENS RUN
(ON RIGHT OF WAY)

PHILADELPHIA
RD. (MD. RTE. 7)

PHILADELPHIA
RD. (MD. RTE. 7)

Maquignery Ward Development Corporation
DTG 5/87/431
ZONED B-1M

OWNER AND DEVELOPER

ALBERT V. WILLIAMS
1400 PHILADELPHIA HIGHWAY
BALTIMORE COUNTY, MD. 21205

ZONING PLAN

SOUTHEAST CORNER ROSSVILLE BLVD. & PHILADELPHIA ROAD
16TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

JAMES S. SPANER & ASSOCIATES

ENGINEERS AND SURVEYORS
5317 YORK ROAD
TOWSON, MARYLAND 21204

Date: January 30, 1974 Scale: 1" = 50'



