

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONERS OF BALTIMORE COUNTY:

I, J. WILSON MAINSTER, 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 an R.C.-4 zone to an R.C.-2 zone; for the following reasons:

Mistake or drafting or clerical error as subject property does not fall within the criteria and standards established R.C. 4 Watershed Protection Zone.

MAP No. 79-202
SECTION 5
DISTRICT 5
FILED
1979
BY: [Signature]

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 for Baltimore County.

Contract purchaser: J. Wilson Mainster Legal Owner
Address: 4511 Mt. Carmel Road
Hampstead, Maryland 21074

Attorney: R. David Adelberg
Address: 105 W. Chesapeake Avenue
Towson, Maryland 21284
321-7773

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 1979, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____, 1979, at _____ o'clock _____ M.

Zoning Commissioner of Baltimore County.

(over)

RE: PETITION FOR RECLASSIFICATION : BEFORE
from R.C. 4 to R.C. 2 Zone : COUNTY BOARD OF APPEALS
480' S Mt. Carmel Rd., 1750' :
W Old Mt. Carmel Rd., : OF
5th District :
J. Wilson Mainster, : BALTIMORE COUNTY
Petitioner : No. R-79-13
(Item 12, Cycle IV)

OPINION

This case comes before this Board on a request by the property owner to have a portion of his holdings rezoned from R.C. 4 to R.C. 2 classification. It should be noted that the subject tract contains 10.5 acres ± of which 3.0 acres are zoned R.C. 2 and the remainder R.C. 4. Most of the R.C. 2 portion abuts Mt. Carmel Road and contains the property owners residence. Adjacent to this portion of R.C. 2 zoning, there is another parcel, not involved in this request, also zoned R.C. 2 for the major portion. Adjacent to this parcel, there is a small pan-handle of R.C. 2 zoning providing access to the rear portion of the subject site which is zoned R.C. 4. The Petitioner wishes to sub-divide this rear portion, 7.5 acres ± into two parcels, one to be used by a family member for a residence, the other to be retained for future use. In order to comply with all Baltimore County Zoning Regulations in R.C. 4 classifications, this sub-division cannot be accomplished, hence the request for R.C. 2 zoning.

On December 22, 1975, Bill 98-75 passed by the County Council became effective. This Bill was enacted to create four new zoning classifications, replacing the general R. D. P. classification, to insure the preservation of Baltimore County's Natural Resources. The R. C. 4 classification is one of these new classifications and is designed specifically as a "Watershed-Protection" zone. A reading of Section 1A03.1, General Provisions A and B indicates that very serious consideration was afforded this classification by the County Council and the Board is thereby constrained to do likewise.

J. Wilson Mainster, No. R-79-13 2.

In order for this Board to grant the requested zoning reclassification, the burden lies with the Petitioner to prove error on the zoning map. Mr. Mainster testified that he had no knowledge of any rezoning of his property until his subdivision plan was not approved. Since the inception of the Comprehensive Zoning Map process, it has not been the policy of Baltimore County to notify individual property owners of proposed changes in their classification. However, these proposed changes are well publicized, well advertised in local papers, etc., discussed in open meetings in which all affected parties are invited to participate, and generally brought to the public's attention for about 1 1/2 years prior to the adoption of these Comprehensive Maps. It should be noted that at no time during this entire process was this property an issue on these maps. To the contrary, Mr. Paul J. Solomon, head of Environmental Studies Section, Baltimore County, testified that because the topography of this area drained toward feeder streams in this watershed area, particular attention was focused in this area and the R.C. 4 classification was his requested classification. In view of all exhibits and testimony directed to this issue, the Board can see no evidence of error by proper Baltimore County authorities.

The Petitioner then raised the aspect of error on the maps proper in down-shifting his classification from P.C. 2 to R.C. 4. He presented testimony by Mr. Richard C. Williams, Surveyor and Engineer, in support of this contention. He stated that his office prepared the required environmental impact statement. He also submitted a Hydrogeologic Study of the subject property prepared by Stephen J. Haverl, certified professional geologist, which was received into evidence by the Board, but Mr. Haverl was not in attendance for questioning. Mr. Paul J. Solomon, as above described, however, was in attendance and testified at length as to the reasons for the R.C. 4 classification. After careful consideration of all this testimony and a close examination of the topographical maps introduced into evidence, the Board can find no error in the R.C. 4 designation. It appears in reality as though the demarcation line between R.C. 2 and R.C. 4 does in fact follow the land contours most likely to offer watershed protection.

J. Wilson Mainster, No. R-79-13 3.

The Petitioner also raised the question as to whether the reclassification of a portion of his property was in fact confiscatory. The Board can see no evidence to support this contention. Property owner can still be permitted the erection of the one residence, now contemplated, and retain the remainder for agricultural or any other permitted use in the R.C. 4 zone.

In reviewing all the testimony and evidence submitted in this case, the Board feels obliged to note the following. Section 1A03.2 of Bill 98-75 establishes the criteria under which an R.C. 4 zone can be considered for reclassification. These criteria do not mandate reclassification but merely permit its consideration. Once these criteria are met and the hearing is held, the Petitioner is burdened with presenting clear evidence of error on the zoning maps or through the zoning processes. The Board is of the opinion that this burden has not been met and that such error has not been evidenced.

ORDER

For all of the reasons stated in the foregoing Opinion, it is this 7th day of November, 1979, by the County Board of Appeals, ORDERED that the requested reclassification from P.C. 4 to R.C. 2 be and the same is hereby DENIED.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Acting Chairman

LeRoy H. Spuffler
LeRoy H. Spuffler

John A. Miller
John A. Miller

CASE NO. R-79-13 J. WILSON MAINSTER
480' S. of Mt. Carmel Rd. 1750' W. of Old Mt. Carmel Rd.
5th District

for - Reclar:ification from RC 4 to RC 2

ASSIGNED FOR: THURSDAY, AUGUST 2, 1979 at 10 a.m.

DEVELOPMENT DESIGN GROUP, LTD.

216 WASHINGTON AVENUE
TOWSON, MARYLAND 21284

RICHARD B. WILLIAMS, A.S.P.O.
PRESIDENT
PETER H. WAEGLCHLI, R.S.

September 25, 1978

DESCRIPTION TO ACCOMPANY PETITION FOR RECLASSIFICATION OF ZONING FROM R.C.-4 TO R.C.-2 ZONE- MAINSTER PROPERTY- 7.5249 ACRES

Beginning for the same at a point on the easternmost outline of the subject property at a distance of 480 feet measured South 16° 45' 00" East from the south side of Mount Carmel Road, (formerly Icker Beckleysville Road), at a distance of 1750 feet measured along said Mount Carmel Road in a westerly direction from its intersection with the Old Mount Carmel Road; thence binding on the outlines of the subject property so as to include the area of said property now zoned R.C.-4, the three following courses and distances:

- 1) South 16° 45' 00" East 699.69 feet;
- 2) South 73° 15' 00" West 416.43 feet and
- 3) North 24° 06' 24" West 864.89 feet to intersect the current R.C.-2 Zoning Line; thence binding thereon South 89° 52' 35" East 212.33 feet to the outline of an interior lot; thence binding on the outline of said interior lot the three following courses and distances:

- 1) South 18° 31' 01" East 165.76 feet;
- 2) North 73° 15' 00" East 234.54 feet and
- 3) North 16° 45' 00" East 93.00 feet to intersect the R.C.-2 Zoning Line previously mentioned; thence binding thereon South 89° 52' 35" East 81.57 Feet to the place of beginning

Containing 7.5249 Acres of Land, more or less.



494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21284

November 7, 1979

R. David Adelberg, Esq.
Suite 305, Jefferson Building
105 West Chesapeake Avenue
Towson, Maryland 21284

Re: Case No. R-79-13
J. Wilson Mainster

Dear Mr. Adelberg:

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,

June Holmen
June Holmen, Secretary

Encl.

cc: J. Wilson Mainster
Richard B. Williams
Paul J. Solomon
Trina Sidney
Roe M. Nicholson
John W. Hession, III, Esq.
J. E. Dyer
J. Howell
Board of Education
William Hammond

DEVELOPMENT DESIGN GROUP, LTD.

216 WASHINGTON AVENUE
TOWSON, MARYLAND 21284

RICHARD B. WILLIAMS, A.S.P.O.
PRESIDENT
PETER H. WAEGLCHLI, R.S.

September 25, 1978

ENGINEERS CERTIFICATION TO ACCOMPANY PETITION FOR RECLASSIFICATION OF ZONING FROM R.C.-4 TO R.C.-2 - MAINSTER PROPERTY

I, DOUGLAS L. KENNEDY, a Registered Professional Engineer of the State of Maryland, do hereby certify:
1) That the subject property does not lie within 200 feet of a watercourse classified as a third order stream or greater, as shown on the "Map of Small Stream Classifications of Baltimore County" as officially adopted and amended, which directly or indirectly flows into a public water reservoir; that the subject property does not lie within 200 feet of any such reservoir property line; and that the subject property does not lie within 200 feet of any first or second order stream which discharges directly into a reservoir.
2) That the natural grade of the subject property does not exceed twenty percent.
3) That an environmental impact statement indicates that the proposed zoning reclassification will not impair water quality within the watershed.

Douglas L. Kennedy
Douglas L. Kennedy, P.E.
Md. Reg. No. 10748

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY BOARD OF APPEALS
 480' S Mt. Carmel Rd., 1750' :
 W Old Mt. Carmel Rd., 5th District : OF BALTIMORE COUNTY
 J. WILSON, MAINSTER, Petitioner : Case No. R-79-13 (Item 12)

ORDER TO ENTER APPEARANCE

To the Honorable, Members of Said Board:
 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.

Peter Max Zimmerman
 Peter Max Zimmerman
 Deputy People's Counsel

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

I HEREBY CERTIFY that on this 13th day of June, 1979, a copy of the foregoing Order was mailed to R. David Adelberg, Esquire, 105 W. Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioner.

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

RECEIVED
 BALTIMORE COUNTY
 JUN 13 10 04 AM '79
 COUNTY BOARD
 OF APPEALS
 BY:

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY BOARD
 480' S Mt. Carmel Rd., 1750' : OF APPEALS
 W Old Mt. Carmel Rd., 5th :
 District : OF BALTIMORE COUNTY
 Case No. R-79-13
 (Item 12)

SUBPOENA DUCES TECUM

Mr. Clerk:
 Please issue a Subpoena Duces Tecum to the following:

Frank H. Fisher
 Office of Planning and Zoning
 Baltimore County, Maryland
 Court House, 4th Floor
 Towson, Maryland 21204

to appear at the hearing before the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204 on Thursday, August 2, 1979 at 10 A.M. on behalf of the Petitioner and to produce at that time all records, material, and data used to reclassify the subject property to R.C.4, all County stream classifications, criteria for setting up and establishing a parcel of land in the R.C.4 zoning classification, and all data pertaining to the J. Wilson Mainster property, 480' S Mt. Carmel Road, 1750' W Old Mt. Carmel Road leading to the classification of the portion of said property on the zoning map as R.C.4. Subpoena to continue until hearing is reached and concluded.

COST \$ 5.00
 7-24-79
 SUMMONED 13
 NON EST 13
 NON SUIT 19
 COPY LEFT 19

R. David Adelberg
 Suite 309, Jefferson Building
 105 West Chesapeake Avenue
 Towson, Maryland 21204
 321-7773
 Attorney for Petitioner,
 J. Wilson Mainster

SHIFF
 CHARLES H. HICKEY, JR.
 OF BALTIMORE COUNTY
 Mr. Sheriff:

Please serve summons in accordance with above.

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

RECEIVED
 BALTIMORE COUNTY
 JUN 20 11 12 AM '79
 COUNTY BOARD
 OF APPEALS

POINTS OF ERROR COMMITTED IN
 CLASSIFICATION OF SUBJECT PROPERTY

Petitioner states the Baltimore County Council and Zoning Map Draftsman committed at least the following error and probably additional errors in classifying the subject property R.C.4.

1. The intent of Bill 98-7J, Section 1A03 - R.C. 4 is to protect watersheds by establishment of criteria for development to prevent water contamination and pollution. The standards for reclassification of property in the R.C.4 zone are set forth in Section 1A03.2A(1-3) pertaining to engineers certification in event of reclassification. Subject property does not meet the criteria established in said section for the following reasons:

(a) It is not within two hundred (200) feet of a third order water course; does not lie within two hundred (200) feet of any reservoir property line; and does not lie within two hundred (200) feet of a first or second order stream which discharges directly into a reservoir.

(b) The natural grade of subject property does not exceed twenty percent (20%).

(c) The proposed zoning reclassification to R.C.2 will not impair water quality within the watershed.

2. That a drafting error or mistake resulted in reclassification of subject property to R.C.4.

3. And for such other and further errors as shall be disclosed during the preparation of this case, which errors shall be brought out at the time of the hearing hereon.

Respectfully submitted,
R. David Adelberg
 R. David Adelberg
 Attorney for Petitioner

PETITION AND SITE PLAN
 EVALUATION COMMENTS

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your Petition has been received and accepted for filing
 this 13th day of December, 1978.

S. Eric Dinenna
 S. ERIC DINENNA
 Zoning Commissioner

Petitioner: Mainster
 Petitioner's Attorney: Adelberg
 Reviewed by: *Nicholas B. Commodari*
 Nicholas B. Commodari
 Chairman, Zoning Plans
 Advisory Committee

cc: Development Design Group
 216 Washington Avenue
 Towson, Maryland 21204

R. David Adelberg, Esquire
 105 W. Chesapeake Avenue
 Towson, Maryland 21204

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your Petition has been received and accepted for filing
 this 30th day of January, 1979.

S. Eric Dinenna
 S. ERIC DINENNA
 Zoning Commissioner

Petitioner: Mainster
 Petitioner's Attorney: Adelberg
 Reviewed by: *Nicholas B. Commodari*
 Nicholas B. Commodari
 Chairman, Zoning Plans
 Advisory Committee

cc: Development Design Group, Ltd.
 216 Washington Avenue
 Towson, Maryland 21204

R. David Adelberg, Esquire
 105 W. Chesapeake Avenue
 Towson, Maryland 21204

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BLDG.
 111 W. Chesapeake Ave.
 Towson, Maryland 21204

December 18, 1978

cc: Nicholas B. Commodari
 Chairman

R. David Adelberg, Esquire
 105 W. Chesapeake Avenue
 Towson, Maryland 21204

MEMBERS
 Bureau of Engineering
 Department of Traffic Engineering
 State Roads Commission
 Bureau of Fire Prevention
 Health Department
 Project Planning
 Building Department
 Board of Education
 Zoning Administration
 Industrial Development

RE: Item No. 12
 Petitioner - Mainster
 Reclassification Petition

Dear Mr. Adelberg:

Please be advised that the acceptance certificate for the above petition, dated January 30, 1979, was incorrect. Enclosed is verification that the correct date of acceptance was December 14, 1978. This should replace the previous certificate.

Very truly yours,
Nicholas B. Commodari
 NICHOLAS B. COMMODARI
 Chairman
 Zoning Plans Advisory Committee

NBC/af

enclosure

cc: Development Design Group, Ltd.
 216 Washington Avenue
 Towson, Maryland 21204

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BLDG.
 111 W. Chesapeake Ave.
 Towson, Maryland 21204

October 31, 1978

cc: Nicholas B. Commodari
 Chairman

R. David Adelberg, Esquire
 105 West Chesapeake Avenue
 Towson, Maryland 21204

MEMBERS
 Bureau of Engineering
 Department of Traffic Engineering
 State Roads Commission
 Bureau of Fire Prevention
 Health Department
 Project Planning
 Building Department
 Board of Education
 Zoning Administration
 Industrial Development

RE: Item No. 12
 Petitioner - Mainster
 Reclassification Petition

Dear Mr. Adelberg:

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 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 suitability of the requested zoning.

The subject of this petition is a 7.52 acre tract, zoned R. C. 4 and part of a larger tract of land which is zoned R. C. 2, located on the south side of Mount Carmel Road, approximately 1,700 feet southwest of Old Mount Carmel Road in the 5th Election District.

Because of your client's proposal to subdivide this portion into two building lots and coupled with the existing density control in the R. C. 4 zoning classification, this Reclassification to R. C. 2 is required.

This petition for Reclassification will be 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 December 1, 1978 in order to allow time for final Committee review and advertising. All changes must be accompanied by a cover letter indicating these corrections. Failure to comply may result in this

Mainster
 Page 2
 October 31, 1978

petition not being scheduled for a hearing. Notice of the hearing date and time, which will be between March 1, 1979 and April 15, 1979, will be forwarded to you well in advance.

Very truly yours,
Nicholas B. Commodari
 NICHOLAS B. COMMODARI
 Chairman
 Zoning Plans Advisory Committee

NBC/af

cc: Development Design Group, Ltd.
 216 Washington Avenue
 Towson, Maryland 21204

THORNTON M. SCOURING, P.E.
DIRECTOR

November 1, 1978

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

Re: Item #12 Cycle IV (Oct. 1978-April 1979)
Property Owner: J. Wilson Mainster
480' S. Mt. Carmel Rd. 1750' W. Old Mt. Carmel Rd.
Existing Zoning: R.C. 4
Proposed Zoning: R.C. 2
Acres: 7.5249 District: 5th

Dear Mr. DiNenna:

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

General:

Comments were supplied for this property for Project IDCR 77-117. This property was reviewed and comments were prepared by the Baltimore County Joint Subdivision Planning Committee August 4, 1977.

Highways:

Mt. Carmel Road, formerly Beckleysville Road, is proposed to be improved in the future as a 40-foot closed section roadway on a 60-foot right-of-way. Highway right-of-way widening, including reversible easements for slopes will be required in connection with any grading or building permit application or further development of this property.

Sediment Control:

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

Storm Drains:

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

Drainage and utility easements are required within this property.

MICROFILMED

Water and Sanitary Sewer:

Public water supply and sanitary sewerage are not available to serve this property, which is beyond the Baltimore County Metropolitan District and the Urban-Rural Demarcation Line. The Baltimore County Water and Sewerage Plans W & S-4 and 10A, respectively, indicate "No Planned Service" in the area.

This property is tributary to Prettyboy Reservoir via Zoggy's and George's Run.

Very truly yours,

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

END:RAM:FF:iss

cc: R. Morton
J. Tremner
H. Shalowitz

CG-NW Key Sheet
114-115 NW 36 Pos. Sheets
NW 29 X Topo
15 & 20 Tax Maps

MICROFILMED

LESLIE H. GRAFF
DIRECTOR

October 31, 1978

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

Dear Mr. DiNenna:

Comments on Item # 12, Zoning Cycle IV, October, 1978, are as follows:

Property Owner: J. Wilson Mainster
Location: 480' S Mt. Carmel Road 1750' W. Old Mt. Carmel Road
Existing Zoning: RC-4
Proposed Zoning: RC-2
Acres: 7.5249
District: 5th

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

The property is subject to the Baltimore County Subdivision Regulations.

Very truly yours,

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

MICROFILMED

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

October 18, 1978

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

Dear Mr. DiNenna:

Comments on Item #12, Zoning Advisory Committee Meeting for Cycle IV, are as follows:

Property Owner: J. Wilson Mainster
Location: 480' S Mt. Carmel Rd. 1750' W Old Mt. Carmel Rd.
Existing Zoning: R.C. 4
Proposed Zoning: R.C. 2
Acres: 7.5249
District: 5th

The proposed location of the wells and sewage disposal areas on lots 3-A and 1-A conform to all Health Department requirements. Therefore, no health hazards are anticipated.

Very truly yours,

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

THD/JRP/fth

MICROFILMED

STEPHENE E. COLLINS
DIRECTOR

October 16, 1978

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

Item No. 12 - ZAC - Meeting for Cycle IV
Property Owner: J. Wilson Mainster
Location: 480' S Mt. Carmel Rd. 1750' W Old Mt. Carmel Rd.
Existing Zoning: R.C.4
Proposed Zoning: R.C. 2

Acres: 7.5249
District: 5th

Dear Mr. DiNenna:

The proposed rezoning from R.C. 4 to R.C. 2 is not expected to cause any major increase in traffic.

Very truly yours,

Michael S. Flinnigan
Michael S. Flinnigan
Associate Engineer II

MSF/tms

MICROFILMED

Paul H. Reinecke
CHIEF

October 16, 1978

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

Attention: N. Commodari, Chairman
Zoning Advisory Committee

Re: Property Owner: J. Wilson Mainster

Location: 480' S Mt. Carmel Rd. 1750' W Old Mt. Carmel Rd.

Item No. 12 Zoning Agenda Cycle IV

Gentlemen:

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

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- (x) 3. The vehicle dead end condition shown at _____ is _____ the maximum allowed by the Fire Department. _____ ed turn around for emergency vehicles required.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.
- () 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.
- () 6. Site plans are approved as drawn.
- () 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWER: *George M. Wegmann* Noted and Approved: *George M. Wegmann*
Planning Group Fire Prevention Bureau
Special Inspection Division

MICROFILMED

JOHN D. SEFFERT
DIRECTOR

October 6, 1978

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

Dear Mr. DiNenna:

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

Property Owner: J. Wilson Mainster
Location: 480' S Mt. Carmel Road - 1750' W Old Mt. Carmel Road
Existing Zoning: R.C. 4
Proposed Zoning: R.C. 2

Acres: 7.5249
District: 5th

The items checked below are applicable:

- X A. Proposed Structure shall conform to Baltimore County Building Code (B.C.C.A.) 1970 Edition and the 1971 Supplement, and other applicable codes.
- X B. A building permit shall be required before construction can begin.
- C. Additional _____ Permits shall be required.
- D. Building shall be upgraded to new use - requires alteration permit.
- X E. Three sets of construction drawings will be required to file an application for a building permit.
- F. 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.
- G. 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.
- H. Requested setback variance conflicts with the Baltimore County Building Code. See Section _____.
- I. No Comment.
- J. Comments:

Very truly yours,

Charles E. Burnham
Charles E. Burnham
Plans Review Chief

MICROFILMED

BOARD OF EDUCATION
OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: October 24, 1978

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

Z.A.C. Meeting of: Cycle IV

RE: Item No:
Property Owner: J. Wilson Mainster
Location: 480' S. Mt. Carmel Rd. 1750' W. Old Mt. Carmel Rd.
Present Zoning: R.C. 4
Proposed Zoning: R.C. 2

District: 5th
No. Acres: 7.5249

Dear Mr. DiNenna:

No adverse effect on student population.

Very truly yours,

MICROFILMED

W. Nick Petrovich
W. Nick Petrovich,
Field Representative

WNP/bp

DEVELOPMENT DESIGN GROUP, LTD.

216 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

RICHARD B. WILLIAMS, A.S.P.
PRESIDENT
PETER H. WAELCHLI, R.S.

September 25, 1978

ENVIRONMENTAL IMPACT STATEMENT- MAINSTER PROPERTY

DESCRIPTION OF PROPERTY

The Mainster Property is a ten acre tract of land located on the south side of Mount Carmel Road, (formerly Lower Beckleysville Road), about one and one-half miles east of the Carroll County Line in Baltimore County. There is one existing dwelling located in the north portion of the property. The surrounding area has, until recently, been generally agricultural in use; there is a commercial nursery on the west side of the property, a large horse farm on the south, and a former dairy farm on the north side of Mount Carmel Road now under residential development. The subject property has, until this year, been intensively farmed in the production of row-crops, including corn.

ZONING CONSIDERATIONS- R.C.-4

The R.C.-4 Zone as located from the approved Baltimore County Zoning Map affects the southernmost eight acres of the subject property. General slopes in this area do not exceed twenty percent; the average slope through the site approaching ten percent. The nearest watercourse is the North Branch of Pegysa Run, a first order stream approximately 300 feet removed from the southeast corner of the site.

1) PROPOSED ACTION

It is proposed to construct two single-family residences on approximately six acres of the southernmost portion of the subject site, currently zoned R.C.-4. Construction would be limited to grading for a single parhandie access road for two lots, with minimum site grading incidental to the construction of two homes.

2) PROBABLE ENVIRONMENTAL IMPACT

It is estimated that less than one-half acre within the eight acres now zoned R.C.-4 will be temporarily disturbed during the period of construction, as compared to the complete disruption of vegetation and animal life forms experienced annually under the current agricultural use. Further, it is

- 3 -

3. Or...that the Council failed to make any provision to accommodate any project, trend or need which it, itself, recognized as existing at the time of the comprehensive zoning." Ibid.

In the present case, the Petitioner simply produced no evidence to rebut the presumption that the County Council was fully aware of the circumstances relevant to the zoning of the subject property. Indeed, the detailed nature of that process, as outlined in the attachment, as well as the testimony of Paul Solomon, Environmental Planner, indicates the attention focused on the watershed in which this property is located.

The nub of the controversy, therefore, is whether the Petitioner met his heavy burden to show the Council failed reasonably to account for "existing facts or facts reasonably foreseeable of fruition." *Boyce, supra*. Here, the Petitioner produced an empty case. He did not produce a single witness qualified to discuss soils, geology, or agricultural land use. Rather, he chose to rely, without testimony, on environmental studies prepared pursuant to Baltimore County Zoning Regulations 1A03.2. Reliance on such studies is inappropriate for the following reasons:

A. Such studies are required as a prerequisite to consideration of a reclassification petition in a watershed protection zone. As indicated by the clear language of the law and elaborated in the testimony of Mr. Solomon, the distance, grade, and environmental impact statement requirements constitute merely a first step toward the petition for reclassification. In the absence of presentation of evidence to show error, Petitioner cannot claim to have taken the necessary second step.

B. Even had the documentation pertained to the all important "error" issue, it could not be persuasive in the absence of a live witness qualified to interpret and defend it. The sole live expert witness produced by the Petitioner was Richard Williams, who was involved in the engineering of the site plan, but who conceded his lack of expertise pertaining to soil, geology, and agriculture.

2.

expected that construction under the restraints and safeguards routinely imposed by Baltimore County will assure an improved condition after development is complete. Runoff for any frequency storm will be less under residential use, thus preventing soil erosion and improving the water quality of the receiving waters.

3) ADVERSE ENVIRONMENTAL EFFECTS WHICH CANNOT BE AVOIDED

There are no permanent adverse environmental effects anticipated. For the moment, this property is not being intensively farmed. A sparse volunteer cover of weeds has been allowed to cover the site. Any controlled modification of this temporary condition must obviously be preferred over a return to row-cropping practices. Moreover, this weed growth is neither recommended or guaranteed by current zoning policy. Residential grading and construction will have no short-term effect on the ambient wildlife and vegetation of this site as it exists.

4) ALTERNATIVES TO THE PROPOSED ACTION, AVOIDING ADVERSE ENVIRONMENTAL EFFECTS

There is no practical alternative to the proposed residential construction. One dwelling unit may be constructed in this area under current regulations. Provision of either a single or double parhandie requires the same roadway grading. Construction of one residence rather than two would only reduce total site disturbance by approximately two percent. It might also be noted, in this connection, that construction of the allowed one residence on the subject tract would not preclude full cultivation of the remaining land area, while division into the proposed two homesites would make a return to full cultivation both unprofitable and unlikely.

5) ASSESSMENT OF CUMULATIVE LONG-TERM EFFECTS OF THE PROPOSED ACTION; SHORT-TERM VS. LONG-TERM PRODUCTIVITY

The immediate effect of the proposed action would be to remove the land from intensive cultivation with its attendant sediment and chemical pollution of the watershed. It is anticipated that cumulative effects of the proposed residential use would include the establishment of a permanent vegetative cover, improvement of runoff characteristics through engineering analysis and design and the continuing benefit of responsible residential occupation and ownership of the land.

6) IRREVERSIBLE OR IRRETRIEVABLE COMMITMENT OF RESOURCES RESULTING FROM THE PROPOSED ACTION- CURTAILMENT OF BENEFICIAL USE OF THE ENVIRONMENT

It is estimated that no such possibility exists, given the above alternatives.

- 4 -

In contrast to the absence of probative evidence pertaining to zoning error in the Petitioner's case, the People's Counsel produced Mr. Solomon, who testified in detail, on both direct and cross-examination, as to the process whereby the subject property, and the area in which it is situated, was designated R.C. 4. This included detailed description of soils and erodibility, based on official documents of United States Soil Conservation Service. It included evaluation of the slopes and the distance to tributaries of the Loch Raven Reservoir and the pertinent floodplains. Solomon pointed out that his staff had personally inspected the area during the Comprehensive Zoning Map process and had revisited the site upon review of the reclassification petition. He opined that the purposes of watershed protection would be served by the existing zoning and that additional residential development would promote additional erosion, water quality, and storm water problems. He stated definitely that use of the land in accordance with accepted modern agricultural methods would not jeopardize the environment.

Solomon's testimony, together with that of James Hoswell, County Planner in charge of coordination of the reclassification petition review process, amplified the detailed recommendation of the Planning Board that the existing zoning be retained. This testimony was supported by the testimony of neighboring land owners, who described graphically the Loch Raven watershed area, including a visual view stream flowing in close proximity to the subject property. The neighboring property owners also pointed out substantial injury to them arising from the location of the proposed access to the property.

No amount of sophistry should distract the Board of Appeals from the emptiness of Petitioner's case appertinent to the fundamental issue of error.

Petitioner in his Memorandum raises the issue of notice, claiming that he was personally ignorant of the changes in zoning law affecting his property. In no instance, however, has he pointed to any defect in the proceedings leading to enactment of the resource conservation zoning regulations or the Comprehensive Maps.

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY BOARD OF APPEALS
from R.C. 4 to R.C. 2 Zone
480' S Mt. Carmel Rd., 1750'
W Old Mt. Carmel Rd., 5th District : OF BALTIMORE COUNTY

J. WILSON MAINSTER, Petitioner : Case No. R-79-13 (Item 12, Cycle IV)

MEMORANDUM OF PEOPLE'S COUNSEL

This case is critical in that it involves the first effort to rezone property classified by the County Council as R.C. 4, a resource conservation zoning classification intended primarily for watershed protection (Bill No. 98-75, Baltimore County Zoning Regulations, Section 1A03). The Regulations were enacted in 1975 following widespread public debate at Planning Board and County Council meetings. The R.C. zones, generally speaking, were more restrictive in terms of land use and population density than the R.D.P. (Rural Deferred Planning) and R.S.C. (Rural-Suburban: Conservation) zoning classifications which they replaced. So that the newly created zones might be effective, they necessarily became a part of the 1976 County-wide Comprehensive Zoning Map process.

The course of that process is outlined in the attached document entitled, "1976 Comprehensive Zoning Maps Chronological History," a public record kept in the ordinary course of business in the Office of Planning and Zoning. As is customary, the process included Planning staff review, identification of issues, and review and hearings before the Planning Board and County Council. Each hearing involved notice and opportunity to be heard, and there was substantial public participation.

The subject property, being in the area of the watershed which includes the Gunpowder River and Prentboy and Loch Raven dams, was classified R.C. 4. This 7.5 acre tract constitutes the rear portion of a property owned by the Petitioner which fronts on Mt. Carmel Road. The front portion of the site is zoned R.C. 2. The property owner maintains a residence on the front portion of the property. The sole reason for

- 5 -

Petitioner raises the additional point of mistake in assuming the subject property to be zoned R.C. 2 in connection with an application to subdivide the property. Even assuming *arguendo* that any County official shared in the mistake made by Petitioner's engineer, such would not affect the legality of the zoning of the property. Indeed, no County administrator may, by mistake, caprice, or any other modification, dispense such zoning benefits to particular property owners.

Then, Petitioner raises the issue of confiscation. The Board should recall that only upon careful examination, toward the conclusion of the hearing, was it clarified that Petitioner is perfectly entitled to build on the subject property in the existing zoning, adding to the present residential use on the separate front portion of the property enjoying R.C. 2 zoning. Upon understanding that the issue reduces to the amount of use or profit which Petitioner will obtain from the rear portion of his property, whether by one lot or division into two, the Board can readily perceive the frivolous nature of this argument. It need hardly be repeated that the applicable legal standard for confiscation may be defined as "being deprived of all reasonable use of...property (so) that it cannot be used for any of the permitted uses in the existing zone." *Stratakis v. Beauchamp*, 288 Md. 643, 644, 304 A.2d 244, 250 (1975).

The dramatic sweep of the issues presented by the Petitioner in his Memorandum (to wit: notice, error, and confiscation) is matched only by the dramatic absence of any evidence in support thereof.

The importance of the present case should not be underestimated. The question of density in the use of critical natural resource areas in Baltimore County is one likely to recur with frequency. The case here involves a change in zoning to permit two lots as opposed to one. It can readily be seen that the development issue multiplies in areas with larger acreage. Restriction of development in the reservoir watershed areas of Baltimore County is one of the keys to the effectiveness of the entire resource conservation

- 2 -

the reclassification request is to enable the Petitioner to subdivide the rear portion of his property into two building lots, as would be permitted through R.C. 2 zoning, rather than the one building lot authorized in the existing zoning. Put in a nutshell, the outcome of this case will determine simply whether or not the Petitioner may use his entire property for three building lots rather than two building lots. Put more to the point, the question is whether the Petitioner may claim error in the ground that he is not afforded the luxury of two residential lots for his family and a third lot for subdivision and resale.

Apparently relying on the idea that the existing zoning involves some hardship, the Petitioner has come to this Board for a reclassification. He comes, however, under the false impression that he need not prove error in the zoning map. We arrive at this conclusion from the simple observation that Petitioner produced no evidence pertinent to the subject of error as that term has been defined by the Maryland appellate courts.

Of the principles of Maryland law applicable to zoning, "...perhaps none is more rudimentary than the strong presumption of the correctness of original zoning and of comprehensive rezoning." Otherwise stated, "...strong evidence of error is required to make the issue of mistake in comprehensive zoning fairly debatable and unless such strong evidence is presented by the applicant, the action of the Board in granting a reclassification is arbitrary and capricious." *Boyce v. Semby*, 25 Md. App. 43, 49-50, 334 A.2d 137, 142 (1975).

The Court of Special Appeals has outlined three approaches which an applicant may take to sustain his petition. Since it is presumed "that at the time of the adoption of the map the Council had before it and did, in fact, consider all of the relevant facts and circumstances then existing," (*Boyce, supra*, 25 Md. at 51, 52, 334 A.2d at 143), the applicant must show:

1. That specific physical facts were not readily visible or discernible at the time of the comprehensive zoning;
2. That such existing facts were not taken into account

- 6 -

zoning law. This is the final opportunity for this Board to pass upon this law, an opportunity which must not be missed.

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

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

I HEREBY CERTIFY that on this 15th day of October, 1979, a copy of the foregoing Memorandum was mailed to R. David Adelberg, Esquire, Suite 309, Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

RECEIVED
BALTIMORE COUNTY
OCT 19 10 15 AM '79
COUNTY BOARD
OF APPEALS
BY: _____

FEB 06 1980

September, 1974 - Initial Planning Staff review of Zoning Maps. An effort was made to make corrections and adjust zoning lines to property lines. Specific recommendations for zoning changes were made, zoning classifications were applied to publicly owned properties, and the Resource Conservation Zones were applied to the Maps.

January, 1975 - Staff Recommended Zoning Maps were displayed at the following locations:
Catonsville Library
Randallstown Library
Essex Library
Perry Hall Library
North Point Library
Hereford Senior High School

April 30, 1975 - Cut off date for requests for zoning changes to the Planning Board
May 1, 1975 - Preliminary Log of Issues and Recommendations
September 10, 1975 - Cut off date for requests for zoning changes to the Planning Board
October 13, 1975 - Preliminary Report of Planning Board's Recommendations - Approved for Public Hearing
Planning Staff Discussions - Open Houses:
October 9, 1975 - Kenwood Senior High School
October 16, 1975 - Milford Mill Senior High School
October 22, 1975 - Dulany Senior High School
October 30, 1975 - Towson Senior High School

Planning Board Public Hearings:

November 3, 1975 - 7th Dist., Patapsco Senior High
November 6, 1975 - 6th Dist., Parkville Senior High
November 10, 1975 - 1st Dist., Lansdowne Senior High
November 18, 1975 - 4th Dist., Towson Senior High
November 24, 1975 - 2nd Dist., Milford Mill Senior High
December 1, 1975 - 5th Dist., Kenwood Senior High
December 3, 1975 - 3rd Dist., Dulany Senior High
December 9, 1975 - Meeting of AD-HOC Committee of Planning Board to review Zoning Issues - Seventh Dist.
January 6, 1976 - Meeting of Planning Board AD-HOC Committee to review Zoning Issues - Sixth Dist.
January 14, 1976 - Meeting of Planning Board AD-HOC Committee to review Zoning Issues - First Dist.
January 20, 1976 - Meeting of Planning Board AD-HOC Committee to review Zoning Issues - Fourth Dist.
January 27, 1976 - Meeting of Planning Board AD-HOC Committee to review Zoning Issues - Second Dist.
February 3, 1976 - Meeting of Planning Board AD-HOC Committee to review Zoning Issues - Fifth Dist.
February 10, 1976 - Meeting of Planning Board AD-HOC Committee to review Zoning Issues - Third Dist.
February 13, 1976 - Meeting of Planning Board AD-HOC Committee to review Zoning Issues - Third Dist.
February 17, 1976 - Meeting of Planning Board AD-HOC Committee to review Zoning Issues - Field Trip
March 1, 1976 - Meeting of Planning Board AD-HOC Committee to review Zoning Issues - Open Issues

March 4, 1976 - Planning Board adopted the Recommended 1976 Comprehensive Zoning Map
April 1, 1976 - Recommended 1976 Comprehensive Zoning Map was forwarded to the County Council
April 15, 1976 - Downshift letters sent to property owners
May 6 & 7, 1976 - Planning Board Recommended Zoning Maps taken out to display locations:

- 1st District
1. Catonsville Library
2. Lansdowne Library
3. Arbutus Library
- 2nd District
1. Randallstown Library
2. Pikesville Library
3. Woodlawn Volunteer Fire Station
- 3rd District
1. Cockeysville Library
2. Hereford Volunteer Fire Station
3. Reisterstown Library
- 4th District
1. Loch Raven Library
2. Long Green Volunteer Fire Station
3. County Office Building (Basement)
- 5th District
1. Perry Hall Library
2. Essex Library
3. Bowley's Quarters Volunteer Fire Station
4. Kingsville Volunteer Fire Station

- 6th District
1. Rosedale Library
2. Parkville-Carney Library
3. Fullerton Fire Station
- 7th District
1. North Point Library
2. Dundalk Library
3. Edgensere Fire Station

The maps were taken out to various display locations on the 6th and 7th of May. The display package included the following:

- 1 set of 22 maps
1 copy County Council Ground Rules
1 copy of OPZ Zoning Tools
1 copy Planning Board Issues

County Council Pre-file Deadlines:

- May 20, 1976 - Seventh Dist.
June 1, 1976 - Sixth Dist.
June 4, 1976 - Fourth Dist.
June 4, 1976 - First Dist.
June 7, 1976 - Fifth Dist.
June 11, 1976 - Third Dist.
June 14, 1976 - Second Dist.

County Council Public Hearings:

- June 8, 1976 - Patapsco Senior High School - Seventh District
June 10, 1976 - Parkville Senior High School - Sixth District
June 14, 1976 - Towson Senior High School - Fourth District

County Council Public Hearings (cont.):

- June 15, 1976 - Lansdowne Senior High School - First District
June 17, 1976 - Kenwood Senior High School - Fifth District
June 22, 1976 - Dulany Senior High School - Third District
June 24, 1976 - Milford Mill Senior High - Second District
July 1, 1976 - Cut off date for new issues accepted by County Council

County Council Field Trips:

- July 12, 1976 - 5th and 7th Districts
July 14, 1976 - 4th and 6th Districts & part of 3rd Dist.
July 20, 1976 - 1st and 2nd Districts & part of 3rd Dist.
July 26, 1976 - 3rd District.

August 2, 1976 - County Council Meeting - Closed out zoning issues that were in agreement with Planning Board Recommendations

Second Set of County Council Public Hearings:

- September 8, 1976 - Patapsco Senior High School - 7th District
September 14, 1976 - Parkville Senior High School - 6th District
September 16, 1976 - Towson Senior High School - 4th District
September 21, 1976 - Lansdowne Senior High School - 1st District
September 23, 1976 - Kenwood Senior High School - 5th District
September 28, 1976 - Dulany Senior High School - 3rd District
September 30, 1976 - Milford Mill Senior High School - 2nd District

- October 7, 1976 - County Council Adopts 1976 Comprehensive Zoning Maps
October 15, 1976 - County Executive Signed Zoning Maps for Districts 1, 2, 4.
October 18, 1976 - County Executive vetoed Third Councilmanic District Zoning Map
November 1, 1976 - County Council overrode County Executive veto of Third Councilmanic District Zoning Map

- November 24, 1976 - Maps turned over to the Zoning Office
November 29, 1976 - Maps for Districts 1, 2, 3, 4, 5, 6, 7 go into effect
December 16, 1976 - 3rd District Map goes into effect.

Chronological List of Public Meetings and Hearings Held for the 1975 Comprehensive Plan, the Resource Conservation Zones and the 1976 Comprehensive Zoning Maps

The 1975 Comprehensive Plan for Baltimore County, Maryland

Staff Town Meetings
April 10, 1975 at the Hereford Senior High School
April 14, 1975 at the Dulany Senior High School
April 17, 1975 at the Catonsville Community College
April 23, 1975 at the Essex Community College
April 24, 1975 at the Randallstown Senior High School
April 29, 1975 at the Patapsco Senior High School

Planning Board Public Hearings
May 6, 1975 at the Catonsville Senior High School
May 8, 1975 at the Hereford Senior High School
May 13, 1975 at the Randallstown Senior High School
May 19, 1975 at the Perry Hall Senior High School
May 22, 1975 at the Patapsco Senior High School
May 27, 1975 at the Dulany Senior High School

Resource Conservation Zones
Planning Board Public Hearings
March 31, 1975 at the Dulany Senior High School
July 17, 1975 at the Dulany Senior High School

Planning Board Adoption of Final Report
August 20, 1975

County Council Public Hearing
October 15, 1975

County Council Adoption of Resource Conservation Zone
November 7, 1975

RE: PETITION FOR RECLASSIFICATION * BEFORE THE
480' S Mt. Carmel Rd. 1750' * COUNTY BOARD OF APPEALS
W Old Mt. Carmel Rd., 5th * OF BALTIMORE COUNTY
District *
J. WILSON MAINSTER, Petitioner * Case No. R-79-13 (Item 12)

MEMORANDUM IN SUPPORT OF PETITION FOR RECLASSIFICATION

FACTS

During Petitioner's ownership of subject property, a zoning map was passed by the County Council which reclassified the subject property into two classifications, one portion being R. C. 2 and the other R. C. 4.

Petitioner, J. Wilson Mainster, testified that he had no personal knowledge of the map change in classification. Petitioner was unable to ascertain from the materials published that the County Council intended to change the classification of his property. Petitioner further testified that it was difficult to determine the classification of the property from the existing maps. Various Baltimore County agencies such as the zoning, planning, subdivision, health department, etc., also failed or were unable to determine from the existing maps the fact that a portion of the property had been reclassified R. C. 4. This testimony was substantiated by preliminary subdivision Plat approved by requisite County authorities and final subdivision Plat bearing numerous departmental approvals which Plat was within one to two days of recordation.

Petitioner was shocked when after receipt of the approvals, it was discovered that Petitioner's proposed subdivision of the parcel could not go forward due to the map reclassification of the property. At the time of rejection of the subdivision plan, a well had been drilled, construction

contract entered into and construction and permanent loan entered into for construction of a dwelling house at a location within the R. C. 4 zone of the parcel prohibited by the zoning regulations. As a result of the classification, the Petitioner has sustained material monetary loss and damage.

Mr. Richard Williams testified that the map classification of the portion of the property to the R. C. 4 classification was a mistake. His testimony was substantiated by certification of Douglas L. Kennedy, professional engineer and by an environmental impact statement that the proposed reclassification would not impair water quality within the alleged water shed.

Minutes of the County Joint Subdivision Planning Committee were entered into evidence of a meeting dated August 4, 1977 during which the Office of Planning stated that the subdivision was satisfactory and although the water was within the pretty boy water shed drainage area a hydrogeological environmental study must be provided. A hydrogeological and environmental study was made approving subject parcel for construction of the dwelling house within the R. C. 4 zone. The hydrogeological environmental study, the Health Department for Baltimore County and apparently water resources administration, sediment control, etc., all approved the proposed subdivision of the tract of land into three lots. None of the reviewing parties indicated a danger to the water shed or County water resources.

Petitioner further testified that the locations upon which he was prevented from constructing the dwelling house was intended for the residence and use of Petitioner's daughter, son-in-law, and grandchildren.

The People's Counsel produced as a witness Mr. James G. Hoswell of the Planning Office of Baltimore County. Mr. Hoswell

-2-

zoning map, which map, as well as the zoning regulation is therefore erroneous and unconstitutional. It is interesting to note that in at least one occasion agricultural zone trends have been written into the R. C. 4 zone in that the water shed protection excludes additional dwellings constructed for bona fide tenant farmers. The right to instruct additional dwellings without water protection for bona fide tenant farmers illustrates the confiscatory nature of the map and the zoning regulations by the failure to include that additional dwellings for bona fide extension of the property owner's family unit leaving the Petitioner no reasonable use of his land which, Petitioner submits, constitutes the taking of the property without compensation in violation of the United States Constitution, 5th Amendment. (See Congressional School of Aeronautics, Inc. v. States Roads Commission, 218 Md. 236, 146 A.2d 558 (1950); City of Baltimore v. Cohn, 204 Md. 523, 105 A.2d 482 (1954); Stephens v. City of Salisbury, 240 Md. 556, 214 A.2d 775 (1965); Arnold v. Prince George's County, 270 Md. 285, 311 A.2d 223 (1973).

IV.

PETITIONER PRESENTED CLEAR AND COMPELLING PROOF OF MAP ERROR BY THE COUNCIL. SHOULD BE ALLOWED TO DEVELOP THE SUBJECT PROPERTY OF THE CORRECT ZONING REQUESTED.

Zoning must be in accordance with a comprehensive plan, and it can be upheld only as part of the general plan for the community which sets aside certain areas for agricultural, residential, and business uses where these uses are obviously suitable and needed. Hunter v. Board of County Commissioners of Carroll Co., 252 Md. 305, 250 A.2d 81 (1969). Without restating the testimony before the Board, it is clear that Petitioner presented a clear and convincing case mandating an affirmative decision to his requested zoning. The Petitioner

-6-

testified that the planners utilized soil maps and stream maps in making the determination as to the zone in question and that it was his opinion that the same was correct. Mr. Paul Solomon testified that the map lines were evaluated and prepared by a member of his staff on what would appear to be a subjective basis using the soil and the stream data as a basis of decision. The planners in recommending the line which created the R. C. 4 classification on subject premises did not follow or take into consideration Bill 98-75, Section 1A03.2A (1-3). The testimony of the Petitioner's witnesses clearly indicated that subject property qualifies for each of the criteria set forth in said subsection.

The neighbors who appeared as People's Counsel lay witnesses merely testified to a somewhat emotional dislike for the prospect of another house in their vicinity and concern with regard to entry roads and effect on a stream in the vicinity.

ISSUES

1. Was Petitioner provided with legally sufficient notice of the downshift in classification of the property on the zoning map?
2. Did the Baltimore County Council error in downshifting the subject property to R. C. 4 on the comprehensive zoning maps acted into law?
3. Does the act of shifting the subject property to R. C. 4 constitute an unconstitutional confiscation of Petitioner's real property, without consideration, and in violation of the United States Constitution as amended?
4. Has the Petitioner presented a compelling case, supported by proof, that subject property should be reclassified as petitioned under the prevailing standard of Baltimore County?

-3-

has been prevented by a map change of which he had no reasonable notice from subdividing the subject property into three building lots. He has sustained considerable damage by the acts of the County Council. There is an economic impediment to development of the land as presently zoned as the Petitioner testified he cannot afford to give the R. C. 4 area to his daughter and thereby bind the entirety of the tract to two building lots. In addition, all the preliminary work performed in establishing a location for the proposed dwelling house is at a location permitted under the R. C. 2 zone but prohibited by virtue of the R. C. 4 regulations. Why the County Council chose to split the Petitioner's land and shift a portion of it into a water shed protection zone based upon stream and soil data while totally ignoring the criteria established for rezoning by petition set forth in Bill 98-75 boggles the mind. It is the proper function of this Board to correct an error of this nature and further it is permissible for this Board to reclassify the property as the same meets the criteria for rezoning by petition. It is therefore submitted that the Board should correct the error and that, on Petitioner's case, the Board can properly correct map error by granting the requested zoning or in the alternative grant rezoning by petition predicated upon the data submitted by Petitioner, which classification is respectfully prayed be done.

Respectfully submitted,

R. David Adelsberg
R. DAVID ADELBERG
Suite 309, Jefferson Building
105 West Chesapeake Avenue
Towson, Maryland 21204 - 321-7773

Attorney for Petitioner

-7-

ARGUMENT

I.

THE PETITIONER DID NOT RECEIVE LEGALLY SUFFICIENT NOTICE.

Record on this issue is clear. The maps published for public notice on which the change in classification was made, due to the location of the subject property, did not afford Petitioner the knowledge that his property was being reclassified. The fact that the reclassification to R. C. 4 was obscure and did not provide reasonable notice is substantiated by the failure of the civil engineers who prepared the subdivision plan, and the various County agencies of who reviewed the subdivision submission to discover the change in classification until within a few days prior to planned recordation of the final Subdivision Plat. The notice given Petitioner was not effective as the Petitioner was not clearly appraised that he had to defend his interests with respect to the reclassification of the property.

The principles are clearly established and this issue need not be further pursued.

II.

THE COUNTY COUNCIL ERRED IN DOWNSHIFTING SUBJECT PROPERTY TO R. C. 4.

The record clearly indicates that subject property does not constitute a hazard to the water shed. Petitioner's testimony, his expert witnesses, exhibits including the hydrogeological study, county comments, and approvals granted clearly show that the subjective opinion of the map draftsman and the assumptions relied upon by the County Council at the time of the reclassification were invalid. The County Council in fact made a basic and actual mistake. It should be pointed out that

-4-

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of September, 1979, a copy of the foregoing Memorandum In Support of Petition for Reclassification was mailed, postage prepaid, to John Hessian, Esquire, People's Counsel and Peter Max Zimmerman, Esquire, Deputy People's Counsel for Baltimore County, County Office Building, Towson, Maryland 21204.

R. David Adelsberg
R. DAVID ADELBERG

RECEIVED
BALTIMORE COUNTY
SEP 17 12 29 PM '79
COUNTY BOARD
OF APPEALS
BY: S

-8-

the standard rule requires that the more liberal standard can be utilized with regard to this tract of land as there has been no requested change in the nature of zone. Missouri Realty Co., Inc. vs. Ramor, 216 Md. 442 (1950). As Petitioner overcame the presumption of the validity of the comprehensive map due to lack of notice, evidence supporting the Petitioner's position with regard to mistake is material. Therefore, the Petitioner's testimony has shown that the Council failed to take into account the existing facts on the tract of land and the action was premised initially on a misapprehension.

III.

THE ACT OF SHIFTING THE CLASSIFICATION OF SUBJECT PROPERTY WAS AN UNCONSTITUTIONAL CONFISCATION WITHOUT CONSIDERATION IN VIOLATION OF THE UNITED STATES CONSTITUTION AS AMENDED.

Petitioner testified, at length, before this Board with regard to his lack of knowledge at the change in classification. He further testified to the economic loss he will sustain if he cannot subdivide subject premises into three building lots. The present classification of the premises amounts to a confiscatory taking. It is clear that the downshift in zoning and the restriction upon the land use in order to protect streams and water quality goes beyond the constitutional ambit and it restricts the use of the Petitioner's land. The realities of the situation are that the reclassification to R. C. 4 has effectively prevented the Petitioner from developing the remainder of his tract in the traditional United States ethic of subdividing rural farm acreage into lots to be utilized for residential purposes by children and grandchildren of the tract owner. The County Council failed to make provision to accommodate the property trend of the family residence on rural tracts, or the need for it, at the time of the passage of the comprehensive

-5-

R-79-13

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 5TH Date of Posting: July 13, 1979
Posted for: PETITION FOR RECLASSIFICATION
Petitioner: J. WILSON MAINSTER
Location of property: BEGINNING 480' S. MT. CARMEL RD. 1750' W.
OLD MT. CARMEL ROAD
Location of Sign: FRONT 4511 MT. CARMEL RD.
Remarks:
Posted by: Thomas E. McDaniel Date of return: July 20, 1979

1-Sign

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

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

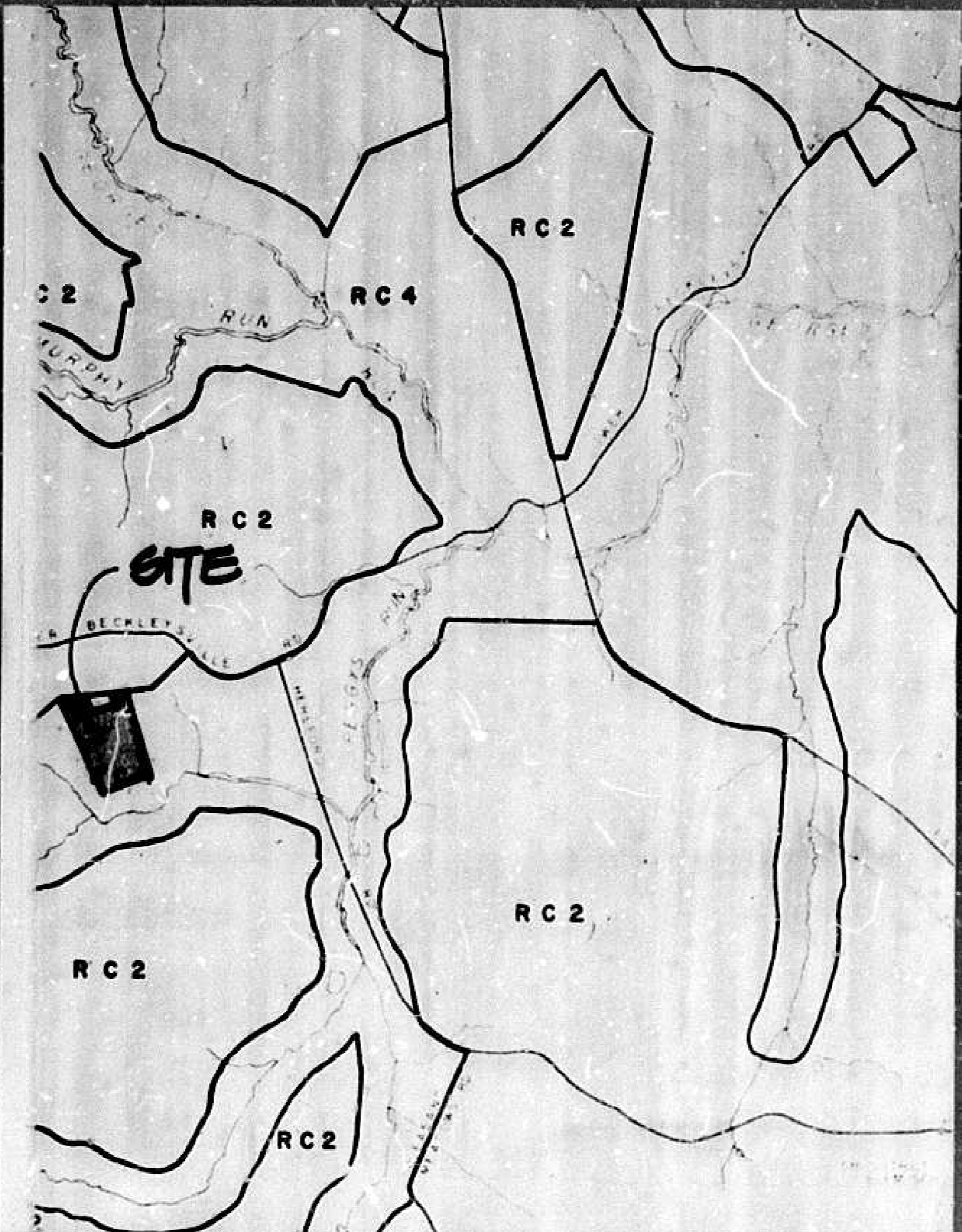
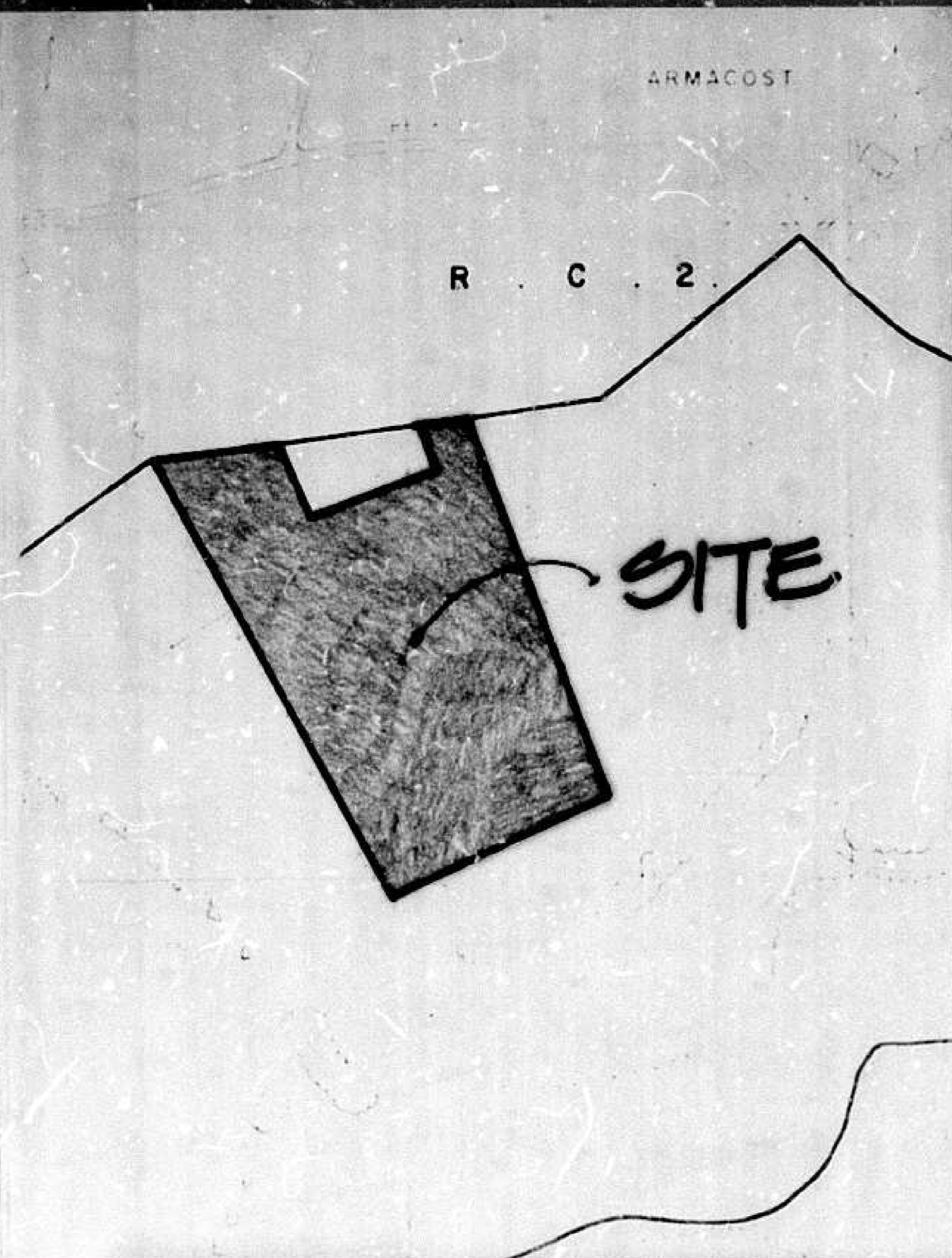
Your Petition has been received * this 29 day of Sept 1979. Filing Fee \$ 57. Received Check Cash Other

S. Eric Dinenna
S. Eric Dinenna,
Zoning Commissioner

Petitioner J. Wilson Mainster Submitted by

Petitioner's Attorney R. David Adelsberg Reviewed by

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



PETITION FOR RECLASSIFICATION
 5th Day 1st
ZONING: Petition for Reclassification from R.C. 4 to R.C. 2
LOCATION: Beginning 480 feet South of Mt. Carmel Road, 1750 feet West of Old Mt. Carmel Road
DATE & TIME: Thursday, August 2, 1979 at 10:00 A.M.
PUBLIC HEARING: Room 218, Courthouse, Towson, Maryland
 The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter will hold a public hearing
 Proposed Zoning: R.C. 2
 Present Zoning: R.C. 4
 All that parcel of land in the Fifth District of Baltimore County
 Beginning 480 feet South of a point on the easternmost corner of the subject property at a distance of 480 feet measured South 10° 45' 00" East from the south side of Mount Carmel Road, (formerly Lower Beckleyville Road), at a distance of 1750 feet measured along said Mount Carmel Road in a westerly direction from its intersection with the Old Mount Carmel Road, thence bearing on the outline of the subject property as to include the area of said property now zoned R.C. 4, the three following courses and distances:
 1) South 10° 45' 00" East 695.63 feet
 2) South 72° 15' 00" West 410.43 feet and
 3) North 31° 00' 24" West 564.89 feet to intersect the current R.C. 2 Zoning Line, thence bearing there on South 89° 52' 35" East 212.33 feet to the exterior of an interior lot, thence bearing on the outline of said interior lot the three following courses and distances:
 1) South 18° 31' 01" East 165.76 feet
 2) North 72° 15' 00" East 231.54 feet and
 3) North 16° 45' 00" East 83.00 feet to intersect the R.C. 2 Zoning line previously mentioned, thence bearing thereon South 89° 52' 35" East 81.57 feet to the place of beginning.
 Containing 7,529 Acres of Land, more or less.
 Being the property of J. Wilson Mainster, as shown on plat plan filed with the Planning Department.
Hearing Date: Thursday, August 2, 1979 at 10:00 A.M.
Public Hearing: Room 218, Courthouse, Towson, Maryland
 BY ORDER OF
 WALTER A. HUYER, JR.,
 CHAIRMAN
 COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
 Comm. July 12, 1979.



OFFICE OF
 TOWSON, MD. 21204 July 12 1979

THIS IS TO CERTIFY, that the annexed advertisement of PETITION FOR RECLASSIFICATION - J. Wilson Mainster was inserted in the following:

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

weekly newspapers published in Baltimore, County, Maryland, once a week for one successive weeks before the 13th day of July 1979, that is to say, the same was inserted in the issues of July 12, 1979.

STROMBERG PUBLICATIONS, INC.
 BY *Esther Berger*

PETITION FOR RECLASSIFICATION AS MISTAKE
ZONING: Petition for Reclassification from R.C. 4 to R.C. 2
LOCATION: Beginning 480 feet South of Mt. Carmel Road, 1750 feet West of Old Mt. Carmel Road
DATE & TIME: Thursday, August 2, 1979 at 10:00 A.M.
PUBLIC HEARING: Room 218, Courthouse, Towson, Md.
 The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter will hold a public hearing
 Present Zoning: R.C. 4
 Proposed Zoning: R.C. 2
 All that parcel of land in the Fifth District of Baltimore County
 Beginning for the same at a point on the easternmost corner of the subject property at a distance of 480 feet measured South 10° 45' 00" East from the south side of Mount Carmel Road, (formerly Lower Beckleyville Road), at a distance of 1750 feet measured along said Mount Carmel Road in a westerly direction from its intersection with the Old Mount Carmel Road, thence bearing on the outline of the subject property as to include the area of said property now zoned R.C. 4, the three following courses and distances:
 1) South 10° 45' 00" East 695.63 feet
 2) South 72° 15' 00" West 410.43 feet and
 3) North 31° 00' 24" West 564.89 feet to intersect the current R.C. 2 Zoning Line, thence bearing thereon South 89° 52' 35" East 212.33 feet to the exterior of an interior lot, thence bearing on the outline of said interior lot the three following courses and distances:
 1) South 18° 31' 01" East 165.76 feet
 2) North 72° 15' 00" East 231.54 feet and
 3) North 16° 45' 00" East 83.00 feet to intersect the R.C. 2 Zoning line previously mentioned, thence bearing thereon South 89° 52' 35" East 81.57 feet to the place of beginning.
 Containing 7,529 Acres of Land, more or less.
 Being the property of J. Wilson Mainster, as shown on plat plan filed with the Planning Department.
Hearing Date: Thursday, August 2, 1979 at 10:00 A.M.
Public Hearing: Room 218, Courthouse, Towson, Md. 21286
 BY ORDER OF
 WALTER A. HUYER, JR.,
 CHAIRMAN
 COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
 Comm. July 12, 1979.

CERTIFICATE OF PUBLICATION

TOWSON, MD., July 12, 1979
 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 in each of one time successive weeks before the 2nd day of August, 1979, the first publication appearing on the 12th day of July 1979.

THE JEFFERSONIAN,
Lin Frank Strickland
 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					10/6	MP				
Petition number added to outline										
Demed										
Granted by ZC, RA, CC, CA										
Reviewed by: <i>DAE</i>										
Previous case:										

Revised Plans:
 Change in outline or description Yes ___ No ___
 Map # *MW241*

BALTIMORE COUNTY, MARYLAND
 OFFICE OF FINANCE, REVENUE DIVISION
 MISCELLANEOUS CASH RECEIPT
 No. 78765
 DATE: July 5, 1979 ACCOUNT: 401-662
 AMOUNT: \$50.00
 RECEIVED FROM: *Developmental Service Group Ltd.*
 FOR: *Billing Fee for Case No. 79-13*

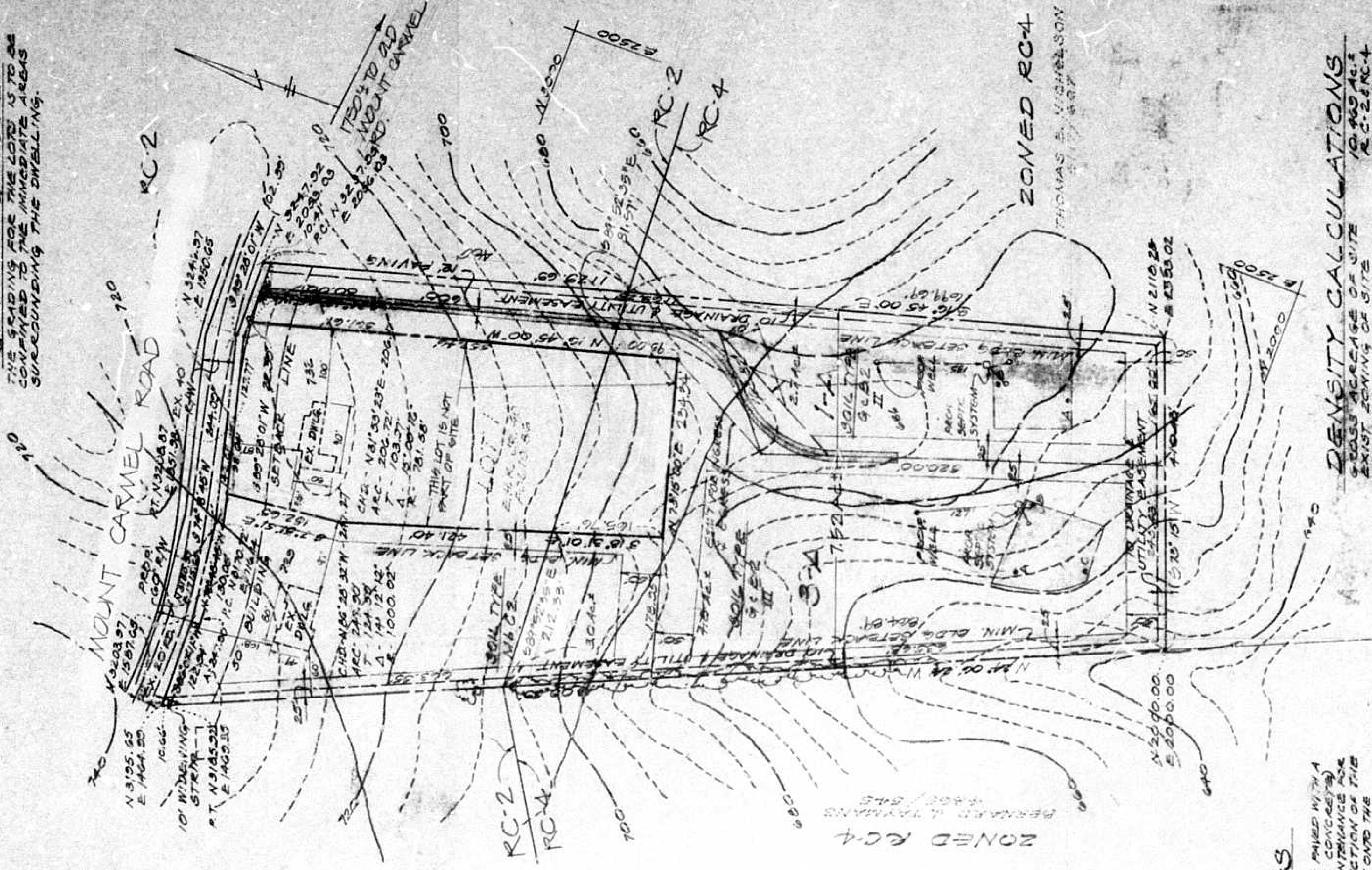
BALTIMORE COUNTY, MARYLAND
 OFFICE OF FINANCE, REVENUE DIVISION
 MISCELLANEOUS CASH RECEIPT
 No. 83068
 DATE: July 31, 1979 ACCOUNT: 401-662
 AMOUNT: \$52.81
 RECEIVED FROM: *J. Wilson Mainster*
 FOR: *Advertising & Posting for Case No. 79-13*

VICINITY SKETCH
SCALE: 1" = 100'



LANDSCAPING NOTE
LANDSCAPING TO BE PERFORMED BY INDIVIDUAL LOT OWNERS.

GRAADING NOTE
THE GRADING FOR THE LOTS IS TO BE CONFINED TO THE IMMEDIATE AREAS SURROUNDING THE DWELLING.



GENERAL NOTES

1. UNITS SHOWN HEREON WILL BE SOLD.
2. PRIVATE PARKING AREAS & DRIVEWAYS ARE TO BE PAVED WITH A DURABLE DUSTLESS SURFACE (MACADAM OR CONCRETE).
3. WASTE COLLECTION, SHOW-BEHOULD & ROAD MAINTENANCE ARE HANDLED BY THE STREET & TRAIL LINE ONLY & NOT OVER THE PARADES LOT DRIVEWAY.
4. DEVELOPERS SHOWN HEREON ARE FOR THE LOCATION OF ALL NEIGHBORLY SLEWS, ONLY.
5. ACCESSORY STRUCTURES, FENCE & PROJECTIONS INTO YARDS MAY BE CONSTRUCTED BUT MUST COMPLY WITH SETBACKS AND BOI OF THE BALTO CO ZONING REGULATIONS. (SUBJECT TO COMMENTS & APPROVALS BUILDING PERMITS).
6. FENCE REMOVAL SURVIVORS WILL BE PROVIDED BY BALTO CO & WILL BE PICKED UP BY THE SLEW AT THE REAR.
7. EACH LOT SHALL BE PROVIDED WITH A BURNING PIT AS SHOWN ON UNITS.

OWNER & DEVELOPER
V. WILSON MAINSTER
LOWER BRACKLEYVILLE RD.
HAMPSTEAD, MD.

SURVEYOR
DEVELOPMENT DESIGN GROUP, LTD.
216 WASHINGTON AVE.
TOWSON, MD. 21284

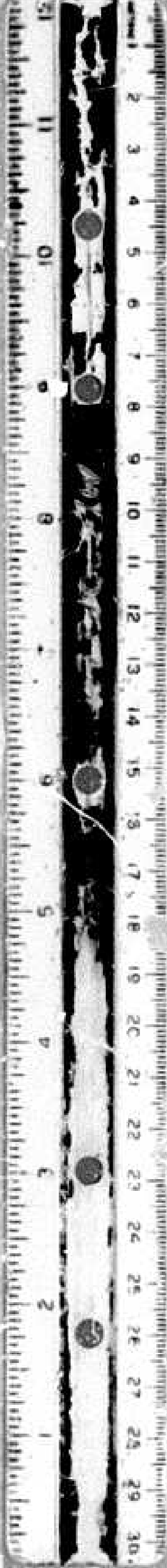
DENSITY CALCULATIONS
GROSS AREA OF SITE 10.469 AC.
EXIST ZONING OF SITE R.C.-2 RC-4
PREVIOUSLY RECORDED BALTO. V.R. #0
ADJ. 10 &
294 AC.
7.92 AC.
RC-2
VACANT LAND
RESIDENTIAL

ACREAGE IN RC-2
PROPOSED ZONING
EXISTING USE
PROPOSED USE

PLAT TO ACCOMPANY REZONING PETITION
MAINSTER PROPERTY
5TH ELECT. DIST.
SCALE: 1" = 100'
BALTO. CO., MD.
SEPT 29, 1978

Pat. Wise & Co.

DRAWN BY: K. SCOTT
7/8/78



PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

WHEREAS GALWAY, INC., 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 that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from D.R. 16 zone to B.L. zone...

WHEREAS Special Exception under the said Zoning Law and Zoning Regulations of Baltimore County...

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 for Baltimore County.

GALWAY, INC. Contract purchaser. Address: c/o Eugene P. Smith, 1900 Maryland National Bank Building, Baltimore, Maryland 21202. (301) 332-8713.

ORDERED By The Zoning Commissioner of Baltimore County, this 19th day of July, 1979, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County...

Zoning Commissioner of Baltimore County.

rather than increase, because of elimination of unnecessary use of automobiles by residents traveling outside the development.

For all of which reasons, the Petitioner respectfully requests that its Petition for Zoning Reclassification be granted.

Eugene P. Smith, Attorney for Petitioner. 1900 Maryland National Bank Bldg., Baltimore, Maryland 21202. (301) 332-8713.

R-79-201 GALWAY, INC. R-79-12 NE cor. Greenpoint Rd. and Rutledge Road 8th District

IN THE MATTER OF THE PETITION OF GALWAY, INC., A MARYLAND CORPORATION, FOR ZONING RE-CLASSIFICATION OF 2.5319 ACRES OF LAND, MORE OR LESS, LOCATED AT THE INTERSECTION OF RUTLEDGE AND GREENPOINT ROADS, OPPOSITE CHATTERTON ROAD, IN THE EIGHTH ELECTION DISTRICT OF BALTIMORE COUNTY, MARYLAND

STATEMENT IN SUPPORT OF PETITION FOR ZONING RECLASSIFICATION

Galway, Inc., a Maryland corporation, for its statement in support of its Petition for Zoning Reclassification of 2.5319 acres of its 326 acre Mays Chapel town community filed herein, says that:

1. The Petitioner requests a change in the zoning classification of 2.5319 acres of land (premises) located in the northeast corner of the intersection of Rutledge and Greenpoint Roads, opposite Chatterton Road, in the Mays Chapel Community of Baltimore County, Maryland, from a D.R. 16 Zone (Density Residential, 16.0 density units per acre) to a B.L. Zone (Business Local), so that same may be used for a convenient shopping center for home owners and residents in Mays Chapel. The premises are located entirely in the D.R. 16 Zone.

2. The premises are ideally located, lying at the intersection of the principal roads furnishing access between Mays Chapel and Padonia Road on the north, via Greenpoint Road and Rutledge Road, and from Jennifer Road on the west, via Chatterton Road. There are no streets extending or proposed to be extended into any other development, so that little or no outside traffic will flow to the proposed convenient shopping facility, and all traffic will move from within Mays Chapel. Additionally, the

premises are so located within the D.R. 16 Zone, as to have little or no impact on neighboring property values. Clearly use of the subject premises for a convenient shopping facility will in no way create any congestion in any road or street, or in any way be detrimental to the health, safety or general welfare of the locality which it is designed to serve.

3. The present erroneous classification of the subject premises, combined with substantial changes in conditions in the area since adoption of the zoning maps, justifies reclassification of the premises from the D.R. 16 Zone to the B.L. Zone. Mays Chapel Village was designed as a planned development for about 1580 dwelling units under its present zoning. By County standards, this density is conservatively converted to a population of about 3700 people. Although good planning and zoning standards and principles dictate that some convenient shopping center be provided to service such a large residential community, no business area was created on the map, possibly because the people were not yet there. Following adoption of the zoning map, substantial housing has been created in Mays Chapel, including creation of more than 100 single family detached dwelling units, 230 townhouse units, and 192 apartment units. Additionally, major roads, along with water, sanitary sewer and storm water drainage facilities, have been extended into Mays Chapel to service the existing dwelling units, as well as the majority of those planned for the immediate future. Accordingly, there is an obvious need and demand for a convenient shopping facility to service Mays Chapel and the subject site is ideally located to meet this need and demand.

4. Succinctly put, the combination of error and change, involving the provision of substantial housing accommodations in Mays Chapel to meet the seemingly insatiable demand therefor in the subject area, and failure to anticipate same by adequate provision

in the area to satisfy the convenient shopping needs and demands of the community; installation of sewer and water facilities, not previously available to service the housing development, including recent provision for erection of a substantial water facility allowing for extension of water into the next higher water zone in and about the premises, extending northward to Padonia Road; expansion of nearby business and industrial center, bringing into the neighborhood an influx of personnel whose convenient shopping needs must be met; installation and improvement of roads in the area; and other changes affecting the neighborhood likely to occur before the hearing of the instant Petition; all operate to justify, and even to require grant of the rezoning sought in these proceedings.

5. Development of the premises under the provisions of a B.L. Zoning category is entirely consistent with the urban development patterns heretofore established for the area. The proposed convenient shopping center facility will tie in with the current residential development of a 1580 unit residential community, providing housing for about 3700 people, for whose convenience the center is designed and will be in keeping with the character of the dominant land use of the surrounding area. Clearly, no more desirable location can be found for the small neighborhood shopping facility, catering in a traditional way to the convenience of the residents. Because there are no streets proposed to extend into any other development, little or no traffic will flow to or from the proposed convenient shopping facility, except within Mays Chapel. Adequate water, sanitary sewer and storm drainage facilities are available to service the virtually innocuous site and no health or environmental hazard is involved. Further, development of the premises as a neighborhood shopping facility will have no appreciable effect on traffic in the area, which will decrease

RE: PETITION FOR RECLASSIFICATION from D.R. 16 zone to B.L. zone NE corner Greenpoint Road and Rutledge Road 8th District Galway, Inc. Petitioner

BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY File No. R-79-12

ORDER OF DISMISSAL

Petition of Galway, Inc. for reclassification from D.R. 16 zone to B.L. zone, on property located on the northeast corner of Greenpoint Road and Rutledge Road, in the 8th District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of a letter of dismissal of petition filed July 25, 1979 (a copy of which is attached hereto and made a part hereof), from the attorney representing the Petitioner in the above entitled matter.

WHEREAS, the said attorney for the said Petitioner requests that the petition filed on behalf of said Petitioner be dismissed.

It is hereby ORDERED, this 31st day of July, 1979, that said petition be and the same is dismissed.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Heckett, Acting Chairman; LeRoy B. Spurrer; Patricia Millhouser

BALTIMORE OFFICE, TOWSON OFFICE, LAW OFFICES WEINBERG AND GREEN. (301) 332-8713 July 24, 1979

County Board of Appeals Court House Towson, Maryland 21204

Re: Petition of Galway, Inc. for Reclassification of Northeast Corner of Greenpoint Road and Rutledge Road, Eighth Election District of Baltimore County, Maryland, Case No. R-79-12

Gentlemen: In light of delay in obtaining a hearing on the petition for Zoning Reclassification, filed in the above entitled matter, attributable to change in the law, transferring from the Zoning Commissioner to the County Board of Appeals, authority to grant any zoning reclassification, coupled with the fact that we are now in another map cycle, where the Office of Planning and Zoning is studying appropriate changes to be reflected on the 1980 Comprehensive Zoning Map, which could lead to an impasse in the subject case, should any appeal be entered to the Circuit Court of Baltimore County by either side, we see no point in further pressing the case and have elected to request that the change sought herein be reflected on the 1980 Comprehensive Zoning Map to be adopted by the County Council of Baltimore County. Accordingly, we respectfully request that the County Board of Appeals enter this case "DISMISSED, WITHOUT PREJUDICE".

Respectfully submitted, Eugene P. Smith, Attorney and Authorized Agent for the petitioner, Galway, Inc.

John W. Hessick, III, Esq. People's Counsel County Office Building Towson, Maryland 21204

MAYS CHAPEL VILLAGE DESCRIPTION OF LAND TO BE REZONED FROM DR-16 TO B-L

Beginning for the same at a point on the northeast side of Greenpoint Road, 60 feet wide, said point of beginning being designated as 2 on a plat entitled Jennifer Road - Chatterton Road - Greenpoint Road, Mays Chapel Village, and recorded among the Land Records of Baltimore County in Plat Book E.H.K., Jr. No. 41 Folio 77, said point of beginning being also distant North 74 degrees 40 minutes 00 seconds West 136.83 feet, as measured along the northeast side of the above-mentioned Greenpoint Road, from the intersection of the prolongation of the centerline of Chatterton Road and the north side of Greenpoint Road as said roads are shown on the above-mentioned plat of Mays Chapel Village, running thence binding on the said northeast side of Greenpoint Road, as proposed to be laid out 60 feet wide, and binding also along the southeast side of Rutledge Road, as proposed to be laid out 60 feet wide, the four following courses and distances viz: first, by a line curving to the right with a radius of 1029.00 feet for a distance of 114.33 feet said curve being subtended by a chord bearing North 71 degrees 27 minutes 20 seconds West 114.27 feet; second, North 21 degrees 45 minutes 54 seconds West 20.82 feet; third, North 24 degrees 17 minutes 00 seconds East 73.45 feet and fourth, by a line curving to the right with a radius of 570.00 feet for a distance of 482.79 feet said curve being subtended by a chord bearing North 48 degrees 32 minutes 53 seconds East 468.19 feet thence leaving the southeast side of said Rutledge Road and running for lines of division the two following courses and distances viz: first, South 18 degrees 41 minutes 42 seconds East 75.80 feet and second, South 15 degrees 20 minutes 00 seconds West 424.68 feet to intersect the northeast side of the above-mentioned Greenpoint Road, as said road is shown on the herein mentioned road plat of Mays Chapel Village, running thence binding on the northeast side of said Greenpoint Road, as shown on said plat, North 74 degrees 40 minutes 00 seconds East 183.32 feet, to the place of beginning, containing 2.5319 acres of land, more or less.

J. Frederick C. Offutt, Jr. Res. #9157

